

TWENTY-SIXTH DAY

Thursday, February 26, 1987

The Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, convened at 11:43 o'clock a.m., with the Vice President in the Chair.

The Divine Blessing was invoked by the Reverend James Russow of Our Savior Lutheran Church, after which the Roll was called showing all Senators present with the exception of Senator McMurdo who was excused.

The Chair announced that she had read and approved the Journal of the Twenty-Fifth Day.

The following introductions were made to the members of the Senate:

Senator Solomon introduced 27 students representing the Waimea Elementary School choral group on the Big Island, who were sitting in the gallery accompanied by their instructor, Mrs. Faith Bean; vice principal, Ms. Monica Chow; and chaperones, Mrs. Yardley, Mrs. Dela Cruz, Mrs. Puhi and Mr. Strauss:

"The Waimea Elementary School chorus is here making various appearances on Oahu. They'll be performing at Maemae Elementary School, Sea Life Park, and Ala Moana Center. The reason for their trip, however, was not only to perform but also to take a tour of the historical sites and an educational tour as part of their Hawaiian Studies curricula. At this time, Madam Vice President, if you would allow our chorus to sing, they would be very happy to perform for the Senate."

The students rose to be recognized then entertained the Senators and guests with two choral renditions.

Senator Solomon then added: "Madam Vice President, I just want to remind the Senators here that it was an old Hawaiian tradition, which is very much alive today, that when they sing the verse that's from your district you're supposed to stand up and be recognized. I want to thank Senator Mizuguchi who stood up for the Hamakua verse because that's where he's originally from. Mahalo a nui loa to Waimea, Aloha."

Senator Hagino introduced 62 students from the Wahiawa Store Front Program, accompanied by their teachers, Miss Teresa Gilroy, Mr. Jess Laigle, Miss Shari Yoshimoto, Mr. Paul Dyas, Mr. John Okinaka, Miss Renee Morinaka and Mrs. Colette Toma.

Senator Nakasato introduced Mayor Masao Shimabukuro of Chatan, Okinawa, Mr. Koichi Takakura, a very good friend and

a developer, and a group of 11 people visiting from Chatan and said, "Okinawa is just starting to have tourism as a number one industry, so they often come to Hawaii looking for some kind of advice and what I try to do is exchange ideas with them. We can also learn from the Okinawans as far as tourism goes. Chatan is in central Okinawa and a developer named Koichi Takakura is going to build a 400-plus luxury resort hotel in combination with an amusement park and a sports complex."

Senator Menor introduced a group of fourth graders from Honowai Elementary School in Waipahu, accompanied by their teachers, Ms. Karen Chang and Mr. Bob Mumper, Mr. Dennis Wong, son of Senator Jimmy Wong, and parent chaperones.

Senator Menor also introduced Mr. Daniel Hawe, director of Intergovernmental Affairs for Correctional Services in Canada, "who is visiting Hawaii observing the legislative process and who participated in the seminar on privatization of correctional services."

Senator J. Wong introduced his niece Shelly Pang, who was among the students from Honowai Elementary School.

Senator Fernandes Salling introduced Brad Pactol, an eighth grade student from Wheeler Intermediate School.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 129 and 130) were read by the Clerk and were placed on file:

Gov. Msg. No. 129, transmitting a report prepared by the Department of Land and Natural Resources in response to S.R. No. 98 and S.C.R. No. 74 (1986), requesting a management study of the Molokai irrigation system and the establishment of an irrigation district on Molokai.

Gov. Msg. No. 130, transmitting a report prepared by the Department of Land and Natural Resources in response to H.R. No. 244 and H.C.R. No. 165 (1986), requesting a study on replenishing depleted stocks of fish and shellfish through culture and release programs.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 27 to 32) were read by the Clerk and were disposed of as follows:

S.R. No. 27, entitled: "SENATE RESOLUTION REQUESTING A STATE STANDARD ROAD AROUND KAENA POINT, OAHU," was offered by Senators

Aki, Matsuura, Blair, B. Kobayashi, Yamasaki, Kuroda, Solomon, J. Wong, Menor, Reed, Hee, Henderson, Mizuguchi, A. Kobayashi, George, Ikeda, Cobb, Nakasato, Fernandes Salling and McMurdo.

By unanimous consent, S.R. No. 27 was referred to the Committee on Transportation.

S.R. No. 28, entitled: "SENATE RESOLUTION RELATING TO EDUCATIONAL REFORM OF THE CONTENT OF EDUCATION," was offered by Senators Mizuguchi, J. Wong, McMurdo, Ikeda, Hagino, A. Kobayashi, Nakasato and Fernandes Salling.

By unanimous consent, S.R. No. 28 was referred to the Committee on Education, then to the Committee on Legislative Management.

S.R. No. 29, entitled: "SENATE RESOLUTION RELATING TO EDUCATIONAL REFORM OF THE STANDARDS AND EXPECTATIONS OF EDUCATION," was offered by Senators Mizuguchi, Fernandes Salling, J. Wong, McMurdo, Ikeda, Hagino, Nakasato and A. Kobayashi.

By unanimous consent, S.R. No. 29 was referred to the Committee on Education, then to the Committee on Legislative Management.

S.R. No. 30, entitled: "SENATE RESOLUTION RELATING TO EDUCATIONAL REFORM OF THE STRUCTURE OF TIME FOR EDUCATION," was offered by Senators Mizuguchi, Fernandes Salling, J. Wong, McMurdo, Ikeda, Hagino, Nakasato and A. Kobayashi.

By unanimous consent, S.R. No. 30 was referred to the Committee on Education, then to the Committee on Legislative Management.

S.R. No. 31, entitled: "SENATE RESOLUTION RELATING TO EDUCATIONAL REFORM TO IMPROVE THE PREPARATION OF TEACHERS AND MAKE TEACHING A MORE REWARDING AND RESPECTED PROFESSION," was offered by Senators Mizuguchi, McMurdo, J. Wong, Ikeda, Hagino, A. Kobayashi, Fernandes Salling and Nakasato.

By unanimous consent, S.R. No. 31 was referred to the Committee on Education, then to the Committee on Legislative Management.

S.R. No. 32, entitled: "SENATE RESOLUTION ENCOURAGING THE SUBMISSION OF VIEWS AND RECOMMENDATIONS BY STUDENTS, TEACHERS, SCHOOL ADMINISTRATORS,

PARENTS, AND THE GENERAL PUBLIC ON THE SUBJECT OF EDUCATIONAL REFORM OF HAWAII'S PUBLIC SCHOOL SYSTEM," was offered by Senators Mizuguchi, Fernandes Salling, J. Wong, McMurdo, Ikeda, Hagino, A. Kobayashi and Nakasato.

By unanimous consent, S.R. No. 32 was referred to the Committee on Education, then to the Committee on Legislative Management.

STANDING COMMITTEE REPORTS

Senator Kuroda, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 15) recommending that Senate Bill No. 508 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kuroda, seconded by Senator Hagino and carried, the report of the Committee was adopted and S.B. No. 508, entitled: "A BILL FOR AN ACT RELATING TO THE HONOLULU SYMPHONY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kuroda, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 16) recommending that Senate Bill No. 661 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kuroda, seconded by Senator Hagino and carried, the report of the Committee was adopted and S.B. No. 661, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HONOLULU THEATER FOR YOUTH," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kuroda, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 17) recommending that Senate Bill No. 1422 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kuroda, seconded by Senator Hagino and carried, the report of the Committee was adopted and S.B. No. 1422, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ASIAN PACIFIC BALLROOM DANCING FESTIVAL," passed Second Reading and was referred to the Committee on Ways and Means.

At 12:01 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:02 o'clock p.m.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 18) recommending that Senate Bill No. 11, 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 Blair and carried, the report of the Committee was adopted and S.B. No. 11, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 2, 1987.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 19) recommending that Senate Bill No. 361, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Consumer Protection and Commerce.

On motion by Senator Cobb, seconded by Senator Blair and carried, the report of the Committee was adopted and S.B. No. 361, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed First Reading and was recommitted to the Committee on Consumer Protection and Commerce.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 20) recommending that Senate Bill No. 362, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Consumer Protection and Commerce.

On motion by Senator Cobb, seconded by Senator Blair and carried, the report of the Committee was adopted and S.B. No. 362, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS," passed First Reading and was recommitted to the Committee on Consumer Protection and Commerce.

Senator Holt, for the Committee on Tourism and Recreation, presented a report (Stand. Com. Rep. No. 21) recommending that Senate Bill No. 1192, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Holt, seconded by Senator Blair and carried, the report of the Committee was adopted and S.B. No. 1192, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONVENTIONS, TRADE SHOWS, AND OTHER EVENTS," passed Second Reading and was referred to the Committee on Ways and Means.

ORDER OF THE DAY

THIRD READING

Senate Bill No. 251, S.D. 1:

On motion by Senator Blair, seconded by Senator Cobb and carried, and Roll Call vote having been requested, S.B. No. 251, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE HOLIDAYS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 7 (Cobb, George, Henderson, Ikeda, A. Kobayashi, B. Kobayashi and Menor). Excused, 2 (McMurdo and Nakasato).

Senator Reed then rose on a point of personal privilege as follows:

"Madam Vice President, as the chairman of the Judiciary Committee announced yesterday, we'll be hearing testimony tomorrow evening on capital punishment proposals, and in preparation for that public hearing I discovered an atrocity that I believe demands the censure of this body as well as the general public. What has angered me — and further victimized the parents of a little girl who was recently murdered in our community — is a coldhearted legalistic maneuvering of lawyers.

"Madam Vice President, I need to relate a nationwide practice to put this in proper perspective.

"A couple of weeks ago, '60 Minutes' did a story about Delta Airlines' attempts to discredit crash victims in an attempt to reduce the monetary award given to surviving family members. Delta's lawyers and insurance representatives, for instance, charged that a 28-year-old man killed in the crash was a homosexual. To counter the surviving parents' arguments that the young man was a successful entrepreneur who would have lived a long, profitable life, Delta claimed that due to his alleged homosexuality, he would have contracted AIDS and died in a very few years. The airline's hope, of course, was that the court or jury would return a small award.

"One other example was that of a young woman who was killed in the crash. To counter the surviving husband's lawsuit, Delta's lawyers tried to gather evidence supporting their argument that the couple fought continually, and that the woman cheated on her husband, and that they were about to divorce anyway.

"The goal, of course, is to try to make the point that the surviving family members didn't lose much anyway, so why pay them much?

"With all due respect to the ethical lawyers in our community, I'm afraid this type of legalistic character assassination

has become an accepted part of the profession. So accepted, in fact, that I wouldn't be discussing this slimy side of lawyering were it not for the fact that a new low has been achieved in Honolulu. What makes it even more outrageous is that the lawyers involved work for the government.

"To really appreciate this, try to imagine yourself the parent of a five-year-old girl. Five years old is the age where they're daddy's sweetheart, the age you sort of wish they'd stay at. Then imagine that your little five-year-old girl is kidnapped, sodomized, raped and strangled to death. You wake up for months, night after night, hearing your little girl call for you, crying for your help. Your mind endlessly shuffles through all the what-ifs -- What if I had done this, or not done that ... If only ...

"On the advice of counsel, you sue the city because you believe that the 45-minute delay between the time the police were notified and their arrival contributed to your daughter's death. Then you go about your business, trying to keep living -- day by day. Until Madam Vice President, you get this in the mail -- a countersuit filed by the Corporation Counsel accusing you of causing your little girl's death. Arguing to the court -- echoing Delta's tactics -- that if you had been a better parent, your little girl would still be alive today.

"In this countersuit delivered to the parents a week before Christmas, last year,

the Corporation Counsel argues that the death of the little girl was proximately caused by the negligence or other wrongdoing of the mother and father, by their failure to discharge properly their duty as parents and legal guardians, and goes on to argue to the court that if any judgment is to be found, let it be a judgment only against themselves.

"I'd like to serve notice to the Corporation Counsel that this type of tactic -- dredged from the legal cesspool available to all private lawyers -- should not be available to government attorneys. It's up to government to rise above the defenses employed by the private sector. It's up to government to protect our children, and help us seek justice when that protection fails. It is not government's function to pierce our hearts a second time. Lawyers who can't transcend the cesspool should remain in private practice. Thank you."

At this time, Senator Aki, chairman of the Committee on Housing, Hawaiian Programs and Natural Resources, requested a waiver of the 48-hour Notice of a Public Hearing on S.B. No. 4, and the Chair granted the waiver.

ADJOURNMENT

At 12:14 o'clock p.m., on motion by Senator Blair, seconded by Senator George and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, February 27, 1987.