

THIRTEENTH DAY

Monday, February 9, 1998

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 11:36 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Sister Hilaria Dawal, SHF, St. John The Baptist Church, after which the Roll was called showing all Senators present.

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

Senator Sakamoto introduced Director Elden Seta and several representatives of the Moanalua High School Symphony Orchestra and congratulated them on their invitation to perform at Carnegie Hall in New York City and commended them on their other outstanding achievements.

At 11:43 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:48 o'clock a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 149 to 159) were read by the Clerk and were placed on file:

Gov. Msg. No. 149, dated January 14, 1998, transmitting the 1997 Annual Report of the Employment and Training Fund Program prepared by the Department of Labor and Industrial Relations pursuant to Section 383-128, HRS.

Gov. Msg. No. 150, dated January 16, 1998, transmitting a report, "Summary of Special, Revolving, and Trust Funds for the Fiscal Year Ended June 30, 1997," prepared by the University of Hawaii pursuant to Sections 304-7 and 304-8, HRS.

Gov. Msg. No. 151, dated January 23, 1998, transmitting a report, "Model Drug Law Conference: A Symposium on Crime in Hawaii," prepared by the Department of the Attorney General pursuant to Act 145, SLH 1997.

Gov. Msg. No. 152, dated January 23, 1998, transmitting the Report on the First-to-Work Program, prepared by the Department of Human Services pursuant to Section 346-276, HRS.

Gov. Msg. No. 153, dated January 26, 1998, transmitting a report prepared by the Department of Health pursuant to Act 189, SLH 1995, requesting the Department of Health to keep waiting lists of all individuals with developmental disabilities, mental retardation or both, who are eligible for services and supports but for whom services and supports have not been provided for any reason, and to annually report the numbers of persons waiting for services and supports and the reasons for the lack of services and support.

Gov. Msg. No. 154, dated January 29, 1998, transmitting the Department of Agriculture's Annual Report for Fiscal Years 1995-1997.

Gov. Msg. No. 155, dated January 30, 1998, transmitting the 1997 Annual Report of the Hawaii Aquaculture Advisory Council, prepared by the Department of Land and Natural Resources, Aquaculture Development Program, pursuant to Section 189G-3, HRS.

Gov. Msg. No. 156, dated January 21, 1998, transmitting a report prepared by the Department of Health pursuant to Act

221, SLH 1997, relating to the state water pollution control revolving fund of the Department of Health.

Gov. Msg. No. 157, dated January 28, 1998, transmitting the addendum to Chapter I, D. ICSD/Department Reports Summary, prepared by the Department of Accounting and General Services pursuant to Act 328, Section 212, SLH 1997.

Gov. Msg. No. 158, dated January 23, 1998, transmitting the "Report of the Insurance Commissioner of Hawaii, 1997," prepared by the Department of Commerce and Consumer Affairs.

Gov. Msg. No. 159, informing the Senate that on February 6, 1998, he signed into law House Bill No. 2352 as Act 1, entitled: "MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN."

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 17 to 20) were read by the Clerk and were placed on file:

Dept. Com. No. 17, from the State Auditor dated February 2, 1998, transmitting a report, "Audit of the Decentralization efforts of the Department of Education," (Report No. 98-4).

Dept. Com. No. 18, from the State Auditor dated February 5, 1998, transmitting a report, "Fiscal Accountability Audit of the Department of Education: The Public and the Schools Need to Know the True Costs of Education," (Report No. 98-5).

Dept. Com. No. 19, from the Department of the Attorney General, Crime Prevention and Justice Assistance Division, transmitting the "Crime and Justice in Hawaii, 1997 Hawaii Household Survey Report."

Dept. Com. No. 20, from the State Auditor dated February 6, 1998, transmitting a report, "Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve," (Report No. 98-6).

CONFERENCE COMMITTEE REPORT

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 1285, S.D. 1, presented a report (Conf. Com. Rep. No. 1) recommending that S.B. No. 1285, S.D. 1, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 1 and S.B. No. 1285, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICATION OF NOTICES BY GOVERNMENT AGENCIES," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senators Aki and Tam, for the majority of the Committee on Education, presented a report (Stand. Com. Rep. No. 2007) recommending that S.B. No. 2003 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Sлом and carried, the report of the majority of the Committee was adopted and S.B. No. 2003, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE UNIVERSITY OF HAWAII FOR TRAINING OF TEACHERS IN SHORTAGE AREAS," passed Second

Reading and was referred to the Committee on Ways and Means.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2008) recommending that S.B. No. 2218, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2218, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2009) recommending that S.B. No. 2775, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2775, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE KING KAMEHAMEHA CELEBRATION COMMISSION," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 11, 1998.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2010) recommending that the Senate consent to the nomination of GEORGE Y. KIMURA to the office of Judge, District Court of the First Circuit, for a term of six years, in accordance with the provisions of Section 604-2, Hawaii Revised Statutes, and in accordance with Jud. Com. No. 1.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 2010 and Jud. Com. No. 1 was deferred until Tuesday, February 10, 1998.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2011) recommending that S.B. No. 2092, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2092, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX LAW," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2012) recommending that S.B. No. 2186, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2186, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A CONSTRUCTION INDUSTRY PROGRAM," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2013) recommending that S.B. No. 2304, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Water, Land, and Hawaiian Affairs.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2304, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO KONA COFFEE LANDS," passed Second

Reading and was referred to the Committee on Water, Land, and Hawaiian Affairs.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2014) recommending that S.B. No. 2343, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2343, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HUNTING LICENSES," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2015) recommending that S.B. No. 2800, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2800, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AUTHORITY OF THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO ISSUE ECONOMIC DEVELOPMENT GRANTS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2016) recommending that S.B. No. 2901, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2901, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2017) recommending that S.B. No. 2931 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection, and Information Technology.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2931, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL PARK LEASES," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection, and Information Technology.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2018) recommending that S.B. No. 3024 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 3024, entitled: "A BILL FOR AN ACT RELATING TO QUARANTINE," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2019) recommending that S.B. No. 3025 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 3025, entitled: "A BILL FOR AN ACT RELATING

TO MILK CONTROL," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2020) recommending that S.B. No. 3139 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 3139, entitled: "A BILL FOR AN ACT RELATING TO STADIUMS," passed Second Reading and was referred to the Committee on Ways and Means.

ORDER OF THE DAY

RE-REFERRAL OF SENATE BILLS

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

Senate Bill	Referred to:
No. 2301	Jointly to the Committee on Health and Environment and the Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Judiciary
No. 2784	Committee on Commerce, Consumer Protection, and Information Technology

Senator Solomon rose on a point of personal privilege as follows:

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

"Mr. President, as you know, there is room in the Democratic Party for different points of view. However, I read in this morning's *Advertiser* regarding the failure of our auto insurance reforms to bring cost relief to many of our Hawaii drivers. Twelve members of this Senate voted in opposition last session. We realized then and now that our insurance reform is not working to the benefit of most of Hawaii's drivers. And I quote, Mr. President, 'The reforms promise cuts of 20 to 35 percent, but in many cases the reality is, while most drivers with high coverage limits will see their premiums come down this year, few will realize large cuts, and some motorists may even see their premiums rise.'

"The people of Hawaii know the history pertinent to auto insurance reform. They feel it every month in their pocketbooks. They look to this Legislature for reconciliation, not division; for progress, not reaction. The bottom line, Mr. President, is the people of this state will stand with us now for the kind of auto insurance reform that we desperately need. We must stand up to them; we must fight on their issues on their side. How can we continue to offer the working people of Hawaii mandated auto insurance when we know that our efforts, in fact, will increase their insurance cost or not see the kind of cuts that we have promised them.

"Thank you, Mr. President."

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

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

"Mr. President, last week the Governor announced his cost-cutting budget on various programs. And as I looked over my copy, I couldn't agree more, that in times of scarce dollars, we need to closely look at these programs which are not at the core of government's responsibility, or programs which are duplication and non-efficient.

"Mr. President, however, I'm very concerned about eliminating \$9 million to the Intermediary Care Facilities for

Mentally Retarded Program that provides 24-hour intensive, active treatment and care to persons with development disabilities and mental retardation. It is my understanding that currently only 98 patients in the entire state are served in this particular program and the state only provides matching funds for this program services at approximately only \$3.6 million -- not the \$9 million that is indicated in the Governor's request. I humbly ask both chairs of the Ways and Means Committee to find out why there is a discrepancy in these figures.

"I, like many of you, have constituents in my community who are elderly parents with disabled children. And early on in their years, many of them elected not to send their children to Waimano Home, but to have the ICFMR program service them because they knew that as they began to age, their kids would become increasingly difficult to care for. And now we have to tell them, 'Hey, guys, sorry, there's no room for your son or daughter, and only those in Waimano Home get first choice.' Mr. President, something is terribly wrong with this picture. I guess only time will tell, until the state gets into another law suit similar to that of the Felix case. Mr. President, if we really don't look beyond our noses, the state will only end up coughing up more money at the end.

"Let me point out that Hawaii is only one of three states in the nation that currently draws a 50/50 match. All other states in this area have match ratios as high as 20/80. Why hasn't the Department of Human Services pursued this route to increase our ratio? I don't know. But I again challenge the chairs of the Ways and Means Committee to look at or investigate the administration's short-sightedness. Let's not be blinded by the administration's facts and figures. It's my concern that the state might be attempting to eliminate costs just for the sake of showing a budget cut, without serious regard to possible consequences.

"Mr. President, may I remind everyone that in the State of Florida the government mandated the elimination of their ICFMR program. However, their courts imposed a stay on their law until Florida can prove that adequate individual transition plans can be developed.

"I'd like to believe, as I read in yesterday's *Advertiser* editorial, that 'We should do as the Governor says.' But if we specifically follow what the newspaper or the Governor wants, without doing our own homework, we're not just going to be trading dollar for dollar. Down the line, I believe it's going to cost us big time.

"Finally, Mr. President, as stated in the editorial yesterday, I quote: 'In the legislative trenches, opposition will be fierce.' To this I say, you can bet on it.

"Thank you, Mr. President."

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

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

"Mr. President, on Friday, Senator Slom read 25 companies that went out of business. The Majority Leader across the aisle stated that there are 40 new businesses. I think we're missing the point. It makes it sound like everything is going to be rosy again because you have 40 new businesses. We haven't said businesses won't start up. It's hard for businesses to stay in business in this state. We are not a very comfortable state to do business in. We are not easy to do business in. That was the point of all these people going down. I think the majority party has got to look at, maybe in a few months from now, looking at that list.

"What bothered me, I think, is I watched the evening news and I saw Senator Chumbley talking and being interviewed. He more or less said that 'gambling was one thing that we would not even consider . . . we have to move on . . . we have many,

many important things to look at, things that should move' -- like the pay raise for the judges. And I sympathize. I read that the judges have not had a pay raise in five years. But if you will remember, we have been trying to finance or to keep the King Kamehameha parade alive and well, and we used to fund that. And we no longer fund it. That brings in tax dollars, Mr. President. We're not funding it, so Hawaiian Airlines picked it up. And since you're so worried about people not being paid, some of their employees have not been given a pay raise in six years. But they're spending a \$150,000 to help us because the economy is poor. Well, their people, I'm sure, could use the money as well as the rest.

"Then it sort of bothered me because OHA, another state funded program, said that they would like to help the Kamehameha Day parade, however, not all participants are of Hawaiian ancestry. Well, that's a lot of malarkey. We've just had all the practitioners here and everybody was fighting about 'yes, we have to help.' Well, they're not all Hawaiian either, my friends. So I think OHA had better look at what we're doing.

"What bothers me, Mr. President, is we have all kinds of information on different types of gambling. We have a referendum. I don't want to see one person here who says, 'I'm opposed to gambling.' You're representing the people. A referendum allows them a chance to get involved in politics. It gives them a vote. If we're going to put this to rest, once and for all, then put it on the ballot as an advisory referendum. It was used in 1939. It is legal. You do not have to change the Constitution. And we don't need your particular opinion if you like it or don't like gambling. It's your constituents who have that right. Now, I'm not sure if it's because of the Hawaii Coalition Against Legalized Gambling with all of these people down here, Mr. President, that are opposed to it, but they, too, would be able to vote. That's what the referendum is all about. It gives them input, not just to come here to the Legislature because they're opposed to something. We get 40 people that are opposed to everything. I don't care what you do and if you put it on the news in the evening and take a poll, it's the other way around. So why don't we give those people a chance.

"And I went back to this article, Mr. President, because it bothered me. It's about partnering. If everybody here who believes in partnering really believes in it, then why don't you pass some of the other bills? I think what Senator Iwase said in this thing is true. Power is power. I don't give a damn if you give it to two people, or one person. And when they say, 'Well, you've got to have input from others,' who are the others? Each other? If we are going to talk to one another as co-chairs and we make a decision on what's going to be heard and what's not going to be heard, whose bills will move and whose won't, even with a hearing. I've been here long enough, Mr. President, to have had people tell me, 'Whitney, I'll hear your bill,' but then it's dead. We haven't even heard it. It didn't go to committee; doesn't know what the people are going to say. But I accepted it because that's the way the ball bounced. But that doesn't give me a right or exclude me from the right of saying how I feel on this floor.

"So I wanted you to know, partnering or no partnering or whatever else there is, if you really believe in what you're doing, then let's look at all the bills. Let's not fool around and play games. You're not God. You have your constituents to think of, as well as everybody else. And there might be only two of us, but whenever it says majority leadership and that you folks went on a summit and you had all this great input, you most certainly don't include us, minority leadership. So how the heck do you know how we feel, since you want to be partnering.

"Thank you very much, Mr. President."

ADJOURNMENT

At 12:05 o'clock p.m., on motion by Senator McCartney, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 10, 1998.