

SIXTY-SECOND DAY

Wednesday, May 1, 1991

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, convened at 12:01 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Russell Higa, Honolulu Christian Church, after which the Roll was called showing all Senators present with the exception of Senators Koki and Nakasato who were excused.

The President announced that he had read and approved the Journal of the Sixty-First Day.

MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 383, informing the Senate that on April 29, 1991 he signed the following bills into law:

House Bill No. 985 as Act 64, entitled: "RELATING TO THE GENERAL APPROPRIATIONS ACT OF 1989";

Senate Bill No. 25 as Act 65, entitled: "RELATING TO ABANDONED VEHICLES";

Senate Bill No. 1249 as Act 66, entitled: "RELATING TO THE HOUSING FINANCE AND DEVELOPMENT CORPORATION";

Senate Bill No. 1307 as Act 67, entitled: "RELATING TO HIGHWAY SAFETY";

Senate Bill No. 1706 as Act 68, entitled: "RELATING TO EMPLOYMENT SECURITY"; and

Senate Bill No. 1819 as Act 69, entitled: "RELATING TO AGRICULTURAL LEASES";

was read by the Clerk and was placed on file.

At 12:05 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:06 o'clock p.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 790 to 834) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 790, returning S.C.R. No. 1, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 1, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO INITIATE DISCUSSIONS RELATING TO THE ESTABLISHMENT OF COOPERATIVE ASSOCIATIONS AMONG PACIFIC ISLAND STATES, TERRITORIES, AND NATIONS," was deferred until Friday, May 3, 1991.

Hse. Com. No. 791, returning S.C.R. No. 4, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 4, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO STUDY AND REPORT ON THE COORDINATION OF MENTAL HEALTH NEEDS OF

CHILDREN AND ADOLESCENTS BETWEEN STATE AGENCIES," was deferred until Friday, May 3, 1991.

Hse. Com. No. 792, returning S.C.R. No. 27, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 27, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH A NAVY JUNIOR RESERVE OFFICER TRAINING CORPS (R.O.T.C.) AT CAMPBELL HIGH SCHOOL," was deferred until Friday, May 3, 1991.

Hse. Com. No. 793, returning S.C.R. No. 43, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 43, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO RESTORE VARIOUS WELL SITES IN THE STATE OF HAWAII TO THE SUPERFUND NATIONAL PRIORITIES LIST," was deferred until Friday, May 3, 1991.

Hse. Com. No. 794, returning S.C.R. No. 175, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 175, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN EVALUATION ON THE USE BY THE STATE MOTOR POOL OF ALTERNATIVE FUELS," was deferred until Friday, May 3, 1991.

Hse. Com. No. 795, returning S.C.R. No. 179, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 179, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CREATION OF A BLUE RIBBON PANEL TO REVIEW THE CLEAN AIR ACT AMENDMENTS OF 1990 AS THEY RELATE TO HAZARDOUS EMISSIONS FROM MOTOR VEHICLES," was deferred until Friday, May 3, 1991.

Hse. Com. No. 796, returning S.C.R. No. 185, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 185, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING AND AMENDING THE GOVERNOR'S ACTION PLAN TO ADDRESS CONTROVERSIES UNDER THE HAWAIIAN HOME LANDS TRUST AND THE PUBLIC LAND TRUST," was deferred until Friday, May 3, 1991.

Hse. Com. No. 797, returning S.C.R. No. 187, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 187, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE HAWAII COMMUNITY REINVESTMENT CORPORATION TO CONDUCT A STUDY AND DISCUSSION ON THE FEASIBILITY OF ESTABLISHING A MORTGAGE INSURANCE PROGRAM FUNDED BY THE STATE OR

OTHER SOURCES," was deferred until Friday, May 3, 1991.

Hse. Com. No. 798, returning S.C.R. No. 197, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 197, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO REVIEW ENTITIES PROVIDING BOTH INSURANCE COVERAGE AND HEALTH CARE SERVICES IN THE STATE OF HAWAII," was deferred until Friday, May 3, 1991.

Hse. Com. No. 799, returning S.C.R. No. 207, which was adopted by the House of Representatives on April 30, 1991, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 207, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING DEVELOPMENT OF A COMPREHENSIVE REGIONAL PLAN FOR THE HANA DISTRICT, COUNTY OF MAUI," was deferred until Friday, May 3, 1991.

Hse. Com. No. 800, returning S.C.R. No. 16, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 801, returning S.C.R. No. 20, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 802, returning S.C.R. No. 31, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 803, returning S.C.R. No. 37, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 804, returning S.C.R. No. 41, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 805, returning S.C.R. No. 42, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 806, returning S.C.R. No. 48, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 807, returning S.C.R. No. 55, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 808, returning S.C.R. No. 56, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 809, returning S.C.R. No. 70, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 810, returning S.C.R. No. 83, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 811, returning S.C.R. No. 86, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 812, returning S.C.R. No. 92, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 813, returning S.C.R. No. 98, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 814, returning S.C.R. No. 103, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 815, returning S.C.R. No. 115, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 816, returning S.C.R. No. 116, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 817, returning S.C.R. No. 136, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 818, returning S.C.R. No. 139, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 819, returning S.C.R. No. 141, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 820, returning S.C.R. No. 142, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 821, returning S.C.R. No. 143, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 822, returning S.C.R. No. 157, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 823, returning S.C.R. No. 168, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 824, returning S.C.R. No. 188, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 825, returning S.C.R. No. 189, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 826, returning S.C.R. No. 192, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 827, returning S.C.R. No. 199, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 828, returning S.C.R. No. 200, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 829, returning S.C.R. No. 203, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 830, returning S.C.R. No. 210, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 831, returning S.C.R. No. 215, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 832, returning S.C.R. No. 217, S.D. 1, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 833, returning S.C.R. No. 221, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

Hse. Com. No. 834, returning S.C.R. No. 222, which was adopted by the House of Representatives on April 30, 1991, was placed on file.

STANDING COMMITTEE REPORT

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1567) recommending that H.C.R. No. 85, S.D. 1, as amended in S.D. 2, be adopted.

Senator Blair then moved that Stand. Com. Rep. No. 1567 be adopted and H.C.R. No. 85, S.D. 2, be adopted, seconded by Senator Holt.

Senator George rose to speak against the adoption of the resolution and stated:

"Mr. President, I rise in opposition to this particular resolution. I don't know that this isn't the absolutely flawless example of what we ought not to be doing. It has caused a lot of work on the part of a lot of people. It's so we had to cut down a tree because copies of this resolution have to go to the cast of the 'Field of Dreams' and the cast of 'Eight Men Out.' That's an awful lot of people. I don't know that any of them care what we do or what we think. It's a subject matter that's inappropriate and I for one think it makes us look silly.

"Thank you, Mr. President."

Senator Crozier spoke in support of the resolution and said:

"Mr. President, speaking in favor of the resolution.

"Mr. President, this resolution is very timely. For the last four days the media has been walking around the lanai looking for stories. They have asked us the same questions a thousand times, got the same answers. Their bosses are concerned that they have nothing to report. So a few wiser media types got hold of this resolution and made quite an issue of it. I'm sure they will benefit by their ability to dig up any kind of story. So just to keep the media happy and let them have something to do, I'm glad we have this resolution.

"Thank you."

Senator Tungpalan also spoke in favor of the resolution and remarked:

"Mr. President, I rise to speak in support of this resolution.

"When we heard this in Judiciary, it wasn't a matter of whether or not this was something that had gone on in 1919. The time didn't matter. What was priceless was the fact that we stand here attempting to undo what was done to this individual. If you are a person or body that really considers civil rights and considers timeless quality of having the opportunity to be dealt with fairly, then this is a matter that should be taken up at this time.

"If we are a body that is resolute in its support of fair treatment to all regardless of their economic standing, then this is the resolution to take up today.

"Certainly, the fact that he was poor shouldn't have been a consideration, or the fact that he was perhaps duped into believing his superiors shouldn't be a reason for us to stand in the way of looking into a further investigation as to whether or not he was dealt with properly.

"I look at this issue as an issue where we can stand up for the rights of all individuals regardless of what side of the track or what side of the town they come from. This man was a very poor individual who trusted in his superiors, who trusted in his manager, who trusted in his players, went out and did his very best, and still got done in.

"I certainly am not going to stand here today and allow that to happen or continue to happen, so I will be voting 'yes' on this measure."

Senator Cobb also supported the resolution and said:

"Mr. President, I speak in favor of this resolution and in doing so note that there should be no time limit on righting a wrong. If the man was acquitted of all charges and that this resolution while it may be made fun of by the media, perhaps the same media overlooks the fact that this body also adopted a resolution, and I commend the Judiciary chairman for it as well as the other members, a resolution expressing its outrage for the young man who had suffered racial discrimination in officers training school in the Marine Corps.

"And I would further like to incorporate the remarks of the great lady from Pearl City as my own in support of this measure.

"Thank you."

Senator Blair added his support and said:

"Mr. President, I hadn't intended to speak on this House concurrent resolution but since it's been disparaged, as chairman of the committee, I rise to speak in favor of the resolution.

"It's very easy to look at the other chamber's priorities and disparage theirs when it doesn't match our own, but I think that's a practice we should avoid.

"With respect to this subject, it was of sufficient general interest that two movies were recently made about it and many thousands of Hawaii citizens attended those movies. Perhaps the history of baseball is irrelevant to the Senator from the Windward side. If so, certainly, I wouldn't argue that her priorities are wrong, only that she is dismissing important aspects of modern American life and history.

"Baseball is an important part of American life and Joe Jackson is an important part of baseball history. It's an area that deserves to be reviewed. Just as most of us are pleased that the world is now reviewing the fraud of Abner Doubleday's alleged invention of baseball, I think we'll all benefit if this aspect of baseball's history is properly recorded. But if other people think that's irrelevant, they're certainly free to vote against the resolution. Thank you."

Senator George then said:

"Mr. President, in response to the previous speaker, I do not perceive the matter as irrelevant to the American

way of life. I perceive it as irrelevant to our mission in this room. I agree in large measure with the House member who was quoted a couple of weeks ago in the press as saying that we ought to pay attention to the things about which we can make a difference. We really shouldn't meddle around in matters national or international, unless they have particular relevance to our own situation.

"I think if we want to right wrongs, there are other matters we might well take up. One might be correcting the dreadful reporting of Captain McVay that indeed has some ties to those of us who live in Hawaii. And there are other matters which do concern us.

"I feel that this is not a matter about which we can make a difference, nor should we spend our time, our staff time and our valuable resource on it.

"Thank you."

Senator Blair then responded:

"Mr. President, since the members of the Judiciary Committee are not members of the Ways and Means Committee, we had the time available to us to deal with matters that might not have been prioritized high enough to have been taken care of if we had adjourned on schedule. Thank you."

The motion was put by the Chair and carried, the report of the Committee was adopted and H.C.R. No. 85, S.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT AN INVESTIGATION BE CONDUCTED INTO JOE JACKSON'S ALLEGED INVOLVEMENT IN THE CONSPIRACY TO THROW THE 1919 WORLD SERIES," was adopted, with the exception of Senators Fernandes Salling, George and Solomon who voted "no."

ORDER OF THE DAY

MATTERS DEFERRED FROM MONDAY, APRIL 29, 1991

FINAL READING

S.B. No. 248, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 248, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE INSTALLATION OF ENERGY EFFICIENT LIGHTING," was deferred until Friday, May 3, 1991.

S.B. No. 115, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 115, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII UNDERSEA RESEARCH LABORATORY," was deferred until Friday, May 3, 1991.

S.B. No. 339, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 339, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RENT SUPPLEMENT," was deferred until Friday, May 3, 1991.

S.B. No. 1157, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 1157, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF REFUNDING SPECIAL PURPOSE REVENUE BONDS TO ASSIST THE

EVANGELICAL LUTHERAN GOOD SAMARITAN SOCIETY IN PROVIDING A HEALTH CARE FACILITY TO THE GENERAL PUBLIC," was deferred until Friday, May 3, 1991.

S.B. No. 1726, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 1726, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," was deferred until Friday, May 3, 1991.

Conf. Com. Rep. No. 21 (H.B. No. 1685, H.D. 1, S.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 21 and H.B. No. 1685, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES," was deferred until Friday, May 3, 1991.

Conf. Com. Rep. No. 53 (H.B. No. 917, H.D. 2, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 53 and H.B. No. 917, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSFER OF ALL FUNCTIONS, POWERS AND DUTIES INVOLVING THE REGULATION OF OCEAN RECREATIONAL BOATING AND COASTAL ACTIVITIES," was deferred until Friday, May 3, 1991.

THIRD READING

Stand Com. Rep. No. 1469 (H.B. No. 640, H.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 1469 and H.B. No. 640, H.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST AN INDUSTRIAL ENTERPRISE," was deferred until Friday, May 3, 1991.

Stand Com. Rep. No. 1471 (H.B. No. 776, H.D. 3):

By unanimous consent, action on Stand. Com. Rep. No. 1471 and H.B. No. 776, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO THE PROMOTION OF INTERNATIONAL EVENTS," was deferred until Friday, May 3, 1991.

Stand Com. Rep. No. 1475 (H.B. No. 890):

By unanimous consent, action on Stand. Com. Rep. No. 1475 and H.B. No. 890, entitled: "A BILL FOR AN ACT RELATING TO THE YEAR OF THE FAMILY CELEBRATION," was deferred until Friday, May 3, 1991.

Stand Com. Rep. No. 1480 (H.B. No. 1022):

By unanimous consent, action on Stand. Com. Rep. No. 1480 and H.B. No. 1022, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL FACILITY REVENUE BONDS," was deferred until Friday, May 3, 1991.

Stand Com. Rep. No. 1483 (H.B. No. 1049):

By unanimous consent, action on Stand. Com. Rep. No. 1483 and H.B. No. 1049, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," was deferred until Friday, May 3, 1991.

Stand Com. Rep. No. 1484 (H.B. No. 1055):

By unanimous consent, action on Stand. Com. Rep. No. 1484 and H.B. No. 1055, entitled: "A BILL FOR AN ACT RELATING TO RENTAL HOUSING," was deferred until Friday, May 3, 1991.

Stand. Com. Rep. No. 1486 (H.B. No. 1254, H.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 1254 and H.B. No. 1254, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM DEVELOPMENT," was deferred until Friday, May 3, 1991.

Stand. Com. Rep. No. 1487 (H.B. No. 1958):

By unanimous consent, action on Stand. Com. Rep. No. 1487 and H.B. No. 1958, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," was deferred until Friday, May 3, 1991.

STANDING COMMITTEE REPORTS

MATTERS DEFERRED FROM TUESDAY, APRIL 30, 1991

Stand. Com. Rep. No. 1459 (H.C.R. No. 332):

By unanimous consent, action on Stand. Com. Rep. No. 1459 and H.C.R. No. 332, entitled: "HOUSE CONCURRENT RESOLUTION REJECTING THE FEDERAL MANDATE THAT REQUIRES STATES TO REVOKE THE DRIVER'S LICENSES OF DRUG OFFENDERS OR SUFFER THE LOSS OF FEDERAL FUNDS," was deferred until Friday, May 3, 1991.

Stand. Com. Rep. No. 1546 (H.C.R. No. 256):

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.C.R. No. 256, entitled: "HOUSE CONCURRENT RESOLUTION CONCERNING THE SUPPORT OF THE DUAL BANKING SYSTEM," was adopted.

Stand. Com. Rep. No. 1547 (H.C.R. No. 257):

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.C.R. No. 257, entitled: "HOUSE CONCURRENT RESOLUTION URGING CONGRESS TO ENACT REASONABLE PROPOSALS ON FINANCIAL REFORM WHICH DO NOT ABROGATE STATES' RIGHTS," was adopted.

Stand. Com. Rep. No. 1548 (H.C.R. No. 258):

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.C.R. No. 258, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO STUDY THE FEASIBILITY AND RAMIFICATIONS OF ESTABLISHING STATE REGULATORY CONTROLS FOR FINANCIAL EXCHANGE INTERMEDIARIES," was referred to the Committee on Legislative Management.

Stand. Com. Rep. No. 1549 (H.C.R. No. 355, H.D. 1):

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.C.R. No. 355, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, IN

CONJUNCTION WITH THE HAWAII INSURER'S COUNCIL AND THE HAWAII INDEPENDENT INSURANCE AGENTS ASSOCIATION, TO PROVIDE CONSUMER INFORMATION RELATING TO MOTOR VEHICLE INSURANCE TO THE GENERAL PUBLIC," was adopted.

Stand. Com. Rep. No. 1560 (H.C.R. No. 38, H.D. 1):

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.C.R. No. 38, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION EXPRESSING CONCERNS REGARDING THE PROPOSED LAUNCHING OF POLARIS MISSILES FROM THE PACIFIC MISSILE RANGE FACILITY AT BARKING SANDS, KAUAI," was adopted, with the exception of Senator McMurdo who voted "no."

FINAL READING

MATTERS DEFERRED FROM TUESDAY, APRIL 30, 1991

Conf. Com. Rep. No. 5 (H.B. No. 1952, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Holt, seconded by Senator Chang and carried, Conf. Com. Rep. No. 5 was adopted and H.B. No. 1952, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ACCESSORY USES ON AGRICULTURAL LANDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Koki, Mizuguchi, Nakasato).

Conf. Com. Rep. No. 16 (H.B. No. 664, H.D. 2, S.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 16 and H.B. No. 664, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SALES TO OWNER-OCCUPANTS," was deferred until Friday, May 3, 1991.

Conf. Com. Rep. No. 20 (H.B. No. 937, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Levin and carried, Conf. Com. Rep. No. 20 was adopted and H.B. No. 937, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Koki, Mizuguchi, Nakasato).

Conf. Com. Rep. No. 29 (H.B. No. 972, H.D. 2, S.D. 1, C.D. 1):

Senator Chang moved that Conf. Com. Rep. No. 29 be adopted and H.B. No. 972, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Levin.

Senator Matsuura rose to speak against the measure as follows:

"Mr. President, some of the concerns that I have is to clarify some of the language in the legislation. One of the concerns is the definition and the jurisdiction of state waters because when you read some of the existing

language in the statute, it reads: 'State marine waters shall be defined as extending from the upper reaches of the wash of the waves on shore seaward to the limits of the state lease power and management authority.'

"It goes on '... including the United States territorial sea, notwithstanding any laws to the contrary.' In another section of the statute, we have the definition of 'boundaries,' ... 'The State of Hawaii shall consist of all the islands together with their appurtenant reefs and territorial and archipelagic waters including Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with the appurtenant reefs and territorial waters but this state shall not be deemed to include the Midway Island,' and so on.

"I want to ask the chairman of the Agriculture Committee that when we talk about the jurisdictional power regarding this bill on the longline, are we limiting our jurisdiction to three miles seaward? If it includes the archipelagic waters, then it will have an extremely harmful effect on the commercial fishing industry."

The President asked if the chairman of the Agriculture and Environmental Protection Committee would yield to the question and the chairman responded in the affirmative and answered:

"Mr. President, I certainly share the concerns of the Senator from Hilo.

"As has been discussed, this bill has been an interesting proposal to work with. There are complex questions of state and federal jurisdiction. The bill was crafted in collaboration with many of the people who interact with the Western Pacific Fishery Management Council (WPFMC), including the director of the Board of Land and Natural Resources, Mr. Paty, and his deputy attorneys general, Mr. William Tam and Mr. Steven Michaels, all working together in order to produce a product that we believe threads the many fine lines that define state and federal jurisdiction.

"With respect to the claims of state jurisdiction, the state is certainly not prepared to concede any jurisdiction over waters that we have long claimed and asserted for ourselves, including archipelagic waters in the exclusive economic zone.

"What we are saying in this bill is that with respect to this very specific activity, that is to say longline fishing, we are definitely and immediately asserting jurisdiction over our territorial sea. And beyond that, working in collaboration with the federal government and with our state authorities establishing jurisdiction over longline fishing activity, prohibiting that activity in other kinds of waters but leaving the details of those prohibitions, the when and the where, to a collaborative effort between the state and federal governments.

"So in short answer to the question, Mr. President, we are not waiving jurisdiction in any archipelagic marine waters or exclusive economic zones, but we are asserting jurisdiction within our territorial sea for the purpose of regulating longline fishing."

Senator Matsuura then continued:

"So if the jurisdiction is three miles, that makes it even better as far as the bill is concerned.

"The other concern that I have is that this bill also mandated that whatever the WPFMC adopts as rules will automatically become a Hawaii state law. WPFMC membership is made up of residents of the State of

Hawaii, a resident of American Samoa, Guam and the Northern Marianas. They are all American citizens. When this council adopts a rule, what this bill does is automatically make the adopted rule to become law in the State of Hawaii. That's what it does.

"This is the first time that I know of when an agency, which is not a legislative body, enacts rules and automatically they become state law. It's comparable to our Land Board passing a rule and it automatically becomes state law. The WPFMC members who come from the trust territories, may have interests somewhat different from the State of Hawaii. So you may be adopting rules that may not be suited for the State of Hawaii. That's the second concern I really have.

"How do you resolve these kinds of problems? I was told that the WPFMC has already prepared and recommended rules that address the problem of longlines. Now, with the Secretary of the Interior to sign the rules, it should resolve the problem that we're facing today. I'm told that the Secretary will most likely sign it this month.

"My objection to this bill is that if that proposed rule is going to be adopted, why are we passing a bill that will further bring problems. If the council enacts some other rules and they become state law, why can't we just wait and see if the new adopted rules by this council is going to resolve our problem because they have already had public hearings; they have addressed the Kauai problem; they have addressed the Waianae problem. So now we're attempting to pass this legislation and further complicate the issue.

"I'll be voting 'no' on this measure."

Senator Chang then stated:

"Mr. President, in brief response.

"The issue of delegation of legislative authority was raised by the committee chairman for the Committee on Judiciary, and we did enter into discussions with the Office of the Attorney General. And as the Senator from Hilo correctly perceives this is another area of complexity. However, the two deputies that did work on the bill in collaboration with the Department of Land and Natural Resources are fully confident that the structure of the bill does not represent an improper delegation of powers. It does, however, represent what they believe to be a workable compromise between the issues of federal preemption and state delegation of powers.

"The operative provisions are that the state does prohibit longline fishing in these areas, but the details are to be worked out in collaboration between the State of Hawaii and the federal government. And so it's not so much the what and why, which has already been decided, but the where and when that will be decided by this collaborative effort.

"As to why we're passing the bill now, I want to point out that this proposal results from a very serious problem that occurs mostly in our near-shore waters, much of it off the Waianae Coast. The last report we have of violence was April 15th which is not that long ago, where a longliner attempted to ram a smaller boat and came away from that affray with some new puncture wounds and some new rifle puncture wounds in its shiny new hull. These kinds of incidents can't be allowed to go on, Mr. President. We have to take action now.

"In looking at the Atlantic and Gulf fisheries, similar federal councils in those areas had forwarded recommendations to the Secretary of Commerce. The

Secretary of Commerce failed to act in those instances and we cannot be fully confident that they recommendations of our Western Pacific Fishery Management Council will obtain a different result.

"So considering all of the different factors, your committee concluded that it was a very serious problem and it was very important to the State of Hawaii to assert jurisdiction in its own territorial seas and position itself to work collaboratively with the federal government in other kinds of waters.

"Thank you."

Senator Matsuura then added:

"Mr. President, there's one item that I left out.

"To resolve this longline problem one of the things that we can do would be to limit the number of commercial fishing permits. That means you limit the number of boats coming in to the State of Hawaii and using Hawaii as a base. The WPFMC is the best organization to regulate the number of fishing vessels coming to Hawaii. They're the best organization to resolve this fishing problem because in this industry you always have conflicts between the commercial fishermen and the recreational fishermen. These kinds of problems are best addressed by this council. Controlling of fishing gear by legislative measures is a mistake. I think we're going in the wrong direction. It's easier to let this council handle these kinds of problems. Thank you."

Senator Tungpalan then rose to ask if the chairman of the Agriculture and Environmental Protection Committee would yield to a question. The Chair posed the question and Senator Chang having answered in the affirmative, Senator Tungpalan asked:

"Mr. President, on page 1, it states, 'It is unlawful to engage in longline fishing or to sell or offer for sale any marine life taken with longline fishing gear within the boundaries of the State's territorial sea.' Would this permit those who do catch through longline fishing to sell in waters or in areas outside of our area. In other words, one of the complaints that I've been getting from my constituents is that many of these fishermen do not sell here on our island or throughout the state. What they do is they pack the fish and they sell it in Japan or in other areas outside of our state. I was wondering if this language would prohibit them for doing that."

Senator Chang answered:

"Mr. President, if I understand the question correctly, the Senator is wondering whether products from ocean fishing activity could be sold without the state as well as within. And the answer is 'yes,' as is the case with most agricultural products -- macadamia nuts, coffee, sugar, pineapple, and the like. The producers are gatherers of these products make a market determination as to whether their produce will be directed."

Senator Tungpalan continued:

"If that is the case then you're saying to me that it is their option to either choose to do that or they must abide by our regulations here inasmuch as longline fishing is concerned.

"My point is this, I think we all recognize that fish is very costly on our market. It's not helping our market not to have the fish that are in our waters, and if we're going to allow for them to market this outside this state it will have a detrimental impact on our islands. Thank you."

Senator Matsuura then added:

"Mr. President, I just want to clarify the previous Senator's question.

"What is pending before the WPFMC is that when they restrict certain areas, such as around Kauai and Waianae from longline fishing, the fish caught in that restricted area can't be brought into the state. Even to transship you can't bring them into the State of Hawaii. What this rule does is to restrict the area in which you can use longline as a fishing gear. You can bring them into the state if the fish is caught outside of this area."

Senator Blair also rose to inquire if the chairman of the Agriculture and Environmental Protection Committee would yield to a question and the chairman having asked to hear the question, Senator Blair queried:

"Mr. President, I see a potential for conflict between paragraphs 'b' and 'c.' I think there's an easy way to resolve it and I want to be sure that the record is clear.

"To be more specific, paragraph 'b' makes it unlawful to engage in longline fishing in the territorial seas, which I understand is the three mile limit, and subsection 'c' adopts regulations promulgated by WESPAC. I can conceive of a possibility that WESPAC might adopt regulations which would allow longline fishing within the territorial seas of Hawaii. I want to make sure that paragraph 'b' would take precedence over paragraph 'c' in the event that rules adopted under paragraph 'c' allow longline fishing within the three mile limit."

Senator Chang answered:

"Mr. President, paragraph 'b' is a statement with respect to the territorial sea, and paragraph 'c,' subsection (1), is a statement of prohibition with respect to the state marine waters and those areas under the Western Pacific Council's jurisdiction."

Senator Blair then continued:

"Mr. President, I believe that the response is that the territorial seas are not a sub-section of the greater seas covered by paragraph 'c.' If that's correct, and I'm not sure it is, there would be no conflict between 'b' and 'c.'

"But since I'm not entirely convinced, I'd like the record to reflect that should there be any conflict between 'b' and 'c' it is my understanding in voting on this that 'b' would be paramount in any such conflict. I will yield to Senator Chang if he would like to clarify that further."

Senator Chang answered:

"The Judiciary chairman's understanding is correct, Mr. President."

Senator Reed also in support of the measure then said:

"Mr. President, your Committee on Agriculture and Environmental Planning exhaustively studied this particular issue, and I'm convinced that restricted longline fishing is positive both for our environment and for local fishermen. I urge my colleagues to support this measure."

Senator Holt rose to speak against the bill and said:

"Mr. President, speaking against the bill and speaking as a recreational fisherman.

"This bill will do nothing to resolve the conflicts between longline fishermen and local commercial and recreational fishing other than WESPAC has been able to accomplish so far. Thank you."

Senator Blair then added:

"Mr. President, I have one other matter that I'd like to try to create a legislative record on, in the event there is litigation on this in the future. It has to do with a question that was discussed earlier. My name came up along with that of couple of deputy attorney generals who've looked into this issue. It is to say whether or not, as a matter of law as well as a matter of policy, we should adopt rules and regulations promulgated by a federal entity as state law.

"From a policy perspective I'm troubled, but if it's legal I'll go along with it reluctantly, because of the need to preserve the fisheries of our state. I would, however, like to point out for the record that the language of the bill can be interpreted two ways. The specific language, and I'm speaking now in particular page 1, line 16, it talks about 'incorporates by reference the rules adopted by WPRFMC' It's not explicit that that's talking about future rules adopted by WPRFMC. In the event that a court reviews this in the future and comes to the conclusion that it would be unconstitutional for us to adopt by reference rules which were not currently in effect, because we thereby delegate our authority as a Legislature to another body not duly constituted, I hope that court will interpret this statute as limiting itself to those rules which have currently been adopted by WPRFMC and not future rules. There is no reason why such a construction would be inconsistent with the plain language of the bill.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 29 was adopted and H.B. No. 972, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LONGLINE FISHING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 5 (George, Holt, Matsuura, McCartney, Tungpalan). Excused, 3 (Koki, Mizuguchi, Nakasato).

At 12:39 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:40 o'clock p.m.

Conf. Com. Rep. No. 31 (H.B. No. 1016, H.D. 1, S.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 31 and H.B. No. 1016, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," was deferred until Friday, May 3, 1991.

Conf. Com. Rep. No. 35 (H.B. No. 1012, S.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 35 and H.B. No. 1012, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVESTIGATIONS BY THE ATTORNEY GENERAL AND THE COUNTY PROSECUTING ATTORNEYS," was deferred until Friday, May 3, 1991.

Conf. Com. Rep. No. 47 (H.B. No. 1090, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Blair, seconded by Senator Crozier and carried, Conf. Com. Rep. No. 47 was adopted and H.B. No. 1090, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CURFEW FOR MINORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Koki, Mizuguchi, Nakasato).

Conf. Com. Rep. No. 118 (S.B. No. 1247, S.D. 1, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 118 and S.B. No. 1247, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING.," was deferred until Friday, May 3, 1991.

Conf. Com. Rep. No. 121 (S.B. No. 1449, S.D. 1, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 121 and S.B. No. 1449, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.," was deferred until Friday, May 3, 1991.

Senator Ikeda rose to speak on a point of personal privilege and stated:

"Mr. President, on January 18 of this year Safeway Hawaii announced their decision to not stock Foremost milk in its stores. This move caused a great deal of concern because in 1982 when Safeway sought a license to distribute milk in Hawaii it stated that granting them a license would not affect the shelf space held or made available to locally processed milk. However, because Meadow Gold sells both mainland and island-fresh milk with no distinction between the two except for the island-fresh designation on some of the cartons, Safeway's policy does in fact reduce the availability of local milk to consumers.

"It was at this point that the Senator from the Sixth Senatorial District generated a resolution on this subject and the chair of the Committee on Agriculture arranged a meeting with Safeway to discuss the problem. I'm pleased to report that they have responded. I have here a copy of a letter that was addressed to Mr. Kitagawa, chairman of the Department of Agriculture and it reads:

'Dear Mr. Kitagawa:

Please accept my apologies for the delay in formally informing you of Safeway's decision to restock Foremost fluid milk in our stores. This letter is to let you know that we have reviewed our operations and have given preliminary approval to putting Foremost back in our stores.

You will be receiving a more formal letter from me outlining reasons for this decision.

Thank you for your understanding during this time. We look forward to working more closely with you in the future.

Sincerely,

Louie Gonzalez
Public Affairs Manager
Regional Northern California Division'

"I would like to congratulate Safeway for their responsiveness and sensitivity to this issue, and I hope that they will resolve the Big Island situation in like manner.

"I would also like to thank Channel 4 News for having the guts to bring this problem to the attention of the public even though it cost them some in advertising. And I would like to ask the Department of Agriculture to increase their marketing of island-fresh products and inform and educate the consuming public to the fact that if milk isn't labeled island-fresh, it isn't.

"Thank you, Mr. President."

At 12:44 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:46 o'clock p.m.

At 12:50 o'clock p.m., on motion by Senator Solomon, seconded by Senator Reed and carried, the Senate stood in recess until 2:00 o'clock p.m.

AFTERNOON SESSION

The Senate convened at 2:30 o'clock p.m. with the Vice President in the Chair.

At this time, by order of the Chair, the following proclamation was read by the Clerk and was placed on file:

"PROCLAMATION

We, Richard S. H. Wong, President of the Senate, and Daniel J. Kihano, Speaker of the House of Representatives, of the Sixteenth Legislature of the State of Hawaii pursuant to the power vested in us by Section 10, Article III of the Constitution of the State of Hawaii, and at the written request of two-thirds of the members to which each house is entitled, do hereby extend the Regular Session of 1991 of the Sixteenth Legislature of the State of Hawaii for a period of Two Days beyond the Sixty-second day of the 1991 Regular Session, excluding Saturdays, Sundays, holidays and any days in recess pursuant to a concurrent resolution.

/s/ Richard S.H. Wong
RICHARD S.H. WONG
President of the Senate

/s/ Daniel J. Kihano
DANIEL J. KIHANO
Speaker of the House of
Representatives."

SENATE CONCURRENT RESOLUTION

S.C.R. No. 238, providing for a recess of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, on Thursday, May 2, 1991, was offered by Senators Hagino and George.

On motion by Senator Hagino, seconded by Senator George and carried, S.C.R. No. 238 was adopted.

ADJOURNMENT

At 2:34 o'clock p.m., on motion by Senator Solomon, seconded by Senator George and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, May 3, 1991.