

FIFTY-EIGHTH DAY

Thursday, April 20, 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 the Reverend Julia McKenna-Ritchie of the Ministry for Divine Harmony, after which the Roll was called showing all Senators present with the exception of Senator Cobb who was excused.

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

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

Senator George introduced a group of five adult-students from the Ala Hou Adult School in Waimanalo who were seated in the gallery.

Senator Levin introduced Ms. Jan Estioko, coordinator of the Hawaii Medical Association health check-up for legislators and staff in the Capitol auditorium this afternoon.

On behalf of the presiding officer, the following recipients of the Jefferson Award, who were seated on the floor of the Senate, were then introduced:

Senator Crozier introduced Mrs. Anita Korenga and said, "Mr. President, on your behalf and the people of the Waianae Coast, I have the pleasure of introducing Mr. Anita Korenaga. Mrs. Korenaga was chosen as a Jefferson awardee because of her commitment to the people of Waianae. She spent 30 years of her life as a guidance counselor in Waianae. Actually, Mr. President, she was the first resident of Waianae who, after educating herself in counseling, returned to Waianae and stayed in the Waianae community and gave back to the community what she had taken. I would also like to comment that the second person to commit in the same fashion was you, Mr. President.

"After her stead as a counselor in Waianae, Anita Korenaga stayed on at Waianae High School, no longer as a paid staff person but she volunteered as a counselor and not only did she volunteer to be a counselor but since her retirement she was able to procure \$862,000 for scholarships for the Waianae High School students. I think that is quite a commendable achievement. Besides that she's always found on the campus involved in the numerous programs that take place which includes selling tickets at athletics events, running the kitchen at the football camps and, also, substitute teaching. Mr. President, the list goes on and on.

"At this time, I would like Mrs. Anita Korenaga to please stand and be recognized."

Mrs. Korenaga rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator Nakasato then introduced Mr. Tsuneyoshi Miyashiro as follows:

"Mr. President, when I met Mr. Miyashiro, our honoree, early this morning I learned that he knows my dad's family and he was a classmate of my dad's younger brother.

"Mr. Miyashiro started his career on a plantation in Honokaa and since retirement he spends all of his free time with terminally ill patients at St. Francis Hospital. He draws strength from those he helps, he said.

"His volunteer duties, on occasion, keep him with a patient until midnight. And there have been times when Mr. Miyashiro has helped a patient's family with yard work, like mowing the lawn, because they are too busy.

"He has given up one volunteer service for another. Mr. Miyashiro loves to coach and play basketball and gave up coaching PAL basketball to help the terminally ill.

"At this time, Mr. President, I would like to introduce Mr. Tsuneyoshi Miyashiro. Mr. Miyashiro is accompanied by his wife Shigeko, Dr. Shigeaki Furitani and Mrs. Ruth Fukumi, who are seated in the gallery."

Mr. Miyashiro rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator Ann Kobayashi then introduced Mr. Herman "Freckles" Teves as follows:

"Mr. Teves is a volunteer at the Rehabilitation Hospital of the Pacific who works seven hours a day, five days a week giving patients therapy and since 1983 he has amassed 7,000 hours of volunteer time.

"With patience and humor, he encourages patients through their therapy. He is called a master at breaking down fear.

"Thank you, Mr. Teves, for all your work."

Mr. Teves rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator Ann Kobayashi also introduced Mr. John Mayer as follows:

"Mr. President, John Mayer a 'haole' Samoan from Ohio who has expanded his work as a teacher of Samoan language and culture at the University of Hawaii to champion the causes of the Samoan community here.

"He has organized classes for the training and employment program. He has helped with the Samoan language radio show and a Samoan language newspaper. He often conducts tours to Western Samoa through the University of Hawaii Study Abroad Program.

"May I introduce John Mayer. Mr. Mayer is accompanied by his wife Tusitala who is seated in the gallery."

Mr. Mayer rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator A. Kobayashi then recognized Ms. Sharon Morton as follows:

"Sharon Morton is also a Jefferson awardee. She is not able to be with us this morning. She is out of state.

"Ms. Morton is an emergency room nurse and for ten years has volunteered to staff the Hawaii office of the National Sudden Death Syndrome Foundation at Kapiolani Hospital."

Senator Yamasaki then introduced Mr. Antonio Ramil as follows:

"Mr. President, it is also my privilege and honor to introduce to this body an outstanding recipient of the Jefferson Award, Mr. Antonio Ramil.

"Mr. Ramil is an outstanding Maui attorney originally from the Philippines. He has volunteered for the March of Dimes, PTA, Hawaii Committee for the Humanities, Filipino groups, Catholic Charities, Maui Association for Retarded Children, the Mental Health Association and many more.

"Mr. Ramil persuaded the United Filipino Council to consider non-Filipino students when handing out scholarships because he believes 'we are part of the whole community.'

"Mr. Ramil has three daughters but has worked for years with the Boy Scouts of America.

"It is my privilege to introduce to this body Mr. Antonio Ramil."

Mr. Ramil rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator George introduced Anita Barshaw as follows:

"Thank you, Mr. President, for the privilege you have given me to introduce Anita Barshaw from Kailua who is a Jefferson awardee.

"She is a registered nurse and a minister's wife in Kailua. She has helped to find 20 foster parents through church groups for handicapped babies in the last four years, and has cared for 15 foster children herself. She and her husband have adopted three of the children, one who has been brain damaged since birth.

"To childless parents who cannot find a baby to love, she says, 'There are lots of babies out there. They may not be perfect but they need homes.'

"Anita Barshaw would you stand to be recognized."

Mrs. Barshaw rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator Chang then made the following introduction:

"Mr. President, this year we are celebrating the 200th Anniversary of the Coming of the Chinese to Hawaii. One of the events that commemorates that event is the annual Narcissus Pageant.

"It is my honor, this morning, to introduce the Narcissus Pageant queen and her court. First, the 1989 Narcissus Queen Mayette Lowe; First Princess Nadine Kop; Third Princess Stephanie Pang; and Fourth Princess Tracey Lim.

"They are escorted by Mr. Lawrence Ching, president-elect of the Chinese Chamber of Commerce, and Dr. Rosy Chang, vice chairman of the Governor's Commission for the Chinese Bicentennial."

The Narcissus queen and her court rose to be recognized, together with their escorts, and were presented leis.

Senator Chang also introduced the following:

"Mr. President, another event that we are marking in this Bicentennial of the Coming of the Chinese to Hawaii

is the recognition of the Small Business Administration's 1989 Young Entrepreneur for the Island of Oahu, Mr. Thanh Quoc Lam.

"Mr. Lam is the owner of the Bali Restaurant and an example of the 'American Dream Come True.'

"Coming to America in 1979 from Vietnam, he spoke no English and did not have any business background. In 1984, he opened the Bali Restaurant which has grown into a successful bakery and wholesale business.

"Mr. Lam is an example of the energy, resourcefulness and talent the Chinese have contributed to Hawaii. We are proud to acknowledge him as a member of Hawaii's community.

"May I introduce to you, my colleagues in the Senate, Mr. Thanh Quoc Lam."

The honoree rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator Chang also introduced the following:

"Mr. President, recognition has been given to Mr. Ted Li as Hawaii's Small Business Minority Advocate for 1989.

"He has volunteered work among businesses owned by Chinese immigrants; he has been the president of the Association of Chinese, Vietnam, Cambodia and Lao since 1984 and is a member of the Governor's Commission for the Chinese Bicentennial. He was in charge of the bicentennial kick-off celebration held at Thomas Square and will coordinate the upcoming Taiwan Trade Fair.

"Ted Li's many community activities and accomplishments directly benefiting the whole local community is another example of the energy, resourcefulness and talent the Chinese have contributed to Hawaii. We are also proud to acknowledge him as a member of Hawaii's community - Mr. Ted Li."

Mr. Li rose to be recognized and was presented the congratulatory Senate certificate and lei.

Messrs. Lam and Li were accompanied by Ms. Ann Nakagawa who is the acting district director for the Small Business Administration.

At 12:00 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.

At this time, the Chair invited Narcissus Queen Mayette Lowe to the rostrum and she addressed the members of the Senate as follows:

"Ladies, gentlemen of the Senate, distinguished guests and friends, on behalf of the Bicentennial Commission, the Narcissus Court and the Chinese Chamber, I would like to thank you for this opportunity to have us visit this wonderful place.

"I would also like to thank the President for giving us such a wonderful introduction. Thank you."

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 326 to 333) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 326, transmitting the 1988 Annual Report prepared by the Hawaii Housing Authority, pursuant to Chapter 356, HRS, as amended, was placed on file

Gov. Msg. No. 327, transmitting the "Review of the Current Issues in the Area of Health Care Insurance," prepared by the Insurance Division, Department of Commerce and Consumer Affairs in response to Sec. 229, Act 216, SLH 1987, was placed on file.

Gov. Msg. No. 328, transmitting the 1988 Report of the Commission to Promote Uniform Legislation of the Department of the Attorney General, was placed on file.

Gov. Msg. No. 329, transmitting the Hawaii Fisheries Coordinating Council Annual Report, FY 1987-1988, prepared by the Department of Land and Natural Resources, was placed on file.

Gov. Msg. No. 330, transmitting the "Student Achievement Report: Low Achievers," January 1989, prepared by the Department of Education in response to Sec. 296-11, HRS, as amended, was placed on file.

Gov. Msg. No. 331, informing the Senate of the withdrawal of the nomination of Joyce Nalani Ahuna-Ka'ai'ai to the State Council on Mental Health and Substance Abuse, under Gov. Msg. No. 278, dated April 6, 1989, was placed on file.

In compliance with Gov. Msg. No. 331, the nomination listed under Gov. Msg. No. 278 was returned.

Gov. Msg. No. 332, informing the Senate of the withdrawal of the nominations of Bert M. Tomasu and Russell Tadao Higa to the Hawaii Labor Relations Board, under Gov. Msg. No. 320, dated April 17, 1989, was placed on file.

In compliance with Gov. Msg. No. 332, the nomination listed under Gov. Msg. No. 320 was returned.

Gov. Msg. No. 333, submitting for consideration and confirmation to the Hawaii Labor Relations Board, the nominations of: Bert M. Tomasu and Russell Tadao Higa, terms to expire June 30, 1994, was referred to the Committee on Labor and Employment.

CONFERENCE COMMITTEE REPORT

Senator B. Kobayashi, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 1622, S.D. 1, presented a report (Conf. Com. Rep. No. 2) recommending that S.B. No. 1622, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 2 and S.B. No. 1622, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOLS," was deferred until Monday, April 24, 1989.

STANDING COMMITTEE REPORTS

Senator Blair, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1694) recommending that the Senate advise and consent to the nominations of the following:

Michele Maile Holt, Antoinette M. Alfonso, Joy B. Y. Shimabuku and Carol E. Suzawa to the Board of Cosmetology, in accordance with Gov. Msg. No. 237;

Robert S. Weiner, M.D. to the Board of Medical Examiners, in accordance with Gov. Msg. No. 238;

Kevin Doyle to the Motor Vehicle Repair Industry Board, in accordance with Gov. Msg. No. 239;

Gilbert A. Gima, Verna Hanashiro and Cynthia K. Kamakawiwoole to the Board of Examiners of Nursing Home Administrators, in accordance with Gov. Msg. No. 240;

Wanda Louise Pate, Larry A. Land and Susan Chun Wakayama to the Board of Pharmacy, in accordance with Gov. Msg. No. 241;

Barbara Dew and Stanley M. Kuriyama to the Real Estate Commission, in accordance with Gov. Msg. No. 242;

Teresita Umali Okihara and Anthony A. Rodrigues Sr., to the Board of Electricians and Plumbers, in accordance with Gov. Msg. No. 255;

William F. Remular, William Frank Brandt, Richard Y. Mitsumori and George T. Okamoto to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, in accordance with Gov. Msg. No. 256;

Genevieve L. Kinney, Colleen Etsuko Minami, Evelyn S. Takazawa and Sylvia J. Thomason to the State Board of Nursing, in accordance with Gov. Msg. No. 257;

Paula Harris-White to the Board of Examiners in Optometry, in accordance with Gov. Msg. No. 258; and

Patrick A. Y. H. Ahana, D.V.M. and Thelma K. Yoshida to the Board of Veterinary Examiners, in accordance with Gov. Msg. No. 259.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1694 and Gov. Msg. Nos. 237, 238, 239, 240, 241, 242, 255, 256, 257, 258, and 259 was deferred until Friday, April 21, 1989.

Senator Ikeda, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 1695) recommending that the Senate advise and consent to the nomination of Yukio Kitagawa as Chairman, Board of Agriculture, in accordance with Gov. Msg. No. 139.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1695 and Gov. Msg. No. 139 was deferred until Friday, April 21, 1989.

Senator Ikeda, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 1696) recommending that the Senate advise and consent to the nominations of the following:

John R. Henderson and Clifford W. Smith, Ph.D., to the Animal Species Advisory Commission, in accordance with Gov. Msg. No. 213;

Alvin F. Fukuyama, Libert K. Landgraf and George Bugarin to the Advisory Committee on Pesticides, in accordance with Gov. Msg. No. 251;

Jerry A. Morgan and Ian Kagimoto to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, in accordance with Gov. Msg. No. 252;

M. Lee Goff, Ph.D. and Christine M. Simon, Ph.D., to the Natural Area Reserves System Commission, in accordance with Gov. Msg. No. 253;

Roland Kaopuiki to the Aquatic Life and Wildlife Advisory Committee, County of Maui, in accordance with Gov. Msg. No. 292;

John V. Duey to the Advisory Committee on Agricultural Products, in accordance with Gov. Msg. No. 297;

John E. Loomis and Phyllis Sumiko Shimabukuro to the Board of Agriculture, in accordance with Gov. Msg. No. 298; and

Terry Y. Yamane to the Governor's Agriculture Coordinating Committee, in accordance with Gov. Msg. No. 299.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1696 and Gov. Msg. No. 213, 251, 252, 253, 292, 297, 298, and 299 was deferred until Friday, April 21, 1989.

Senator Mizuguchi, for the Committee on Corrections, presented a report (Stand. Com. Rep. No. 1697) recommending that the Senate advise and consent to the nomination of Marc V. Oley to the Hawaii Paroling Authority, in accordance with Gov. Msg. No. 236.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1697 and Gov. Msg. No. 236 was deferred until Friday, April 21, 1989.

Senator Mizuguchi, for the Committee on Corrections, presented a report (Stand. Com. Rep. No. 1698) recommending that the Senate advise and consent to the nomination of Henry B. Epstein to the Hawaii Paroling Authority, in accordance with Gov. Msg. No. 156.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1698 and Gov. Msg. No. 156 was deferred until Friday, April 21, 1989.

Senator Ikeda, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 1699) recommending that S.R. No. 227, as amended in S.D. 1, be adopted.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.R. No. 227, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A CENSUS OF AND THE DEVELOPMENT OF A PROTECTION PLAN FOR THE OPE'APE'A," was adopted.

Senator Blair, for the Committee on Government Operations, presented a report (Stand. Com. Rep. No. 1700) recommending that the Senate advise and consent to the nominations of John K. Iwamoto, Barrie K. Trebor-MacConnell, Walter J. Hayes, Judith H. Worobe, Louis Kaouiwi, Alfred S. Los Banos and Raymond Sadao Sumikawa to the Advisory Board on Veterans Services, in accordance with Gov. Msg. No. 244.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1700 and Gov. Msg. No. 244 was deferred until Friday, April 21, 1989.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1701) recommending that H.C.R. No. 261 be adopted.

By unanimous consent, action on H.C.R. No. 261, entitled: "A BILL FOR AN ACT RELATING TO THE DESIGNATION OF SAND ISLAND INDUSTRIAL PARK," was deferred until Monday, April 24, 1989.

Senator Tungpalan, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 1702) recommending that H.C.R. No. 63, H.D.1, be adopted.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and H.C.R. No. 63, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE RETURN OF THE REMAINS OF FATHER DAMIEN DEVEUSTER TO KALAUPAPA, MOLOKAI," was adopted.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1703) recommending that the Senate advise and consent to the nominations of Richard H. Cox and Guy K. Fujimura to the Commission on Water Resource Management, in accordance with Gov. Msg. No. 265.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1703 and Gov. Msg. No. 265 was deferred until Friday, April 21, 1989.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1689 (Gov. Msg. No. 260):

Senator Blair moved that Stand. Com. Rep. No. 1689 be received and placed on file, seconded by Senator Reed and carried.

Senator Blair then moved that the Senate advise and consent to the nomination of Robert M. Fox to the Hawaii Historic Places Review Board, term to expire June 30, 1993, seconded by Senator Reed.

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

Ayes, 21. Noes, none. Excused, 4 (Cobb, Hagino, Yamasaki, Wong, R.).

Stand. Com. Rep. No. 1690 (Gov. Msg. No. 246):

Senator Blair moved that Stand. Com. Rep. No. 1690 be received and placed on file, seconded by Senator Reed and carried.

Senator Blair then moved 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, terms to expire June 30, 1993, seconded by Senator Reed.

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

Ayes, 21. Noes, none. Excused, 4 (Cobb, Hagino, Yamasaki, Wong, R.).

Stand. Com. Rep. No. 1691 (Gov. Msg. No. 247):

Senator Blair moved that Stand. Com. Rep. No. 1691 be received and placed on file, seconded by Senator Reed and carried.

Senator Blair then moved that the Senate advise and consent to the nominations to the Advisory Committee on Employment and Human Resources of the following:

Sandra Okazaki, Lucy M. Gay and David Iha, terms to expire June 30, 1992; and

Philia L. Lau, term to expire June 30, 1991;

seconded by Senator Reed.

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

Ayes, 21. Noes, none. Excused, 4 (Cobb, Hagino, Yamasaki, Wong, R.).

Stand. Com. Rep. No. 1692 (Gov. Msg. No. 286):

Senator Blair moved that Stand. Com. No. 1692 be received and placed on file, seconded by Senator Reed and carried.

Senator Blair then moved that the Senate advise and consent to the nomination of Wayne T. Miyao to the Board of Trustees, Employees Retirement System, term to expire June 30, 1993, seconded by Senator Reed.

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

Ayes, 21. Noes, none. Excused, 4 (Cobb, Hagino, Yamasaki, Wong, R.).

Stand. Com. Rep. No. 1693 (Gov. Msg. No. 243):

Senator Blair moved that Stand. Com. Rep. No. 1693 be received and placed on file, seconded by Senator Reed and carried.

Senator Blair then moved that the Senate advise and consent to the nominations of Doris M. Ching, Ph.D., John L. Knorek and Joseph W. Lapilio III to the Hawaii Education Council, terms to expire June 30, 1993, seconded by Senator Reed.

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

Ayes, 21. Noes, none. Excused, 4 (Cobb, Hagino, Yamasaki, Wong, R.).

FINAL READING

Conf. Com. Rep. No. 1 (S.B. No. 107, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Blair, seconded by Senator Reed and carried, Conf. Com. Rep. No. 1 was adopted and S.B. No. 107, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DECLARATION OF NATIONAL EMERGENCY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Cobb, Hagino, Yamasaki, Wong, R.).

Senator Solomon then rose to speak on a point of personal privilege as follows:

"Mr. President, as you well know, your Committee on Agriculture (and environment) is now meeting with the House on many of the issues and one issue of concern relates to recycling.

"As a conferee and in support of your chairman on Agriculture (and environment) I want to express our disappointment in dealing with the House on the recycling measure. Our disappointment is that we have met in good faith and with good intentions. It was brought to the conferees' attention that perhaps there is a possibility of merging the Senate position with the House position so that we can come up with a piece of legislation that would be a major step in helping to resolve our state's tremendous problem in dealing with garbage.

"I was just notified, Mr. President, that after your committee met in good conscience with the House committee, the House informed your Senate conferees that it would be impossible for us to get together on an agreement. This was after a commitment was made at the table that we in fact could be able to merge the two pieces of legislation and come up with a vehicle that could help solve the litter problem.

"Mr. President, I find it very difficult dealing with the House. If the House conferees and the chairman of their committee, Mr. President, do not have within themselves a sense of conscience that once they make a commitment on the part of the House they should come through with that commitment.

"I'd like to state, Mr. President, that your chairman and vice chairman of that particular subject matter committee are still hoping. We are hoping that the Department of Health and DBED would come up with the language, for some kind of a resolve so that this honorable body would be able to pass a bill that is meaningful and be of benefit to all the residents of the state, Mr. President, including the future generations of this state so that we can come up with a plan for recycling that will help us with our problem landfills and garbage disposals."

Senator Reed also rose to speak on a point of personal privilege and said:

"Mr. President, I would like to read briefly from the Hawaii Revised Statutes, Chapter 92.

"In a democracy, the people are vested with the ultimate decision-making power. Government agencies exist to aid the people in the formation and conduct of public policy. Opening up the government processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and action of governmental agencies - shall be conducted as openly as possible. To implement this policy the legislature declares that:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings.'

"Mr. President, this Legislature is clearly in violation of HRS, Chapter 92, commonly known as the Sunshine Law. Decision-making on legislation become a private affair. So common is the practice of making decisions behind closed doors that violation of the Sunshine Law has become the rule rather than the exception.

"The Sunshine Law is intended to protect our democracy by opening up the governmental processes to public scrutiny and participation. But the law has been

so totally violated by this Legislature that not only is the public excluded from decision-making -- even other duly elected representatives and senators are excluded.

"Conference committee hearings are delayed for hours while committee chairmen of the House and Senate meet in private to decide the fate of legislation. After waiting for hours, committee members are summoned to a public charade where committee chairmen act out prearranged decision-making.

"Mr. President, HRS, Section 92, states that any person who willfully violates any provisions of the Sunshine Law shall be guilty of a misdemeanor. The only loophole in this law is Section 92-10 wherein legislators in the 1975 Legislature made themselves an exception by asserting that Senate or House rules can take precedence over the Sunshine Law.

"In a review of the rules, Mr. President, I find no rule allowing conference committee chairmen to make decisions on legislation in private. In fact, the only place I find the issue addressed is Rule 19 on page 13 of the Rules of the Senate -- where for the practice I'm criticizing this morning is expressly prohibited.

"Rule 19 reads:

'Meetings, including decision-making sessions, of Standing Committees shall be public provided that meetings in executive session may be allowed in such exceptional circumstances when committee discussion could unfairly damage the reputation of individuals or where there is a legal question concerning a bill.

As practicable, committees shall schedule their meetings at times and at places as are convenient for attendance by the general public, and in coordination with other committees of the House or Senate, shall endeavor to hold joint meetings and public hearings on matters of mutual interest.

The meetings of the Conference Committee shall be conducted as agreed upon by the members of the Conference Committee. Conference Committee meetings and decision-making sessions shall be public'

"Mr. President, if you or any other member of this body can point to any Senate rule which states that decision-making may be held behind closed doors with chairmen excluding both committee members and the general public, I would appreciate being directed to that Senate rule."

Senator Blair then responded:

"Mr. President, I support the previous speaker's call for more 'sunshine' in the legislative process. My remarks on February 14th should make my position very clear.

"I must, however, make two points in rebuttal to the previous speaker. First, the Legislature is exempt from Chapter 92 because of Article III, Section 12. I wish we would abide by Chapter 92; but the constitution prohibits one legislature from adopting rules, even by legislation, which bind a subsequent legislature. In 1977, I requested an attorney general's opinion on this point. I will have copies of the Attorney General's response delivered to each member's office.

"My second disagreement is with the previous speaker's general allegation of violations. He should not paint with such a broad brush. He should bring specific violations to the attention of the President, the leadership or even

the full Senate. Up to now, there has been no specific allegation. Until there is a specific allegation, it is not possible to determine the facts and take appropriate action.

"Let me assure the previous speaker that the Majority is prepared to investigate any specific allegations and take whatever remedial action may be warranted. The Senate Rules are mandatory on all of the members."

Senator Reed then responded:

"The Sunshine Law clearly states that there shall be no decision-making behind closed doors. Section 92-10 gives legislators what I consider an inappropriate 'loophole' by specifying that where there are Senate rules relating to decision-making. Those rules will take precedence over the Sunshine Law. But there is no Senate rule allowing the chairmen of conference committees to go behind closed doors to make decisions on legislation. What is happening here has made a farce of the Sunshine Law and public decision-making. The two chairmen get together behind closed doors and they make the decision. Then they come out together at 2:00 in the morning, assemble the other members and announce their decisions as if those decisions were arrived at right there in that public meeting without debate. It's common knowledge that this is what is happening and that this illegal practice has become the rule rather than the exception. So the Sunshine Law is being violated by this Legislature in the letter of the law as well as in its spirit."

"Unless there is a specific Senate rule allowing this kind of behavior, then HRS 92 is being blatantly violated by this body.

Senator Blair then answered:

"Mr. President, the previous speaker continues to refer to Chapter 92. I trust that, after reviewing the Attorney General's 1977 opinion and researching Article III, Section 12, he will appreciate my earlier points.

"I would also, reiterate my earlier request that specific allegations be made. The previous speaker alleges that violations are blatant and such an allegation should be readily supportable with specifics. As yet, I've heard none.

"In closing, Mr. President, let me assure the previous speaker that I will be pursuing the grievances I stated on February 14th. I will be proposing specific rules changes to make the legislature more open, accountable and democratic. I will work with the Minority in formulating and pursuing those changes. My disagreement with Senator Reed is perhaps most clearly seen in an analysis of a simple syllogism. I submit that the legislature has failed miserably to meet the community's reasonable expectations on openness and accessibility. That is the major premise, which I articulated on February 14th. My minor premise, articulated today, is that this failure of the process was accomplished without generating any specific allegations of violation of the Senate's Rules. My conclusion is that we need to make major changes to the Senate Rules.

"I believe that Senator Reed will agree with both my major premise and conclusion. I'm sure that our disagreement over the minor premise will not interfere with our undertaking a joint effort to reform the Senate's Rules. I hope that our colleagues, in both parties, will support that effort. Thank you."

APPOINTMENT OF CONFEREES

S.B. No. 832, H.D. 1:

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 832, and the request for a conference on the subject matter thereof, the President appointed Senators Yamasaki and Hagino, co-chairmen, and George as managers on the part of the Senate at such conference.

H.B. No. 913, H.D. 2, S.D. 1:

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 913, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Yamasaki, chairman, McMurdo and Koki as managers on the part of the Senate at such conference.

At 12:28 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:30 o'clock p.m.

Senator Nakasato, chairman of the Committee on Labor and Employment, then requested a waiver of the 48-hour Notice of a Public Hearing for the subjects listed on the agenda of the Senate Labor and Employment Committee's hearing notice for Friday, April 21, 1989, and the President granted the waiver.

ADJOURNMENT

At 12:31 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., Friday, April 21, 1989.