

ELEVENTH DAY

Friday, January 31, 1997

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, convened at 11:37 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Vincent Mainelli, Holy Trinity Parish, after which the Roll was called showing all Senators present with the exception of Senators Aki, Matsuura and Tanaka who were excused.

The President announced that he had read and approved the Journal of the Tenth Day.

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

Senator Kawamoto introduced Dr. Terry Shintani, author of the Waianae Book of Hawaiian Health, and the Eat More, Weigh Less Diet. Dr. Shintani was accompanied by his wife, Stephanie.

Senator Taniguchi, on behalf of Senate President Mizuguchi, then introduced Mr. Paul Tagliabue, Commissioner of the National Football League; Mr. Joe Brown, Senior Vice President of Communications and Government Affairs; Mr. Joe Ellis, Executive Director of Club Administration and Stadium Management; and Mr. Edwin Hayashi, Aloha Stadium Manager.

The President then stated:

"We don't often have the privilege of having the Commissioner of the National Football League in our presence, so I'd like to ask the Senators for their indulgence as I ask Mr. Tagliabue to say a few words on behalf of the National Football League. I hope that all of you will influence him this morning so that we can have the Pro-Bowl yearly in the State of Hawaii.

"At this time, I ask that Senators Brian Taniguchi and Mike McCartney accompany the Commissioner of the National Football League to the rostrum."

The Senators escorted Mr. Tagliabue to the rostrum and the President presented him to the members of the Senate as follows:

"Members of the Senate, ladies and gentlemen, may I present to you the Commissioner of the National Football League, Mr. Paul Tagliabue."

Mr. Tagliabue addressed the members of the Senate as follows:

"Mr. Chairman and members of the Senate, students and friends:

"It occurred to me, as I was sitting here, that with the students here today, maybe we could talk about reading, 'riting' and 'rithmetic.' But we should add a fourth 'R' to the three 'R's that go into education -- that would be 'relationships' -- because the relationship between the NFL and the State of Hawaii and its people is what we're here this morning to celebrate, and it's a relationship of teamwork, above all. I think the students know, and their teachers know, that teamwork is as important as anything we do in life and it's what will make our reading, writing, and arithmetic successful.

"The team that has been put together here in Hawaii for the last 18 years, involving your representatives, both in the public sector and the private sector, with our representatives, has really produced an extraordinary series of successes in the Pro-Bowl games that have been played here since 1980. And for that

teamwork, we thank you very, very much. It has been extremely successful from our perspective and I hope it has been equally successful from your perspective.

"As was mentioned earlier, with your cooperation, with your support, with the support of your citizens, and your fans and our fans, the game has constantly grown in stature so that on Sunday, when it's televised nationally, we hope to have about 35-40 million people watching our game coming from Aloha Stadium and watching our great athletes perform in the Pro-Bowl.

"From a personal perspective, my visit here annually has become a highlight of the season. It is a time not only to enjoy the splendors of Hawaii and its culture, but to reflect on our season and to visit with our players who contribute so much to our league both on and off the field.

"I start the season each year in the birthplace of the National Football League, Canton, Ohio, which is where our Pro-Football Hall of Fame is located. As we go through the travails of the season, sometimes fighting amongst ourselves, sometimes just working very hard to present a successful season to our fans, the prospect of coming here and celebrating the Pro-Bowl, celebrating a successful Superbowl as we are doing this year, and enjoying your friendship, has turned out to be as much of a highlight as the start of the season in Canton.

"We look forward to upcoming discussions about a continuing relationship with Hawaii. I think the ingredients of the success of the Pro-Bowl are clear -- it's your hospitality; it's your geography, your culture, your facilities and, above all, the hard work and interest of your people -- and we hope that relationship can continue. We hope we can be good partners. We expect that the teamwork that's made this so successful will be a continuing ingredient, and we thank you for that. We thank you for your time today and, above all, we thank you for your interest and support.

"Mahalo."

At 11:49 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.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 116 to 122) were read by the Clerk and were placed on file:

Gov. Msg. No. 116, dated January 14, 1997, transmitting a report of the activities of the Hawaiian Home Lands Individual Claims Review Panel during 1996.

Gov. Msg. No. 117, dated January 22, 1997, transmitting a report prepared by the Department of the Attorney General pursuant to Act 303, SLH 1996, addressing the issues of tort liability, the Americans With Disabilities Act, and any constitutional concerns as they may relate to family child care homes in limited-equity housing cooperatives, cooperative housing corporations, condominium property regimes and townhouse projects.

Gov. Msg. No. 118, dated January 22, 1997, transmitting a report prepared by the Department of Health pursuant to Act 41, SLH 1992, establishing the primary health care incentive program and the primary care roundtable.

Gov. Msg. No. 119, dated January 22, 1997, transmitting a report prepared by the Agribusiness Development Corporation in response to H.C.R. No. 63 (1996), requesting the Agribusiness Development Corporation to conduct a study of

the economic potential, problems, and other related matters of growing nonpsychoactive industrial cannabis hemp as an agricultural product in Hawaii.

Gov. Msg. No. 120, letter dated January 27, 1997, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 1259, which makes a supplementary appropriation in fiscal year 1996-97 for the agricultural resource management program.

Gov. Msg. No. 121, letter dated January 27, 1997, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of Administration Proposal ATG-35(97), introduced as S.B. No. 1290, relating to an emergency appropriation for automated systems development for the Department of the Attorney General.

Gov. Msg. No. 122, letter dated January 27, 1997, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 1433, which makes a supplementary appropriation in fiscal year 1996-97 for tourism marketing.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 7) was read by the Clerk and was referred to committees:

Senate Concurrent Resolution

No. 7 "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A MANAGEMENT AUDIT OF THE MARRIOTT EDUCATION SERVICES AT THE UNIVERSITY OF HAWAII AT MANOA."

Offered by: Senator McCartney.

Referred to: Committee on Education, then to the Committee on Ways and Means

ORDER OF THE DAY

THIRD READING

There being no objections, the Senate advanced the consideration of the following House bill listed on the Order of the Day:

H.B. No. 230, H.D. 1:

Senator Fernandes Salling moved that H.B. No. 230, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator M. Ige rose in opposition to the measure and stated:

"Mr. President, I have some words in opposition to this measure that I'd like to have inserted into the Journal."

The Chair having so ordered, Senator M. Ige's remarks read as follows:

"Mr. President, I speak in opposition to H.B. No. 230, H.D. 1.

"I believe that we lead by example and an increase in the Legislature's budget for this session sets a poor example. At a time when the state is strapped for funds and the state administration has submitted a zero-growth budget, the Legislature should be similarly responsive and do no less -- and definitely, no more.

"Over the past few weeks, as co-chair of the Senate Committee on Government Operations and Housing, we have been reviewing various government programs and services. With the leadership role the committee holds, I have felt it necessary to consider the issue of growth very thoroughly. In so doing, I have become even more acutely aware of our immediate and pressing need to economize throughout government in every way possible. Our committee is constantly and consistently asking state departments to review their operations with a look to cutting costs while increasing efficiency.

"Mr. President, I mean no disrespect to you and my colleagues, but after much consideration and reflection, I believe an increase in the Legislature's budget at this time sends the wrong message. Based on the hearings and meetings that I have conducted so far, it would be inconsistent for me to vote for a 4 percent increase in the Legislature's budget. Therefore, I have no choice but to cast a 'no' vote on this measure."

The motion was put by the Chair and carried, H.B. No. 230, H.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (Ige, M.). Excused, 3 (Aki, Matsuura, Tanaka).

MATTER DEFERRED FROM TUESDAY, JANUARY 28, 1997

ADVISE AND CONSENT

Stand. Com. Rep. No. 1 (Jud. Com. No. 1):

Senator Chumbley moved that Stand. Com. Rep. No. 1 be received and placed on file, seconded by Senator Matsunaga and carried.

Senator Chumbley then moved that the Senate consent to the nomination of COLETTE YODA GARIBALDI for Judge of the District Court of the First Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Matsunaga.

Senator Chumbley rose in support of the nominee and stated:

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

"Mr. President, upon review of the background information submitted by the nominee, your Committee finds that Colette Yoda Garibaldi holds two bachelors degrees from the University of Southern California and a J.D. degree from Loyola Law School. Ms. Garibaldi first served as an attorney in a private law firm in 1981 and as a Deputy Prosecuting Attorney with the Department of the Prosecuting Attorney's Office, City and County of Honolulu, from 1982-1988. Ms. Garibaldi has since served as a per diem district court judge for the First Circuit since her first appointment in 1988. Ms. Garibaldi is also a volunteer member of the District Court Per Diem Judges' Training Committee and has been nominated as a mentor with the Judiciary Mentoring Program.

"Testimony was submitted to your Committee in support of the nominee which indicated that both in her experience as a Deputy Prosecuting Attorney and during her tenure as a Per Diem Judge, Ms. Garibaldi has consistently demonstrated a keen knowledge of the law. Testifiers further acknowledged her exemplary judicial temperament and integrity in her consideration of the cases presented before her as well as her excellent interpersonal skills in working with the public and the legal community.

"I urge my colleagues to consent to this nomination."

Senator Anderson also rose in support and said:

"Mr. President, that's what I had written down, so rather than go over it again, may I have the chairman's words put into the Journal as though they were my own. Thank you."

The Chair so ordered.

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

Ayes, 22. Noes, none. Excused, 3 (Aki, Matsuura, Tanaka).

At this time, Senator Chumbley introduced Judge Garibaldi to the members of the Senate. (Judge Garibaldi, who was seated in the gallery with her family, then rose to be recognized.)

RE-REFERRAL OF SENATE BILLS

The Chair re-referred the following Senate bills that were introduced:

Senate Bill Referred to:

No. 45 Jointly to the Committee on Transportation and Intergovernmental Affairs and the Committee on Human Resources, then to the Committee on Ways and Means

No. 214 Jointly to the Committee on Education and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 262 Committee on Human Resources, then to the Committee on Ways and Means

No. 348 Jointly to the Committee on Education and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 385 Committee on Human Resources, then to the Committee on Water, Land, and Hawaiian Affairs

No. 410 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Health and Environment

No. 413 Jointly to the Committee on Economic Development and the Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Ways and Means

No. 464 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means

No. 476 Committee on Human Resources, then to the Committee on Water, Land, and Hawaiian Affairs

No. 653 Jointly to the Committee on Human Resources and the Committee on Judiciary

No. 789 Jointly to the Committee on Human Resources and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 802 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Economic Development, then to the Committee on Ways and Means

No. 819 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means

No. 840 Committee on Human Resources, then to the Committee on Ways and Means

No. 877 Jointly to the Committee on Human Resources and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Judiciary

No. 1082 Committee on Health and Environment, then to the Committee on Ways and Means

No. 1113 Jointly to the Committee on Commerce, Consumer Protection, and Information Technology and the Committee on Judiciary

No. 1176 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Economic Development, then to the Committee on Ways and Means

No. 1472 Jointly to the Committee on Transportation and Intergovernmental Affairs and the Committee on Judiciary and the Committee on Economic Development, then to the Committee on Ways and Means

No. 1610 Committee on Government Operations and Housing

No. 1663 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Judiciary

No. 1664 Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Transportation and Intergovernmental Affairs

No. 1675 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means

No. 1759 Jointly to the Committee on Government Operations and Housing and the Committee on Economic Development, then to the Committee on Ways and Means

No. 1866 Committee on Ways and Means

No. 1870 Committee on Government Operations and Housing, then to the Committee on Ways and Means

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

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

"Mr. President, today the resignation of one of our colleagues takes effect. I know I am not alone in my belief that this body will not be the same without Senator Matsuura's avuncular presence.

"When I first arrived in the Senate five years ago, Senator Matsuura took me under his wing to teach me how to become a good Senator. He told me he wanted to help me because of his respect for and friendship with my father, and because he wanted to help me fulfill some of my father's visions on world peace and renewable energy. What I learned over the past five years is that Senator Matsuura is a remarkable person. And I know 'remarkable' is the word that many of us have used to describe him in many different instances.

"An author of wonderful children's books, a farmer of plentiful soy beans, a dreamer of tremendous visions, and a

singer of modest abilities, Senator Matsuura is truly a Renaissance Man. I think if you looked up the word 'character' in the dictionary, you'd find a picture of him right next to that word.

"I believe that historians will remember Senator Matsuura for his many, many legislative achievements, including his work on state procurement, telecommunications, renewable energy, and the water code. What I think this body will miss the most are his brutal honesty and his unrelenting perseverance.

"I'm sure each of us has a Dick Matsuura story about his sometimes less than tactful statements. He is constantly telling me how much he dislikes lawyers, but that I'm O.K. In fact, in a political world, where diplomacy is the norm, Senator Matsuura is a bull in a china closet. He was often the conscience of this body, scolding us when he thought we did not put the people first.

"Senator Matsuura is also unrelenting when he sets his sights on a goal. Whether it is striving for the 'common sense law,' or investigating why he can't get a light on his phone to turn on, or seeking the perfect site for a peace institute where leaders from around the world can meet and grow mahi-mahi to feed the world, he never gives up. He will dream and he will work and he will dream and he will work until he achieves his goal.

"What I will miss most, though, is the warmth that he radiates. He loves food so much, he became a farmer. He loves movies so much, he even wrote a movie script and tried to get it produced. He loves his country so much, his favorite song is 'God Bless America.' And he loves his job as a Legislator so much, he devoted his life to it.

"Mr. President, I ask my colleagues today to join me in supporting Dick Matsuura, as he faces the toughest challenge he has ever faced, by praying for him and by never ever forgetting what he stands for.

"Thank you."

The Chair responded:

"Thank you, Senator, for those kind words."

ADJOURNMENT

At 12:08 o'clock p.m., on motion by Senator McCartney, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, February 3, 1997, in honor of their friend and colleague, Senator Richard Matsuura, upon his retirement from the Hawaii State Senate.