

TWENTY-FOURTH DAY

Monday, February 25, 1991

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, convened at 11:39 o'clock a.m. with the Vice President in the Chair.

The Divine Blessing was invoked by the Reverend Susan King, Ewa Community Church, after which the Roll was called showing all Senators present.

The Chair announced that he had read and approved the Journal of the Twenty-Third Day.

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

Senator McMurdo introduced Ms. Betty Jones, Mr. Fritz Ludin and Ms. Paula Durbin as follows:

"Mr. President, it gives me great honor and great pleasure to introduce to you an extremely distinguished couple who have brought great honor and happiness to the State of Hawaii. They are a distinguished couple who are internationally renowned dancers. Betty Jones is a remarkable dancer, known internationally for her teaching of the Limon style of ballet. Betty was born in New York and was decorated by the French Federation of Dancers in France in 1970. She and husband Fritz presently operate the Jones-Ludin Studios located in McCully and Moiliili and have taught local dancers for over 30 years.

"Fritz Ludin is in partnership with his wife Betty since 1960. He was born in Switzerland.

"Last but not least, we have Ms. Paula Durbin who is a close family friend. Paula first brought my attention to Jones and Ludin Dances We Dance Company. She is a professional dancer herself, a writer for international dance magazines, and is also an attorney with McKenzie Trecker & Fritz."

Ms. Jones and Mr. Ludin who were seated on the floor of the Senate, accompanied by Ms. Durbin, rose to be recognized. Senator McMurdo presented the Senate certificate of recognition to Jones-Ludin and Senators Mizuguchi, Crozier and Tungpalan presented the leis.

Senator McMurdo also introduced a group from Dances We Dance who were seated in the gallery together with Ms. Denise Miyahana and Ms. Marion Vought, board members; Ms. Jean Erdman, a dancer and choreographer; Ms. Gail Potter and Mr. Grant Grantham.

Senator Tungpalan introduced her classmate from Kailua, Christine Takekawa, seated in the gallery, who is a student intern assigned to Senator Bert Kobayashi's office for the session.

Senator Ikeda introduced Ms. Cheryl Hiraoka and Ms. Kelly Mather, student interns from Niu Valley Intermediate School.

At 11:46 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:50 o'clock a.m.

STANDING COMMITTEE REPORT

Senator Matsuura, for the Committee on Science, Technology and Economic Development, presented a report (Stand. Com. Rep. No. 422) recommending that

S.B. No. 1799, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Matsuura, seconded by Senator Chang and carried, the report of the Committee was adopted and S.B. No. 1799, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPEECH AND HEARING IMPAIRED," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, March 6, 1991.

At 11:51 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:52 o'clock a.m.

ORDER OF THE DAY

THIRD READING

S.B. No. 731, S.D. 1:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 731, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 1227, S.D. 1:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 1227, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAXATION OF CONTRACTORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 1229:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 1229, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF 'PERSON' FOR THE GENERAL EXCISE TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 1254:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 1254, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE ACTIVITY BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 2101, S.D. 1:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 2101, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 2102:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 2102, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 1219:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 1219, entitled: "A BILL FOR AN ACT RELATING TO THE STATUTE OF LIMITATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 106, S.D. 1:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 106, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO JUDGES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 1242, S.D. 1:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 1242, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

S.B. No. 1370:

On motion by Senator Solomon, seconded by Senator Reed and carried, S.B. No. 1370, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ikeda, Wong, R.).

RE-REFERRAL OF SENATE BILLS

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

Senate Bill	Referred to:
No. 721	Committee on Ways and Means
No. 1516	Committee on Ways and Means

Senator Solomon rose to speak on a point of personal privilege as follows:

"Mr. President, I would like to speak in support of an article that appeared in the editorial section on February 21st, Thursday, in the Advertiser, and it reads: 'Bishop Estate Condo reform stand questioned.'

"Mr. President, I feel compelled to speak because I am a native Hawaiian and I feel that the article has stated the issue quite well. I'd like to quote from the article. It says:

'Bishop Estate's special situation as a trustee of Hawaiian ali'i lands and benefactor of Kamehameha Schools for Hawaiian children is well appreciated in this community.

'But the estate has prospered despite the earlier law allowing homeowners to buy the land under single-family houses. It will remain the state's largest private landholder even if the Legislature extends that right to thousands of residents of all races, including Hawaiians, who own leasehold condos.

'Besides, the land under most leasehold condos, some 80 percent, is owned by others, mostly non-Hawaiians. So this issue is bigger than the Bishop Estate.'

"Mr. President, I feel and I agree that the trustees have a right to lobby strongly seeking to kill the legislation or to shape it in ways most favorable to the estate. But playing the racism card in this debate benefits neither the estate nor the community in which it will live after all this passes.

"As a native Hawaiian, I feel strongly that although many injustices have been committed against the Hawaiian community and the Hawaiian people in terms of the disposition of the 'aina' I feel that this condominium reform bill is not a racial issue. Instead, it is a constitutional issue as to whether or not a land owner has rights to his property or to her property and to do with it as he or she wishes.

"Thank you."

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

"Mr. President, I would like to thank the former speaker for speaking out on this subject. I think the air does need to be cleared. Thank you."

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

"Mr. President, as a Senator whose district boasts a higher than average per capita presence of native Hawaiians, I'd also like to add my voice to the comments of the previous two speakers.

"This leasehold question is not a racial issue. Whichever side you take on the leasehold issue, it is simply a question of land ownership.

"I would also like to thank the Senator from the Fifteenth District who spoke out at last Saturday's hearing on the leasehold issue when, strangely enough, the person who is now complaining that this is being made into a racial issue, the Bishop Estate trustee Mr. Stender, is the one who initiated the issue of racism.

"In his prepared text before your Committee on Housing, Mr. Stender wrote and said to the committee members, quote: 'We have been cautioned that it would not be wise to make this a racial issue. That to do so would be unsettling to our community. That to heed this caution would be to turn our back on the lessons of our history.' And he proceeds to make it a racial issue.

"It is not a racial issue and I'm very glad that members of this body have spoken up to set the record straight. Thank you."

Senator Cobb also on a point of personal privilege then added:

"Mr. President, rising on the same point and speaking in strong support of the remarks of our Majority Floor Leader. I think it needs to be made very clear that any proposed legislation would not be designed to help foreigners, speculators, investors or anyone except the owner-occupant, and as I see it being crafted in the Senate, it is designed with a very careful regard to the rights of the landowner or the lessor, even including a residual buy-back provision for or a continuing payment every time a unit is sold.

"I further think that Kamehameha Schools could be doing much more for native Hawaiian children by having a Kamehameha School on each of the neighbor islands, which is not the case today. Only one out of 11 applicants who apply is ever admitted to Kamehameha Schools.

"And having gone through numerous and lengthy leasehold negotiations, myself, I'm very familiar with the fact that when the initial land reform law for single-family residents was passed, during the negotiations involving Kahala, it was pointed out that the estate was getting a one to three percent rate of return on land that was held in lease whereas with a diversified portfolio and a tax exemption for capital gains they could get a 9 to 15 percent rate of return.

"So I agree with and I thank our Majority Floor Leader for her remarks and would like to add my own support as an extension of those remarks. Thank you."

Senator Reed again rose on a personal privilege and stated:

"Mr. President, after serious reflection and prayer upon what transpired here last Friday, I'd like to make a few brief remarks which I hope will reduce feelings of animosity or bitterness between the members of the Senate and myself.

"First, I'd like to apologize to each and everyone of the members of this Senate who feels that my ad made them look less patriotic than I. That was not my intent, nor do I consider myself more patriotic than any member of this Senate.

"Second, I'd like to apologize to the members for not asking them to sign my resolution. This was due in part to my spur of the moment decision to introduce the resolution and in part to my over-sensitivity at being a member of the minority.

"I'd also like to clarify something that I believe is at the root of the members' consternation, certainly at the root of the consternation expressed by the Senator from the Sixteenth District.

"When the Senator rose to speak during the session last Friday, I failed to grasp the import of his listing of dates and newspaper advertising deadlines. When I read the Advertiser the following morning I realized that the Senator was accusing me, as the Advertiser put it, quote: 'of arranging to run the ad, suggesting a lack of support for my resolution several days before I introduced the resolution and without letting my colleagues react to it or have a chance to sign it.' Mr. President, this was certainly not the case. And since the Senator prefaced his remarks with the comment that if he were wrong concerning the dates he would welcome a correction, I am now making that correction.

"After House Concurrent Resolution No. 2 was passed, I continued to be bothered by its language and its failure to express support for the President and U.S. policy to use force to reject Iraqi troops from Kuwait. On Friday,

February 15th, I decided to introduce the resolution expressing support for the troops and the President and the U.S. policy. The resolution was written and introduced late that afternoon. Over that weekend, I decided to ask the public to encourage quick passage of the resolution.

"On Monday, February 18, I contacted Stan Souza of the Hawaii Newspaper Agency (Mr. Souza's phone number, by the way, is 525-7659) to place a full-page ad. It was my first contact with the HNA concerning placement of the subject ad. The ad appeared in the Star-Bulletin and the Advertiser on Thursday and Friday, respectively, of that same week, just three days after I first contacted the HNA about the possibility of reserving space to place an ad.

"I regret that I missed the Judiciary chairman's point when he spoke on the floor. I hope the facts, as you now know them, dispel any concern that I arranged to run the ad before I introduced the resolution in a manipulative attempt to make it appear that no other member of this Senate shares my views on the war in the Gulf.

"If I had indeed done what the Senator accused me of doing, I would deserve a lot worse than the criticism I got on Friday. However, since that was not the case, since the criticism levelled at me was rooted in misunderstanding -- I would be justified in requesting an apology. But I won't. I'm willing to let go of my anger at being falsely accused, and move on. Hopefully, by informing the members of the chronology of events, I will relieve them of the anger that is rooted in misunderstanding.

"Finally, I'd like to humbly offer a proposal for a united statement. I propose that another member of the Senate introduce a resolution in support of our President, troops and the Gulf effort. The resolution that I had originally introduced could even be copied verbatim and introduced anew, I hope, with the signatures of all members of the Senate. I would then be willing to raise the money necessary to place a full-page ad in the newspapers with the new resolution and a headline, quote: 'Saddam Hussein, the people of Hawaii as represented by their State Senators fully support our President, troops and the Gulf effort.'

"Passage of such a resolution, Mr. President, would not mean the HCR 2 was bad. Rather, it would simply be an attempt to make it clear that our support of our troops extends to the leader of those troops, President Bush as the Commander in Chief, and to the just cause for which those troops are fighting.

"Mr. President, whatever anger we may have should be directed at Saddam Hussein, not at each other. So I ask my colleagues to please consider my proposal with the aim of sending a clear message of support to our President and troops by the week's end.

"These remarks will be circulated this afternoon to all members in the form of a memo.

"Thank you very much."

The Chair at this time responded:

"Thank you, Senator Reed, for your remarks. The Chair would also like to thank all Senators for their cooperation on the way in which they handled themselves this past Friday.

"The Chair would also like to point out that we have a war in Saudi Arabia and we do not need a war right here in our chambers."

Senator Tungpalan also rose on a point of personal privilege and remarked:

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

"First of all, as to the matter of Mr. Oswald Stender and his comments at a legislative leasehold hearing. I'd like to say, on behalf of parents who are of Hawaiian ancestry and who look forward to that day when their children may be educated at the Kamehameha Schools, I think that his views on the subject are well illustrated in this Sunday's Advertiser. I don't think his intention was to be racist or racial in any manner or form. However, people may read into this matter whatever may be the case. I hope that you will also have the opportunity to take the time to read that article.

"On the second matter, as far as the placement of the ad, the Senator from Maui said that he was able to get his ad in within three days. Perhaps, HNA has different policies for placing ads in the paper because I had attempted last week to place an ad in the paper and I was told that I needed five days. I had called four days ahead of time and they did not allow me to put the ad in the paper. So, maybe in this town it counts to be part of the minority for some things.

"Thank you."

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

"Mr. President, I would be remiss if I did not thank the Senator from Maui and Molokai for the clarification with respect to the support that members of this body have with respect to various aspects of current foreign policy. I'm glad that it is now clear that we are all in support of our soldiers, equally.

"With respect to the timing issue, I will discuss that privately with the Senator because my own information is somewhat at variance with his and I don't necessarily want to dwell on that aspect of it. But I think the main point is that I very much appreciate his remarks regarding the clarification that he made, and I thank him for it."

Senator McMurdo then said:

"Mr. President, I would like to speak on a point of personal privilege to thank the Senate Minority Floor Leader for his apology and to say that I will be happy to accept it. Thank you."

Senator Reed then added:

"Mr. President, to follow up on the point of personal privilege, partly because the Judiciary chairman said that his information is at variance.

"The reason I gave Mr. Souza's phone number is so that anybody who has heard any information varying or differing from the facts that I presented is free to call him. For other comments, not only was the Advertiser willing to accept the full-page ad on three-and-a-half-day's notice, it was not camera-ready. I called Mr. Souza on Monday morning and said, 'I've got an ad that I've written; will you accept it; can we get it in this week and it's not camera-ready.'

"So, whatever the reason, the Advertiser was willing to accommodate me on very short notice and anybody who has a reluctance to accept my word for it need only call Mr. Souza."

Senator Tungpalan answered:

"Mr. President, to continue my point. Perhaps in the future I'll have the Senator from Maui and Molokai place my ads. Thank you."

ADJOURNMENT

At 12:10 o'clock p.m., on motion by Senator Solomon, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 26, 1991.