

FORTY-FOURTH DAY

Wednesday, March 30, 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 Captain Lee M. Thompson of the United States Air Force, after which the Roll was called showing all Senators present.

The Chair announced that he had read and approved the Journal of the Forty-Third Day.

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

Senator A. Kobayashi rose and stated:

"Mr. President, I'd like to introduce a former classmate, along with Olan Carpenter, Mr. Finis Jhung.

"Finis Jhung is the founder and the artistic director of the Chamber Ballet, USA, and dance master of the Finis Jhung Studio, all based in New York City. Finis danced with the Joffrey Ballet, the Harkness Ballet and the San Francisco Ballet. He is a well respected dancer and instructor and is in Hawaii to conduct dance classes for other dance instructors and advanced students."

Senator Young then introduced visitors from New York City, Lola and Joe Casal, accompanied by their daughter Lili.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 54 and 55) were read by the Clerk and were disposed of as follows:

A concurrent resolution (S.C.R. No. 54), entitled: "SENATE CONCURRENT RESOLUTION CONCERNING THE TUNA CANNERY OPERATION," was offered by Senators Cayetano, Abercrombie, Fernandes Salling, Kawasaki, Holt, Chang, Mizuguchi, Ajifu, Solomon, Cobb, Toguchi, Carpenter and George.

By unanimous consent, S.C.R. No. 54 was referred to the Committee on Economic Development.

A concurrent resolution (S.C.R. No. 55), entitled: "SENATE CON-

CURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY SENTIMENTS REGARDING THE POSSIBLE DEVELOPMENT OF SUBMERGED LANDS FOR CERTAIN ENUMERATED REASONS," was offered by Senator Abercrombie.

By unanimous consent, S.C.R. No. 55 was referred to the Committee on Economic Development.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 70 and 71) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 70), entitled: "SENATE RESOLUTION REQUESTING A STUDY OF THE ADVANTAGES AND DISADVANTAGES TO THE COMMUNITY COLLEGES AS A RESULT OF EXISTING WITHIN THE UNIVERSITY OF HAWAII SYSTEM," was offered by Senator Abercrombie.

By unanimous consent, S.R. No. 70 was referred to the Committee on Higher Education, then to the Committee on Legislative Management.

A resolution (S.R. No. 71), entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY SENTIMENTS REGARDING THE POSSIBLE DEVELOPMENT OF SUBMERGED LANDS FOR CERTAIN ENUMERATED REASONS," was offered by Senator Abercrombie.

By unanimous consent, S.R. No. 71 was referred to the Committee on Economic Development.

STANDING COMMITTEE REPORTS

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 684) informing the Senate that Senate Concurrent Resolution Nos. 54 and 55, Senate Resolution Nos. 70 and 71, and Standing Committee Report Nos. 685 to 691 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.

Senator Cobb, for the Committee on

Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 685) recommending that House Bill No. 876, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chang and carried, the report of the Committee was adopted and H.B. No. 876, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 1983.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 686) recommending that House Bill No. 1580, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chang and carried, the report of the Committee was adopted and H.B. No. 1580, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 1983.

Senator Machida, for the Committee on Health, presented a report (Stand. Com. Rep. No. 687) recommending that the Senate advise and consent to the nominations of the following:

Henry N. Thompson, as Administrator of the State Health Planning and Development Agency, in accordance with Governor's Message No. 116;

Joyce Kimi Horikawa, to the State Planning Council on Developmental Disabilities, in accordance with Governor's Message No. 117;

Georgia E. Morikawa, Jeffrey David Nunn and Judith Doktor, to the Commission on the Handicapped, in accordance with Governor's Message No. 118;

Vincent H.S. Lee, to the Commission on the Handicapped, in accordance with Governor's Message No. 191;

William Blanchard and Barbara K. Ideta, to the State Emergency Medical Services Advisory Committee, in accordance with Governor's Message No. 119;

Peter Halford, M.D., Douglas M. Rogers, M.D. and James S. Maeda, to the State Emergency Medical Services Advisory Committee, in accordance with Governor's Message No. 192;

James Miyahara, Ph.D. and Junedale U. Hashimoto, to the Advisory Commission on Drug Abuse and Controlled Substances, in accordance with Governor's Message No. 120;

Vernon Y.N. Chock and Yoshi T. Koga, to the East Honolulu Subarea Health Planning Council, in accordance with Governor's Message No. 121;

William R. Flanders, to the East Honolulu Subarea Health Planning Council, in accordance with Governor's Message No. 122;

Donna C. Kekumu, to the West Honolulu Subarea Health Planning Council, in accordance with Governor's Message No. 123;

Wallace T. Hirai, to the Central Oahu Subarea Health Planning Council, in accordance with Governor's Message No. 124;

June I. Takenaka, to the Windward Oahu Subarea Health Planning Council, in accordance with Governor's Message No. 125;

Reynold Mishina and Beverly Jean Withington, to the Hawaii County Subarea Health Planning Council, in accordance with Governor's Message No. 126;

Corazon E. Masicampo, to the Maui County Subarea Health Planning Council, in accordance with Governor's Message No. 127;

Hilda H. Inouye and John English, to the Kauai County Subarea Health Planning Council, in accordance with Governor's Message No. 128;

Rachael S. Chang, to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, in accordance with Governor's Message No. 129;

Reginald S. Carvalho, to the County Hospital Management Advisory Committee, Hawaii County Hospital System, in accordance with Governor's Message No. 193;

Lyman M. Morikawa, to the County

Hospital Management Advisory Committee, Maui County Hospital System, in accordance with Governor's Message No. 131;

Donald K. Matsui and Elmer J. Ching, to the County Hospital Management Advisory Committee, Maui County Hospital System, in accordance with Governor's Message No. 194;

Stanley M. Shimabukuro and Evelyn Y. Olores, to the County Hospital Management Advisory Committee, Kauai County Hospital System, in accordance with Governor's Message No. 195;

Dean Jerrold Michael, Mark M. Hamasaki and Pauline W. Yim, to the Statewide Health Coordinating Council, in accordance with Governor's Message No. 188;

Maurice Morita, to the Advisory Commission on Drug Abuse and Controlled Substances, in accordance with Governor's Message No. 189; and

Nellie S. Chang, to the Drug Product Selection Board, in accordance with Governor's Message No. 190.

By unanimous consent, action on Stand. Com. Rep. No. 687 and Governor's Message Nos. 116, 117, 118, 191, 119, 192, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 193, 131, 194, 195, 188, 189, and 190 was deferred until Thursday, March 31, 1983.

Senator Cayetano, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 688) recommending that the Senate advise and consent to the nomination of Kent Keith as Director of Planning and Economic Development, in accordance with Governor's Message No. 155.

By unanimous consent, action on Stand. Com. Rep. No. 688 and Governor's Message No. 155 was deferred until Thursday, March 31, 1983.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 689) recommending that House Bill No. 304, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb,

seconded by Senator Chang and carried, the report of the Committee was adopted and H.B. No. 304, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS, ARCHITECTS AND SURVEYORS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 1983.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 690) recommending that House Bill No. 1304, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chang and carried, the report of the Committee was adopted and H.B. No. 1304, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INDUSTRIAL LOAN COMPANY GUARANTY ACT," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 1983.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 691) recommending that House Bill No. 1602, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chang and carried, the report of the Committee was adopted and H.B. No. 1602, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 1983.

At 11:50 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:52 o'clock a.m.

ORDER OF THE DAY

THIRD READING

H.B. No. 658:

By unanimous consent, action on H.B. No. 658, entitled: "A BILL FOR AN ACT RELATING TO ENGINEERS, ARCHITECTS AND SURVEYORS," was deferred until

Thursday, March 31, 1983.

At this time, Senator Uwaine, Chairman of the Committee on Transportation requested a waiver of the 48-hour notice of a Public Hearing on the following:

Gov. Msg. No. 147, submitting for consideration and confirmation to the Commission on Transportation, the nomination of Kenneth I. Craw; and

Gov. Msg. No. 249, submitting for consideration and confirmation to the Commission on Transportation, the nomination of Eric K. Honma,

and the President granted the waiver.

At this time, Senator Abercrombie rose and stated:

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

"Mr. President, within recent weeks Manoa Finance and Great Hawaiian Financial Corporation have gone bankrupt. Within recent weeks as well, we have had revealed to us that members of the press, in particular KGMB, and the Honolulu Advertiser, knew full well that Manoa Finance and Great Hawaiian Financial Corporation were in trouble and did not print the stories. They decided what news we should know.

"The reason they did it was to protect the chairman of the Consumer Protection Agency, Mary Bitterman. She has responsibility for the Thrift Guaranty Corporation. Now, for sometime, especially the Honolulu Advertiser has had Mrs. Bitterman as one of their particular favorites that can do no wrong, so as a result of this the Honolulu Advertiser and some of the other media decided that rather than print a story about the law being violated, that they would try to protect the person who was in charge of the Thrift Guaranty Corporation.

"The Thrift Guaranty Corporation came in to being in 1976. Mrs. Bitterman is now in charge of it. The fact remains, as it did in 1976, that the Thrift Guaranty Corporation is a fraud. I stated in my speech against the formation of the Thrift Guaranty Corporation in 1976, a vote which, by the way, Mr. President, I lost fifty to one in the House of Representatives and as you know you have a law on the books because you want it there when you need it and sometimes a law sits there for a long time until you need it and that's when

you want it there.

"I indicated to my colleagues in 1976 that this Thrift Guaranty Corporation was a simple fraud so that we could get people to put money back into industrial loan companies and as soon as a bankruptcy situation like THC hit again those same people would be defrauded once more and that's exactly what's happened to hundreds and hundreds of depositors in Manoa Finance and Great Hawaiian Financial Corporation.

"I notice when there was a supposed run on one of our financial institutions recently who did not have the same political clout that apparently the Inaba families and the Yamamoto families have in this state, that the newspapers and the media were quick to print that a run was going on and just as quick to print that it was not something that was warranted.

"It is not the business of the media to decide what we should know in the way of news. It is most certainly not the business of the media nor is the business of the the so-called consumer protector, who apparently is the company protector, to decide whether or not people should be protected first or whether nonexistent buyers can be found.

"Mrs. Bitterman should have spent time getting funds into the Thrift Guaranty Corporation to pay depositors rather than looking for nonexistent buyers.

"To try to find a buyer for Manoa Finance and Great Hawaiian Financial is like trying to find a buyer for the 'Titanic' after it hit the iceberg.

"The point is, do you put an ambulance in the valley or do you put a guard rail on the hill.

"If the Thrift Guaranty Corporation did not have the money to do the job why didn't the so-called consumer protector, Mrs. Bitterman, recommend changes in the law and go and get that money and see that it was there so that these people could be protected. Who was being protected? It certainly wasn't for the depositors that this action or nonaction, I should say, was taken. On the contrary, it was the political insiders who benefited.

"At this same conference, this media conference where Mr. Chaplin from the Advertiser and others confessed that they were deciding what

we should know and now know, the conference was one on media ethics ...a slight irony, one might say. The gentleman involved, Mr. Norman Isaacs, said at the time that he believed that KGMB and the Advertiser made the right decision in not repeating the reports. Mr. Isaacs, of course, was not informed that we had a Thrift Guaranty Corporation. As a media critic you'd think Mr. Isaacs would submit himself to the dictum that a reporter ought to know the facts before making a comment on it.

"I was interested to see if at the same conference if at least one of the television reporters from KHON questioned whether the withholding of information didn't favor insiders who knew the problems and were withdrawing their money.

"I want to point out from my speech in 1976 and I quote, 'Industrial loan companies are in a situation in which some of the major financial institutions of the state may be in a position to dominate. Therefore, I think that they should have an insurance situation that should be spelled out far more closely in the bill over and above the actual insurance or dollar amounts so that people who are putting their money into the industrial loan companies understand exactly what it is they are doing.'

"These people who put money in Manoa Finance and Great Hawaiian Financial thought that they were being protected by the consumer protector. Now the consumer protector, Mrs. Bitterman, is telling them they can wait for their money. They can wait for the bankruptcy proceedings to take place. How is that any different than it was before then for these people? She knows and I know and everyone knows that they would not have put their money into their financial institution if they thought that that was going to be the case.

"I went on to say, and I quote again, 'The basic idea of this guaranty corporation is a creature of the industrial loan companies and I find that suspect.'

"I went on to say, and again I quote, 'Again, I believe, we have an insiders' playground since the officers of the guaranty corporation and the industrial loan companies are drawn from the same circle.'

"Fifty to one! We were so anxious to give the public the illusion that they were going to be protected from the predatory people like Randolph

Crossley and the rest of the thieves in THC, that we passed this Thrift Guaranty deal and the people in charge of it knew full well that it could not do what we were telling people what it was going to do. But the idea, of course, was let's get these companies going. Let's protect the insiders, forget about the depositors and maybe it won't happen again and let's hope it won't happen. Well, it did happen again.

"I find, in addition, Mr. President, that some nine hundred thirty-six thousand seven hundred and nineteen dollars in bad checks had been written at Manoa Finance. I don't know about you, Mr. President, and I don't know about me but if I understand correctly what the Constitution says, our immunity doesn't quite go as far as felonious check passing, even during the session.

"If I write a check and it bounces, Mr. Marsland will be over to see me. If Manoa Finance writes bad check for almost a million dollars, the man who does it stands up and gives an apology. I suggest the next time somebody takes a gun into one of the banks and tries to rob it and get caught before they go out of the door, that the robber turn around and make an apology. The difference is that the robber could at least give the money back. In this instance, Manoa Finance isn't even going to give the money back.

"I've written a letter to Tany Hong, the Attorney General of this state, and to Mr. Charles Marsland, the Prosecuting Attorney of the City and County of Honolulu, and I've indicated the article to which I was referring written by Russ Lynch of the Honolulu Star Bulletin, March 22nd, where Manoa Finance wrote a total of nine hundred and thirty-six thousand seven hundred and nineteen dollars in bad checks and I quote, 'The situation certainly seems to call for an investigation of those responsible for the issuance of those checks. I would appreciate your views in the matter as well as being informed of any action which will be brought to bear on the individuals responsible for this crime.'

"Let's see how much these people can get away with.

"I want to conclude by reading from the Honolulu Advertiser who has decided now that we can know something about it. Tuesday, March 29th, 'we are old and may not live to see a paycheck, depositors of Great

Hawaiian Financial Corporation said yesterday in pleading emotionally to get their money... now apparently, they should have pleaded unemotionally, '... from a state-backed insurance rather than possibly waiting years for liquidation of the firm.'

"At the first meeting of these creditors, more than one hundred depositors, mostly elderly Japanese, were told preliminary estimates show that the industrial loan company is in the hole by 2.2 million dollars. Accounts in both of the failed firms were insured up to ten thousand dollars by the state-backed Thrift Guaranty Corporation,' but the catch is that Thrift Guaranty does not have the money to pay off the depositors. Exactly what I said was going to happen in 1976.

"The new president and chief executive of Great Hawaiian told depositors that there's no way to know yet how long it will be before paybacks can begin. He stated that the Thrift Guaranty Corporation has an obligation to pay the depositors but 'apparently there is not enough money.' So I ask again, who is being protected all this time? The way you protect depositors is when you find that things are wrong in industrial loan companies, you close them down right on the spot.

"People were still putting their money in, advertisements going out, all the rest of it, by word of mouth or otherwise, still putting their money in because they had faith in the State of Hawaii, faith in the consumer protector. People were able to take their money out and now I understand, oh, we're going to try and get it back. They've got the money out. What are you going do? Send Ben Villaflor to chase them down the street to make them give the money back? Are they going to send the sheriff's department?

"We're going to invoke the rules ...if they're going to invoke the rules, why didn't they invoke the rules that would have protected the people in the first place.

"There's something really rotten about this whole deal and it's even more rotten when the media has to stand up, when they get caught, when the political insiders get caught and they put out a headline 'Media sat on loan firm stories to prevent panic.'

"You know, I was around for Watergate too. Why didn't they say,

Nixon sat on Watergate story to prevent panic. The newspapers were like the 'Hound of the Baskervilles' in a Sherlock Holmes story going after Richard Nixon but when they were involved in the coverup, in the financial industrial loan coverup, it was a public service to prevent panic. I suggest, Mr. President, that the panic was in the editorial offices of the Honolulu Advertiser when they were found out and they tried to put the best face on it.

"And I suggest that this Legislature take a close look at the so-called Thrift Guaranty Corporation, because apparently the only thing it guarantees is that the people who put their faith in it get the shaft.

"Thank you."

Senator Cobb then rose and stated:

"Very briefly, Mr. President. First of all, I will not in any way, shape or form offer a defense to the media sitting on the story. That's a matter to be resolved both in the bar of public opinion, as well as whatever investigation would come out in the facts.

"Second, although I was not the chairman of the Consumer Protection and Commerce Committee in the House at the time this particular matter involving the Thrift Guaranty was passed, I have over the years become quite familiar with the law because of a number of questions being raised, both in the public and private sectors, as well as from various media representatives. It is my understanding in the application of the law that a set time-period is allowed for the liquidation or disposition of assets after which the Thrift Guaranty Fund is assessed whatever remaining balance there is.

"The director was in my office this morning indicating a partial release of funds is forthcoming in the near future. And we have a bill that has already passed out of the committee I chair on Consumer Protection and Commerce that provides, one, for FDIC insurance on the federal level for industrial loan companies; and second, that the assessments required by the state for pay-in to the Thrift Company Guaranty Fund shall continue even after the industrial loan companies are converted to FDIC. That is a proviso I insisted on to retain the solvency of the so-called Thrift Guaranty Fund until such time as the state and the depositors are repaid in full. It's a situation that I'm going

to monitor very closely.

"But, as I indicated, the media aspect of the matter is something that will have to be resolved publicly, as well as by investigation.

"Thank you."

Senator Abercrombie then rose and stated:

"Mr. President, just a brief rejoinder with respect to the remarks of the previous speaker.

"I appreciate his concern and the moves that are being undertaken at the present time to address this problem. My only comment is that I think it's a shame that it took this kind of tragedy happening a second and third time in order to bring the consumer protector into the chairman's office. That should have been done a long time ago."

Senator Cobb then responded:

"Mr. President, I might add my postscript. The idea for FDIC insurance emanated from a public hearing in my committee a year ago when I asked that the matter be fully explored and legislation be drafted to provide for this kind of protection. I'm glad to see that it has come. I only wish it had come earlier."

The President then stated:

"The Chair would like to remind all committee chairmen, that, as you know, tomorrow is the deadline for decking of all House bills with Senate drafts. If you have completed work on the bills, we would appreciate it if you would turn them in to the Clerk's office by 4:30 p.m. this afternoon."

Senator Abercrombie then queried:

"Mr. President, my committee bills and other committee bills are going around for signature, as you suggest, in order to meet the deadlines. I would like to know at what point we'll be able to take a look at the worksheet...the final product...in the Ways and Means Committee so that we can just make sure that there weren't any slip-ups."

The President replied:

"The bills will be prepared by tomorrow. We will all see it. It should be decked by tomorrow, Senator Abercrombie."

Senator Abercrombie then queried:

"I understand that, but would it be possible for us simply to try and take a look at the worksheets that are going along...."

The President then interjected:

"That matter would have to be deferred to the chairman of the Ways and Means Committee."

Senator Abercrombie then continued:

"All right, Mr. President, may I ask through you, a question of the chairman?"

The President, having answered in the affirmative, Senator Abercrombie then continued:

"Would it be all right for us to simply double-check...have our staffs double-check with the staff so that we don't have any...it will be a hectic day tomorrow...that's what I'm saying, and just to put my mind at ease so we minimize the mistakes that have to be corrected."

The President then stated:

"Mr. Chairman, I think the request is to have his staff to go over the worksheets to make sure that nothing falls between the cracks and everything is in order."

Senator Yamasaki then replied:

"We will be consulting with the staff of the Education Committee, Mr. President."

Senator Cayetano then rose and queried:

"Mr. President, what is the schedule like for tomorrow?"

The President replied:

"Hectic, very hectic, Senator Cayetano."

Senator Cayetano then continued:

"Is a night session planned?"

The President then replied:

"We are thinking about it, Senator Cayetano. It depends on the printing and on whether we can deck it in time tomorrow. As you know, the budget is relatively thick, so we may

have some printing problems."

Senator Cayetano then stated:

"I, for one would like to have some time to review the budget bill so that I can propose an amendment."

"The President then replied:

"If that is your choice. I think the expeditious way to handle it is that if you feel that an item in the budget should be amended, I suggest that you check with Ways and Means for the proper language with relation to that particular subject matter, unless it's a wholesale kind of amendment-making activity you wish to indulge in."

Senator Cayetano then queried:

"Is Ways and Means still taking

questions?"

The President replied:

"I don't think they are."

Senator Cayetano then replied:

"The train has already left, right?"

The President answered in the affirmative and Senator Cayetano then stated:

"Okay, I'll try to attach a caboose tomorrow."

ADJOURNMENT

At 12:15 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:00 o'clock a.m., Thursday, March 31, 1983.