

THIRTY-SIXTH DAY

Thursday, March 21, 1996

The Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1996, convened at 11:37 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Ralph Moore, Hope Chapel, Kaneohe, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Thirty-Fifth Day.

Senators Kawamoto and Chumbley introduced Mitchell Skaggerberg, the 1995 Vocational Rehabilitation and Counseling Veteran of the Year. Mr. Skaggerberg, who was accompanied by two representatives from Veteran Services, was then presented a Senate certificate, and leis were presented to all of the guests.

At 11:45 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:57 o'clock a.m.

MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 242, dated March 4, 1996, transmitting a report, "Perinatal Support Services Annual Report, Calendar Year 1993," prepared by the Department of Health, Family Health Services Division, Maternal and Child Health Branch, Perinatal Health Services Section, was read by the Clerk and was placed on file.

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 27, from the State Auditor dated March 20, 1996, transmitting a report, "Financial Audit of the Public School System" (Report No. 96-8), was read by the Clerk and was placed on file.

SENATE COMMUNICATION

Sen. Com. No. 4, notice to the Governor dated March 21, 1996, transmitting S.B. No. 2271, S.D. 1, which proposes amendments to the Hawaii State Constitution.

By unanimous consent, the following notice was sent to the Governor:

"March 21, 1996

The Honorable Benjamin J. Cayetano
Governor of the State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Governor Cayetano:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following Senate Bill, a copy of which is attached hereto:

S.B. 2271, S.D. 1
RELATING TO APPROPRIATIONS AND CONTRACTS.

Respectfully,

/s/ T. David Woo, Jr.
T. David Woo, Jr.
Clerk of the Senate"

MATTER DEFERRED FROM
WEDNESDAY, MARCH 20, 1996

SECOND READING

Stand. Com. Rep. No. 2278 (H.B. No. 3383, S.D. 1):

By unanimous consent, Stand. Com. Rep. No. 2278 and H.B. No. 3383, S.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE REIMBURSEMENT OF THE AIRPORT REVENUE FUND," were recommitted to the Committee on Transportation and Government Affairs.

STANDING COMMITTEE REPORTS

Senator Fernandes Salling, for the Committee on Transportation and Government Affairs, presented a report (Stand. Com. Rep. No. 2288) recommending that H.B. No. 2658, H.D. 3, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ihara, seconded by Senator Liu and carried, the report of the Committee was adopted and H.B. No. 2658, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO DRIVER'S LICENSES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fernandes Salling, for the Committee on Transportation and Government Affairs, presented a report (Stand. Com. Rep. No. 2289) recommending that H.B. No. 2825, H.D. 1, pass Second Reading and be referred to the Committee on Consumer Protection.

On motion by Senator Ihara, seconded by Senator Liu and carried, the report of the Committee was adopted and H.B. No. 2825, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Second Reading and was referred to the Committee on Consumer Protection.

Senator Fernandes Salling, for the Committee on Transportation and Government Affairs, presented a report (Stand. Com. Rep. No. 2290) recommending that H.B. No. 2830, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Communications and Public Utilities.

On motion by Senator Ihara, seconded by Senator Liu and carried, the report of the Committee was adopted and H.B. No. 2830, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII WATER CARRIERS," passed Second Reading and was referred to the Committee on Communications and Public Utilities.

Senator Iwase, for the Committee on Planning, Land and Water Use Management, presented a report (Stand. Com. Rep. No. 2291) recommending that H.B. No. 4074, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ihara, seconded by Senator Liu and carried, the report of the Committee was adopted and H.B. No. 4074, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND EXCHANGE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Communications and Public Utilities, presented a report (Stand. Com. Rep. No. 2292) recommending that H.B. No. 3154, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ihara, seconded by Senator Liu and carried, the report of the Committee was adopted and H.B. No. 3154, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCESS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tanaka, for the Committee on Tourism and Recreation, presented a report (Stand. Com. Rep. No. 2293) recommending that H.B. No. 3638, H.D. 1, 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 H.B. No. 3638, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STADIUMS," passed Second Reading and was referred to the Committee on Judiciary.

Senator Fukunaga, for the Committee on Communications and Public Utilities, presented a report (Stand. Com. Rep. No. 2294) recommending that H.B. No. 1951, H.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 report of the Committee was adopted and H.B. No. 1951, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE NOTIFICATION TO UTILITY CUSTOMERS OF PUBLIC HEARINGS," passed Second Reading and was placed on the calendar for Third Reading on Friday, March 22, 1996.

ORDER OF THE DAY

RE-REFERRAL OF HOUSE BILL

The Chair re-referred the following House bill that was received:

House Bill Referred to:
 No. 582, H.D. 1 Committee on Ways and Means

RE-REFERRAL OF SENATE CONCURRENT RESOLUTION

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

Senate
 Concurrent
 Resolution Referred to:
 No. 114 Committee on Consumer Protection,
 then to the Committee on Judiciary

RE-REFERRAL OF SENATE RESOLUTION

The Chair re-referred the following Senate resolution that was offered:

Senate
 Resolution Referred to:
 No. 86 Committee on Consumer Protection,
 then to the Committee on Judiciary

Senator Fernandes Salling, chair of the Committee on Transportation and Government Affairs, requested a waiver of the 72-hour Notice of a Public Hearing pursuant to Senate Rule 20 on H.B. No. 3383, and the Chair granted the waiver.

Senator Kanno, chairman of the Committee on Agriculture, Labor, and Employment, also requested a waiver of the 72-hour Notice of a Public Hearing on H.B. No. 3470 and H.B. No. 3525, and the Chair granted the waiver.

Senator Matsuura rose on a point of personal privilege and stated:

"Mr. President, we talk about the Department of Human Services having a \$350 million budget. It appears like a lot of money to take care of the welfare people. I just want to let the body know that there are a lot of things that are being initiated and I just want to report just one good thing.

"One of the things that the Human Services initiated this year is a project called 'Good Start Project.' It was an initiative between the Human Services Department and the private sector. The private sector, in this case, is the Hawaii Restaurant Association. What they do is, whenever there is a position opened in the restaurant, they contact DHS; DHS then contacts some of their staff and finds a possible person that can fill the job. They have already placed 16 people into jobs.

"We have a tendency to look at people on welfare as they just don't want to work; that is not altogether true. Those that really want to work, all they need is an opportunity for a job. Thank you."

Senator Bunda also rose on a point of personal privilege and stated:

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

"Mr. President, I'd like to comment on the Makua Beach situation and the Governor's comments in the Advertiser and the Star-Bulletin.

"First, I'd like to commend the Governor for showing compassion for the children at Makua by extending the eviction date to June 15th. And by extending that date, the children might be able to finish this school year at their present school. He and I share the same concern for the well-being of the children who have no control over their predicament. However, Mr. President, the Governor's decision to evict the people at Makua creates a crisis with many inter-related and complex problems. To address only one issue -- that issue being the disruption of a child's school year -- simply ignores the fact that the child's performance is dependant on the stability of the child's home.

"The Governor does not address the fundamental problem: 'Where will these people go?'

"As OHA Trustee DeSoto testified this past Tuesday in our Housing Committee, she stated that 'It is tragic that the state decided that ready access to Makua Beach "by all members of the public" is more important than working with the people who live there to resolve the problems that forced them to live in a public beach park.... The answer is not going to be found in forcing these people off the beach. They will just move to another public property somewhere else. And when the new residential site comes to the attention of the State, the residents will be forced to move again.' Mr. President,

my feeling is most of them would probably just come back.

"Yes, I recognize that Makua has health and safety problems. However, eviction is only a knee-jerk reaction to a problem that the state has allowed to fester for many, many years. The Governor attempts to only band-aid a highly emotional and controversial issue.

"Mr. President, we should recognize that eviction on this day, June 15th, does not resolve the fundamental problem -- 'Where will these people go?' Chairman of DLNR Michael Wilson stated at our hearing also that the administration would do what the Legislature recommended. The Senate Committee on Housing, together with Senator Solomon and Senator Aki, decided that the next step should be a meeting with the Governor. And the purpose of that meeting would be to discuss alternatives for a settlement -- a long-term solution.

"Participation by community agencies and district residents is essential to finding the long-term solution. They are more knowledgeable and in tune with the needs and issues of the Makua people. They have provided and will continue to provide assistance to the people of Makua. In addition, the Makua Community Council has indicated to us in the hearing that they will take responsibility in transitioning people out to jobs and to homes.

"Mr. President, as of yet, Chairman Wilson has not set the meeting we requested. And I don't know why and I can't understand why this is taking so long. This has been a couple of days ago, now. We called the Governor several times but to no avail -- still, no response.

"We feel that we can accomplish looking at alternatives without the need to pass out a Senate resolution. And the bottom line is -- the decision resides with the Governor, and he knows how we feel.

"Our state is in a fragile economic situation and many of our residents live one paycheck away from being homeless. The plight of the Makua residents reveals only the tip of an iceberg. We must humanely assess this situation which ultimately affects everyone who lives in our state.

"I believe we can all achieve a win-win solution to this very complex issue. We must be honest, and we must be willing to consider unconventional and creative solutions.

"Thank you, Mr. President."

The Chair thanked Senator Bunda for his remarks.

Senator Aki, rising on a point of personal privilege, then said:

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

"First of all, I'd like to ask that the remarks of the chair of the Housing Committee be incorporated as my own. (The Chair so ordered.)

"Secondly, I'd like to thank the chair and the committee for having the public hearing on Tuesday at which time residents in the area presented testimony which was very, very eloquent and very heart-warming. And I think it demonstrated the true feelings and problems of the area. It's just sad that this hearing was not publicized or attended by the news media because I think had they been there, there would have been a lot more information coming out through the news media.

"I also want to thank the Governor for extending the deadline because now it gives us more time to address the problem. I think what the Governor has done has shown that he does have compassion and is very concerned about the problem and he has demonstrated leadership in that area. But more needs to be done.

"I also want to really commend the people, the Makua Beach people, who came to the hearing on Tuesday and presented their testimony. And as I said, I think had more of us heard testimony, you would have learned much more.

"Mr. President, what I really want to say at this point is that we in government have failed and we can see the results of our failure in what's happening at Makua Beach, what's happening on Kauai as far as the Kahale incident, the Miranda incident which happened just last month. And I suspect, Mr. President, that many, many more incidents of this nature will happen in the future if we in government do not address the problems of our state.

"And finally, Mr. President, I think we all recognize that we in government owe it to the people of Makua and to the people of this state to do better, and that is why we are here. And that is why I am asking that the resolution that was submitted be considered in the future and I think it should be passed because only then will we really have a chance to address the problems that are at hand.

"Thank you very much."

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

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

"I'd like to ask that the remarks of the two previous speakers be included as though they were my own. (The Chair so ordered.)

"Would the chairman of the Housing Committee please yield to a question?"

The President posed the question to the chair of the Housing Committee, and Senator Bunda having answered in the affirmative, Senator Holt continued:

"It's not the question you expect me to ask. Mr. Chairman, isn't it true that during the hearing on Tuesday a request was made by you to the Director of DLNR to request the Governor to meet with the members of the committee regarding this issue?"

Senator Bunda answered:

"Yes, that is true."

Senator Holt continued to inquire:

"Have you received an answer from the director yet as to when that meeting will take place?"

Senator Bunda responded:

"As of this date -- as of this moment -- we have not received any calls either from the chairman of the DLNR or the governor's office itself. We have called several times; we have called more than three times and have asked that office to call us back so that we, the committee, and also interested members, can have a meeting with the Governor, but to date we have not received any calls to that."

Senator Holt questioned:

"Was it your understanding that the people that were there at the meeting, who were in attendance when you made the recommendation to defer the resolution, understood that it was done so with the understanding that we would have the meeting with the Governor?"

Senator Bunda replied:

"Yes, it was. It was very clear."

Senator Holt continued:

"So we're still waiting for the Governor to get back to you."

Senator Bunda responded:

"Yes we are; we are still waiting."

Senator Holt inquired:

"Is there any reason why he hasn't called?"

Senator Bunda answered:

"I have no idea, Senator Holt."

Senator Holt then said: "Thank you."

Senator Solomon also rose on a point of personal privilege and stated:

"Mr. President, I am also rising on a point of personal privilege, and in support of all of the remarks that were made.

"Mr. President, I am hoping that the Governor will get the message. It is a sad state of affairs, Mr. President, that we have to use the word 'hope.' I think that the chairmen handled this very sensitive, volatile issue with diplomacy and with commitment. And I want to remind this body that we've been through a lot of trials and tribulations when it came to the resettlement of persons, especially those persons of Hawaiian ancestry. We had Sand Island and Kalama Valley. We went through a convention center situation where we had a riot down here in the rotunda. Mr. President, for the life of me, I cannot understand why is it that when they go and displace persons of Hawaiian ancestry, they bring the dogs, the swat team and the guns. This hurts, Mr. President.

"I just remembered, Mr. President, and you can correct me if I am wrong or anyone in this body can correct me, when the Philippines had a hurricane, our Governor raised money and I think he sent them a check. I don't know how much it was. Maybe Senator Grauly could tell me. I know the Senator was part of that delegation that submitted our good will, our Aloha, to those persons there in the Philippines. I remember when Kobe had an earthquake, Mr. President. We had resolutions in this illustrious body. We opened our arms to these people -- come to Hawaii to recuperate while the city is being rebuilt. We even lowered our hotel rates. We asked the airlines to put more flights on line. This is the kind of Aloha that we showed the world.

"And in a situation such as this when our own people are crying for help, where is the Aloha? This situation has been here for five to six years; it did not happen just yesterday. The Governor will not even give your Committee on Housing a meeting? Mr. President, maybe we better send the Governor a copy of the Aloha Spirit law that we have dedicated and committed ourselves to in conducting our business in this great state ... Aloha that

talks about compassion; Aloha that talks about kokua and helping; Aloha that talks about humility; Aloha that talks about modesty.

"I'm asking you, Mr. President, to assist our committees for that meeting with the Governor and request that it comes in a timely manner. And I'm hoping that June 15th was not selected because we are no longer in session. Mr. President, it bothers me that I have these kinds of thoughts, these kinds of mana'o.

"And with that, Mr. President, I'd like to thank again all of the committees that have been working very hard on these kinds of issues. And it's not only the homeless. We have the same situation with our chairwoman in Ways and Means who has to deal with welfare and other pressing issues. And I'm thinking to myself that if the Governor can't even accommodate a committee chairman's request for a meeting, we're definitely in a sad state of affairs.

"Thank you, Mr. President."

Senator Fernandes Salling, rising on a point of personal privilege, then said:

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

"Although I am not a member of the Housing Committee, I have been listening and watching with great interest what has been happening here with respect to Makua. I do believe that those Senators who spoke on behalf of those residents would also go to bat and have gone to bat for all of the homeless people in this state when that has been brought to their attention. We have to acknowledge that the statistics show that the Hawaiians are at the lower end of the spectrum in terms of money to survive in their own state. And so if it appears that we seem a bit more emotional about their plight, it's because of that and they need that extra help because they just don't have the money.

"I'd like to add my plea, along with those of the previous speakers, to the Governor to please set up a meeting as soon as possible, before the session ends, to take a look at the issue of what are we going to do; where are we going to place these people. That's the issue. It's not just allowing them to live there until the 15th of June, but it's something more permanent.

"And many of us here forget because we get so caught up with bills before our committees and we believe this is what is more important. And I do it myself -- I'm guilty of it also. The really important things that are happening is exactly what we see at Makua, with people, with children. Let's not lose sight of that because we want to move these bills and we have deadlines to meet. What's more important is for the Legislature working with the administration to address those problems to do with the people. Thank you."

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

"Mr. President, I stand on a point of personal privilege. I'd like to have all of the comments put in the Journal as my own. (The Chair so ordered.)

"What I'm really happy about is that it's finally dawned on everyone that it's better to have dialogue so each and every one of us understands how the other feels and where they're coming from, rather than all of you in that room fighting amongst yourselves and we don't know exactly how you feel or how we can help. It does take a bill and that's what's not being adhered to is that there

was a bill to help. But the only way each and every one of you is going to help is by understanding how the other one feels and why they feel that way; and how you can become involved. And I think it's important because it adds numbers, and numbers is what this game is all about.

"So I'm very pleased to see people standing up and not saying, I can't say anything because that person is of the same party or that person happens to be the chair. It's an issue that affects all of us. And it may not affect a person as far as you can see, but that person may be married or have a cousin, or whatever, that lives in that district or is part-Hawaiian, or is involved.

"So, for that reason, Mr. President, I'm glad to see that we're all at least discussing and having dialogue that is so badly needed in this Senate.

"Thank you very much."

Senator Matsuura rose again on a point of personal privilege to state:

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

"Of all the committees that I have chaired in my years here at the Legislature, chairing the Human Services Committee has been the roughest. There are so many needs out there; it's hard to explain. I don't know of any person who knows what a disadvantaged or the poor goes through than Ah Quon McElrath. That person not only represents the heart and soul of the people who are poor, but she has the knowledge of what these people's lives are about. She has that ohana spirit to encompass them and try and extend the helping hand. Yes, I get shellacking from her, but she is one person that no matter what she says to me, I listen, because she is speaking from the heart. Ah Quon had the ear of Governor Burns. Governor Burns was perhaps the champion of taking care of the poor.

"The other champion was Senator Mamoru Yamasaki. Ah Quon and Mamoru had a very close tie. Senator Yamasaki always took care of the poor first. He was like that.

"I can't say that we're irresponsible because we are in a financial strait. I wish there were monies. I wish we could really take care of the poor and be responsible, but I know that the chair of Ways and Means is doing everything possible to make sure that we provide some safety net for some of these unfortunate people.

"This is only the tip of an iceberg. Those of you who really want to learn about the programs in Human Services should chair that committee to understand what the poor people go through. I commend the people who are speaking on this issue because, truly, some of these poor people really have no alternative. I don't know what the solution is. That's what's frustrating me. I have no solution. I told you about the restaurant people. That's just the tip of the iceberg. Maybe we could have done something more. If all our patronage jobs were put out to the people on welfare, we could have taken care of maybe 50 or 60 people -- at least put them on a wage; give them a chance. I put one of my patronage to a welfare recipient. She is working perfectly.

"I don't know what the solution is. If you have solutions to some of these problems that we face today, please let me know. I'm willing to try anything.

"Thank you very much."

Senator Holt then added:

"Just on a closing point relating to the earlier issue of Makua.

"It's pretty ironic that the chair of Housing, Senator Bunda, whom the Governor expects to support his major reform of consolidating all the housing functions in the state under one housing agency, cannot even return the Housing chair's phone call. Thank you."

Senator Grauly rose on a point of personal privilege and said:

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

"Mr. President, I don't want to detract from the well-stated and deeply felt concerns expressed by my colleagues on the issue at hand. I did want to respond to the Senator from Kohala who asked how much the Governor brought to the Philippines for the hurricane victims there. He brought a check for \$270,000, of which \$240,000 came from the Weinberg Foundation and the other monies came from private businesses in our state. But I was there when he presented the check and I just wanted to, for the sake of the information that's been requested of me, provide that information.

"Thank you."

ADJOURNMENT

At 12:35 o'clock p.m., on motion by Senator Baker, seconded by Senator Liu and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, March 22, 1996.