

SIXTEENTH DAY

Wednesday, February 6, 1985

The Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, convened at 11:40 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Major Richard Taba, Associate Officer, The Salvation Army, Kauluwela Mission, after which the Roll was called showing all Senators present with the exception of Senator Toguchi who was excused.

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

At this time, Senator George introduced to the members of the Senate six Kailua Elementary School Junior Girl Scouts of Troop 287. They were accompanied by their leader Mary Ann Crocker, and parent Cindy Stevens.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 158 to 159) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 158, transmitting a report prepared by Tillinghast, Nelson & Warren, Inc., in response to Act 285, Sec. 53B, SLH 1984, requesting the Insurance Commissioner to conduct a comprehensive review of the Hawaii No-Fault Insurance Law, was referred to the Committee on Consumer Protection and Commerce.

Gov. Msg. No. 159, transmitting a report, "1984 Student Achievement Report, Basic Skills," prepared by the Department of Education, pursuant to Sec. 296-11, HRS, was referred to the Committee on Education.

INTRODUCTION OF SENATE BILLS

On motion by Senator Cobb, seconded by Senator Soares and carried, the following bills passed First Reading by title, were printed and distributed, and were referred to committee:

Senate Bills

No. 383 "A BILL FOR AN ACT RELATING TO THE SPECIAL SUMMER SCHOOL FUND."

Introduced by: Senator Yamasaki.

Referred to: Committee on Education, then to the Committee on Ways and Means.

No. 384 "A BILL FOR AN ACT

RELATING TO STATE BONDS."

Introduced by: Senator Yamasaki.

Referred to: Committee on Ways and Means.

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 Thursday, February 7, 1985:

No. 385 "A BILL FOR AN ACT RELATING TO ATTORNEYS' FEES AND COSTS AND EXPENSES OF LITIGATION."

Introduced by: Senators Henderson, Soares, George, Abercrombie, Solomon, Hee, Aki, Kuroda, McMurdo, Chang, B. Kobayashi, Kawasaki, Matsuura and Toguchi.

No. 386 "A BILL FOR AN ACT RELATING TO THEFT."

Introduced by: Senators Henderson, Soares, George, A. Kobayashi, Machida, Abercrombie, Aki, Kuroda, Matsuura, Solomon, Hee, Cayetano, McMurdo, Chang, Kawasaki, Toguchi and B. Kobayashi.

No. 387 "A BILL FOR AN ACT RELATING TO TORTS."

Introduced by: Senator Yamasaki, by request.

No. 388 "A BILL FOR AN ACT RELATING TO CRIME."

Introduced by: Senators George, Soares, McMurdo, Kuroda, Henderson, Aki, Cayetano, A. Kobayashi and Chang.

No. 389 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE."

Introduced by: Senators Cayetano, Henderson, Matsuura, Hee, Kuroda, Solomon, Machida and Mizuguchi.

No. 390 "A BILL FOR AN ACT RELATING TO LAND USE."

Introduced by: Senators Cayetano, Hee, Fernandes Salling, Kuroda, Solomon and Machida.

No. 391 "A BILL FOR AN ACT RELATING TO FAMILY COURT."

Introduced by: Senators George,

Soares, McMurdo, Matsuura, Aki, Cayetano, Kuroda and Henderson.

No. 392 "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION."

Introduced by: Senators George, Soares, McMurdo, Kuroda, A. Kobayashi, Chang and Young.

No. 393 "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION."

Introduced by: Senators George, Soares, McMurdo, Cayetano, Kuroda, Henderson, A. Kobayashi, Chang and Young.

No. 394 "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR."

Introduced by: Senators George, Soares, McMurdo, Matsuura, Aki, Kuroda, Henderson, A. Kobayashi, Chang and Young.

No. 395 "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS."

Introduced by: Senators George, Soares, McMurdo, Matsuura, Aki, Cayetano, Kuroda, Henderson, A. Kobayashi, Chang and Young.

No. 396 "A BILL FOR AN ACT RELATING TO CRIME."

Introduced by: Senators George, Soares, McMurdo, Chang, Aki, A. Kobayashi and Young.

No. 397 "A BILL FOR AN ACT RELATING TO VEHICULAR TAXES."

Introduced by: Senators George, Matsuura, A. Kobayashi, McMurdo, Chang, Young, Cayetano, Soares and Henderson.

No. 398 "A BILL FOR AN ACT RELATING TO VOLUNTEER SERVICES TAX CREDIT PILOT PROGRAM."

Introduced by: Senators George, B. Kobayashi, Matsuura, McMurdo, Chang, Cayetano and Soares.

No. 399 "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS."

Introduced by: Senators George, Soares, McMurdo, Matsuura, Aki, Cayetano, Kuroda, Henderson, Young, A. Kobayashi and Chang.

No. 400 "A BILL FOR AN ACT RELATING TO LICENSING."

Introduced by: Senators George, Matsuura, A. Kobayashi, McMurdo, Chang, Soares, Cayetano and Henderson.

No. 401 "A BILL FOR AN ACT RELATING TO DRINKING AGE."

Introduced by: Senators Matsuura and Mizuguchi.

No. 402 "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VI OF THE HAWAII CONSTITUTION RELATING TO JUSTICES AND JUDGES."

Introduced by: Senators George, McMurdo, Soares and Henderson.

No. 403 "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE II, III, AND XVII OF THE CONSTITUTION OF THE STATE OF HAWAII TO PROVIDE FOR THE INITIATIVE."

Introduced by: Senators George, Soares, Henderson, McMurdo and Chang.

STANDING COMMITTEE REPORT

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 7) informing the Senate that S.B. Nos. 380 to 384 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

THIRD READING

House Bill No. 2, H.D. 1:

Senator Yamasaki moved that H.B. No. 2, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

Senator Abercrombie then asked if the chairman would yield to a question. The Chair posed the question and Senator Yamasaki having answered in the affirmative, Senator Abercrombie inquired as follows:

"Mr. President, would you ask the chairman if the bill before us provides for staffing for the Senate offices other than the eight hours per week that has been the practice in the past?"

Senator Yamasaki replied:

"Mr. President, that does not belong in my jurisdiction. It's more administrative and I defer to the President."

Senator Abercrombie then queried as follows:

"Mr. President, I will be pleased then to ask you, is it your intention to see to it within the boundaries of the monies that are provided in this bill, to have staffing in the offices of all senators beyond the eight hours per week?"

The Chair answered as follows:

"I have been informed by the Legislative Management chairman that yes, we are addressing that."

Senator Hee then asked if the chairman would yield to a question. The Chair posed the question and Senator Yamasaki having answered in the affirmative, Senator Hee inquired as follows:

"Mr. President, would you ask the chairman if the appropriation bill before us includes stationery which is current to the Thirteenth Legislative Session?"

Senator Yamasaki replied: "I yield to the President."

The Chair answered: "Yes."

Senator Hee further inquired: "When will the members of the Thirteenth Senate be given the appropriate stationery which is current and correct?"

The Chair replied: "In two days."

Senator Kawasaki's request to have his remarks in support of the measure entered into the Journal follows:

"Mr. President, I speak in favor of H. B. No. 2...I do so with some reservations and concerns that I would like to enter into the Journal of the Senate as chairman of the Government Operations Committee, charged with the responsibility of promoting the cause of efficient and economical functioning of our government bureaus and agencies paid for by our taxpayers.

"Provided in the budget for the office of the Ombudsman is the amount of \$47,520 of taxpayer funds for the appointment of a first assistant to the Ombudsman.

"It is my judgment that there is no need for this position which could be replaced by a position to be designated perhaps as a senior analyst at substantially less cost.

"I suggest that the Senate instruct the Ombudsman to keep that position unfilled and a bill will be introduced to delete the position which was statutorily created in 1974, subsequent to the enactment of the Ombudsman legislation in 1967.

"It is my judgment also that the staff of

twelve people in the office could be reduced substantially without affecting the utility of the agency to the public.

"I am appalled at the efficiency with which Parkinson's Law has affected the agency when I examine the budget for the office which provides \$347,810 for staff and \$32,540 for all other expense ... a ratio more than 10 to 1 for personnel services.

"I must accept responsibility for the creation of the office which was needed back in 1967 but never did I intend that the agency get to be the \$380,000 bureaucracy that it has become.

"I certainly did not envisage a director for the office at a salary of \$50,490 and a deputy at \$47,520 or almost \$100,000 or one third of the bureau's budget to be consumed by salaries for two positions.

"It appears to me that the thousands of legitimate complaints by our citizens...complaints about government agents' arbitrary, unfair actions, public neglect, etc. have been addressed by the operation of the office for the past sixteen years...and discretionary screening of complaints received by the office should gradually reduce the number of annual legitimate grievances received by the agency.

"I would advocate the reduction of the twelve positions in the office by attrition if need be.

"Being the original enthusiastic sponsor-author of the Ombudsman, I have been kidded with justification I suppose...about the efficacy and necessity of the agency by many of my fellow legislators...including some of you in this body, who have been disappointed with the operation of the agency and the high cost to the taxpayers for its existence.

"I feel a responsibility to help 'cut the fat' so to speak...in the operation.

"I do think there is justification for the existence of the office with minimal and prudent staffing and management.

"I would not recommend complete elimination of the office as many of you have seriously suggested.

"So much for the Ombudsman.

"I am additionally concerned about the increase in the cost of operating the office of the Ethics Commission.

"Again, I must plead guilty to having been an original proponent co-author of the statute.

"We started the office back in 1967 with a

budget (if memory serves me correctly, at \$25,000) as the bill emerged from my government efficiency committee.

"I accept no responsibility for subsequent amendments to the statute which eventually resulted in the expensive \$179,000 bureaucracy that it is, an agency unable to resolve some of the most flagrant conflicts of interest prevalent in the legislature.

"Contained in the cost item in the budget for the office is an expenditure for annual out-of-state conference attendance.

"While the amount involved is nothing monumental, why do we need to have staff for the agency attend conferences overseas?

"Do we need to import ethical standards from elsewhere in the country? Included also in their budget is a \$26,851 item for an 'educational' program, I suppose ostensibly to educate government employees as to what constitutes unethical or conflict of interest actions.

"However well-meaning the commission may be...I don't think the taxpayers should be charged with the Ethics Commission office instructing employees on the subject of public morality on an on-going basis at \$26,000 a year...I trust that we are hiring into government service, reasonably intelligent adults who know right from wrong...and if they are in doubt...they should make inquiries at the office...without the necessity of scheduled orientation classes at \$25,000 per year.

"The testimony of the commission attempts to make a case for an increase in salary classification that I cannot agree with.

"My admonition to people who receive over \$30,000 per year in government service, including judges in the judiciary system, in positions that do not make unduly burdensome demands is...leave your positions if you are unhappy...

"My final recommendation, Mr. President...one that I have made for a good many years...is that the legislative expenses bill to finance the operation of the legislature provide enough funding so we can provide adequate and competent staff particularly for the two finance committees, the Finance committee in the House and the Senate Ways and Means Committee...with resources to enable the staff to regularly monitor the many programs which are funded by sizable appropriations...programs including the grants-in-aid organizations.

"Regular examination of these programs should be conducted somewhat in the fashion of the Federal GSA operation to ensure that our taxpayer funds are prudently

appropriated and utilized.

"The cost of providing the staff to do all this will easily come out of the savings effectuated by our monitor efforts I am convinced. We can then say to the taxpayer...'we are doing our best to see that we use your dollars wisely'...from what I have observed over the last eighteen years here...I am not overwhelmed with the conviction that we are doing our best in this regard...

"With this sermon I will support H.B. No. 2 with reservations, so to speak."

The motion was put by the Chair and carried, and H.B. No. 2, H.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Kawasaki, Toguchi).

REFERRAL OF SENATE BILLS

The President then made the following committee assignments of bills that were introduced on Tuesday, February 5, 1985:

Senate Bills Referred to:

No. 380 Committee on Judiciary, then to the Committee on Ways and Means

No. 381 Committee on Labor and Employment, then to the Committee on Ways and Means

No. 382 Jointly to the Committee on Economic Development and the Committee on Energy

Senator Abercrombie rose on a point of personal privilege and stated as follows:

"I trust that people of the state will await the arrival in person, so to speak, of the Majority package before they make decisions as to what is contained in it.

"If one is to read Mr. Kakesako's story today in the Honolulu Star-Bulletin, they will have a very misshapened sense of what that package will contain. I notice just with respect to everything from the drinking age to state funding of abortion to Manoa Finance, that everything in their is either inaccurate or misleading.

"Thank you."

At 11:48 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:49 o'clock a.m.

Senator Kawasaki rose and stated:

"Mr. President, first of all I apologize for being late. I was delayed unavoidably. I had some remarks to make on the passage of House Bill No. 2, the legislative expenses bill.

"As chairman of the Government Operations Committee, I had some suggestions to make in the way of reducing the total expenditure for both the Ombudsman's office and the Ethics Commission office. I also had some suggestions for an increase in appropriations so that when we're out of session both committees in the Legislature, the Finance

in the House and the Ways and Means in the Senate, could provide for competent, full-time, adequate staff to do some monitoring of some of these programs for which taxpayers' funds are appropriated, specifically grants-in-aid appropriations amounting to \$7-8 million. But I would just enter the comments I had to make, pages of it, in the Journal, if you will allow it."

The Chair replied: "So ordered."

ADJOURNMENT

At 11:51 o'clock a.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, February 7, 1985.