

FORTY-SECOND DAY

Monday, April 5, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, convened at 11:43 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Bishop Tokunun Ishihara, Jodo Mission of Hawaii, after which the Roll was called showing all Senators present with the exception of Senators A. Kobayashi, B. Kobayashi, Mizuguchi and Solomon who were excused.

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

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

Senator Ikeda presented and introduced the Honolulu Japanese Junior Chamber of Commerce 1993 Cherry Blossom Festival queen and her court, as follows:

"Mr. President, it gives me great pleasure this morning to help celebrate the Cherry Blossom Festival this year. The 1993 theme is, 'Building Strength Through Cultural Diversity.' And, of course, the highlight of the festival is the selection of the queen and her court who are present with us today. The queen and her court will serve as goodwill ambassadors for the Japanese community.

"Mr. President, I would like to have some of the Senators participate in introducing them to this honorable body, so I will yield to Senator Matsunaga."

Senator Matsunaga introduced Princess Tammie Masako Omoto, as follows:

"It is my pleasure to introduce before this honorable body one of the members of the Cherry Blossom Festival court, Tammie Masako Omoto.

"Tammie is 23 years old; she is five-feet-four inches tall; she was born in Honolulu; her parents are Earl Omoto and Pauline Sugiura. Tammie is a 1987 graduate of Kalani High School. Her interests include spending time with her brother and sister, doing aerobics, running, swimming, visiting art galleries, and attending craft fairs. Her ambition is to pursue a master's degree in marketing and international business, to expand her graphic design background and successfully balance her career and family life. Tammie's exemplary qualities and ambitions make her an excellent representative of Hawaii's Japanese community.

"I present and introduce Princess Tammie Masako Omoto." (Miss Omoto stood to be recognized.)

Senator Tungpalan then continued and introduced Princess Darlene Toyomi Morikawa, as follows:

"Mr. President, on behalf of Senator Bert Kobayashi, it gives me pleasure to introduce to this body Darlene Toyomi Morikawa. She was selected princess on the court of the Japanese Junior Chamber of Commerce 41st Annual Cherry Blossom Festival. Princess Morikawa's interests include kempo, karate, exercising, spending time with her family, reading, and relaxing on the beach. Princess Darlene's ambition is to live life to its fullest and to achieve a successful balance between family life, a career, and learning more about the Japanese culture. (When you achieve that please come back and tell us how to do it.)

"It gives me great pleasure to introduce to this honorable body Princess Darlene Toyomi Morikawa." (Miss Morikawa stood to be recognized.)

Senator Kanno then followed with the introduction of First Princess Traci Keiko Matsumoto:

"Mr. President, I have the pleasure of introducing First Princess Traci Keiko Matsumoto. She is 22; she was born in Okinawa and graduated from Zama American High School. She is the daughter of Genevieve and the late Richard Matsumoto. Her interests include travelling, meeting new people, spending time at the beach and shopping. And her ambition is to pursue a career in the travel industry, to travel to different places around the world, and to raise a happy and healthy family.

"I'd like to present First Princess Traci Keiko Matsumoto." (Miss Matsumoto stood to be recognized.)

Senator Ikeda then concluded:

"Mr. President, it's my distinct honor to present to this honorable body the 41st Cherry Blossom Queen, Dori Lyn Yoko Hirata. Dori is a proud product of the public school system, having graduated from Kalani High School and the University of Hawaii. She's a fourth generation Japanese-American, and she wants others to realize that any goal is attainable through hard work. Dori is a marketing and advertising director of the Japan-America Institute of Management Science. Her parents are Stanward and Lillie Hirata. Mr. Hirata is retired from the state Department of Agriculture and Mrs. Hirata is with Bank of America.

"Ladies and gentlemen, the 1993 Cherry Blossom Queen, Dori Lyn Yoko Hirata. (Miss Hirata stood to be recognized.)

"Accompanying the beautiful young ladies are: Mr. Thomas Yamachika, general chairman of the festival; Mr. Edmund Wong, 42nd president of the Japanese Junior Chamber of Commerce; and Mr. Carlton Saito, public relations chairman." (The gentlemen stood to be recognized.)

Queen Dori and members of her court were presented congratulatory Senate certificates by Senator Ikeda. Senators Holt, Iwase, Kanno, Matsunaga and Tungpalan presented the leis.

Senator Holt then remarked:

"Mr. President, I would be remiss if I didn't say a few words on behalf of someone here that was just introduced. She is Princess Tammie Omoto who is like family to me, pretty much 'hanai.' Her father and I are good fishing buddies. He's the harbormaster at Heeia Kea.

"I've known Tammie since she was a little girl and saw her grow up through her years at Kalani High School where she was an honor student and went on to the University of Hawaii where she was also an honor student, carrying a 4.0 grade point average. It's very nice to see her here today.

"We celebrate your selection to the court, Tammie. I know your father is just as proud of you as I am. Thank you."

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 310 and 311) were read by the Clerk and were placed on file:

Gov. Msg. No. 310, informing the Senate that on April 1, 1993, he signed into law House Bill No. 2052, as Act 2, entitled: "RELATING TO SPECIAL FACILITY REVENUE BONDS FOR HARBORS."

Gov. Msg. No. 311, dated March 25, 1993, transmitting the Annual Report 1991-1992 of the Hawaii State Foundation on Culture and the Arts.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 386 and 387) were read by the Clerk and were placed on file:

Hse. Com. No. 386, informing the Senate that the House has disagreed to the amendments proposed by the Senate to House Bill No. 1797, H.D. 2.

Hse. Com. No. 387, returning S.C.R. No. 41, S.D. 1, which was adopted by the House of Representatives on April 2, 1993.

STANDING COMMITTEE REPORTS

Senator Holt, for the Committee on Executive Appointments, presented a report (Ldr. Com. Rep. No. 1139) recommending that the Senate advise and consent to the nominations of the following:

FRED T. YOUNG to the Board of Private Detectives and Guards, in accordance with Gov. Msg. No. 244;

STEVE R. KAMIYA and STEVEN H. YOSHIMURA to the Board of Barbers, in accordance with Gov. Msg. No. 245;

SAM COX, ROBERT J. BIDWELL, M.D., LIANE Y. MIKAMI KAM and GAIL HIRONAKA to the Child Abuse and Neglect Secondary Prevention Advisory Committee, in accordance with Gov. Msg. No. 246;

ERROL D.Y. LEE to the State Board of Chiropractic Examiners, in accordance with Gov. Msg. No. 247;

RAYMOND S. ONO, RACHAEL KAMAKANA and LEON KAPUAHELANI STERLING, JR., to the Community Based Development Advisory Council, in accordance with Gov. Msg. No. 248;

JAN DAPITAN, GAIL ANN CHEW and BARBARA E. DART to the Advisory Council for Community Services, in accordance with Gov. Msg. No. 249;

JOY B.Y. SHIMABUKU, ANTOINETTE M. ALFONSO and MITZI C.H. YAMAMOTO to the Board of Cosmetology, in accordance with Gov. Msg. No. 250;

HIDEO ABE to the Credit Union Review Board, in accordance with Gov. Msg. No. 251;

HELEN S. YOUNG, GURBACHAN K. SINGH, RICHARD R. CHAVES, BILLIE P. KEAWEKANE, WALLACE J. INGLIS, JILL KOUCHI, VIVIAN RAE HANSON and JOHN W. HARTMAN to the Commission on Persons with Disabilities, in accordance with Gov. Msg. No. 252;

COLIN T. MIYABARA, RICHARD B. ABING, SR., LAURENCE J. CAPELLAS, WARREN G. HAIGHT, SHIMEJI KANAZAWA, CAROL KIKKAWA-WARD

and ALICE KAHILIOPIUA MORIWAKE to the Policy Advisory Board for Elder Affairs, in accordance with Gov. Msg. No. 253;

RONALD T. TANAKA, LEON RICHARDS, Ph.D., CATHERINE E. OUYE and JO-ALYCE K. PETERSON, Ed.D., to the Advisory Commission on Employment and Human Resources, in accordance with Gov. Msg. No. 254;

MAKO ARAKI, MILES A.P. KAHALOA and DOUGLAS D. EHRESMAN to the Oahu Library Advisory Commission, in accordance with Gov. Msg. No. 255;

MERCEDES B. LEIALOHA and JO ANN SASAKI to the Hawaii Library Advisory Commission, in accordance with Gov. Msg. No. 256;

LYNETTE TSUDA to the Kauai Library Advisory Commission, in accordance with Gov. Msg. No. 257;

SHEILA EIKO UEDA BLACK and JANICE S. ESPIRITU to the Maui County Library Advisory Commission, in accordance with Gov. Msg. No. 258;

BLANCHE LEIMAMO NOBUKO ASAGI and CHRISTOBAL J. QUINTANA to the Board of Massage, in accordance with Gov. Msg. No. 259;

LELAND M. YAGI and MARK K. ONO to the Board of Examiners of Nursing Home Administrators, in accordance with Gov. Msg. No. 260;

JONI S. KANAZAWA to the Board of Dispensing Opticians, in accordance with Gov. Msg. No. 261;

ROY M. SHIMOTSUKASA and BRYAN M. OSHIO to the Pest Control Board, in accordance with Gov. Msg. No. 262;

KATHERINE A. O'REILLY to the Board of Physical Therapy, in accordance with Gov. Msg. No. 263;

KELLY MARGUERITE VITOUSEK, Ph.D., and TERRI LYNNE NEEDELS, Ph.D., to the Board of Psychology, in accordance with Gov. Msg. No. 264;

LESTER M. UYEDA, DAVID H. SAKUDA, M.D., VICKI ANN CHANG and ANDREW ROTHSTEIN to the Radiologic Technology Board, in accordance with Gov. Msg. No. 265;

SABRINA A. TOMA to the Board of Taxation Review, First Taxation District (Oahu), in accordance with Gov. Msg. No. 266;

FILEMON M. NANOD to the Board of Taxation Review, Second Taxation District (Maui County), in accordance with Gov. Msg. No. 267;

ALVIN WAKAYAMA to the Board of Taxation Review, Third Taxation District (Hawaii), in accordance with Gov. Msg. No. 268;

EMILIO "SPUD" OLIVAS to the Board of Taxation Review, Fourth Taxation District (Kauai), in accordance with Gov. Msg. No. 269;

SHIRLEY R. CAVANAUGH, LOUIS BALDOVI, LOUIS KAOIWI and ALFRED S. LOS BANOS to the Advisory Board on Veterans Services, in accordance with Gov. Msg. No. 270.

In accordance with Senate Rule 36(1), action on Ldr. Com. Rep. No. 1139 and Gov. Msg. Nos. 244, 245, 246,

247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269 and 270 was deferred until Tuesday, April 6, 1993.

Senator B. Kobayashi, for the Committee on Legislative Management, presented a report (Ldr. Com. Rep. No. 1140) recommending that H.B. No. 947, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator Iwase and carried, the report of the Committee was adopted and H.B. No. 947, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LOBBYISTS LAW STATEMENT OF EXPENDITURES," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 7, 1993.

At 12:01 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:20 o'clock p.m.

ORDER OF THE DAY

THIRD READING

H.B. No. 620, H.D. 1, S.D. 1:

On motion by Senator Levin, seconded by Senator Blair and carried, H.B. No. 620, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, none. Excused, 7 (Holt, Kobayashi, A., Kobayashi, B., Mizuguchi, Nakasato, Reed, Solomon).

H.B. No. 920, H.D. 1, S.D. 1:

On motion by Senator Levin, seconded by Senator Blair and carried, H.B. No. 920, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MARRIED PERSONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, none. Excused, 6 (Holt, Kobayashi, A., Kobayashi, B., Mizuguchi, Nakasato, Solomon).

H.B. No. 1090, S.D. 1:

On motion by Senator Levin, seconded by Senator Blair and carried, H.B. No. 1090, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT COURTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, none. Excused, 6 (Holt, Kobayashi, A., Kobayashi, B., Mizuguchi, Nakasato, Solomon).

H.B. No. 1647, H.D. 2, S.D. 1:

By unanimous consent, action on H.B. No. 1647, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE TESTING," was deferred until Tuesday, April 6, 1993.

H.B. No. 1648:

By unanimous consent, action on H.B. No. 1648, entitled: "A BILL FOR AN ACT RELATING TO PREMARITAL RUBELLA TESTING," was deferred until Tuesday, April 6, 1993.

H.B. No. 1651:

By unanimous consent, action on H.B. No. 1651, entitled: "A BILL FOR AN ACT RELATING TO RADIUM FOR MEDICAL AND SURGICAL PURPOSES," was deferred until Tuesday, April 6, 1993.

H.B. No. 1655, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1655, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SMOKING IN PUBLIC PLACES," was deferred until Tuesday, April 6, 1993.

H.B. No. 1656:

By unanimous consent, action on H.B. No. 1656, entitled: "A BILL FOR AN ACT RELATING TO COORDINATION OF SERVICES FOR CHILDREN WITH SEVERE EMOTIONAL AND DEVELOPMENTAL PROBLEMS," was deferred until Tuesday, April 6, 1993.

H.B. No. 2029, H.D. 2, S.D. 1:

By unanimous consent, action on H.B. No. 2029, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MENTAL HEALTH AND SUBSTANCE ABUSE SYSTEM," was deferred until Tuesday, April 6, 1993.

H.B. No. 126, S.D. 1:

By unanimous consent, action on H.B. No. 126, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," was deferred until Tuesday, April 6, 1993.

H.B. No. 1699:

By unanimous consent, action on H.B. No. 1699, entitled: "A BILL FOR AN ACT RELATING TO FISCAL YEAR TAX RETURNS," was deferred until Tuesday, April 6, 1993.

H.B. No. 2006:

By unanimous consent, action on H.B. No. 2006, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," was deferred until Tuesday, April 6, 1993.

RE-REFERRAL OF HOUSE BILL

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

House Bill	Referred to:
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No. 1988, H.D. 1 Jointly to the Committee on Judiciary and the Committee on Ways and Means

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

"The Honolulu Advertiser April 4th editorial entitled 'DAG' Pleas' is proof that even good newspapers like The Honolulu Advertiser occasionally make mistakes. The editorial reasoned that we should give judges more discretion in accepting deferred acceptance of guilty (DAG) pleas so that judges will have needed flexibility in sentencing. This, arguably, would provide relief to our overflowing prisons. The Advertiser argument confuses a judge's discretion in accepting a DAG plea with a judge's discretion in sentencing a guilty person. The two are entirely different issues.

"A DAG plea simply allows a person to erase a criminal conviction from his/her record as if the crime never happened. A judge's acceptance of a person's DAG

plea has nothing to do with a judge's sentencing of that person. Acceptance of a DAG plea is basically telling a person, 'Yes, you committed a crime. Yes, you will be appropriately punished. But, no, this crime will not be reflected on your record.' In fact, in accepting a person's DAG plea, a judge may still sentence that person to jail as a condition of the DAG plea.

adjourned until 11:30 o'clock a.m., Tuesday, April 6, 1993.

"Under current law, a violent criminal is not eligible for a DAG plea. House Bill 783 would allow judges to accept DAG pleas for certain violent crimes, that is, violent assaults except certain felonies and except misdemeanors which carry a minimum sentence. For example, if H.B. 783 passed, a person who intentionally 'beats the heck out of' another person, but fails to break any bones, cause any scars or cause a protracted injury, may be eligible for a DAG plea.

"I am opposed to allowing violent criminals the privilege of seeking a DAG plea. Not because, as The Advertiser insinuated, I do not have faith in our judges exercising discretion. Indeed, I agree with your statement that judges need flexibility when it comes to sentencing. My opposition to H.B. 783 is because intentional, knowing, or reckless violence should be documented on a person's record. Violence against human beings is different and more serious than property crimes and, as a matter of public policy, should not go undocumented.

"Thank you for the opportunity to clarify this commonly misunderstood issue."

Senator McCartney, also on a point of personal privilege, stated:

"Mr. President, on a very quick point of personal privilege I'd like to thank the Senator from St. Louis Heights for clarifying the Advertiser editorial. I agree with the statements that were made by the Senator."

Senator Blair on a point of personal privilege then remarked:

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

"I concur with the remarks of the previous speaker on the bill. The bill will have minimal, probably zero, impact on incarceration at state correctional facilities for the simple reason that it covers only petty misdemeanors and misdemeanors. The judges, when they exercise discretion, will only do so in cases where there would be no incarceration. So I think that Senator Matsunaga is correct in assessing that the Advertiser misunderstood the bill.

"It must be mentioned, despite any confusion outside of this body, that those of us who spoke in favor of the bill, and I presume still support the bill, had sound reasons for supporting it. My remarks in support of the bill were not premised on any reduction in the number or duration of incarcerations.

"Having said that, I would reiterate that the editorial seems to erroneously assume that those who spoke against the bill and voted against the bill, did not wish judges to have discretion with respect to sentencing. That is an erroneous leap. Hopefully, there will be a correction from the Advertiser. Senator Matsunaga is correct in stating that his opposition was misconstrued. Thank you."

ADJOURNMENT

At 12:28 o'clock p.m., on motion by Senator Ikeda, seconded by Senator Reed and carried, the Senate