

FORTIETH DAY

Tuesday, March 25, 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 Sam Domingo, Harris United Methodist Church, after which the Roll was called showing all Senators present.

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

At 11:41 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:45 o'clock a.m.

At this time, the following student "shadows" were introduced:

Senator Baker introduced Lucas Okamoto and Tyler Loo from Lanai High School;

Senator Tam introduced Sandra Kim from McKinley High School;

Senator M. Ige introduced Gary Ishida from McKinley High School;

Senator Sakamoto introduced Maelynn Jones from Farrington High School;

Senator Chun Oakland introduced Chu Hyung Lee from McKinley High School and Jeannie Randall from Roosevelt High School; and

Senator Matsunaga introduced Joel Arakaki from Jarrett Intermediate School and Matthew Dunn from Kaimuki Intermediate School.

Senator D. Ige, with the assistance of Senators Baker, Chumbley and Slom, introduced Lowell Milken, co-founder and president of the Milken Family Foundation; Dr. Julius Lesner, vice president of the Foundation; and Raymond Sugai, Lawrence Joyo, Linda Holt and Angela Church, all recipients of the Milken Family Foundation's 1996-1997 National Educator Awards.

At this time, President Mizuguchi invited Mr. Lowell Milken to address the members of the Senate and appointed Senators Tam and D. Ige to escort him to the rostrum.

Mr. Milken addressed the members of the Senate and their guests as follows:

"Good morning. Those two comments are a tough act to follow.

"On behalf of the Milken Family Foundation, let me express my gratitude for the recognition the Hawaii State Legislature has bestowed upon the foundation this morning. But in recognizing the foundation, you are really recognizing the critical importance of education -- the role that outstanding educators play and how a rigorous education is the key to helping get our young people prepared to lead lives that are productive and satisfying.

"We applaud your recognition of these outstanding educators because we believe that in a society that is quick to recognize greatness -- we see it in sports, in music, literature, and even medicine -- it's simply not fair that greatness in the most important profession there is -- education -- hasn't been part of

the celebration all along. That is why we created this program to celebrate, recognize and award outstanding educators who not only develop the potential of children, but stand as powerful role models for their students and their colleagues.

"Recognizing excellence in education is only part of the answer. So, too, is giving our educators tools to provide the quality classroom instruction our children need and deserve. And that is why for several years we have been focussed most intensively on the potential of integrating education technology into our schools. It has the potential in so many ways to enrich the learning experience of our young people -- chief among them the power to be the great equalizer in our schools.

"And I can tell you that this is not a hunch. We've observed it from coast to coast in visiting thousands of schools. It's what our research tells us, and it's what the Milken Exchange and Education Technology -- a nerve center of an emerging national network of business leaders and public officials and educators -- tells us. It also grows from our first-hand experience with many Milken educators, such as Angela Church. Thanks to technology we heard this morning, she is able to communicate with scientists on-line, she is able to communicate with kids in Finland, and she is able to create computer simulation programs stressing math and economics and city planning.

"What's happening in Angela Church's classroom can and should be happening in every classroom in this state and across the nation. While the Kalama Internet Project, the Hawaii Distance Learning Program, and the Hawaii Educational Research Network all represent exciting new initiatives, I think we all would agree that much more can be done.

"In this milestone of our 15-year history of the foundation, we see the many challenges facing education as opportunities. We can elevate the teaching profession to the status that it deserves and we can make technology a vital part of the academic program in our schools. We can best take advantage of these opportunities if we work together in partnership with each one of you, for you are the leaders who share this commitment and the belief that the future truly belongs to the educated.

"Thank you very much for this honor."

At 12:08 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:15 o'clock p.m.

MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 236, dated March 24, 1997, transmitting a report on the evaluation of the March 1996 Council on Revenues' projection, prepared by the Department of Business, Economic Development, and Tourism, was read by the Clerk and was placed on file.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 521 to 532) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 521, transmitting H.C.R. No. 4, H.D. 1, which was adopted by the House of Representatives on March 24, 1997, was placed on file.

By unanimous consent, action on H.C.R. No. 4, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE UNIVERSITY OF HAWAII TO DEVELOP AN IMPLEMENTATION PLAN

FOR OUTREACH AND DISTANCE EDUCATION PROGRAMS," was deferred until Thursday, March 27, 1997.

Hse. Com. No. 522, transmitting H.C.R. No. 43, which was adopted by the House of Representatives on March 24, 1997, was placed on file.

By unanimous consent, action on H.C.R. No. 43, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS TO EXPEDITE THE CONSTRUCTION OF A SIX HUNDRED AND FIFTY BED FEDERAL DETENTION CENTER ON OAHU," was deferred until Thursday, March 27, 1997.

Hse. Com. No. 523, transmitting H.C.R. No. 48, H.D. 1, which was adopted by the House of Representatives on March 24, 1997, was placed on file.

By unanimous consent, action on H.C.R. No. 48, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE HAWAII CONGRESSIONAL DELEGATION TO INTRODUCE AND SUPPORT LEGISLATION PERMITTING THE IMMIGRATION OF THE CHILDREN OF FILIPINO VETERANS OF WORLD WAR II TO THE UNITED STATES WITHOUT LIMIT AS TO NUMBER AND WITHOUT THE REQUIREMENT OF FINANCIAL SPONSORSHIP," was deferred until Thursday, March 27, 1997.

Hse. Com. No. 524, returning S.B. No. 5, S.D. 2, which passed Third Reading in the House of Representatives on March 24, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 5, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTORSPORTS INSURANCE," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 525, returning S.B. No. 285, S.D. 1, which passed Third Reading in the House of Representatives on March 24, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 285, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COURTS," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 526, returning S.B. No. 305, S.D. 1, which passed Third Reading in the House of Representatives on March 24, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 305, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 527, returning S.B. No. 333, S.D. 1, which passed Third Reading in the House of Representatives on March 24, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 333, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 528, returning S.B. No. 823, S.D. 1, which passed Third Reading in the House of Representatives on March 24, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 823, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 529, returning S.B. No. 959, which passed Third Reading in the House of Representatives on March 24, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 959, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PRUDENT INVESTOR ACT," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 530, returning S.B. No. 986, S.D. 1, which passed Third Reading in the House of Representatives on March 21, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 986, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NONCONSENSUAL COMMON LAW LIENS," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 531, returning S.B. No. 1279, S.D. 1, which passed Third Reading in the House of Representatives on March 24, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 1279, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," was deferred until Tuesday, April 1, 1997.

Hse. Com. No. 532, returning S.B. No. 1493, S.D. 1, which passed Third Reading in the House of Representatives on March 24, 1997, was placed on file.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1222 (Gov. Msg. No. 192):

Senator Aki moved that Stand. Com. Rep. No. 1222 be received and placed on file, seconded by Senator Tam and carried.

Senator Aki then moved that the Senate consent to the nomination of RAYMOND S. ONO to the Western Interstate Commission for Higher Education (WICHE), term to expire June 30, 2001, seconded by Senator Tam.

Senator Aki then rose in support of the nominee and said:

"Mr. President, I have comments in support of Mr. Ono's nomination to the WICHE Commission. Mr. Ono is well qualified for the position and I'd like to have these comments inserted into the Journal, and ask the Senate to confirm his nomination."

The Chair having so ordered, Senator Aki's remarks read as follows:

"It is my privilege today to recommend Hawaii's newest commissioner nominee to the Western Interstate Commission for Higher Education (WICHE) from the State of Hawaii... Mr. Raymond S. Ono. He is an outstanding business and community leader and a vice president for the First Hawaiian Bank. Your Committee on Education heard testimony and confirmed Mr. Raymond S. Ono's nomination on March 17, 1997. He will be replacing Dr. Richard Kosaki. Mr. Ono's term will expire on June 30, 2001.

Our state's participation in the WICHE Student Exchange Program over the many years has enabled our bright young people to be admitted into professional schools in the Western region in such areas of study as dentistry, veterinary medicine, and physical therapy. In reciprocity, our University of Hawaii has admitted WICHE-certified students from the Western region of the United States into UH academic programs that are not available in their home state public higher education system.

As we approach the 21st century, it is vital that we confirm Mr. Raymond S. Ono who is a recognized business and community leader with strong ties to Hawaii and our young

people who represent our future civic leaders to keep Hawaii's economy and Aloha Spirit alive and well. Mr. Ono will use his business acumen and experience to promote awareness and active participation of Hawaii's young people in the WICHE Student Program.

Mr. Ono is a graduate of Iolani School (1972) and Willamette University where he earned a bachelor of science degree in economics in 1976. He also earned a master's degree from Atkinson Graduate School of Administration (1978). Mr. Ono enrolled in the Pacific Coast Banking School at the University of Washington in 1990. He is presently employed as vice president and manager of the First Hawaiian Bank South King Street Banking Center.

While residing on Maui, Mr. Ono was very active in the following community affairs:

1. Past member of the Maui Community College Horizon's Committee;
2. Past president of the Rotary Club of Kahului, Maui;
3. Past member of the Maui United Way Allocations Committee;
4. Past member of the Makai Kokua (Police Support Group);
5. Past director of the Maui Country Club;
6. Past vice president of the Maui Family Support Services;
7. Past member of the Maui Chamber of Commerce; and
8. Past member of the Maui Japanese Chamber of Commerce.

Presently, Mr. Ono is a member of the UH Foundation President's Club Committee; vice chairman of the Building Industry Association; and a member of the Home Building & Remodeling Chamber of Commerce of Hawaii.

As affirmed by the record of votes of the members of your Committee on Education, your Committee, after full consideration of the background, character, experience, and qualifications of Mr. Raymond S. Ono, has found him to be well-qualified for appointment as a WICHE Commissioner and, therefore, recommends that the Senate advise and consent to this nomination."

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

Ayes, 25. Noes, none.

STANDING COMMITTEE REPORT

Senators Chun Oakland and Kanno, jointly with Senators Fernandes Salling and Fukunaga, for the Committee on Human Resources and the Committee on Ways and Means, presented a joint report (Stand. Com. Rep. No. 1223) recommending that H.B. No. 139, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kanno, seconded by Senator Fernandes Salling and carried, the joint report of the Committees was adopted and H.B. No. 139, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 27, 1997.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, requested a waiver of the 72-hour Notice of a Public Hearing pursuant to Senate Rule 20 on the following resolutions: S.C.R. No. 170, S.C.R. No. 183, S.C.R. No. 194, S.C.R. No. 205, S.C.R. No. 210, S.R. No. 89, S.R. No. 99, S.R. No. 107 and S.R. No. 137, and the Chair granted the waiver.

APPOINTMENT OF CONFEREES

S.B. No. 175 (H.D. 1):

The President appointed Senator Tam as an additional manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 175.

H.B. No. 100, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 100, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Baker, Ige, D., co-chairmen, Slom as managers on the part of the Senate at such conference.

Senator Slom rose on a point of personal privilege and said:

"Mr. President, I rise on a point of personal privilege -- just some very brief comments on the Supreme Court decision yesterday involving the Constitutional Convention election.

"Mr. President, the opinion of the court which I have here seems, at first blush, to be a fair and equitable opinion covering the appropriate points and taking legislative intent into account, but upon closer inspection one can perceive an omission and a glaring error, Mr. President, in the court's opinion. Nowhere in that opinion does the court address HRS Section 11-151 (3), which reads as follows, Mr. President: 'If a contest or question requires a majority of the votes for passage, any blank, spoiled, or invalid ballot shall not be tallied for passage or as votes cast except that such ballots shall be counted as votes cast in ratification of a constitutional amendment.'

"That's 'shall not,' Mr. President, 'be tallied for passage or as votes cast except ... as votes cast in ratification of a constitutional amendment.' Why doesn't the court address this statute in its opinion? Why the silence? Why are the people of Hawaii and their will being silenced, and some would say and agree, for the third time this year by our state's highest court? The attorney general, the governor and the courts and all of us, Mr. President, are ultimately answerable to Hawaii's people and they look to us for our leadership. And I think that this body must take action and provide that leadership.

"Thank you, Mr. President."

Senator Anderson also rose on a point of personal privilege and said:

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

"Mine is more or less on the Council on Revenues dispute now that DBEDT has come out with their findings. We've gone over everything and for those of us in Ways and Means and those of us that have talked to some of the members on the Council of Revenues, I have a problem with having DBEDT go a little higher. I think it was brought forth that if, in fact, the Council of Revenues' findings are lower, and then we take in more revenue, we're not too bad off. But if their revenue forecast is high and we take in less money and we spend that, we're then in trouble. That's like saying that you have \$100 left in your checking and you go to a bank and they look at your \$500 mortgage and you bring in \$1,000, and you have utility bills and you owe Sears and the others, and now you want to buy a new car because you're anticipating getting a part-time job as a service station attendant -- they're not going to give you that loan.

"The Council on Revenues does not do anything on anticipation. They take everything into concern here. Even DBEDT who has come up with one hundred and some odd hundred thousand dollars, I mean \$178 million, and the balance being \$78 million compared to Council of Revenues. Mr.

Brewbaker did say that they did take into consideration the construction for the CIP projects, but it was a wash. So if you take that into a part of this, then in essence we are only 17.3 million off as far as the council's figures and that's not very much, my fellow colleagues.

"I think we have to look at what we have. I think that the governor and his administration are going to have to, if they want to look at anticipated revenues, find ways to bring in revenues -- lots more than we are looking at right now. And as I said the other day on this floor, if in fact now he's considering looking at gambling and the referendum that's there, then we'd better pass something in that way so that the people can vote. If we're going to be able to use state lands and give off free rent for five years and long leases, or selling off some of the long, long leases that have been out there because the people have a short-term left and banks won't lend money, then we'd better start looking at these things.

"So I just have a problem with what came down from the department and I don't blame Mr. Seiji Naya. I have a lot of respect for him and I know he had a very difficult job. It's just that I do dispute some of the figures and I wish that we'd all look at them very, very seriously before we jump in and want to spend more money. Thank you very much."

ADJOURNMENT

At 12:27 o'clock p.m., on motion by Senator Ihara, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, March 27, 1997.