

## FORTY-FIRST DAY

Friday, April 2, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, convened at 11:43 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Sister Deenie Sampaio, Church of Jesus Christ of Latter Day Saints, after which the Roll was called showing all Senators present with the exception of Senators Holt, Iwase and Nakasato who were excused.

The President deferred approval of the Journal of the Fortieth Day to the end of the calendar.

## HOUSE COMMUNICATIONS

The following communications (Hse. Com. Nos. 384 and 385) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 384, returning S.B. No. 1158, S.D. 1, which passed Third Reading in the House of Representatives on April 1, 1993, was placed on file.

Hse. Com. No. 385, returning S.B. No. 1839, which passed Third Reading in the House of Representatives on April 1, 1993, was placed on file.

## STANDING COMMITTEE REPORTS

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1130) recommending that H.B. No. 1647, 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 Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 1647, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE TESTING," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1131) recommending that H.B. No. 1648 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 1648, entitled: "A BILL FOR AN ACT RELATING TO PREMARITAL RUBELLA TESTING," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1132) recommending that H.B. No. 1651 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 1651, entitled: "A BILL FOR AN ACT RELATING TO RADIUM FOR MEDICAL AND SURGICAL PURPOSES," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1133)

recommending that H.B. No. 1655, 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 Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 1655, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SMOKING IN PUBLIC PLACES," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1134) recommending that H.B. No. 1656 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 1656, entitled: "A BILL FOR AN ACT RELATING TO COORDINATION OF SERVICES FOR CHILDREN WITH SEVERE EMOTIONAL AND DEVELOPMENTAL PROBLEMS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1135) recommending that H.B. No. 2029, 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 Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 2029, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MENTAL HEALTH AND SUBSTANCE ABUSE SYSTEM" passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator A. Kobayashi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1136) recommending that H.B. No. 126, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 126, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator A. Kobayashi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1137) recommending that H.B. No. 1699 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 1699, entitled: "A BILL FOR AN ACT RELATING TO FISCAL YEAR TAX RETURNS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

Senator A. Kobayashi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1138) recommending that H.B. No. 2006 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 2006, entitled: "A BILL FOR AN

ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 5, 1993.

At 11:46 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:13 o'clock p.m.

### FINAL READING

S.B. No. 280, S.D. 1, H.D. 1:

On motion by Senator Levin, seconded by Senator Blair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 280, S.D. 1, and S.B. No. 280, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Holt, Iwase, Nakasato, Reed).

S.B. No. 1713, S.D. 1, H.D. 1:

On motion by Senator A. Kobayashi, seconded by Senator B. Kobayashi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1713, S.D. 1, and S.B. No. 1713, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR OPERATING EXPENSES FOR THE STATE MEDICAL ASSISTANCE PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Holt, Iwase, Nakasato, Reed).

S.B. No. 1420, S.D. 1, H.D. 1:

On motion by Senator A. Kobayashi, seconded by Senator B. Kobayashi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1420, S.D. 1, and S.B. No. 1420, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE PAYMENT PROGRAMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Holt, Iwase, Nakasato, Reed).

Senator George rose to speak on a point of personal privilege and stated:

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

"I read with considerable interest a commentary in this morning's newspaper, authored by the chairman of our new Special Investigative Committee. The reason that I'm interested is that it lays out in very clear language the reason for our needing such a committee and it begs for the sort of information I believe that all of us ought to be useful in providing to the committee as we come across it. In order to start what I hope will be an avalanche of such, I'd like to offer one that I came across in the subject matter of Housing Committee. This is an HFDC contract which was let originally in the amount of \$45,000 for a specific engineering chore and after seven change orders the amount was swelled by \$1,751,015.

"Mr. President, I hope that the chairman will be graced with this sort of specific information because I think it will help the committee and the Senate to achieve what we need to have, which is information as to what is

really going on. I hope my colleagues will join me in providing this sort of stuff."

Senator Matsuura, also on a point of personal privilege, said:

"Mr. President, I hate to be the bearer of bad news, but this is a summary of a document that my staff gave me just before coming up to the session. This is in regards to the Department of Transportation, Airports Division. The breakdown of contracts over \$4,000 for fiscal year 1990-91 is as follows: The total amount expended that year was \$69,824. Sixty percent of that contract amount was for non-bid exempt contracts -- 60 percent! The more interesting item is that only one percent of that 60 percent had the approval of the state comptroller. The rest of the 59 percent had no approval from the comptroller's office.

"But, today, Mr. President, I have good news! I have an article here that quotes our good Senator Blair. It says, 'It was one of those moments you raise your eyes to the heavens and say thank you, there is a future,' Blair said."

"Now, I know you all want to know what this is all about. This is good news since it involves education. I'm going to let the chairman of the Education Committee fill you in as to why Senator Blair made the historic quote."

Senator McCartney then responded:

"Mr. President, it involves a procurement situation and maybe Senator Matsuura can explain it also because he's going to help with the procurement situation in our schools, right?"

"Mr. President, you know that we have a lot of downs in education this year, but I think this is a real highlight and I'd like Senator Blair to share the story.

"We went to Kilohana School on Molokai on Monday for a visit and we happened to walk into a 6th grade class. It was a real touching experience that has restored our faith in our children in our public education system.

"Why don't you just share it, Senator Blair, to make Friday a good day."

Senator Blair answered:

"The principal of Kilohana School, which is towards the east end of Molokai, contacted my office in February. Like Waihee School, the School/Community-Based Management Council, parents and students wanted to implement a year-round school schedule and needed \$145,000 to pay for inter-session programs. I told the principal, Stephen Petro, that I would check it out and I went to see Senator McCartney. On bended knees, I pleaded with him to find the money to provide this opportunity for these students.

"The content of the inter-session programs will be enrichment oriented. Themes of interest to the children will be used to develop the love for learning, apply their prior academic learning, enhance individual skills and creativity and increase the childrens' appreciation for the cultural and environmental resources of their community. When you think about the East Molokai community, you recognize that they have opportunities for inter-session enrichment programs dealing with, for example, the operation of fish ponds which are prevalent on Molokai.

"Talking to Senator McCartney, I was happy in two regards. First, because Senator McCartney clearly

understood the potential benefits and was favorably disposed, within budgetary constraints, towards the concept of year-round schooling and inter-session programs. Second, because he expressed a willingness to go to Molokai and visit the school. We did that on Monday of this week, which is why he and I were absent on that legislative day of the session.

"We were given a tour of the school and met with the staff and students in different classes. When we visited Vicky Newberry's 6th grade class, Senator McCartney asked the students what they were doing. They told us that they were studying for the SAT exams, which they took.

"We encouraged them to do their very best and, if I recall correctly, Senator McCartney suggested that perhaps the Senator from Molokai should offer them a tangible inducement to further encourage them to do their very best. I accepted the challenge in general terms, whereupon, one of the students, who I presume is on his way to the University of Hawaii Law School, asked for the specifics of the inducement. I stumbled, while trying to mentally compute how many pogs this was going to involve. Senator McCartney, ever helpful, suggested that I ask the students what would be a sufficient inducement from their perspective. So I asked, 'What would you like?'

"A student, Tapuilima Hanapi, who had previously talked to us about certain instructional materials that were particularly useful, raised her hand. When called on, she said that what the students would really like is to have their own copy of this instructional program because the copy discussed earlier had been borrowed from a school on the Big Island. The other students in Ms. Newberry's class supported her recommendation. That's when I raised my eyes to the heavens. After imagining that pogs would motivate a 6th grader, to discover that what they really wanted was more and better educational material was an uplifting and heartwarming moment. It was worth mentioning that the beneficiaries will be future 6th grade classes. It was a selfless request.

"It was also a wallet lightening moment, because the TAI instructional program retails for \$840. Fortunately, my campaign account is healthy at the moment, so a check for a thousand dollars is on its way to Molokai. They deserve their own TAI program, irrespective of how they score on the SAT exams. I know they did their best and are certainly deserving of the best materials.

"I'm happy to have the opportunity to share this story with the Senate for two reasons. First, because it shows that the students in our state are receptive to our efforts. If we find the money to give them adequate supplies and good instructional materials, they are hungry for learning. They want a good education. Second, I appreciate this opportunity to lobby for one of the schools in my district.

"I subsequently learned, and perhaps I can lateral the ball back to Senator McCartney, that there is a further Big Island connection, and a Senate connection, to this story. So, if I may, I'd like to yield the floor to Senator McCartney."

Senator McCartney responded:

"I want to thank Senator Blair, and say that the TAI program was started by Senator Yamasaki and it goes through the Labor budget. I found out today that it is through Senator Graulty's budget. I was in Hilo this morning, University of Hawaii-Hilo, and this woman came up to me and said, 'We're the ones that started this in Hilo and Senator Yamasaki helped us in the early '80s.' She wanted to make sure that the program got

returned to Hilo and she didn't want to set a precedent. I told her, no, Senator Blair is buying it. And so we were cleared with Senator Matsuura on the procurement process, if that's okay. So, we'll put the ball back to Senator Matsuura and ask for approval on the procurement side."

Senator Matsuura answered:

"You may go sole source on this." (Laughter!)

Senator Solomon, also on a point of personal privilege, stated:

"Mr. President, in support of all of the previous speakers' remarks, I just want to report that as far as the all-year-round school concept goes, Kealahou School, as well as Waimea School, through their own school/community-based management organization, have opted to seriously look at an all-year-round school.

"I think that what was once just an idea is coming to fruition. I want to thank all of our legislators here because it was the Senate that took the initiative in providing these options and including them as part of the school reform package. I'm hoping that the school on Molokai comes on aboard -- I think that this would be the wave of the future. Thank you very much."

Senator B. Kobayashi, also on a point of personal privilege, remarked:

"Mr. President, in this light maybe the good Senator from Molokai would like to know that about three years ago, when I was Education chairman, I visited Kilohana School, specifically because Kilohana School was one of the less than a handful of schools in the whole state that had one class level scoring so well on the SAT exams that they had no individuals in the bottom-three stanines in reading. I was especially struck that they achieved the score in reading and so I went to visit the school and tried to find out what they were doing at that school that was so special that they were equal to, shall we say, some of the customarily good schools in the state. Actually, my recollection is that Kahala Elementary School that year did not score with no individuals in the bottom-three stanines although their average was higher.

"At any rate, Kilohana School, to finish the story, said that they had not done anything particularly special except try extra hard, and so if they're trying extra hard for this year's test, I think that Senator Blair's wallet will indeed be lightened. They also, interestingly enough, had done especially well in improving their math scores at that time and indicated that this was again because of the concerted effort at the school to strengthen their math program. And so it seems that when you know what you want to do and you try hard at it and focus in on improvement efforts, you can achieve very good results. Thank you."

Senator Blair then added:

"One last word, if I may. The Kilohana School is fortunate in one other respect. They've had the same principal for 15 years. The long tenure of Stephen Petro seems to have facilitated a positive and cooperative relationship between the school and the community. As a result, 90 percent of the parents participated in the decision to have year-round schooling. Of that 90 percent participation, after a very complete discussion process, 90 percent of the participants were supportive of going to year-round schooling. It's really a remarkable community consensus for year-round schooling. I'm told that even the 10 percent who didn't support year-round schooling, because the process was so thorough, are comfortable

with the decision-making process and comfortable with the result. The community is virtually 100 percent behind it. So I really hope that we can find \$145,000 for them. Thank you."

**MATTER DEFERRED FROM  
EARLIER ON THE CALENDAR**

**APPROVAL OF JOURNAL**

The President then made the following clarification:

"Members of the Senate, at this time, the Chair wishes to make an announcement relating to a correction in the Journal of the 40th day.

"Yesterday, the Senate voted on House Bill No. 783, H.D. 1, S.D. 1, relating to criminal procedure. The Clerk announced the vote as 12 ayes, 10 noes, and 3 excused. Senators Chang, Iwase, Kanno, Ann Kobayashi, Bert Kobayashi, Koki, Matsuura, Matsunaga, McCartney, and Tungpalan were counted as 'no' votes, myself, Senator Ikeda, Senator McCartney were counted excused, and all other Senators were counted as voting in the affirmative.

"There was an obvious error in the announcement of the vote. Senator McCartney should not have been marked excused because he was in fact present and had voted 'no.' Only two Senators were excused, not three. Thus, there were actually 13 ayes, rather than 12; these being Senators Blair, Fernandes Salling, Fukunaga, George, Graulty, Hagino, Holt, Levin, Mizuguchi, Nakasato, Reed, Solomon, and Tanaka.

"Mason's Manual of Legislative Procedure provides that a legislative body always has authority to correct its records to make them state the truth. The truth in this case is that House Bill No. 783, H.D. 1, S.D. 1, passed third reading on a vote of 13 ayes, 10 noes, and 2 excused. The Chair therefore orders that the record be corrected to reflect this vote and result."

There being no objections, the Chair then approved the Journal of the Fortieth Day.

**ADJOURNMENT**

At 12:31 o'clock p.m., on motion by Senator Ikeda, seconded by Senator Koki and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, April 5, 1993.