

FORTIETH DAY

Thursday, March 23, 1989

The Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1989, convened at 11:39 o'clock a.m. with the Vice President in the Chair.

The Divine Blessing was invoked by Father John J. Cusack of the 15th Air Base Wing, Hickam Air Force Base, after which the Roll was called showing all Senators present with the exception of Senators Chang and Cobb who were excused.

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

The following introductions were made to the members of the Senate:

Senator McCartney, on behalf of Senator Hagino and himself, introduced Ms. Mae Tanaka Kim, former colleague of his and presently Uniserve Director for the NEA in Oregon who was seated in the gallery.

Senator Crozier, on behalf of Senators Aki, Mizuguchi, Wong and himself, introduced Mr. Raymond Naoki Torii, "a man who dedicated 40 years of his life to the education of the youth of this state. During his tenure, he served on the islands of Hawaii, Maui and Oahu. His last assignment was at Waianae High School where he remained until his retirement in 1971.

"His accomplishments may be described as follows: They gave him a building, named a football field after him, and he developed an educational institution at Waianae High School within the framework of the department's guidelines and policies. He used his ingenuity to create an institution which was directed towards raising the academic skills and the self-esteem of the students. To accomplish his ends, he worked with the people of the community. He was respected by students, teachers, the support staff, and the people of the community. His relationship with the leaders of the community organizations was exemplary.

"In short, Raymond Torii was the prototype of the school administrator that is so vital to the success of the community-based school management concept."

Mr. Torii, accompanied by his wife Lily and daughter Mrs. Mary Torii Chung, rose to be recognized and was presented the Senate certificate of recognition and leis by Senators B. Kobayashi, Solomon and Yamasaki.

Senator Aki noted that Mr. Torii started his retirement just as he started his legislative career and that he has been very instrumental in many of our improvements in the Waianae community.

At 11:45 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:48 o'clock a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 220 to 223) were read by the Clerk and were placed on file:

Gov. Msg. No. 220, transmitting a report, "Drug Laws and Offenders," prepared by the Hawaii Criminal Justice Data Center, Department of the Attorney General.

Gov. Msg. No. 221, transmitting a report, "Crisis and Opportunity: Aviation Maintenance Technology in Hawaii," prepared by the Hawaii State Commission on Employment and Human Resources and the Hawaii State Council on Vocational Education in response to Chapter 202, HRS, and the Carl Perkins Act of 1984.

Gov. Msg. No. 222, transmitting a report prepared by the Governor's Agriculture Coordinating Committee in response to H.R. No. 199 (1988) and H.C.R. No. 152 (1988), relating to a control program for the red-vented and red-whiskered bulbuls.

Gov. Msg. No. 223, transmitting the 1988 Annual Report of the Department of Hawaiian Home Lands, in response to Sec. 222, Hawaiian Homes Commission Act, 1920, as amended.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 97 to 101) were read by the Clerk and referred to committee:

Senate
Concurrent
Resolution

No. 97 "SENATE CONCURRENT RESOLUTION REQUESTING THE CONFERENCE OF PERSONNEL DIRECTORS TO GRANT A REQUEST FOR THE REPRICING OF THE ADULT CORRECTIONS OFFICER SERIES."

Offered by: Senators Mizuguchi, Hagino, Aki, Blair, Chang, George, Holt, Ikeda, Kobayashi, A., Kobayashi, B., Koki, Levin, Matsuura, McCartney, McMurdo, Menor, Nakasato, Reed, Solomon, Tungpalan, Yamasaki.

Referred to: Committee on Labor and Employment

No. 98 "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE ESTABLISHMENT OF A NATIONAL POLICY FOR THE CONSERVATION OF BIOLOGICAL DIVERSITY."

Offered by: Senators Hagino, Aki, Blair, Chang, Holt, Ikeda, Kobayashi, A., Koki, Levin, Matsuura, McCartney, McMurdo, Menor, Mizuguchi, Nakasato, Reed, Solomon, Tungpalan, Yamasaki.

Referred to: Committee on Agriculture

No. 99 "SENATE CONCURRENT RESOLUTION CONCERNING MOTORCYCLE, MOTOR SCOOTER, AND MOPED SAFETY EQUIPMENT REQUIREMENTS."

Offered by: Senator Wong, R., by request.

Referred to: Committee on Transportation

No. 100 "SENATE CONCURRENT RESOLUTION REQUESTING THE CONGRESSIONAL DELEGATION'S ASSISTANCE IN THE ACQUISITION OF LAND AT THE KAPALAMA MILITARY RESERVATION."

Offered by: Senator Wong, R., by request.

Referred to: Committee on Ways and Means

No. 101 "SENATE CONCURRENT RESOLUTION REVIEWING THE ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON THE EXCHANGE OF A PARTIAL INTEREST IN PUBLIC LAND FOR PRIVATE LAND."

Offered by: Senator Wong, R., by request.

Referred to: Committee on Energy and Natural Resources

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 95 to 98) were read by the Clerk and were referred to committee:

Senate
Resolution

No. 95 "SENATE RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE ESTABLISHMENT OF A NATIONAL POLICY FOR THE CONSERVATION OF BIOLOGICAL DIVERSITY."

Offered by: Senators Hagino, Aki, Blair, Chang, Holt, Ikeda, Kobayashi, A., Koki, Levin, Matsuura, McCartney, McMurdo, Menor, Mizuguchi, Nakasato, Reed, Solomon, Tungpalan, Yamasaki.

Referred to: Committee on Agriculture

No. 96 "SENATE RESOLUTION REQUESTING THE CONFERENCE OF PERSONNEL DIRECTORS TO GRANT A REQUEST FOR THE REPRICING OF THE ADULT CORRECTIONS OFFICER SERIES."

Offered by: Senators Mizuguchi, Hagino, Aki, Blair, Chang, George, Holt, Ikeda, Kobayashi, A., Kobayashi, B., Koki, Levin, Matsuura, McCartney, McMurdo, Menor, Nakasato, Reed, Solomon, Tungpalan, Yamasaki.

Referred to: Committee on Labor and Employment

No. 97 "SENATE RESOLUTION REVIEWING THE ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON THE EXCHANGE OF A PARTIAL INTEREST IN PUBLIC LAND FOR PRIVATE LAND."

Offered by: Senator Wong, R., by request.

Referred to: Committee on Energy and Natural Resources

No. 98 "SENATE RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON EXCHANGES."

Offered by: Senator Wong, R., by request.

Referred to: Committee on Energy and Natural Resources

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 956 (Gov. Msg. No. 140):

Senator Menor moved that Stand. Com. Rep. No. 956 be received and placed on file, seconded by Senator Levin and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of Steven H. Levinson as Eighth Judge, Circuit Court of the First Court, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Gov. Msg. No. 140, seconded by Senator Levin:

Senator Menor rose to speak in favor of Gov. Msg. 140:

"Mr. President, your Committee on Judiciary recommends that the Senate consent to the appointment of Mr. Steven Levinson to a 10-year term as Eighth Judge of the First Circuit Court. Mr. Levinson has been a member of the Hawaii Bar since 1972 and his practice is in the areas of criminal defense, personal injury law and business litigation. He is presently a partner of the law firm of Damon Key Bocken Leong and Kupchak.

"At the confirmation hearing held by the Judiciary Committee last week, the Attorney General, the president of the Hawaii Bar Association and a number of prominent attorneys testified in favor of Mr. Levinson's confirmation. The committee was impressed by the fact that attorneys who have been Mr. Levinson's adversaries in court took the time to support him at the hearing. Mr. Levinson discussed his qualifications and philosophy with the committee at length, and demonstrated an excellent understanding of legal principles, the role of the law, but, most importantly, that the judge must temper the law with compassion and sensitivity to the people who appear in his courtroom. The committee conducted its own inquiries into Mr. Levinson's background and found nothing that would prevent him from being an able circuit court judge.

"I believe that Mr. Levinson's nomination speaks well of the work of the Judicial Selection Commission and would recommend his confirmation without any qualification.

"I would also like to share with this body the fact that last week, several days before our confirmation hearing, Mr. Levinson made a personal visit to my office to discuss his judicial appointment and, at that time, was a bit late in showing up for his appointment. Being the individual that he is, he humbly apologized. But, most importantly, he also made a commitment to me that the attorneys who are also members of this body, if they were ever to be late to his courtroom for the first time that he would especially exercise a great degree of compassion and sensitivity before imposing any sanction against anyone of us.

"So, on behalf of the attorneys who are also members of this distinguished body, I strongly recommend confirmation of the nomination of Mr. Levinson to the judgeship of the First Circuit Court. Thank you."

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Cobb, Chang)

Senator Menor, at this time, introduced the distinguished Judge of the First Circuit, Mr. Steven H. Levinson along with his wife Lynn and his daughter Jennifer. His son Josh was unable to attend.

Senator Yamasaki, chairman of the Committee on Ways and Means, then requested a waiver of the 48-hour Notice of a Public Hearing for the subjects listed on the agenda of the Senate Ways and Means Committee's hearing notice for Friday, March 24, 1989, and the President granted the waiver.

Senator Crozier rose on a point of personal privilege and said:

"Mr. President, I think this may be the final chapter in the saga of the 'right-to-first-refusal.'

"A few days ago, the Advertiser wrote an article that was inaccurate and I made the comment, after Senator McMurdo mentioned that it was the high point in the Advertiser's day, and I talked about highs and lows, in the long run it becomes average. Her remarks was the high day, and the next two following days for the Advertiser were low days. So, somehow in the course of history they have to be seen in the average. Today, they chose to do something to put them back on the highest standards possible, and that is, to understand that they made a mistake and to apologize to me and to the public for their inaccurate statements.

"I would like to read from the editorial in this morning's newspaper:

'... Advertiser Editor Gerry Keir said yesterday "there's no question we goofed, first in a story, and then in the editorial cartoon based on the erroneous assumption that the story was correct.

Editorially, we don't necessarily agree with Senator Crozier on the issue, but that's no excuse for getting our facts wrong. We owe him an apology, and our readers a clearer explanation of what's at stake."

"So, Mr. President, I appreciate the remarks and I accept their apology.

"I would just like to also refer back to a comment that was made yesterday about the hurricane and the gnat and how if the gnat expresses itself in a hurricane chances are that it will never be heard. I've come to realize that if the gnat is sitting on an earlobe and if it does express itself it will be heard by the owner of the ear.

"Thank you very much, Mr. President; thank you very much Gerry Keir and the Advertiser."

ADJOURNMENT

At 11:58 o'clock a.m., on motion by Senator Blair, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, March 28, 1989.