

EIGHTH DAY

Friday, January 29, 1982

The Senate of the Eleventh Legislature of the State of Hawaii, Regular Session of 1982, convened at 11:30 o'clock a.m., with the Vice-President in the Chair.

The Divine Blessing was invoked by Father Charles Lees of St. John Vianney's of Kailua, after which the Roll was called showing all Senators present with the exception of Senators Yee and Wong who were excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 55 and 56) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 55), transmitting copies of the Report of Findings on Adjustments to the Compensation Plan (1981), prepared by the Public Employees Compensation Appeals Board, submitted pursuant to the provisions of Act 121, SLH 1963, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 56), transmitting copies of the Annual Financial Report of the State for Hawaii for the Fiscal Year Ended June 30, 1981, prepared by the Comptroller in response to Section 40-5, HRS, was referred to the Committee on Ways and Means.

DEPARTMENTAL COMMUNICATION

A communication from the Office of the Auditor (Dept. Com. No. 5), transmitting copies of a report entitled: "Overview and Analysis of the State of Hawaii's Financial Condition," Report No. 82-2, was read by the Clerk and was referred to the Committee on Ways and Means.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 2 and 3) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 2), transmitting House Concurrent Resolution No. 8, which was adopted in the House of Representatives on January 28, 1982, was placed on file.

On motion by Senator Cobb, seconded by Senator Saiki and carried, H.C.R. No. 8, entitled: "EXTENDING ALOHA

TO THE NATIONAL WOODWORK MANUFACTURERS ASSOCIATION ON ITS 55TH ANNUAL MEETING," was adopted.

A communication from the House (Hse. Com. No. 3), transmitting House Concurrent Resolution No. 22, which was adopted in the House of Representatives on January 28, 1982, was placed on file.

On motion by Senator Cobb, seconded by Senator Saiki and carried, H.C.R. No. 22, entitled: "EXPRESSING CONDOLENCES AND DEEPEST SYMPATHY TO THE FAMILY OF THE LATE FRED TOSHIO 'TOSH' KANESHIRO," was adopted.

MATTER DEFERRED FROM JANUARY 28, 1982

Senate Resolution No. 3:

Senator Young moved that S.R. No. 3, amending the Rules of the Senate of the Eleventh Legislature, be adopted, seconded by Senator Carpenter.

At 11:38 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:39 o'clock a.m.

Senator Young then offered the following amendment:

"Senate Resolution No. 3 is amended by amending item 1 to read as follows:

'1. Rule 41 is amended to read as follows:

'Rule 41. Bills: Introduction

'Any bill may be introduced on the report of a committee or by any member, except bills subject to the next paragraph and except short form bills which may only be introduced by the President of the Senate or the minority party leader after appropriate consultation with committee chairmen and other members of the Senate.

'Bills appropriating money for the executive, legislative, and judicial branches of government, for claims against the state, for criminal injuries compensation, and for the Office of Hawaiian Affairs may be introduced by the President

of the Senate or the minority party leader after appropriate consultation with committee chairmen and other members of the Senate. Each member may introduce one bill appropriating money for capital improvement projects in the member's district.

'All bills shall be introduced under the order of resolutions.

'Bills which shall carry-over from a regular session in an odd-numbered year to the next regular session shall retain the numbers assigned to them. The Clerk shall keep a record of the status of all bills in possession of the Senate at the end of the odd-numbered year session and shall publish the record of the status of all such bills prior to the convening of the next session.

'Every bill introduced or reported out of any committee, which amends an existing section or subsection of the Hawaii Revised Statutes or Session Laws of Hawaii, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and any new matter added to the section or subsection shall be underscored. However, a Supplemental Appropriations Bill need not conform to this rule or an amending bill where the intent and effect of an amending bill can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses, or items to be amended need be set forth as the President may allow. The President may allow additional exceptions to this rule.

'No floor amendment to a bill shall be voted upon unless a copy of such amendment shall have been presented to the Clerk who shall prepare and distribute copies of the amendment to each member of the Senate present.'

Senator Young moved that the amendment be adopted, seconded by Senator Carpenter.

Senator Young then rose and addressed the Senate as follows:

"Mr. President, I would like to offer a floor amendment... the only amendment to yesterday's amendment is in the second paragraph where we deleted the words 'for the counties' and in the last sentence we added 'in the member's district,' and we deleted 'operating programs and other suitable purposes.'"

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.

The motion was put by the Chair and, Roll Call vote having been requested, the amendment was adopted on the following show of Ayes and Noes:

Ayes, 16. Noes, 7 (Campbell, Holt, Machida, Mizuguchi, O'Connor, Toyofuku and Ushijima). Excused, 2 (Yee, Wong).

Copies of Senate Resolution No. 3, S.D. 1, were then distributed to the members of the Senate.

At this time, Senator Abercrombie rose and addressed the Senate as follows:

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

"Mr. President, yesterday the people of this community witnessed what can only be characterized as a public joke made by Judge Shintaku at his sentencing on a drunk driving charge. Now, Mr. President, we passed an anti-violence bill in this Legislature last year on the basis that actions have consequences and we try to go into our schools and tell our young people that. And what we find at the sentencing yesterday is that the defendant in the case was obviously not taking the situation seriously at all; he was making a mockery of the process including coming into court with \$50 in his pocket and turning to his friend and asking to borrow another \$100 -- somewhat surprised. He did not have his license taken away...."

The President then interjected:

"Senator Abercrombie, can I have a short recess? Can I have you advance to the rostrum, please."

Senator Abercrombie then queried:

"Do I have a recess in the middle of my time limit?"

The President then responded:

"The Chair has the right to call a recess, Senator Abercrombie, and that's what I'm calling."

Senator Abercrombie then remarked:

"Well, I'm going to appeal your ruling."

The President then stated:

"The Chair's move to call for a recess has been appealed. We'll take a vote on that appeal."

At this point Senator Uwaine rose and expressed his concern stating:

"Mr. President, I recognize the right of my colleague from the Sixth District to speak. However, will you give me the courtesy, and not take the floor away from him for a short recess?"

The President then stated:

"Senator Abercrombie, if there is a recess called, you have every right to continue your remarks after the recess is over. I intend to call the Senate to order again."

"Would you at this time yield the floor to a question from Senator Uwaine?"

Senator Abercrombie then replied:

"I'm not sure that's what was asked."

Senator Uwaine then added:

"Let me rephrase my question Mr. President. I realize, the Senator, my colleague from the Sixth District, has the floor at this time and that he is in the middle of his speech. However, would he yield the floor to me, a fellow colleague, so that I may request a recess?"

Senator Abercrombie responded in the affirmative and at 11:51 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:53 o'clock a.m.

The Chair then called upon Senator Abercrombie to proceed.

Senator Abercrombie thereupon continued stating:

"Thank you, Mr. President. If I can

conclude...my point, which I wanted to arrive at was this: that that the judge should be treated any differently than anybody else -- that is not the case here, but rather that what happened in that court is all too common an occurrence in this state; that drunk driving is not treated with the seriousness that should be involved.

"So I am making a point to the contrary. Rather than singling out the judge, what I am saying is that this kind of situation should not be allowed to continue. There are over 25,000-plus deaths in this country where alcohol is involved in automobile accidents. That's more than the number of people that were killed in Vietnam. There are a million-plus serious injuries.

"Now, if the message wasn't made clear as a result of the activities in this Legislature last year, then I think it's time that we pass legislation with teeth in it that's going to see to it that people who stand in front of a judge, and the judges who are passing out sentences where drunk driving is concerned, take into account the seriousness of the offense and see to it that a real and realistic deterrent in terms of jails and fines and loss of license is involved.

"Thank you."

At 11:57 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:58 o'clock a.m.

ADJOURNMENT

At 11:59 o'clock a.m., on motion by Senator Cobb, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, February 1, 1982.