

FIFTY-THIRD DAY

Thursday, April 14, 1988

The Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, convened at 11:38 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Bishop Lucille B. Mays of Peaceful Holiness Church, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Fifty-Second Day.

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

Senator A. Kobayashi, on behalf of Senator B. Kobayashi and herself, introduced a group of 8th grade students from Kaimuki Intermediate School who were observing the legislative process accompanied by their teachers, Mr. Michael Tokioka, Ms. Tanita, Mrs. Jeanne Kurita, Mr. Wayne Asing and Mrs. Diane Takemoto.

Senator McMurdo introduced Ms. Martha Black, Ms. Helen Whorton, Ms. Betty Rogers, Ms. Jolette Manning, Ms. Barbara Fischlowitz and Ms. Rebecca Senutovitch, members of the American Association of University Women, Hawaii Pacific Division, present on the Senate floor, who were being "honored and commended for their inspiring devotion to providing advanced educational opportunity for women of all ages and from all cultures." They will be holding their 26th annual convention on April 22-24 at Hawaii Loa College.

The honorees rose to be recognized and Ms. Black accepted the Senate certificate of recognition on behalf of Sister Joan Chaffield, president of the association, from Senator McMurdo and leis were presented by various Senators.

At 11:46 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.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 292 to 294) were read by the Clerk and were placed on file:

Gov. Msg. No. 292, transmitting reports prepared by the University of Hawaii in response to the following:

H.R. No. 237 (1987) - Requesting Reports on Computer Usage in Education;

H.B. No. 2, (Act 216, 1987), Sec. 180 - Requesting the University of Hawaii to Submit a Report to the Legislature on the Expenditure of Funds for Nonrecurring Equipment Expenditures; and

H.B. No. 2, (Act 216, 1987), Sec. 199 - Requesting the University of Hawaii to Submit a Report to the Legislature on the Expenditure of Funds for the Program Initiative Categories, as Listed under This Section.

Gov. Msg. No. 293, transmitting a report, "State Automated Geographic Information System (SAGIS)," prepared by the Office of State Planning, in response to H.R. No. 275 (1987).

Gov. Msg. No. 294, transmitting the summary and the complete report on the "Implementation of Priority Guidelines of the Hawaii State Plan," and the "County Activities to Implement Priority Guidelines of the Hawaii State Plan," pursuant to Chapter 226, HRS.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 955 to 972) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 955, returning Senate Concurrent Resolution No. 4, S.D. 1, which was adopted by the House of Representatives on April 13, 1988, in an amended form, was placed on file.

Senator Matsuura moved that the Senate agree to the amendments proposed by the House and S.C.R. No. 4, S.D. 1, H.D. 1, be finally adopted, seconded by Senator Aki.

Senator Matsuura then rose to speak on the resolution as follows:

"This resolution addresses people sending a parcel of fruits from Hawaii to the United States, especially to California. This is perhaps the biggest threat to introducing the fruit fly into California. So this resolution addresses this problem by asking Congress to authorize the postal system to inspect parcels that are suspected of having fruit flies in some of our fruits.

"Any parcel that is sent from Hawaii by first-class mail, the postal services cannot open any of these parcels. This is how our fruit fly is getting into California.

"The House amendments are very few. They just wanted the President of the United States and the state consultant, Janis Lipsen, to have a copy of the resolution. Thank you."

The motion was then put by the Chair and carried, and S.C.R. No. 4, S.D. 1, H.D. 1, entitled: "REQUESTING THAT THE UNITED STATES CONGRESS ESTABLISH A POSTAL INSPECTION PROGRAM TO HALT THE MAILING OF PARCELS CONTAINING FRUIT FLY INFESTED FRUIT, DISEASED PLANTS AND ANIMALS, AND PESTS AND NOXIOUS WEEDS," was finally adopted.

Hse. Com. No. 956, transmitting House Concurrent Resolution No. 24, H.D. 1, which was adopted by the House of Representatives on April 13, 1988, was placed on file.

By unanimous consent, H.C.R. No. 24, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE OFFICE OF STATE PLANNING TO REPORT TO THE LEGISLATURE WITH REGARD TO THE STATE'S EFFORTS TO IMPROVE COORDINATION WITH THE COUNTIES FOR CAPITAL IMPROVEMENT PLANNING (CIP) PROJECTS," was referred to the Committee on Planning and Environment.

Hse. Com. No. 957, transmitting House Concurrent Resolution No. 60, H.D. 1, which was adopted by the House of Representatives on April 13, 1988, was placed on file.

By unanimous consent, H.C.R. No. 60, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION CONCERNING THE MANAGEMENT AND FUNDING OF THE NATURAL AREA RESERVES SYSTEM," was referred to the Committee on Planning and Environment.

Hse. Com. No. 958, transmitting House Concurrent Resolution No. 95, which was adopted by the House of Representatives on April 13, 1988, was placed on file.

By unanimous consent, H.C.R. No. 95, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH DEVELOP PROPOSED LEGISLATION, RULES, OR BOTH, TO REGULATE ODORS AS NUISANCES," was referred to the Committee on Planning and Environment.

Hse. Com. No. 959, transmitting House Concurrent Resolution No. 143, H.D. 1, which was adopted by the House of Representatives on April 13, 1988, was placed on file.

By unanimous consent, H.C.R. No. 143, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES POSTAL SERVICE TO CHOOSE AND PROVIDE FUNDS FOR A PERMANENT SITE FOR THE AIEA POST OFFICE," was referred to the Committee on Government Operations.

Hse. Com. No. 960, transmitting House Concurrent Resolution No. 152, H.D. 1, which was adopted by the House of Representatives on April 13, 1988, was placed on file.

By unanimous consent, H.C.R. No. 152, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A CONTROL PROGRAM FOR THE RED-VENTED AND RED-WHISKERED BULBULS TO PROTECT HAWAII'S AGRICULTURE," was referred to the Committee on Agriculture, Energy and Ocean Resources.

Hse. Com. No. 961, transmitting House Concurrent Resolution No. 153, H.D. 1, which was adopted by the House of Representatives on April 13, 1988, was placed on file.

By unanimous consent, H.C.R. No. 153, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO REVIEW INSPECTION PROCEDURES TO MINIMIZE THE INTRODUCTION OF INSECT PESTS IN HAWAII," was referred to the Committee on Agriculture, Energy and Ocean Resources.

Hse. Com. Nos. 962 to 972, informing the Senate that the amendments proposed by the Senate to the following House bills were agreed to by the House and said bills passed Final Reading in the House of Representatives on April 13, 1988, were placed on file:

Hse. Com. No. 962 - H.B. No. 1038, H.D. 1, S.D. 1;
Hse. Com. No. 963 - H.B. No. 1700, H.D. 2, S.D. 1;
Hse. Com. No. 964 - H.B. No. 2201, H.D. 1, S.D. 1;
Hse. Com. No. 965 - H.B. No. 2273, H.D. 1, S.D. 1;
Hse. Com. No. 966 - H.B. No. 2274, H.D. 1, S.D. 1;
Hse. Com. No. 967 - H.B. No. 2346, H.D. 2, S.D. 2;
Hse. Com. No. 968 - H.B. No. 2364, H.D. 1, S.D. 1;
Hse. Com. No. 969 - H.B. No. 2385, H.D. 2, S.D. 1;
Hse. Com. No. 970 - H.B. No. 2535, H.D. 2, S.D. 2;
Hse. Com. No. 971 - H.B. No. 3151, S.D. 1; and
Hse. Com. No. 972 - H.B. No. 3348, H.D. 1, S.D. 1.

STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2673) recommending that the Senate advise and consent to the nominations of the following:

Roy K. Amemiya Jr. to the Board of Taxation Review, First Taxation District (Oahu), in accordance with Gov. Msg. No. 163;

Joseph A. Frye and Robert S. Ota to the Board of Taxation Review, Second Taxation District (Maui), in accordance with Gov. Msg. No. 164;

Harold Aiu to the Board of Taxation Review, Fourth Taxation District (Kauai), in accordance with Gov. Msg. No. 165; and

Timothy S. Young and Edwin T. Hara to the Board of Taxation Review, Third Taxation District (Hawaii), in accordance with Gov. Msg. No. 211.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 2673 and Gov. Msg. Nos. 163, 164, 165 and 211 was deferred until Friday, April 15, 1988.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2674) recommending that Senate Concurrent Resolution No. 9, as amended in S.D. 1, be adopted.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.C.R. No. 9, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE STATE TO DIVEST STATE MONEYS FROM SOUTH AFRICAN INVESTMENTS," was adopted.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2675) recommending that Senate Resolution No. 10, as amended in S.D. 1, be adopted.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.R. No. 10, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE STATE TO DIVEST STATE MONEYS FROM SOUTH AFRICAN INVESTMENTS," was adopted.

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2676) recommending that House Bill No. 2426 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator B. Kobayashi, seconded by Senator Matsuura and carried, the report of the Committee was adopted and H.B. No. 2426, entitled: "A BILL FOR AN ACT RELATING TO NUISANCES," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1988.

ORDER OF THE DAY

ADVICE AND CONSENT

Stand. Com. Rep. No. 2672 (Gov. Msg. Nos. 112, 209 and 214):

Senator Hagino moved that Stand. Com. Rep. No. 2672 be received and placed on file, seconded by Senator Nakasato and carried.

Senator Hagino then moved that the Senate advise and consent to the nominations of the following:

Scott S. Oda to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, term to expire June 30, 1990;

Charles P. Stone, Ph.D., and John Irven Ford to the Natural Area Reserves System Commission, terms to expire June 30, 1992; and

Marvin T. Miura, Ph.D., as the Director of Environmental Quality Control, term to expire December 3, 1990,

seconded by Senator Nakasato.

Senator Hagino then rose to speak in favor of the nominees as follows:

"Mr. President, I would like to speak in favor of the nominees, in particular, nominee Dr. Marvin T. Miura as the director of Environmental Quality Control.

"During our hearings on confirmation, we discovered that Dr. Miura was one of the initial people in the drafting of the environmental impact statements and policies so we know that he will bring experience, as well as new vigor, to the OEQC office. While he has shown that, in his publications and the new newspaper that he puts out, we also wanted to remind him that he not neglect the environmental impact process and that he take appropriate steps. We realize that it is not a perfect system and we hope that it can be improved with his newly found vigor. Thank you."

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Kobayashi, B.).

THIRD READING

House Bill No. 2339, H.D. 1:

On motion by Senator Cobb, seconded by Senator Blair and carried, H.B. No. 2339, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLICITATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2349, H.D. 1:

On motion by Senator Cobb, seconded by Senator Blair and carried, H.B. No. 2349, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PSYCHOLOGY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2357, H.D. 1:

On motion by Senator Cobb, seconded by Senator Blair and carried, H.B. No. 2357, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHIROPRACTIC," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2404, H.D. 1:

On motion by Senator Cobb, seconded by Senator Blair and carried, H.B. No. 2404, H.D. 1, entitled: "A BILL

FOR AN ACT RELATING TO PROFESSIONAL CORPORATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

MATTER DEFERRED FROM
WEDNESDAY, APRIL 13, 1988

FINAL READING

Senate Bill No. 151, H.D. 1:

Senator Hee moved that S.B. No. 151, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

Senator Tungpalan then rose to speak in favor of the measure as follows:

"Mr. President, I'm thrilled to vote on this measure. I rise to speak in favor of it for two reasons. First, this will deliver a clear message to those engaged in these related activities that we want them to stop or suffer stiff penalties. Secondly, we will also be able to help our children to stay on the straight and narrow path if we have on the books definitive laws such as this legislation before us.

"Yesterday, we were pleasantly entertained by 30 students from Pearl City Elementary School. At lunch, I took the opportunity to ask them of their opinion on this bill. I wanted to know if they wanted stiffer penalties for drug use, including the use of marijuana, even a joint, or lighter penalties. Resoundingly and unanimously, they said they were in favor of strict penalties. This morning, I asked my son, who's about to enter 7th grade at the intermediate school in Pearl City, his opinion of this bill. He said, 'Mom, if you do anything for me, vote "yes" because we don't want people hassling us. We want people to know out there that we will not tolerate drugs. We will not say "yes" to drugs.'

"So in light of these statements, I'm voting 'yes' for the children of Hawaii."

Senator Hee also rose to speak in support of the measure and remarked:

"Mr. President, as the members of the Senate are well aware, this bill was moved out of the Senate in 1987. It has finally come back to us and through a rather long and arduous process it is finally before us for a vote. This bill will no longer send to the youth a mixed message, that being that while we have declared a war on drugs we have in many ways condoned the use of paraphernalia of which drugs are a part of.

"This bill will also allow the law enforcement community to act swiftly, decisively, in moving to now cease and secure machinery such as dryers and other kinds of processing equipment in the absence of drugs that may have been flushed away, and will allow the law enforcement community with the ability to prove beyond a reasonable doubt that the equipment would now be considered paraphernalia and would be a felony.

"While I recognize the concerns expressed by some legislators with regard to the penalty provisions, this bill is far too important to our community, far too important to this body and that body across the hall that I believe any inconsistency can be addressed in 1989.

"Finally, I would like to recognize the efforts of the previous Judiciary chairmen who have worked to forge a product somewhat resembling this one before us.

"I would urge that all members of the Senate, in light of the long process, seriously consider an affirmative vote in support of this measure which would once and for all ban drug paraphernalia in the State of Hawaii. Thank you."

Senator Cobb also rose to speak in favor of the measure as follows:

"Mr. President, I rise to speak in favor of this measure. In doing so, I note that it has a rather long history. This bill or bills like it have been before us for six years; that is somewhat longer than the normal gestation period for a major piece of legislation.

"I agree with the previous remarks of the Judiciary chairman and I'd like to point out that Hawaii at the present time is one of only twelve states in the entire nation that does not have a drug paraphernalia law. Thirty-eight states have adopted this or some other form of drug paraphernalia law, most in accordance with the model act.

"I'm aware of some of the concerns about possible over-prosecution, but I think the safeguards of our judicial system, the active participation of the American Civil Liberties Union, and the annual session review process that we have will prevent such from happening. Because if it does, we can always address any such concerns in a future legislative session.

"Recently, Mr. President, I watched the special TV series called 'The War on Drugs and Why We Are Losing It' by ABC. What they presented was a frightening but true case of the situation of drugs in America. If this measure is a step in the right direction, I think we should do everything we can to support not only its passage but its implementation. If drugs have no place in our society, neither should drug paraphernalia, and we should be willing to give our law enforcement officers the tools they need to enforce that law.

"Thank you, Mr. President."

Senator McMurdo also rose to speak in favor of the measure and said:

"Mr. President, I've long been an advocate of tough, tough laws against drugs. I've been a teacher. When I taught, we didn't have this problem in the public schools. We had smoking and that was about it. Today, the drug pushers have moved drugs down even into the lower grades and it's time that we begin sending a message in this state that we mean business; that we're going to stop this before we lose a whole generation of children and young adults. The drugs have gotten meaner and harder, such as what we have seen with 'crack' for instance, which I think is one of the worst things which have come along in many years.

"I noticed in the paper this morning that Congress, above the budget, agreed upon roughly by Congress and the White House, that the Senate passed hundreds of millions of dollars to help fight drugs and, across the board, for more money to the Coast Guard, more money for the Treasury Department, more money for all the FBI and all the different agencies which do fight drugs.

"I applaud the Senate and the House on finally reaching this stage. Thank you very much."

Senator Chang then rose to speak on the measure and remarked:

"Mr. President, I'd just like to state a few remarks recognizing, as the Judiciary chairman already noted, the long and arduous effort that has been put into the consideration of this proposal. This has been a matter long debated for several years now and it should be noted, in particular, that the Senate position on this matter had been passed and adopted by this body well before the consortium of law enforcement agencies in putting together the crime package this year. It's to the Senate Judiciary chairman's credit that he recognized the pendency of this problem and chose to adopt their position on this matter last year.

"Similarly, I'd like to commend the efforts of the attorney general of the State of Hawaii in putting together a very successful advocacy package where it had been lacking in previous years. Because of the efforts of these two gentlemen we have a product which, while troublesome in some of its elements, I'm sure will be useful in the fight against crime and further refined next year. Thank you."

The motion was put by the Chair and carried, and S.B. No. 151, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG PARAPHERNALIA," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

RE-REFERRAL OF RESOLUTIONS

The President made the following re-referral of resolutions:

Senate Concurrent Resolution	Referred to:
No. 242	Committee on Education
Senate Resolution	Referred to:
No. 236	Committee on Education

At 12:07 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:14 o'clock p.m.

Senator Herkes then rose to speak on a point of personal privilege and said:

"Mr. President, I am the bearer of exciting news of an event that will once again thrust Hawaii into the forefront of worldwide sporting news. The Hawaiian Islands 'Cockroach' Racing Association and the Hawaii Heart Association will present Roach Bowl II at the Neal Blaisdell Center Arena on June 26, 1988. It is unfortunate that the convention center will not be ready on time to handle the expected crowds.

"Mr. President, in this session we have named the 'nene' the State Bird and the yellow hibiscus the State Flower. I realize that the deadline has passed for substantive resolutions, but I beg of you and this honorable body to seriously consider naming a 'Bug For A Day' and by the power of your office, with the members consenting, declare June 26, 1988, as 'Cockroach Day.'

"In 1981, Aku, a Hawaiian roach, won the World Championship Cockroach Race in Tahlequah, Oklahoma, a historical feat that was heralded by the media worldwide. At that time, Mr. President, this honorable body formally applauded the accomplishment with an official proclamation reflecting the speed of our bugs and the proud feelings of our people.

"The first official Roach Bowl was held in 1982 at the Neal Blaisdell Center Arena with the hope of elevating the sport to an international Olympic class event. We had hoped to 'bug' the Summer Games in Korea. The Roach Bowl drew hundreds of entries (plus some not official entrants), including 'The Yellow Roach of Texas' from Vice President George Bush, 'Akakaroach' from the Reverend Abraham Akaka, and 'Magnum, R.I.' (roach investigator) from Tom Selleck. Also running were 'Franklin Delano Roachavelt' (a roach that will live in infamy), Hertz's 'Rent-A-Roach,' HPD's 'Cop-A-Roach,' 'Gypsy Roach Lee,' and from the then Governor George AriRoachi, 'Quiet 'n Effective.'

"Mr. President, it is rumored that at this year's event, the State Senate will be well represented by such entries as, representing the Senate President's office, 'The Wong Way Roach,' an entry from a consortium of owners calling for a 'pet roach in every condominium' and trained and ridden by Senator Steve 'Cobb-A-Roach,' and wearing the 'money green' silks of the Ways and Means Committee, Senator Yamasaki's 'Workers Comp-A-Roach.' This entry is going off at \$10,000,000 to \$1. Ten million from the Senate against one dollar from the House. This roach was picked by lottery and there will be off-track betting. 'But not to worry,' says Senator Yamasaki, 'it will not cost you anything.' Senator Aki has entered 'Jack-A-Roach Nicklaus,' who is reportedly the fastest golf course roach in Waianae. This roach has been on the run the last few weeks. Senator Hee has entered the 'Roach Clip-er,' Senator McMurdo reportedly tried to enter 20,000 roaches, all carrying placards saying that a Waikiki Convention Center would destroy their domestic tranquility. Thirty thousand more are ready to take their places as soon as Senator Holt sweeps them down the drain. On a sad note, it is reported that 'Home-Rule-A-Roach' will not be alive and kicking at race time. The Women's 'Caucus-A-Roach' is arguing over an entry; none will admit to having any.

"In all seriousness, Mr. President, I urge you and this honorable body to support the Hawaii Heart Association in this imaginative and worthwhile fund raiser."

At 12:21 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:22 o'clock p.m.

At this time, Senator Holt, chairman of the Committee on Tourism and Recreation, requested a waiver of the 48-hour Notice of a Public Hearing on S.C.R. No. 116 and S.R. No. 125, and the President granted the waiver.

APPOINTMENT OF CONFEREES

House Bill No. 3041 (S.D. 2):

The President appointed Senator Tungpalan as co-chairman on the part of the Senate at the conference to be held for the consideration of amendments made by the Senate to H.B. No. 3041.

House Bill No. 2688, H.D. 1 (S.D. 1):

The President appointed Senator Menor as an additional manager on the part of the Senate at the

conference to be held for the consideration of amendments made by the Senate to H.B. No. 2688, H.D. 1.

ADJOURNMENT

At 12:26 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., Friday, April 15, 1988.