

THIRTY-NINTH DAY

Tuesday, March 20, 1984

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend John Norris of Waipahu United Church of Christ, after which the Roll was called showing all Senators present with the exception of Senators Holt, Kuroda, Machida, Uwaine and Yamasaki who were excused.

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

The following introductions were then made to the members of the Senate:

Senator A. Kobayashi, on behalf of Senator Cobb and herself, introduced a group of 53 students from Palolo Elementary School who are on a tour of the State Capitol and attending the session as part of their class on government and social studies, accompanied by their teachers: Mrs. Lorraine Muramoto, Mrs. Naomi Kahookele and Mrs. Kam Siu.

Senator Soares then introduced the Maryknoll High School basketball team and stated as follows:

"Mr. President, we have the pleasure this morning to have with us on the floor and in the gallery the members of the 28th Annual Hawaii High School Athletic Association Basketball Championship Team. I know that you are an alumnus of this school called Maryknoll, and I think it's very fitting this morning that you should be so honored to have these men on the floor.

"On the floor this morning, we have the coach of the Maryknoll champions, Coach Tony Sellitto, and co-captains: Mike Among and Ben Valle. Sitting in the gallery are members of the team."

All of the members of the Maryknoll basketball team were asked to rise and be recognized. The coach and co-captains were presented with a Senate Certificate by Senator Soares, and Senators Young, Solomon and A. Kobayashi presented them with leis.

The Chair then remarked as follows:

"This is indeed for us at Maryknoll a long, long road. We've seen Tony Sellitto go to it many times and this time he has completed his journey. The last time we won a championship, I must tell you the story, briefly ... we beat Buddy Soares' team at Kapaolono Park in 1952 when we won the junior varsity football championship with the score of 7 to 6.

"To all of you on the team, we wish you well and want you to know we are all proud of what you have accomplished. Congratulations!"

At 11:46 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:49 o'clock a.m.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 55 and 56) were read by the Clerk and were disposed of as follows:

A concurrent resolution (S.C.R. No. 55), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO PROCLAIM MAY 7 TO 13 AS NATIONAL PHOTO WEEK," was offered by Senators Ajifu, Soares, Hagino, Yamasaki, Solomon, B. Kobayashi, Young, Aki, A. Kobayashi, Fernandes Salling, Mizuguchi, Cobb, Toguchi, Henderson, Carpenter, Cayetano, Abercrombie, George, Kawasaki, Chang, Holt, Kuroda, Machida and Wong.

On motion by Senator Ajifu, seconded by Senator Soares and carried, S.C.R. No. 55 was adopted.

A concurrent resolution (S.C.R. No. 56), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH A PROGRAM WITHIN THE ELEMENTARY SCHOOL SYSTEM TO ALERT STUDENTS OF POSSIBILITIES OF CHILD MOLESTATION," was offered by Senators Cayetano, George, Kawasaki, Young, Ajifu, Cobb, Abercrombie, Carpenter, Holt, Hagino, Fernandes Salling, Aki, Chang, Mizuguchi, B. Kobayashi, Solomon, A. Kobayashi, Henderson and Machida.

By unanimous consent, S.C.R. No.

56 was referred to the Committee on Education.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 64 and 65) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 64), entitled: "SENATE RESOLUTION REQUESTING THE GOVERNOR TO PROCLAIM MAY 7 TO 13 AS NATIONAL PHOTO WEEK," was offered by Senators Ajifu, Soares, Hagino, Yamasaki, Solomon, B. Kobayashi, Young, Aki, A. Kobayashi, Fernandes Salling, Mizuguchi, Kuroda, Cobb, Toguchi, Henderson, Carpenter, Cayetano, Abercrombie, George, Holt, Machida and Wong.

On motion by Senator Ajifu, seconded by Senator Soares and carried, S.R. No. 64 was adopted.

A resolution (S.R. No. 65), entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH A PROGRAM WITHIN THE ELEMENTARY SCHOOL SYSTEM TO ALERT STUDENTS OF POSSIBILITIES OF CHILD MOLESTATION," was offered by Senators Cayetano, Ajifu, George, Kawasaki, Cobb, Abercrombie, Young, Carpenter, Holt, Hagino, Fernandes Salling, Aki, Chang, Mizuguchi, B. Kobayashi, Solomon, A. Kobayashi and Henderson.

By unanimous consent, S.R. No. 65 was referred to the Committee on Education.

ORDER OF THE DAY

ADVISE AND CONSENT

Standing Committee Report No. 390-84 (Gov. Msg. No. 97):

Senator Cobb moved that Stand. Com. Rep. No. 390-84 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nomination of Letitia N. Uyehara as Director of Environmental Quality Control, term to expire December 1, 1986, seconded by Senator Soares.

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

Ayes, 20. Noes, none. Excused, 5 (Holt, Kuroda, Machida, Uwayne and

Yamasaki).

At this time, Senator Abercrombie rose on a point of inquiry as follows:

"Mr. President, I have a point of inquiry of the Chair which relates to a matter I brought to your attention yesterday.

"Mr. President, you may recall what I asked yesterday with respect to H.B. 654, H.D. 1, Standing Committee Report 389, entitled: 'A Bill for Act Relating to Acquisition of Voting Stock by Foreign Investors.' I asked the question as to whether this was properly before us because it appeared to me that subject matter have been added to this bill which did not have anything to do with the title.

"You indicated at that time that you felt that in the title 'foreign investor' could be construed to mean not just someone as indicated in 403-38.5 but someone which includes foreign corporations and nonresident aliens, etc., as presently indicated in 403-38.5 but could include someone, say, from California. That could be construed as a foreign corporation or a foreign investor.

"What I did not realize at the time, as I say I had not seen the bill, Mr. President, is that we have had in the past some lengthy discussion including the discussion by the chairman of the Consumer Protection Committee with respect to what is known as 'piggybacking.' And I will ask you now then whether this bill is properly before us because I now notice that the purpose of the bill is to amend section 403-38.5 with respect to definitions of foreign investors and I notice that section 416-71.1 has been added into the bill.

"Now, that to me, there is no possible way, it seems to me, that one can reasonably state that the purpose of the bill as stated in relation to the title of the bill can be construed any other way than that which is known as 'piggybacking' 416-71.1 as a substitute for 403-38.5, and I would like you to rule as to whether or not this bill then is properly before us."

The Chair answered: "The ruling of the Chair as prescribed to you yesterday was that the Chair feels that the title is adequate to cover the subject matter. That's the ruling of the Chair."

Senator Abercrombie continued: "I beg your pardon, Mr. President, I

understand that part, that it covers the subject matter but I am referring, if you are talking about investment ... I understand what your ruling was, I'm not sure I agree with it, but my point here is that I notice we have entirely different sections and as I read through the sections under 416-71.1 they have virtually nothing whatsoever to do with 403-38.5 which as stated as the purpose of the bill 654 ... just very quickly to show you what I mean, as examples, that clearly the 416-71.1 deals with much more than acquisitions, deals with much more than voting stock, deals with much more than foreign investors even under the broadest possible definition of the phrase and is not related at all to the purpose of the bill as stated."

At 11:55 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.

Senator Abercrombie continued: "Mr. President, in the discussion that took place during the recess I think you indicated that the bill is in the committee and that from parliamentary point of view it would be a difficult, if not impossible ... I don't know how the ruling would work for it ... to be withdrawn from the committee.

"I would therefore like to say at this point then that inasmuch as you have indicated from your point of view that the bill is in committee and that there is nothing for the body as such then to be ruled upon, that members of the committee, when considering it, will have to take into account what has, from my point of view, been done in terms of 'piggybacking' this concept in 416-71.1 onto a bill which had virtually nothing to do with it, and that this in all likelihood, if the House follows past practice, a practice which as I indicated came about as a result of a dispute of this nature in previous times, in this instance with the pay bill, which brought two separate categories together even though they both concerned pay. One had to do with the executive pay and one had to do with collective bargaining. Here we may be talking about stock but we are talking about two entirely separate entities.

"I suggest they keep that in mind and I question very seriously whether such a bill passing out, if it should gather enough votes to pass out of

committee or this floor, will have to answer such questions of 'piggybacking' as will those who in the past have been vociferous, shall I say, in their denunciation of 'piggybacking' have to explain why it was bad when they were against something but why it would be good now when they're for it."

Senator Cobb then added as follows:

"Mr. President, I would very much like to respond to that.

"'Piggybacking' as it related to the pay bill addressed the matter when it was added on in a conference committee not when a position was taken by the opposite house, and there is a very clear distinction.

"Last year we amended at least 3 House bills very substantially, in some cases taking an entirely different position.

"If you look at the House rules they address as it is relating to the so-called change in conference committee where the position has not been taken by one house or the other, but those House rules do not prohibit the other house from taking its own position, which is perfectly legitimate and which will be the subject of a public hearing.

"'Piggybacking' as it grew out of the House rule came from the 1975 session to prevent the addition of extraneous material in a conference committee when such material had not been addressed by either house of the Legislature. It does not prohibit one house or the other from taking a different position on a given bill."

Senator Chang then rose to introduce "the woman to whom we have presented a challenge," Letitia N. Uyehara, Director of Environmental Quality Control, who was sitting in the Senate gallery. Ms. Uyehara was asked to stand and be recognized.

The Chair then remarked: "Members of the Senate, the Chair would like to again request the chairmen of the respective subject matter committees to move the functional plan resolutions to the Committee on Economic Development so the committee may review all of the plans together."

ADJOURNMENT

At 12:06 o'clock p.m., on motion by

Senator Cobb, seconded by Senator
Soares and carried, the Senate
adjourned until 11:30 o'clock a.m.,
Wednesday, March 21, 1984.