

SEVENTH DAY

Thursday, January 26, 1984

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, convened at 12:30 o'clock p.m., with the President in the Chair.

The Divine Blessing was invoked by Ms. Kathleen Wenke of the Christian Science Church, Publications Committee, after which the Roll was called showing all Senators present with the exception of Senators Cayetano and B. Kobayashi who were excused.

The Chair announced that he had read and approved the Journal of the Sixth Day.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 3), submitting for consideration and consent to the First Circuit Court, the nomination of Patrick K.S.L. Yim as Judge, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, for a term of ten years, was read by the Clerk and was referred to the Committee on Judiciary.

ORDER OF THE DAY

ADVISE AND CONSENT

Standing Committee Report No. 1-84 (Gov. Msg. No. 1):

Senator Chang moved that Stand. Com. Rep. No. 1-84 be received and placed on file, seconded by Senator Cobb and carried.

Senator Chang then moved that the Senate advise and consent to the nomination of Boyd P. Mossman as Judge of the Circuit Court of the Second Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Cobb.

Senator Chang then rose to speak in favor of the nomination as follows:

"Mr. President, your committee has conducted extensive research on the background and competency of this candidate. We have verified his admission to the Hawaii State Bar with the Supreme Court and found that the candidate meets the requirements set forth in Article VI, Section 3, of the Hawaii State Constitution. We

reviewed the Judicial Selection Commission report; spoke at length with the candidate; and received and analyzed substantial testimony from members of the Bar and Judiciary, legislators, government employees, and business people.

"Judge Boyd Poki Mossman was admitted to the Hawaii Bar in 1971. He has since garnered over ten years of legal and legislative experience in our state courts as a prosecuting attorney.

"In addition, Judge Mossman has continually involved himself in numerous civic and community activities, including the State Bar Association and church organizations. Abundant testimony consistently revealed that Judge Mossman is an individual who is honest and fair, even tempered, and possesses excellent analytical abilities.

"As one colleague testified, 'I have always found him to be cooperative, knowledgeable and possessed with good common sense and judgment. He works well under pressure and communicates his thoughts skillfully, both orally and in writing. He is discerning and makes sound judgments which produce effective results. He is fair and always strives to deal with others impartially, regardless of race, sex, age, or political persuasion. He exerts great self-control and possesses the judicial temperament needed on the bench.'

"Mr. President, I recommend the confirmation of Judge Mossman.

"Thank you."

Senator Machida also rose to speak in support of the nominee and stated:

"Mr. President and members of the Senate, it is not very often that a judicial appointee receives such widespread community and state support such as was the case regarding Judge Mossman's appointment as contained in Governor's Message No. 1.

"During the Judiciary Committee hearing held on Tuesday, written and oral testimony in support of Judge Mossman's appointment came from fellow prosecutors throughout the state, elected officials, law enforcement officials, business and

community leaders, practicing attorneys, and others, all holding Judge Mossman in the highest esteem.

"I would like to echo the remarks made at the hearing and say that during the many years of my association with Judge Mossman I have witnessed his dedication to his family, church, and community. There is no question in my mind that he has the ability, integrity, intelligence, compassion, and judicial temperament to make an excellent circuit court judge for the County of Maui.

"Mr. President and members, I would like to urge unanimous support for the confirmation of Judge Mossman.

"Thank you."

Senator Abercrombie then stated as follows:

"Mr. President, I will not vote for Judge Mossman's confirmation.

"I would like to state for the record that I wish I'd had the opportunity, before he was elevated to this position, to see what experience he would have in his previous appointment as a judge. I think it would be hypocritical for me to vote in the affirmative when I had strong feelings with respect to his philosophy on prosecutions. Whether that same philosophy would carry over in his activities as judge with respect to the criminal justice system, I cannot say. As a result, I have my doubts as to whether or not he should be confirmed in this position, and, therefore, I must vote 'no.'"

Senator Carpenter added his remarks in support of the nomination and stated:

"Mr. President, in my nearly three years as judiciary committee chairman, I had the opportunity to meet with and discuss, on many occasions, a number of concerns from the Maui County Prosecutor's Office which he represented more than ably during those discussions.

"I believe that he is, indeed, a conscientious and dedicated person who abides by the principles of law, irrespective of the fact that he did spend a large amount of time in the prosecutorial end of the judicial spectrum.

"I believe that he does have the temperament to be, not only a satisfactory, but, a super judge.

The fact that he was appointed to office by a Republican mayor should have no bearing on the final appointment.

"Thank you very much."

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

Ayes, 22. Noes, 1 (Abercrombie).
Excused, 2 (Cayetano and B. Kobayashi).

Standing Committee Report No. 2-84 (Gov. Msg. No. 2):

Senator Chang moved that Stand. Com. Rep. No. 2-84 be received and placed on file, seconded by Senator Cobb and carried.

Senator Chang then moved that the Senate advise and consent to the nomination of Robert G. Klein as Judge of the First Circuit 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 Cobb.

Senator Chang then rose to speak in favor of the nomination as follows:

"Mr. President, here again, your committee conducted extensive analysis of the candidate.

"Judge Robert Gordon Klein was admitted to the Hawaii Bar in 1972. He has extensive judicial experience as a district court judge for the past four years, and legal experience for over six years as a government attorney.

"His supporters have all found him to possess a very high degree of fairness, objectivity, and common sense.

"A colleague who has known Judge Klein for over twenty years stated that, 'many lawyers and judges have the requisite character and intelligence to do a competent job; few lawyers and judges, however, have the special kind of common sense and pragmatism which, when blended with character and intelligence, make a superior lawyer and judge.'

"Robert Klein has demonstrated that sort of pragmatism which has earned him the respect of virtually every trial lawyer who has come in contact with him.

"Here again, Mr. President, I

recommend the confirmation of this judicial appointment.

"Thank you."

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

Ayes, 23. Noes, none. Excused, 2 (Cayetano and B. Kobayashi).

At this time, Senator Carpenter

introduced to the members of the Senate his aunt, Sarah Meyer of Kailua, Oahu, who was sitting in the gallery.

ADJOURNMENT

At 12:48 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, January 27, 1984.