

FOURTEENTH DAY

Wednesday, February 7, 1990

The Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, convened at 11:35 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Lieutenant Stephen Sloat, Chaplain, Naval Station, Pearl Harbor, after which the Roll was called showing all Senators present with the exception of Senator Holt who was excused.

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

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

Senator A. Kobayashi, on behalf of Senator Bert Kobayashi and herself, introduced Mrs. Thelma Nip, principal of Kaimuki High School, who was seated on the floor of the Senate, as follows:

"Mr. President, Mrs. Thelma Nip was selected by the National Association of Secondary School Principals as Hawaii's 1989 Principal of the Year. The selection process is a really vigorous, tough one, but because of her outstanding credentials she surpassed all the other candidates. She instituted many outstanding programs at Kaimuki High School. She motivates the students and she just does an outstanding job. It is my pleasure and great honor to introduce Mrs. Thelma Nip."

Mrs. Nip rose to be recognized and was presented the congratulatory Senate certificate and lei.

Senator Aki introduced the 1989 Family of the Year, seated on the chamber floor, as follows:

"Mr. President and members of the Senate, today, I have the privilege of presenting the 1989 Hawaii Family of the Year, selected by a distinguished panel of judges in the annual competition co-sponsored by the Child and Family Service and the Honolulu Advertiser. The selection was based on the national criteria of individual growth, teamwork, and community service.

"The foundation of this family lies in the values of nurturing through loving, trusting, respecting and helping others; values inherent in the Hawaiian concept of the 'Ohana' or family unit. Using these concepts, Mr. and Mrs. Sylvester Kahapea, affectionately known as Kalei and Ilima, raised five children who are productive citizens in society or are in institutions of learning.

"When the family faced adversity at the time Kalei suffered a career-ending injury, the family endured through the cohesiveness of the unit.

"Today, the family has opened its doors to share their home and love with many children besides their own, Kalei and Ilima acting as professional parents with 'Na Ohana Pulama,' a foster parenting program of Catholic Charities.

"On behalf of the Senate, I would like to congratulate the Kahapea family for their selection as the Hawaii Family of the Year and introduce Mr. Sylvester Kalei Kahapea, Mrs. Ilima Kahapea, daughter Audrey Kahapea, son Kaniela Kahapea, daughter Brunhill Ilima Kahapea and niece Joanna Haunani Randall. Unable to attend is son Sylvester Kalei Kahapea Jr., who is away in the service."

The honorees rose to be recognized and were presented the congratulatory Senate certificate and leis.

Senator Aki also introduced Ms. Patti Lyons, Chief Executive Officer of the Child and Family Service and Ms. Lynn Watanabe, guild chairperson, who accompanied the Kahapea family.

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

The Senate reconvened at 11:46 o'clock a.m.

Senator McCartney then introduced "his uncle and new grandfather," Mr. Jimmy Takushi, who was accompanied by Mr. Jim Kardash of the UHPA.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 112 to 117) were read by the Clerk and were placed on file:

Gov. Msg. No. 112, transmitting a report prepared by the Department of Land and Natural Resources in response to Section 196D-11, HRS, regarding geothermal and cable development permitting.

Gov. Msg. No. 113, transmitting a report prepared by the Department of Land and Natural Resources in response to Section 171-29, HRS, regarding a report on land disposition.

Gov. Msg. No. 114, transmitting a report, "Urging the Adoption of a State Policy on Families," prepared by the Office of State Planning, Office of the Governor, in response to H.C.R. No. 232 (1989).

Gov. Msg. No. 115, transmitting a report prepared by the University of Hawaii in response to Act 371, SLH 1989, requesting an annual report on the progress of educational assessment activities at the University of Hawaii.

Gov. Msg. No. 116, transmitting the 1989 Annual Report of the Housing Finance and Development Corporation, pursuant to Chapter 201E, HRS.

Gov. Msg. No. 117, informing the Senate that on February 6, 1990, he signed into law Senate Bill No. 1 as Act 2, entitled: "MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN."

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 26, from the Office of State Planning, Office of the Governor, dated February 6, 1990, transmitting the "Honolulu Waterfront Master Plan: Summary Report," was read by the Clerk and was placed on file.

HOUSE COMMUNICATION

Hse. Com. No. 6, returning S.B. No. 1, S.D. 1, which passed Third Reading in the House of Representatives on February 6, 1990, was read by the Clerk and was placed on file.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 29) was read by the Clerk and was referred to committee:

Senate
Concurrent
Resolution

No. 29 "SENATE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO RESTORE AUTHORITY OVER CABLE TELEVISION RATE REGULATION TO STATE AND LOCAL GOVERNMENTS."

Offered by: Senators Cobb, Aki, Blair, Chang, Ikeda, Kobayashi, A., Kobayashi, B., Levin, McCartney, McMurdo, Nakasato, Solomon, Tungpalan, Wong, R., Yamasaki.

Referred to: Committee on Consumer Protection and Commerce

SENATE RESOLUTION

The following resolution (S.R. No. 27) was read by the Clerk and was referred to committee:

Senate
Resolution

No. 27 "SENATE RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO RESTORE AUTHORITY OVER CABLE TELEVISION RATE REGULATION TO STATE AND LOCAL GOVERNMENTS."

Offered by: Senators Cobb, Aki, Blair, Chang, Ikeda, Kobayashi, A., Kobayashi, B., Levin, McCartney, McMurdo, Nakasato, Solomon, Tungpalan, Wong, R., Yamasaki.

Referred to: Committee on Consumer Protection and Commerce

STANDING COMMITTEE REPORT

Senator Crozier, for the Committee on Housing and Hawaiian Programs, presented a report (Stand. Com. Rep. No. 1906) recommending that S.B. No. 973, as amended on S.D. 1, pass Second Reading and be recommitted to the Committee on Housing and Hawaiian Programs.

On motion by Senator Crozier, seconded by Senator Fernandes Salling and carried, the report of the Committee was adopted and S.B. No. 973, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Second Reading and was recommitted to the Committee on Housing and Hawaiian Programs.

ORDER OF THE DAY

THIRD READING

H.B. No. 2138, H.D. 1:

Senator Yamasaki moved that H.B. No. 2138, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator A. Kobayashi.

Senator Solomon rose to speak in support of the measure and said:

"Mr. President, I would like to speak in support of H.B. 2138, H.D. 1, and comment upon the significance of this positive action.

"The faculty settlement is fair and equitable. It is true that negotiated salary increases for faculty are more than the increases approved for other public employees. I must mention that these increases, although deserved, are also due to the fact that the state's first offer in 1972 was rejected by the union.

"However, the state's funding of the faculty contract is justified by numerous standards of measurement: first, over the past two decades the faculty in Hawaii have received proportionately less than other public employees; second, the state's ability to attract and retain quality faculty is seriously threatened; third, salary inequities exist, most noticeably for two groups, the senior full professors and those at the low end of the salary scale.

"This contract sets a new tone, Mr. President. UHPA and the Board of Regents have persuaded us that the university will now be able to compete for talented individuals and will provide competitive salaries and benefits to bring them here and keep them here.

"This contract settlement indicates the state's and university's recognition of issues important to all faculty. Now we want the faculty, Mr. President, to convince us that the new contract is justified. Mr. President, your chairman on Higher Education is interpreting the new contract agreement to mean accountability on the part of the faculty and administration that there is a commitment of excellence to undergraduate education; a balance among the community colleges, the four-year schools, graduate and research programs; and in governance.

"Excellence is a key to a better future for Hawaii's people and this is what we in the Legislature are interested in supporting.

"The new contract will help improve the quality level of the faculty. Furthermore, approval of the new contract will provide a better environment, decreasing faculty turnover and increasing labor stability.

"To the faculty and the university, may I say that we have done our part -- let's see you do your part by improving the quality of teaching to our students. Let us look forward and seek excellence in teaching. Thank you."

Senator McCartney also supported the bill and remarked:

"Mr. President, I rise to speak in favor of House Bill 2138 and make a few short remarks, being a former negotiator of the teachers union.

"I really feel that this contract is an investment in Hawaii's future. It will help to improve the quality of our educational system and will do much to attract and retain the best and the brightest professors in our system. I commend both parties on reaching a settlement and I congratulate all of them and urge members to support this measure today. Thank you."

The motion was put by the Chair and carried, H.B. No. 2138, H.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Holt).

H.B. No. 2139, H.D. 1:

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, H.B. No. 2139, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING UNIT 7 AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Holt).

At 11:49 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:56 o'clock a.m.

RE-REFERRAL OF SENATE BILL

The President re-referred the following Senate bill that was introduced:

Senate Bill Referred to:

No. 293 Jointly to the Committee on Tourism, Recreation, and Planning, and the Committee on Government Operations, then to the Committee on Ways and Means

At this time, Senator Solomon rose to speak on a point of personal privilege as follows:

"Mr. President, I rise on a point of personal privilege to speak in reference to an article that appeared in today's paper, 'B1-B makes first visit here. One of the four B1-B bombers from the 96th Bombardment Wing arrived at Hickam Air Force Base yesterday, the first of the supersonic \$280 million aircraft to visit Hawaii. These B1-Bs based at Dyess Air Force Base, Texas, will be flying missions over the Pacific and making bombing raids on Kahoolawe until Feb. 15.'

"Mr. President, I introduced a bill for consideration last session and have, again, this session on the possibility of setting up some kind of negotiation fund, either in the Department of Land and Natural Resources or whatever agency it should be with, in order that negotiations between the department and the U.S. Navy could be initiated seeking the return of Kahoolawe to the State of Hawaii.

"I just would like to remind this body, Mr. President, that Kahoolawe has, in recorded history, been regarded as one of the state's eight major islands. Legend and tradition speak of its creation. Legend says that the island was created by 'Wakea,' the progenitor of chiefs and priests and the ancestors of all Hawaiians, and 'Papa,' his wife, who was considered symbolic of the female principal. A legendary chant relates the birth of Kahoolawe. Kahoolawe, whose ancient name was 'Kohe Malamalama o Kanaloa,' was said to have been the legendary home of 'Kaumuali'i,' the shark god and the brother of fire goddess Pele.

"In later years Kamehameha the Great stated that he would be willing to make peace with neighboring chief 'Kahikili' if the latter will cede to him Kahoolawe and three other islands. At that time the island was apparently desirable enough to be mentioned in peace treaty negotiations.

"In oral history recordings with kupunas, 'Ke ala i Kahiki,' a point on Kahoolawe, was mentioned often in our Hawaiian history. After the Hawaiians had settled on the island a group of renegade or venturesome Hawaiians left Hawaii using Ke ala i Kahiki Point for navigational

purposes to sail to New Zealand where they settled into the culture of the Maoris.

"It seems, Mr. President, that Kahoolawe played a major role in the early history of Hawaii. It was neither a forgotten island, nor was it held in disrepute. Like the other islands, Kahoolawe retained its own special attributes for which it was known throughout the island chain. Archeological surveys were conducted in 1913 by M. Stokes and again in 1931 by Gilbert McAllister. These early studies revealed evidence of heiaus (places of worship), ko'a (fishing shrines), house foundations, camping sites, burial sites, and various other artifacts.

"The latest archeological investigations have been more thorough and quite fruitful.

"Mr. President, the Navy in a cooperative effort has eliminated four targets in the historical areas because of the archeological findings. Furthermore, Admiral Hayward has pledged his cooperation in removing any targets that may be a threat to historical sites or artifact-rich areas.

"Today, Mr. President, approximately 35 percent of the island has been surveyed and about a hundred archeological sites have been recorded. Of these an estimated 96 sites are likely to be eligible for the National Register of Historic Places based on the following national criteria, and I would submit these criteria, Mr. President, to the Journal for the record.

"Mr. President, I wish to present a brief chronology of efforts to return Kahoolawe to the state.

"In 1971, Senator Mamoru Yamasaki introduced legislation regarding Kahoolawe. In 1971, Mayor Cravalho and Life of the Land filed suit to stop the bombing of Kahoolawe and requested an environmental impact statement for the island, which incidentally, Mr. President, I do have a copy of. It is quite involved.

"In February 1975, Representative Patsy Mink introduced legislation requesting the return of Kahoolawe. In December 1975, President Ford signed a bill, pushed by Senator Inouye, directing the Department of Defense to study the possibility of returning Kahoolawe to the state and the feasibility of removing unexploded ordnance.

"In June 1974, a resolution introduced by Senator Hiram Fong, requesting the Navy to immediately look for alternatives to the bombing of Kahoolawe, was passed.

"In 1976, Charles Maxwell led an occupation of Kahoolawe, which included Walter Ritte, Emmet Aluli and Gail Prejean. The invaders were dubbed 'The Kahoolawe Nine.'

"At the same time, Governor Ariyoshi predicted 'it's only a matter of time before the military stops using Kahoolawe as a bombing target and turn it over to the state.'

"February 18, 1976, state Senators Takitani and Yamasaki again introduced resolutions requesting the President to rescind the executive order giving the Navy authority over Kahoolawe. Only one Senator voted against that, Mr. President, and that was Senator Andy Anderson.

"January 30, 1977, Ritte, Helm, Sawyer, Kauhane and Warrington landed on Kahoolawe, stating the purpose of landing was to stop the bombing and desecration.

"February 3, 1977, forty-six searchers including Marine and Navy ordnance specialists searched Kahoolawe for

what they called the Hawaiian Invaders. Three days later it was declared that the island was most likely free of people and bombing resumed. February 11, 1977, Judge King denied two requests -- one by the Ohana and one by Maui County -- for temporary restraining orders to halt the bombing of Kahoolawe. The Council of Hawaiian Organizations appealed to President Carter to rescind Executive Order 10436 and stop the bombing.

"Mr. President, of the more significant archeological findings are those indicating that the island did, in fact, support a permanent population.

"Senator Inouye has stood as the key congressional representative in seeking the solution to the Kahoolawe issue with support from Congressman Akaka and then Congressman Hefel and Senator Matsunaga. Mayor Cravalho has also steadily maintained interest in this area. Both fought at different levels to make sure headway toward a solution to the problem, Mr. President, would be continued.

"The Navy produced a report, revised in 1977, entitled 'A Report on the Island of Kahoolawe' which detailed their views on the issue. The stated purpose for keeping the land is simple -- protection of the United States and the preparedness to provide that protection. Targets used on Kahoolawe have been designed to give troops an experience as close to combat as possible.

"What kinds of ordnance, Mr. President, are used on that island? Live (service) ordnance and inert (practice) ordnance, bombs as large as 500 pounds (Mark 82) are used. I would like to insert this into the Journal, Mr. President, for the record.

"It has been stated that when reviewing the military presence in the Pacific, it appears that Hawaii, Mr. President, is not the center of the universe around which the protection of the United States revolves. Like Korea, it may be more a political benefit and a comfortable way station than a military necessity. I didn't make these words up, Mr. President. This is documented.

"In August 18, 1976, there was a crisis in North Korea. Pacific support groups were mobilized rapidly but Hawaii was not pivotal during this crisis situation in Korea.

"Mr. President, there has been a growing opposition to the use of Kahoolawe as a military target, according to a survey by the Advertiser. In 1978 it was almost a dead heat as 46% said stop bombing and 45% favored continued military use. In 1980 it was 47% and 41% and in 1988, 52% and 37%.

"Myths, cloud pro-military thinking on Kahoolawe.' This is a viewpoint, Mr. President, that appeared in the Star-Bulletin, 9/8/88. 'Myth -- the bombing and shelling pose no menace to the growing communities on Maui.' Fact is, Mr. President, residents in many areas of Maui frequently complain that the bombing sounds like thunder and certain explosions make the ground shake. Bombs have been found in the waters off Molokini Island and once in the pasture on the slopes of Haleakala.'

"Myth -- there is no military alternative to Kahoolawe.' Alternative training facilities can be made available.

"Another news item, 'Mayor Tavares Presses Navy to Leave Kahoolawe' appeared in the Maui News, Mr. President, in '87.

"Mayor Tavares stated, 'Regardless of the amount of money the Navy puts into the Hawaiian economy, I do believe it is wrong for you to imply that the Navy's

homeporting in Hawaii depends primarily on its having Kahoolawe to bomb.' The island is not a worthless piece of junk; good only for use as a target. And this is what we want Navy officials to recognize and accept as incontrovertible.

"And finally, Mr. President, there have been bills introduced pertaining to Kahoolawe. Senate Bill 304, making appropriations for water resources study for the Island of Kahoolawe, was introduced by Senator Yamasaki. As a result, Mr. President, we were able to discover water resources on that island.

"Another is the aforementioned bill relating to Kahoolawe, a measure introduced by me previously which would establish a negotiation fund within the Department of Land and Natural Resources. That bill is before the body this session again for consideration.

"Senator Mizuguchi introduced a bill making an appropriation for a grants-in-aid to the U.S. Department of Navy for floating structures as an alternative to the use of the Island of Kahoolawe and providing for related actions.

"Mr. President, there is a history here in the Hawaiian Legislature in support of freeing Kahoolawe from military use and I want to thank the supporters. As you know, Mr. President, under reapportionment, I represent Kahoolawe. This is why I am standing here on a point of personal privilege. Perhaps, with the cooperation of our chairman of the Energy and Natural Resources Committee we could give this piece of legislation some consideration and maybe we can work out some kind of reasonable way to insure that these negotiations will be continued. And perhaps, Mr. President, maybe in your lifetime or mine the 'aina' will be returned to the State of Hawaii in honor and in respect to the motto of this great land, 'Ua mau ke ea o ka aina i k pono.' In ending, Mr. President, I close with the remark 'ehuahu kai lele ka moi na wai no 'oe a'e pakele aku?' The sea is raging, the moi leap -- who will save you?

"Thank you very much."

Senator Cobb added:

"Mr. President, I had not planned to speak but the previous remarks have prompted some addition to the remarks from the Senator from the Third District. It seems ironic that with over 50 bases being closed worldwide, that a simple bombing range or target range cannot be given back to its rightful owners. I'm referring, of course, to the President's defense budget where massive closing of bases is taking place not only throughout the continental United States but worldwide. I'm referring to the diminished Soviet threat and the outbreak of peace throughout Europe.

"And least of all, before anyone construe the remarks of the Senator from the Third District to be anti-military, I would like to rise on a point of personal privilege in a positive vein and thank Senator Solomon publicly for her work in changing the military's thinking, the bureaucrats' thinking in Washington as to whose names can go on the Vietnam Veterans Wall in Washington, D.C. Largely because of her efforts, the regulation and the criteria was changed to allow the names of veterans who were wounded in Vietnam but who died outside of Vietnam as a result of their wounds to have their names placed on that wall.

"I want to make this public because it means a great deal to me, as it does, I'm sure, to Senator Solomon. I wanted to take this opportunity to publicly thank and commend her for her efforts and to urge her to continue

her efforts because if the voice of one or two Senators from Hawaii can be heard on such an issue nationally, certainly then, the same persistence may result in the change in status of Kahoolawe. I earnestly hope it does and I do not consider any of her remarks to have been anti-military in the slightest, but rather taken in a very positive vein that if we're going to be having base closings worldwide, why not have an island closing and the return of that island to those to whom it legitimately belongs. Thank you."

ADJOURNMENT

At 12:15 o'clock p.m., on motion by Senator Blair, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, February 8, 1990.