

JOURNAL
of the
SENATE OF THE
TWENTY - SIXTH LEGISLATURE
of the
STATE OF HAWAII

Special Session of 2011

Convened Wednesday, August 31, 2011
Adjourned Thursday, September 1, 2011

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THE
 TWENTY-SIXTH LEGISLATURE
 STATE OF HAWAII
 SPECIAL SESSION OF 2011
 JOURNAL OF THE SENATE

FIRST DAY

Wednesday, August 31, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Special Session of 2011, was called to order at 11:32 a.m., by Senator Shan S. Tsutsui, President of the Senate, in accordance with the following Proclamation, which was read by the Clerk and was placed on file:

"August 22, 2011

PROCLAMATION

I, Shan S. Tsutsui, President of the Senate of the Twenty-Sixth Legislature of the State of Hawai'i, pursuant to the power vested in me by Section 10, Article III of the Constitution of the State of Hawai'i, and at the written request of two-thirds of the members to which the Senate is entitled, do hereby convene the Senate in Special Session for the purpose of carrying out its responsibility established by Section 3, Article VI of the Constitution of the State of Hawai'i for a period of two (2) days commencing on Wednesday, August 31, 2011, at 11:30 o'clock a.m.

/s/ Shan S. Tsutsui
 Shan S. Tsutsui
 President of the Senate"

The Roll was called showing all Senators present with the exception of Senators English, Green, Kim, Shimabukuro, and Tokuda who were excused.

MESSAGES FROM THE GOVERNOR

The following message from the Governor (Gov. Msg. No. 1) was read by the Clerk and was disposed of as follows:

Gov. Msg. No. 1, submitting for consideration and confirmation, the nomination of KAREN TOOKO NAKASONE to the Circuit Court of the First Circuit, State of Hawai'i, for a term of ten years, was referred to the Committee on Judiciary and Labor.

Senator Nishihara rose and said:

"Mr. President, I would like to request that the Senate observe a moment of silence in honor and memory of Bert Warashina, who passed away last week. Bert was a long-time Senate committee clerk and attorney who assisted me and many Senators and staff who came before me. Bert worked for me for seven years. I know his contributions over the years made the Senate a stronger institution and built relationships between staff and members alike. On behalf of the Senate, I extend our deepest condolences to Bert's family."

The Chair so ordered.

Senator Kidani rose and said:

"Thank you, Mr. President. I would also like this body to remember and honor Navy Seal Kraig Vickers, whose services will be held this weekend on Maui. Kraig gave his life for our country. He is a member of the family of my staff Park

Kaleiwahea and I wish his family best wishes and all of our love and support. Aloha."

STANDING COMMITTEE REPORT

On motion by Senator Espero, seconded by Senator Slom and carried unanimously, the Clerk was authorized to receive a standing committee report on Gov. Msg. No. 1. In consequence thereof, and subsequent to its recessing at 11:37 a.m., the Senate observed a moment of silence in memory of veteran Senate staffer Bert Warashina and Navy Seal Kraig Vickers and all of our troops that have passed, and took the following action:

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 1) recommending that the Senate consent to the nomination of KAREN TOOKO NAKASONE to the Circuit Court of the First Circuit, State of Hawai'i, in accordance with Gov. Msg. No. 1.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1 was deferred until Thursday, September 1, 2011.

ADJOURNMENT

At 12:20 p.m., the Senate adjourned until 11:30 a.m., Thursday, September 1, 2011.

SECOND DAY

Thursday, September 1, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Special Session of 2011, convened at 11:40 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senators English, Shimabukuro, and Taniguchi who were excused.

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

At this time, Senator Hee introduced Jack Tonaki, State Public Defender, and other public defenders; Bill Hoshijo, Executive Director of the Civil Rights Commission; and other supporters of Karen Tooko Nakasone.

**ORDER OF THE DAY
ADVISE AND CONSENT**

Stand. Com. Rep. No. 1 (Gov. Msg. No. 1):

Senator Hee moved that Stand. Com. Rep. No. 1 be received and placed on file, seconded by Senator Gabbard and carried.

Senator Hee then moved that the Senate consent to the nomination of KAREN TOOKO NAKASONE to the Circuit Court of the First Circuit, State of Hawai'i, for a term of ten years, seconded by Senator Gabbard.

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

"Mr. President, I'm honored to recommend to the Senate, on behalf of the Committee on Judiciary and Labor, that the Senate consent to the nominee as Judge of the First Circuit. With your permission, I would like to offer few comments on her behalf.

"As I have mentioned to some of you this morning, many of us here have had the honor and privilege of confirming a number of people to sit in judgment of others. Karen Nakasone is someone I believe all of us will be proud to vote in support of her nomination.

"Her history and personal life enunciates why I believe Hawai'i will be honored to have her preside as a judge. She is a distinguished daughter of Hawai'i. I'm told by Senator Chun Oakland that she also is a Liliha girl. The nominee herself has said that she is a grateful daughter of two parents who worked 364 days a year, 24/7, to support her and her sister, in a little flower shop on Fort Street Mall. She is typically a daughter of Hawai'i who understands the privilege of being from Hawai'i. She is eternally grateful to her parents who allowed her to go to Bryn Mawr College, a university in Pennsylvania that is for women. She is thankful to the late member of Congress Patsy Mink, who she had the privilege of working for. She is indebted to Justice Simeon Acoba, for whom she clerked after she graduated from Boston University where she earned her law degree.

"Karen Nakasone, in my opinion, will not always rule what may be popular in the eyes of the general public. However, Karen Nakasone will be absolutely certain and confident that her ruling from the bench, regardless that it may not or may be popular, is firmly rooted in the Constitution of the State of Hawai'i and the Constitution of the United States. Her leadership with the Japanese-American Citizens League—an organization of which many of its members have paid the ultimate price and who continue to serve the State of Hawai'i with dignity—speaks for itself. Her leadership as president of

JACL was not always popular; however, it was always defensible.

"Karen Nakasone, in my opinion, warrants and has earned your vote on this floor as someone, like her mentors who she has worked with, who will serve Hawai'i with great dignity if given the privilege of being confirmed as a Judge at the Circuit Court for the First Circuit. Thank you, Mr. President."

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

Ayes, 22. Noes, none. Excused, 3 (English, Shimabukuro, Taniguchi).

At this time, Senator Hee introduced Judge Nakasone to the members of the Senate. Judge Nakasone was accompanied by her parents Hajime and Chieko Nakasone, her sister Nancy Nakasone Tolentino, and her husband Roman Amaguin and their daughters Eleanor and Abigail Nakasone-Amaguin.

At 11:50 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:02 p.m.

SENATE RESOLUTION

The following resolution (S.R. No. 1) was read by the Clerk and was disposed of as follows:

S.R. No. 1 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SECOND DAY OF THE FIRST SPECIAL SESSION OF 2011."

Offered by: Senators Galuteria, Slom.

On motion by Senator Espero, seconded by Senator Slom and carried, S.R. No. 1 was adopted.

ADJOURNMENT

Senator Espero moved that the Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Special Session of 2011, adjourn Sine Die, seconded by Senator Slom and carried.

At 12:03 p.m., the President rapped his gavel and declared the Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Special Session of 2011, adjourned Sine Die.

STANDING COMMITTEE REPORT

SCRep. 1 Gov. Msg. No. 1

Recommending that the Senate consent to the nomination to the following:

CIRCUIT COURT OF THE FIRST CIRCUIT, STATE OF HAWAII

Gov. Msg. 1 KAREN TOOKO NAKASONE, for a term to expire in ten years.

Testimony in support of the appointment of Karen Tooko Nakasone was submitted by State Representative Blake K. Oshiro, State House of Representatives; the State Attorney General; the State Public Defender, the Chief Deputy Public Defender, and twenty-two current and former Deputy Public Defenders; the Hawaii Paroling Authority and one former Authority member; Associate Justice of the Hawaii Supreme Court Steven H. Levinson (retired); Associate Judge of the Intermediate Court of Appeals Corinne K.A. Watanabe (retired); Circuit Court Judge Marie N. Milks (retired); Circuit Court Judge Gail C. Nakatani (retired); Mayor, County of Hawaii; First Deputy Prosecuting Attorney, Department of the Prosecuting Attorney of the City and County of Honolulu, and four current and former Deputy Prosecuting Attorneys; Hawaii Women Lawyers; Japanese American Citizens League Honolulu Chapter; Hawaii Friends of Civil Rights; the GLBT Caucus; the Hawai'i Women's Political Caucus; Hawk Sing Ignacio Waters, Attorneys at Law; and numerous individuals. Comments regarding the appointment of Ms. Nakasone were submitted by the Hawaii State Bar Association Board of Directors and one individual.

The Hawaii State Bar Association Board of Directors (HSBA Board) found the appointee to be qualified for the position of Circuit Court Judge, First Circuit Court, based on established criteria for determining the qualifications of judicial and executive appointments generally utilizing the American Bar Association Guidelines for Reviewing Qualifications of Candidates for State Judicial Office. Those Guidelines include the following criteria, which are not exclusive: integrity and diligence, legal knowledge and ability, professional experience, judicial temperament, financial responsibility, public service, health, and responsibilities and duties required of the position for which the applicant has been appointed. The HSBA Board ratings system includes the categories of "qualified" and "not qualified".

Karen Tooko Nakasone received her Bachelor of Arts degree in Political Science from Bryn Mawr College and her Juris Doctor degree from Boston University School of Law. From 1995 to 1996, Ms. Nakasone served as a law clerk to the Honorable Simeon R. Acoba, Jr., who was then on the Intermediate Court of Appeals. From 1996 to present, Ms. Nakasone has served with the Office of the Public Defender, where she handles criminal defense cases. During her tenure with the Office of the Public Defender, Ms. Nakasone engaged first in trial litigation, from 1996 to 2003, and thereafter in appellate litigation. Her trial litigation included practice in the district, family, and circuit courts of the First Circuit. In 2002, Ms. Nakasone was promoted to the Senior Felony Trials Division, which handles the most difficult, serious trials. Her appellate work before the Intermediate Court of Appeals and Hawaii State Supreme Court has resulted in several seminal, published decisions in the field of criminal law. Her experience with the Office of the Public Defender also included administrative hearings before the Hawaii Paroling Authority.

Ms. Nakasone has also been actively involved in the legal community, having served on the Hawaii Supreme Court Board of Bar Examiners from 2003 to the present; Hawaii Women Lawyers, as a Director from 2009 to the present and as Program Committee Co-Chair from 2010 to the present; and the Access to Justice Commission from 2009 to the present, on the Annual Report Committee, on which she currently serves as Vice-Chair. Ms. Nakasone also currently serves as Secretary-Treasurer of the National Asian Pacific American Bar Association, Hawai'i Chapter. Ms. Nakasone is also involved with the Court Annexed Arbitration Program as an Arbitrator.

Ms. Nakasone has also demonstrated her commitment to the community through her service on, among other organizations, the Japanese American Citizens League Honolulu Chapter (JACL), one of the leading community organizations that address civil rights issues, on which she served as President from 2004 to 2006, Vice-President from 2002 to 2004, and as a Director from 2001 to the present. In that capacity, she led the JACL in its community activities and in taking strong policy positions on various civil rights issues.

Ms. Nakasone has an excellent reputation within the legal community for honesty, fairness, ethics, and legal ability. She is well respected among her peers in the legal community for her insight, keen intellect, and leadership qualities. Testifiers also commended her hard work and preparedness. Colleagues and former colleagues within the Office of the Public Defender praised her ability to grasp complex legal issues and communicate her ideas and arguments in a thoughtful, eloquent, and persuasive manner and her generosity with her time in assisting others who routinely seek her counsel and judgment on legal matters. Attorneys with the Office of the Prosecuting Attorney who have litigated cases against her attested that Ms. Nakasone's legal abilities often resulted in losses for these attorneys, but gave high praise to Ms. Nakasone's ethical and fair handling of these cases.

Moreover, testimony highlighted Ms. Nakasone's calm and thoughtful temperament, her disciplined and focused approach to the law, and her courage and perseverance in defense of civil rights and the constitution while serving with the JACL. Testifiers described her as a natural leader. Your Committee believes that Ms. Nakasone's extensive litigation experience at all levels of the state court system, measured and thoughtful temperament, and dedication to the law will serve her very well as a Circuit Court judge.

Your Committee finds that, based on the appointee's statements to your Committee and the testimony submitted on her behalf, Karen Tooko Nakasone has the experience, temperament, judiciousness, and other competencies to be a Circuit Court judge, and has a good sense of where the equities, rights, and responsibilities lie in a case, which is essential for a Circuit Court judge.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Shimabukuro).

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
S.R. No. 1 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SECOND DAY OF THE FIRST SPECIAL SESSION OF 2011.	2			2