

FORTY-SECOND DAY

Monday, March 30, 1992

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, convened at 11:40 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Dan Smith, St. Christopher's Episcopal Church, Kailua, after which the Roll was called showing all Senators present with the exception of Senators Chang, Fernandes Salling, Holt, Ikeda, Mizuguchi and Nakasato who were excused.

The President announced that he had read and approved the Journal of the Forty-First Day.

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

Senator McMurdo, in honor of "National Doctors' Day" and "Doctors' Day in Hawaii," introduced Dr. Stephen J. Wallach, Dr. Paul A. DeMare and Mrs. Maureen Lau of the Hawaii Medical Association (HMA), as follows:

"Mr. President and members of this honorable body, and on behalf of Senator Andrew Levin, it gives me a great deal of pleasure to introduce to you our honored guests: Dr. Stephen J. Wallach, president, HMA; Dr. Paul A. DeMare, president, Honolulu County Medical Society; and Mrs. Maureen Lau, past president, HMA Auxiliary.

"Mr. President, the President of the United States signed a proclamation establishing March 30 as 'National Doctors' Day' in recognition of the valuable contributions physicians have made to the nation and continue to make daily.

"In Hawaii, today, March 30, has been proclaimed 'Doctors' Day in Hawaii' by Governor John Waihee. As a matter of fact, our honorees have just arrived from the governor's office, where they witnessed the signing of the proclamation by the governor. Mr. President, we have observed this event every year as a tribute to all doctors for their role as physicians in caring for the sick, advancing medical knowledge, and promoting improved public health.

"Also, Mr. President, we have in the gallery other members of this distinguished party. These people have taken valuable time off today to be able to witness and participate in these ceremonies in the governor's office, the Senate chamber and the House chamber. As I call your name, please stand to be recognized: Dr. Carl Lehman, president-elect Honolulu County Medical Society; Mrs. Susan Fuu, treasurer and publicity chairperson, HMA Auxiliary; Ms. Jan Estioka, director of communications, HMA.

"Mr. President, I won't read the entire certificate but just portions of it:

'Whereas, approximately 586,000 physicians in 37 specialties practice medicine in the United States today, each play an important role in meeting America's need; and

'Whereas, Doctors' Day was first observed on March 30, 1933, by the Georgia State Legislature on the occasion of the first use of ether anesthesia in surgery and by a native Georgian, Dr. Crawford W. Long, "the object to be the well-being and honor of the profession, its observance demanding some act of

kindness, gift or tribute in remembrance of the doctor"; and

'Whereas, in November 1990 the President of the United States signed a proclamation designating March 30th as National Doctors' Day and the governor of the State of Hawaii has annually proclaimed March 30th as Doctors' Day in Hawaii since 1988, and it is appropriate to continue that observance; now, therefore,

'Be It Resolved by the Senate of the Sixteenth Legislature of the State of Hawaii that the National Doctors' Day and Doctors' Day in Hawaii be observed on March 30, 1992, in Hawaii to honor physicians in Hawaii and in the United States for their invaluable contributions in caring for the sick, advancing medical knowledge and promoting public health.'

The honorees, seated on the floor of the Senate, stood to be recognized and were presented the Senate certificate of recognition by Senator McMurdo. Senators Tungpalan, Solomon and Levin presented the leis.

Senator Levin then introduced Ms. Chenoa Farnsworth, daughter of Mrs. JoAnn Farnsworth, his legislative aide. Ms. Farnsworth is a senior at the University of California, Santa Cruz.

MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 273, informing the Senate that on March 25, 1992, he signed into law House Bill No. 2799 as Act 4, entitled: "RELATING TO THE JUDICIARY," was read by the Clerk and was placed on file.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 399 to 411) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 399, returning S.C.R. No. 25, which was adopted by the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 400, returning S.B. No. 2684, which passed Third Reading in the House of Representatives on March 25, 1992, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 2684, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSING OF DISPENSING OPTICIANS," was deferred until Tuesday, March 31, 1992.

Hse. Com. No. 401, returning S.B. No. 2431, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 402, returning S.B. No. 2680, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 403, returning S.B. No. 2681, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 404, returning S.B. No. 2682, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 405, returning S.B. No. 2688, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 406, returning S.B. No. 2698, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 407, returning S.B. No. 2700, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 408, returning S.B. No. 2702, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 409, returning S.B. No. 2720, S.D. 1, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 410, returning S.B. No. 2784, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

Hse. Com. No. 411, returning S.B. No. 3272, S.D. 1, which passed Third Reading in the House of Representatives on March 25, 1992, was placed on file.

STANDING COMMITTEE REPORTS

Senator A. Kobayashi, for the Committee on Executive Appointments, presented a report (Ldr. Com. Rep. No. 2433) recommending that the Senate advise and consent to the nominations of the following:

LLOYD Y. KIMURA to the Board of Public Accountancy, in accordance with Gov. Msg. No. 177;

R. SEAN MCLAUGHLIN to the Cable Advisory Committee, in accordance with Gov. Msg. No. 180;

DAWN MARIE to the Board of Cosmetology, in accordance with Gov. Msg. No. 181;

MILTON M. FUJIUCHI, D.D.S., and T.S. KAWAKAMI-WONG, D.D.S., to the Board of Dental Examiners, in accordance with Gov. Msg. No. 182;

RICHARD KUSUDA to the Elevator Mechanics Licensing Board, in accordance with Gov. Msg. No. 184;

EDWARD H. TENGAN to the Board of Dispensing Opticians, in accordance with Gov. Msg. No. 186; and

ALBERT BRUCE DENIS and MICHAEL T. MABERRY to the Board of Private Detectives and Guards, in accordance with Gov. Msg. No. 187.

In accordance with Senate Rule 34, action on Ldr. Com. Rep. No. 2433 and Gov. Msg. Nos. 177, 180, 181, 182, 184, 186 and 187 was deferred until Tuesday, March 31, 1992.

Senator A. Kobayashi, for the Committee on Executive Appointments, presented a report (Ldr. Com. Rep. No. 2434) recommending that the Senate advise and consent to the nominations of the following:

RYOJI NAMBA, Ph.D., to the Advisory Committee on Agricultural Products, in accordance with Gov. Msg. No. 178;

EVERY B. CHUMBLEY to the Board of Agriculture, in accordance with Gov. Msg. No. 179;

PATRICIA K. BRANDT to the Education Commission of the States, in accordance with Gov. Msg. No. 183;

JOHN IRVEN FORD and CHARLES P. STONE, Ph.D., to the Natural Area Reserves System Commission, in accordance with Gov. Msg. No. 185;

ADLEEN T. ICHINOSE to the Radiologic Technology Board, in accordance with Gov. Msg. No. 188;

HIROSHI SAKAI and ROBERT S. TOYOFUKU to the Commission to Promote Uniform Legislation, in accordance with Gov. Msg. No. 189; and

WALTER J. HAYES and JUDITH H. WOROBE to the Advisory Board on Veterans' Services, in accordance with Gov. Msg. No. 190.

In accordance with Senate Rule 34, action on Ldr. Com. Rep. No. 2434 and Gov. Msg. Nos. 178, 179, 183, 185, 188, 189 and 190 was deferred until Tuesday, March 31, 1992.

Senator A. Kobayashi, for the Committee on Executive Appointments, presented a report (Ldr. Com. Rep. No. 2435) recommending that the Senate advise and consent to the nominations of the following:

PEGGY Y. OSHIRO, MIKE M. HASHIMOTO, Ph.D., and CHERYL A. NAKAMURA to the Board of Acupuncture, in accordance with Gov. Msg. No. 200;

CATHERINE L. YOZA and BIENVENIDO C. VILLAFLO to the State Boxing Commission of Hawaii; in accordance with Gov. Msg. No. 201;

JUNE M. UYEHARA-ISONO and MARLIN SPIKE WERNER, Ph.D., to the Board of Hearing Aid Dealers and Fitters, in accordance with Gov. Msg. No. 207;

MICHAEL L. TRAUB, N.D., to the Board of Examiners in Naturopathy, in accordance with Gov. Msg. No. 209;

DARRYL N. ING, MBA, JILLIAN INOUE, PhD, GENEVIEVE L. KINNEY, PhD, COLLEEN ETSUKO MINAMI, RN, PHN, and SYLVIA J. THOMASON, LPN, to the State Board of Nursing, in accordance with Gov. Msg. No. 210; and

THOMAS S. MERRILL, Ph.D., to the Board of Psychology, in accordance with Gov. Msg. No. 211.

In accordance with Senate Rule 34, action on Ldr. Com. Rep. No. 2435 and Gov. Msg. Nos. 200, 201, 207, 209, 210 and 211 was deferred until Tuesday, March 31, 1992.

Senator A. Kobayashi, for the Committee on Executive Appointments, presented a report (Ldr. Com. Rep. No. 2436) recommending that the Senate advise and consent to the nominations of the following:

DWANE BRENNEMAN and TOM POY to the Correctional Industries Advisory Committee, in accordance with Gov. Msg. No. 202;

ELIZABETH M. ADAMS, M.D., and SHARON "SHAY" BINTLIFF, M.D., to the Drug Product Selection Board, in accordance with Gov. Msg. No. 203;

RAY T. NISHIYAMA to the Governor's Agriculture Coordinating Committee, in accordance with Gov. Msg. No. 204;

PUANANI BURGESS and GERALD R. CYSEWSKI, Ph.D., to the Hawaii Aquaculture Advisory Council, in accordance with Gov. Msg. No. 205;

ANDREA L. SIMPSON to the Board of Directors, Hawaii Strategic Development Corporation, in accordance with Gov. Msg. No. 206;

ARNOLD WONG and VIVIAN M. WILSON to the Board of Human Services, in accordance with Gov. Msg. No. 208; and

BYRON A. ELIASHOF, MD, ALICE TALBOTT, RN, WAYNELL K. HEE, MSW, WILLIAM FOUNT MCKENZIE, MD, JOSEPHINE C. WOLL, RN, KENNETH KIPNIS, PhD, and KIMBERLY S. TOWLER, JD, to the Reproductive Rights Protection Committee, in accordance with Gov. Msg. No. 212.

In accordance with Senate Rule 34, action on Ldr. Com. Rep. No. 2436 and Gov. Msg. Nos. 202, 203, 204, 205, 206, 208 and 212 was deferred until Tuesday, March 31, 1992.

Senator Matsuura, for the Committee on Science, Technology and Economic Development, presented a report (Stand. Com. Rep. No. 2437) recommending that S.R. No. 47, as amended in S.D. 1, be adopted.

On motion by Senator Matsuura, seconded by Senator Solomon and carried, the report of the Committee was adopted and S.R. No. 47, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO AUDIT CERTAIN TELECOMMUNICATIONS SYSTEMS AND STUDIES," was adopted.

Senator Matsuura, for the Committee on Science, Technology and Economic Development, presented a report (Stand. Com. Rep. No. 2438) recommending that S.C.R. No. 61, as amended in S.D. 1, be adopted.

On motion by Senator Matsuura, seconded by Senator Solomon and carried, the report of the Committee was adopted and S.C.R. No. 61, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO AUDIT CERTAIN TELECOMMUNICATIONS SYSTEMS AND STUDIES," was adopted.

Senator Chang, for the Committee on Agriculture and Environmental Protection, presented a report (Stand. Com. Rep. No. 2439) recommending that H.B. No. 974, H.D. 2, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Agriculture and Environmental Protection.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 974, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MARINE RESOURCES," passed Second Reading and was recommitted to the Committee on Agriculture and Environmental Protection.

Senator Chang, for the Committee on Agriculture and Environmental Protection, presented a report (Stand. Com. Rep. No. 2440) recommending that H.B. No. 2081, H.D. 1, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Agriculture and Environmental Protection.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 2081, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL

PRODUCTS," passed Second Reading and was recommitted to the Committee on Agriculture and Environmental Protection.

ORDER OF THE DAY

MATTER DEFERRED FROM MONDAY, MARCH 23, 1992

S.B. No. 2689, S.D. 1, H.D. 1 (Hse. Com. No. 393):

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 Tuesday, March 31, 1992.

RE-REFERRAL OF HOUSE BILL

The Chair re-referred the following House bill that was received:

House Bill Referred to:

No. 3564, H.D. 2 Committee on Ways and Means

Senator A. Kobayashi then rose to speak on a point of personal privilege as follows:

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

"Yesterday, I was astounded by reading an article in the Sunday paper that made all kinds of innuendos, inferences, and accusations. These were statements made by political insiders or legislative insiders, whoever they may be, that the work of our committees is tied to reorganization, specifically the work of the Science and Technology Committee, that it is being tied to reorganization. And I thought, this is just so absurd, so ridiculous. I was mentioned in that article and that is why I am speaking.

"First of all, I have not been seeking votes for the Senate presidency. We have a Senate president. We've had a good one for the past many years and we hope to have the same president for the next ten years.

"Also, they tried to pit me, I guess, against the Senator from Aiea, which is another real obnoxious thought. It's hard for me to find the correct words to use for this type of political insider. I do have a lot of respect for Mr. Dooley who wrote the article, but I wish he would check the credibility of his informant. The Senator from Aiea and I have been friends since before I became a senator, and I've never stood in his way. I've never tried to thwart his efforts. And in support of that Senator, I sit on his Committee on Employment, and I would like to say that I doubt that any of his legislation, any work he is doing is tied to reorganization. But that is what is being inferred by these people.

"Because these political insiders have reached such a ridiculous conclusion, and I feel they may reach the same type of conclusion as to the work being done by the Executive Appointments Committee, I'd like to say that the confirmation of Levinson, the confirmation of anyone else is not tied to the organization of the Senate.

"I wish these political insiders would just leave us alone. Our committee can get our work done without them meddling in it. We work with the public and we listen to the public. We share their concerns and we do not listen to the so-called political insiders. Thank you."

The Chair interjected:

"Before proceeding, the Chair would just like to make one comment.

"I too would like to take exception to the story just on one basis. Thank you very much for the kind words, Senator Kobayashi. There have been discussions about myself that my retirement has already been planned for. I don't want to disappoint anyone but the three individuals mentioned in the article, when the rumors first appeared, came to see me and told me, 'Dickie, I wish you would really stay.' I looked at them and said, 'Stay where? I'm in my place.' They said, 'We wish you will seek reelection.'

"I want to make that very clear, for the record, so that it's not misconstrued anywhere."

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

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

"Let me first diverge a little here. I want to make a public announcement regarding the use of Bentlate.

"Today I found out that Bentlate, a systemic fungicide that has been used throughout the United States, has a detrimental effect on certain plant species. For some reason, this systemic fungicide disintegrates and produces a gaseous material which affects the roots of vegetables and flowering plants.

"Bentlate was a very good systemic fungicide. You put it on the plant, the plant absorbs it and it protects the plant from the fungus disease.

"Unfortunately, once Bentlate goes into the soil it remains there and it does have a lasting residual effect. I want the public to know, those of you who are farmers, that if you have used Bentlate on your plants and it got into the soil and you're replanting because your plants have died, take the precaution and plant cucumbers first because the cucumber is a very good indicator plant of the residual effects of Bentlate. It will tell you within a month or so whether or not you have the residual effect of Bentlate in the soil.

"Now, I want to continue where the Senator from Manoa left off.

"I went back to Hilo this weekend and I was surprised when some of my constituents asked if I was doing something illegal by being tight with AT&T. Strange as it may seem, nobody focused on the sole source telephone contract. All the questions that were directed to me were toward my association with AT&T and one of the questions that they posed to me was, was I straight? I assured one of my constituents that if I was not straight I would have been leveraged by now.

"The strategy to detract from the main issue of the non-bid phone contract probe is brilliant. One can talk about the reorganization, my association with AT&T and so on, except for one thing, and that is, truth and honesty always prevails in the end. Civilization would have been exterminated if that was not so.

"The GTE Hawaiian Tel employee who said that Matsuura is real tight with AT&T, asserting that I was helping AT&T to compete with GTE Hawaiian Tel in the telephone service in Hawaii, is telling a very big lie to mislead the people of Hawaii. The GTE employee knows that even if AT&T wanted to come into Hawaii and provide the telephone service the Federal Communications

Commission rules and regulations would never allow it, never. And that is a quotable statement -- never!

"Regarding telephone equipment. Back in the '80s the state did buy GTE equipment and was criticized for that. They bought the GTD-5 switching equipment from GTE. That equipment had a lot of problems and the state bought it at a fairly high price. The people of Hawaii paid for that faulty equipment and the ratepayers were really upset. GTE no longer manufactures switching equipment. They're out of it. So that assertion I'm trying to help AT&T with the equipment purchase is another lie because GTE doesn't make switches anymore and AT&T sells its equipment through a local distributor.

"This diversion tactic that somebody seems to be spreading is absolutely erroneous. I'm sure they will send out allegations, but let's stick with the real issue and problems here.

"The real issue is sole source non-bid contracts and the amendments to their non-bid contracts. The state spent over \$440,000 in developing a statewide telecommunications system. Budget and Finance even did an in-house study with all their experts and their recommendation was to have our own telecommunications system. However, at the 11th hour when all the bid documents were prepared, a decision was made to go non-bid to GTE. The bid proposal invited everybody to participate, including GTE with their extended Sentrex system, the PBX system, everybody was going to be asked to bid and come up with a price. At that point, everybody would have sharpened their pencils. But just before the bid goes out, the decision is made to go sole source. My question is, 'Why?' Who made that decision? Nobody is willing to say, 'It's me.' They all point at Dr. Norman Okamura. He is the one that agreed to the telephone prices. He's the one that agreed to the price of the telephone line. He is the one that agreed to have GTE wires in this building. He agreed to all of these things.

"Mr. President, I've written to Dr. Okamura to appear in my hearing. I called him two times today because if all the people are saying that he is the bad guy, I want to question him. I want to ask him why?

"The cheapest telephone the state bought is for \$165 under the non-bid contract. When the same telephone was bought on a bid proposal, it went down from \$165 to \$66. I asked why the \$100 difference? GTE replied, 'The \$66 price did not include labor, freight, taxes and extended warranty.' I checked. The \$66 included taxes and it also included freight and profit. The phones came with a two-year warranty guarantee.

"The state paid for a microwave system that connected all the islands. It was operational since 1989. Since April of 1991 we could have put all the inter-island calls on that microwave system. It would have saved the state a lot of money. It has not been connected as yet. I asked, 'Why?'

"I think we have a bad contract and until I am able to talk to Dr. Okamura, I may never get an answer. In examining the contract, I couldn't find a termination clause, which is a standard clause in every state contract. That clause is missing. We're stuck for five years with this contract. This contract was signed in January of 1990. We're stuck until December 31st of 1994.

"The only company that has testified in opposition to all of the resolutions is GTE Hawaiian Tel. Why would they object to an audit? They have never been audited for seven years. Maybe we are being overcharged. I don't know. I'm not pointing at Hawaiian Tel GTE as a

culprit because they supplied whatever the state wanted. I just want to make sure that whatever we wanted and got was really something that we needed and made some economical sense.

"This concludes my argument, but just be aware of other diversionary attacks that may pop up. Concentrate on the sole source contracts with amendments because that thing needs fixing! Thank you, Mr. President."

Senator Cobb also on a point of personal privilege stated:

"Mr. President, two comments. One, in deference to the remarks of the Senator from Manoa, to paraphrase a passage from Romeo and Juliet: 'The more a person speaks as an insider, usually the further outside the real spectrum they are.' Second, in response to the remarks of the Senator from Hilo, I think the only way the taxpayers will ever really be fully protected in this issue of telecommunications is, one, to require that all public contracts be subject to bid and, two, be subject to audit on a periodic and recurring basis. Thank you."

ADJOURNMENT

At 12:14 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 31, 1992.