

THIRTY-THIRD DAY

Thursday, March 19, 1998

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 11:36 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Woodrow Yasuhara, District Superintendent, Hawaii Assembly of God Churches, after which the Roll was called showing all Senators present with the exception of Senators Aki, Ihara and Tanaka who were excused.

The President announced that he had read and approved the Journal of the Thirty-Second Day.

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

Senator Metcalf introduced and congratulated the following members of the 1998 Hawaii State Science Bowl Champions from Hilo High School: Steven Okamoto, team captain; Aric West; Drew Goya; Naomi Klein; and Fong Chih. The students were accompanied by Biology teacher Jeanette Wong, who was also the team's advisor and coach; and Dr. Harold Goya.

Senator Matsunaga introduced Dorothy Craven, the 1997 recipient of the American Speech-Hearing Foundation's prestigious Louie M. Dicarlo Award for outstanding clinical achievement.

Senator Tam then introduced the 1998 Narcissus Queen Kit Zhu Lan Lo, First Princess Minnie Min Huan Kwok, Second Princess Courtney Hon Lung Lau, Third Princess Lillian Li-Ling Tsang, and Fourth Princess Carlene Jyalyn Yee. Accompanying the young ladies were Wesley Fong, Randall Chang and Michele Choy.

At this time, the President invited Narcissus Queen Kit Lo to address the members of the Senate and appointed Senators Chun Oakland and Tam to escort her to the podium.

The Narcissus Queen addressed the members of the Senate as follows:

"Good morning. On behalf of the Chinese Chamber of Commerce and the 49th Narcissus Queen and Court, I would like to thank you for inviting us here this morning. It is indeed an honor to be invited to represent the Chinese community, as well as the State of Hawaii.

"We will be shortly visiting China this summer as good will ambassadors and hope to represent the Chinese community and the State of Hawaii well.

"In closing, may we wish you good health, good fortune and happiness in this, the Year of the Tiger.

"Thank you."

At 11:52 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:59 o'clock a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 189 to 192) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 189, submitting for consideration and confirmation as Comptroller, the nomination of RAYMOND H.

SATO, term to expire December 7, 1998, was referred to the Committee on Government Operations and Housing.

Gov. Msg. No. 190, informing the Senate that on March 18, 1998, he signed into law House Bill No. 397 as Act 3, entitled: "RELATING TO MOTOR VEHICLE REGISTRATION," was placed on file.

Gov. Msg. No. 191, dated March 11, 1998, transmitting the 1996 Annual Report prepared by the Office of Youth Services pursuant to Section 352D-6, HRS, and Act 151, Section 4, SLH 1991, was placed on file.

Gov. Msg. No. 192, dated February 2, 1998, transmitting the 1996 Annual Report of the Executive Office on Aging, was placed on file.

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 26, from the State Auditor dated March 18, 1998, transmitting a report, "Audit of the Management of Small Boat Harbors and Boat Ramps," (Report No. 98-11), was read by the Clerk and was placed on file.

HOUSE COMMUNICATION

Hse. Com. No. 83, transmitting H.C.R. No. 35, H.D. 1, which was adopted by the House of Representatives on March 17, 1998, was read by the Clerk and was placed on file.

By unanimous consent, H.C.R. No. 35, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEVELOPMENT OF A RURAL HEALTH PLAN FOR THE ISLAND OF HAWAII," was referred to the Committee on Health and Environment, then to the Committee on Ways and Means.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 135 to 143) were read by the Clerk and were deferred:

Senate Concurrent Resolution

No. 135 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO MAINTAIN THE STATE CAPITOL AIR-CONDITIONING SYSTEM."

Offered by: Senator Tam.

No. 136 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO ADOPT RULES REQUIRING ALL INFECTIOUS WASTE GENERATORS TO SUBMIT REGULAR REPORTS CONCERNING THE PRODUCTION AND DISPOSITION OF THESE WASTES."

Offered by: Senator Tam.

No. 137 "SENATE CONCURRENT RESOLUTION REQUESTING THE BOARD OF EDUCATION TO ADDRESS CONCERNS OF PARENTS AND TEACHERS OVER THE USE OF PHONICS OR WHOLE LANGUAGE IN TEACHING STUDENTS TO READ."

Offered by: Senator Tam.

No. 138 "SENATE CONCURRENT RESOLUTION REQUESTING A FOLLOW-UP STUDY ASSESSING THE SOCIAL AND FINANCIAL IMPACT OF AN OPTIONAL HEALTH INSURANCE RIDER FOR NATUROPATHIC

CARE, AND OTHER ISSUES RELATED TO NATUROPATHY."

Offered by: Senator Levin.

No. 139 "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A MARKETING PROGRAM UTILIZING FORMER HAWAII RESIDENTS LIVING ABROAD AS DISTRIBUTION REPRESENTATIVES FOR THE SALE OF HAWAII-MADE PRODUCTS."

Offered by: Senators Ihara, Baker, Solomon, Iwase, Tanaka, Taniguchi, Tam, Metcalf, Fukunaga.

No. 140 "SENATE CONCURRENT RESOLUTION ENDORSING AND ADOPTING THE RECOMMENDATIONS CONTAINED IN THE DRAFT ALA WAI CANAL WATERSHED, WATER QUALITY IMPROVEMENT PROJECT, MANAGEMENT AND IMPLEMENTATION PLAN."

Offered by: Senators Ihara, Fukunaga, Taniguchi.

No. 141 "SENATE CONCURRENT RESOLUTION REQUESTING THE EXTENSION OF THE COMMISSION TO ESTABLISH THE HAWAII SPORTS HALL OF FAME."

Offered by: Senator McCartney.

No. 142 "SENATE CONCURRENT RESOLUTION REQUESTING AN EVALUATION OF THE IMPACT OF PROVIDING INCOME TAX DEDUCTIONS FOR PRIVATE SCHOOL TUITION."

Offered by: Senator Tanaka.

No. 143 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO CONDUCT A FEASIBILITY STUDY WITH RESPECT TO THE CONSTRUCTION OF AN URGENT CARE FACILITY FOR THE WEST SIDE OF MAUI COUNTY."

Offered by: Senator Tanaka.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 63 to 68) were read by the Clerk and were deferred:

Senate Resolution

No. 63 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO MAINTAIN THE STATE CAPITOL AIR-CONDITIONING SYSTEM."

Offered by: Senator Tam.

No. 64 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO ADOPT RULES REQUIRING ALL INFECTIOUS WASTE GENERATORS TO SUBMIT REGULAR REPORTS CONCERNING THE PRODUCTION AND DISPOSITION OF THESE WASTES."

Offered by: Senator Tam.

No. 65 "SENATE RESOLUTION REQUESTING THE BOARD OF EDUCATION TO ADDRESS CONCERNS OF PARENTS AND TEACHERS OVER THE USE OF PHONICS OR WHOLE LANGUAGE IN TEACHING STUDENTS TO READ."

Offered by: Senator Tam.

No. 66 "SENATE RESOLUTION REQUESTING THE ESTABLISHMENT OF A MARKETING PROGRAM UTILIZING FORMER HAWAII RESIDENTS LIVING ABROAD AS DISTRIBUTION REPRESENTATIVES FOR THE SALE OF HAWAII-MADE PRODUCTS."

Offered by: Senators Ihara, Baker, Solomon, Iwase, Tanaka, Taniguchi, Tam, Metcalf, Fukunaga.

No. 67 "SENATE RESOLUTION REQUESTING AN EVALUATION OF THE IMPACT OF PROVIDING INCOME TAX DEDUCTIONS FOR PRIVATE SCHOOL TUITION."

Offered by: Senator Tanaka.

No. 68 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO CONDUCT A FEASIBILITY STUDY WITH RESPECT TO THE CONSTRUCTION OF AN URGENT CARE FACILITY FOR THE WEST SIDE OF MAUI COUNTY."

Offered by: Senator Tanaka.

STANDING COMMITTEE REPORTS

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2782) recommending that the Senate advise and consent to the nomination of PATRICK T. KUBOTA to the Hawai'i Community Development Authority, in accordance with Gov. Msg. No. 138.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 2782 and Gov. Msg. No. 138 was deferred until Friday, March 20, 1998.

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2783) recommending that the Senate advise and consent to the nomination of COLETTE P. MACHADO to the Kaho'olawe Island Reserve Commission, in accordance with Gov. Msg. No. 140.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 2783 and Gov. Msg. No. 140 was deferred until Friday, March 20, 1998.

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2784) recommending that the Senate advise and consent to the nomination of KURT K. MENCH to the Kaneohe Bay Regional Council, in accordance with Gov. Msg. No. 141.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 2784 and Gov. Msg. No. 141 was deferred until Friday, March 20, 1998.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 2781 (Gov. Msg. No. 136):

Senator Taniguchi moved that Stand. Com. Rep. No. 2781 be received and placed on file, seconded by Senator Baker and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nominations to the Barbers Point Naval Air Station Redevelopment Commission of the following:

JACK ENDO, term to expire June 30, 2000; and

RANDOLPH G. MOORE, term to expire June 30, 2001,

seconded by Senator Baker.

Senator Taniguchi rose to support the nominees and said:

"Mr. President and colleagues, I rise to speak in favor of the motion.

"Your Committee on Economic Development diligently reviewed the candidates and found them to be qualified to fulfill the responsibilities as members of the Barbers Point Naval Air Station Redevelopment Commission. Both candidates served with distinction on the forerunner organization to the commission and participated in the formulation of the Barbers Point Naval Air Station Community Redevelopment Plan.

"While each candidate brings a wealth of experience and knowledge to the commission, your committee was most impressed with their commitment and dedication to public service. Your Committee finds that the nominees will work with compassion and commitment and have been appointed based on their credentials, integrity and a sincere desire to make Hawaii better through their participation, and recommends their nomination."

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

Ayes, 21. Noes, none. Excused, 4 (Aki, Ige, M., Ihara, Tanaka).

REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The President made the following committee assignments of concurrent resolutions that were offered on Tuesday, March 17, 1998, and Wednesday, March 18, 1998:

Senate
Concurrent
Resolution

Referred to:

No. 116 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Economic Development, then to the Committee on Ways and Means

No. 117 Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 118 Committee on Human Resources, then to the Committee on Ways and Means

No. 119 Committee on Health and Environment, then to the Committee on Ways and Means

No. 120 Committee on Government Operations and Housing, then to the Committee on Ways and Means

No. 121 Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Judiciary

No. 122 Committee on Education, then to the Committee on Ways and Means

No. 123 Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Ways and Means

No. 124 Jointly to the Committee on Human Resources and the Committee on Judiciary, then to the Committee on Ways and Means

No. 125 Jointly to the Committee on Health and Environment and the Committee on Human Resources, then to the Committee on Ways and Means

No. 126 Committee on Human Resources, then to the Committee on Ways and Means

No. 127 Jointly to the Committee on Commerce, Consumer Protection, and Information Technology and the Committee on Human Resources, then to the Committee on Ways and Means

No. 128 Committee on Economic Development, then to the Committee on Ways and Means

No. 129 Committee on Transportation and Intergovernmental Affairs, then to the Committee on Commerce, Consumer Protection, and Information Technology

No. 130 Jointly to the Committee on Health and Environment and the Committee on Judiciary, then to the Committee on Ways and Means

No. 131 Committee on Health and Environment, then to the Committee on Ways and Means

No. 132 Committee on Judiciary, then to the Committee on Ways and Means

No. 133 Committee on Education, then to the Committee on Ways and Means

No. 134 Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Ways and Means

REFERRAL OF SENATE RESOLUTIONS

The President made the following committee assignments of resolutions that were offered on Tuesday, March 17, 1998, and Wednesday, March 18, 1998:

Senate

Resolution

Referred to:

No. 53 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Economic Development, then to the Committee on Ways and Means

No. 54 Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 55 Committee on Human Resources, then to the Committee on Ways and Means

No. 56 Committee on Health and Environment, then to the Committee on Ways and Means

No. 57 Committee on Government Operations and Housing, then to the Committee on Ways and Means

No. 58 Jointly to the Committee on Health and Environment and the Committee on Human Resources, then to the Committee on Ways and Means

No. 59 Jointly to the Committee on Human Resources and the Committee on Judiciary, then to the Committee on Ways and Means

No. 60 Committee on Economic Development, then to the Committee on Ways and Means

No. 61 Committee on Transportation and Intergovernmental Affairs, then to the Committee on Commerce, Consumer Protection, and Information Technology

No. 62 Committee on Health and Environment, then to the Committee on Ways and Means

RE-REFERRAL OF HOUSE BILL

The Chair re-referred the following House bill that was received:

House Bill Referred to:

No. 3037, H.D. 2 Jointly to the Committee on Economic Development and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

Senator Sлом rose on a point of personal privilege and stated:

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

"I learned a short time ago that Liberty House has filed for bankruptcy today, and I think, unfortunately, this is part of a growing trend and a problem that we're all facing within our community. But I think that this is a special business that has brought worldwide attention and praise to Hawaii, a locally homegrown retailer, and an organization that has made many contributions.

"And I guess the message here, again, is that it doesn't matter how big you are or how old you are or how strong you've been in the past, we have to deal with the current problems. And so I think we should acknowledge the many contributions that they have made and thank them for that. We wish them success in dealing with their present financial difficulties and hope that they will have continued success in the future, and we wish their employees and those connected with the firm the best.

"And again, Mr. President, I think this should be a wake-up call for all of us that there is a sense of urgency, that when these last of the big companies have this kind of difficulty that we should be listening to what it is that they've called for, and they've called for reduction in taxes, reduction in government growth, reduction in those regulations that have made our business climate very difficult.

"Thank you, Mr. President."

Senator McCartney rose on a point of personal privilege and stated:

"Mr. President, I'd like to join and echo the remarks of the Minority Floor Leader that it's a sad day that an institution like Liberty House that employs thousands of local employees is filing for Chapter 11 today. There's still hope in Chapter 11 that they can turn things around. We have our work cut out for us. We need to make some tough decisions to improve the business climate in this state.

"I know John Monahan and it's a very sad day for him and he cares very much about the employees that he represents. I have many family members and friends who work there in very good paying jobs. And it affects every family in this state. And so, yes, the message is out there that we need to work harder.

"There are many things happening in our economy that are going on in Asia, restructuring of the retail marketplace, and yes, we need to overhaul and fix existing regulatory and government structure that's in place. So I'd like to thank the Minority Floor Leader for bringing up those remarks, and we all now need to work together to move forward to make a difference for the people who are employed in companies like Liberty House.

"Thank you."

At this time, Senator Matsunaga, on behalf of the members of the Senate, extended happy birthday wishes to Senator Chumbley.

Senator Solomon also spoke on a point of personal privilege and stated:

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

"Mr. President, there was an article in the Star-Bulletin about how motorists have overpaid \$800 million dollars for gasoline here in the State of Hawaii. And according to Mr. Hamilton, he says there is no end in sight.

"The reason I am rising to speak on the matter is that this is no new issue to the Legislature, especially to this body. You were around in the days when our previous President, Richard Wong, fought Standard Oil, and we dealt with many, many of these pressing issues. Last session, we did look at it in your CPI Committee, and of course, as you know, Mr. President, I've been a very strong supporter of divorcement. I'm thinking that this is the way that we can get a true handle on the situation as to who is responsible for causing the inflation of these gas prices here in the State of Hawaii.

"I think times are critical when we're hearing about Liberty House declaring bankruptcy, other businesses going down and under. The bottom line is that it would be real sweet to have \$800 million back in the consumers' pockets and those dollars circulating in the community. And I think that it behooves us to make inquiries of the Attorney General's office to ask what they're doing about the problem. As you know, we have given them the responsibility to monitor the situation, to come up with recommendations of how we could possibly recommend changes, and what we have to do. I'm sure many of us around here are familiar with Attorney General Ted Clause. He's been around this building a few years and Mr. Clause has made recommendations, but this was way back in 1994. A study was brought to our attention. Unfortunately, nothing really was done from that study, and I think that study still has a lot of pluses. I think it's a matter of us looking at that.

"I did make an inquiry of our CPI chairman. Perhaps our committee could start tackling these kinds of issues besides those issues that we have been looking at this past session, which is primarily looking at our regulatory functions but also looking at these kinds of critical areas that impact our consumers every day. And if you can imagine, if Oahu's prices are going up where these refineries are located, you can just imagine what the neighbor islands have been paying.

"So with that, Mr. President, I'd like to make an inquiry of our chairman. If the chairman would yield, are we planning to hold some kind of a public hearing on this issue? What are we planning to do in response to this?"

Senator D. Ige responded:

"We have initiated discussions with the Attorney General's office to determine the appropriate course of action. If you recall the study and the recommendations previously done in 1994, the biggest recommendation to ensure lower prices was to enhance competition. And they had suggested that having some distributors import gasoline would probably be the best protection against price gauging. I know that there were several companies that were investigating and looking at importing gasoline into the state. I do believe, unfortunately, with one of the bigger mergers that are currently under review by the Justice Department, that those are the companies that were thinking of bringing in gasoline. So I think, for the time period being, that the project to develop storage facilities at the harbors was kind of put on hold.

"But we are in discussion with the Attorney General's office to determine what the most appropriate action would be."

Senator Solomon continued:

"Mr. President, I want to thank the chairman for his remarks.

"I'd like to ask you a question, Mr. President. To your knowledge, is it possible or can we implement some kind of freeze on the prices of gasoline as we are investigating the situation here in Hawaii to see if there's a possibility of assuring our consumers that they no longer will be charged these excessive fees at the pump? Can we do something like that?"

The Chair replied:

"There is a possibility for the appropriate Senate committees to initiate discussions with the Attorney General's office and also review your particular recommendation."

Senator Solomon then said:

"Thank you very much."

Senator Anderson rose and said:

"Point of follow-up, I guess, on some of the comments made previously.

"One of the problems, from my understanding, on the gasoline was that the shipping cost was going to be very high for them. And another, Mr. President, is this morning on the radio, and I forgot which station, there were comments that milk prices, for instance, are up because they have to use their vehicles to deliver milk. And so the gas costs money. If you remember some years back when we allowed a thirty-some-odd million dollar industry like the milk industry, we imported our milk. Safeway and others can bring in milk from the mainland. My argument on the floor at that time was, if you want competition, let them open a processing plant. That would have given us three processing plants here in the state. But no, what we did was we allowed them to bring in milk. Consequently, Foremost brings in their own milk. Meadow Gold brings in their own milk. Safeway and everybody else brings in their milk.

"So whenever we do any type of legislation, we have to look at the long term. How is this going to help us? Is it going to help employ our people? Is it going to help a business? And that's where we fail and that's why we haven't done well. It's easy enough to say we're going to check with a department and find out what their likes and dislikes are, but they can write a rule to anything that we do because we've given away most of our responsibilities that we're supposed to have.

"So, just checking out with a department, Mr. President, doesn't mean that we're going to get good legislation because they say it's good or bad for us. We have to sit down and discuss and find out exactly how this is going to implement five years down the road. Is it going to help us today to say we'll do this, and then it hurts us.

"Thank you very much, Mr. President."

ADJOURNMENT

At 12:15 o'clock p.m., on motion by Senator McCartney, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, March 20, 1998.