

## TWENTY-THIRD DAY

Monday, February 23, 1987

The Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, convened at 11:41 o'clock a.m., with the Vice President in the Chair.

The Divine Blessing was invoked by Major Richard Taba of the Salvation Army, Divisional Headquarters, after which the Roll was called showing all Senators present.

The Chair announced that she had read and approved the Journal of the Twenty-Second Day.

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

Senator George introduced Sister Peggy Dawson, Helen Matthews, Kimi Pinao, Teodorica Rosco and John Simeona, visitors from the Ola Hou Adult Learning Center in Waimanalo.

Senator B. Kobayashi introduced a group of students from the gifted and talented program of Kaimuki Intermediate School and their teacher, Mrs. Marion Kittelson.

Senator Yamasaki, on behalf of Senator Solomon, Senator Reed and himself, introduced Mr. James R. Heid, "a protea flower grower who has been selected as the Outstanding Young Farmer for 1986-1987 by the Hawaii Jaycees and will represent Hawaii in national competition in Moline, Illinois, February 25 to 29, 1987 in the U.S. Jaycees Annual Outstanding Young Farmer Awards Congress."

The honoree rose to be recognized and was presented the Senate Certificate by Senator Yamasaki and lei by Senator A. Kobayashi.

Senator Yamasaki also introduced Mrs. Anne Heid and daughters, Shannon and Chloe; Mr. John Kwee, Community Development Vice President of the Hawaii Jaycees; and Mr. Eugene Villauz, Executive Vice President of the Hawaii Jaycees.

Senator Menor, on behalf of Senator Kuroda, Senator Young and himself, then introduced a group of 5th and 6th grade students from Waipahu Elementary School and their teachers, Mrs. Paulette Moore and Mrs. Iwami. Senator Menor then added: "For the benefit and information of this body, Mrs. Paulette Moore happens to be the former teacher of Hue Cao whom we know as the winner of the Statue of Liberty essay contest and participated in the Statute of Liberty ceremonies in New York City. Mrs. Moore accompanied Hue Cao during that very special occasion and event."

Senator Ikeda introduced Mrs. Georgiana Oshio, principal of Kaiser High School, and members of the Kaiser High School Boys Swim Team: coaches - Craig Takahashi and Asa Tanaka; seniors - J. Williams and Mark Ferguson; captain - Cullen Chong; and members - Mitchell Chong, Thai Rea, Mike Hendrix and John Fairbairn. Senator Ikeda said, "Madam Vice President, I am extremely proud of them because they just won the state championship and, with only seven members on their team, won the championship by one point, breaking a 29-year winning streak of another school which shall remain nameless."

All of the honorees rose to be recognized. Mrs. Oshio was presented the Senate Certificate by Senator Ikeda and lei by Senator Mizuguchi. Senators Fernandes Salling, McMurdo, A. Kobayashi and George presented the coaches and seniors with leis.

Senator Kuroda then introduced Mrs. Cindy (Flom) Rarick, winner of the Tsumura Hawaiian Ladies Open, as follows:

"The Sunday Advertiser/Star-Bulletin, February 22nd, headline in the sports section stated, 'Rarick Homecoming A Love Story.' With us on the floor is the champion of the Tsumura Hawaiian Ladies Open held recently at the Turtle Bay Country Club. The love story is Mrs. Rarick's love relationship with Hawaii, having been a member of the University of Hawaii golf team from 1978 to 1980.

"She was recruited from Arizona by UH Golf Coach Ron Castillo and, after winning amateur championships here in Hawaii, went on to become a pro in 1980; spent several years on Asian and European tours; met some success in 1985, placing very high in the LPGA championship in Cincinnati, Ohio; rated 72nd on the money list, well within the 90th place in 1986 which qualified her for an exempt status for 1987, then coming home to Hawaii to successfully win the 1st Annual Tsumura Hawaiian Ladies Open with a score of 9 under par 207 for a 54-hole score.

"Cindy is on her way to Kauai to participate in the Ladies Kemper Open."

Mrs. Rarick rose to be recognized together with her husband Rick Rarick, tutor-coach-caddie, and was presented with the Senate Certificate by Senator Kuroda and lei by Senator Henderson. Senator Solomon presented Mr. Rarick with a lei.

Senator Chang, on behalf of Senator Solomon and himself, introduced Mr.

Christine R. Holmes, director of the U.S. Trade and Development Program, "a federally-supported agency charged with a two-fold mission - to contribute to the economic development of friendly developing countries and to assist the U.S. business communities competition in markets for technology equipment and services throughout the developing world."

Mr. Holmes was accompanied by Lucy Ahn from the Office of U.S. Senator Daniel Inouye.

At 11:56 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:01 o'clock p.m.

Senator Yamasaki, on behalf of Senator Solomon, Senator Reed and himself, introduced Althea Buen and Kimberly Fukuda as follows:

"It is my privilege to introduce to you two winners of the speech contest sponsored by Hawaiian Air to celebrate Ho'Olako '87 - The Year of the Hawaiian. The topic of the speeches of the contestants was 'Why I Am Proud to Live in Hawaii.'

"The winners are Althea Lehuanani Buen, an 11th grader from Kamehameha Schools, who placed first in the high school category.

"Kimberly Fukuda is an 8th grader from Samuel Kalama Intermediate School who placed first in the intermediate school category."

The young ladies rose to be recognized and were presented the Senate Certificate by Senator Yamasaki and leis by Senators Holt and Solomon.

Also introduced were: Janet Buen, mother of Althea; David and Judith Fukuda, parents of Kimberly; Mr. and Mrs. Thomas S. Yagi, grandparents of Althea; Toshiko Fukuda, Florence Matsumoto and Masami Imamura, grandparents of Kimberly.

At 12:04 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 o'clock p.m.

#### MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 118 to 121) were read by the Clerk and were placed on file:

Gov. Msg. No. 118, transmitting the "State Plan Policy Council Annual Review and Report," 1986, prepared by the Planning Division, Department of Planning and Economic Development pursuant to Chapter

226, HRS, as amended.

Gov. Msg. No. 119, transmitting a report, "Adequacy of Welfare Allowances," prepared by the Department of Social Services and Housing pursuant to Title 20, Social Services, Part II, Chapters 346-53 and 346-54, HRS.

Gov. Msg. No. 120, transmitting the "Annual Report of Claims and Lawsuits Arbitrated, Compromised, or Settled for \$2,000 or Less for Fiscal Year 1985-1986," prepared by the Department of the Attorney General pursuant to Sec. 662-11, HRS.

Gov. Msg. No. 121, transmitting the "1987 Report on Claims for Legislative Relief," prepared by the Department of the Attorney General pursuant to Sec. 37-77, HRS.

#### DEPARTMENTAL COMMUNICATION

Dept. Com. No. 30 from the Office of the Legislative Auditor, transmitting the "Management Audit of the Hawaii Visitors Bureau and the State's Tourism Program," (Report No. 87-14), in response to Sec. 6D, Act 345, SLH 1986, was read by the Clerk and was referred to the Committee on Tourism and Recreation.

#### SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 17 to 19) were read by the Clerk and were disposed of as follows:

S.C.R. No. 17, entitled: "SENATE CONCURRENT RESOLUTION CLARIFYING THE INTENT OF THE LEGISLATURE WITH RESPECT TO THE DIAMOND HEAD STATE MONUMENT," was offered by Senator B. Kobayashi.

By unanimous consent, S.C.R. No. 17 was referred to the Committee on Culture, Arts and Historic Preservation.

S.C.R. No. 18, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE STATE TO DIVEST STATE MONEYS FROM SOUTH AFRICAN INVESTMENTS," was offered by Senator Hee.

By unanimous consent, S.C.R. No. 18 was referred to the Committee on Ways and Means.

S.C.R. No. 19, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE 150TH ANNIVERSARY OF THE ARRIVAL OF THE 8TH COMPANY OF MISSIONARIES TO THE HAWAIIAN ISLANDS," was offered by Senator Hee.

By unanimous consent, S.C.R. No. 19 was referred to the Committee on Culture, Arts

and Historic Preservation.

#### SENATE RESOLUTION

S.R. No. 23, entitled: "SENATE RESOLUTION REQUESTING THE STATE TO DIVEST STATE MONEYS FROM SOUTH AFRICAN INVESTMENTS," was offered by Senator Hee, and was read by the Clerk.

By unanimous consent, S.R. No. 23 was referred to the Committee on Ways and Means.

#### STANDING COMMITTEE REPORT

Senator Matsuura, for the Committee on Agriculture, Energy and Ocean Resources, presented a report (Stand. Com. Rep. No. 6) recommending that Senate Bill No. 376 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Aki and carried, the report of the Committee was adopted and S.B. No. 376, entitled: "A BILL FOR AN ACT RELATING TO ACT 145, SESSION LAWS OF HAWAII 1984," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 25, 1987.

#### ORDER OF THE DAY

Stand. Com. Rep. No. 4 (Gov. Msg. No. 89):

By unanimous consent, action on Stand. Com. Rep. No. 4 and Gov. Msg. No. 89 was deferred until Tuesday, February 24, 1987.

#### RE-REFERRAL OF SENATE BILLS

The Chair, at this time, re-referred the following bills that were introduced:

Senate Bill Referred to:

No. 104 Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

No. 120 Committee on Public Utilities, then to the Committee on Judiciary

No. 187 Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

No. 324 Committee on Planning and Environment, then to the Committee on Judiciary

No. 346 Committee on Human Services, then to the Committee on Judiciary

No. 362 Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

No. 410 Committee on Housing, Hawaiian Programs and Natural Resources, then to the Committee on Judiciary

No. 416 Committee on Transportation, then to the Committee on Judiciary

No. 659 Committee on Ways and Means

No. 665 Committee on Ways and Means

No. 669 Committee on Ways and Means

No. 745 Committee on Ways and Means

No. 746 Committee on Ways and Means

No. 747 Committee on Ways and Means

No. 748 Committee on Ways and Means

No. 750 Committee on Ways and Means

No. 751 Committee on Ways and Means

No. 752 Committee on Ways and Means

No. 753 Committee on Ways and Means

No. 754 Committee on Ways and Means

No. 759 Committee on Ways and Means

No. 760 Committee on Ways and Means

No. 761 Committee on Ways and Means

No. 762 Committee on Ways and Means

No. 813 Committee on Ways and Means

No. 817 Committee on Ways and Means

No. 820 Committee on Ways and Means

No. 1025 Committee on Ways and Means

No. 1080 Committee on

Consumer Protection and Commerce, then to the Committee on Judiciary

No. 1082 Committee on Ways and Means

No. 1091 Committee on Ways and Means

No. 1094 Committee on Ways and Means

No. 1199 Committee on Ways and Means

No. 1214 Committee on Ways and Means

No. 1231 Committee on Ways and Means

No. 1248 Committee on Ways and Means

No. 1380 Committee on Housing, Hawaiian Programs and Natural Resources, then to the Committee on Ways and Means

No. 1487 Committee on Ways and Means

No. 1489 Committee on Ways and Means

At this time, Senator Holt, chairman of the Committee on Tourism and Recreation, requested a waiver of the 48-hour Notice of a Public Hearing on S.B. No. 631 and S.B. No. 899, and the Chair granted the waiver.

Senator J. Wong then rose to speak on a point of personal privilege as follows:

"Madam Vice President, the state Department of Transportation has contracted a study to determine if some lanes can be reversed during the rush hours on the Likelike and Pali Highways. I've learned that the contractor selected will be an out-of-state firm of experts who will receive approximately \$115,000 and be given eight months to explain to the motorists of Windward Oahu, this honorable body, and the many Windward community volunteers who have spent hundreds of hours developing proposals to mitigate traffic congestion, what we already know about the contra-flow concept.

"Despite the results of a 1979 study which rejected contra-flow on both the Likelike and Pali Highways for safety reasons, we, that is, all the neighborhood boards on the Windward side from Laie to Waimanalo, Kaneohe business groups, Kailua Chamber of Commerce, Windward legislative delegations, and the thousands

of motorists who traverse these overcrowded routes on a daily basis, one of whom by the way is the newly appointed director of transportation, we all believe that a modified contra-flow lane is a valid solution.

"In fact, a proposal for a modified contra-flow plan or reversible tunnel system and other plans for Likelike Highway and Pali Highway was presented in detail to the Department of Transportation in March of 1986.

"We don't need another study, Madam Vice President. We don't need out-of-state experts coming here to gather existing data, compiled at the expense of taxpayers, consolidating that data and giving it back to us to review, for \$115,000. This would be a total waste of taxpayers' money, an insult to our intelligence and capability of finding creative solutions to our own unique problems.

"Madam Vice President, the preamble of our State Constitution reads in part: 'We reserve the right to control our destiny, ... and to preserve the quality of life that we desire.' That quality in this case, Madam Vice President, is immediate traffic relief, and I invoke this challenge to control our destiny on the state Department of Transportation, especially its division chief of highways and his engineers.

"Madam Vice President, the 1980 Legislature in its infinite wisdom and foresight appropriated funds for the construction of the now completed addition of a third lane on Likelike Highway from Kula Kolea Street to School Street in Kalihi. This completed project would become the first phase of a contra-flow system on Likelike Highway. As you know, Madam Vice President, the traffic signal at this intersection commences a daily bottleneck of Windward motorists. This same signal also acts as the starting gate for motorists because it controls traffic flow in the Kalihi area and is responsible for allowing our neighbors and friends of Kalihi an opportunity for access to Likelike Highway.

"Madam Vice President, the critical point of a contra-flow system is the crossover and cross-back area. The modified contra-flow plan presented to the Department of Transportation calls for a cross-back in the morning and a crossover in the afternoon to be located at the Kula Kolea intersection. At the opposite end on the Windward side, the morning crossover and the afternoon cross-back will be located at the Likelike-Kahekili intersection.

"Kaneohe has become a pass-through

community and even if construction of H-3 was started today it would take eight to ten years to complete. The Department of Transportation data on 24-hour trans-Koolau traffic indicates that in 1985, 96,778 vehicles travelled through the Koolau's. It is estimated that by the time H-3 is completed the traffic count will rise to 124,000 vehicles per day.

"It is astonishing to realize that the Department of Transportation wishes to conduct another expensive study on the very same solution for an aggravated and undiminished problem.

"Madam Vice President, the question I present to you is this: What do we do in the meantime during this interim period? I cannot begin to overemphasize the immediacy of this concern.

"The plain and simple fact is, we do not need more studies. We need traffic relief. We need contra-flow, and we need it now.

"I voiced these very concerns to the Department of Transportation in a letter dated September 3, 1986, and I received on September 26, 1986, a response relative to contra-flow based on the Department of Transportation's concern for safety. These concerns were: first, that the long distance of the contra-flow of six miles on Likelike would increase the probability of head-on collision; second, that a single outbound lane will induce motorists to violate no-passing restrictions to pass slow-moving vehicles thus endangering oncoming motorists; and, finally, problems would rise because stalled cars would be difficult to move from the contra-flow lane.

"An original meeting scheduled for February 4th, this year, was held on February 18th because the Department of Transportation officials failed to show up. In the rescheduled meeting between Department of Transportation officials, legislators and members of their staff which took place in my office, department officials were presented with sufficient evidence and facts that rebutted their three stated concerns. One, obviously, was the fact that during routine tunnel maintenance motorists are rerouted into a contra-flow mode from 9:00 in the morning to 3:00 o'clock in the afternoon, five days a week, until maintenance is completed. There has never been a stalled vehicle or a head-on collision during this period on record.

"Madam Vice President, if you want specific details of the modified contra-flow system I would be more than willing to provide them for you. I happen to believe that creativity is alive and well

in the Department of Transportation. I also happen to believe that a contra-flow system can and shall be developed in-house.

"The problem, from my viewpoint, is, what as legislators do we do to encourage, foster, and nurture creativity among bureaucrats? How do we unleash these powerful resources in order to break the traditional bureaucratic stigma?

"A Department of Transportation engineer as well as a constituent of mine, Paul Denis who is a realtor in Kaneohe, proposed a contra-flow idea to me. They both stated that a completely new fifth lane could be created in between the existing lanes by removing all of the medial strips and paving the strip of land in between the four lanes on either side of the tunnel. Then, Madam Vice President, contra-flow would occur only through the tunnel, a very short and safe length.

"In private industry, if division heads and engineers are unable to come up with creative solutions to solve problems they are replaced with younger, more competent, and positive thinking personnel who can generate creative solutions to problems in a much more timely manner.

"There is no doubt that the concept of a contra-flow system involves risk. For example, in a modified contra-flow plan for Likelike Highway, every possible risk has been addressed and appeased. The advantages outweigh by far the alleged disadvantages. Someone, somewhere and at sometime must make that decision, must take that calculated risk, must stick his neck out, and the time to make that decision is now, not two years from now.

"Madam Vice President, I have scheduled a meeting with the director of transportation for Friday, the 27th. The message I wish to get across to the Department of Transportation is very clear. We intend to do everything in-house, even to the point of stopping this new study, and push for the implementation of a pilot contra-flow system on the Likelike and Pali Highways (that's for Senator Hee). And, most importantly, we are not going to stop until an interim traffic relief plan becomes a reality.

"In conclusion, Madam Vice President, the Department of Transportation must realize that mitigating the traffic congestion for our Windward communities through the implementation of a contra-flow plan or system is not intended to jeopardize H-3. H-3 is not only the best alternative, it is the ultimate solution for our Windward traffic flow for at least the next 20 years beyond its completion. Only mass transportation will serve as the final

hope.

"Windward motorists have been held hostages far too long and I can guarantee you, Madam Vice President, we will not wait any longer for traffic relief.

"Thank you, Madam Vice President."

Senator Matsuura also rose to speak on a point of personal privilege and remarked:

"Madam Vice President, I also rise on a point of personal privilege relating to unfair and deceptive practices.

"What I thought was a Honolulu problem has moved to the Hilo area now. The problem is this.

"Many of the people who bought IBM computers thought they were buying IBM computers but had other things in the computers. Lot of parts that were in the IBM computer were made in Taiwan and Korea and were not IBM authorized.

"Many of the people who bought these computers bought IBM because it represents the highest standard in the computer industry. When they had problems, and would bring it back for repair hoping that IBM would at least stand by the warranty, they find that IBM would refuse because the equipment has been altered. The alteration is very simple. You just take out the card and put in another. The bad part of this whole situation that we have is that a person who buys an IBM-advertised equipment will never open up the chassis to see if it's an IBM equipment. Even if he did open the chassis, there is no way he is going to know if the computer cards were Korean-made or Taiwan-made or IBM-made.

"I called IBM several months ago because this problem existed here and because a few senators bought IBM computers. The Senator from Nuuanu actually analyzed his equipment and found out that there were a lot of non-IBM parts in his computer. The problem that we have is that when I called IBM they said that they cannot stand by the warranty. I said fine, then they asked, 'What's the problem?' ... I mean, how can we resolve this problem. They said, 'Buy from an authorized IBM dealer.' I said, 'I have the yellow pages right in front of me; tell me one company that is authorized by IBM to be their dealer.'

"I'm sure she was embarrassed when she looked at the yellow pages. There isn't a single IBM authorized computer store on Oahu. They do however have an authorized IBM typewriter dealership. This is the problem that we face today.

"I know that Senator Kobayashi has

introduced two bills addressing these problems, Senate Bill 469 and Senate Bill 1031, but I'm bringing this up primarily because I can't wait for the bills to pass. The problems are surfacing in Hilo. There are people in Hilo who bought IBM computers. I just want to let the public know that if they are having a lot of problems with their computers at least there is a law in the books that would protect them and it's in Chapter 481A-3, 'Deceptive trade practices. (a) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person: ... (5) Represents that goods or services are of a particular standard, quality, or grade, and that goods are of a particular style or model, if they are of another;'

"Mr. Public out there will never know whether their IBM computers were replaced with other non-IBM parts. There are some companies that will do this service, to tell you if it's IBM or not IBM, for a nominal charge of \$15 to \$25. I cite this law because I want the public to know that if they're having problems with their computer they have a means to fight back. Thank you, Madam Vice President."

Senator A. Kobayashi then added:

"Madam Vice President, I'd like to follow up on that same subject brought up by the previous speaker.

"The two bills that I introduced dealing with this problem -- one, asking that computer stores disclose when they do make changes in the computer; the second bill, extending the warranty if these changes have been made -- are in the Consumer Protection Committee. I'd like to thank the chairman for hearing those bills and being willing to pass them out.

"The warranty bill will be heard this Friday and I'd like to give notice to all the computer stores that if they do want to comment on it, this is their chance. The hearing is scheduled for this Friday at 2:00 o'clock, I believe. Thank you."

Senator Cobb then responded:

"Madam Vice President, in further response to the remarks of the two previous speakers, not only have the two bills been heard but the first of the two bills, that requiring full disclosure, has already been reported out favorably from your Committee on Consumer Protection and Commerce by decision vote of the committee.

"The second bill is deferred one week with an intention to also report it out but to give the affected parties time to

comment. It will be taken up this Friday as one of the first items on the agenda and barring any unforeseen circumstances it is my intention as chairman to report that bill out, also.

"If the law is not considered strong enough at that point, I will then consider the additional redress of treble damages for any consumer who is affected by such a

fraudulent and deceptive business practice. Thank you."

#### ADJOURNMENT

At 12:28 o'clock p.m., on motion by Senator Blair, seconded by Senator George and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 24, 1987.