

THIRTY-NINTH DAY

Monday, March 23, 1992

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, convened at 11:38 o'clock a.m. with the Vice President in the Chair.

The Divine Blessing was invoked by Elder Paul Martin, President, Afro-American Ministerial Alliance, after which the Roll was called showing all Senators present with the exception of Senators Chang, Ikeda, McMurdo and Wong who were excused.

The Chair announced that he had read and approved the Journal of the Thirty-Eighth Day.

Senator Solomon then rose to honor and introduce the Beamer 'Ohana and yielded the floor to Senator George who began to read the certificate honoring Helen Desha Beamer and the Beamer 'Ohana.

Senator George said:

"Mr. President, I have a distinct honor this morning of beginning what I believe will be a general expression of jubilation. I'd like to read part of the statement honoring the Helen Desha Beamer and Beamer 'Ohana, as you can see very, very definitely present with us.

"Whereas, the State of Hawai'i now celebrates the Year of the Family that focuses on all that a family can contribute to the life of our Hawai'i Nei by perpetuating and sustaining an ea or spirit that nurtures, instilling the capacity for responsibly undertaking and encouraging the development of an individual's diverse skills and talents that may enhance the quality of all of our lives; and,"

Senator George then yielded the floor to Senator A. Kobayashi who followed with:

"Whereas, in each family there are the kupuna, who by their own distinguished example and witness, inspire their keiki, mo'opuna and 'ohana to take delight in their cultural heritage and, in turn, teach their children to teach their children the legacies of their forebearers; and,"

Senator A. Kobayashi then yielded the floor to Senator Solomon who continued:

"Whereas, the late Helen Kapuailohia Desha Beamer, the eldest daughter of Isabell Hale'ala Miller and George Langhern Desha and wife of Peter Carl Beamer, was a supremely gifted composer, kumu hula of the first rank and fine coloratura, fluent in the Hawaiian language and steeped in the cultural lore and mores of the Hawaiian people, composed an extraordinary wealth of haku mele and choreographed classic expressions of hula that inextricably intertwine a profound Hawaiian Aloha for place and people with depth and grace; and,

"Whereas, the Beamers raised five children including Milton Ho'olulu, Francis Kealai'inohopono, Harriet Kekahilikalani Leilehua, Peter Carl Kaleika'apunihonua and Helen Elizabeth Kawohikukapulani and taught them to take pride in their heritage that, in turn bore fruition in that they all became talented musicians, singers, composers and dancers; and,

"Whereas, Helen Desha Beamer, "Sweetheart Grandma" as she was affectionately named by her grandchildren, passed on to her daughter, Helen Elizabeth Kawohikukapulani, the Hula, and daughter-in-law, Louise Leiomalama Walker Beamer, the fine points

of the Hawaiian dance and song enabling Aunty Lou to become a master teacher for a long number of years; and,

"Whereas, "Sweetheart Grandma" in turn, passed on to her na mo'opuna, Helen Ka'aloehukaipua'ena "Sunbeam" Desha Beamer, Edwin Mahi'ai Copp Beamer, Winona "Nona" Beamer and Flora Leiomalama "Tita" Beamer Solomon and Cleighton Keolamaikalani Desha Beamer, na mana'o to become stellar performers and interpreters of Hawaiian song and dance and all of whom are now justly recognized as living treasures held in public esteem for their own prowess and expertise; and,"

Senator Solomon then yielded the floor to Senator A. Kobayashi who followed with:

"Whereas, the mo'opuna of Helen Desha Beamer further inspired a younger generation of talented Beamers that include contemporary artists Keola, Jr. and Kapono as well as Gaye, Malama Solomon, and fifth generation Kumu Hula Hulali Solomon, who carry on the traditions of a highly creative 'Ohana of outstanding proponents of all that is best in Hawaiian chant, dance and song; and,"

Senator A. Kobayashi yielded the floor to Senator Fernandes Salling who continued with:

"Whereas, the "Songbook of Helen Desha Beamer," edited by Marmionett Leilehua Magoon Ka'aihue and lovingly assisted by Gaye and Mahi Beamer, is a wonderful invaluable compilation of compositions, and anecdotal and photographic records of a bygone era that preserves an important legacy in Hawaiian music for all to enjoy and use; and,"

Senator Fernandes Salling yielded the floor to Senator Tungpalan who followed with:

"Whereas, the generosity and patronage of Princess Abigail Kinoiki Kekaulike Kawananakoa and the A. K. Kawananakoa Foundation insure the preservation of the lifetime contributions and work of the late Helen Desha Beamer; the songbook serves as an important resource for generations to come and is underscored by the special spirit of "Sweetheart Grandma" that embodies the spirit of aloha i kekahi i kekahi or genuine respect for all people regardless of race, class or origin - Ua ola 'o ia i loko o kana mau mele - She lives on through her songs; now, therefore,

"Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992 that it recognizes the extraordinary musical and dancing talent of Helen Kapuailohia Beamer and expresses gratitude for her gift of the supremely talented Beamer 'Ohana which has for generations provided pleasure and happiness through cultural renditions; and,

"Be it further resolved that this certificate be presented to Mahi Beamer, grandson of "Sweetheart Grandma," who is the steward of the musical talents of the Beamer 'Ohana and who has been the leader in the dissemination and perpetuation of the cultural legacy of Helen Desha Beamer; and,"

Senator Tungpalan yielded the floor to Senator Solomon and Senator Solomon concluded:

"Be it further resolved that certificates also be presented to Helen Elizabeth, Louise, "Sunbeam," "Nona," "Tita," Keola Jr., Kapono, Gaye, Hulali, Malama, Marmionett, and Princess Abigail."

"Mr. President, at this time, I'd like to introduce the historian of the Beamer 'Ohana, my uncle Mahi. (Uncle Mahi stood to be recognized.)

"We will be presenting certificates to those family members who have been instrumental in carrying on the wonderful legacy of our Beamer 'Ohana - my grandma Louise Leiomalama Beamer, my uncle Keola Beamer, my mama 'Tita' Beamer, my auntie 'Sunbeam' Helen Beamer, and uncle Sonny Beamer, my auntie Marmionett Ka'aihue, my cousin Gaye Beamer, my cousin Kaponu Beamer who will be receiving the certificates for Keola Jr. as well as Auntie Nona, and my sister Hulali."

All of the honorees, seated on the floor of the Senate, stood to be recognized and were presented the Senate certificate and leis.

Senator Solomon thanked the Senate Women's Caucus for sponsoring the certificate honoring the Beamer 'Ohana, and recognized and introduced the following family members and friends who were seated in the audience: Miss Laurie Wong of Andrew's Restaurant who provided the food for the family reception; Gard Kealoha who wrote the certificate; auntie Miriam and uncle Buddy Desha; nephews Alana and Mauloa; dad Randy Solomon; auntie Martha Beamer; auntie Lei Becker; cousin Gannar Dahlberg; uncle Merv Thompson; auntie Miki Beamer; grand-aunt Virginia Harrison; auntie Tita Elizabeth Spellman; auntie Maka Ka'aihue; Jim Bartel, a family friend and representing the Kawanakoa Foundation; Hanapau and Nathan Napooka; Kawiki Aqui; Sam Kaha'anui; and Boyce Rodrigues.

At 11:52 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:57 o'clock a.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 H.C.R. No. 85, H.D. 1, which was adopted by the House of Representatives on March 20, 1992, was placed on file.

By unanimous consent, H.C.R. No. 85, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE COUNTIES TO REVISE EXISTING BUILDING CODES TO INCREASE POPULATION DENSITIES IN AREAS ZONED FOR URBANIZATION AND TO ALLOW THE USE OF STATE-OF-THE-ART TECHNOLOGY TO MAKE HOMES RESOURCE SELF-SUFFICIENT AND LESS BURDENSOME ON INFRASTRUCTURE SYSTEMS," was referred to the Committee on Housing and Hawaiian Programs.

Hse. Com. No. 393, returning S.B. No. 2689, S.D. 1, which passed Third Reading in the House of Representatives on March 20, 1992, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 2689, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSURE LAW FOR CHIROPRACTIC," was deferred until March 30, 1992.

Hse. Com. No. 394, returning S.B. No. 2701, S.D. 1, which passed Third Reading in the House of Representatives on March 20, 1992, was placed on file.

ORDER OF THE DAY

ADVISE AND CONSENT

Ldr. Com. Rep. No. 2430 (Gov. Msg. No. 214):

Senator A. Kobayashi moved that Ldr. Com. Rep. No. 2430 be received and placed on file, seconded by Senator Hagino and carried.

Senator A. Kobayashi then moved that the Senate consent to the nomination of ROBERT G. KLEIN for Associate Justice to 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, seconded by Senator Hagino.

Senator A. Kobayashi rose to speak in support of the nominee and stated:

"Mr. President, I rise to speak in support of the nomination of Robert G. Klein to the State Supreme Court.

"The hearing on the appointment of Judge Klein to the Supreme Court went on for nearly three hours. The room was filled with people testifying in his favor, and although they were asked to summarize or to just stand and say that they stood by their testimony, it still took nearly three hours for everyone to say what they had to say, which was all wonderful. So today, I'm not going to repeat all those wonderful things that were said about Judge Klein, such as, that he is the best circuit court judge, and that having him on the Supreme Court would be a great plus not only for the Judiciary, but for the entire State of Hawaii.

"Today, I'm going to tell you about another side of him, such as, he knows how to pitch a softball a certain way, and even got me to pitch the ball that way so it reached the catcher, which I've never done before. Also, after the birth of his baby, he took leave to help his wife take care of their baby. Even today, he has the night shift and he gets up to help change the baby's diaper and to help with feeding the baby. He is this kind of a person.

"The night before his hearing, while most people are quite nervous about their upcoming hearing as they just don't know what to expect, rather than preparing his statement and going over his previous cases, he was at home making baby formula. He is just such a wonderful person. He'll make a wonderful judge because he is such a good human being.

"I urge your support of Judge Klein's nomination to the Supreme Court."

Senator Solomon also rose to support the nominee and remarked:

"Mr. President, I too speak in support of the nominee.

"Mr. President, the thing that impresses me most about Judge Klein is that even when controversial issues were brought before the committee he answered with ease and stood firm. We Hawaiians refer to that as 'onipaa,' which means 'stood steadfast.'

"Judge Klein has had 20 years of professional law experience in various positions in both the public and private sectors which has exposed him to the many facets of legal implications.

"I am impressed by the endorsements of his peers who cite his many outstanding judicial attributes. He is known for his fairness, impartiality, and objective interpretation

of the law. As one of his supporters said, 'In Judge Klein's court even the losers have always felt as if they had been given a fair shake.'

"Also, Mr. President, we need a judge who is sensitive to what is happening in today's changing world, ... a judge who understands Hawaii's cultural diversity. I feel confident that Judge Klein will fulfill these needs with ease and trust.

"Judge Klein, I feel will be an asset to the Hawaii State Supreme Court, and it gives me great pleasure, Mr. President, to urge my fellow colleagues to vote 'yes' on this nominee. Thank you."

Senator Blair also spoke in support of Judge Klein and said:

"Mr. President, I also rise in favor of the confirmation of Judge Klein.

"I understand that Ron Moon is also a very good softball player and I'm wondering if that is one of the criteria that's being used by the Judicial Selection Committee. Whether it is or not, it is widely recognized in the bar, bordering on universally recognized in the bar, that Judge Klein is not only as hard working as any judge who's ever served at the circuit court level, but also is quick to separate the wheat from the chaff on any issue that is presented to him. The gain of the Supreme Court is certainly going to be the loss of the Circuit Court, but I think we all have to put our best people in the highest positions and we're certainly doing that in confirming Judge Klein to become Justice Klein. Thank you."

Senator Matsuura added his support and said:

"Mr. President, I also rise to speak in favor of this nominee. Any person who can teach Kobayashi to pitch deserves to be on the Supreme Court and any person who teaches her to catch a fly ball should be the next CJ.

"Seriously, Mr. President, although I do not sit on the confirmation committee I am one of the most strongest critics against lawyers but, I must admit, when I met Judge Klein I was totally impressed. Here is an individual, I know, was raised with love and affection. I wish his parents were here today because I would have loved to meet them. Anyone could see that a person with Judge Klein's character has been influenced by wonderful parents.

"I examined Judge Klein's background, both legal and personal. He has a terrific background! More than anything else this individual has 'heart.' He excels in good common sense, fairness and justice. I really was impressed!

"Thank you."

Senator Reed also supported the nominee and stated:

"Mr. President, I also rise to add my comments in support of the nominee. I have never played softball with Bob Klein nor have I ever sampled his baby formula, but I have had the unique opportunity of defending myself about ten years ago on a week long trial before Judge Klein. I found him to be fair, firm, and with enough courage to be decisive, and have watched him closely because of that contact with him then.

"Over the years I have watched his courtroom decisions, those that have been publicized, and have been consistently impressed with that; his willingness to take a stand to interpret the laws he sees it into and to voice that opinion despite whatever controversy might be attached.

"I find him to be a highly intelligent and very well-qualified judge and, certainly, he would be a credit to the State Supreme Court. I wish him well."

Senator B. Kobayashi also added his support of the nominee and said:

"Mr. President, I rise to speak in favor of the nominee.

"Some of the things that we heard about the nominee were as mentioned -- support for him because of fair-mindedness, integrity, hard work. People mentioned that Judge Klein was always prepared; that he was quick in turning around decisions which was certainly helpful to the bar here. It seems that in 14 years on the bench he's had many opportunities to make all kinds of controversial decisions, but during this time has had very good reviews by his fellow attorneys who say that they appreciate appearing before him. A comment was made that he was perhaps the best motions judge that people have seen in the First Circuit, and that he has during this time acquitted himself well in a variety of cases that have stretched from complex to controversial.

"I think that we can be assured that Judge Klein will serve well in our State Supreme Court. Thank you."

Senator Cobb then added:

"Mr. President, speaking in support of the nominee.

"I'm going to be voting for Judge Klein although I have to acknowledge that I don't agree with all of the decisions, particularly the one on the right of initiative which I did consider to be a right. It was in county charters, but unfortunately not provided for in the state law.

"I think one of the differences that we look at and why I have chosen to vote for the nominee is not only the record that was cited in terms of his actions as a motions judge and his compassion but the carry-over effect that a sitting judge does not really have an opportunity to display his philosophy, judicial philosophy, as does a Supreme Court Justice. And unless you have a long record of case decisions you do not really have an opportunity to examine that philosophy. But as some of my colleagues have mentioned previously, his caring, his compassion, his concern for the little person in court, his ability and willingness to make a decision quickly and stand by that decision, I think, augers well for the future in terms of judicial philosophy.

"And when we look at nominees to the Supreme Court I think we need to be concerned with that because of what's happened on the national level and the sudden turn to the right of the U.S. Supreme Court, so much so to the point now that a woman's right to choice is now threatened nationally. So I think it is highly relevant for members of the confirming body to look at the potential philosophy of the nominee. And the background and character of this nominee, I think, have impressed me to the point where I'm quite willing to support him and I only wish that I had the opportunity to meet with him personally and discuss softball and other things before this confirmation. Thank you, Mr. President."

Senator A. Kobayashi, at this time, introduced Judge Robert G. Klein and Mrs. Klein who were seated in the audience.

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

Ayes, 21. Noes, none. Excused, 4 (Chang, Ikeda, McMurdo, Wong, R.).

THIRD READING

H.B. No. 2490, S.D. 1:

By unanimous consent, action on H.B. No. 2490, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GARNISHMENT PROCEEDINGS," was deferred until Tuesday, March 24, 1992.

H.B. No. 2801, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 2801, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING, REENACTING, OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS, CLARIFYING LANGUAGE, CORRECTING REFERENCES, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," was recommitted to the Committee on Judiciary.

H.B. No. 3052, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 3052, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOILER AND ELEVATOR SAFETY INSPECTOR QUALIFICATIONS," was deferred until Tuesday, March 24, 1992.

H.B. No. 3280, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 3280, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," was deferred until Tuesday, March 24, 1992.

H.B. No. 770, H.D. 2, S.D. 1:

By unanimous consent, action on H.B. No. 770, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SAME DAY VOTER REGISTRATION," was deferred until Tuesday, March 24, 1992.

H.B. No. 3666, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 3666, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDGES," was deferred until Tuesday, March 24, 1992.

RE-REFERRAL OF HOUSE BILLS

The Chair re-referred the following House bills that were received:

House Bill Referred to:

No. 1881, H.D. 1 Committee on Ways and Means

No. 3201, H.D. 2 Committee on Ways and Means

No. 3856, H.D. 2 Committee on Ways and Means

ADJOURNMENT

At 12:12 o'clock p.m., on motion by Senator Solomon, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, March 24, 1992.