

## EIGHTEENTH DAY

Thursday, February 14, 1991

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, convened at 11:35 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Patria Agustin of the Trinity United Methodist Church, after which the Roll was called showing all Senators present with the exception of Senator Aki who was excused.

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

The following introductions of guests seated in the gallery were made to the members of the Senate:

Senator Crozier introduced a group of 4th, 5th and 6th grade students from Ewa and Pohakea Elementary Schools and their teachers, Ms. Irene Kawabata, Mrs. Janice Tashiro and Mr. Gerry Edminson. The students are elected members of the upcoming model legislature to be held in May.

Senator Hagino introduced a group of members of the Vancouver Police Pipe Band and their leader, Chief Constable Robert Stewart. This band is the third largest and oldest police band in the world.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 153 and 154) were read by the Clerk and were placed on file:

Gov. Msg. No. 153, dated December 31, 1990, transmitting a report prepared by the Department of Agriculture in response to H.C.R. No. 257 (1990) and S.C.R. No. 93 (1990), requesting the Department of Agriculture to revise its requirements for obtaining a permit to operate a satellite animal quarantine facility on the neighbor islands.

Gov. Msg. No. 154, dated February 8, 1991, transmitting the report "Geothermal and Cable Development Permitting," prepared by the Department of Land and Natural Resources in response to Section 196D-11, HRS.

## DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com. No. 24) was read by the Clerk and was placed on file:

Dept. Com. No. 24, from the Department of Health dated February 12, 1991, transmitting the "Nurse Action Plan."

## SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 12) was read by the Clerk and was referred to committee:

Senate  
Concurrent  
Resolution

No. 12 "SENATE CONCURRENT RESOLUTION REQUESTING THE STATE OF HAWAII TO SUPPORT EPA WAIVERS OF SECONDARY TREATMENT FOR THE SAND ISLAND AND HONOULIULI WASTEWATER TREATMENT PLANTS."

Offered by: Senators George, Matsuura.

Referred to: Committee on Agriculture and Environmental Protection

## STANDING COMMITTEE REPORTS

Senator Tungpalan, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 13) recommending that S.B. No. 415 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 415, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE REPATRIATION OF NATIVE HAWAIIAN HUMAN REMAINS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tungpalan, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 14) recommending that S.B. No. 546 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 546, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII'S PLANTATION VILLAGE PROJECT OF THE WAIPAHU CULTURAL PARK," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tungpalan, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 15) recommending that S.B. No. 714, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 714, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A REPOSITORY AT MAUNA 'ALA," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tungpalan, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 16) recommending that S.B. No. 735 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 735, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE RESTORATION AND RENOVATION OF THE WAIKIKI NATATORIUM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Crozier, for the Committee on Housing and Hawaiian Programs, presented a report (Stand. Com. Rep. No. 17) recommending that S.B. No. 1382, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 1382, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ASSISTANCE TO



HOMELESS FAMILIES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Crozier, for the Committee on Housing and Hawaiian Programs, presented a report (Stand. Com. Rep. No. 18) recommending that S.B. No. 1383, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 1383, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOMELESS PROGRAMS," passed Second Reading and was referred to the Committee on Ways and Means.

### ORDER OF THE DAY

#### RE-REFERRAL OF SENATE BILLS

The Chair re-referred the following Senate bills that were introduced:

Senate Bill	Referred to:
No. 319	Committee on Ways and Means
No. 329	Committee on Ways and Means
No. 443	Committee on Ways and Means
No. 444	Committee on Ways and Means
No. 445	Committee on Ways and Means
No. 446	Committee on Ways and Means
No. 447	Committee on Ways and Means
No. 448	Committee on Ways and Means
No. 449	Committee on Ways and Means
No. 450	Committee on Ways and Means
No. 460	Committee on Ways and Means
No. 461	Committee on Ways and Means
No. 507	Committee on Ways and Means
No. 525	Committee on Ways and Means
No. 860	Committee on Ways and Means
No. 976	Committee on Housing and Hawaiian Programs, then to the Committee on Ways and Means
No. 978	Committee on Housing and Hawaiian Programs, then to the Committee on Ways and Means
No. 1552	Committee on Ways and Means
No. 1665	Committee on Ways and Means
No. 1688	Committee on Ways and Means
No. 1743	Committee on Ways and Means

At 11:43 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:45 o'clock a.m.

Senator Holt then rose to speak on a point of personal privilege and stated as follows:

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

"Mr. President, several days ago we both received a letter signed by the leaders of certain organizations who actively support the concept of land use initiative. As you may recall, one of the issues cited in the letter was a question of your motives, Mr. President, in referring Senate Bill No. 374 to the Committee on Planning, Land and Water Use which I chair. The other issue concerned my ability or lack of it as a committee chairman to carry out my duties and responsibilities in a fair and objective manner.

"For the record, Mr. President, I would like to read to you and the rest of the body a portion of that letter:

'When you and other leaders of the Democratic Party pledged last May to give this bill a hearing, we did not believe that you would allow it to have a mock hearing by a committee chairman who is caught in a conflict of interest that dooms the bill to certain death.'

"Is this not, Mr. President, a vicious and personal attack on our moral character and integrity? Does it not, Mr. President, describe you as a liar, which I know you're not, and me as someone who is easily compromised? I think it does, Mr. President, and I resent it on a personal as well as a professional basis.

"I would like to remind our accusers, Mr. President, that as elected officials we are required by the State Constitution to take an oath of office (Article XVI, Section 4), and in that oath we solemnly swear or affirm that we will faithfully discharge our duties to the best of our abilities. I take this oath very seriously, Mr. President, because it represents my personal pledge to the people of this state that I will fulfill the people's faith and trust to the very best of my ability.

"In addition, Mr. President, the State Constitution also reminds us that, and I quote: 'The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government.'

"For the record, Mr. President, I have discussed this aspect of the State Constitution with Mr. Dan Mollway, executive director of the State Ethics Commission. Mr. Mollway essentially agrees that with the exception of the financial disclosure requirement and the adoption of the code of ethics by the Legislature, elected officials are expected by the people to conduct themselves in an honorable manner.

"In my thirteen years as an elected representative of the people, Mr. President, I have lived by these constitutional requirements and the trust of my constituents and colleagues. I also believe, Mr. President, that this is the primary reason for the reassurance and support that I have received from the general public and the members of this body as a result of the attack on my integrity.

"In closing, Mr. President, I would also like to comment on the editorial I am sure most of you have seen in yesterday's edition of the Honolulu Advertiser regarding my alleged conflict of interest. According to the Advertiser, the existence of a conflict depends on, and I quote, 'whether a reasonable person might think so.' The editorial goes on to say that 'we think so.'

"As I stated earlier, Mr. President, I believe that the State Constitution appropriately addresses these matters by properly relegating the primary responsibility to the



individual in question. As for the Honolulu Advertiser's suggestion of a reasonable person test, I wholeheartedly agree that this is a valid concern for any public official or employee. When the Advertiser or any other publication appoints itself as that reasonable person, however, it essentially abandons its objectivity. I find it rather ironic, therefore, that the Advertiser can chastise public officials for not being fair and objective when they themselves choose not to be.

"I also received the facsimile from these organizations, dated yesterday, on a related matter, Mr. President. These organizations requested a meeting with me, with the media present, to discuss the referral of Senate Bill 374 to your Committee on Planning, Water and Land Use. Our response to them, Mr. President, was that all matters related to the bill referral process should be addressed to you.

"Thank you, Mr. President."

The Chair responded:

"The Chair would just like to clarify the point that was raised about referrals. All communications that are forwarded to the Senate are referred to the appropriate committees.

"In this case with this particular measure, dealing with land use and zoning, the President's office felt that it was properly referred to the Committee on Planning, Land and Water Use Management which deals with zoning and land issues. Secondly, that it was properly referred to our Committee on Transportation and Intergovernmental Relations which handles all matters pertaining to the counties. And thirdly, since the bill deals with election matters, if the bill should be moved for further discussion that it be moved to the Judiciary Committee.

"The Chair finds that it was a proper referral which has not been challenged to this date. Therefore, it is very proper for the matter to be referred to the Committee on Planning, Land and Water Use Management and the Committee on Transportation and Intergovernmental Relations."

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

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

"In all fairness to Senator Holt it should be pointed out to those very same accusers that it's been conveniently forgotten that this bill was referred to the Committee on Transportation and Intergovernmental Relations first; thereafter to the Committee on Planning, Land and Water Use Management which is chaired by Senator Holt. And the third referral after it passes or doesn't pass the two joint committees would be to Judiciary.

"It is the responsibility of the chair of the first committee to schedule a hearing on this measure. And I would like to make it very clear that at no time has Senator Holt hesitated to hear this bill. In fact, the hearing has been scheduled for next week Wednesday in the auditorium and we're very anxious to proceed and air the issues on this very controversial matter.

"I believe it is important to clarify this and it is irresponsible for anyone to imply that a referral to Senator Holt's committee would essentially deny them a hearing on this bill."

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

"Mr. President, I just want to remind this body that a similar measure was introduced last year. It was referred to my committee and also to the Judiciary Committee. In both cases, it didn't have enough votes to pass the measure out of the committee. Thank you."

Senator Cobb then rose on a point of information and remarked:

"Just a point of information, Mr. President.

"The commitment that was made last year, did that include a committee hearing and a floor vote or only a committee hearing on the measure?"

The Chair asked:

"You're referring to the Democratic Convention?"

Senator Cobb answered: "Correct."

The Chair answered:

"The discussions with the various groups involved with this issue, the agreement was made that should we be returned as presiding officers of the Senate, both Representative Kihano and myself, that we would have a hearing, only."

Senator Cobb continued:

"Thank you, Mr. President. That will be a separate matter later on to address various mechanisms for floor votes, but I won't raise that issue here in respect to the committee process and the fact that the Senate is already organized."

The Chair answered:

"The issue that's being discussed was an agreement with the parties involved that it be only relegated to the position of a hearing, and not necessarily a vote on the floor of the Senate."

At this time, Senator Tungpalan introduced her friend Mrs. Shoemaker and a group of young women from Kalakaua Intermediate School accompanied by Mr. Shoemaker.

## ADJOURNMENT

At 11:55 o'clock a.m., on motion by Senator Solomon, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, February 15, 1991.