

FORTY-FIRST DAY

Monday, March 28, 1988

The Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, convened at 11:37 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Major Lewis Welder, Chaplain, Wheeler Air Force Base, after which the Roll was called showing all Senators present with the exception of Senator Aki who was excused.

The President announced that he had read and approved the Journal of the Fortieth Day.

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

Senator Chang introduced a group of nine students from Mihara Technical High School of Hiroshima, Japan, their teacher, Mr. Mitsuhiro Nobukiyo, and escorts, Mr. Akinori Minematsu and Mr. Joji Kido.

Senator Hagino, on behalf of Senator J. Wong and himself, introduced a group of 65 eighth grade students from Kahuku High (Intermediate) and Elementary School, accompanied by their teacher, Mr. Barry Kelly.

HOUSE COMMUNICATIONS

Hse. Com. No. 424, returning S.B. No. 1184, S.D. 2, which passed Third Reading in the House of Representatives on March 24, 1988, was placed on file.

Hse. Com. No. 425, returning S.B. No. 2829, S.D. 1, which passed Third Reading in the House of Representatives on March 24, 1988, was placed on file.

Hse. Com. No. 426, returning S.B. No. 2837, which passed Third Reading in the House of Representatives on March 24, 1988, was placed on file.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 90 to 94) were read by the Clerk and were referred to committees:

Senate
Concurrent
Resolution

No. 90 "SENATE CONCURRENT RESOLUTION REQUESTING YOUNG BROTHERS AND MATSON NAVIGATION COMPANY TO WORK OUT AN ARRANGEMENT WHEREBY MOLOKAI FARMERS ARE ABLE TO SHIP GOODS OUT OF MOLOKAI AT THE COMMON RATE FARE WHICH EXISTS FOR ALL OTHER ISLANDS SERVED BY MATSON."

Offered by: Senators Matsuura, Aki, Kobayashi, A.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 91 "SENATE CONCURRENT RESOLUTION URGING THE STATE OF HAWAII TO SUPPORT THE DEVELOPMENT AND EXPANSION OF THE AHI TUNA FISHING INDUSTRY."

Offered by: Senators Matsuura, Aki, Kobayashi, A.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 92 "SENATE CONCURRENT RESOLUTION URGING THE UNIVERSITY OF HAWAII BOARD OF REGENTS AND ADMINISTRATION TO ESTABLISH A HAWAIIAN STUDIES FACILITY COMPLEX AT THE UNIVERSITY OF HAWAII, HILO CAMPUS."

Offered by: Senators Solomon, Chang, Cobb, Hagino, Hee, Herkes, Holt, Matsuura, McMurdo, Menor, Mizuguchi, Nakasato, Reed, Wong, J.

Referred to: Committee on Higher Education.

No. 93 "SENATE CONCURRENT RESOLUTION URGING THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII TO STUDY THE FEASIBILITY OF RESTRUCTURING THE GOVERNANCE OF HAWAII'S POST SECONDARY EDUCATION SYSTEM."

Offered by: Senators Solomon, Chang, Fernandes Salling, Hagino, Herkes, Holt, Matsuura, Menor, Mizuguchi, Reed, Tungpalan, Yamasaki, Young.

Referred to: Committee on Higher Education.

No. 94 "SENATE CONCURRENT RESOLUTION DIRECTING THE OFFICE OF STATE PLANNING TO ISSUE REQUESTS FOR PROPOSALS FROM PRIVATE CONSORTIUMS OR OTHER INTERESTED PARTIES TO SUBMIT FEASIBILITY STUDIES, WHICH WILL BE AT NO COST TO THE STATE, FOR THE DEVELOPMENT OF A FRANCHISED OR PRIVATIZATION MASS TRANSIT SYSTEM."

Offered by: Senators Wong, J., Aki, Chang, Cobb, Hagino, Herkes, Kobayashi, A., Kobayashi, B., Matsuura, McMurdo, Menor, Mizuguchi, Reed, Tungpalan, Young.

Referred to: Jointly to the Committee on Planning and Environment and the Committee on Transportation.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 99 to 102) were read by the Clerk and were referred to committees:

Senate
Resolution

No. 99 "SENATE RESOLUTION URGING THE STATE OF HAWAII TO SUPPORT THE DEVELOPMENT AND EXPANSION OF THE AHI TUNA FISHING INDUSTRY."

Offered by: Senators Matsuura, Aki, Kobayashi, A.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 100 "SENATE RESOLUTION REQUESTING YOUNG BROTHERS AND MATSON NAVIGATION COMPANY TO WORK OUT AN ARRANGEMENT WHEREBY MOLOKAI FARMERS ARE ABLE TO SHIP GOODS OUT OF MOLOKAI AT THE COMMON RATE FARE WHICH EXISTS FOR ALL OTHER ISLANDS SERVED BY MATSON."

Offered by: Senators Matsuura, Aki, Kobayashi, A.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 101 "SENATE RESOLUTION URGING THE UNIVERSITY OF HAWAII BOARD OF REGENTS AND ADMINISTRATION TO ESTABLISH A HAWAIIAN STUDIES FACILITY COMPLEX AT THE UNIVERSITY OF HAWAII, HILO CAMPUS."

Offered by: Senators Solomon, Chang, Cobb, Hagino, Hee, Herkes, Holt, Matsuura, McMurdo, Menor, Mizuguchi, Nakasato, Reed, Wong, J.

Referred to: Committee on Higher Education.

No. 102 "SENATE RESOLUTION URGING THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII TO STUDY THE FEASIBILITY OF RESTRUCTURING THE GOVERNANCE OF HAWAII'S POST SECONDARY EDUCATION SYSTEM."

Offered by: Senators Solomon, Chang, Fernandes Salling, Hagino, Herkes, Holt, Matsuura, Menor, Mizuguchi, Reed, Tungpalan, Wong, J., Yamasaki, Young.

Referred to: Committee on Higher Education.

STANDING COMMITTEE REPORT

Senator Menor, for the Committee on Corrections, presented a report (Stand. Com. Rep. No. 2447) recommending that S.C.R. No. 57, as amended in S.D. 1, be adopted.

On motion by Senator Menor, seconded by Senator Hee and carried, the report of the Committee was adopted and S.C.R. No. 57, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A MANAGEMENT AUDIT OF THE DEPARTMENT OF CORRECTIONS," was adopted.

ORDER OF THE DAY

MATTER DEFERRED FROM
THURSDAY, MARCH 24, 1988

THIRD READING

Stand. Com. Rep. No. 2444 (H.B. No. 461, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, Stand. Com. Rep. No. 2444 was adopted and H.B. No. 461, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, None. Excused, 4 (Aki, Herkes, Matsuura, Nakasato).

At 11:47 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:50 o'clock a.m.

MATTER DEFERRED FROM
THURSDAY, MARCH 24, 1988

Senate Bill No. 3310, S.D. 1, H.D. 1 (Hse. Com. No. 423):

Senator Holt moved that the Senate agree to the amendments proposed by the House to S.B. No. 3310, S.D. 1, seconded by Senator McMurdo.

Senator Holt then spoke on the measure as follows:

"Mr. President, the House made some minor technical, non-substantive amendments to the bill."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3310, S.D. 1, and S.B. No. 3310, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," was placed on the calendar for Final Reading on Tuesday, March 29, 1988.

Senator Hee, chairman of the Committee on Judiciary, then requested a waiver of the 48-hour Notice of a Public Hearing on H.B. No. 3338, and the President granted the waiver.

Senator Hee then rose to speak on a point of personal privilege as follows:

"Mr. President, in this morning's Advertiser, an article related to 'Money,' a group from Mililani opposes a Senate bill.

"I want to state for the record that, unfortunately, the Mililani Town Association is not apprised of the bill to the degree of what it would accomplish.

"Senate Bill 2522 which was passed by the Senate and is now scheduled for a hearing tomorrow in the House Judiciary Committee eliminates the duplicity presently existing in the Bureau of Conveyances and the Land Court system; namely, the issuance of an owner's duplicate certificate.

"Under the present law, owners may petition for a duplicate certificate and there seems to be some psychological comfort in knowing, by the owner, that he or she may have a duplicate certificate. As a result of this duplicity in government, the bureaucracy is now at an eighteen- to twenty-four-month backlog, that is to say, before the issuance of a duplicate certificate the time of two years may lapse.

"It is therefore conceivable that someone could purchase a piece of property and before the time period of two years that person could perish. And that has occurred, according to testimony.

"According to the article, the concern by the Mililani Town Association executive vice president was that the duplicate certificate is a better system. The fact is, Mr. President, that there is not a lender in this county - not a lender in this country - would abide by the issuance and evidence of a duplicate certificate as a means to say I own this property free and clear.

"The fact is that the federal government can attach a tax lien to the property; that the bankruptcy court could attach proceedings to the property; that any number of mechanic's liens can be attached to the property, all of which would be recorded in the Bureau of Conveyances and would never show up on the duplicate certificate simply because the duplicate certificate is in someone's safety deposit box. And with that duplicate certificate, which takes on the appearance of absence of any liens, which by law is permitted, that certificate could be used to mislead and in some case defraud the third party upon the sale of that property which has liens but would appear not to have any according to this duplicate certificate.

"The other issue is that by relieving this duplicity through Senate Bill 2522, the taxpayer is saved government red tape costs.

"Secondly, that the consumer has the confidence in knowing that this opportunity of misrepresentation would no longer exist.

"And, third, that it should be noted that lenders rely on the home owner's insurance policy and not the duplicate certificate as a means to authenticate the ownership of said property.

"Finally, the argument in the media was that someone could build a parking lot; someone could put an easement or someone could put a sidewalk through someone's home without knowing. That is patently over-simplistic and begs the questions with regard to understanding what exactly are the permitting procedures, the ordinance policy set forth by our local government, and simply begs the question relative to, is this argument a coherent one and I would simply conclude, Mr. President, that that argument does not deserve a response.

"Therefore, by this article I would like to set forth for the record that, with the House concurring, Senate Bill 2522 is a bill which has been studied by the Legislative Reference Bureau; was heard last year; is not some concerted 'sneak attack' on anyone; was duly held by public hearing notice and, unfortunately, is misunderstood.

"Parenthetically, let me add, one of the individuals who testified on this bill, Mr. David Pietsch, is the Title Guaranty & Escrow Corporation which has land courted and provided duplicate certificates for every home owner in Mililani.

"Thank you."

Senator Menor also rose to speak on a point of personal privilege and said:

"Mr. President, I'd like to also make a few brief comments and remarks on the bill that Senator Hee has just been discussing.

"Mr. President, I want to make these brief remarks because Mililani is a community that falls within my district.

"I would have to concur with Senator Hee to the extent media reports indicating that the bill that the Senate has passed and the House is now considering statements to the effect that the bill would eliminate the Land Court system, are not accurately describing what the bill would accomplish.

"Basically, what the bill would accomplish is the elimination of the requirement of the owner's duplicate certificate of title. Now, I think that since this is what the bill does we need to focus upon the protections that the owner's duplicate certificate of title provides to an individual property or home owner.

"I think that it is within this context that the House should perhaps take a closer look at the bill. I think that we need to insure that whatever important protections apply to the issuance of duplicate certificates of title are not eroded and eliminated by the particular bill that we passed out of the Senate.

"I contacted the Legislative Reference Bureau about this matter, as my colleagues know, the Legislative Reference Bureau conducted a comprehensive study on

both the Land Court system and the regular system of land recordation and the study concludes that there is still a need to retain both systems.

"Because it appears to have the expertise on this particular issue, I asked LRB for a memorandum detailing the specific protections that are afforded by retaining the owner's duplicate certificate of title. I'd like to very briefly read part of the response that I received in this memorandum.

"The memorandum indicates that: 'the principal protection appears to be that notice is provided to the parties who have substantial interest in the subject property. In the case of a voluntary transfer of property, notice (of the sale) for transfer is given to the owner when the owner's duplicate certificate of title must be presented to the registrar, cancelled and a new duplicate issued in the name of the transferee. In the case of a mortgagor, the duplicate certificate is retained by the mortgagor and presented upon transfer of the property. Trustees will also receive notice of any action which will convey title or otherwise affect interests in the registered land, because the owner's duplicate certificate of title which is in the trust must be presented to the registrar for notation of the action taken against the registered land.'

"I think that these protections need to be more carefully analyzed because the Legislative Reference Bureau also contained an Attorney General's Opinion which indicates that the office has encountered problems in the past of clouded title with respect to certain property where several deeds existed to that property.

"I have also been informed of situations where a property owner has attempted to transfer title to a given piece of property by recording a conveyancing document or deed under the regular system with the Bureau of Conveyances without notifying the mortgagor or lending institution that has the mortgage on the property.

"In light of these concerns, I think we need to narrow our discussion of the bill. I think we need to get away from these generalized statements that perhaps reflect an uninformed position regarding the bill and I am hoping that in the House a very informed and rational and analytical deliberation over the bill will take place, taking into account some of the considerations and concerns that I have raised. Thank you."

Senator Yamasaki, chairman of the Committee on Ways and Means, requested a waiver of the 48-hour Notice of a Decision-Making Hearing on the H.B. No. 2081, H.D. 1, H.B. No. 2483, H.D. 2, S.D. 1, and H.B. No. 3102, H.D. 1, S.D. 1, listed on the agenda of the Senate Ways and Means Committee's hearing notice for Tuesday, March 29, 1988, and the President granted the waiver.

At this time, Senator Cobb, rose on a point of personal privilege and said:

"Mr. President, it has come to my attention through couple of members of the media that some members of the House apparently think I'm pushing a pet bill because I have a cat. I would just like to set the record straight. The cat is already long since grandfathered in and would not be affected by this bill.

"What is more salient to the point is that the testimony of the Hawaiian Humane Society reveals that over 21,000 innocent animals are put to death each year on this island alone, simply because they exist and because they can't find homes. Passage of the bill would greatly reduce that tragedy.

"In addition, Mr. President, one of your very own constituents just sent me a letter this morning. That individual has had a lien attached to his property because he dares to keep two cats within his condominium. Those cats do not impact on the common elements or the neighbors and he's had a seven-year legal battle over this issue.

"This morning I was informed in writing of a lien being attached. I find this ironic 'in the land of the free and the home of the brave' that we could have our property attached simply because of the desire to keep privately within our own confines an animal.

"And I wanted to assure you and the members of the Senate as well as the members of the House that Steve Cobb's cat has nothing to do with this bill but what does have to do with this bill is a fact that over a thousand signatures have been gathered on a petition asking that it be passed and over 21,000 innocent animals each year are put to death for the simple reason that they lack a home and they exist and because of the support of the community is, I am convinced, quite overwhelmingly in favor of this very humane measure.

"Mahatma Gandhi said it best, Mr. President, 'The moral progress of a society is judged by the way we treat our animals.'

"And by that standard, we still have a ways to go to still achieve a more humane society. Thank you."

At this time, Senator Matsuura introduced to the members of the Senate, Mr. Suresh Chander, a visitor from India.

ADJOURNMENT

At 12:09 o'clock p.m., on motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, March 29, 1988.