

THIRTIETH DAY

Tuesday, March 16, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, convened at 11:37 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Alan Mark, Kilohana United Methodist Church, after which the Roll was called showing all Senators present with the exception of Senator Blair who was excused.

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

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

Senator McCartney recognized McDonald's of Hawaii for its education programs, introduced the following representatives who were seated on the floor of the Senate, and remarked:

"Mr. President, it's my pleasure today to make an introduction on the floor and, as chair of the Education and Labor Committee, it's my honor to have some representatives here from the business community. You know how we always talk about our need for more partnerships in education and many times we only hear concerns and complaints from the business community on what's not happening in the educational system and what needs to be done.

"Mr. President, I was really pleased to find out that there's a company in Hawaii that has been doing a lot and not just talking about it. They have been making a lot of things happen, and that's the McDonald's Corporation of Hawaii. Over one-third of their employees are high school and college students and they have a very special and important program called 'Making the Grade.' This program provides for one hour of study time for students employed during school evenings. They pay them for the hour and encourage them to do their homework. And for students who have a 2.0 GPA or higher, they have monetary awards that they give those individuals, based upon their academic achievement.

"Through its 'Ambassador Education' program, speakers are sent to elementary and high schools to promote vocational, nutritional and environmental education.

"And the 'Ray Kroc Youth Achievement Award' program honors a high school senior who exemplifies the characteristics of McDonald's founder, Ray Kroc. By displaying persistence, determination, hard work and excellence, nearly \$50,000 have been awarded Hawaii students since the program started.

"Today, we have with us Mr. Victor Lim, president of McDonald's of Hawaii Advertising Association, and Mr. Glenn Waki, its vice president; Ms. Donna Abreu, director of operations, McDonald's of Hawaii; and Mr. Miles Ichinose, owner of McDonald's Windward Mall, Ewa Beach and Waipahu, and a former Jefferson Award winner. (All rose to be recognized.)

"On behalf of the Senate, thank you for coming and thank you for your outstanding work in the community and for supporting our public schools and our school system."

The honored guests were presented leis by Senators A. Kobayashi, Ikeda, McCartney and George.

The Chair then said:

"Members of the Senate, this morning, I attended the grand opening of the temporary Waianae Library and learned that the McDonald's people are also involved in a very important 'Read to Me' program, and they're doing it at their business location."

Senator Reed then recognized former Colonel Vo Dai Ton, as follows:

"Mr. President, I'm very honored to be able to make this introduction today. I know that all of us remember the American involvement in the war in Vietnam. For many of us, our awareness of what was going on there more or less ended with the U.S. withdrawal from Vietnam. Not often are we reminded of the fact that very brave men and women remain involved in the fight to free Vietnam from communist influence.

"Today, I am very honored to introduce a man who is internationally known for his role in this effort. He is a very humble leader who is here today accepting our acknowledgment on behalf of the thousands of men and women who continue this fight and I would like to, with your indulgence, read this brief certificate:

'Whereas, former Colonel Vo Dai Ton, aka Hoang Phong Linh (the Poet) is deserving of special honors and the highest commendations for the many personal sacrifices that he has made in the cause for freedom and for his fine works as a poet; and

'Whereas, born in 1936 in central Vietnam, Colonel Vo Dai Ton was assigned to the South Vietnamese Army Special Forces; and

'Whereas, following the fall of South Vietnam in April 1975 he was sent to re-education camp; in 1976 he escaped from jail and made his way to Sidney, Australia; and

'Whereas, in 1981 he returned to Vietnam via Laos to organize with others to regain freedom and human rights for his countrymen; he was ambushed and arrested by the Vietnamese government; (and as a sidenote, Mr. President, the colonel was arrested by the communists in Vietnam and for ten years was locked in a five-square-foot solitary cell in total darkness for ten years, and everyday given a small ration of rice, salt and water; for ten years in darkness, with his family not knowing whether he was alive or dead.)

'Whereas, even though he was beaten and tortured 96 times during the 10 years, one month and 17 days, he reaffirmed that he would not betray his friends and would continue to fight for a free Vietnam; and

'Whereas, even after Colonel Vo Dai Ton's release in December 1991 under pressure from the free world, there remains many more brave men and women, other heroes, who are continuing the fight to set their countrymen free and restore a nation of honorable people to a life of dignity; now, therefore,

'Be It Resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, that Colonel Vo Dai Ton and the countless other resistance fighters be congratulated and commended for their efforts in fighting to regain freedom and human rights for their countrymen; and

'Be It Further Resolved that the Senate supports the causes of these Freedom Fighters in their constant and immeasurable personal dedication to the cause of freedom and liberty in Vietnam.'"

Senator Reed then introduced Colonel Vo Dai Ton, Mrs. Vo, and Mr. Timon Tran, Hawaii Vietnamese community coordinator. Also, in the audience, several members of the Hawaii Vietnamese community.

At 11:48 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:53 o'clock a.m.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 89 to 93) were read by the Clerk and were referred to committees:

Senate Concurrent Resolution

No. 89 "SENATE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO INSTITUTE RECYCLING PROGRAMS FOR PAPER PRODUCTS, METAL, AND GLASS PURCHASED BY STATE AGENCIES."

Offered by: Senator Chang.

Referred to: Committee on Government Operations, Environmental Protection and Hawaiian Programs

No. 90 "SENATE CONCURRENT RESOLUTION AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO GRANT AN EASEMENT OR LEASE CERTAIN SUBMERGED LANDS AT SOUTH KOHALA, HAWAII TO MAUNA LANI RESORT, INC."

Offered by: Senators Solomon, Fernandes Salling, Fukunaga, George, Grauly, Hagino, Holt, Ikeda, Kanno, Kobayashi, A., Matsunaga, Matsuura, Nakasato, Tanaka.

Referred to: Committee on Planning, Land and Water Use Management

No. 91 "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF MARKET POTENTIAL AND APPROPRIATE SITES FOR A SATELLITE CONVENTION FACILITY IN WEST HAWAII."

Offered by: Senators Solomon, Fernandes Salling, Fukunaga, Grauly, Holt, Kanno, Kobayashi, A., Matsunaga, Matsuura, Nakasato.

Referred to: Committee on Tourism, Recreation and Transportation

No. 92 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO STUDY AND REPORT ON ENHANCEMENT OF PATIENT CARE AT KOHALA HOSPITAL, HAWAII."

Offered by: Senators Solomon, Fernandes Salling, Fukunaga, Grauly, Holt, Kanno, Kobayashi, A., Matsunaga, Matsuura, Nakasato.

Referred to: Committee on Health

No. 93 "SENATE CONCURRENT RESOLUTION REQUESTING THE FORMATION OF AN ECONOMIC CONVERSION TASK FORCE."

Offered by: Senators Matsunaga, Blair, Fernandes Salling, Fukunaga, Grauly, Hagino, Holt, Ikeda, Kanno, Kobayashi, A., Kobayashi, B., Matsuura, Mizuguchi, Nakasato, Solomon, Tanaka, Tungpalan.

Referred to: Committee on Science, Technology and Economic Development

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 71 to 74) were read by the Clerk and were referred to committees:

Senate Resolution

No. 71 "SENATE RESOLUTION REQUESTING THE GOVERNOR TO INSTITUTE RECYCLING PROGRAMS FOR PAPER PRODUCTS, METAL, AND GLASS PURCHASED BY STATE AGENCIES."

Offered by: Senator Chang.

Referred to: Committee on Government Operations, Environmental Protection and Hawaiian Programs

No. 72 "SENATE RESOLUTION REQUESTING A STUDY OF MARKET POTENTIAL AND APPROPRIATE SITES FOR A SATELLITE CONVENTION FACILITY IN WEST HAWAII."

Offered by: Senators Solomon, Fernandes Salling, Fukunaga, Grauly, Holt, Kanno, Kobayashi, A., Matsunaga, Matsuura, Nakasato.

Referred to: Committee on Tourism, Recreation and Transportation

No. 73 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO STUDY AND REPORT ON ENHANCEMENT OF PATIENT CARE AT KOHALA HOSPITAL, HAWAII."

Offered by: Senators Solomon, Fernandes Salling, Fukunaga, Grauly, Holt, Kanno, Kobayashi, A., Matsunaga, Matsuura, Nakasato.

Referred to: Committee on Health

No. 74 "SENATE RESOLUTION REQUESTING THE FORMATION OF AN ECONOMIC CONVERSION TASK FORCE."

Offered by: Senators Matsunaga, Blair, Fernandes Salling, Fukunaga, Grauly, Hagino, Holt, Ikeda, Kanno, Kobayashi, A., Kobayashi, B., Matsuura, Mizuguchi, Nakasato, Solomon, Tanaka, Tungpalan.

Referred to: Committee on Science, Technology and Economic Development

STANDING COMMITTEE REPORTS

Senator Iwase, for the Committee on Planning, Land and Water Use Management, presented a report (Stand. Com. Rep. No. 883) recommending that S.C.R. No. 1 be adopted.

On motion by Senator Iwase, seconded by Senator Kanno and carried, the report of the Committee was adopted and S.C.R. No. 1, entitled: "SENATE CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON THE EXCHANGE OF PUBLIC LAND FOR PRIVATE LAND," was adopted.

Senator Iwase, for the Committee on Planning, Land and Water Use Management, presented a report (Stand. Com. Rep. No. 884) recommending that S.C.R. No. 39, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 884 and S.C.R. No. 39, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO ISSUE A LEASE FOR THE PRIVATE DEVELOPMENT OF CERTAIN FAST AND SUBMERGED LANDS AT KAWAIHAE, HAWAII, FOR MARINA PURPOSES," was deferred until Thursday, March 18, 1993.

Senator Holt, for the Committee on Executive Appointments, presented a report (Ldr. Com. Rep. No. 885) recommending that the Senate advise and consent to the nominations of the following:

JOHN V. DUEY and MASAO NAKAMURA to the Advisory Committee on Agricultural Products, in accordance with Gov. Msg. No. 195;

LINDA KAWAI'ONO DELANEY and HARLAN H. HASHIMOTO, Ph.D., to the Environmental Council, in accordance with Gov. Msg. No. 206;

TERRY Y. YAMANE to the Governor's Agriculture Coordinating Committee, in accordance with Gov. Msg. No. 207;

RAYMOND M. KAWAMOTO to the Hawaii Fisheries Coordinating Council, in accordance with Gov. Msg. No. 208;

ROBERT M. FOX, A.I.A., to the Hawaii Historic Places Review Board, in accordance with Gov. Msg. No. 209;

KENNETH N. KATO, Ph.D., and DAVID Y.Y. YUN, Ph.D., to the Board of Directors, High Technology Development Corporation, in accordance with Gov. Msg. No. 210;

MICHAEL G. HADFIELD, Ph.D., STEVEN LEE MONTGOMERY, Ph.D., and ANDREW RAYMOND YUEN to the Natural Area Reserves System Commission, in accordance with Gov. Msg. No. 214;

MARK H. KIJIMA, GEORGE BUGARIN, ALVIN F. FUKUYAMA, and RONALD L. WALKER to the Advisory Committee on Pesticides, in accordance with Gov. Msg. No. 217;

GLADYS C. BAISA, MARY-LOU BARELA, CORRINA MOEFU, ROBIN WELCH, Ph.D., and GEORGE YOKOYAMA to the Purchases of Service Advisory Council, in accordance with Gov. Msg. No. 220; and

RICHARD H. KOSAKI, Ph.D., to the Western Interstate Commission for Higher Education, in accordance with Gov. Msg. No. 227.

In accordance with Senate Rule 36(1), action on Ldr. Com. Rep. No. 885 and Gov. Msg. Nos. 195, 206, 207, 208, 209, 210, 214, 217, 220 and 227 was deferred until Wednesday, March 17, 1993.

ORDER OF THE DAY

ADVISE AND CONSENT

Ldr. Com. Rep. No. 881 (Gov. Msg. No. 193):

Senator Holt moved that Ldr. Com. Rep. No. 881 be received and placed on file, seconded by Senator A. Kobayashi and carried.

Senator Holt then moved that the Senate consent to the nomination of JAMES RICHARD AIONA, JR., for judge of the Circuit Court of the First Circuit, 14th Division, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, for a term of ten years, seconded by Senator A. Kobayashi.

Senator Holt rose to speak in support of the nominee, as follows:

"Mr. President, I rise to speak in support of the appointment of James 'Duke' Aiona to the First Circuit Court bench.

"Your Committee on Executive Appointments has held several public hearings thus far on gubernatorial nominees for the Circuit Court bench. To date, all of the candidates have appeared to be extremely well-qualified and a credit to their profession. James 'Duke' Aiona is no exception, Mr. President. He possesses the ability, professional experience, temperament and, most importantly, the motivation and sincere desire to serve the public in the capacity of a Circuit Court judge.

"There are two things in particular about Duke Aiona which greatly impressed me, and I would like to share them with the rest of the Senate. The first is his goal to 'humanize' the Judiciary by taking the time to explain his decisions to those who appear before him. In his own words, it is his intent to portray judges as 'members of the general community who put on their pants in the morning the same as everybody else.' The second is his supporters' description of him as a role model for the young people of this state. This assessment was made by several individuals who witnessed his strong and positive influence on the many youngsters he has worked with as a volunteer coach for organized sports.

"In my mind, Mr. President, this is a clear indication that Duke Aiona will continue to reflect the finest tradition and ideals of his alma mater, St. Louis High School, on the Circuit Court bench.

"On a more personal note, Mr. President, I know Duke Aiona as an athlete with exceptional skill and talent on the basketball court. I know that he is more than familiar with the importance of the referees who enforce the rules and make important decisions during the game. I am therefore certain that he will carry this sense of importance with him to the bench and it will help to guide him as he makes those important decisions for the people of this state in the larger game of life.

"For these reasons, Mr. President, I would like to strongly urge my colleagues to join me in voting in support of Governor's Message 193. Thank you."

Senator Reed added his support and said:

"Mr. President, Duke Aiona is one of those deputy prosecutors who was in the Prosecutor's Office when I was there. I have a lot of respect for good prosecutors because to be one you have to be a fighter, and Duke Aiona is that. He is an honest person who will be a credit to the Circuit Court and I urge his support."

Senator Matsuura also supported the nominee and remarked:

"Mr. President, Judge Aiona gives legislators a lot of credit because when I asked him what law he would change if he was made 'King for a day,' he answered,

'... all the laws of the State of Hawaii are good today ... may be different tomorrow.'

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

Ayes, 22. Noes, none. Excused, 3 (Blair, Chang, Nakasato).

At this time, Senator Holt introduced Judge James Aiona who was accompanied by his family: wife Vivian, mother Frances, children - Kaimilani, Kulia, Makana and Ohulani, sister-in-law Wendy, sister Roberta Richards, brother-in-law Fuzzy Richards, sister Jamie Omori, nephew Reid Richards, and niece Wendy Richards.

Ldr. Com. Rep. No. 882 (Gov. Msg. No. 191):

Senator Holt moved that Ldr. Com. Rep. No. 882 be received and placed on file, seconded by Senator A. Kobayashi and carried.

Senator Holt then moved that the Senate consent to the nomination of MICHAEL ANTHONY TOWN for judge of the Circuit Court of the First Circuit, 19th Division, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, for a term of ten years, seconded by A. Kobayashi.

Senator Holt rose to speak in support of the nominee and said:

"Mr. President, I rise to speak in support of the appointment of Michael A. Town to the First Circuit Court bench.

"As I stated earlier, the gubernatorial nominees to the Circuit Court have been nothing short of outstanding. As was the case of the previous nominee, Michael Town is no exception to this trend. He has demonstrated to the committee the knowledge, experience, motivation and desire to serve the public in the capacity of a Circuit Court judge.

"One of the more impressive aspects of this nominee is his background in the Peace Corps. According to Judge Town this experience helped strengthen his belief that 'one man can make a difference,' and he continues to be guided by this principle. As an example, Judge Town was a leading drafter of the Child Protective Act and is currently a nationally recognized leader and spokesman for children's protective services.

"In addition, Judge Town also devotes a fair amount of his time to civic activities. As a director of the Boys and Girls Club of Honolulu, he has been instrumental in providing guidance to troubled youth.

"I was most impressed, Mr. President, as well as the rest of the members, that Dwayne Neves, a former career criminal, currently one of the Boys and Girls Club's more successful street counselors, was at the hearing to support Judge Town's confirmation. I think Dwayne Neves' appearance at the hearing is indicative of the requisite compassion that distinguishes a judge. More specifically, the type of compassion that generates honor and respect.

"For these reasons, Mr. President, I would like to strongly urge my colleagues to join me in support of Governor's Message 191. Thank you."

Senator Reed added his support, as follows:

"Mr. President, in the seven years I've been in the State Senate, as we considered gubernatorial nominations to the Circuit Court, I've often wondered why Mike

Town's name never comes up? So I'm delighted to see that we are about to confirm his nomination.

"When I was in the Prosecutor's Office, we created a 'Crime is for Losers' program. We went around the entire island speaking to 7th and 8th graders every Friday and Judge Town was one of those Family Court judges who participated. I think what struck me the most is how deeply and sincerely he really cares about young people. He's the kind of judge who works on his off-hours with young people. The only negative thing I can think about his appointment to the Circuit Court is that he'll be so sorely missed in the Family Court. I'm happy to see his nomination and I urge his support."

Senator Gaulty also spoke in support of Judge Town and said:

"Mr. President, it is with personal pleasure and pride that I speak on behalf of Judge Town. I have appeared before Judge Town on numerous occasions as an attorney, and I can say without any question whatsoever that he is a great judge and very deserving of this nomination.

"I also want to inform my fellow Senators that Judge Town has been actively involved in drafting legislation and it was Judge Town who, together with members of the House Committee on Human Services about ten years ago, drafted the legislation for the Children's Advocacy Center. And it is just an indication of Judge Town's commitment to children, as the previous speaker has just explained, and his great desire to be of help to those who are victims of crime, as well as to those who come before him and his court.

"I am in great support of this nomination and I am very pleased to see Judge Town appointed to the Circuit Court. Thank you, Mr. President."

Senator Matsuura supported the nominee and said:

"Mr. President, like Judge Aiona, Judge Town had glowing testimonies from the clergy which was quite unusual. The clergy said everything nice about these two judges. It was very impressive. Thank you."

Senator B. Kobayashi added:

"Mr. President, Judge Town has been involved in several pieces of legislation as has been commented on this floor.

"I'd like to tell this body of an incident that occurred, I believe in 1977 when I was a member of the Ombudsman's staff. Judge Town, at that time, advocated increasing the number of long distance Watts lines from the neighbor islands to Honolulu because he felt that certain individuals on the neighbor islands lacked prompt response on the part of state agencies because those state agencies did not have adequate telephone connections to Honolulu. It was a case that I believe was in the Ombudsman's Office for over a year. We went through many difficulties in trying to establish more telephone lines between the neighbor islands and Honolulu. Finally, we were able to get improved services.

"I would say that this is an illustration of Judge Town's off-the-bench activities that benefit the public welfare. Thank you."

Senator Levin also added his support and said:

"Mr. President, I would be remiss if I didn't also speak in support of Judge Town.

"In a prior life he was also a legal aid lawyer and in that capacity he did a great deal of research on Hawaiian trails. There is now a trail open between Spencer Park in Kawaihae through the Mauna Kea Beach Hotel to Hapuna Beach. The opening of that trail, that old Hawaiian trail, came about because of a lawsuit that was brought almost entirely based on the research and work done by Judge Town. I think the entire state should recognize that and be grateful to him for the work that he did to make that possible. Thank you."

Senator A. Kobayashi added her remarks:

"Very briefly, Mr. President, I speak in support of the confirmation.

"The chair of the committee said everything I would have liked to say about Judge Town. He is just a wonderful man. I hope that another circuit judgeship could be created within the Family Court so that we can keep him there because the youth of our state really depend on someone like Judge Town being in Family Court.

"I'm glad that he will continue to serve as the director of the Boys and Girls Club of Honolulu. He is just invaluable there also. Thank you."

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

Ayes, 22. Noes, none. Excused, 3 (Blair, Chang, Nakasato).

At this time, Senator Holt introduced Judge Michael Town who was accompanied by his family: wife Bonnie and children: son Gaylord, daughter Mia and son Alex.

RE-REFERRAL OF HOUSE BILLS

The Chair re-referred the following House bills that were received:

House Bill Referred to:

No. 150, H.D. 2 Committee on Judiciary, then to the Committee on Ways and Means

No. 241, H.D. 2 Jointly to the Committee on Health and the Committee on Human Services, then to the Committee on Ways and Means

No. 284, H.D. 2 Jointly to the Committee on Health and the Committee on Judiciary

No. 1888, H.D. 2 Committee on Consumer Protection, then to the Committee on Ways and Means

No. 1890, H.D. 1 Jointly to the Committee on Consumer Protection and the Committee on Ways and Means

No. 2020, H.D. 1 Jointly to the Committee on Government Operations, Environmental Protection and Hawaiian Programs and the Committee on Judiciary, then to the Committee on Ways and Means

No. 2060, H.D. 1 Jointly to the Committee on Education, Labor and Employment and the Committee on Higher Education, Culture, Arts and Historic Preservation, then to the Committee on Ways and Means

RE-REFERRAL OF SENATE CONCURRENT RESOLUTION

The Chair re-referred the following Senate concurrent resolution that was offered:

Senate
Concurrent
Resolutions Referred to:

No. 83 Committee on Tourism, Recreation and Transportation

RE-REFERRAL OF SENATE RESOLUTION

The Chair re-referred the following Senate resolution that was offered:

Senate
Resolution Referred to:

No. 68 Committee on Tourism, Recreation and Transportation

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

"Mr. President, this morning I represented the Senate at the ground-breaking ceremony of the closed-cycle OTEC plant in Kona. This ground-breaking may appear insignificant but this project is a landmark somewhat similar to McCormick developing the wheat combine. Some day this development will become the template for energy and water development in all the Pacific island governments. The closed-cycle OTEC plant will be operational about a year from now. However, in about a month from now you are going to see the operation of the OTEC open-cycle. The operation of the closed-cycle and open-cycle OTEC plants will become a landmark in ocean technology history.

"Some of you may wonder how this technology all came about. Governor Burns was governor of the State of Hawaii and he was dying of cancer. He met with Dr. John Craven and he told Dr. Craven, 'John, you know we gotta get this NELH started.' Dr. Craven told the governor, 'We have a little problem here. We're at the last week of the session. The bill has not been drafted! How are we going to introduce the bill?' The governor told Dr. Craven, 'Don't worry about that. I'll take care of that. You just write the bill.' John did and, miraculously, the bill got the two required hearings on an amendment in one day and it passed, and that was the start of NELH!

"When the history of NELH is someday written, Governor Burns will be remembered for making the right decision at the right time. Thank you."

ADJOURNMENT

At 12:12 o'clock p.m., on motion by Senator Ikeda, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, March 17, 1993.