

SIXTEENTH DAY

Thursday, February 10, 2000

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2000, convened at 11:34 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Charles Carpenter, District Superintendent of the Missionary Churches of Hawaii, after which the Roll was called showing all Senators present with the exception of Senator Matsuura who was excused.

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

Senator Slom, with the assistance of Senators Kanno, Matsunaga, Chun Oakland and Ihara, recognized and congratulated the following new inductees to the Junior Achievement Hawaii Business Hall of Fame: James Campbell, who was represented by Quentin Kawanakoa; Ethel Murphy; George Fukunaga, who was represented by his wife Alice Fukunaga; Dr. Ralph Hook; and Jean Fukuda, who was represented by her husband, Wayne Fukuda. Accompanying the new inductees were Larry Richardson and Susan Stuart representing Junior Achievement.

At 11:49 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.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 146 to 170) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 146, letter dated February 9, 2000, stating that there is no longer a requirement for an emergency appropriation for S.B. No. 2757, which makes a supplementary emergency appropriation in fiscal year 1999-2000 for gasoline antitrust litigation costs because the court has ruled that the state may apportion a partial amount of settlement moneys for litigation costs, was placed on file.

Gov. Msg. No. 147, submitting for consideration and consent, the nomination of RICHARD W. POLLACK to the office of Judge, 7th Division, Circuit Court of the First Circuit, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, for a term of ten years, was referred to the Committee on Judiciary.

Gov. Msg. No. 148, submitting for consideration and confirmation to the Board of Directors, Agribusiness Development Corporation, the nominations of BERT L. HATTON, LARRY G. JEFTS, DENIS C.H. KAM, CHRIS J. KANAZAWA, YUKIO KITAGAWA, DIANE L. LEY, ALLAN A. SMITH and ROBERT S. SUTHERLAND, terms to expire June 30, 2001, was referred to the Committee on Economic Development.

Gov. Msg. No. 149, submitting for consideration and confirmation to the Board of Agriculture, the nomination of WESLEY H.C. WONG, JR., term to expire June 30, 2004, was referred to the Committee on Economic Development.

Gov. Msg. No. 150, submitting for consideration and confirmation to the State Board of Barbering and Cosmetology, the nominations of KENNETH R. JOYNER, LANCE M. MARUGAME and RICHARD Y. MITSUMORI, terms to expire June 30, 2004, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 151, submitting for consideration and confirmation to the State Board of Chiropractic Examiners, the nomination of ROBERT E. KLEIN, D.C., term to expire June 30, 2004, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 152, submitting for consideration and confirmation to the Civil Rights Commission, the nomination of ALLICYN HIKIDA TASAKA, term to expire June 30, 2004, was referred to the Committee on Judiciary.

Gov. Msg. No. 153, submitting for consideration and confirmation to the Civil Service Commission, the nominations of RICARDO MEDINA and TOM SUGITA, terms to expire June 30, 2004, was referred to the Committee on Labor and Environment.

Gov. Msg. No. 154, submitting for consideration and confirmation to the Credit Union Advisory Board, the nomination of BARTON M. SAXTON, term to expire June 30, 2004, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 155, submitting for consideration and confirmation to the Defender Council, the nomination of DANA S. ISHIBASHI, term to expire June 30, 2002, was referred to the Committee on Judiciary.

Gov. Msg. No. 156, submitting for consideration and confirmation to the Board of Trustees, Deferred Compensation Plan, the nomination of LLOYD Y. KIMURA, term to expire June 30, 2004, was referred to the Committee on Labor and Environment.

Gov. Msg. No. 157, submitting for consideration and confirmation to the Elevator Mechanics Licensing Board, the nomination of GERALD M. YAMAMOTO, term to expire June 30, 2004, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 158, submitting for consideration and confirmation to the Hawaii Community Development Authority, the nominations of: MICHAEL N. GOSHI, terms to expire June 30, 2000 and June 30, 2004; PATRICK K. KOBAYASHI, term to expire June 30, 2002; and LORI ANN C. LUM, term to expire June 30, 2004, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 159, submitting for consideration and confirmation to the Hawaii Performance Partnerships Board, the nominations of: LLOYD I. UNEBASAMI, term to expire June 30, 2002; LORRAINE H. AKIBA and KATHRYN S. MATAYOSHI, terms to expire December 2, 2002; and IRVING LAUBER, TARA LULANI MCKENZIE, RANDOLPH G. MOORE, JANIS A. REISCHMANN, FAITH SERENO REX and RUTHANN S. YAMANAKA, terms to expire June 30, 2004, was referred to the Committee on Ways and Means.

Gov. Msg. No. 160, submitting for consideration and confirmation to the Hawaii Teacher Standards Board, the nomination of LORRAINE HENDERSON, term to expire June 30, 2001, was referred to the Committee on Education and Technology.

Gov. Msg. No. 161, submitting for consideration and confirmation to the Hawaiian Homes Commission, the nominations of: WONDA MAE AGPALSA, term to expire June 30, 2003; and MILTON PA, term to expire June 30, 2004, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 162, submitting for consideration and confirmation to the Hoisting Machine Operators Advisory Board, the nominations of GARY MCKEAGUE and CLAYTON E. WINGER, terms to expire June 30, 2004, was referred to the Committee on Labor and Environment.

Gov. Msg. No. 163, submitting for consideration and confirmation to the Board of Directors, Housing and Community Development Corporation of Hawaii, the nominations of DON S. FUJIMOTO and NADINE K. NAKAMURA, terms to expire June 30, 2004, was referred to the Committee on Government Operations and Housing.

Gov. Msg. No. 164, submitting for consideration and confirmation to the Board of Land and Natural Resources, the nomination of LYNN P. MCCRORY, term to expire June 30, 2004, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 165, submitting for consideration and confirmation to the Land Use Commission, the nominations of: BRUCE A. COPPA, terms to expire June 30, 2000, and June 30, 2004; and LAWRENCE N.C. ING, term to expire June 30, 2004, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 166, submitting for consideration and confirmation to the Board of Medical Examiners, the nominations of: RONALD Y. FUJIMOTO, D.O., and DAVID T. LEE, D.O., terms to expire June 30, 2003; and PATRICIA L. BLANCHETTE, M.D., term to expire June 30, 2004, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 167, submitting for consideration and confirmation to the Molokai Irrigation System Water Users Advisory Board, the nominations of GEORGE W. MAIOHO and PAUL K. ELIA, terms to expire June 30, 2004, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 168, submitting for consideration and confirmation to the Board of Directors, Natural Energy Laboratory of Hawaii Authority, the nomination of ROBERT K.U. KIHUNE, term to expire June 30, 2004, was referred to the Committee on Economic Development.

Gov. Msg. No. 169, submitting for consideration and confirmation to the Public Utilities Commission, the nomination of GREGORY G.Y. PAI, PH.D., term to expire June 30, 2006, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 170, submitting for consideration and confirmation to the Board of Regents, University of Hawaii, the nominations of: WALTER NUNOKAWA, PH.D., terms to expire June 30, 2000 and June 30, 2004; and CHARLES KAWAKAMI, term to expire June 30, 2004, was referred to the Committee on Education and Technology.

STANDING COMMITTEE REPORTS

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2043) recommending that S.B. No. 2426, 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. 2426, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME VICTIM COMPENSATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2044) recommending that S.B. No. 2427 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. 2427, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COMPENSATION OF CRIME VICTIMS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2045) recommending that S.B. No. 615, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 615, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE HAWAII CONSTITUTION, TO ADD A SECTION ON CRIME VICTIMS' RIGHTS," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 14, 2000.

Senator Hanabusa, jointly with Senator Kawamoto, for the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 2046) recommending that S.B. No. 2323 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 joint report of the Committees was adopted and S.B. No. 2323, entitled: "A BILL FOR AN ACT RELATING TO CEDED LAND REVENUES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hanabusa, jointly with Senator Kawamoto, for the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 2047) recommending that S.B. No. 2551, 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 joint report of the Committees was adopted and S.B. No. 2551, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hanabusa, jointly with Senator Kawamoto, for the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 2048) recommending that S.B. No. 2844 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 joint report of the Committees was adopted and S.B. No. 2844, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tam, for the Committee on Government Operations and Housing, presented a report (Stand. Com. Rep. No. 2049) recommending that S.B. No. 289, 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.

289, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Second Reading and was recommitted to the Committee on Government Operations and Housing.

Annual Report on Misconduct and Disciplinary Action Regarding Police Officers, pursuant to Act 242, SLH 1995, was read by the Clerk and was placed on file.

ORDER OF THE DAY

FINAL READING

S.B. No. 1345, S.D. 2, H.D. 2:

Senator Chumbley moved that S.B. No. 1345, S.D. 2, H.D. 2, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Matsunaga rose to speak in support of the measure as follows:

"Mr. President, I rise in support of this measure.

"Just a couple of thoughts on this measure. As the famed philosopher 'anonymous' once stated, 'There is nothing wrong with making mistakes; just don't respond with encores.' And as Tallulah Bankhead once stated, 'If I had to live my life again, I'd make the same mistakes -- only sooner.'

"Mr. President, perhaps if we had made our mistakes with this bill sooner in last year's session, we could have corrected it in 1999. As it is, let's make sure we correct it now. Please join me in supporting this bill that fulfills our promise to Hawaii's judges.

"Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1345, S.D. 2, and S.B. No. 1345, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT COMPENSATION IN THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 1 (Kanno). Excused, 5 (Bunda, Iwase, Matsuura, Tanaka, Taniguchi).

REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The President made the following committee assignments of concurrent resolutions that were offered on Wednesday, February 9, 2000:

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| Senate Concurrent Resolution | Referred to: |
| No. 23 | Committee on Judiciary |
| No. 24 | Committee on Commerce and Consumer Protection, then to the Committee on Ways and Means |

RE-REFERRAL OF SENATE BILL

The Chair re-referred the following Senate bill that was introduced:

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| Senate Bill | Referred to: |
| No. 289, S.D. 1 | Jointly to the Committee on Commerce and Consumer Protection and the Committee on Government Operations and Housing, then to the Committee on Ways and Means |

MISCELLANEOUS COMMUNICATION

Misc. Com. No. 10, from the County of Kauai Police Department dated January 13, 2000, transmitting the 1999

Senator M. Ige rose on a point of personal privilege as follows:

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

"Mr. President, I think all of you would agree that there is nothing more important in what we do here than to insure and protect the safety and welfare of our children both at home and at school. We owe this obligation to them as parents, responsible adults, and legislators.

"I have recently been made aware of a serious problem that may exist in the state's A+ After School Program, currently implemented and in place at the majority of our elementary schools and currently contracted to Kamaaina Kids. I have recently received very distressing and shocking information that the policy of the BOE in hiring on-site staff members for the A+ After School Program is to allow a prospective applicant to be allowed to work at the schools prior to a complete background and, particularly, a criminal history check being completed. This basically means that there may be individuals that are being hired by the state and given access to the schools and our children prior to finding out whether they have a history of committing criminal acts and particularly criminal acts of violence.

"I am sure you'll all agree that as parents and responsible adults, that we would not condone or allow such a dangerous condition to exist anywhere, and certainly not in our schools. It gets worse. I'm afraid to say, that such a condition exists and has existed for some time now. There has apparently been at least one such incident where an individual applying for an A+ staff position at a Windward elementary school was allowed to work at the school prior to the BOE receiving the results of the criminal history background check. We have later learned that this individual had numerous convictions of crimes of violence including robbery and weapons convictions. This individual had apparently been allowed to work at the school for several months until making the discovery of his prior violent criminal history.

"I said it would get worse. Well, apparently after this individual was released, another individual who also possessed a criminal history of crimes of violence was hired by the A+ program at the same school. And that individual may still be working at this school with access to our children.

"My question, and I'm sure the question in the minds of all parents in the state, is whether such a defective hiring policy exists in the state's A+ program. And if so, how did it happen and what are we going to do about it? If it was important enough for us to require a policy of conducting criminal checks for these A+ applicants, why isn't it important enough for us to wait for the results?

"Mr. President, this issue is so crucial that I'm asking that we use Senate Rule No. 84, Questions to state officers, at this time. Mr. President, Rule 84 is self-explanatory and I have a letter that I'd like to read, directed to Dr. LeMahieu at the Department of Education:

'Dr. LeMahieu:

It's been brought to my attention that an A+ program on the Windward side has hired a person convicted of robbery. Will you please verify this allegation?

With warm personal regards, I remain

Sincerely,

/s/Marshall K. Ige

Marshall K. Ige
State Senator
Kailua to Kaneohe'

"Mr. President, may I request that the Clerk deliver this letter to Mr. LeMahieu and ask for a response within the Rule 84 guideline of 24 hours."

At this time, the President ordered the Clerk to deliver Senator M. Ige's letter to Dr. LeMahieu.

Senator M. Ige then said:

"Thank you, Mr. President."

ADJOURNMENT

At 12:08 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., Friday, February 11, 2000.