

FIFTY-SEVENTH DAY

Wednesday, April 19, 1989

The Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1989, convened at 11:42 o'clock a.m. with the Vice President in the Chair.

The Divine Blessing was invoked by Pastor Lucille B. Mays of A Peaceful Holiness Church, after which the Roll was called showing all Senators present with the exception of Senators Cobb and Yamasaki who were excused.

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

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

Senator Crozier on his introductions said, "Mr. President, I need to continue my attempt of the record for making the most introductions and I have two introductions to make today."

Senator Crozier, on behalf of Senator Bert Kobayashi, introduced Stephanie Goss and Dr. Duke Bainum, constituents of Senator Kobayashi, who were seated in the gallery.

Senator Crozier then introduced Mr. George Nakasato as follows:

"Mr. President, this gives me great pleasure because being an amateur historian I like to find out about people and the role they have played in the history of man and the history of Hawaii. This gentleman that I am going to introduce is a former president of the 442nd Veterans Club, you know, from the famous 442nd Regimental Combat Team that received more medals in World War II than any other unit.

"What is so important about the 442nd veterans is that in 1954 a political revolution took place in Hawaii with many of Mr. Nakasato's friends and combat-in-arms comrades and I think we all owe them thanks for letting Hawaii prosper the way it has. The whole 442nd veterans group played an integral part in that and I would like to salute the 442nd and Mr. George Nakasato."

Mr. Nakasato, a member of Senator Matsuura's staff, rose to be recognized.

Senator Tungpalan, on behalf of Senators Menor, Mizuguchi and herself, introduced the president of the Pearl City Community Association, Richard Yasukochi, who was also seated in the gallery.

Senator Nakasato introduced his student "shadows" from Moanalua Intermediate School Ryan Welch and Del Brown.

Senator Levin then made the following introduction:

"Mr. President, I would like to ask my Senate colleagues to join me in honoring a rather remarkable young lady who is a constituent of mine from Volcano. She was one of five Hawaii participants in the 1989 Ship for World Youth Program which was coordinated by the Pacific Rim Foundation.

"She was not only one of the participants but she came up with a remarkable and innovative idea which was most extraordinary. It was an idea to present a gift from the youth of Hawaii to the youth of Japan, a living memorial in the form of a unique orchid plant which was to be

presented to the participants from Japan and then to be passed on to the Emperor of Japan.

"There is no question that through this program and through this proposal, she has helped improve international relations. She has helped make a mark for Hawaii and for herself.

"I would like to ask my Senate colleagues to please recognize, and I ask her to stand, Ms. Nalani Huddy Markell."

The honoree rose to be recognized and was presented the congratulatory Senate certificate by Senator Levin and lei by Senator Solomon.

Senator Levin also introduced Mrs. Mona Markell, mother of the honoree, and Mrs. Ellie and Mr. Elmer Williamson, "hanai" grandparents, who accompanied Nalani.

At 11:51 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:59 o'clock a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 324 and 325) were read by the Clerk and were placed on file:

Gov. Msg. No. 324, transmitting a report, "Assessment of Rural Water Catchment Problems Supplemental Report," dated November 1988, prepared by the Department of Land and Natural Resources in response to H.C.R. No. 63 (1988).

Gov. Msg. No. 325, advising the Senate of the withdrawal of the nomination of Dae-Sook Suh, Ph.D., to the Waikiki Convention Center Authority under Gov. Msg. No. 160, dated February 23, 1989, was placed on file.

In compliance with Gov. Msg. No. 325, the nomination listed under Gov. Msg. No. 160 was returned.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 1285 to 1289) were read by the Clerk and were placed on file:

Hse. Com. No. 1285, dated April 18, 1989, informing the Senate that the Speaker discharged Representative Hirayama and appointed Representative Bybee as a manager on the part of the House at the conference on S.B. No. 1870, S.D. 1, H.D. 1.

Hse. Com. No. 1286, dated April 18, 1989, informing the Senate that the Speaker added Representative Tom as co-chairman on the part of the House at the conference on H.B. No. 332, H.D. 1, S.D. 1.

Hse. Com. No. 1287, dated April 18, 1989, informing the Senate that the House reconsidered its action taken on April 6, 1989 in disagreeing to the amendments made by the Senate to H.B. No. 1756, H.D. 2.

Hse. Com. No. 1288, dated April 18, 1989, informing the Senate that the House reconsidered its action taken on April 6, 1989 in disagreeing to the amendments made by the Senate to H.B. No. 12, H.D. 2.

Hse. Com. No. 1289, dated April 18, 1989, informing the Senate that the House has agreed to the amendments proposed by the Senate to H.B. No. 1276, H.D. 1.

STANDING COMMITTEE REPORTS

Senator Tungpalan, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 1689) recommending that the Senate advise and consent to the nomination of Robert M. Fox to the Hawaii Historic Places Review Board, in accordance with Gov. Msg. No. 260.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1689 and Gov. Msg. No. 260 was deferred until Thursday, April 20, 1989.

Senator Nakasato, for the Committee on Labor and Employment, presented a report (Stand. Com. Rep. No. 1690) recommending that the Senate advise and consent to the nominations of John E. Min and Julianne B. Nowell to the Board of Trustees of the Deferred Compensation Plan, in accordance with Gov. Msg. No. 246.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1690 and Gov. Msg. No. 246 was deferred until Thursday, April 20, 1989.

Senator Nakasato, for the Committee on Labor and Employment, presented a report (Stand. Com. Rep. No. 1691) recommending that the Senate advise and consent to the nominations of Sandra Okazaki, Lucy M. Gay, David Iha and Philia L. Lau to the Advisory Commission on Employment and Human Resources, in accordance with Gov. Msg. No. 247.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1691 and Gov. Msg. No. 247 was deferred until Thursday, April 20, 1989.

Senator Nakasato, for the Committee on Labor and Employment, presented a report (Stand. Com. Rep. No. 1692) recommending that the Senate advise and consent to the nomination of Wayne T. Miyao to the Board of Trustees, Employees Retirement System, in accordance with Gov. Msg. No. 286.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1692 and Gov. Msg. No. 286 was deferred until Thursday, April 20, 1989.

Senator B. Kobayashi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1693) recommending that the Senate advise and consent to the nomination of Doris M. Ching, Ph.D., John L. Knorek and Joseph W. Lapilio III to the Hawaii Education Council, in accordance with Gov. Msg. No. 243.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1693 and Gov. Msg. No. 243 was deferred until Thursday, April 20, 1989.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1686 (Gov. Msg. No. 234):

Senator Menor moved that Stand. Com. Rep. No. 1686 be received and placed on file, seconded by Senator Levin and carried.

Senator Menor then moved that the Senate consent to the nomination of Ronald Ibarra as Judge of the Circuit

Court of the Third Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Levin.

Senator Menor then rose to speak in support of the nomination as follows:

"Mr. President, I speak in favor of Governor's Message No. 234, Stand. Com. Rep. No. 1686.

"Mr. President, your Committee on Judiciary recommends the Senate consent to the appointment of Ronald Ibarra to a ten-year term as Judge of the Third Circuit Court. Your Committee has examined Mr. Ibarra's credentials and finds him well-qualified for this important position.

"Mr. Ibarra has served as a corporation counsel with the County of Hawaii, as a senior deputy prosecuting attorney, and as an attorney in private practice. He also holds a Master of Laws degree from the Georgetown University Law Center. In addition to this impressive legal background, Mr. Ibarra would bring to the bench a wide range of other experiences with him and that he has also served as the managing director of the County of Hawaii and has dedicated considerable time and energy to community activities and public service.

"At the confirmation hearing held by the Committee last week, a number of Big Island attorneys took the time out from their busy schedules to come to Honolulu to testify on Mr. Ibarra's behalf. The Committee was particularly impressed by the fact that attorneys who had been Mr. Ibarra's adversaries in the courtroom took the time to support him at the hearing.

"We feel that, in the light of Mr. Ibarra's background, his experience will undoubtedly serve him and provide him with a good perspective with which to view many different types of people who will come before him in his courtroom. Most importantly, your Committee believes that Mr. Ibarra will temper his knowledge of the law with the compassion and sensitivity for the people who appear before him.

"Based on all of the considerations considered by the Senate Judiciary Committee, your Committee strongly recommends that Mr. Ibarra be confirmed as the Big Island's new circuit court judge."

Senator Reed also supported the nominee as follows:

"Mr. President, I would like to speak very briefly in concert with the Judiciary chairman in favor of this nomination.

"Mr. Ibarra possesses, as the Judiciary chairman said, wide experience in a variety of areas. To me, most important is the six or seven years that he spent as a deputy prosecuting attorney which will give him the rather uncommon ability as a judge to view criminal cases from the victim's perspective.

"I urge his unanimous confirmation."

Senator Levin also supported the nominee and said:

"Mr. President, I really have little to add to what Senator Menor has already said. Since Judge Ibarra will be serving West Hawaii, primarily, I would also like to add my words of appreciation to the governor for nominating Mr. Ibarra. I think he is an excellent choice and we are very much looking forward to him taking his seat on the bench."

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

Ayes, 22. Noes, none. Excused, 3 (Cobb, Ikeda, Yamasaki)

Stand. Com. Rep. No. 1687 (Gov. Msg. Nos. 282, 283 and 284):

Senator McMurdo moved that Stand. Com. Rep. No. 1687 be received and placed on file, seconded by Senator Blair and carried.

Senator McMurdo then moved that the Senate advise and consent to the nominations of the following:

Marian D. Rauch to the Advisory Council for Children and Youth, term to expire June 30, 1990;

Miriam K. Kahalekai to the Advisory Council for Children and Youth, term to expire June 30, 1991;

Ellen I. Kusano to the Advisory Council for Children and Youth, term to expire June 30, 1992;

Diana M. Buckley, Martin C. Eby, John A. James, Pualani Martin-Wilson, William Wayne Protheroe Jr. and Colette Mari Toma to the Advisory Council for Children and Youth, terms to expire June 30, 1993;

Laurence J. Capellas, Herbert S. Coleman, Shintaro R. Higa, Carol Kikkawa-Ward, and Pedro E. Racelis Jr. to the Policy Advisory Board for Elderly Affairs, terms to expire June 30, 1993; and

Thomas C. Blondin to the Criminal Injuries Compensation Commission, term to expire June 30, 1993,

seconded by Senator Blair.

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

Ayes, 22. Noes, none. Excused, 3 (Cobb, Ikeda, Yamasaki).

Stand. Com. Rep. No. 1688 (Gov. Msg. No. 261):

Senator Tungpalan moved that Stand. Com. Rep. No. 1688 be received and placed on file, seconded by Senator Hagino and carried.

Senator Tungpalan then moved that the Senate advise and consent to the nominations of Sherry P. Broder, Thomas K. Sing, Mary P. Steiner and Dennis K.C. Aloiau to the Board of Public Broadcasting, terms to expire June 30, 1993, seconded by Senator Hagino.

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

Ayes, 22. Noes, none. Excused, 3 (Cobb, Ikeda, Yamasaki).

THIRD READING

MATTERS DEFERRED FROM MONDAY, APRIL 17, 1989

Stand. Com. Rep. No. 1214 (H.B. No. 919, H.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 1214 and H.B. No. 919, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES

COMPENSATION," was deferred until Friday, April 21, 1989.

Stand. Com. Rep. No. 1290 (H.B. No. 405):

By unanimous consent, action on Stand. Com. Rep. No. 1290 and H.B. No. 405, entitled: "A BILL FOR AN ACT RELATING TO ENFORCEMENT," was deferred until Friday, April 21, 1989.

At this time, Senator Tungpalan, chairman of the Committee on Culture, Arts and Historic Preservation, requested a waiver of the 48-hour Notice of a Public Hearing for the subjects listed on the agenda of the Senate Culture, Arts and Historic Preservation Committee's hearing notice for Thursday, April 20, 1989, and the Chair granted the waiver.

Senator Tungpalan, chairman of the Committee on Conference of the Senate Committee on Culture, Arts and Historic Preservation, also requested a waiver of the 48-hour Notice of a Public Hearing on the bills listed on the agenda of said Conference Committee's hearing notice for Thursday, April 20, 1989, and the Chair granted the waiver.

Senator Solomon, chairman of the Committee on Higher Education, requested a waiver of the 48-hour Notice of a Public Hearing for the subjects listed on the agenda of the Senate Higher Education Committee's hearing notice for Thursday, April 20, 1989, and the Chair granted the waiver.

Senator Matsuura, chairman of the Committee on Energy and Natural Resources, requested a waiver of the 48-hour Notice of a Public Hearing for the subjects listed on the agenda of the Senate Energy and Natural Resources Committee's hearing notice for Wednesday, April 19, 1989, and the Chair granted the waiver.

Senator Ikeda, chairman of the Committee on Agriculture, requested a waiver of the 48-hour Notice of a Public Hearing for the subjects listed on the agenda of the Senate Agriculture Committee's hearing notice for Thursday, April 20, 1989, and the Chair granted the waiver.

At this time, Senator Wong rose to speak on a point of personal privilege as follows:

"Mr. President, I notice in this morning's Advertiser on the front page statements attributed to our attorney general which, in essence, says that the stalled bill dealing with drunk driving could cost lives. And I want to point out to this body that in today's Star-Bulletin, again the attorney general has been quoted as saying that he is irked by the delay of the bill to lift licenses of drunk drivers.

"Mr. President, prior to the convening of this morning's session I had the opportunity to talk with the co-chairman of the conference committee dealing with this matter and she informed me that she thought there was progress being made toward the resolution of this particular impasse here in the Legislature.

"I want to remind the attorney general that he is the attorney general and that we here in the Legislature have a process. I want him to know very clearly that he should follow the process just like any other lobbyist who feels that he must come before the Legislature and lobby for a particular bill.

"In this instance, Mr. President, it disturbs me that the attorney general who may someday be asked for an opinion about this particular measure, should a question

arise, is directly involved with the lobbying of this particular bill.

"I want to make it very clear to the administration and the attorney general that we have a process here and that process has to be given an opportunity to prove itself."

Senator Blair then added:

"Mr. President, I had a similar reaction on seeing the article this morning. I think we all look to the attorney general to be a dispassionate adviser to the governor on all of the bills that come before him and there may be some conflict between the two roles that he has assumed. Perhaps he should reflect on that and act in accordance with the obligations that he has as attorney general."

ADJOURNMENT

At 12:11 o'clock p.m., on motion by Senator Blair, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, April 20, 1989.