

FORTIETH DAY

Tuesday, March 31, 1998

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 11:40 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Miss Yulie Tjahjadi, St. Andrew's Priory, after which the Roll was called showing all Senators present with the exception of Senator Ihara who was excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 217 to 220) were read by the Clerk and were placed on file:

Gov. Msg. No. 217, dated March 13, 1998, transmitting the Business Action Center Biennial Report for 1996 and 1997, pursuant to Section 201D-7, HRS.

Gov. Msg. No. 218, dated March 16, 1998, transmitting the 1997 Annual Report and financial statements prepared by the Housing Finance and Development Corporation, pursuant to Chapter 201E, HRS.

Gov. Msg. No. 219, dated March 27, 1998, transmitting the 1997 Report on the Status of the Aloha Tower Special Fund, prepared by the Department of Business, Economic Development, and Tourism, Aloha Tower Development Corporation, pursuant to Act 137, SLH 1994.

Gov. Msg. No. 220, dated March 27, 1998, transmitting the 1997 Annual Report of the Aloha Tower Development Corporation, pursuant to Section 206J-19, HRS.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 88 to 92) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 88, informing the Senate that the House has disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 2613, H.D. 1; and
H.B. No. 2967, H.D. 1,

was placed on file.

Hse. Com. No. 89, transmitting H.C.R. No. 37, H.D. 1, which was adopted by the House of Representatives on March 30, 1998, was placed on file.

By unanimous consent, H.C.R. No. 37, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING CONGRESS TO MAINTAIN A MODERN, STATE-OF-THE-ART HELICOPTER AVIATION BRIGADE AT SCHOFIELD BARRACKS," was referred to the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means.

Hse. Com. No. 90, transmitting H.C.R. No. 69, H.D. 1, which was adopted by the House of Representatives on March 30, 1998, was placed on file.

By unanimous consent, H.C.R. No. 69, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES, THE COASTAL ZONE MANAGEMENT

PROGRAM, THE DEPARTMENT OF THE NAVY, THE DEPARTMENT OF THE ARMY, THE DEPARTMENT OF THE AIR FORCE, THE DEPARTMENT OF THE INTERIOR MINERALS MANAGEMENT SERVICE, AND THE UNITED STATES ARMY CORPS OF ENGINEERS TO PLAN AND IMPLEMENT BEACH RESTORATION AND NOURISHMENT PROJECTS IN HAWAII," was referred jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means.

Hse. Com. No. 91, returning S.B. No. 3215, S.D. 1, which passed Third Reading in the House of Representatives on March 30, 1998, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 3215, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL IMPORTATION," was deferred until Friday, April 3, 1998.

Hse. Com. No. 92, returning S.B. No. 2916, which passed Third Reading in the House of Representatives on March 30, 1998, was placed on file.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 2966 (Gov. Msg. No. 143):

Senator D. Ige moved that Stand. Com. Rep. No. 2966 be received and placed on file, seconded by Senator Metcalf and carried.

Senator D. Ige then moved that the Senate advise and consent to the nomination of RAE M. LOUI to the Public Utilities Commission, term to expire June 30, 2002, seconded by Senator Metcalf.

Senator Metcalf rose to support the nominee as follows:

"Mr. President, I rise to speak in support of the nomination of Ms. Rae Loui to the Public Utilities Commission. Your Committee on Commerce, Consumer Protection, and Information Technology has found Ms. Loui to be most qualified and well recommended to serve as a Public Utilities Commissioner.

"Ms. Loui has demonstrated extensive knowledge and skills concerning public utilities. She is the former Director of Maui's Board of Water Supply and more recently of the State Commission on Water Resource Management. Her hard work and commitment to public service was emphasized by testimony given in support of her nomination. Various groups commented on her outstanding professionalism and public advocacy.

"In her testimony to the committee, Ms. Loui stated she believes that the role of the Public Utilities Commission in adapting to a changing regulatory environment due to a rapidly changing technology and a more competitive economic environment is called for. It also calls for a commission that is flexible, open to new ideas, willing to listen to all affected parties, and most of all, willing to face that more regulation is not the answer to everything.

"For these reasons, Mr. President, Senator David Ige and I and the members of our committee urge our colleagues to support the nomination of Ms. Rae Loui to the Public Utilities Commission. Thank you."

Senator Kanno rose in opposition and stated:

"Mr. President, I rise to speak against this nomination.

"Mr. President, at the public hearing of the nomination of Rae Loui, she stated that she'd like to see reforms implemented at the PUC to deal with the perception that the PUC is not responsive to concerns of the community. Since Ms. Loui has been on the PUC from January 1998, I brought her an issue of great concern to the community of Village Park. After some checking, her response was that nothing could be done to address the community concern.

"In another area, the Legislature is looking at improvements to the Public Utilities Commission. Senate Bill 2607 creates two separate panels within the Public Utilities Commission. One assigned jurisdiction over the regulation of the public telecommunications services and the other assigned jurisdiction over all other utility matters. The members of the PUC, including Ms. Loui, are opposing this measure.

"What is needed in government is a willingness to address the concerns of the public, and I don't believe that the nominee is really bringing that commitment to this position.

"What is happening with the community of Village Park is there was a HECO proposal made approximately seven years ago. There was a public hearing that was held on October 2, 1991, on an overhead power line that was going to be installed on Kunia Road. After some deliberation, the PUC approved the project on February 1, 1992. To this day, the project has not been installed. However, the project is planned to be installed this summer.

"In 1997, the Legislature passed Act 95 which directed the PUC to evaluate and make specific findings on a number of factors, including the amortized cost of construction over the respective usable life of an above-ground versus an underground system, the proximity and visibility of an above-ground system, and the breadth and depth of public sentiment with respect to an above-ground versus underground system.

"At the time the PUC held a public hearing on the Kunia power transmission line project back in 1991, the community was unaware of the impacts that the installation of overhead power lines would have on the community.

"During the period of 1993-1995 the community of Village Park became involved in fighting the installation of a 138kv power transmission line in close proximity to the community and concerns were raised about possible health impacts, declining property values and diminished view planes.

"Unfortunately, community residents have been told that they are too late to effect any change with the power lines that are going up this summer, and that the time for a public hearing was back in 1991.

"I believe government's role is to address the concerns of the community and we in government need to be working together with the community to find solutions. I don't find it acceptable that attorneys tell us that this law or that rule or that regulation is standing in the way. We have been working for the past several months looking for a way to address the situation. We have been looking at a number of possibilities. We've been dealing with the Department of Transportation; we've been dealing with Hawaiian Electric Company, and no one is able to help the community. And as the area Senator, I think it is something that we need to look at and the Public Utilities Commission has a role in, where there's been a great deal of concern having to do with overhead power lines in close proximity to homes and schools.

"The perception is that the Public Utilities Commission is not addressing the community's concerns. And where we have heard statements from this nominee that she would like to see a new PUC that is responsive to the community, that addresses issues that are important to the community, based on the actions

as noticed previously, I don't think this is happening. I think it is an important issue for us to consider as we go forward through this session to make changes at the Public Utilities Commission to deal with concerns from the public.

"We had a proposal to install two sewer lines down Kunia Road. It would involve possibly two separate construction periods where one sewer line would go in, then it would be covered back up. Separately, a second sewer line would go back down the very same route, then we would go and put in this power line. Then we'd also go in and widen the road through four different projects. From the community's perspective, we really need to be looking at common sense in projects that are going to be negatively impacting the community. In this situation, we were able to stop the two sewer lines from going in, but we still don't feel that there is a level of common sense in the way that the community's concerns are being dealt with.

"I'll be voting 'no.' Thank you."

Senator D. Ige rose in support and said:

"Mr. President, I also rise in support of the nomination.

"I did want to note that she's an engineer by profession and we all know that we need more engineers in state government, although I would note that she is a civil engineer which means that, you know, the electrical engineer guys are the best guys and the rejects go into civil or mechanical. (Laughter.) So, for the record.

"Thank you."

Senator Baker also rose to support the nominee as follows:

"Mr. President, I, too, rise in support of this nominee.

"I had the good fortune of observing the good work that Ms. Loui did when she was head of the Department of Water Supply for the County of Maui. I know that she has the skills necessary to craft solutions for very delicate and ticklish situations. She has the ability to bring parties together. I think she has the right attitude and the requisite skills demanded of a nominee for the PUC at this time.

"Thank you."

Senator Chumbley rose in support and said:

"Mr. President, I, too, rise to speak in support of the nomination.

"Mr. President, I've always found Ms. Loui to be very accessible and responsive to concerns that I have raised both at the Board of Water Supply on Maui and the state Water Resources Commission. And I feel that her level of professionalism, fairness and objectivity will be an asset to the Public Utilities Commission.

"I urge all of my colleagues to support this nomination. Thank you."

Senator Kawamoto rose in opposition and stated:

"Mr. President, I just want to support my neighboring Senator. We all worked very hard to get the power lines underground and we all worked very hard to get the sewer lines diverted, so I will be voting 'no' on this nominee.

"Thank you."

Senator McCartney rose in support of the nomination and said:

"Mr. President, I'm speaking in favor of the nominee. And with all due respect, I understand there are many concerns in impacted communities and these are challenging times. I'd like to speak to the nominee specifically -- I think she did a good job on the Waiahole contested case hearing regarding water. That was a very tough issue -- many different factions, sides and perspectives on that issue. And I think that she dealt with all the parties fairly, equitably, and no matter what the decision that came out of the commission, people felt that they had a fair shake from her. And I think that's what we need on the PUC.

"Thank you."

Senator Sakamoto rose and said:

"Mr. President, I just want to rise in defense of civil engineers. Civil engineers put the sewer lines underground -- electrical engineers choose to put their products above ground." (Laughter.)

The Chair then commented:

"Thank you for that clarification."

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

Ayes, 21. Noes, 3 (Ige, M., Kanno, Kawamoto). Excused, 1 (Ihara).

At this time, Senator Metcalf introduced Ms. Loui who was seated in the gallery with family and friends.

THIRD READING

MATTER DEFERRED FROM MONDAY, MARCH 30, 1998

H.B. No. 2693, H.D. 1, S.D. 1:

On motion by Senator Aki, seconded by Senator Tam and carried, H.B. No. 2693, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

THIRD READING

H.B. No. 2520, H.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 2520, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FRIVOLOUS LOBBYING CHARGES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

H.B. No. 2523:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 2523, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL COUNTY REGISTER," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

H.B. No. 2531, H.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 2531, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTY ELECTIONS REQUIRING A RUNOFF," having been read throughout,

passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

H.B. No. 2802:

On motion by Senator Baker, seconded by Senator Fukunaga and carried, H.B. No. 2802, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE UNCLAIMED PROPERTY PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

RE-REFERRAL OF SENATE CONCURRENT RESOLUTION

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

Senate
Concurrent
Resolution

Referred to:

No. 24 Jointly to the Committee on Human Resources and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means

ADJOURNMENT

At 12:00 o'clock noon, on motion by Senator McCartney, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, April 1, 1998.