

## NINTH DAY

Monday, January 30, 1984

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

The Divine Blessing was invoked by Lt. Comdr. Michael Peters, Chaplain, United States Navy, after which the Roll was called showing all Senators present with the exception of Senator Machida who was excused.

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

Senators Chang and Aki then made the following introduction to the members of the Senate.

Senator Chang stated as follows:

"Mr. President, Senator Aki and I are privileged this morning to introduce an internationally renowned artist, born and raised in Hawaii. Before introducing her, I would like to introduce members of her family and several friends. First, her sisters: Estelle Yagi, Millie Nakaganeku, Doris Nakamatsu and Eloise Fukuji; her nephew Richard Nakaganeku who is sitting in the gallery with his wife Frances; and a friend of the family, Mr. Henry Iwasa."

Senator Aki then continued the introduction and stated:

"Mr. President, it is a privilege and great honor for me to present to this honorable body, today, Toshiko Takaezu, who is the 1982-1983 recipient of the Dickinson College Arts Award. This award places Ms. Takaezu in the company of such respected artists as poets, Robert L. Frost and W.H. Auden, and the Philadelphia Orchestra. She has the distinction of being the first artist to be so honored in the field of three dimensional visual arts.

"Born in Pepeekeo, Ms. Takaezu is a proud product of Hawaii. She has gained international repute as a master potter and a recognized leader of a revival in this century of ceramic art.

"In 1980, a House Resolution honored her for her work as an internationally renowned artist and for her outstanding contributions in visual arts. Ms. Takaezu exemplifies

the type of artist for whom the challenge of aesthetic expression is not work but a way of life. Her works comprise a portion of the permanent collection of many of the nation's major museums.

"Future generations will also benefit from her talents through her devotion as an instructor at various national universities, art institutes and craft schools. In Hawaii her contribution as a dedicated ceramics instructor inspired the establishment of the Toshiko Takaezu Ceramics Studio at the Richards Street YWCA.

"The most recent beneficiaries of her artistic talents are the students at Princeton University where Ms. Takaezu has been teaching since 1966.

"At this time, it is my pleasure, Mr. President and members of the Senate, to introduce to you Toshiko Takaezu."

Senators Aki and Chang then presented Ms. Takaezu with a Senate Certificate and lei.

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

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

## STANDING COMMITTEE REPORT

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3-84) recommending that House Bill No. 1638-84, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, the report of the Committee was adopted and H.B. No. 1638-84, H.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, January 31, 1984.

## ORDER OF THE DAY

## FINAL READING

Senate Bill No. 1192, S.D. 2, H.D. 2:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 1192, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CRIME COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Machida).

At this time, Senator Carpenter rose on a point of personal privilege and stated:

"Mr. President, on opening day I rose to speak for Senators Abercrombie, Cayetano, Fernandes Salling, Kawasaki, Toguchi and myself. I said these words and I repeat them today: 'Mr. President, our house remains divided in organization, in structure, in program direction, and philosophical base. Six independent members of this body want to and will participate to the fullest in addressing the issues facing us this session, irrespective of the final outcome of our recent meetings with you and a number of our colleagues.'

"Mr. President, we have indeed met to reconcile our differences during the past dozen days, both with you and, subsequently, with the entire 20-member Democratic caucus. The meeting with the entire Democratic caucus was at our request to present once again our proposal towards needed reform and reorganization of the Hawaii State Senate.

"To your credit, the discussions have continued this long. Several members of the 14-member caucus were magnanimous in acquiescence toward that resolve, which we fully acknowledge and appreciate. And I certainly felt that at one point in our discussions we were indeed very close to a resolve.

"However, Mr. President, on opening day I also said, 'Time lost is empty of accomplishment, filled only with doubt and anxiety. We are called upon in the next 60 days not to give vent to our personal desires, our whims, our arguments, our theories of demands, but to give an account of our experience to demonstrate what we have learned in common.'

"Unfortunately, Mr. President, the demonstration of what we have learned in common over the past nine months has not, by the 14-member caucus as a whole, progressed beyond the personality traits and characteristics stage. Although we have in common reviewed the need for consolidation and structure of committees, expanded role of leadership, definition of authority and responsibility of committee chairmen, Ways and Means, the Senate, Senate President, and improved communications through caucuses, and have all agreed in principle they are desirable from a process and management point of view, the 14-member Democratic caucus has not agreed in fact!

"You responded, Mr. President, with a political offer to 'slot in' each of us in a scheme which, if carried out, would result in the same situation which brought on this division and, that is, Senate policy overridden and subsequently dictated by Ways and Means, thereby disrespecting the subject matter committees and the Chair's own personal philosophy of prior concurrence.

"Therefore, we can only conclude, Mr. President, our differences are irreconcilable at this time.

"Ironically, the six-member Democratic caucus can best serve the people of this state and the Senate by refusing your compromise offer.

"Consolidation and structure of committees, expanded role of leadership, definition of authority and responsibility of committee chairmen and leadership, improved communication through caucus and rule changes can only be accomplished, it would appear, by default rather than by design.

"We have agreed to a reasonable time limit to discuss our proposals with each other and we have reached an impasse.

"The ball is still in your court.

"In exercising the prerogative of the Chair under the present rules of the Senate, we hope assertive leadership on the part of the Chair will assure a reasonable number of assignments on the Ways and Means Committee, at least comparable to that shared with the Republican caucus whose group numbers one less than ours.

"We hope, also, assertive leadership on the part of the Chair will assure assignments for the six members of the Democratic caucus that will take best advantage of our individual as well as collective talents, expertise, and experience towards a goal, yet to be articulated, for a Senate that is a body-deliberate, with full-on discussion of every important issue from health care to education and from consumer protection to taxation.

"We've been ready since opening day to do the work of the people and concurrent with our discussions, we have. There are 52 legislative working days left, let's get on with it, Mr. President!

"Thank you very much."

The Chair, in response, stated:

"Senator Carpenter, in addressing some of your remarks, I'm glad you hit the ball back to me. I will certainly return it back to you sometime today."

Senator Carpenter answered: "The ball has always been in your court, Mr. President."

The Chair thanked Senator Carpenter.

Senator Toguchi also rose on a point of personal privilege and stated:

"Mr. President, as we begin the ninth legislative day of the 1984 session, I would like to take this opportunity to share a few remarks with all of you regarding our philosophical and political differences in the Senate and our efforts to reconcile these differences during the past few months.

"Mr. President, I would just like to get off my text for a few minutes and want to let you know that some of it may be redundant but, surprisingly, Senator Carpenter and I never got together when we wrote our speeches ... I thought that was something I just wanted to say before I went on.

"Mr. President, on Friday, January 13, 1984, we sent you a package of proposals that basically summarized the various meetings, memorandums and telephone conversations that we have had with you during the past year.

"Mr. President, we sincerely believed that our package of proposals would have accomplished the

following:

1. Improved the work product of the Senate;

2. Improved communications among Senators and between the Senate and the general public;

3. Promoted openness and accountability in the Senate;

4. Clarified roles and responsibilities of the Senate leadership, committee chairmen and other members;

5. Provided equity in the Senate for all members through the recognition and utilization of each member's experience, talent and interest; and, finally,

6. Reconciled our differences so that we could all expend our effort and energies toward addressing and resolving the multitude of issues that we will be faced with this session.

"Mr. President, on Thursday, January 16, 1984, you met with us and indicated that your group had rejected our package of proposals. Mr. President, our discussion to resolve our differences would have continued, except for the reason that you initially and basically cited, 'that some members in your group still had hurt feelings.'

"Mr. President, we have indicated to you that our members were ready and willing to set aside their personal differences. Apparently, some of your members were not ready. Mr. President, if some of your members are still willing to set aside their personal differences, we feel a resolution is possible even this session.

"Mr. President, we feel that our group is heading in the right direction. Let's look at the facts:

1. Our package of proposals was rejected because of 'hurt feelings,' not reasons;

2. You shared with us your commitment to implement, next session, the major stumbling block in our negotiations -- the concept of not sitting on Ways and Means if you chair a major committee because of workload and work product considerations; and, finally,

3. We are still trying to implement the major committee --

Ways and Means concept -- a concept that we all agreed to and implemented last November when all 20 Democrats were together.

"Mr. President, whether we reconcile our differences this year and whatever the rules and structure of the Senate this session, you have our commitment that we will make our contributions and strive to obtain a quality work product from the Senate.

"Mr. President, we plan to be very issue-oriented this year. We will support good legislation and strongly oppose bad legislation. Those of you that have major responsibilities, we wish you the best. We hope that you will call on us, if we can be of assistance to you and the Senate.

"In closing, Mr. President, we would like to express our appreciation to you for your efforts during the past two months, beginning with the meeting with us on Sunday, December 11th, and for your efforts in trying to reconcile our differences. It is too bad that certain members of your group still harbor some 'hurt feelings.'

"Thank you."

Senator Cayetano then rose on a point of personal privilege and stated:

"Mr. President, the two previous speakers, I think, pretty well set forth our beliefs, our philosophy, and Senator Toguchi ended his talk by offering assistance, if called. I'm not waiting to be called, I want to offer assistance!

"There is no question that this is a difficult time for our state. We face some very serious economic problems -- problems, I think, which some of us foresaw in earlier years. But in dealing with these problems we find that the Governor, supported by the House, has taken a very strong position in opposition to a tax increase.

"For all intents and purposes, Mr. President, this means that the Senate's annual 'push' for the tourist tax, the lottery, is dead. We feel, however, that there are other ways we can deal with some of these problems but this will require some hard decisions -- decisions which may not be politically popular with special interest groups but which, in the long run, will benefit the people as a whole.

"For example, let's take the question of revenue. As I stated earlier, the Governor is opposed to a tax increase. The House, Speaker in particular, and the Finance Chairman have said they will support the Governor. We propose, Mr. President, to raise revenues without raising taxes. We believe that this can be done by repealing or eliminating some of the tax credits and tax exemptions which we passed in past sessions and which we believe have outlived their usefulness.

"For example, we propose, and we hope the chairman of the Ways and Means Committee and the members of the Ways and Means Committee will take into consideration, that the liquor tax exemption for local-based companies be repealed. As you know, Mr. President, approximately \$90 million is currently being held in escrow by out-of-state liquor companies who are challenging this law. And, yet, the benefit to the local liquor companies, this would be the companies that make okolehao, fruit wine, and rum, is comparatively small. Out of the \$28 million in liquor taxes, they comprise less than one percent.

"We cannot continue to jeopardize future collection of these taxes by continuing to have this law on the books. We should not wait until the Supreme Court makes a decision as to whether this law violates the equal protection clause of the Constitution.

"Given the very, very small amount of money that the tax exemption benefits these companies, it appears to me that if we were to repeal this law we will safeguard future collections from the out-of-state companies of their liquor tax and, also, we may be able to find other ways, if we use our imagination, to help the local companies. I refer particularly to promotion efforts by the Department of Planning and Economic Development in this regard.

"We should also consider eliminating such tax credits, not all of them, but some which have outlived their usefulness. For example, I see no reason for us to continue with the solar tax credit. The Federal Government continues to give 40 percent tax credit; the state gives a 10 percent tax credit; and if the consumer has not gotten the message now that he should move off the contemporary or conventional energy source such as electricity and go into solar energy or heat pumps then, I

think, that this person is not thinking. I think that most people now understand the need to go into solar energy, the need to seek other energy resources such as heat pumps, etc.

"If, for example, we eliminated the solar tax credit, according to the latest figures that we have, for 1981 we would have saved \$2.1 million. That money can be used for programs in education and in other areas.

"These are things that we should give serious consideration to. Certainly, it will not make the people who are engaged in the business happy but, as I said earlier, special interest groups may be unhappy by this tactic but I think it will benefit the population in general.

"I suggest also that we take a hard look at the exemptions that we have given, for example, on the 4 percent excise tax to insurance agents. There is no reason, Mr. President, from my view, that insurance agents should be treated differently from any other kinds of agent or service personnel.

"Right now the latest figures that I have indicate that about a half-a-million dollars could be collected if the exemption given to insurance agents, that permits them to be taxed at 1.5 percent, I believe, is repealed and they are taxed at 4 percent.

"You see, some of these exemptions that we gave have opened the floodgates. For example, last year, I recall the real estate agents were here and, also, the travel agents were here asking for the same exemptions that we gave in past years to insurance agents.

"We should also consider reclassifying certain types of businesses. We have in the past, in our desire to help businesses, reclassified them as wholesale businesses when really they should be taxed as retail businesses. This means a difference in percentage of approximately 3.5 percent, I believe. The wholesalers are taxed at half-a-percent, whereas, retailers are taxed at 4 percent. That, of course, will bring additional revenue into the state treasury.

"Another sore point, Mr. President, is the highway fund. Now, some of us have tried to bring this to the attention of this body -- I've tried to do it, and I also tried to do it in the House -- that one day the highway

fund would be in trouble and that day has come. We tried to deal with the highway fund deficit by diverting approximately \$16 to \$18 million from the general fund excise tax to the highway fund. We passed a law a few years ago and that law will 'drop dead' in 1984.

"The problem, Mr. President, is that the Council of Revenues, as I understand it, in their revenue projections for fiscal year 1985, have included that \$16 to \$18 million as being part of the general fund. So, we are going to have to face either raising the fuel tax, which I'm sure not many of us want to do, or finding other ways to trim spending at the Department of Transportation.

"Let me make three suggestions which I tried to do as chairman of the Transportation Committee when I was in the House and also which we have pushed here in the Senate.

"The first would be to make sure that the Department of Transportation eliminates cash CIP. Now, they have engaged in this practice for the last few years because of the problem with the highway fund. However, every time you build a project, whether it's by cash or by bond, inherent to the completion of the project is the expense for repair and maintenance and this, of course, will take away money that could be used for other projects.

"I suggest also that the chairman of the Committee on Transportation look very, very closely at the problem of project-funded personnel. Now, by project-funded personnel, what I mean is that in the past we have had major highway projects and these projects have been funded on a federal-state match basis. For example, the freeway system we have here was funded on a 90-10 basis -- the Federal Government pays 90 the state pays 10. Primary highways are funded on a 70-30 basis, if I recall correctly, -- 70 percent by the Federal Government and 30 percent by the state government.

"The problem with project-funded personnel is that after the project is completed, the State Department of Transportation has continued to keep these personnel on and, of course, the only way they can do that, without the federal funds which are no longer available, is to pay their expenses out of state funds.

"It's about time I think that we take a look at this problem and it's about time that we decide or consider

whether we can continue to maintain this practice. As I stated earlier, this is a very, very tough situation because it may mean the elimination of positions.

"The third approach or recommendation that we would make is that we stay away from funding highways or roads, especially on the neighbor islands, on a 100 percent state-funded basis. And this has happened, Mr. President, more for political reasons than for technical reasons. The Department of Transportation every year tries to prioritize its projects on a basis where it can use federal match money. What has happened in the past is that because of political considerations, because of community pressures within districts, whether they be senatorial or representative districts, some of our colleagues, especially from the neighbor islands, have pushed the department for the building of these roads and highways and these projects have been funded on a 100 percent state-funded basis. I think that it's time that we get away from that practice.

"Finally, I'm very glad, I'm delighted to hear that our Governor has finally seen the light with respect to the administrative expenses of the DOE and the University of Hawaii.

"Mr. President, you may recall in 1979 or 1980 the Ways and Means Committee took a very, very hard look at the administration of the University and of the Department of Education. I suppose we can say, better late than never. But we all know that there is a lot of 'fat' in both departments.

"We have, left over from the '79 study, a lot of information, a lot of material that we will be happy to make available to the chairman of the Committee on Higher Education and the chairman of the Committee on Education, if they are willing to tackle this task.

"Thank you."

Senator Kawasaki also rose on a point of personal privilege and stated:

"Mr. President, I believe on the basis of some of the statements that have been made today and previous days, perhaps before every member of this body takes, say, a rather dim view of the possibility of a reconciliation between the Democrat minority and Democrat majority, I'd

like to state for every member of this body that, based on the conversation that you and I have had, that I would not be overly optimistic in saying that both the President of the Senate and myself feel that there is every chance of a good reconciliation -- a reconciliation based on fair play. I only state this because we think there are some people who are getting discouraged in this body. So, hang loose and be optimistic."

Senator Cobb added his remarks on a point of personal privilege and stated:

"Mr. President, to echo somewhat the comments of Senator Kawasaki in that when I sat in a group of 20 and saw the proposals, and they were basically in four different categories that were put on the blackboard, and indicated either agreement or accommodation with three out of the four, that there was definite sign of progress. I hate to impose at any time a specific deadline when I see progress being made.

"I also echo the comments of the previous speaker in that detailed discussions are best left to those who have to hammer out the details. I have no hesitation at any time in going public with all of the proposals, agreements and disagreements, knowing that in three out of the four areas agreement or accommodation in principle has already been reached and it's just taking a 'for instance.' If there is a disagreement on the wording of prior concurrence, there is an appeal mechanism that I think would readily work and would have prevented a recurrence of what happened last year.

"So, like the previous speaker, I'm willing to continue talking or seeing the leaders of each group continue the discussion until such time that I'm told it's totally hopeless. Thank you."

Senator Soares also rose on a point of personal privilege and stated:

"Mr. President, as you recall, the words that I mentioned on the floor of this Senate at the end of last session, and I think that we've taken an obvious position of research and work, the Republicans have put together a program that's very meaningful and very important for discussion and for passage in the Senate this coming session.

"The majority of 20 have had since April of last year in which to settle

their differences no matter how wide they may have been then or how wide they are now, the responsibility still exists. The Senate Republicans have taken the position that we would be productive in our role. On opening day our leader made it very clear about our responsibilities and the aims we have for our people.

"It's very unfortunate that we hear the words this morning of some dismal views being taken towards reconciliation, but I urge you all, for the good of the people of the State of Hawaii, that you reconcile these differences and not leave the table, not separate yourselves from further discussions because only through that medium will you get together.

"We will not change our position. We are not involved in your family feud. We are equally available to the task of assisting and working with all of the chairmen, as good colleagues should. We've done our homework and we're ready to start working. Time is running and time is losing the opportunity for us to have this session end in a very productive note.

"So, I urge all of you to get back where you belong and get the job done."

Senator Uwaine, on a point of inquiry, stated:

"Mr. President, I wonder if you would ask my colleague from Hawaii Kai, for the purpose of working towards reconciliation, if he would be willing to provide us, as one more item to negotiate, if he would be willing to surrender his office?"

Senator Soares answered: "Mr. President, I will say this. I would surrender my office to anyone that wants it in exchange for this place to operate as it should. I think it's secondary where you sit in this building as much as what you do."

The Chair, at this time, made the following observation:

"Members of the Senate, the Chair would like to state its position. We've discussed some of the more serious issues here in this body and as we've talked about the divisiveness within the body, and it is part of the

record, I want to make it very clear that it is the Chair's intent to continue the dialog. Only time will tell whether this proves fruitful in the next day or two but, I will continue to pursue it. I'm prepared this afternoon to meet with the group of 14 Democrats to apprise them of what has taken place thus far.

"I am hopeful that, in our discussions, a solution can be arrived at. But I want to make it very clear for the record that it is the desire of the 14 members of the divided Democratic caucus to join hands with the other six and also with the five Republicans to accomplish the work for the people.

"So, in all seriousness, I'd like to pursue the solution or reconciliation of our problems. I will continue to talk and I'm free to talk to anyone of the Senate, all 25 members, who may have a suggestion as to what to do. But I will tell you now in all seriousness that serious negotiations will be done, probably this afternoon.

"If there is no resolution of the problem I think certain other kinds of decisions must be made because we have to proceed with our work.

"I do not want to leave the impression to the general public that there is nothing happening here in the Senate, contrary to the media which seems to fester on our divisiveness. I want to make it very clear for the record that the Senate is organized, it is operating and we will continue to do so on a day-to-day basis. Hopefully, there will be a solution to our dispute within our family.

"I wanted to say this for several days. Today's occasion is such that there is a great deal of lightheartedness and I don't see in the air a feeling of hostility at this particular moment so I thought it would be apropos to tell you people how the Chair feels."

#### ADJOURNMENT

At 12:23 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, January 31, 1984.