

FORTY-FIRST DAY

Thursday, March 27, 1997

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, convened at 11:39 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Toshinori Kasahara, Higashi Hongwanji Betsuin, after which the Roll was called showing all Senators present with the exception of Senator Aki who was excused.

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

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 533 to 539) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 533, informing the Senate that the House has disagreed to the amendments proposed by the Senate to H.B. No. 214, was placed on file.

Hse. Com. No. 534, informing the Senate that the House has disagreed to the amendments proposed by the Senate to H.B. No. 454, H.D. 1, was placed on file.

Hse. Com. No. 535, informing the Senate that the House has disagreed to the amendments proposed by the Senate to H.B. No. 1762, was placed on file.

Hse. Com. No. 536, returning S.B. No. 207, S.D. 1, which passed Third Reading in the House of Representatives on March 25, 1997, was placed on file.

Hse. Com. No. 537, returning S.B. No. 910, S.D. 1, which passed Third Reading in the House of Representatives on March 25, 1997, was placed on file.

Hse. Com. No. 538, returning S.B. No. 1300, S.D. 1, which passed Third Reading in the House of Representatives on March 25, 1997, was placed on file.

Hse. Com. No. 539, returning S.B. No. 1428, S.D. 1, which passed Third Reading in the House of Representatives on March 25, 1997, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 1428, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FILM PERMITTING," was deferred until Tuesday, April 1, 1997.

ORDER OF THE DAY

REFERRAL OF
HOUSE CONCURRENT RESOLUTIONSMATTERS DEFERRED FROM
TUESDAY, MARCH 25, 1997

The Chair referred the following House concurrent resolutions that were received on Tuesday, March 25, 1997:

House
Concurrent
Resolution

Referred to:

No. 4, H.D. 1 Committee on Education, then to the
Committee on Ways and Means

No. 43 Committee on Judiciary, then to the
Committee on Ways and Means

No. 48, H.D. 1 Committee on Transportation and
Intergovernmental Affairs, then to the Committee on Ways and
Means

THIRD READING

H.B. No. 139, H.D. 2, S.D. 1:

Senator Chun Oakland moved that H.B. No. 139, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Fernandes Salling.

Senator Slom rose to speak on the measure and said:

"Mr. President, I think the public has been waiting for a long time for us to take some action on the so-called 'high-three' benefits and I think that the Senate is to be congratulated on the current draft before us. There have been a number of improvements that have been made but, unfortunately, I think there are still some inequities within the bill. I think we still have some improvements to be made, so I support the bill with reservations. Thank you."

The motion was then put by the Chair and carried, H.B. No. 139, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Aki, Tam).

RE-REFERRAL OF HOUSE BILL

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

House Bill Referred to:

No. 1806, H.D. 1 Jointly to the Committee on Human
Resources and the Committee on Ways and Means

Senator Solomon rose on a point of personal privilege and said:

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

"Mr. President, I make my remarks in response to a letter that was submitted to the editor in the newspaper and it says: 'Same-sex version in Senate ridiculous. It is profoundly disturbing when our elected officials have less understanding of the principles of constitutional government than an elementary student who has just taken a first civics class.' Mr. President, all I can say is, 'RIGHT ON, Mark Young!' who is the author of this letter.

"Mr. President, what we have seen during the four years is senatorial arrogance opposing the popular will on the same-sex marriage issue. Our Judiciary Committee has concocted an absurd bill and, as can be seen by Mr. Young's letter, its absurdity is clear to the public. The Senate draft put all marriages, entered into heretofore or hereafter, in jeopardy of being rendered void if any court shall hold that any state law concerning marriage deprived any people of any civil rights. Mr. Young says, 'Balderdash.' I say, 'Nuts.'

"Mr. President, it's time, finally, to let the people speak. The monkey's on our back. The House bill provides an opportunity for the people to speak. If we in the Senate continue in denying that opportunity out of mano-a-mano, macho hubris, or for whatever reason, we have no rightful place in this representative body.

"Thank you, Mr. President."

Senator Anderson also rose on a point of personal privilege as follows:

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

"Mr. President, in this morning's paper on the front page there is a headline that says, 'Groups sue to save immigrants' benefits.' One of them says that 'Hawaii's Gov. Ben Cayetano has joined a number of governors in opposing the cuts and has committed his administration to protecting legal immigrants from losing necessary assistance.'

"I have no problem with legal immigrants. What I do have a problem with, ladies and gentlemen, is years ago we had to have, when our forefathers came over, sponsors. And everybody was upset about the plantations, but the plantations were the sponsors. They provided housing. They provided jobs. They made sure that they could go to the store and charge as soon as they got here. And other people came over; they had to be sponsored by individuals. Today, after checking, I find out that sponsors are on welfare and sponsoring people to come in. How can we take care of a legal immigrant coming in when the sponsor is already on welfare and is just costing us more money?

"Now, I've been married a little over 39 years and for the first time in my many, many years of marriage, my wife and I have to start looking at our checkbook to make sure that we're not spending too much. With all the taxes and the lost revenues and everything that we're going through, the middle class is having one hell of a time. This state is in trouble. And I don't mind helping people but I want to know where that money is coming from. How are we going to be able to protect Hawaii on the laws that we have when they're from Washington? Are the people in Washington protecting us in immigration laws? Just what can we do to protect us? And that's why I'm a little upset. I don't mind the governor checking and finding out if Washington with our four congressional people are really working in our benefit, and then we can help the people that are here to discontinue the idea of having people come in with sponsors who are already on programs of welfare.

"So that's why I'm a little concerned about this, Mr. President, and I would hope that everybody else is because I understand the tune is something like \$7 million, and we can't take care of the people that we have now.

"Thank you very much."

Senator Iwase rose on a point of personal privilege and said:

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

"Mr. President, the Senator from Kamuela touched upon, I think, something which is symptom that I'd like to address. We are struggling this session as we have for the past three sessions with a number of decisions rendered by the Supreme Court of the State of Hawaii, and it started with Baehr v Lewin. We had the PASH decision; we had Judge Healy's decision in the OHA case and we had the recent Konno decision by the Supreme Court. In some of these cases -- and some would argue in, perhaps, all of these cases -- there is great argument over whether or not the Supreme Court is properly interpreting law or following legislative intent. In the case of Judge Healy, the House, at least, has enacted measures which specifically overrule the Judge's interpretation of our laws.

"I think, Mr. President, that perhaps this is the time to call for a meeting of the three branches of government to have a little heart-to-heart talk about issues affecting the state -- the Governor, you, the Speaker of the House, and the Chief Justice. We have the state of the judiciary address -- that's fine; that's a good start, but I think more needs to be done. No one is saying that we must violate the principle of separation of powers. We

have three branches of government, but I don't think we should be travelling on separate roads. We are, after all, the government of the State of Hawaii and it is difficult for us here as a legislative branch to have to go back ... I mean we mutter under our breath; we jump up and down in private; and we make jokes about some of these decisions, but they affect the people. And we have demonstrations here at the legislature over these public issues and perhaps the judiciary should see some of these demonstrations that we have seen.

"I hope that some kind of process is going to be established, or you would consider it along with the Governor and the Speaker of the House, so that meetings can take place between the heads of the three branches of government so that this government of the State of Hawaii at least moves in one direction, and not have one trying to play catch-up or trying to save the other because he's trying to jump off a cliff.

"Thank you, Mr. President."

Senator Sakamoto then rose on a point of personal privilege as follows:

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

"I'd like to agree with the previous speaker's remarks. This morning at the mayor and governor's prayer breakfast, you were there also, Mr. President. The four mayors were there; the governor was there, the chief justice and many other people were there. So I think there are opportunities, just as this morning, where all parties are at the same place at the same time, and I think I fully agree that's a very doable thing.

"And this morning the chief justice did make an error in part of his schedule and Mayor Lingle corrected him, so I think there are other opportunities to work together and maybe correct some mis-steps."

At 11:54 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:55 o'clock a.m.

ADJOURNMENT

At 11:57 o'clock a.m., on motion by Senator Ihara, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, March 31, 1997.