

EIGHTH DAY

Tuesday, January 30, 1996

The Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1996, convened at 11:48 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Elder Shirley Engel, Waipahu Seventh-Day Adventist Church, after which the Roll was called showing all Senators present.

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

Senator McCartney introduced Ryan Dote, an Iolani School fourth grade student whose research paper about the State Capitol building was published in the Honolulu Advertiser. Ryan, who was accompanied by his parents, was presented a Senate certificate and a lei.

At 11:54 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:59 o'clock a.m.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 24 and 25) were read by the Clerk and were placed on file:

Dept. Com. No. 24, from the State Auditor dated January 24, 1996, transmitting a report, "Study of the Workers' Compensation Claims Process for State Employees," (Report No. 96-5).

Dept. Com. No. 25, from the State Auditor dated January 26, 1996, transmitting a report, "Financial Audit of the Maui Memorial Hospital and Hana Medical Center," (Report No. 96-6).

STANDING COMMITTEE REPORTS

Senator Iwase, for the Committee on Planning, Land and Water Use Management, presented a report (Stand. Com. Rep. No. 1606) recommending that S.B. No. 2012 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Ihara, seconded by Senator Liu and carried, the report of the Committee was adopted and S.B. No. 2012, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND," passed Second Reading and was referred to the Committee on Judiciary.

Senator Ikeda, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1607) recommending that S.B. No. 2001, S.D.1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1607 and S.B. No. 2001, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," was deferred until February 1, 1996.

Senators Kanno and Ikeda, for the Committee on Agriculture, Labor, and Employment and the Committee on Ways and Means, presented a joint report (Stand. Com. Rep. No. 1608) recommending that S.B. No. 1810, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ihara, seconded by Senator Liu and carried, the joint report of the Committees was adopted and S.B. No. 1810, S.D. 1, entitled: "A BILL

FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES RETIREMENT SYSTEM," passed Second Reading and was placed on the calendar for Third Reading on February 1, 1996.

ORDER OF THE DAY

THIRD READING

S.B. No. 2013, S.D. 1:

Senator Iwase moved that S.B. No. 2013, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Ige.

At 12:00 o'clock noon, the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:01 o'clock p.m.

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

"Mr. President, I rise to speak in favor of this bill with some reservations and concerns which I would like to put on the record.

"First of all, I would like to commend the chairperson for holding a number of hearings throughout the interim to get information about the Water Code. It is my personal belief that the committee has worked very hard and the chairman has been very diligent to look at the issue. It is a very difficult public policy issue to deal with because many of us believe that water is a public natural resource that needs to be preserved and protected for the people of Hawaii, and no one entity owns the water. But the people of Hawaii and the government are entrusted to protect that water on their behalf. So I would like to make a few comments on some of the portions of the bill.

"Section 1, item (b) -- the reconfiguration of the commission. Mr. President, I think this is a very good provision. There are a number of potential conflicts that have taken place in the current Water Commission. It is very awkward and difficult when the Chairman of the Department of Land and Natural Resources is also Chairman of the Water Resources Commission, when the Department of Land and Natural Resources is a petitioner in the same case. I think that causes a number of awkward situations. It may not be a direct conflict but it is definitely a perceived conflict and I would like to commend the chairman for addressing that.

"I think there is another need that still needs to be addressed. That need is to create a process or policy to determine how the State takes a position. In the present contested case involving the Waihole water situation, my feeling is, how can the State take a position for one side in that case? My feeling is that the State should be an advocate to protect the rights and interests of everybody and be a mediator in the process, rather than to take a particular side and to be a petitioner in the case. I think we need to come up with and take a look at a process on who has a right to say that this is the State's position. Maybe the administration has the right to say it's the administration's or governor's position, but I'm not so sure that the administration actually speaks for the State.

"The second concern that I have is, what is the impact of this bill on the current contested case hearing? In the committee report it says that it does not, and I thank the chairman for explicitly stating that. However, if this bill is voted upon, the current bill says that it takes effect

upon approval. The contested case hearing may not end until April, so it may have an effect. I had a discussion with the chairman so he will take that into consideration, and I appreciate that.

"Under Section 5, the deletion of line 14, and the phrase is 'but not be limited to'. Will this limit or restrict traditional or customary rights of ahupua'a tenants? I think that's the question the commission needs to take a look at and deliberate on if the bill moves through the House. I'd like to ask if they will consider that -- just to insure that we are not taking away rights that are presently there today.

"Under Section 3, it talks about the county water use and development plans, the county water project plans, the county resource protection plans, and the water quality plans. It says the current county or commission shall consider and incorporate, and it lists a number of items that it shall consider and incorporate. The concern is, is this limiting or creating a priority or hierarchy, not taking into account other things like stream restoration and protecting the environment.

"I know the chairman is working diligently; he's looking at all the different sides and I wanted to put this on record and ask that as this bill moves forward, that those concerns are looked at and are evaluated. Thank you very much."

Senator Anderson rose and stated:

"Mr. President, I rise to speak on this issue.

"As a member of the committee, I just want to say that we are not looking at just that one area of water -- Windward vs. Leeward, or whatever. We are looking at irrigation water, drinking water, and how it pertains to the State in general. In fact, I'm also, because I'm on the Windward side, going to try to put some people together to look at the farmers, and not just one entity, but the farmers on our side.

"As a member of that particular committee, I think we have to look at irrigation water, drinking water, how it affects the State, how much we are going to be able to develop, and where we are going to be able to develop. I think that the chairman has expressed desires for us to be especially interested in the State problems and not just one side.

"Thank you."

The motion was put by the Chair and carried, and S.B. No. 2013, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE WATER CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2009:

On motion by Senator Iwase, seconded by Senator Ige and carried, S.B. No. 2009, entitled: "A BILL FOR AN ACT RELATING TO LAND MANAGEMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2010:

On motion by Senator Iwase, seconded by Senator Ige and carried, S.B. No. 2010, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been

read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

RE-REFERRAL OF SENATE BILLS

The President re-referred the following Senate bills that were introduced:

Senate Bill Referred to:

No. 2168 Committee on Agriculture, Labor, and Employment, then to the Committee on Ways and Means

No. 2255 Jointly to the Committee on Planning, Land and Water Use Management and the Committee on Ecology and Environmental Protection

No. 2380 Jointly to the Committee on Education and the Committee on Judiciary

No. 3031 Jointly to the Committee on Agriculture, Labor, and Employment and the Committee on Economic Development, then to the Committee on Ways and Means

No. 3073 Jointly to the Committee on Education and the Committee on Judiciary

No. 3096 Jointly to the Committee on Planning, Land and Water Use Management and the Committee on Ecology and Environmental Protection

RE-REFERRAL OF SENATE CONCURRENT RESOLUTION

The President re-referred the following concurrent resolution that was offered:

Senate Concurrent Resolution Referred to:

No. 3 Jointly to the Committee on Agriculture, Labor, and Employment and the Committee on Economic Development, then to the Committee on Ways and Means

At this time, Senator Fernandes Salling, for the Committee on Transportation and Government Affairs, requested a waiver of the 72-hour Notice of a Public Hearing on H.B. No. 547, and the Chair granted the waiver.

ADJOURNMENT

At 12:08 o'clock p.m., on motion by Senator Ihara, seconded by Senator Liu and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, January 31, 1996.