

SEVENTH DAY

Thursday, January 24, 1980

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Edith Wolfe of the Hawaii Conference United Church of Christ, after which the Roll was called showing all Senators present with the exception of Senators Abercrombie and Campbell who were excused.

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

Senator Carroll introduced to the members of the Senate Mr. Robbie Jessel, Marketing Representative at IBM Corp. here in Hawaii.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 23 to 27) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 23), transmitting the 1979 research report entitled, "Pay Rates in Hawaii", which was prepared by the Hawaii Employers Council, pursuant to paragraph 3, Section 77-2, Hawaii Revised Statutes, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 24), transmitting the Final Compensation Plan for blue collar and all other classes and the cost thereof, in compliance with the provisions of Sections 77-4 and 77-5, Hawaii Revised Statutes, as amended, was referred to the Committee on Human Resources, then to the Committee on Ways and Means.

A message from the Governor (Gov. Msg. No. 25), transmitting the Annual Report of the Office of Collective Bargaining, pursuant to Chapter 89, Hawaii Revised Statutes, as amended, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 26), transmitting the Report of Findings on Adjustments to the Compensation Plan, prepared by the Public Employees Compensation Appeals Board, pursuant to the provisions of Act 121, Session Laws of Hawaii, 1963, was referred to the

Committee on Human Resources, then to the Committee on Ways and Means.

A message from the Governor (Gov. Msg. No. 27), transmitting the State Tourism Plan, which was prepared in compliance with the requirements of Chapter 226, Hawaii Revised Statutes, the Hawaii State Planning Act, and enclosing the Report of the Tourism Plan Advisory Committee, said committee being constituted in accordance with Chapter 226, to advise the Department of Planning and Economic Development on the State Tourism Plan, was referred to the Committee on Tourism.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 1 and 2) were read by the Clerk and were disposed of as follows:

A communication from the Supreme Court of Hawaii (Dept. Com. No. 1), transmitting the Judiciary's Multi-Year Program and Financial Plan, Budget, and Variance Report, in accordance with Section 601-2, Hawaii Revised Statutes, was referred to the Committee on Judiciary, then to the Committee on Ways and Means.

A communication from the Office of the Ombudsman (Dept. Com. No. 2), transmitting their Annual Report for period July 1, 1978 - June 30, 1979, pursuant to Section 96-16 of the Hawaii Revised Statutes, was referred to the Committee on Government Operations and Efficiency.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 3 and 4) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 3), transmitting House Concurrent Resolution No. 3, which was adopted by the House of Representatives on January 23, 1980, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.C.R. No. 3, entitled: "HOUSE CONCURRENT RESOLUTION CONGRATULATING THE UNIVERSITY OF HAWAII RAINBOW WAHINES VOLLEYBALL TEAM", was adopted.

A communication from the House (Hse. Com. No. 4), transmitting House Concurrent Resolution No. 4, which was adopted by the House of Representatives

on January 23, 1980, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.C.R. No. 4, entitled: "HOUSE CONCURRENT RESOLUTION CONGRATULATING THE UNIVERSITY OF HAWAII-HILO VULCAN WAHINES VOLLEYBALL TEAM", was adopted.

At 11:41 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:43 o'clock a.m.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 3 to 8) were read by the Clerk and were disposed of as follows:

A concurrent resolution (S.C.R. No. 3), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A MANAGEMENT AUDIT OF THE STATE'S ENERGY PROGRAM", was jointly offered by Senators Yim, Chong, Kuroda, Carpenter, Wong and Campbell.

By unanimous consent, S.C.R. No. 3 was referred to the Committee on Economic Development, then to the Committee on Legislative Management.

A concurrent resolution (S.C.R. No. 4), entitled: "SENATE CONCURRENT RESOLUTION RATIFYING A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES PROVIDING FOR REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS", was jointly offered by Senators Campbell, Wong, O'Connor, Toyofuku, Young, Kuroda, Carpenter and Saiki.

By unanimous consent, S.C.R. No. 4 was referred to the Committee on Intergovernmental Relations.

A concurrent resolution (S.C.R. No. 5), entitled: "SENATE CONCURRENT RESOLUTION COMMENDING MARY BITTERMAN", was jointly offered by Senator Kawasaki, Cayetano, Young, Saiki, Campbell, Toyofuku, Kuroda, Ushijima, Yamasaki, Machida, Wong, Mizuguchi, Soares, Chong, Carpenter, Cobb, Yim, Carroll, George, Hara, Yee, Anderson, O'Connor and Ajifu.

Senator Kawasaki moved that S.C.R. No. 5 be adopted, seconded by Senator Mizuguchi.

Senator Kawasaki then spoke for the adoption of the resolution

as follows:

"Mr. President, the person being honored today is an outstanding person appointed to a very important national position. I just want to say that for those of us who sit on the Ways and Means Committee, it has been a pleasure for us to hold hearings in which this outstanding person has testified.

"She has been candid with the committee at all times, never padded the budget, as is the general practice, never tried to build empires, never preoccupied with salary increases for herself. This kind of posture and conduct is generally a refreshing change from the general routine exercise that we experience day in and day out.

"Mary Bitterman has done much to guide Station KHET in the direction that we foresee for this station. I think the support the Senate has given in the past to KHET from its very inception, is important in that most of us here recognized that KHET could be the medium in the State of Hawaii, to, first of all, inform objectively and correctly; secondly, to educate the population; and thirdly, to entertain--but most important, to inspire the people.

"I think it was David Thoreau who said that 'the mass of men live lives of quiet desperation.' This unfortunately is true.

"We have thousands of senior citizens, we have thousands of citizens whose daily existence is rather prosaic, a very prosaic existence, but with a very vigorous, imaginative, entertaining and educating television station like KHET, I think we could make the lives of most of our people here less 'lives of quiet desperation.'

"We see this role for this station, and Mary Bitterman, in the five years of her tenure as Manager of KHET, has directed the station into the path that we foresee for it. For this reason, I think she has done an outstanding job. We want to congratulate her!

"Thank you."

The motion was put by the Chair and carried, and S.C.R. No. 5 was adopted.

Senator Kawasaki then introduced to the members of the Senate Mary Bitterman, the honoree of the resolution, and Senator Mizuguchi presented her with a lei.

At 11:50 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:53 o'clock

a.m.

A concurrent resolution (S.C.R. No. 6), entitled: "SENATE CONCURRENT RESOLUTION ESTABLISHING A SISTER-STATE RELATIONSHIP BETWEEN HAWAII AND THE AZORES", was jointly offered by Senators Soares, Anderson, Hara, Chong, Yee, George, Yamasaki, Young, Saiki, Carroll, Yim, O'Connor, Campbell, Mizuguchi, Ushijima, Toyofuku, Machida, Kuroda, Cobb, Cayetano, Abercrombie and Ajifu.

Senator Soares moved that S.C.R. No. 6 be adopted, seconded by Senator Anderson.

Senator Soares then spoke for the adoption of the resolution as follows:

"Mr. President, it is with a deep sense of pride that I rise and speak in favor of this resolution, particularly in view of the fact that I just had the opportunity of a lifetime when I was invited as one of the government officials from Hawaii to visit the Azores, the Island of Madeira and also to Lisbon.

"I might share with you the tremendous feeling--whether you were born in the Azores, whether your great-grandfather came from the Azores, as mine did, or whether your ancestors were born in Ireland, Korea, Japan, China...wherever.

"The fourteen of us from Hawaii together with eight Californians arrived in the land of our ancestors and saw the lifestyle of the many people--hard-working people. We were suddenly aware of the fact that our great-grandfather and grandmother and their family had tremendous courage when they left their land one hundred years ago and boarded a ship to sail off to some islands 5,000 miles away to seek a better life, a new life, a new beginning.

"We were treated by our ancestors' families like I have never been treated before in my life. It's a tremendous experience. If you haven't had one of those experiences to visit your ancestors' land, I suggest that you do so, because it certainly brings you to the reality of how fortunate you are that your ancestors had the courage and the foresight to leave their land to settle in Hawaii.

"I might add that today is the 100th anniversary of the arrival of the first group of Portuguese men and women from the Azores, numbering

337, and we will be incorporating that celebration in the Capitol Rotunda at 12:00 noon today.

"Mr. President, I take pride in offering this resolution on behalf of the Azoreans who came here and who mixed with all of the other cultures that we have blended in Hawaii.

"I do think that my colleagues here will share as I do the great emotional awareness of what it means to visit the land of your ancestors.

"Therefore, Mr. President, I'd like to ask that all members of this Honorable Body support this resolution.

"Thank you, Mr. President."

The motion was put by the Chair and carried, and S.C.R. No. 6 was adopted.

A concurrent resolution (S.C.R. No. 7), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A REVIEW OF MOTORCYCLE INSURANCE RATES", was jointly offered by Senators Chong, Abercrombie, Yim, Cobb, Saiki, Carpenter, Yamasaki, Machida, Ushijima and Yee.

By unanimous consent, S.C.R. No. 7 was referred to the Committee on Consumer Protection and Commerce.

A concurrent resolution (S.C.R. No. 8), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A REVIEW ON RECOVERY OF STOLEN MOTORCYCLES", was jointly offered by Senators Chong, Abercrombie, Yim, Toyofuku, Cobb, Saiki, Carpenter, Yamasaki, Machida, Ushijima and Yee.

By unanimous consent, S.C.R. No. 8 was referred to the Committee on Consumer Protection and Commerce.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 30 to 41) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 30), entitled: "SENATE RESOLUTION CONGRATULATING MR. KRIS KRISTOFFERSON ON HIS CONTINUED IMPORTANT CONTRIBUTION TO AMERICAN CULTURE", was jointly offered by Senators Abercrombie and Carroll.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, S.R. No. 30 was adopted.

At 11:56 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:58 o'clock a.m.

A resolution (S.R. No. 31), entitled: "SENATE RESOLUTION CONGRATULATING MR. WILLIE NELSON ON HIS CONSUMMATE ARTISTRY", was jointly offered by Senators Abercrombie and Carroll.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, S.R. No. 31 was adopted.

A resolution (S.R. No. 32), entitled: "SENATE RESOLUTION IN HONOR OF THE LATE AL KEALOHA PERRY", was jointly offered by Senators Anderson, George, Yee, Carpenter, Abercrombie, Yamasaki, Kuroda, Campbell, Carroll, Mizuguchi, Ushijima, Machida, O'Connor, Hara, Cayetano, Cobb, Toyofuku, Young, Chong, Ajifu, Soares, Saiki, Kawasaki, Yim and Wong.

On motion by Senator Anderson, seconded by Senator George and carried, S.R. No. 32 was adopted.

A resolution (S.R. No. 33), entitled: "SENATE RESOLUTION CONGRATULATING THE KAISER HIGH SCHOOL COUGARS ON WINNING THE 1979 OAHU INTERSCHOLASTIC ASSOCIATION (OIA) VARSITY FOOTBALL EASTERN DIVISION TITLE, THE OIA CHAMPIONSHIP, AND THE OAHU PREP BOWL FOOTBALL CHAMPIONSHIP", was jointly offered by Senators Soares, Saiki, O'Connor, Cobb, Kawasaki, Yee, Kuroda, Ushijima, Wong, Ajifu, Abercrombie, Young, George, Carroll, Toyofuku, Hara, Campbell, Chong, Carpenter, Mizuguchi, Cayetano and Yim.

On motion by Senator Soares, seconded by Senator Saiki and carried, S.R. No. 33 was adopted.

A resolution (S.R. No. 34), entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE FEASIBILITY OF AWARDING SECURITY CONCESSIONS ON THE PUBLIC BEACHES", was offered by Senator Carroll.

By unanimous consent, S.R. No. 34 was referred to the Committee on Ecology, Environment and Recreation, then to the Committee on Judiciary.

A resolution (S.R. No. 35), entitled: "SENATE RESOLUTION CONGRATULATING THE KING'S ALLEY HONOR GUARD", was offered by Senator Carroll.

On motion by Senator Carroll, seconded by Senator Soares and carried, S.R. No. 35 was adopted.

A resolution (S.R. No. 36), entitled: "SENATE RESOLUTION COMMENDING MARY BITTERMAN", was jointly

offered by Senators Kawasaki, Cayetano, Young, Saiki, Campbell, Toyofuku, Kuroda, Ushijima, Yamasaki, Machida, Wong, Mizuguchi, Soares, Chong, Carpenter, Cobb, Yim, Carroll, George, Hara, Yee, Anderson, O'Connor and Ajifu.

On motion by Senator Kawasaki, seconded by Senator Cayetano and carried, S.R. No. 36 was adopted.

A resolution (S.R. No. 37), entitled: "SENATE RESOLUTION ESTABLISHING A SISTER-STATE RELATIONSHIP BETWEEN HAWAII AND THE AZORES", was jointly offered by Senators Soares, Chong, Anderson, Hara, Ajifu, Yee, George, Young, Yamasaki, Saiki, Carroll, Yim, O'Connor, Campbell, Mizuguchi, Ushijima, Toyofuku, Machida, Kuroda, Wong, Cobb, Cayetano and Abercrombie.

On motion by Senator Soares, seconded by Senator Anderson and carried, S.R. No. 37 was adopted.

A resolution (S.R. No. 38), entitled: "SENATE RESOLUTION CONGRATULATING HAWAII'S PEOPLE OF AZOREAN ANCESTRY ON THE 100TH ANNIVERSARY OF THEIR ARRIVAL IN HAWAII", was jointly offered by Senators Soares, Young, George, Toyofuku, Machida, Kuroda, Wong, O'Connor, Cobb, Carroll, Anderson, Cayetano, Hara and Abercrombie.

On motion by Senator Soares, seconded by Senator Anderson and carried, S.R. No. 38 was adopted.

A resolution (S.R. No. 39), entitled: "SENATE RESOLUTION REQUESTING A REVIEW OF MOTORCYCLE INSURANCE RATES", was jointly offered by Senators Chong, Cobb, Abercrombie, Yim, Saiki, Carpenter, Yamasaki, Machida, Yee and Ushijima.

By unanimous consent, S.R. No. 39 was referred to the Committee on Consumer Protection and Commerce.

A resolution (S.R. No. 40), entitled: "SENATE RESOLUTION REQUESTING A REVIEW ON RECOVERY OF STOLEN MOTORCYCLES", was jointly offered by Senators Chong, Cobb, Abercrombie, Yim, Toyofuku, Saiki, Carpenter, Yamasaki, Machida, Ushijima and Yee.

By unanimous consent, S.R. No. 40 was referred to the Committee on Consumer Protection and Commerce.

A resolution (S.R. No. 41), entitled: "SENATE RESOLUTION CONGRATULATING AND EXPRESSING APPRECIATION TO MR. DENNIS DISANTO, AN OUTSTANDING BUSINESS LEADER", was jointly offered by Senators Kuroda, O'Connor, Cobb, Yee, Toyofuku, Yim, Carpenter, Cayetano,

Ajifu, Young, Kawasaki, Yamasaki, Campbell, Chong, Machida, Abercrombie and Soares.

On motion by Senator Kuroda, seconded by Senator O'Connor and carried, S.R. No. 41 was adopted.

At 12:01 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:03 o'clock p.m.

INTRODUCTION OF SENATE BILLS

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the following bills passed First Reading by title, were referred to print and were placed on the calendar for further consideration on Friday, January 25, 1980:

Senate Bills

No. 1969-80 "A Bill for an Act Making an Appropriation for the Operation of a Statewide Poison Information Service."

Introduced by: Senator Saiki.

No. 1970-80 "A Bill for an Act Proposing an Amendment to Article VI, Section 3, of the Hawaii Constitution, to Provide for Review and Appeal of Decisions of the Judicial Selection Commission."

Introduced by: Senators Saiki, George, Anderson, Soares and Yee.

No. 1971-80 "A Bill for an Act Relating to Health."

Introduced by: Senators Saiki, George, Anderson, Soares, Yee, Carroll, Cobb, Campbell and Kuroda.

No. 1972-80 "A Bill for an Act Relating to Public Employee Collective Bargaining."

Introduced by: Senators Saiki, George and Soares.

No. 1973-80 "A Bill for an Act Proposing an Amendment to Article III, Section 10, of the Hawaii Constitution, to Permit the Senate to Convene Itself into a Special Session."

Introduced by: Senators Saiki, George, Soares, Anderson, Yee, Carroll, Cobb, Hara, Campbell and Kuroda.

No. 1974-80 "A Bill for an Act Relating to the Judiciary Budget."

Introduced by: Senator Wong, by request.

No. 1975-80 "A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1979 to June 30, 1981."

Introduced by: Senator Wong, by request.

No. 1976-80 "A Bill for an Act Making an Appropriation for Hulihee Palace, Kailua-Kona, Hawaii."

Introduced by: Senators Hara, Ushijima, Carpenter, Yamasaki, Kuroda, Chong, Young, Anderson, Campbell, Abercrombie, Toyofuku, Yim, Mizuguchi, O'Connor, Ajifu, Yee, Carroll, Machida, George, Saiki and Soares.

No. 1978-80 "A Bill for an Act Relating to Hawaiian Home Lands."

Introduced by: Senators Hara, Carpenter, Chong, Yamasaki, Kuroda, Campbell, Abercrombie, Yim, Young, Mizuguchi, O'Connor, Ajifu, Yee, Machida, Saiki, Soares and Cayetano.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the following bill was referred to print and was placed on the calendar for further consideration on Friday, January 25, 1980:

Senate Bill

No. 1977-80 "A Bill for an Act Relating to Environmental Rights."

Introduced by: Senators Hara, Abercrombie, Carpenter, Ushijima, Yamasaki, Kuroda, Campbell, Toyofuku, Young, Mizuguchi, Carroll, Cayetano, Kawasaki, O'Connor, Ajifu, Yee, Yim, Chong, Machida, George, Saiki and Soares.

STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 3-80) informing the Senate that Senate Concurrent Resolution Nos. 1 and 2, Senate Resolution Nos. 3 to 29 and Senate Bill Nos. 1946-80 to 1968-80 have been printed and are ready for distribution.

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

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 4-80) recommending that the Senate consent to the nomination of Herman T. F. Lum as Associate Justice of the State Supreme Court,

for a ten (10) year term, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, in accordance with Gov. Msg. No. 2.

Senator O'Connor then requested that Rule No. 34 of the Rules of the Senate be waived in order to consider the nomination of the candidates as presented in Standing Committee Report Nos. 4-80 and 5-80, and, by unanimous consent, the waiver was granted.

Senator O'Connor moved that Stand. Com. Rep. No. 4-80 be received and placed on file, seconded by Senator Cobb and carried.

Senator O'Connor then moved that the Senate consent to the nomination of Herman T. F. Lum as Associate Justice of the State Supreme Court, for a ten (10) year term, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Cobb.

Senator Kawasaki then rose to speak in favor of the nomination as follows:

"Mr. President, I'm happy to vote for the confirmation of these two outstanding individuals, Mr. Herman T. F. Lum and Mr. Edward H. Nakamura which follows, as Judges; however, I think it is relevant and pertinent that we enter into the Journal of the Senate our disagreement, at least my disagreement, with the decision that the names of nominees to these positions not be made available to the members of the Senate here.

"Contrary to the thinking of the Chairman of the Judicial Selection Commission, Mr. James Koshiba and contrary to the opinion of the Governor, it just seems to me imperative that the Members of this Senate have available to them the total list of people nominated to judgeships. How else are we going to judge whether the name submitted to us is the best man? How else are we going to judge the inadequacy of an individual so appointed?

"I think that the very fact that the Constitutional Convention gave us, if nothing else, 'rejection' powers, appears to me that it was intended that we have some means of ascertaining the qualities of people submitted to us as judges.

"I would like the Senate leadership to enter into discussions again with the Governor and with the Judicial

Selection Commission, to reappraise their posture that the names should not be available--at least to the confirming body, the Senate of the State of Hawaii.

"It is said that to do so might embarrass those people, those candidates who were not selected to the judgeships. My argument and my response to this assertion is that when a person consents to his name being considered as a candidate for judgeship, he takes a chance. If he is not selected, so be it, but I think this is the necessary risk all judge candidates will have to assume, and embarrassment in this particular incident is not a consideration that should prohibit names being available at least to the Body that has to confirm it in the public interest.

"Thank you."

Senator Cobb then spoke in favor of the nomination as follows:

"Mr. President, during the course of our meeting with the Judicial Selection Commission, it became apparent that a provision in the Constitution provided that the deliberations of that Commission shall be confidential. It was silent on the question of whether or not the names would remain confidential, once the process had been completed and the name submitted to the Governor.

"For several weeks since the matter became an issue, I have taken the position that the names and theory should be made public, based on the premise that if an individual is seeking a position of public trust of such magnitude as a judge, then the public and the Senate have a right to know it.

"Strangely enough, the way the process works now, we have a dichotomy that if an individual is a sitting judge and applies for reappointment, that fact is made known, but if the individual who is in private practice applies, that fact is not made known. I think it would lend more credibility to the entire process if it were more public.

"I recognize the constraints that exist in the present Constitutional amendment and this is the first time we're working under it. I do agree with a number of other Senators that some changes are in order via the route of an amendment to the Constitution on a so-called merit selection system of judges.

"Thank you."

Senator Anderson then spoke as follows:

"Mr. President, I'm not sure I disagree

with the two former speakers, but I wouldn't want the Journal to reflect unanimous agreement that the process for judge selection be changed exactly as stated. I wouldn't want to think that Mr. (Herman T.F.) Lum or Mr. (Edward H.) Nakamura might be rejected by this Body because somebody is sitting in the wings, and if we reject this one, the other names will come forward.

"I think we're here to judge the qualifications of these two gentlemen on the basis of the merit selection. I think the point brought up is well taken and I really don't know if it fits in with the confirmation of the two names before us, but rather as a part of the mechanism that you are opposed to or are questioning.

"Mr. President, I just didn't want Mr. Lum or Mr. Nakamura to think that they might not be confirmed today, if there happens to be another name pending or on the waiting list.

"Thank you."

Senator Saiki then stated as follows:

"Mr. President, in the same vein, I respectfully disagree with the two previous speakers on the procedure involving the secrecy of the names first presented to the Governor for consideration.

"I did not want to get into a thorough discussion of the issue at this point, but I would not want the Journal to reflect that their positions are the only ones of standing here in this Hall. Therefore, I would like to restrict my endorsement today for the two candidates named for the Supreme Court judgeship."

Senator O'Connor then spoke in favor of the confirmation as follows:

"Mr. President, I think that the discussion up to this point in this Chamber has strayed far afield from the matter before the Body, and I would like to report that the Judiciary Committee examined very carefully Judge Lum's background, qualifications, education and abilities and unanimously brought his name to this floor for consent due to the highly qualified and able abilities he has demonstrated in all of the jobs that he has had in this State.

"Therefore, Mr. President, I urge all to vote in favor of the confirmation of Judge Lum to the Supreme Court.

"Thank you."

At this time, the Chair made the following observation:

"This is our first attempt at trying to work with a process that someone or some people may disagree with and I am in concert with Senator Saiki's statement.

"From here on out, I would like for us to address our discussions on the qualification of the nominees who are being considered by the Senate. The mechanism and the procedure which the Senate will use in the future for judges, whether or not we disagree with the administration or the Judicial Selection Commission, is a totally separate issue."

The motion was then put by the Chair and Roll Call having been ordered, was carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Abercrombie and Campbell).

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 5-80) recommending that the Senate consent to the nomination of Edward H. Nakamura as Associate Justice of the State Supreme Court, for a ten (10) year term, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, in accordance with Gov. Msg. No. 3.

Senator O'Connor moved that Stand. Com. Rep. No. 5-80 be received and placed on file, seconded by Senator Cobb and carried.

Senator O'Connor then moved that the Senate consent to the nomination of Edward H. Nakamura as Associate Justice of the State Supreme Court, for a ten (10) year term, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Cobb.

Senator Carroll then rose to speak in favor of the nomination as follows:

"Mr. President, I rise to speak in favor of this confirmation. I have had the pleasure and honor of knowing Mr. Nakamura for approximately fourteen years, and we have been on opposite sides of some rather hot issues during that period of time; however, it has been my experience that he is, as one person described, a contemplative and a very scholarly man.

"I might add that when you have people such as Mr. (Harold) Eichelberger

and Mr. (William) Fleming, who really philosophically are somewhat on the opposite side from some of the positions which Mr. Nakamura has adopted over the years, come in to testify in his behalf, I think that we're not only getting a person with whom we can consent, but really a member of our Supreme Court bench in whom we can rejoice.

"Thank you."

Senator O'Connor, in speaking for the nomination, stated as follows:

"Mr. President, again with Mr. Nakamura, I would report that the members of the Judiciary Committee carefully reviewed his background, education, and ability and found all of them to be superlative. Mr. Nakamura has served this community as a member and Chairman of the Board of Regents of the University of Hawaii, and in many other capacities, and he is capably and tremendously qualified to be an Associate Justice of the Supreme Court."

The motion was then put by the Chair and Roll Call having been ordered, was carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Abercrombie and Campbell).

ORDER OF THE DAY

REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills that were introduced on Wednesday, January 23, 1980:

Senate Bills Referred to:

- No. 1946-80 Committee on Ways and Means
- No. 1947-80 Committee on Ways and Means
- No. 1948-80 Committee on Education, then to the Committee on Ways and Means
- No. 1949-80 Committee on Education, then to the Committee on Ways and Means
- No. 1950-80 Committee on Education, then to the Committee on Ways and Means
- No. 1951-80 Committee on Consumer Protection and Commerce
- No. 1952-80 Committee on Government

Operations and Efficiency, then to the Committee on Ways and Means

No. 1953-80 Committee on Human Resources, then to the Committee on Ways and Means

No. 1954-80 Committee on Human Resources, then to the Committee on Ways and Means

No. 1955-80 Committee on Human Resources, then to the Committee on Ways and Means

No. 1956-80 Committee on Health, then to the Committee on Consumer Protection and Commerce

No. 1957-80 Committee on Health, then to the Committee on Consumer Protection and Commerce

No. 1958-80 Committee on Judiciary

No. 1959-80 Committee on Consumer Protection and Commerce

No. 1960-80 Committee on Consumer Protection and Commerce

No. 1961-80 Committee on Consumer Protection and Commerce

No. 1962-80 Committee on Consumer Protection and Commerce

No. 1963-80 Committee on Consumer Protection and Commerce

No. 1964-80 Committee on Transportation, then to the Committee on Judiciary

No. 1965-80 Committee on Higher Education, then to the Committee on Ways and Means

No. 1966-80 Committee on Higher Education, then to the Committee on Ways and Means

No. 1967-80 Committee on Higher Education, then to the Committee on Ways and Means

No. 1968-80 Committee on Ecology, Environment and Recreation, then to the Committee on Ways and Means

MISCELLANEOUS COMMUNICATIONS

The following communications (Misc. Com. Nos. 1 and 2) were read by the Clerk and were disposed of as follows:

A communication from the Honorable Herbert T. Matayoshi, Mayor, County of Hawaii, (Misc. Com. No. 1); transmitting the budget of the County of Hawaii showing resources and requirements for the fiscal years 1979, 1980 and 1981 and

including a ten-year statement on real property and State grants-in-aid from the general fund and a statement computing our legal debt margin, in compliance to Section 248-4, Hawaii Revised Statutes, was referred to the Committee on Ways and Means.

A communication from the Honorable Eduardo E. Malapit, Mayor, County of Kauai, (Misc. Com. No. 2), transmitting

the Capital Improvements Program for the County of Kauai for fiscal years 1980-81 through 1985-86, was referred to the Committee on Ways and Means.

ADJOURNMENT

At 12:15 o'clock p.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, January 25, 1980.