

## THIRTY-FIFTH DAY

Tuesday, March 20, 1990

The Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, convened at 11:41 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Claudia Genung-Yamamoto, Kailua United Methodist Church, after which the Roll was called showing all Senators present with the exception of Senators Aki and Menor who were excused.

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

Senator Koki, on behalf of Senators McCartney, George and himself, introduced to the members of the Senate a group of fourth grade students from the Windward Nazarene Academy, accompanied by their teacher Mrs. Sherry Matsumoto.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 388 to 391) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 388, transmitting H.C.R. No. 8, H.D. 1, which was adopted by the House of Representatives on March 19, 1990, was placed on file.

By unanimous consent, H.C.R. No. 8, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES DEPARTMENT OF STATE TO GIVE HIGHER PRIORITY TO THE ELIMINATION OF HIGH SEAS DRIFT GILL NETS, AND TO INCREASE INTERNATIONAL COOPERATION AND RESEARCH TO FOSTER A GREATER UNDERSTANDING OF THE OCEAN," was referred to the Committee on Energy and Natural Resources.

Hse. Com. No. 389, transmitting H.C.R. No. 9, which was adopted by the House of Representatives on March 19, 1990, was placed on file.

By unanimous consent, H.C.R. No. 9, entitled: "HOUSE CONCURRENT RESOLUTION URGING SUPPORT FOR THE ESTABLISHMENT OF A COMPACT BETWEEN PACIFIC STATES AND THE CANADIAN PROVINCE OF BRITISH COLUMBIA TO PROVIDE FOR FUTURE PLANNING AND PROTECTION OF OCEAN RESOURCES WHICH ARE OF REGIONAL CONCERN," was referred to the Committee on Energy and Natural Resources.

Hse. Com. No. 390, transmitting H.C.R. No. 10, H.D. 1, which was adopted by the House of Representatives on March 19, 1990, was placed on file.

By unanimous consent, H.C.R. No. 10, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING CONGRESS TO EXTEND THE TERRITORIAL LIMITS OF THE UNITED STATES AND COASTAL STATES FROM THREE TO TWELVE MILES OFFSHORE," was referred to the Committee on Energy and Natural Resources.

Hse. Com. No. 391, transmitting H.C.R. No. 21, H.D. 1, which was adopted by the House of Representatives on March 19, 1990, was placed on file.

By unanimous consent, H.C.R. No. 21, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEVELOPMENT OF A PLAN TO UTILIZE PIN TECHNOLOGY IN MOORINGS," was referred to the Committee on Energy and Natural Resources.

## STANDING COMMITTEE REPORTS

Senator Nakasato, for the Committee on Labor and Employment, presented a report (Stand. Com. Rep. No. 2676) recommending that S.R. No. 146 be adopted.

On motion by Senator Nakasato, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.R. No. 146, entitled: "SENATE RESOLUTION URGING THE PARTIES IN THE HOTEL STRIKE TO CONTINUE NEGOTIATING," was adopted.

Senator Nakasato, for the Committee on Labor and Employment, presented a report (Stand. Com. Rep. No. 2677) recommending that S.C.R. No. 160 be adopted.

On motion by Senator Nakasato, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.C.R. No. 160, entitled: "SENATE CONCURRENT RESOLUTION URGING THE PARTIES IN THE HOTEL STRIKE TO CONTINUE NEGOTIATING," was adopted.

## ORDER OF THE DAY

RE-REFERRAL OF  
CONCURRENT SENATE RESOLUTION

The President re-referred the following Senate concurrent resolution that was offered:

Senate Concurrent Resolution	Referred to:
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No. 222      Jointly to the Committee on Agriculture and the Committee on Energy and Natural Resources

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.

Senator Tungpalan rose to speak on a point of personal as follows:

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

"In today's Star-Bulletin is an article about 'Lawmakers' dilemma: How to pay for A+,' and Hildegaard Verploegen quotes me as saying, 'Most people who can afford to, I'm sorry to say, send their kids to private school. If they're making \$60,000 to \$70,000 a year and they're not sending their kids to private school, something is wrong. There are a lot of individuals who cannot do anything but give their kids a public education.' Frankly, I don't remember the exact statement made during the hearing, but I'm clear about my intentions.

"Mr. President, I have always been a strong advocate of public education. Furthermore, I've always believed that actions speak louder than words. I believe in public education to the extent that two of my children attend public schools in my district. Obviously, the quote was taken out of context. It wasn't a question in my mind as to whether or not people support public education, but the

fact that we must make the A+ program accessible to as many children as possible.

"I hope that, in the future, if reporters choose to quote from legislators, they will seek further input before including part of their statements and taking it out of context. Thank you."

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

"Mr. President, I would like to comment on the previous speaker's remark.

"I can vouch for her being misinterpreted (by the newspaper). I stand sort of on the opposite side of her on the A+ program, and I believe we both have good reasons, but I'd just like to say that her integrity in the area, in my mind, is unquestioned. I'd like to also say that I understand what the Senator from the 22nd District meant and I hope no one misinterprets her comments."

Senator Reed also rose to speak on a point of personal privilege and remarked:

"Mr. President, in this morning's Advertiser, there's a front page article that I'm sure most of the members of the Senate have read. It relates to initiative and the most recent Advertiser/Channel 2 poll.

"The headline says, 'On Oahu, 57% favor initiative on state laws,' with a sub-headline, 'They want it to include votes on zoning, land use.' The lead reads as follows:

'More than half of a sample of Oahu adults told the Hawaii Poll they would like to see voters given the right to make state laws through the initiative process.

'And an equal share -- 57 percent -- said county initiative laws should be expanded to include zoning and other land-use decisions.'

"When you look at the statistics, it shows that 11 percent are either undecided or simply refused to participate in the poll. So it's safe to say that approximately two-thirds of the people of this state favor initiative and that includes zoning by initiative.

"On page A-4, the Senator who is the chairman of your Government Operations Committee says that he will not revive the initiative zoning bill '... because we must protect the integrity of the legislative process.'

"I find this interesting for a variety of reasons. One is that it brings us once again face to face with what I believe is the key issue facing this Legislature, and, that is, to whom are we loyal? What's more important -- the integrity of the legislative process, the rules of the club, or the will of the people? Are we public servants or are we club members?

"When the process can be used to deny the public will, then it's time to change the process. Blind loyalty to the integrity of the legislative process at the expense of the people who we've elected and paid to serve is one symptom of a disease permeating this body. I'm not a doctor, but I suspect it's something akin to amnesia. Most of us have forgotten whom we serve."

Senator McCartney also rose on a point of personal privilege and remarked:

"Mr. President, I rise on a point of personal privilege and I'd like to thank the Minority Floor Leader for making the previous points.

"First of all, I think it's easy to throw stones and hard to build a house, and I think the comments made were taken completely out of context. The decision that I made as chairman does serve the public interest. I believe it's not good public policy or a good legislative policy to take a bill that has nothing to do with initiative when initiative that has died on both sides, in both houses, gut a bill, stick back in that issue. I think the public doesn't like it when we play games with legislative vehicles.

"That is what I have chosen to do as a freshman ... that I'm not going to be the kind of legislator that is going to play games with the legislative process to stick issues into the bills that have not legitimately passed. I think that's a very consistent position that I will choose to take throughout my career.

"I've discussed the matter with the three neighborhood boards in my district. They are pro-initiative boards and they felt that was an important position to take and they concurred with me.

"There's no question in my mind that many of us are supporters of initiative. We feel initiative is a home rule issue and that if we give the counties the ability to zone lands, they should also have the authority and autonomy to make those zoning decisions.

"How I characterize the attempt of what some people want to do with zoning by initiative is like a football game. When the score is 7 to 0 and Hawaii beats BYU, BYU comes back and says, 'Hey, we're gonna play a 5th quarter now and the score is 0-0.' That doesn't serve the process and we were elected to be consistent and not play games with the process. That is not the kind of legislator that I'm going to be, playing games with the legislative process.

"I feel comfortable about the decision. I think the public supports me and I hope my colleagues will support me.

"I thank the Minority Floor Leader for bringing up those points but I think they were taken out of context. Thank you."

Senator McCartney then requested the Chair for approval to insert into the record his formal statement on land use initiative dated March 19, 1990, and the Chair granted his request. The statement is as follows:

#### "STATEMENT ON LAND USE INITIATIVE

March 19, 1990

As the Chairman of the Senate Government Operations Committee, I have been confronted with the dilemma of amending a House bill with no relation to initiative by inserting language that will provide for land use initiative; i.e. S.B. 2290.

Also, as the Chairman of the Government Operations Committee, I will not amend a House bill and insert land use initiative language into it. In this case, my position is that we must protect the integrity of the legislative process. The ends do not justify the means, and I will not entertain attempts to circumvent the decision made in both houses to keep the initiative issue alive this session.

As you know, I am a supporter of and advocate for allowing the citizens of each county to exercise the right to make land use decisions through initiative. I am a co-sponsor of S.B. 2290 and also passed this bill out of my committee. First and foremost, I believe this is a home rule issue and that the counties should be given

the authority and autonomy to determine how the land under their jurisdiction is to be zoned.

In my mind the issue of initiative was considered fairly by both houses of the legislature. It died in committee based upon philosophical objections. It is not my intent to revive the issue this session by slipping initiative or any other issue through the back door. I believe this would be poor public and legislative policy that should not be allowed no matter how strongly one feels on the issue. This would be similar to two teams playing a football game and one team losing the game 7-0 and then having the losing team demand to play a fifth quarter with the score 0-0.

The bottom line is that this issue will continue to be debated and discussed next session through the proper legislative process and procedures. It is my hope that my colleagues and the public will understand and concur with this decision."

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

"Mr. President, I would just like to commend my colleague, the chairman of the Committee on Government Operations, for his stand. I know it wasn't an easy one. I too support initiative, but I commend him for having the guts to stand up for what he believes in, and to me that's very important. He deserves our credit and our support. I certainly support him. Thank you."

#### ADJOURNMENT

At 11:58 o'clock a.m., on motion by Senator Blair, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, March 21, 1990.