

THIRTY-FIFTH DAY

Tuesday, March 17, 1992

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, convened at 11:37 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Robert Lott, Hawaii District United Methodist Church, after which the Roll was called showing all Senators present with the exception of Senator Reed who was excused.

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

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

Senator Fernandes Salling introduced a group of Kauai students, representing Kapaa, Kauai and Waimea High Schools, who are on a visit to the State Legislature, accompanied by their teachers and chaperones: Mr. James Kawamura, Ms. Gwen Hayashi and Ms. Janice Nitta.

Senator Nakasato introduced a group of students from Kalihi Uka Elementary School: Stephanie Ramelb, Michelle Ducusin, Janice Pagba, Jamie Retutal, Myron Castro and Jonathan Subia; accompanied Ms. Therrin, their teacher.

Senator McCartney introduced three students from Kahuku High School: Julie Smith, Kara Craver-Jones, and Vilayrack Inthasone, who are spending a day at the Legislature.

Senator McMurdo, in recognition of St. Patrick's Day, made the following introduction and stated:

"The top o' the mornin' to you, Mr. President.

"Before I introduce our honored guests, I would like to thank all of you who are participating today, who have your green and have the happy, wonderful spirit of the Irish when they're in a good mood and had enough to drink!

"I also wanted to point out to you all that the man who is giving the \$50.00 gift certificate for lunch or whatever you and your staff want to do - that is if you win first prize - is Don Murphy. There is a picture of him in this morning's paper, preparing some of the 500 pounds of corn beef he plans to serve today.

"Mr. President, the people we are honoring today, and one in particular, have really been so much behind the spirit of St. Patrick's Day, that sure I thought it would be fittin' and proper if we gave the chief one a certificate of appreciation for his four years of hard work in judgin'.

"This is a certificate observing St. Patrick's Day (and I may run out of Irish brogue any minute):

"Whereas, St. Patrick's Day has been observed in America since colonial times, where the first such celebration was held in Boston in 1737 and where the Friendly Sons of St. Patrick held their first celebration in Philadelphia in 1784; and

"Whereas, St. Patrick's Day is observed on March 17th each year with music, pageantry, dancing, parades and eatin' throughout this country of ours; and

"Whereas, the wearin' of the green on St. Patrick's Day has been traditional for this occasion to indicate that the green stands for nature and hope; and

"Whereas, St. Patrick's Day in the Senate has been observed for the past four years with a door-decorating contest for all Senators and staff and all members were encouraged to the wearin' of the green; and

"Whereas, this fun day enables the members and staff in the Senate to take a breather from an overwhelming legislative schedule, to share and enjoy the pleasures of living in Hawaii by observing this occasion;

"Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, that St. Patrick's Day be observed on March 17, 1992, in the Senate to honor all ye Irish people-at-heart, with special tribute to the patron Saint the Honorable Mike O'Kieffe for his continuing contribution to the event and to ye young judges: Tom O'Kamura, Paul O'Shiro and Duke O'Bainum; now, therefore,

"Be it further resolved that all members and staff of this honorable body, 'Surin' would be fittin', if all were wearin' o' the green on this St. Patrick's Day.'"

"Thank you."

Senator Crozier then added:

"I would like to join in and say a few words. You know, Mr. President, everyone in Hawaii thinks that I'm Portuguese and I've given up fighting the issue. When I go to heaven, and I already prayed to the Lord, He will let me sit in the Portuguese section. However, while I'm on this earth I'm half-Irish. That's my white blood. Since I'm half-Irish, I try to find out as much as I can about Irish history.

"I was fortunate enough to be in New Zealand in October. On my visit, I was taken to an area that used to be a gold-mining area and was told that the Irish were brought to New Zealand to be miners. They worked in the mine fields and did whatever they do down there in the gold mines. And you gotta understand, the Irish were always split. They had the greens and the oranges but they worked together in the mines. However, they refused to be buried in the same cemetery when they died. You had the right footers and the left footers. The right footers were Protestants and they had their own cemetery. The left footers were the Catholics and they had their own cemetery. I guess it was when you step into heaven with your right foot you were a Protestant and with your left foot you were a Catholic.

"So even today, you know, our legislators, as the judges walk around they'll see that fight continuing amongst the greens and the oranges. I know the fight will continue but after they cross that threshold into heaven they can become friends. The McGeorges and the McMurdos can become one and they can visit me in the Portuguese section.

"Erin go brah!"

Senator Blair then added:

"Mr. President, I particularly notice Senator Chang's attire today. The last time I saw him dressed like this, he and I were working at a gas station many years ago.

Which happens to remind me of a story about how helpful Irishmen can be. And in light of the very helpful Irishmen who are our honorees today, perhaps I should tell it, perhaps I shouldn't, but I will.

"It seems that a few years back the IRA got tired of buying their gasoline at retail prices and they decided to buy their own gas station. Of course, word quickly went out that no one should come to the gas station to buy gasoline. A visiting American tourist pulled in one day and said to the attendant, 'You know I've been having some trouble with this car, I think I need some oil.' The attendant glared at him and said, 'We don't sell oil here. I think you've come to the wrong place.' The American then asked, 'Well, can I get some gasoline.' The attendant answered, 'We don't sell petrol here. I think you've come to the wrong place.' The American, out of exasperation and somewhat in anger, said to the Irishman, 'What the hell can you do?' The Irishman smiled and said, 'Be happy to blow up your tires for you.' (Laughter.)

"In light of that, I hope that these friendly Irishmen will not blow up too many Senate bills. Thank you."

Senator Matsuura also rose to state:

"I want to say a few words too, Mr. President.

"I want to pose a question to the Minority leader, if I may, Mr. President. Would she yield to a question?"

The President having posed the question to the Minority leader, and the Minority leader having answered in the affirmative, Senator Matsuura asked:

"Captain Cook who discovered Hawaii, was he green or was he orange?"

Senator George responded:

"I'm afraid to answer that. I think I better defer to the good Senator."

Senator Blair interjected:

"I'm the good Senator, I'll be happy to answer. (Laughter.)

"At the end of a long voyage in a small boat, I'm sure he was green." (Laughter.)

Senator Matsuura continued:

"Then I just want all the legislators that have Hawaiian blood to know that they are green because their ancestors ate Captain Cook."

Senator Solomon responded:

"Mr. President, I was going to refrain from making any remarks until the end of today's session when I make the motion to adjourn the session; however, I cannot help myself now after the previous speaker's remarks about the eating of Captain Cook.

"In a very serious note, the Hawaiians did not eat Captain Cook. I will be very happy at a later date to take it up with the good Senator from the Big Island and he and I could discuss the matter and I will explain what actually went on."

Senator George then asked if the author of the resolution would respond to an inquiry.

The Chair posed the question to the Senator from Waikiki and Senator McMurdo having answered in the affirmative, Senator George asked:

"Can the good Senator indicate to me when the judging of the doors is to take place? And when the announcement of the winners will take place?"

Senator McMurdo responded:

"I don't know, it's up to the good judges to make that decision. But I assure you it will be before the media goes to bed because we'd like to see their names in the paper."

Senator George continued:

"And one would hope photographs of the marvelous works of art that I've seen around the halls.

"I just want to assure my colleagues that they need not fear from competition by me. I had a door which was decorated so splendidly, so spectacularly well that without a doubt it would have captured the first prize in this particular contest. Unfortunately, someone has decided that it was so beautiful it should not be in contention and removed it so I now have a blank door, which is, I feel, only fair because it would have won first prize in the orange contest, I'm sure."

Senator Koki also rose to remark:

"Mr. President, I would like to make a little comment and address our good Senator from Waikiki.

"As I was getting dressed this morning, my wife was appalled at the color of my shirt. I told her there's a contest going on and this is really an Irish green. Is this an Irish green?"

Senator McMurdo answered:

"Is an Irish green if I ever saw it."

Senator Koki continued:

"If you saw how my office is decorated you'd think that we're Irishmen and I don't know if there are any Irish people in my office. But, if we don't win, next year I'm going to wear orange." (Laughter.)

Senator Mizuguchi then rose to state:

"Mr. President, I know this is St. Patrick's Day and I know that the Senator from Nuuanu is a fashion-setter in the Senate, but will you ask the Senator from Makakilo, 'Where does his shirt start and his tie end?'"

Senator Crozier responded:

"Mr. President, this is all I had. Just to get into the spirit of it you know to salute the University of Hawaii and this is a tie my daughter bought for me from Goodwill. This is a typical Irish uniform."

Senator McMurdo interjected:

"Mr. President, that's a shanty Irish tie."

The Chair then said:

"Senator Crozier is a leprechaun, we all know that."

Senator Cobb then rose to state:

"That shirt matches almost exactly the shorts worn the other year by Senator Levin, on display right there (Senator Levin's desk).

The Chair then said:

"Senator Levin, I've been observing that wonderful work of art that drapes your desk."

Senator Levin then rose to state:

"Mr. President, I rise to a point of personal privilege.

"As everyone of course remembers, I am the defending champion in the St. Patrick's Day annual door decoration contest and I have already been instructed that I must yield the perpetual trophy to the judges for them to award this year.

"I want you to know, Mr. President, that I approach this day with very mixed emotions. It has been a great year and I will try to be gracious in yielding the crown. But I want to inform the younger folks who are around here, those starry-eyed 'wannabes' who seek the title, who hope to use this as a stepping stone to fame and glory, that one year ago I too was naive. The year did begin glamorously and I thank the judges for recognizing our entry. But how long can you stand the constant adulation and the pressure to be a role model for one's peers. It gets to you after a while. It's lonely at the top, Mr. President.

"I know that you perhaps alone might understand this a bit, given the position that you've held as President but of course the rest of our colleagues cannot possibly imagine what it is like. You cannot go anywhere without being recognized. You're sought after for speeches and for appearances, and is it for your mind? No! It is for your shorts. The pressure shows in my hairline. My friends became embarrassed, I gather, the feeling of inferiority, I suppose, and then you wake up one day and you're alone, it's all over. You've been used and now you're being thrown away on the trash heap of history.

"I know I must sound bitter but I thought I was a worthy champion and yet there is always a young gunslinger out there, a Crozier, a Nakasato, who wants to try to make their reputation by proving they're better than the champ.

"And what about all the promises that were made a year ago, Mr. President? There's no march down the runway; there's no Bert Parks singing a song; there's no gold watch. The recording contract, well, there was recording but being simply in the choir singing behind Carolyn Sapp was hardly what I expected. And the worst part, Mr. President, is that I realized that my career peaked too soon. Like a Mickey Mantle or a Hank Aaron, I became too old too soon. They fought to make a hundred thousand dollars, now people are making millions.

"Last year this was my prize (held up trophy). This year, a \$50.00 gift certificate. But that's all right I'll be brave, I'll return to the drab existence of a mere Senator and be one of you all again.

"To usher in my life as a civilian, as a token of my appreciation, there will be some green ice cream being served in the Majority caucus room after session.

"Thank you."

Senator McMurdo then said:

"Mr. President, may I ask that the good Senator who won last year with those shorts (yuk!) if he would mind giving the perpetual trophy to the judges so that we can march on. I think maybe the good Senator at the front desk here would like us to get down to some kind of business besides monkey but 'merci.'"

Senator Holt also added his remarks:

"Mr. President, I stand to join the conversation. Just to put a little damper on things today, since there are a lot of greens over here in the State Office Tower, I would like to make an announcement that Senator Yamasaki says that there is no green in his Ways and Means Committee. Thank you."

The Chair then said:

"I would like to assure the visiting students that we don't do this everyday. We do work occasionally here in this body."

"I would like to preface your introduction, Senator McMurdo, by saying that we had a thorough discussion with each of the gentlemen before us on the floor. Usually we don't invite the members of the other legislative body over to see us. They may start to like it over here a little too much. However, these gentlemen have all assured us that they are going to stay where they are. They are not seeking higher office. Is that correct, gentlemen?"

Senator McMurdo interjected:

"Mr. President, that is the only condition upon which I asked them to be judges."

Senator McMurdo then introduced the judges of the St. Patrick's Day door decoration contest: the Honorable Mike O'Kieffe, chief judge; the Honorable Paul O'Shiro, second judge; and the newest member, the Honorable Duke O'Bainum, lieutenant of the judges, the 'gopher.'

Senator Chang then interjected:

"Mr. President, just a brief request. Inasmuch as the chairman of the Ways and Means Committee says there are not enough resources to go around, I notice that the shorts are my size. May I have them?"

The Chair answered:

"I noticed that you were eyeing them from the time you walked into this chamber. That belongs to the champion."

All of the gentlemen rose to be recognized and were presented St. Patrick's Day hats, pins and leis by Senators A. Kobayashi, Tungpalan and Solomon.

At 12:03 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.

STANDING COMMITTEE REPORTS

Senator Mizuguchi, for the Committee on Employment and Public Institutions, presented a report (Stand. Com. Rep. No. 2306) recommending that H.B. No. 3122, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator George and carried, the report of the Committee was adopted and H.B. No. 3122, H.D. 2, S.D. 1, entitled: "A

BILL FOR AN ACT RELATING TO CHARGES TO INMATE ACCOUNTS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2307) recommending that H.B. No. 2410, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Solomon, seconded by Senator George and carried, the report of the Committee was adopted and H.B. No. 2410, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GUARDIANSHIP," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 19, 1992.

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

"Mr. President, I rise to speak on a point of personal privilege.

"Whenever my name comes out in the newspaper, I'm going to run the Matsuura press called 'The Senate Journal.'

"Let me reiterate that the articles that came out today, I have no complaints. I thought they were very accurate and well-written. However, there is one thing that I want to correct regarding Mr. Takemoto's comments.

"What happened was that there are two documents that are critical to the public hearing that is going to occur tomorrow. One was a 1985 study, 'Telecommunication Master Plan for the State,' and the other, a 1989 study, 'An Evaluation of the PBX and Selex Solutions.'

"According to the article today, Mr. Takemoto said he didn't know of the 1989 study until Matsuura requested it, and said his office was delayed in delivering it to Matsuura because a copy of the report could not be found until this weekend.'

"The knowledge of the existence that 1989 study was from a letter that Mr. Takemoto wrote to Mamoru Yamasaki dated February 10 and he states that in 1989 the state conducted its own evaluation of the PBX and Selex solutions and decided against getting into the telephone business at that time. Mr. Takemoto also wrote a similar letter to me on February 12th with the same language that they did that evaluation study between the Selex and PBX. Again, he wrote to me on February 13th saying that the state conducted its own evaluation of the PBX and Selex solutions. After getting three letters from Mr. Takemoto stating the existence of the 1989 study that made them decide to go with the Selex system, that I wrote to him on February 24th requesting for a copy of the study. I will read a portion of my letter to Mr. Takemoto: 'In your letter February 12, 1992 and February 13, 1992 addressed to me, you mention that in 1989 the state conducted its own evaluation of PBX and Selex solutions and decided against getting into the telephone business at that time. Please send me right away a copy of the 1989 evaluation study that was done.' That was my first letter. I followed it with four other letters requesting that that report be sent to me right away. That report finally came to me yesterday at exactly 3:30 p.m., twenty-one days later.

"What he quoted in the article is incorrect. He knew of the existence of this study on February 10th because he wrote three separate letters, referring to that 1989 study.

"Thank you."

Senator Holt, rising on a point of personal privilege, then asked if the previous speaker would yield to a question. The President posed the question to Senator Matsuura and the Senator having answered in the affirmative, Senator Holt asked:

"I'm asking a question in regards to a memo that I received as a member of your committee regarding a non-disclosure agreement that Hawaiian Tel has presented to yourself and to the members of the committee, and if we want information on the breakdown of costs of the telephones that we have to sign a non-disclosure agreement. Is that correct?"

Senator Matsuura answered:

"That is correct. Mr. Takemoto's letter to me states that the state bought the telephones at a sole source price of \$165.00 per telephone. The bid price for the same instrument was \$66.76. There was a \$100.00 difference between the bid and sole source price of those telephones. I wanted a cost breakdown of the \$100.00 from the telephone jack in my office to my desk. I wanted to know why it was so expensive. When I wrote to Mr. Takemoto, he said that this question should be referred to GTE. I wrote a letter to GTE asking them for a breakdown of the cost from my office telephone jack to my telephone. The GTE representative said that they have the cost breakdown which they are willing to show me. However, before they can show it to me, I gotta sign this non-disclosure agreement. In other words, if I sign this document, there is no way I can talk to anyone about the subject matter again. I called the Senate Majority attorney and I asked him, 'Should I sign?' He said, 'Don't sign it because once you sign it you can't even discuss the matter with your staff.' I refused to sign it."

Senator Holt then continued:

"In follow-up, Mr. President, regarding the memo from the chairman and the non-disclosure agreement. I have a problem with that. I've been here 14 years and I would think that the Legislature, having appropriated those public monies, is entitled to whatever information is requested, not only as a representative of the taxpayers but also as a customer. We are entitled to that information as to how much we are spending for the telephones. I think that it's pretty appalling. That's all. Thank you."

The Chair then interjected:

"It's my understanding, Senator Matsuura, that you will be having a hearing tomorrow?"

Senator Matsuura answered:

"Yes, Mr. President, the hearing will be at 3:00 p.m. tomorrow. Questions will be asked for the reasons for going sole source. There are studies that the state, the University of Hawaii and the Judiciary have conducted that recommend that the state should proceed immediately with its own PBX system. The University of Hawaii study recommended that they should go with a PBX system. The Judiciary also did a study and their report also indicated that they should go with the PBX system. The 1985 detailed study shows that the state should have gone with its own PBX system. But for some reason, the state went sole source on the Selex system. Since going sole source and having paid an extra \$100.00 per telephone is difficult to explain to the public. When the state bought it from NTI there was one price. When the state bought the terminals through Hawaiian Tel there was an additional \$88.00 difference in price. Why go through GTE and get the identical thing, for \$88.00 more? We're talking about large quantities of terminals. I would like to get

information as to the price difference but I may have to sign the non-disclosure agreement to get that information.

"The reason GTE says that I gotta sign this non-disclosure statement is because they feel that selling telephones is not a regulated activity of GTE; it's unregulated. If they tell me their profit margin, etc., it puts them at a disadvantage in future bids. My response to that is that we have already bought the telephones. A difference of \$100.00 between sole source and bid price from the same company appears very excessive. That's the reason why I want the information to explain to the public."

The Chair interjected:

"Very simply put, the advice from our attorney is that you should not sign that agreement if you intend to proceed with the hearing tomorrow. No member of the committee should be required to sign the agreement, I agree with you. But, the advice of our attorney, I am told, was that your committee people shouldn't sign."

Senator Matsuura responded:

"But, if anyone wants to sign, they are free to do so and GTE will bring the documents to your office for you to sign. They will then provide you with the cost breakdown of the \$100.00. However, you cannot share that information with anyone else who has not signed the non-disclosure document."

ADJOURNMENT

At 12:19 o'clock p.m., on motion by Senator Solomon, seconded by Senator George and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, March 18, 1992.