

THIRTY-NINTH DAY

Tuesday, March 23, 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 President in the Chair.

The Divine Blessing was invoked by the Reverend Frank Chong of the Waikiki Health Clinic, after which the Roll was called showing all Senators present with the exception of Senators Ajifu, Saiki, Ushijima and Uwaine who were excused.

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

Senator Anderson then introduced to the members of the Senate a group (29) from the Ewa Beach Senior Citizens Club.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 184), submitting for consideration and consent to the Intermediate Court of Appeals, the nomination of Arthur S.K. Fong, Judge, for a term of ten years, in accordance with Article VI, Section 3, of the Hawaii State Constitution, was read by the Clerk and was referred to the Committee on Judiciary.

STANDING COMMITTEE REPORTS

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 526-82) informing the Senate that Standing Committee Report Nos. 527-82 to 531-82 have been printed and distributed to all members of the Senate.

On motion by Senator Young, seconded by Senator George and carried, the report of the Committee was adopted.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 527-82) recommending that the Senate advise and consent to the nomination of Eli Nahulu to the Juvenile Justice Interagency Board, term to expire December 31, 1985, in accordance with Governor's Message No. 169.

By unanimous consent, action on Stand. Com. Rep. No. 527-82 and Gov. Msg. No. 169 was deferred until Wednesday, March 24, 1982.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 528-82) recommending that the Senate advise and consent

to the nominations of Cobey Black, Sharon Y. Moriwaki, Kevin Mulligan, Lyn A. Hemmings, and Vivian Rae Hanson to the Commission on the Status of Women, terms to expire December 31, 1985, in accordance with Governor's Message No. 170.

By unanimous consent, action on Stand. Com. Rep. No. 528-82 and Gov. Msg. No. 170 was deferred until Wednesday, March 24, 1982.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 529-82) recommending that the Senate advise and consent to the nomination of Joan H. Yamamoto to the Board of Registration of Kauai and Niihau, term to expire December 31, 1985, in accordance with Governor's Message No. 171.

By unanimous consent, action on Stand. Com. Rep. No. 529-82 and Gov. Msg. No. 171 was deferred until Wednesday, March 24, 1982.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 530-82) recommending that the Senate consent to the nomination of James S. Burns, Chief Judge of the Intermediate Court of Appeals, for a term of ten years, in accordance with Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Governor's Message No. 177.

By unanimous consent, action on Stand. Com. Rep. No. 530-82 and Gov. Msg. No. 177 was deferred until Wednesday, March 24, 1982.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 531-82) recommending that the Senate consent to the nomination of Arthur T. Ueoka, Judge, Second Circuit Court, for a term of ten years, in accordance with Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Governor's Message No. 178.

By unanimous consent, action on Stand. Com. Rep. No. 531-82 and Gov. Msg. No. 178 was deferred until Wednesday, March 24, 1982.

At 11:40 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:52 o'clock a.m.

ORDER OF THE DAY

MATTER DEFERRED
FROM MARCH 22, 1982

THIRD READING

Standing Committee Report No. 233-82 (H.B. No. 798, H.D. 1, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 233-82 and H.B. No. 798, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS," was deferred until Wednesday, March 27, 1982.

RE-REFERRAL OF
HOUSE BILL

The President re-referred House Bill No. 2451-82 which was received on Wednesday, March 17, 1982, to the Committee on Human Resources.

At this time, Senator Abercrombie rose on a point of personal privilege and stated:

"Mr. President, I would like to direct the members' attention, if they will sometime later in the day or at their convenience, to page B-5 of The Honolulu Advertiser, to the headline 'Judge puts time-sharing rules on hold,' by Ann Harpham. I think it's very instructive for us if we just took a glance at that with respect to the wisdom of the Consumer Protection Committee moving the ban on time-sharing.

"After all the discussion about trying to make the rules work and all the assurances given to the chairman of the Consumer Protection Committee, we find that behind our backs the time-sharing people were going into court to put a hold on every single one of the rules that were so laboriously arrived at in the legislative sessions over the past several years that we struggled with it. So I would appreciate it if members would look at that because I think it will give us a real good perspective on what we can expect from the promises of these people, especially with respect to their good faith in relation to the Consumer Protection Committee in its efforts to this point.

"Thank you."

Senator Cobb, also on a point of personal privilege, added:

"Mr. President, we spent considerable hours writing the legislative findings and intent of a five-page committee report, detailing the considerable

history of the comprehensive attempts by the state to regulate this industry, and paying very close attention to the previous Attorney General's Opinion that we had received in writing where they stated that a comprehensive good faith attempt at regulation was necessary before any type of ban could be considered. And for the last three years that's exactly what we've attempted.

"In view of the noncompliance with the law, the continual evasion, particularly involving the sales practices, the bill that was reported out of the Senate I think was not only necessary, but timely, and was in effect the ultimate step taken after very careful consideration of the Attorney General's Opinion and testimony before our committee.

"I don't think anyone in this chamber can say that we didn't bend over backwards in a good faith comprehensive effort to regulate before we took the ultimate step of banning the further acquisition of time-sharing. Thank you."

Senator Cayetano, on a point of personal privilege, remarked:

"Mr. President, I'd like to discuss today the shocking headlines in this morning's Advertiser. It reads: 'More milk banned; test results worsen.'

"Last week, Mr. President, the newspapers, Advertiser and Star-Bulletin, as well as the news media carried virtually the same headlines, and the Health Committee reacted. We held a hearing and we were assured at that hearing by the Department of Health that certain steps have been taken that the milk that would be placed on the shelf for sale to the public would be safe. Now, just a few days later, we find that the test results indicate that the contamination has in fact worsened.

"This comic and tragic episode in the history of the Department of Health, Mr. President, has to be looked into. If what is represented in the newspaper article today is accurate, if it is correct, then I will say categorically that members of the Health Committee and the Senators who were present at the hearing we held last week were not told the truth.

"My telephone this morning has been ringing off the hook with calls from irate parents, calls from irate mothers, especially pregnant women, who want to know what is going on.

"Today, we are going to hold a hearing on this. We're going to get right down to the nitty-gritty and, if necessary, later on in the week I will

ask that the President commission an investigative committee to look into this whole matter of the milk contamination.

"This has to be one of the greatest examples of incompetence in the history of the Health Department, and I can tell you right now, it's costing people not only great anxiety, but, also, it's going to cost millions, if not hundreds of thousands of dollars in economic loss, and the state is going to be sued for this.

"In the end, someone will have to be held responsible for it. When we find out and determine who the person is, that person or persons should suffer no less the kind of fate that they would suffer if this were in private industry. Someone's head has to roll for this."

The Chair responded: "The meeting this afternoon by the Health Committee will be an information gathering meeting. Afterwards, we will decide on whether or not a special investigative committee will be formed to look at the matter further."

Senator Carpenter also rose on a point of personal privilege and said:

"Mr. President, when the previous speaker rose to speak to the headlines in this morning's paper, I thought he was alluding to the statistical data and the headline at the very top of the page which showed statistics on heavy smoking of marijuana by seniors in high schools on the Big Island of Hawaii.

"Mr. President, just a few minutes

ago, I met with members of the model legislature... youngsters representing all the high schools on the Big Island... and they indicated to me that these numbers seem to be fairly high. The definition that was used in the newspaper of a heavy user is one who smokes one joint or more daily. They indicated it's more like one or two, weekly.

"I'd just like to say that some of these individuals with whom I met this morning, in discussing concerns relating to consumption of marijuana, stopped me in the act of myself pulling out a cigarette and I was essentially condemned because a number of them consider that smoking cigarettes is equally pernicious as marijuana is considered by others to be.

"In essence, I'd just like to mention that the speaker of the house of the model legislature is a youngster from Hilo and the president of the senate is also a youngster from Hilo and I'd like to think that the youngsters were quite open, very candid, and are interested in finding out at this point and time just exactly what the statistics may be for the counties of Maui and Kauai and the City and County of Honolulu. We will be looking forward to those reports, and, hopefully, they will occupy the same position in the newspaper as this morning's. Thank you."

ADJOURNMENT

At 12:05 o'clock p.m., on motion by Senator Cobb, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, March 24, 1982.