

SEVENTEENTH DAY

Friday, February 12, 1999

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 1999, convened at 12:07 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by Sister Candida Oroc, St. Francis Medical Center, after which the Roll was called showing all Senators present.

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

At this time, Senator Chumbley, in recognizing February as Drug-Free Hawaii Awareness Month, introduced Sandy Lacar from the Coalition For A Drug-Free Hawaii, Cliff Cisco from the Hawaii Medical Service Association, Warren Ferreira from Outrigger Resorts and Hotels, and Kendyl Ko and Dr. Paul LeMahieu from the State Department of Education.

At 12:18 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:27 o'clock p.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 197 to 201) were read by the Clerk and were placed on file:

Gov. Msg. No. 197, dated February 8, 1999, transmitting a report prepared by the Department of Health, Health Resources Administration, Family Health Services Division, pursuant to H.C.R. No. 11 (1998), requesting the Department of Health to assess mental health services and to provide needed services for children under five years of age as early as possible.

Gov. Msg. No. 198, dated February 8, 1999, transmitting the Department of Taxation's report relating to payments to the State by Electronic Funds Transfer, pursuant to Act 177, SLH 1997.

Gov. Msg. No. 199, dated February 8, 1999, transmitting the 1997-1998 Annual Report of the Department of Taxation, pursuant to Chapter 231, HRS.

Gov. Msg. No. 200, dated February 8, 1999, transmitting a University of Hawaii's Annual Report on Intercollegiate Athletics Exemption from the Procurement Code, pursuant to Act 186, SLH 1997.

Gov. Msg. No. 201, dated February 8, 1999, transmitting the University of Hawaii's Report on the College of Education Action Plan to Address the Teacher Shortage and Teacher Training Needs, pursuant to H.C.R. No. 197 (1998).

STANDING COMMITTEE REPORTS

Senator Tam, for the Committee on Government Operations and Housing, presented a report (Stand. Com. Rep. No. 77) recommending that S.B. No. 285, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Government Operations and Housing.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 285, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Second Reading and was recommitted to the Committee on Government Operations and Housing.

Senator D. Ige, for the Committee on Education and Technology, presented a report (Stand. Com. Rep. No. 78)

recommending that S.B. No. 1154 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1154, entitled: "A BILL FOR AN ACT RELATING TO THE LIBRARY ENHANCED SERVICES PROGRAM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator D. Ige, for the Committee on Education and Technology, presented a report (Stand. Com. Rep. No. 79) recommending that S.B. No. 1155 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1155, entitled: "A BILL FOR AN ACT RELATING TO REALLOCATION OF VACANT LIBRARY POSITIONS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator D. Ige, for the Committee on Education and Technology, presented a report (Stand. Com. Rep. No. 80) recommending that S.B. No. 1181, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1181, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEGAL REPRESENTATION FOR THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Ways and Means.

Senator D. Ige, for the Committee on Education and Technology, presented a report (Stand. Com. Rep. No. 81) recommending that S.B. No. 1183 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1183, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Ways and Means.

Senator D. Ige, for the Committee on Education and Technology, presented a report (Stand. Com. Rep. No. 82) recommending that S.B. No. 1184 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1184, entitled: "A BILL FOR AN ACT RELATING TO MANAGEMENT OF FINANCING AGREEMENTS FOR THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Ways and Means.

Senator D. Ige, for the Committee on Education and Technology, presented a report (Stand. Com. Rep. No. 83) recommending that S.B. No. 1299, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1299, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROGRAM EXECUTION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com.

Rep. No. 84) recommending that S.B. No. 1371, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1371, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 85) recommending that S.B. No. 348, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Transportation and Intergovernmental Affairs.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 348, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was recommitted to the Committee on Transportation and Intergovernmental Affairs.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 86) recommending that S.C.R. No. 31, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 86 and S.C.R. No. 31, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING A FULL, COMPLETE, AND DULY SUPERVISED AUDIT OF THE 1998 GENERAL ELECTION RESULTS," was deferred until Tuesday, February 16, 1999.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 87) recommending that S.R. No. 11, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 87 and S.R. No. 11, S.D. 1, entitled: "SENATE RESOLUTION URGING A FULL, COMPLETE, AND DULY SUPERVISED AUDIT OF THE 1998 GENERAL ELECTION RESULTS," was deferred until Tuesday, February 16, 1999.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 62 (Gov. Msg. No. 131):

By unanimous consent, action on Stand. Com. Rep. No. 62 and Gov. Msg. No. 131, was deferred to the end of the calendar.

THIRD READING

S.B. No. 1168, S.D. 1:

On motion by Senator Kawamoto, seconded by Senator Bunda and carried, S.B. No. 1168, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 1194, S.D. 1:

On motion by Senator Kawamoto, seconded by Senator Bunda and carried, S.B. No. 1194, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL BUSES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 1017:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, S.B. No. 1017, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING, REENACTING, OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 12:29 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:44 o'clock p.m.

MATTER DEFERRED FROM EARLIER ON THE CALENDAR

ADVISE AND CONSENT

Stand. Com. Rep. No. 62 (Gov. Msg. No. 131):

Senator Chumbley moved that Stand. Com. Rep. No. 62 be received and placed on file, seconded by Senator Matsunaga and carried.

Senator Chumbley then moved that the Senate consent to the nomination of REYNALDO D. GRAULTY as Judge of the 17th Division, Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Matsunaga.

Senator Matsunaga rose in support of the nominee and said:

"Mr. President, I rise in support of the nominee.

"Mr. President, Reynaldo Graulty is an individual that is more than qualified for the position of Circuit Court Judge. He has 17 years of legal experience in private practice and he has served 8 years in the Hawaii State Legislature -- first as a State Representative and subsequently as a State Senator. In addition, Mr. Graulty was appointed as State Insurance Commissioner in 1997.

"Mr. President, his community activities include serving on the board of directors for the Legal Aid Society of Hawaii. He is also a member of the Juvenile Justice State Advisory Council. At his confirmation hearing, Mr. Graulty was duly questioned by the Judiciary Committee members, perhaps in the same manner that he used to question nominees when he was the Judiciary chair.

"Mr. President, Mr. Graulty's knowledge of the law and views on pressing community issues such as tort reform and auto insurance were impressive and thoughtful. During the hearing, the committee heard several members of the legal community, as well as organizations and private citizens, come forward to voice their overwhelming support for Mr. Graulty. To quote some of the testimony that was reiterated several times, 'Reynaldo Graulty is a fair-minded, intelligent, compassionate and hard-working individual. Mr. Graulty possesses the legal knowledge and ability, professional experience, judicial temperament and diligence needed to be qualified as a Judge in the First Circuit Court.'

"Mr. President, as you can see, this appointment comes with great community support and is well deserved. I am confident

that Mr. Grauly's commitment to excellence will enhance and protect the quality of life for all of us in our community.

"And, Mr. President, on a personal note, I'd like to share what Mr. Grauly has meant to me as a Senator. He has taught me how to strive to become a good Judiciary chair. He has taught me how to help keep the committee working together, while respecting deeply held beliefs that may differ. And, Mr. President, he has taught me how to hold true to my principles and convictions with integrity.

"Thank you, Mr. President."

Senator Kanno also rose in support of the nominee and stated:

"Mr. President, I rise in support of the nominee.

"I have the highest respect for Mr. Grauly's integrity and his contributions to our State. I urge my colleagues to vote 'aye.'

"Thank you."

Senator Kawamoto, rising in support of the nominee, then added:

"Mr. President, I'm rising in support of the nominee.

"Mr. President, I've known the nominee over many years. His integrity and his family are above reproach. His community sensitivity will make him a good judge. His involvement with veterans' affairs has been outstanding, especially with those veterans that became citizens as they fought in WW II and with General MacArthur and they're here in Hawaii as United States citizens, and understands their plight. Therefore, I urge my colleagues to vote 'aye' on this nominee.

"Thank you."

Senator Chumbley also rose to support the nominee and stated:

"Mr. President and colleagues, I rise in support of the nomination.

"Mr. President and colleagues, as a freshman Senator in 1994, I had the great opportunity to be placed next door to Senator Grauly. And I can tell you that one thing I learned from him was to work hard. This individual was in his office many, many late hours. We used to sit down together and talk about the challenges and the issues that we faced. And I've never met an individual that has shown so much integrity and so much hard work. As a mentor, he showed me that this is the way to succeed, and that hard work is something all of us can contribute for the betterment of this State.

"We have questioned him about many difficult issues, including judicial restraint. And I believe that this individual has the will, and the integrity, to separate his responsibility from a legislator who made laws, to a judge, now, who can interpret the laws.

"I'm very happy and very pleased to support him for a Circuit Court Judge.

"Thank you."

Senator Slom rose in opposition to the nominee and said:

"Mr. President, I rise to speak in opposition.

"There is no question that the candidate is above reproach. He is honest, hard working, knowledgeable, and experienced in many areas. I've known the candidate from the time he was in the State House, the time he was in the State Senate, and after

he lost his re-election bid when the Governor appointed him to the position of Insurance Commissioner.

"It's my understanding, however, that people know the candidate primarily as a politician, because he does not have courtroom experience. It's also my understanding that a list of six individuals were sent to the Governor for choosing -- four of those individuals were District Court practicing judges, one was a private attorney with a great deal of courtroom experience, and the final was the candidate. The Governor, known primarily not as an attorney or for his courtroom experience, but known as a politician, selected another politician.

"The question is, Is the candidate the best qualified individual at this time? And I would suggest that the answer to that, with all of his qualifications, is no.

"What message is it that we are sending to experienced District Court Judges who work their way through their experience to the Circuit Court level? What experience and what message are we sending to the electorate in the district that chose someone else the last time that the candidate ran for public office, since we do not elect our attorneys or the attorney general in this State? What message do we send to the public who already have many concerns about our Judiciary and its make-up? They're not that concerned about judges not being able to live on \$90,000 a year. They're more concerned about who the judges are; where they come from; who selects them; and the fact that they seem to be overwhelmingly political appointees in one particular party.

"And finally, Mr. President, what message is it that we send to the public who have a perception that, in our State, anything involving the government, the overriding consideration is who you know, rather than what you know.

"We have a duty, and it's not a pleasant duty, to stand up and oppose anyone for any reason, particularly, someone who is qualified. But we have a duty to put this State back in order and to restore the public's trust. We see how they feel about the election process, and those of us who go outside of this chamber and outside of this building know how they feel about the judges and about the Judiciary and its positions. I think that if we really want to send a message, we have to send a message that we need the very best qualified, and we have to stop making political appointments. We have to send a message that the real concern has got to be merit, accountability, responsibility and genuine judicial reform.

"Thank you, Mr. President."

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

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

At this time, Senator Matsunaga introduced Judge Grauly to the members of the Senate. Accompanying him was his wife, Gigi, other family members, friends, and colleagues.

RE-REFERRAL OF SENATE BILLS

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

Senate Bill Referred to:

No. 285, S.D. 1 Committee on Government Operations and Housing, then to the Committee on Ways and Means

No. 348, S.D. 1 Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means

No. 1557 Committee on Transportation and
Intergovernmental Affairs, then to the Committee on
Commerce and Consumer Protection

ADJOURNMENT

At 12:57 o'clock p.m., on motion by Senator Chun, seconded
by Senator Slom and carried, the Senate adjourned until 11:30
o'clock a.m., Tuesday, February 16, 1999.