

SIXTEENTH DAY

Friday, February 9, 1990

The Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, convened at 11:35 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend John Chandler, Holy Spirit Parish, Newman Center, University of Hawaii, after which the Roll was called showing all Senators present with the exception of Senator Nakasato who was excused.

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

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

Senator McCartney introduced two constituents, Eric Holliday and Jerry Kaluhiwa, who were seated in the gallery, and said that "Jerry's family is one of the first inhabitants of the Heeiea area, way back before any of our ancestors came here."

Senator McCartney, on behalf of Senator Mizuguchi and himself, also introduced Ms. Addie Lamberth, managing partner of Coopers & Lybrand and a member of the Tax Review Commission, who was seated in the gallery.

Senator Fernandes Salling introduced Mr. Alfredo Villanueva and Mr. Gene Kapale, constituents from Kauai, also in the gallery.

Senator Chang then introduced a group of fifth graders from Punahou School and their teacher Mrs. Sharon Lum, also seated in the gallery. Senator Chang singled out his daughter Ahnya who was among the students.

Senator Mizuguchi then introduced Mr. W.P. Kinsella, who was seated on the floor of the Senate, as follows:

"Mr. President, I, like many other people in the state and elsewhere, have a love and affection for the game of baseball. I loved playing it and now I enjoy watching it. I loved it so much that I even went so far as coming out of retirement to participate in Senator McCartney's Senate's softball team. And the only thing I have to show for it is a very bad left foot.

"However, on the floor today I'd like to introduce to the members of the Senate and the audience a noted contemporary author of fiction, best known for his novel that was used as the basis for the 1989 movie 'Field of Dreams.'

"Field of Dreams' grew out of Mr. Kinsella's novel 'Shoeless Joe,' a heart-warming story of hope and inspiration that touched the lives of many.

"Mr. Kinsella is currently in Hawaii to share his talents, expertise and knowledge with the community and to honor us with a public reading of some of his works this evening at 7:30 p.m. at the University of Hawaii, Art Auditorium.

"Mr. Kinsella's novels and short stories are renowned throughout the literary world of fiction for their creativity and vision and are enjoyed by audiences of all ages.

"I've been told, Mr. President, by the movie critic of the Senate, the Senator on my left from the Big Island, that 'Field of Dreams,' in his estimation, was one of the

best movies that he had seen in 1989. And as a word to Mr. Kinsella, if you run out of Shoeless Joes and you have no characters to write about, the Senator on my right, the Senator from Ewa where we would like to place Hawaii's field of dreams, would like to be interviewed for a new novel and he'd like the novel to be called 'Barefoot Mike.'

"But without further ado, Mr. President, I'd like to introduce W.P. Kinsella. Accompanying Mr. Kinsella is his lovely wife Ann."

The honoree, together with his wife Ann, rose to be recognized. The Senate certificate of recognition was presented by Senator Mizuguchi and leis were presented by Senators McMurdo and Crozier.

At 11:44 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. 120 to 124) were read by the Clerk and were placed on file:

Gov. Msg. No. 120, transmitting a report prepared by the University of Hawaii in response to S.R. No. 238 (1989), S.C.R. No. 270 (1989) S.R. No. 105 (1989) and H.C.R. No. 287 (1989), urging the university to undertake the development of a systemwide athletic master plan.

Gov. Msg. No. 121, transmitting the 1989 Annual Report of the Department of Corrections, pursuant to Section 26-14.5, HRS.

Gov. Msg. No. 122, transmitting a report prepared by the Department of Transportation in response to H.C.R. No. 17 (1989), requesting the Department of Transportation to assess the feasibility of constructing an automated fixed rail "people mover" at the Honolulu International Airport.

Gov. Msg. No. 123, transmitting the annual report on the newly established Voluntary Workfare Program, now known as Project Success, prepared by the Department of Human Services pursuant to Act 345, SLH 1987, and the "Project Success Evaluation," June 1, 1989, prepared by the School of Social Work, University of Hawaii.

Gov. Msg. No. 124, transmitting the Hawaii State Certified Arbitration Program ("SCAP") 1989 Report, prepared by the Department of Commerce and Consumer Affairs in response to S.R. No. 137 (1987).

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 41 and 42) were read by the Clerk and were referred to committees:

Senate
Concurrent
Resolution

No. 41 "SENATE CONCURRENT RESOLUTION REQUESTING THE COUNTIES TO SUSPEND REAL PROPERTY TAX PAYMENTS ON HAWAIIAN HOMESTEAD LANDS IN CERTAIN CIRCUMSTANCES."

Offered by: Senator Crozier.

Referred to: Jointly to the Committee on Housing and Hawaiian Programs and the Committee on Government Operations

No. 42 "SENATE CONCURRENT RESOLUTION REQUESTING VELSICOL CHEMICAL CORPORATION TO CEASE THE PRODUCTION AND EXPORTATION OF THE PESTICIDE HEPTACHLOR FOR USE IN FOREIGN COUNTRIES."

Offered by: Senators McMurdo, Kobayashi, A., Menor, Mizuguchi.

Referred to: Committee on Agriculture

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 38 and 39) were read to the Clerk and were referred to committees:

Senate
Resolution

No. 38 "SENATE RESOLUTION REQUESTING THE COUNTRIES TO SUSPEND REAL PROPERTY TAX PAYMENTS ON HAWAIIAN HOMESTEAD LANDS IN CERTAIN CIRCUMSTANCES."

Offered by: Senator Crozier.

Referred to: Jointly to the Committee on Housing and Hawaiian Programs and the Committee on Government Operations

No. 39 "SENATE RESOLUTION REQUESTING VELSICOL CHEMICAL CORPORATION TO CEASE THE PRODUCTION AND EXPORTATION OF THE PESTICIDE HEPTACHLOR FOR USE IN FOREIGN COUNTRIES."

Offered by: Senators McMurdo, Kobayashi, A., Menor, Mizuguchi.

Referred to: Committee on Agriculture

STANDING COMMITTEE REPORTS

Senator Solomon, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1911) recommending that S.B. No. 2532, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2532, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A STUDY TO DEVELOP A COMPREHENSIVE MASTER PLAN FOR UNIVERSITY OF HAWAII SYSTEM INTERCOLLEGIATE, INTRAMURAL, AND CLUB ATHLETIC ACTIVITIES AND PROGRAMS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1912) recommending that S.B. No. 2359 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2359, entitled: "A BILL FOR AN ACT

AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR VARIOUS MAUI COUNTY WATER DEVELOPMENT PROJECTS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1913) recommending that S.B. No. 2386, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2386, S.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE UPGRADING OF THE WAILUKU/KAHULUI WATER RECLAMATION FACILITIES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1914) recommending that S.B. No. 2389, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2389, S.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE EXPANSION OF THE LAHAINA WATER RECLAMATION SYSTEM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1915) recommending that S.B. No. 2391, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2391, S.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE CENTRAL MAUI WATER RECLAMATION SYSTEM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1916) recommending that S.B. No. 2627, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2627, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A FORESTRY AND WILDLIFE BASEYARD FACILITY IN KAMUELA, HAWAII," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1917) recommending that S.B. No. 2654 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and

S.B. No. 2654, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO STUDY WATER FROM LAVA TUBES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Matsuura, for the Committee on Energy and Natural Resources, presented a report (Stand. Com. Rep. No. 1918) recommending that S.B. 1611, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Energy and Natural Resources.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. 1611, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed First Reading and was recommitted to the Committee on Energy and Natural Resources.

Senator Mizuguchi for the Committee on Corrections, presented a report (Stand. Com. Rep. No. 1919) recommending that S.B. No. 3300, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Corrections.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 3300, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX EXEMPTIONS FOR EMPLOYERS WHO PROVIDE WORK LINES FOR INMATES," passed First Reading and was recommitted to the Committee on Corrections.

Senator Crozier for the Committee on Housing and Hawaiian Programs, presented a report (Stand. Com. Rep. No. 1920) recommending that S.B. No. 3104, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Housing and Hawaiian Programs.

On motion by Senator Blair, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 3104, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Second Reading and was recommitted to the Committee on Housing and Hawaiian Programs.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1907 (Gov. Msg. No. 64):

Senator Menor moved that Stand. Com. Rep. No. 1907 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 Ronald T.Y. Moon as Associate Justice of the State Supreme 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. 64, seconded by Senator Levin.

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

"Mr. President, I speak in favor of Governor's Message No. 64.

"Mr. President and distinguished members of the Senate, it gives me great pleasure to report to this body that your Committee on Judiciary strongly recommends that the Senate consent to the appointment of Ronald T.Y. Moon to a ten-year term as Associate Justice of the Hawaii Supreme Court.

"Your committee has examined Judge Moon's credentials, and finds him eminently qualified to serve on the state's highest court.

"As you know, this Senate has previously considered the qualifications of Judge Moon. In 1982, he was appointed to sit as a judge in the First Circuit Court, after being confirmed by this body. In the eight years that he has served in this capacity, he has established a reputation not only as one of the most respected civil trial judges but as an extremely successful settlement judge in the First Circuit. His ability to settle cases has had, without a doubt, a significant impact on reducing the trial caseload faced by the First Circuit Court. In fact, one of the testifiers at our confirmation hearing indicated that Judge Moon has become a legend in the First Circuit in terms of his ability to bring people together to get them to settle cases.

"During his tenure, Judge Moon has served not only as a trial judge but as arbitration judge for the court annexed arbitration program. Judge Moon was instrumental in developing this program which has been tremendously successful in resolving a large percentage of cases before monies are expended on expensive litigation and the court is further clogged.

"In addition, the voluminous testimony which your committee received in support of Judge Moon's confirmation attests to the high regard in which he is held by the legal community and the community-at-large. In fact, the only negative comments heard at his confirmation hearing consisted of trial attorneys bemoaning the fact that they would be losing him at the trial level. Remarkably, these attorneys represented the interests of both plaintiffs and the defense bar, as well as Judge Moon's adversaries, when he was a practicing attorney. In short, Judge Moon's abilities as a jurist are universally respected.

"Finally, in closing, your committee does want to recommend the confirmation of Judge Moon on principle. (Earlier, we were discussing the topic of baseball as a sport, I want to briefly share with you a story about Judge Moon's previous experience in baseball.) Your committee received testimony from one of his esteemed colleagues who met Judge Moon some fifteen years ago when both were fledgling young attorneys, and both individuals played on the same Wahiawa softball team. Judge Moon played in the outfield. According to the person who testified, Judge Moon was reportedly a very poor outfielder, and the problem that he had was that he had bad habits. It seems that he played with a can of beer in one hand and a cigarette in the other, which kind of impeded his ability to catch the ball. But I think Judge Moon has definitely come a long way. The man is obviously reformed, and I think we should definitely reward him for his efforts by unanimously confirming him to be the new member of our Hawaii State Supreme Court.

"On that note, I strongly recommend that this body approve Governor's Message No. 64 and confirm Judge Moon to the Hawaii Supreme Court. Thank you."

Senator Matsuura also supported the nomination and remarked:

"Mr. President, I am not a critic of lawyers, but I categorize lawyers into three categories. One, those that fall in the category of 'not so good,' second is 'fairly good,' and the third category is 'fantastically good.'

"I've never met Judge Moon, but I have listened and I have heard what he has done for the judicial system. I

love this kind of a person because I am one that greatly support arbitration and mediation and I hear that he is a real champion in this field. I can understand why Senator Menor made such comments about having people to settle. The First Circuit Court is going to lose a good man but I'm glad that he is going to be an asset to the State Supreme Court."

At this time, Senator Menor introduced to the members of the Senate Justice Ronald T.Y. Moon and his wife Stella who were seated in the gallery.

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

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

RE-REFERRAL OF SENATE BILLS

The President re-referred the following Senate bills that were introduced:

Senate Bill Referred to:

No. 2706 Committee on Energy and Natural Resources, then to the Committee on Ways and Means

No. 2818 Committee on Transportation, then to the Committee on Judiciary, then to the Committee on Ways and Means

No. 3008 Committee on Tourism, Recreation and Planning

MISCELLANEOUS COMMUNICATION

Misc. Com. No. 8, from the Waikiki Convention Center Authority dated February 7, 1990, transmitting the Environmental Impact Statement Preparation Notice for the Waikiki Convention Center, prepared by the Pacific Environmental Research Group was read by the Clerk and was placed on file.

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

"Mr. President, yesterday, I made a mistake by giving out the wrong bill number for the measure that the Governor and OHA had come to an agreement on. The number that I gave was Senate Bill 2274, it should have been Senate Bill No. 3104. I apologize to anyone who got the wrong information.

ADJOURNMENT

At 11:59 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., Monday, February 12, 1990.