

## FORTIETH DAY

Wednesday, March 28, 1990

The Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, convened at 11:40 o'clock a.m. with the Vice President in the Chair.

The Divine Blessing was invoked by Commander James Boyd, Chaplain, Naval Station, Pearl Harbor, after which the Roll was called showing all Senators present with the exception of Senator Koki who was excused.

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

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

Senator Blair recognized a group of his constituents from the Banyan Tree Plaza who were seated in the gallery and said:

"Mr. President, it appeared that I was going to go through my entire first term in the Senate without making an introduction, but I finally have the opportunity. I am very pleased today to introduce some of my constituents from the Banyan Tree Plaza who are here today to express their apparent concern about the fact that we have not as yet passed lease conversion legislation sufficient to take care of their concern so they are here today to lobby."

Senator Solomon, on behalf of Senators Matsuura, Yamasaki, Levin, Reed and herself, introduced a group of Upward Bound students from Maui and Hilo Community Colleges, accompanied by their academic advisors: Brian McKinnon, director, and Noni Higgins, counselor. Senator Solomon said, "Our Upward Bound students are participating in a federally-funded college prep program and the purpose of their trip is to learn about government and to visit post-secondary educational institutions on the Island of Oahu."

Senator Matsuura, on behalf of Senators Solomon, Levin and himself, introduced students: Vincent Agliam, Leithton Ah Nee, Rodney Bohol, Ben Hatori, Austin Maluo and David Taylor from the Big Island Hawaiian Wilderness Program and their leaders, Bud Pomaika'i Cook and Keikialoha Kekipi, as follows:

"The Hawaiian Wilderness Program, which is a part of the Hawaii Island YWCA, completed a very successful inaugural year of operation for the Youth-at-Risk Program. This program was conducted in cooperation with the Family and Probation Services of the state Judiciary and state Department of Education. The program for youngsters, ages 14 to 17, currently has 40 students.

"Like Father Flannagan said of his boys in Boys' Town, 'There is no bad boy.' The Hawaiian Wilderness Program is demonstrating that, given the proper guidance and motivation, anyone can become responsible citizens, and an alternative learning environment will challenge students to gain academic achievement and increase learning. Some of us, like the Senator from Makakilo and myself, have had this kind of experience when we were of that age.

"The six students who are here before us earned this honor to represent their fellow students because they worked for it by winning positive points for their dedication and diligence in a variety of community service projects."

The young men and their leaders who were seated on the floor of the Senate rose to be recognized and were presented the congratulatory Senate certificate and leis.

Senator Nakasato, on behalf of Senators McCartney, Koki and himself, introduced representatives of the United Okinawan Association as follows:

"Mr. President, I am very honored to make this very special presentation.

"This year, we are celebrating the 90th anniversary of the coming of the first Okinawan immigrants to Hawaii. This year long celebration of the Okinawans, spearheaded by the United Okinawan Association is filled with many events. On January 7th of this year we reenacted the arrival of the first immigrants coming over from Okinawa. We built a replica of our old ship and we marched from the pier all the way to the Capitol.

"On June 6th we will open the Hawaii Okinawan Center which is in Senator Menor's district. The center is a huge undertaking of the Okinawan community in Hawaii together with the Okinawans from Okinawa. I think it was something like \$8 million that the community raised and we put up this center ourselves.

"On August 23, the World 'Uchinanchu' Festival will be held in Naha, Okinawa. On September 1st, the annual Okinawa Festival will be held at Kapiolani Park. The year long festivities will close with 'okage sama de' at the Hawaii Okinawan Center.

"All told, we'll be having 27 different activities this year, which will be fun-filled and very educational for all of us. All Senators and everyone here are invited to the festivities."

Senator Nakasato then yielded the floor to Senator McCartney who read portions of the Senate certificate to the United Okinawan Association and stated as follows:

"Whereas, the immigrants from Okinawa to the State of Hawaii arrived on the S.S. City of China at Honolulu Harbor on January 8, 1900; and

"Whereas, the industrious and hardworking Okinawans prospered and established homes, businesses and communities that reflect their rich cultural and great contributions to Hawaii's multi-cultural, multi-ethnic society."

"Mr. President, to just digress on a personal note, if I may.

"Mr. President, as time goes on, I think as we grow older, we appreciate more and more what our forefathers have done for us. My grandfather came here from Okinawa's small island called Ikeshima in 1906 to work on the plantations in Senator Solomon's district in Kohala. He quickly found that plantations didn't pay much so he became a fisherman.

"I have learned over the years of the contributions that people like my grandfather and many of his friends and relatives have made to the state. I'm really proud and honored to say that I'm Okinawan, and I'd like to thank the gentlemen who are here today for working so hard to make this 90th celebration such an important day in Hawaii's history."

"Thank you very much."

Senator Nakasato then introduced the five honorees who were seated on the floor of the Senate: Mr. Akira Sakima, former state representative and past president of the United Okinawan Association (UOA); Mr. Albert Teruya of Times Supermarkets, chairman of the Board of Trustees of the Hawaii Okinawan Center; Mr. Stanley Takamine, vice president of the Commission to Celebrate the 90th Anniversary of the Okinawans, accompanied by two of his grandchildren; Mr. Edward Kuba, past president of UOA, chairman of the fund raising for the Hawaii Okinawan Center, who is also a member of the University of Hawaii Board of Regents; and Mr. John Tasato, current president of UOA and chairman of the Okinawa 90th Anniversary Celebration Commission."

All of the honorees rose to be recognized and were presented the congratulatory Senate certificate and leis.

Senator Aki then added:

"I would like to acknowledge Stan Takamine because he worked in my office for one session many years ago. And I would like to extend congratulations to the Okinawan community for their foresight in building the Okinawan Center. I think they chose a very excellent location, right in Central Leeward Oahu, which is in the middle of our island. I hope Senators would take the time to visit the center. It's bigger than the Blaisdell Center."

Senator Chang also added:

"Mr. President, as the Senator representing the district that includes the Liliha Times Supermarket, as a connoisseur of 'awamori' and, as the Senator that represents one of the largest concentrations of 'Uchinanchus' in the State of Hawaii, I'd like to bid our visitors 'Hai sai gusuyo.'"

At 11:55 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:02 o'clock p.m.

### HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 392 to 394) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 392, transmitting House Concurrent Resolution No. 20, H.D. 1, which was adopted by the House of Representatives on March 27, 1990, was placed on file.

By unanimous consent, H.C.R. No. 20, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO FUND STATE TREE PLANTING PROGRAMS TO MITIGATE ATMOSPHERIC CARBON DIOXIDE INCREASE AND STIMULATE THE PRODUCTION OF OXYGEN," was referred to the Committee on Agriculture.

Hse. Com. No. 393, transmitting House Concurrent Resolution No. 28, H.D. 1, which was adopted by the House of Representatives on March 27, 1990, was placed on file.

By unanimous consent, H.C.R. No. 28, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES TO REAUTHORIZE THE COASTAL ZONE MANAGEMENT ACT (P.L. 92-583) AND TO ENACT A STRICT OIL SPILL LIABILITY LAW," was referred to the Committee on Energy and Natural Resources.

Hse. Com. No. 394, transmitting House Concurrent Resolution No. 72, H.D. 1, which was adopted by the House of Representatives on March 27, 1990, was placed on file.

By unanimous consent, H.C.R. No. 72, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION DECLARING 1990 TO 1999 THE DECADE OF THE FAMILY," was referred to the Committee on Human Services.

### ORDER OF THE DAY

#### MATTERS DEFERRED FROM TUESDAY, MARCH 27, 1990

#### STANDING COMMITTEE REPORTS

Stand. Com. Rep. No. 2807 (S.C.R. No. 58):

Senator B. Kobayashi moved that Stand. Com. Rep. No. 2807 be adopted and S.C.R. No. 58, be adopted, seconded by Senator McCartney.

Senator B. Kobayashi rose to speak in support of S.C.R. No. 58 and S.R. No. 50 as follows:

"Mr. President, these two resolutions received an unusually wide range of support, including support from the state Commission on the Status of Women, the Hawaii Women's Political Caucus, and Hawaii Right to Life. One of the testifiers at the committee hearing indicated that she thought that this was the first time there was agreement from such diverse groups.

"The resolutions attempt to get the Department of Education to implement a strategy for increasing the role of the public schools in providing prenatal care education. Currently, there are a number of programs in the public schools that provide for prenatal care education. They include health classes, home economics classes, drug education awareness classes, and peer education. The strategy of putting these various classes and programs together is the object of these resolutions.

"Thank you very much."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 2807 was adopted and S.C.R. No. 58, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO DEVELOP AND IMPLEMENT A STRATEGY TO INCREASE THE ROLE OF HAWAII'S PUBLIC SCHOOLS IN PROVIDING PRENATAL CARE EDUCATION," was adopted on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Solomon). Excused, 1 (Koki).

Stand. Com. Rep. No. 2808 (S.R. No. 50):

On motion by Senator B. Kobayashi, seconded by Senator McCartney and carried, the report of the Committee was adopted and S.R. No. 50, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO DEVELOP AND IMPLEMENT A STRATEGY TO INCREASE THE ROLE OF HAWAII'S PUBLIC SCHOOLS IN PROVIDING PRENATAL CARE EDUCATION," was adopted on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Solomon). Excused, 1 (Koki).

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

"Mr. President, as you know there appeared an article in the Star Bulletin, 'UH campus astir over social issues. Sexual harassment is a major cause for the unrest.' The article reads, Mr. President, 'Using the veil of secrecy, protestors have directed their anger primarily at sexual harassment and discrimination issues -- topics that have generated considerable controversy at the university' of Hawaii.

"It goes on to read, Mr. President, that '...some students and faculty members say the anonymous protests underscore a lack of confidence students have in the UH procedures for dealing with sexual harassment and discrimination.

"People should have the guts to stand up for their opinions, but unfortunately there is a great deal of fear instilled by the system," making students reluctant to speak up ...

'With the controversy raging on, the University of Hawaii President Albert Simone repeatedly has said the university will not tolerate sexual harassment and discrimination.'

"Mr. President, I find this ironic. In fact, your Committee on Higher Education, last Thursday, had a hearing in which we considered various resolutions that have been introduced, by myself as the chairman and other colleagues here in the Senate, dealing with issues on sexual harassment, on equal employment opportunity/affirmative action, and on what is the university's plan to increase recruitment of qualified women and minorities for faculty positions. Mr. President, I find this intolerable.

"What is sexual harassment. Mr. President? I quote from a testimony by the ASUH Academic Affairs Committee:

'Sexual harassment, by legal definition, is a form of sexual discrimination -- when someone uses words or actions of sexual nature that creates an offensive environment or makes compliance a condition of your education or employment. Courts have ruled that sexual harassment is a form of sexual discrimination and thereby a violation of the Civil Rights Act of 1964, a violation of the educational amendment of 1972 and other federal and state laws.

'People often assume that the only form of sexual harassment is physical assault. But harassment of sexual nature takes on many non-physical forms like stares or glances, or sexually oriented remarks. Even repeated unwelcome requests can be considered sexual harassment when the totality of the circumstances is investigated.

'Sexual harassment at the university has been amplified in the academic environment. The harasser, often a professor, has the power of grades, evaluations, recommendations, and sometimes employment over a student. The professor is often an older male and the student a younger female.

'The University of Hawaii under its present administration has traditionally had difficulty in dealing with sexual harassment because of the gross imbalance of power. Faculty often have tenure, a practice unheard of in the business world. This guarantees them a job, except for gross misconduct and sexual harassment is rarely considered that.

'The university if also hampered by its own sexual harassment complaint process. A process that is designed more to protect the privacy of the harasser

and the reputation of the university than it is with protecting the interest of students.'

"Mr. President, your Committee on Higher Education has purposely looked into these matters and we are going to be sending three resolutions for this body's consideration for adoption.

"But, Mr. President, it goes on. We're not only talking about sexual harassment. We're talking about sexual harassment/discrimination and how it affects minorities and people of color. I first had a problem with the words 'people of color,' Mr. President. I had to ask, 'What is that? What is the meaning of 'people of color?' I was educated today -- people of color are minorities.

"We, in fact, with the support of the Women's Coalition, sponsored this Senate resolution asking the University of Hawaii -- how ridiculous, Mr. President, how ridiculous -- asking the University of Hawaii to develop and implement short and long term plans to increase the recruitment of qualified women and minorities for faculty positions.

"Women represent 54.3 percent and minorities represent 76.1 percent of the student body of the university. However, they represent only 16.7 percent and 26 percent, respectively, of the tenured faculty.

"Mr. President, I'm emotional about this because I cannot believe that the administration of the university can condone such a situation.

"Here is a testimony from one of the female faculty at the university who has been there for many, many years. She says she is a kamaaina.

'I am a product of the public school system in Hawaii. I grew up on a major sugar plantation in what is still considered the "country." The nearest high school was some distance away in another community and transportation was a problem. Most of my classmates dropped out of school at the 9th grade, took jobs on the plantation, or got married. Perhaps only one percent went on to high school and college. I was one of the lucky ones.

'As a university undergraduate, my professors were haoles from the United States or Europe, except for my Hawaiian language professor and one of my accounting profs. I still remember the stir that was created on campus when the Sociology Department hired its first non-haole instructor. Some of us students made a special point of stopping at his office to congratulate him on his appointment. We were pretty young and new to this issue, but I had already experienced a similar situation when the plantation where I lived hired its first non-haole to head the survey department in the early 1930s. That, too, caused many tongues to wag. It made a lasting impression on me.

'Our community has long been dominated by the plantation mentality: male haoles hire non-haole workers. Our university still reflects this ethnic/economic imbalance. The world has moved on, but we are falling behind.

'What we need is a president who is totally committed to equal opportunity for all ethnic groups and for both sexes, one who is willing to stop looking over his shoulder for cues from his bosses. The world is changing, let's be part of that change and get out of the "old boy" system that is part of the backwaters of history. Plantations and the plantation mentality are part of the past -- gone -- so let's move the university on to a big new world where at least half of the new

hires are women in tenure track positions and where at least half of them are women of color.'

"Another testimony, Mr. President, that I'd like to share with this honorable body is from the president, himself, Dr. Al Simone. He says 'approximately one year ago I appointed a task force on sexual harassment. The task force has been meeting regularly and is expected to forward its recommendations to me by the end of this month.'

"He goes to say, Mr. President, that he 'believes that it is essential that the process for implementing these policies be educational and participatory given the importance and controversial nature of sexual harassment.'

"Mr. President, these should be dealt with immediately. Do we need a resolution to instruct the president to come up with a plan of action? A plan of action, Mr. President, on issues that are in direct violation of the Constitution of the United States as well as the Constitution of the State of Hawaii? Let's think about this. This is what sitting here in the chamber represents -- people's rights. I find this deplorable.

"Mr. President, I have a petition that was submitted to your Committee on Higher Education by students against discrimination:

'Madam Chairman, we have collected over a thousand signatures of support from students as well as faculty and community persons.' It goes on to say, 'while women constitute the majority of the student body, they are definitely in the minority on the faculty. Information from the journal "Academe" for 1988 shows that there are 378 male full professors compared to only 35 women full professors. The men outnumber the women in this rank more than 10 to 1.'

"The second problem, Mr. President, is one of race. 'Something is seriously wrong when people of color represent 76.1 percent of the student body, but only 26 percent of the tenured faculty. (The under-representation of minorities, of course, Mr. President, is no new statistic to everyone sitting here in this chamber). The under-representation of Hawaiians - 1.5 percent and Filipinos - 1 percent, in tenured faculty is particularly appalling.

'We need more people of color to be our teachers. Many local students who are not as vocal in classes as some other students can be helped by these teachers. This is often seen as an academic problem, rather than a culture/ethnic characteristic.

'In conclusion, the significant under-representation of women and people of color in tenure and tenure-track positions at the University of Hawaii has a negative impact on the accessibility of education for women students and students of color. Therefore, we are asking your support and your colleagues support for the passage of this resolution.'

"Actually, Mr. President, there should not be a need for a resolution. The president of the University should be already implementing this kind of a program expeditiously.

"'Ua mau ke ea o ka aina i kaponu' -- The life of the land is perpetuated in righteousness. Is this what we call righteousness?

"I conclude, Mr. President, that if Dr. Simone does not come up with any kind of resolution for these issues by June 1, he should be removed as the president of our university. Get somebody in there who understands what

this great country is about; what democracy is about; what equality is about. That's how strong I feel about this, Mr. President, and as your chairman of the Committee on Higher Education, I make this recommendation for all my colleagues to think about.

"This is the kind of person that we have running the university, and it hurts me. It hurts me deep down inside when people have to come to this body and beg us to resolve issues on discrimination and sexual harassment. This is an administration problem. The people of Hawaii have pledged their hard-earned tax dollars for a university which stands for equal opportunity.

"Thank you very much, Mr. President."

Senator Cobb, also on a point of personal privilege, said:

"Mr. President, rising on the same point of personal privilege as the chairman of the Higher Education Committee.

"I was the introducer of one of those resolutions. One individual has had a grievance before the university system, unresolved for a period of eight years. That individual has had two favorable rulings. Various federal agencies finding that there was discrimination practiced against him. That individual has further suffered discrimination with a member of his family who works at another part of the university system.

"Recently, there was an article in the paper that said the chancellor of the community colleges was quoted as saying that the state had appealed the federal decision in favor of Mr. Beresowsky. That, Mr. President, is simply not true because this individual's lawyer personally called the federal Office of Equal Opportunity and the federal Veterans Affairs Office in San Francisco to determine whether or not such an appeal had been taken, and was told 'no.' In fact, that there would be no appeal from that finding. There had not even been a request for a hearing before an administrative law judge. Furthermore, had there been an appeal taken, he and his attorney would both had to have been notified.

"I'm also aggrieved by the fact that a qualified individual, female of a minority group, by the name of Maivan Lam has been passed over in a selection process. She had a number of people there testifying in support for a position at the hearing.

"I am hopeful, Mr. President, that the chairman of the Higher Education Committee will bring forth a resolution and in even stronger form. And I would say to this body and to the university administration, a solution is very simple. You're either part of the solution or you're part of the problem. And if they don't get off the dime and resolve these cases, they are part of the problem. Thank you."

## ADJOURNMENT

At 12:24 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, March 29, 1990.