

EIGHTEENTH DAY

Friday, February 11, 1983

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1983, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Mr. George Christiansen, Deacon, Roman Catholic Diocese, after which the Roll was called showing all Senators present with the exception of Senator Abercrombie who was excused.

The Chair announced that he had read and approved the Journal of the Seventeenth Day.

At this time, the following introductions were made to the members of the Senate:

Senator Kawasaki, on behalf of the Senate, introduced a group of 5th and 6th grade students from Red Hill Elementary School accompanied by their teachers, Ms. Melissa Au, Mrs. Kathleen Iwao, Mrs. Lois Takamori and a parent, Mrs. Gird.

Senator Kuroda then rose and stated:

"Mr. President, ladies and gentlemen, it is my honor and pleasure to introduce a former colleague, Senator Campbell, who is on the floor with us. I have prepared seven Senate Certificates honoring our seven former senate colleagues who left us in 1982.

"Ladies and gentlemen, my colleagues join me in the presentation of the certificates to the seven; however the others are not able to be present today. And, Mr. President, Senator Charles Campbell is someone who is a school teacher turned legislator, who served as a representative, councilman and senator. He served with us from 1978 to 1982.

"We'll be honoring all of the former senate colleagues, but at this time I'd like to present Senator Charles Campbell."

Senator Ajifu then rose and stated:

"Mr. President, I would like to take this opportunity to present Senate Certificate No. 39 and make some introductory remarks for some guests who are with us on the floor today.

"The Senate Certificate highly

commends the team members and advisors of the national champion University of Hawaii at Manoa Volleyball Team, and is signed by all members of the Senate.

"Mr. President, the UH Wahine Volleyball Team last season had a record of 33 wins and only one defeat. They played in the National Invitational Volleyball Tournament hosted by UCLA, where they were defending champions and where they suffered their single defeat of the season but still came in third place overall.

"They played at the prestigious Wendy's Classic, hosted by the University of the Pacific where they came in first place.

"They also played and came in first place at the Northwestern NCAA Regional Championships, hosted at San Luis Obispo, and of course, we know the result of the major tournament of the year, the NCAA Division I National Women's Championship, hosted at Stockton, where the team came in first place after beating Stanford and USC by 3-2 margins.

"Mr. President, as one of the tens of thousands of local fans that watched that final championship game against USC, let me extend the warm welcome of the Senate to the members of the winning team of players and advisors we have here today: Women's Athletic Director, Cindy Boerner; Assistant Coach, Dean Nowack; Women's Sports Information Director, Sue Crandall; Team Co-Captain and NCAA Division I All-American for the past two years, Deitre Collins; Team Co-Captain and another All-American, Kori Pulaski; team members, Niulii Heine, Sue Hlavenka, Sista Palakiko, Lee Ann Pestana, Kris Pulaski, Lisa Strand, Marcy Wurts, and Missy Yomes.

"And, Mr. President, I'd like to also acknowledge those who could not be here today, Head Coach, Dave Shoji; and team members, Joyce Kaapuni, Candy Kane, and Ohua Mahoe."

At 11:54 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:57 o'clock a.m.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 76) transmitting an Administration measure, N-11, relating to the High Technology Development Corporation, was read by the Clerk and was placed on file.

SENATE RESOLUTION

A resolution (S.R. No. 20), entitled: "SENATE RESOLUTION ENCOURAGING FIDUCIARY COMPANIES TO INVEST IN RESIDENTIAL REAL ESTATE LOANS AND MORTGAGES," was offered by Senators Young, Yamasaki, Hagino, Uwayne, Fernandes Salling, Mizuguchi, Chang, George, Soares and Henderson, and was read by the Clerk.

By unanimous consent, S.R. No. 20, was referred to the Committee on Housing and Urban Development.

INTRODUCTION OF SENATE BILLS

On motion by Senator Cobb, seconded by Senator Soares and carried, the following bills passed First Reading by title, were referred to print and were placed on the calendar for further consideration on Monday, February 14, 1983:

Senate Bills

No. 555 "A BILL FOR AN ACT RELATING TO SERVICE FEES."

Introduced by: Senator B. Kobayashi.

No. 556 "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION."

Introduced by: Senator B. Kobayashi.

No. 557 "A BILL FOR AN ACT RELATING TO INCOME TAXATION."

Introduced by: Senator B. Kobayashi.

No. 558 "A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT (MODIFIED)."

Introduced by: Senator B. Kobayashi.

No. 559 "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES."

Introduced by: Senator Carpenter.

No. 560 "A BILL FOR AN ACT

RELATING TO DISPOSITION OF CONVICTED DEFENDANTS."

Introduced by: Senator Carpenter.

No. 561 "A BILL FOR AN ACT RELATING TO DEATH OR PERSONAL INJURY RESULTING FROM THE NEGLIGENT OPERATION OR USE OF MOPEDES, BICYCLES, PEDICABS, ANIMALS, COASTERS, SLEDS, SKATEBOARDS, ROLLER SKATES, OR OTHER DEVICES."

Introduced by: Senator Carpenter.

No. 562 "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST PUBLIC ORDER."

Introduced by: Senator Carpenter.

No. 563 "A BILL FOR AN ACT RELATING TO DEFERRED ACCEPTANCE OF GUILTY PLEA."

Introduced by: Senator Carpenter.

No. 564 "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS, RECORDS."

Introduced by: Senator Carpenter.

No. 565 "A BILL FOR AN ACT RELATING TO HAWAII RULES OF EVIDENCE."

Introduced by: Senators Carpenter, Machida, Cayetano, B. Kobayashi, Toguchi, Kuroda, Kawasaki and George.

No. 566 "A BILL FOR AN ACT RELATING TO CRIMINAL JUSTICE TRAINING ACADEMY."

Introduced by: Senator Carpenter.

No. 567 "A BILL FOR AN ACT RELATING TO JUSTIFICATION."

Introduced by: Senator Carpenter.

No. 568 "A BILL FOR AN ACT RELATING TO CHAPTER 704, HAWAII REVISED STATUTES."

Introduced by: Senator Carpenter.

No. 569 "A BILL FOR AN ACT RELATING TO PENAL RESPONSIBILITY AND FITNESS TO PROCEED."

Introduced by: Senator Carpenter.

No. 570 "A BILL FOR AN ACT RELATING TO CHAPTER 711, OFFENSES AGAINST PUBLIC ORDER."

- Introduced by: Senator Carpenter.
- No. 571 "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS."
- Introduced by: Senator Carpenter.
- No. 572 "A BILL FOR AN ACT RELATING TO THE CRIMINAL JUSTICE INTERAGENCY BOARD."
- Introduced by: Senator Carpenter.
- No. 573 "A BILL FOR AN ACT RELATING TO SPEEDY CRIMINAL PROCEEDINGS."
- Introduced by: Senator Carpenter.
- No. 574 "A BILL FOR AN ACT RELATING TO UNIFORM CONTROLLED SUBSTANCE."
- Introduced by: Senator Carpenter.
- No. 575 "A BILL FOR AN ACT RELATING TO THE EMPLOYEES RETIREMENT SYSTEM OF THE STATE OF HAWAII."
- Introduced by: Senator Carpenter.
- No. 576 "A BILL FOR AN ACT RELATING TO FAMILY COURTS."
- Introduced by: Senator Carpenter.
- No. 577 "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES."
- Introduced by: Senator Carpenter, by request.
- No. 578 "A BILL FOR AN ACT RELATING TO BAIL BONDSMEN."
- Introduced by: Senators Carpenter, Machida, Cobb, George, Toguchi, Kuroda and Kawasaki.
- No. 579 "A BILL FOR AN ACT RELATING TO PENAL RESPONSIBILITY."
- Introduced by: Senators Carpenter, by request, and Kawasaki.
- No. 580 "A BILL FOR AN ACT RELATING TO LEGISLATIVE INVESTIGATING COMMITTEES."
- Introduced by: Senator Carpenter.
- No. 581 "A BILL FOR AN ACT RELATING TO MEDICAL TORTS."
- Introduced by: Senator Carpenter.
- No. 582 "A BILL FOR AN ACT RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL."
- Introduced by: Senator Carpenter.
- No. 583 "A BILL FOR AN ACT RELATING TO INTIMIDATION OF AN EDUCATIONAL WORKER."
- Introduced by: Senator Carpenter.
- No. 584 "A BILL FOR AN ACT RELATING TO ROBBERY."
- Introduced by: Senator Carpenter.
- No. 585 "A BILL FOR AN ACT RELATING TO FIREARMS AND AMMUNITION."
- Introduced by: Senator Carpenter.
- No. 586 "A BILL FOR AN ACT RELATING TO PUBLIC HEALTH AND MORALS."
- Introduced by: Senator Carpenter.
- No. 587 "A BILL FOR AN ACT RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL."
- Introduced by: Senator Carpenter.
- No. 588 "A BILL FOR AN ACT RELATING TO THE FORFEITURE OF CONVEYANCES USED TO PROMOTE PROSTITUTION."
- Introduced by: Senators Carpenter, B. Kobayashi, Kuroda, Kawasaki, Machida and Toguchi.
- No. 589 "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF A STATE TAX FRAUD UNIT AND MAKING AN APPROPRIATION THEREFOR."
- Introduced by: Senators Carpenter, Machida, Cayetano, George, Toguchi and Kuroda.
- No. 590 "A BILL FOR AN ACT RELATING TO INSPECTION OF TAX RECORDS."
- Introduced by: Senators Carpenter, Machida, Cobb, Toguchi and Kuroda.
- No. 591 "A BILL FOR AN ACT RELATING TO PROFESSIONAL PEER REVIEW."
- Introduced by: Senators Carpenter, Machida, Cayetano, Kuroda and George.

No. 592 "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF A CENTER FOR FORENSIC PSYCHIATRY."

Introduced by: Senators Carpenter, Machida, Cayetano, B. Kobayashi, George, Toguchi and Kuroda.

No. 593 "A BILL FOR AN ACT RELATING TO PROFESSIONAL PEER REVIEW."

Introduced by: Senators Carpenter, Machida, George, Toguchi and Kuroda.

No. 594 "A BILL FOR AN ACT RELATING TO DISPOSITION OF DEFENDANTS."

Introduced by: Senator Carpenter.

No. 595 "A BILL FOR AN ACT RELATING TO DISPOSITION OF DEFENDANTS."

Introduced by: Senator Carpenter.

No. 596 "A BILL FOR AN ACT RELATING TO ELECTIONS."

Introduced by: Senator Carpenter.

No. 597 "A BILL FOR AN ACT RELATING TO TEMPORARY DISABILITY INSURANCE AND AMENDING CHAPTER 392, HAWAII REVISED STATUTES."

Introduced by: Senators Machida, Yamasaki, Uwaine, Kuroda, Aki, Holt and Mizuguchi.

No. 598 "A BILL FOR AN ACT RELATING TO COUNTIES."

Introduced by: Senators Machida, Yamasaki, Uwaine, Kuroda, Aki, Holt, Mizuguchi and Ajifu.

No. 599 "A BILL FOR AN ACT RELATING TO RETIREMENT BENEFITS OF PUBLIC OFFICERS AND EMPLOYEES."

Introduced by: Senators Machida, Yamasaki, Soares, Uwaine, Kuroda, Aki, Holt, Mizuguchi and Ajifu.

No. 600 "A BILL FOR AN ACT RELATING TO PURCHASING CREDITS FOR MILITARY SERVICE UNDER THE EMPLOYEES' RETIREMENT SYSTEM."

Introduced by: Senators Machida, Yamasaki, Soares, Ajifu, Holt, Mizuguchi, Uwaine, Kuroda and Aki.

No. 601 "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING."

Introduced by: Senators Machida, Yamasaki, Soares, Uwaine, Kuroda, Aki, Holt, Mizuguchi and Ajifu.

No. 602 "A BILL FOR AN ACT RELATING TO ORDINARY DISABILITY RETIREMENT UNDER THE EMPLOYEES' RETIREMENT SYSTEM."

Introduced by: Senators Machida, Yamasaki, Soares, Uwaine, Kuroda, Aki, Holt and Mizuguchi.

No. 603 "A BILL FOR AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES."

Introduced by: Senators Machida, Yamasaki, Soares, Uwaine, Kuroda, Aki, Holt and Mizuguchi.

No. 604 "A BILL FOR AN ACT RELATING TO ALLOWANCE ON SERVICE RETIREMENT."

Introduced by: Senators Machida, Yamasaki, Soares, Uwaine, Kuroda, Aki, Holt, Mizuguchi and Ajifu.

No. 605 "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH SERVICES."

Introduced by: Senators Machida, Yamasaki, Soares, Ajifu, Uwaine, Kuroda, Aki, Holt and Mizuguchi.

No. 606 "A BILL FOR AN ACT RELATING TO KONA AIRPORT PARK."

Introduced by Senator Solomon.

No. 607 "A BILL FOR AN ACT RELATING TO GRANTS, SUBSIDIES, AND PURCHASES OF SERVICE."

Introduced by: Senators Solomon, Uwaine, Ajifu, Soares, Holt, Cobb, Hagino, Kuroda, B. Kobayashi, Fernandes Salling, Toguchi, Carpenter, Mizuguchi and Yamasaki.

No. 608 "A BILL FOR AN ACT RELATING TO RENTAL ASSISTANCE."

Introduced by: Senator Young.

No. 609 "A BILL FOR AN ACT RELATING TO CHILD CARE."

Introduced by: Senator Young, Chang, Cayetano, Holt, Aki and Uwaine.

- No. 610 "A BILL FOR AN ACT RELATING TO PAROLES AND PARDONS."
Introduced by: Senator Carpenter.
- No. 611 "A BILL FOR AN ACT RELATING TO FURLOUGHS."
Introduced by: Senator Carpenter.
- No. 612 "A BILL FOR AN ACT RELATING TO SENTENCING."
Introduced by: Senator Carpenter.
- No. 613 "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES."
Introduced by: Senators Fernandes Salling, Kuroda, Yamasaki, Hagino, Young and Chang.
- No. 614 "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS' BUDGET."
Introduced by: Senator Fernandes Salling, by request, Yamasaki, Chang and A. Kobayashi.
- No. 615 "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION."
Introduced by: Senators Fernandes Salling, by request, Toguchi, Yamasaki and Chang.
- No. 616 "A BILL FOR AN ACT RELATING TO LIMITATION OF REAL ACTIONS."
Introduced by: Senators Fernandes Salling, by request, Toguchi, Yamasaki, Chang and A. Kobayashi.
- No. 617 "A BILL FOR AN ACT RELATING TO QUIETING TITLE."
Introduced by: Senators Fernandes Salling, by request, Toguchi, Yamasaki, Chang, Hagino and A. Kobayashi.
- No. 618 "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS' TRUSTEES."
Introduced by: Senators Fernandes Salling, by request, Toguchi, Yamasaki, Chang and A. Kobayashi.
- No. 619 "A BILL FOR AN ACT RELATING TO SEARCH AND SEIZURE."
Introduced by: Senators Soares, Ajifu, A. Kobayashi, George, Henderson and Toguchi.
- No. 620 "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES."
Introduced by: Senators Soares, Ajifu, A. Kobayashi, George and Henderson.
- No. 621 "A BILL FOR AN ACT RELATING TO CONSTITUTIONAL AMENDMENT, ARTICLE I, BILL OF RIGHTS."
Introduced by: Senator Carpenter, by request.
- No. 622 "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION."
Introduced by: Senator Carpenter.
- No. 623 "A BILL FOR AN ACT RELATING TO SENTENCING AND PAROLE."
Introduced by: Senator Carpenter.
- No. 624 "A BILL FOR AN ACT RELATING TO INVESTMENT TAX CREDITS."
Introduced by: Senators Carpenter, Cayetano, Toguchi, Machida, Henderson, Soares, Chang and A. Kobayashi.
- No. 625 "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE."
Introduced by: Senators Carpenter, Cayetano, Toguchi, Machida, Henderson, Soares, Chang and A. Kobayashi.
- No. 626 "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION."
Introduced by: Senators Carpenter, Cayetano, Toguchi, Henderson, Soares, A. Kobayashi and Cobb.
- No. 627 "A BILL FOR AN ACT RELATING TO ANNULMENT, DIVORCE, SEPARATION."
Introduced by: Senators Carpenter, Cayetano, Toguchi, Machida, Henderson, Soares, Chang, A. Kobayashi and Cobb.
- No. 628 "A BILL FOR AN ACT RELATING TO WORKER'S COMPENSATION."
Introduced by: Senators Carpenter, Cayetano, Toguchi, Machida, Henderson, Soares, A. Kobayashi and Cobb.

- No. 629 "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE AID TO VICTIMS COORDINATOR PROGRAMS."
Introduced by: Senators Carpenter, Cayetano, Toguchi, Machida, Henderson, Soares, Chang and A. Kobayashi.
- No. 630 "A BILL FOR AN ACT RELATING TO PAROLE PROCEDURE."
Introduced by: Senator Carpenter.
- No. 631 "A BILL FOR AN ACT RELATING TO INVOLUNTARY CIVIL COMMITMENT UNDER MENTAL HEALTH LAW. ADMISSIONS FOR NONEMERGENCY TREATMENT OR SUPERVISION."
Introduced by: Senator Carpenter, by request.
- No. 632 "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES."
Introduced by: Senator Carpenter, by request.
- No. 633 "A BILL FOR AN ACT RELATING TO HAWAII YOUTH CORRECTIONAL FACILITIES."
Introduced by: Senator Carpenter, by request.
- No. 634 "A BILL FOR AN ACT RELATING TO RIGHTS OF VICTIMS AND WITNESSES IN CRIMINAL PROCEEDINGS."
Introduced by: Senator Carpenter.
- No. 635 "A BILL FOR AN ACT RELATING TO THE CRIMINAL JUSTICE SYSTEM."
Introduced by: Senator Carpenter, by request.
- No. 636 "A BILL FOR AN ACT RELATING TO FAMILY COURT RECORDS."
Introduced by: Senator Carpenter, by request.
- No. 637 "A BILL FOR AN ACT RELATING TO LIMITING COMMERCIAL EXPLOITATION OF CRIME."
Introduced by: Senator Carpenter.
- No. 638 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE."
Introduced by: Senator Soares.
- No. 639 "A BILL FOR AN ACT RELATING TO SUBDIVISIONS."
Introduced by: Senators Carpenter, Cayetano, Henderson, Soares, A. Kobayashi, Fernandes Salling and Uwaine.
- No. 640 "A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS."
Introduced by: Senators Carpenter, Henderson, Soares, A. Kobayashi, Cobb, Hagino, Fernandes Salling and Uwaine.
- No. 641 "A BILL FOR AN ACT RELATING TO TAXATION."
Introduced by: Senators Carpenter, Henderson, Soares, Chang, A. Kobayashi, Fernandes Salling and Uwaine.
- No. 642 "A BILL FOR AN ACT RELATING TO VESTED RIGHTS."
Introduced by: Senators Carpenter, Cayetano, Henderson, Soares, A. Kobayashi, Fernandes Salling and Uwaine.
- No. 643 "A BILL FOR AN ACT RELATING TO DISPOSITION OF CONVICTED DEFENDANTS."
Introduced by: Senator Carpenter, by request.
- No. 644 "A BILL FOR AN ACT RELATING TO FELON REGISTRATION."
Introduced by: Senator Carpenter, by request.
- No. 645 "A BILL FOR AN ACT RELATING TO PRESENTENCE DIAGNOSIS."
Introduced by: Senator Carpenter, by request.
- No. 646 "A BILL FOR AN ACT RELATING TO PROBATION."
Introduced by: Senator Carpenter, by request.
- No. 647 "A BILL FOR AN ACT RELATING TO JURY VERDICTS."
Introduced by: Senator Carpenter.
- No. 648 "A BILL FOR AN ACT RELATING TO APPEALS BY THE STATE IN CRIMINAL CASES."

- Introduced by: Senator Carpenter, by request.
- No. 649 "A BILL FOR AN ACT RELATING TO OSTEOPATHY."
- Introduced by: Senator Carpenter, by request.
- No. 650 "A BILL FOR AN ACT RELATING TO POULTRY."
- Introduced by: Senator Wong, by request.
- No. 651 "A BILL FOR AN ACT RELATING TO STATE FAIRS."
- Introduced by: Senator Wong, by request.
- No. 652 "A BILL FOR AN ACT RELATING TO THE ADMINISTRATIVE PROCEDURE ACT."
- Introduced by: Senator Wong, by request.
- No. 653 "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR."
- Introduced by: Senator Wong, by request.
- No. 654 "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED."
- Introduced by: Senator Wong, by request.
- No. 655 "A BILL FOR AN ACT RELATING TO HOSPITAL ADMINISTRATION IN THE COUNTY/STATE HOSPITAL SYSTEM."
- Introduced by: Senator Wong, by request.
- No. 656 "A BILL FOR AN ACT RELATING TO CONSERVATION AND RESOURCES."
- Introduced by: Senator Wong, by request.
- No. 657 "A BILL FOR AN ACT RELATING TO HEARINGS BEFORE THE BOARD OF LAND AND NATURAL RESOURCES."
- Introduced by: Senator Wong, by request.
- No. 659 "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING."
- Introduced by: Senator Wong, by request.
- No. 662 "A BILL FOR AN ACT RELATING TO THE MOORING OF COMMERCIAL VESSELS IN SMALL BOAT HARBORS."
- Introduced by: Senator Wong, by request.
- No. 663 "A BILL FOR AN ACT RELATING TO CONCESSION BID DEPOSITS."
- Introduced by: Senator Wong, by request.
- No. 664 "A BILL FOR AN ACT RELATING TO TRANSPORTATION ASSISTANCE."
- Introduced by: Senator Cayetano.
- No. 665 "A BILL FOR AN ACT RELATING TO UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS."
- Introduced by: Senator Cayetano.
- No. 666 "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES."
- Introduced by: Senator Cayetano.
- No. 667 "A BILL FOR AN ACT RELATING TO HEALTH."
- Introduced by: Senators Machida, Yamasaki, Chang, A. Kobayashi, Solomon, Fernandes Salling and Henderson.
- No. 668 "A BILL FOR AN ACT RELATING TO HEALTH."
- Introduced by: Senators Machida, Yamasaki, Chang, A. Kobayashi, Solomon, Fernandes Salling and Henderson.
- No. 669 "A BILL FOR AN ACT RELATING TO HEALTH."
- Introduced by: Senators Machida, Yamasaki, Chang, A. Kobayashi and Solomon.
- No. 670 "A BILL FOR AN ACT RELATING TO HEALTH."
- Introduced by: Senators Machida, Yamasaki, Chang, A. Kobayashi, Solomon, Fernandes Salling and

Henderson.

No. 671 "A BILL FOR AN ACT RELATING TO SCHOOL BUS CONTRACTS."

Introduced by: Senators Machida, Mizuguchi, Yamasaki, Chang, A. Kobayashi, Solomon and Fernandes Salling.

On motion by Senator Cobb, seconded by Senator Soares and carried, the following bills were referred to print and were placed on the calendar for further consideration on Monday, February 14, 1983:

Senate Bills

No. 658 "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE."

Introduced by: Senator Wong, by request.

No. 660 "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING."

Introduced by: Senator Wong, by request.

No. 661 "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING."

Introduced by: Senator Wong, by request.

STANDING COMMITTEE REPORT

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 16) informing the Senate that Senate Resolution No. 20 and Senate Bill Nos. 533 to 554 have been printed and have been distributed to the members of the Senate.

On motion by Senator Young, seconded by Senator George and carried, the report of the Committee was adopted.

ORDER OF THE DAY

REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills that were introduced on Wednesday, February 9, 1983:

Senate Bills Referred to:

No. 500 Committee on Higher

Education, then to the Committee on Ways and Means

No. 501 Committee on Agriculture

No. 502 Committee on Ways and Means

No. 503 Committee on Hawaiian Programs

No. 504 Committee on Health

No. 505 Committee on Human Resources, then to the Committee on Ways and Means

No. 506 Committee on Human Resources, then to the Committee on Ways and Means

No. 507 Committee on Human Resources

No. 508 Committee on Human Resources

No. 509 Committee on Human Resources

No. 510 Committee on Human Resources

No. 511 Committee on Human Resources

No. 512 Committee on Human Resources, then to the Committee on Ways and Means.

No. 513 Committee on Agriculture, then to the Committee on Economic Development

No. 514 Committee on Consumer Protection and Commerce

No. 515 Committee on Consumer Protection and Commerce

No. 516 Committee on Consumer Protection and Commerce

No. 517 Committee on Housing and Urban Development

No. 518 Committee on Human Resources

No. 519 Committee on Human Resources

No. 520 Committee on Housing and Urban Development

No. 521 Committee on Ways and Means

No. 522 Committee on Ways and Means

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| No. 523 | Committee on Ways and Means | No. 542 | Committee on Economic Development, then to the Committee on Ways and Means |
| No. 524 | Committee on Transportation | No. 543 | Committee on Government Operations and County Relations, then to the Committee on Ways and Means |
| No. 525 | Committee on Transportation | No. 544 | Committee on Legislative Management |
| No. 526 | Committee on Economic Development | No. 545 | Committee on Judiciary, then to the Committee on Ways and Means |
| No. 527 | Committee on Economic Development | No. 546 | Committee on Government Operations and County Relations |
| No. 528 | Committee on Transportation | No. 547 | Committee on Government Operations and County Relations, then to the Committee on Ways and Means |
| No. 529 | Committee on Consumer Protection and Commerce | No. 548 | Committee on Legislative Management |
| No. 530 | Committee on Economic Development | No. 549 | Committee on Transportation, then to the Committee on Ways and Means |
| No. 531 | Committee on Consumer Protection and Commerce | No. 550 | Committee on Government Operations and County Relations, then to the Committee on Ways and Means |
| No. 532 | Committee on Judiciary, then to the Committee on Ways and Means | No. 551 | Committee on Tourism, then to the Committee on Ways and Means |
- The President then made the following committee assignments of bills that were introduced on Thursday, February 10, 1983:
- Senate Bills Referred to:
- | | | | |
|---------|---|---------|---|
| No. 533 | Committee on Judiciary, then to the Committee on Ways and Means | No. 552 | Committee on Consumer Protection and Commerce, then to the Committee on Ways and Means. |
| No. 534 | Committee on Judiciary | No. 553 | Committee on Ways and Means |
| No. 535 | Committee on Transportation, then to the Committee on Ways and Means | No. 554 | Committee on Judiciary |
| No. 536 | Committee on Health, then to the Committee on Ways and Means | | |
| No. 537 | Committee on Health, then to the Committee on Ways and Means | | |
| No. 538 | Committee on Health, then to the Committee on Ways and Means | | |
| No. 539 | Committee on Human Resources, then to the Committee on Ways and Means | | |
| No. 540 | Committee on Human Resources, then to the Committee on Ways and Means | | |
| No. 541 | Committee on Transportation, then to the Committee on Judiciary | | |

At this time, Senator Kawasaki rose and addressed the members of the Senate as follows:

"Mr. President, I rise on a point of personal privilege.

"Mr. President, I ask the indulgence of you as the presiding officer and my fellow senators in this body, in order to respond to the morning newspaper's distorted, biased discussion of a public issue in which the Legislature has been very prominently involved -- an issue in which we will, if we are to protect the public interests, continue to be involved.

"While we have, Mr. President, ordinarily convened for brief sessions daily since the opening of the

Legislature, with good reason, and perhaps given the gallery visitors a mistaken impression that not much goes on here in the Senate chambers, the importance to the consumer public of a reasonable understanding of the issue requires that we diligently devote some time and effort this morning to 'clear the air,' so to speak, and to respond to the biased presentation of the controversy which the Senate has been involved in since the year 1971 (In my case, however, I have been involved in this particular issue since 1964, even before I got into the Legislature) ironically, at the newspaper's request, when we were 'conned' into enacting privileged legislation for no other businesses but the two big daily newspapers.

"I've placed on your desks, Senators, excerpts from the Senate Journals for the years 1971 and 1972 to refresh the memories of those who participated in the debate on the issue in this very chamber. For the newer members of the Senate, you do not have copies of the Senate Journals in your offices and these extractions will give you a background of the issue and how the Senate of the State of Hawaii got involved.

"If you read the paper this morning, you must have immediately noticed the extraordinary amount of space devoted to the presentation of the newspaper's point of view of the judge's verdict -- a common practice with the morning newspaper, particularly. And, those of you who have been chairman of the Consumer Protection Committees, like Senator Joe Kuroda and Senator Dante Carpenter of the Judiciary Committee and Senator Cobb, also chairman in the past of the Consumer Protection Committee, you have noted much to our chagrin, the very little lineage we got in trying to present our points of view or points of view of people opposing this monopoly situation. Conversely, the newspapers, as you recall, would carry almost a line by line, verbatim reprint of Mr. Twiggs-Smith's prepared testimony during the hearings.

"All of this doesn't surprise me, having a contempt for the intellectual honesty or a sense of journalistic integrity of the morning paper's owner and editor.

"All of this doesn't surprise me, but I do challenge, Mr. President, several items found in the paper this morning.

"First of all, the concluding sentence of their half-page editorial...you have noticed incidentally, the amount of space devoted to this issue where they're involved...the concluding sentence reads as follows:

'With this decision, we prefer to look ahead rather than to the past. And we pledge to our readers and the public-at-large our continued dedication to responsible journalism and to helping advance the welfare of this great state.'

"I can well understand their wanting to forget the past, the past which is in my judgment, a seamy one.

"I had the privilege of attending every day of the trial, except for one day, and from what I had observed, I came to the realization that back in 1971 and 1972, we were -- and I use the word 'conned' by the newspapers into enacting a state statute identical in language to the federal statute, providing what they call, 'the preservation of the failing newspapers.'

"At that time, the editor of the Advertiser came to see me about their proposition, I said, 'Now, why do you need a state statute identical to the federal statute, when the federal statute would prevail? It would preempt us.' And, there were no other states among the twenty-two joint operations states that had a state statute in addition. The answer I got was, 'Well, we hate to have this hammer over our heads by the Attorney General's office.'

"My opinion at that time was, if you're doing something wrong, and if you're going to indulge in something in the way of predatory practices, trade abuses, as a consequence of the newspaper preservation act...the national preservation act, then indeed, you should have a hammer over your head. In any case, as sort of a concession to my very close friend, the presiding officer at that time, Senator David McClung, I very reluctantly voted for this measure. And the debate and the discussion that took place in those years are in the reprints that you find on your desks, and much to the credit of the Senators present here, who were much wiser than some of us, Senators Kuroda and Henderson, they voted against the statute as it stands today.

"Now, I want to point out some of the things that I find great objection to and as I said in the last sentence, that they say that they, 'will pledge

to the public-at-large their continued dedication to responsible journalism.'

"Let me ask the Honolulu Advertiser if devoting a half-page of the editorial page to this issue is 'responsible journalism.'

"Is the printing of pictures of every attorney representing their side -- prominent pictures -- with not a single picture of the competent, brilliant attorneys representing the City, not one picture, is this 'responsible journalism?'

"Is using a headline like 'Real Winner in Press Case: the Public,' is this 'responsible journalism?' I take exception to that.

"Really, Mr. President, the real winner of this controversy, this verdict, this biased verdict, in my judgment, is the Honolulu Advertiser, its owner and its editor -- the same editor who came here, exercised stock options, possibly at a price between \$9 and \$11 and about a year and a half ago, sold his shares for close to \$400 a share, an appreciation that is greater than any appreciation of any stock listed in the New York Stock Exchange, the American Exchange, or the over-the-counter market.

"The real winner in this case is Mr. Twigg-Smith who got to be a multimillionaire from the time he pleaded poverty back in 1962 when they said they must go into this joint operating agreement or the newspaper would fold, and I foolishly believed this as others had.

"I object to item No. 2. Item No. 2 says that, 'Fasi, in his deposition said the U.S. and Hawaii Newspaper Preservation Acts "stink" and should be repealed. (A few members of the Legislature share that view, as least as far as the state law is concerned, and regularly introduce legislation to break up the joint operation. They have done so again in the current session.)'

"This is in reference to three propositions co-introduced by many of you here and as the principal sponsors, Senator Fernandes Salling and myself. Let me explain that the three pieces of legislation, the three pieces of documents introduced here are not particularly to split the joint operating agreement, much as we object to it.

"The first bill was, first of all, to repeal the state statute which I believe is not needed, simply because

we have a federal statute; they preempt us. Just repeal the state statute, then if they want to go on making money...millions of dollars...and pay \$2 million in cash dividends as they did in 1978, principally to one owner -- Twigg-Smith, that's their business. But let us repeal the state statute, which is found in no other state. We can't justify a statute providing privileged legislation to one industry, only the newspaper industry, particularly when they are making the kind of money they're making.

"That's one proposition. That is not to split them.

"The second proposition is to delete some language that the Justice Department attorneys objected to when this issue was debated in the halls of Congress -- that language allows these two newspapers and only these two newspapers (no other newspaper can join into this agreement, incidentally) to jointly solicit business, jointly set rates and jointly to pool profits.

"This kind of arrangement applied to any other business, any other trade, would rapidly bring the wrath of the Justice Department upon the heads of such trade organizations. You will recall about a year and a half ago where the hotels were heavily fined for their price fixing efforts in setting room rates. This is the language that we object to.

"The third proposition that we have, Mr. President, is to require that the newspapers annually report to the Attorney General's office, report to them primarily regarding their state of financial affairs. Now, when they wanted this legislation back in the 70's they asked us, the Legislature, to examine their financial situation. 'Look at our books; we're in terrible straits.' We unfortunately, foolishly did not examine their books, simply because we didn't think that we had staff capability to do a competent auditing job which is very complex, and I realized the complexity of such an inquiry while attending the trials.

"These are the three propositions we put on the floor of the Senate. These are the three propositions we advanced in previous sessions. This is not particularly to break up the arrangement. Further, if we did break up an arrangement by some bill that we pass as a statute, the national law says, 'any time two newspapers can prove that one newspaper is

about to fail financially, it can automatically go into a joint agreement,' notwithstanding whatever we do around here. So the argument that they put forth is a specious one.

"I also object to the quotation attributed to Judge Curtis, this biased judge in my judgment, and let me read what the Advertiser says, 'I conclude that no jury composed of reasonable people who understood and followed my instructions could come to any other conclusion in the light of the evidence taken as a whole.'

"I observed those trials for five weeks and it is to the credit of the citizens of this state, that three ladies, not lawyers, very patiently listening to all the evidence presented to them, three out of six ladies concluded that indeed the newspaper was not failing. Indeed, what had happened in those years was a carefully orchestrated, a very cunningly developed plan to go into a joint operating agreement. Insiders acquiring stocks, very quietly...incidentally, you can't buy Advertiser stocks over the counter today, at any price!

"These ladies very courageously voted that the newspapers were indeed not failing. Three others voted the other way.

"From my talking to people very close to the trial, I had found out six of these jurors, and there were only six jurors to begin with, were about to rule against the newspapers. But upon inquiry to the presiding judge, was the jury to consider the buildings and the assets of the Honolulu Advertiser as collateral assets?,' the judge replied 'they would not have to, not required to.'

"Apparently, this had turned the tables around and three people voted to say that the Advertiser was 'failing.' This resulted in a hung jury. A hung jury, in my judgment, is a victory for the City and the people of the State of Hawaii because the presumption of failing -- that situation of a failing newspaper -- was a burden upon the newspapers to prove.

"Interestingly enough, almost at the end of the trial -- I think it was the last two days of the trial -- when the newspapers and their attorneys recognized they were not winning their case, apparently their case was going to be lost before this jury, they very wisely and shrewdly by motion moved to have a directed

verdict from the judge...a directed verdict from the judge, totally disregarding the five weeks of expensive trial before jury! The newspaper articles did not elaborate on some of these kinds of situations in this particular issue!

"I also object to an explanation that the judge ruled that the City was 'too late, the statute of limitations prevailed' and so the newspaper's motion, one of the motions, that 'time had passed so we are now free to continue our joint operating agreement and the City should not win this case.'

"I tried to point out to people, including those people involved in that trial, and I volunteered to testify to show that while the City may not have instituted a suit against the newspapers' monopoly, which in the City's judgment was hurting the people of this state and this City. (Because the City pays for a lot of legal ads. The Attorney General's office pays for a lot of legal ads, so it affects the state, the city, the consumer, and the retail merchants.) So I tried to point out the fact that while the City may not have instituted a suit for 17 years, this does not mean that we have had no interest about this monopoly and how it affects the consumers of this state.

"I have tried to point out that we have had committee hearings in the Legislature; we have introduced bills, resolutions, and indeed, this was a very live subject. Unfortunately, Mr. Cooper did not see the need for my testimony before the judge.

"The point being here, Mr. President, that the newspapers are gloating this morning because much to their credit, they were wise enough to ask for a direct motion by the presiding judge, and he came up with a verdict in their favor.

"The newspapers, by their own admission, have spent over \$2 million in legal costs attendant to their case. The City spent \$400,000. And they come out with editorials saying 'how foolish the City is to have spent \$400,000.' Apparently, their case wasn't a very good one in their judgment because they saw nothing wrong about their spending \$2 million in comparison to the City's \$400,000. They've been trying to influence the City Council for weeks not to continue this suit; as a 'waste of the taxpayers' money.'

"In my judgment, Mr. President,

this is not a waste of the taxpayers' money. For the City to win this suit, to bring a result that will discontinue this joint operation is vitally important to the consumers of this state.

"Since the Legislature foolishly gave them a state statute, identical to the federal statute, the newspapers have raised their advertising rates nineteen times, if my counting is accurate, nineteen times! And, all of these costs are not absorbed by the retail merchants. They simply can't afford to absorb them. They pass them on to the consumers, and perhaps, this is a factor that goes into Hawaii being the highest food price state in the nation. And that is my concern!

"I have been trying to impress upon the City Council that notwithstanding a possible quarter of a million dollars additional cost to them to appeal and to go and take this case to the Ninth Circuit Court of Appeals in San Francisco. They should continue because it is in the public interest. I hope that the City Council would realize that indeed, this is a matter of vital importance to the consumers of the city, and of this island.

"It is for this reason that we have not discontinued our attempt, first of all to repeal the state statute. We can't justify a state statute to other businesses that do not have this kind of privilege. We continue to attempt to delete language that allows what is ordinarily a violation of the Sherman Anti-Trust Act provision that you cannot, in a business arrangement, jointly set prices, jointly pool profits and jointly solicit business. We're trying to repeal this. And because it was legislative action that provided the state statute on the books today, that gives these people special immunity privilege, we're saying that it is a legislative responsibility for us to require that these people report their financial situation annually to the Attorney General's office. They saw nothing wrong with this when they wanted us to look at their books -- they voluntarily asked us to look at their books, but, as I said, we did not.

"These are the basic reasons for our continued concern about the monopoly situation which has created

millionaires in this case, two inside millionaires...which has worked a hardship on the consumers of this state just as long as they can impudently raise their advertising rates every year as they have, all of which is affecting your pocketbook and mine.

"And it is for this reason that I have taken this time to try to explain our side of this issue in order that there would be reasonable understanding of what prompts us to continue on this issue.

"Thank you."

Senator Fernandes Salling then rose and stated:

"Mr. President, I rise on a point of personal privilege.

"I would just like to add to what Senator Kawasaki has said.

"The three bills that we are co-sponsoring will be heard in the Judiciary Committee on the 16th. Perhaps, I think the members should keep in mind that the decision of the court was based on financial records of the companies in 1962. It's been 20 years since then, and I don't think it unreasonable to require that they report to see if this kind of legislation is warranted today.

"Thank you."

The President then stated:

"The Chair would like to make an announcement. I would like to take this opportunity to mention just a few reminders.

"First of all, I think all of us are aware that next Tuesday is the cutoff date for the introduction of bills, so be sure that you can get your bills in by then.

"Second, if you have bills that are ready for introduction, please turn them in to the Clerk's office today.

ADJOURNMENT

At 12:20 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, February 14, 1983.