

THIRTY-SEVENTH DAY

Friday, March 11, 1977

The Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1977, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Dr. Sidney J. Hormell of the Waikeola Congregational Church, after which the Roll was called showing all Senators present with the exception of Senator Takitani, who was excused.

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

At this time, the following introductions were made to the members of the Senate:

Senator King introduced the Honorable Iiga of the Western Samoa Parliament, who is the only woman chief elected by the title population of Western Samoa.

Senator Yee introduced fifty students from the fifth grade at Manoa Elementary School, with their teachers, Mrs. Minette and Mrs. Watanabe. He then introduced a group of students, ages 12 to 15, from the State Youth Program, with their teachers, Mr. Leong, Mr. Miller, Mrs. Hoffman and Mr. Lachance.

Senator Toyofuku introduced thirty-five students from the American Problems Class at Waimea High School, accompanied by their teacher, Mrs. Moriguchi and a chaperone, Mrs. Burch.

Senator Anderson introduced a group of Oahu Retired Teachers' Association.

Senator Kuroda introduced a group from the Leeward YWCA Immigrant Services Center, Westgate Waipahu, accompanied by Mrs. Herminia Madayag, program coordinator, and Mrs. Dolores Tsukano from the Lt. Governor's Office.

Senator Hulten then introduced ten members of the Project Kaena-Trio from Castle High School, with Mr. Bill Soarez, Executive Director, Ms. Mala Kawamoto, Teacher, and Mr. Bill Kato, Key Project member from Kahaluu. Project Kaena-Trio is a federally-funded voter education program.

Senator Chong introduced Dr. Shelley M. Mark who was in the gallery.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 207), transmitting the Annual Report for the Public Utilities Commission, pursuant to Act 165, Section 269-5, Regular Session Laws of 1976, was read by the Clerk and was referred to the Committee on Public Utilities.

DEPARTMENTAL COMMUNICATION

A communication from the Department of Education (Dept. Com. No. 12), transmitting the proceedings of the 1977 State Student Conference, which was held January 25-27, 1977, was read by the Clerk and was referred to the Committee on Education.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 99 to 124) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 99), returning Senate Concurrent Resolution No. 121, which was adopted by the House of Representatives on March 10, 1977, was placed on file.

A communication from the House (Hse. Com. No. 100), transmitting House Concurrent Resolution No. 39, which was adopted by the House of Representatives on March 10, 1977, was placed on file.

By unanimous consent, H.C.R. No. 39, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO WORK FOR LEGISLATION WHICH WILL ASSIST THE STATE OF HAWAII IN THE IMMIGRANT PROGRAM", was referred to the Committee on Human Resources.

A communication from the House (Hse. Com. No. 101), transmitting House Bill No. 182, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 182, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PESTICIDES LAW",

passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 102), transmitting House Bill No. 206, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 206, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATEWIDE EMERGENCY MEDICAL SERVICES PROGRAM", passed First Reading by title and was referred to the Committee on Health.

A communication from the House (Hse. Com. No. 103), transmitting House Bill No. 253, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 253, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REGULATION OF PROBATION AND SUSPENDED SENTENCES UNDER THE HAWAII PENAL CODE", passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 104), transmitting House Bill No. 269, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 269, entitled: "A BILL FOR AN ACT RELATING TO ANNULMENT, DIVORCE, AND SEPARATION", passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 105), transmitting House Bill No. 309, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 309, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REMOVAL OF CORAL", passed First Reading by title and was referred to the Committee on Ecology, Environment and Recreation, then to the Committee on Economic Development.

A communication from the House

(Hse. Com. No. 106), transmitting House Bill No. 533, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 533, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST THE PERSON", passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 107), transmitting House Bill No. 645, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 645, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY DISABILITY INSURANCE", passed First Reading by title and was referred to the Committee on Human Resources.

A communication from the House (Hse. Com. No. 108), transmitting House Bill No. 730, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 730, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPEALS BY THE STATE OF HAWAII IN CRIMINAL PROCEEDINGS", passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 109), transmitting House Bill No. 778, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 778, H.D. 1, entitled: "A BILL FOR AN ACT TO AMEND SECTION 188-25(e) HAWAII REVISED STATUTES, RELATING TO SPEAR FISHING", passed First Reading by title and was referred to the Committee on Economic Development.

A communication from the House (Hse. Com. No. 110), transmitting House Bill No. 780, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded

by Senator Anderson and carried, H.B. No. 780, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF VEHICLES", passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 111), transmitting House Bill No. 879, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 879, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE", passed First Reading by title and was referred to the Committee on Human Resources.

A communication from the House (Hse. Com. No. 112), transmitting House Bill No. 998, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 998, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BIKEWAYS AND THE OPERATION OF BICYCLES", passed First Reading by title and was referred to the Committee on Transportation.

A communication from the House (Hse. Com. No. 113), transmitting House Bill No. 999, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 999, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS AND THE RULES OF THE ROAD", passed First Reading by title and was referred to the Committee on Transportation, then to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 114), transmitting House Bill No. 1060, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 1060, entitled: "A BILL FOR AN ACT RELATING TO FARM LOANS AND AMENDING CHAPTER 155, HAWAII REVISED STATUTES", passed First Reading by title and was referred to the Committee on

Economic Development.

A communication from the House (Hse. Com. No. 115), transmitting House Bill No. 1066, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 1066, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION", passed First Reading by title and was referred to the Committee on Human Resources.

A communication from the House (Hse. Com. No. 116), transmitting House Bill No. 1069, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 1069, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISH AND GAME PENALTIES", passed First Reading by title and was referred to the Committee on Economic Development.

A communication from the House (Hse. Com. No. 117), transmitting House Bill No. 1247, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 1247, entitled: "A BILL FOR AN ACT RELATING TO MILK CONTROL", passed First Reading by title and was referred to the Committee on Economic Development.

A communication from the House (Hse. Com. No. 118), transmitting House Bill No. 515, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 515, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPEARED FISH", passed First Reading by title and was referred to the Committee on Economic Development.

A communication from the House (Hse. Com. No. 119), transmitting House Bill No. 1083, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded

by Senator Anderson and carried, H.B. No. 1083, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE IMPORTATION OF ANIMALS", passed First Reading by title and was referred to the Committee on Energy/Natural Resources.

A communication from the House (Hse. Com. No. 120), transmitting House Bill No. 64, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 64, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO JUVENILE CORRECTIONS", passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 121), transmitting House Bill No. 135, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 135, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYMENT SECURITY LAW", passed First Reading by title and was referred to the Committee on Human Resources.

A communication from the House (Hse. Com. No. 122), transmitting House Bill No. 772, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 772, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION", passed First Reading by title and was referred to the Committee on Consumer Protection, then to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 123), transmitting House Bill No. 1105, H.D. 1, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 1105, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE", passed First Reading by title and was referred to the Committee on Health.

A communication from the House

(Hse. Com. No. 124), transmitting House Bill No. 1305, which passed Third Reading in the House of Representatives on March 10, 1977, was placed on file.

On motion by Senator Taira, seconded by Senator Anderson and carried, H.B. No. 1305, entitled: "A BILL FOR AN ACT RELATING TO EVIDENCE OF SEXUAL CONDUCT", passed First Reading by title and was referred to the Committee on Judiciary.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 316 and 317) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 316), entitled: "SENATE RESOLUTION EXTENDING BEST WISHES TO GOVERNOR GEORGE ARIYOSHI ON THE OCCASION OF HIS BIRTHDAY", was jointly offered by Senators Hara, Ushijima, Ching, Takitani, Hulten, O'Connor, Yim, King, Yamasaki, Kuroda, R. Wong, F. Wong, Chong, Young, Nishimura, Kawasaki, Taira, Toyofuku, Henderson, Anderson, Yee, George, Saiki, Soares and Leopold.

On motion by Senator Hara, seconded by Senator Anderson and carried, S.R. No. 316 was adopted.

A resolution (S.R. No. 317), entitled: "SENATE RESOLUTION URGING THE FEDERAL DRUG ADMINISTRATION TO EXPEDITE THE AVAILABILITY OF BETA BLOCKERS", was jointly offered by Senators Kawasaki, Toyofuku, Ching, F. Wong, Hulten, Young, Henderson, Takitani, Yee, King, Hara, Soares, Yamasaki, Chong, R. Wong, Nishimura, Anderson, Kuroda, O'Connor and Taira.

By unanimous consent, S.R. No. 317 was referred to the Committee on Health.

STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 362), informing the Senate that Senate Resolution Nos. 316 and 317 and Standing Committee Report Nos. 363 and 364 have been printed and are ready for distribution.

On motion by Senator Yamasaki, seconded by Senator Henderson and carried, the report of the Committee was adopted.

Senators Hulten and F. Wong, for the Committees on Intergovernmental

Relations and Economic Development, presented a joint report (Stand. Com. Rep. No. 363), recommending that Senate Bill No. 1226, as amended in S.D. 1, pass First Reading and be recommitted jointly to the Committee on Intergovernmental Relations and the Committee on Economic Development.

On motion by Senator Hulten, seconded by Senator F. Wong and carried, the joint report of the Committee was adopted and S.B. No. 1226, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERGOVERNMENTAL PROCEDURES AFFECTING LAND USE", passed First Reading and was recommitted jointly to the Committee on Intergovernmental Relations and the Committee on Economic Development.

Senator Yim, for the Committee on Energy/Natural Resources, presented a report (Stand. Com. Rep. No. 364), recommending that Senate Bill No. 185, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Energy/Natural Resources.

On motion by Senator Yim, seconded by Senator King and carried, the report of the Committee was adopted and S.B. No. 185, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONSERVATION", passed First Reading and was recommitted to the Committee on Energy/Natural Resources.

ORDER OF THE DAY

RE-REFERRAL OF A HOUSE BILL

The President made the following re-referral of a House Bill which had been received on Thursday, March 10, 1977:

House Bill Referred to:

No. 14, H.D. 1 Committee on Transportation, then to the Committee on Ways and Means

THIRD READING

Senate Bill No. 1042:

Senator F. Wong moved that S.B. No. 1042, entitled: "A BILL FOR AN ACT RELATING TO MILK CONTROL", be recommitted to the Committee on Economic Development, and the President, noting that there was no objection, so ordered.

MISCELLANEOUS COMMUNICATIONS

The following communications

(Misc. Com. Nos. 5 and 6) were read by the Clerk and were disposed of as follows:

A communication from the Honorable Cecil Heftel, Member of U.S. Congress, (Misc. Com. No. 5), acknowledging receipt of Senate Resolution No. 152 (1977), was placed on file.

A communication from the Secretary of the State of Arkansas, (Misc. Com. No. 6), transmitting a House Joint Resolution to make application to the Congress of the United States for the calling of a convention for proposing an amendment to the Constitution of the United States to provide that every human being subject to the jurisdiction of the United States or any state shall be deemed to be a person from the moment of conception or fertilization, and entitled to the right to life guaranteed in the United States Constitution, which had been adopted by the Arkansas General Assembly, was placed on file.

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

The Senate reconvened at 12:35 o'clock p.m.

At this time, Senator Kawasaki moved that the Senate recall Senate Bill No. 184 from the Senate Committee on Judiciary, seconded by Senator Anderson.

Senator Kawasaki then stated as follows:

"Mr. President, the Senate operates on a basis of some Rules--very logical, rational Rules, to conduct our course of business in order to expedite fairly and efficiently, public matters and public issues brought before it.

Senate Rule #48 reads, 'All bills introduced in the Senate shall be deemed the property of the Senate and under its control, unless they shall become law...' This language in my judgment very clearly points out to the fact that once a bill is introduced here, it belongs to the Senate as a whole. It does not belong to any single member of the Senate. No man is the sole proprietor of that bill--neither the sponsor of that bill, the introducer of that bill, nor the chairman of the committee to which it has been referred.

We find today that we have to vote on a rule which was very wisely provided

for by the framers of the Constitution of the State of Hawaii. Article III, Section 13, provides that if any bill which is referred to a committee, languishes in that committee after 20 legislative days, it can be recalled from that committee out onto the floor of the Senate. This is exactly what we are doing today.

I had wished that we did not have to resort to this procedure which, incidentally, is not a new precedent. On the 27th day of the 1968 session, the Senate recalled a bill from the Ways and Means Committee, so we are not setting a new precedent.

Mr. President, it seems to me as a matter consonant with sound public interest and sound public procedure that we have to adhere to the principle set in Rule #48, that a bill introduced on the floor no longer belongs to a single person. It is now the property of the Senate as a whole.

I'd like to quote Senate Rule #22 which states '(1) Whenever any matter shall be referred to a committee, it shall be the duty of the committee to make diligent inquiry into all of the facts and circumstances connected with this matter. If necessary, witnesses shall be summoned and subpoenaed and examined under oath; documents and records shall be searched or subpoenaed, and everything shall be done to bring all the facts pertaining to said matter before the Senate.'

Mr. President, we'd like to do this. We'd like to adhere to this principle by bringing this issue, Senate Bill No. 184, before this Senate for its deliberation. The Senate Committee on Judiciary has had this bill for 31 legislative days. According to the time schedule that we have designed for ourselves in moving bills to the House of Representatives, we find that we do not have much time left. As a matter of fact, if we are to consider this bill adequately and then debate it on Third Reading, we may have to move today and this is my reason for moving this motion today.

Now we have tried to the best of our ability to have the Senate Judiciary Committee have a discussion on this bill because this is not an ordinary bill. This is a bill in which perhaps for the first time more people in the public sector are emotionally involved. They are concerned about its passage or its nonpassage. Much public interest has been engendered by the proponents and the opponents of mandatory capital punishment.

The bill that we have introduced, Senate Bill No. 184, is a bill to provide non-mandatory, I repeat, non-mandatory capital punishment and I think it is in the public interest for us not to resort to what is known around here as Senatorial courtesy, where we're going to hurt the feelings of a member of the Body here who is a Chairman of a committee, because we force a bill out of his committee, with the concurrence of the majority of his committee members. When we resort to this, I think we're saying to the public, 'We no longer represent you. A single committee chairman can decide whether he's going to consider a bill, report it out or not, regardless of what the public posture is on this particular bill.' This is what I'd like to avoid.

You know, the public sector has been rather turned off about politicians generally. We've acquired a sort of a tarnished image around here, doing things in secret, doing things very arbitrarily without much public input. I don't think the posture we have assumed up to now and the posture that the Chairman of the Committee wants to assume in holding this bill very arbitrarily in his Committee is going to add to public confidence in the legislative process.

In my judgment, if the majority of the members in this Body want this bill discussed and possibly vote it into enactment, the least we can do is to bring this bill out for a public discussion, so that the public can see that we sincerely tried to judge the merits or demerits, if you will, of this particular bill, and then vote our conscience.

What I'm trying to do today is to give this Body, the majority members of whom express their desire of the enactment of this bill, the chance at least to discuss this bill. This is what the motion intends.

I could go on for two hours possibly to talk about the merits about the bill, but this would not be relevant to the motion on hand. I do want to say that in the public interest, I ask you members to vote in favor of this motion to recall a bill that has languished in the committee for 31 legislative days.

Thank you."

Senator Yee then rose to speak in favor of the motion as follows:

"Mr. President, I rise to speak in behalf of the seven Senate Republicans.

Several weeks ago, we took a position that any major bill of importance to the public must be heard, must be discussed publicly and be put to a vote. When we took this position, we realized that we were not committing all seven Republicans to vote either for or against the bill.

In this particular bill of concern with us this afternoon, we have two Senators who oppose the bill, and they are Senators Mary George and John Leopold.

They will vote against the bill if it came on the floor, but they support the position that we have taken all along that this matter of great concern must be aired publicly. The public is entitled to know which way the members of this Body vote, whether it is in favor or against. I do hope that we have sufficient votes here this morning to have this bill passed.

This vote that we are taking is not in derogation to the Chairman of the Judiciary Committee. We will stand and be free and ready to vote again on any measure of public importance.

Thank you."

Senator Nishimura then rose and stated as follows:

"Mr. President, the movant from the Fifth District today has demonstrated again that his primary concern and maybe only concern, is passing a capital punishment bill whether or not the facts clearly justify that action. He implies that my only concern in this Ninth Legislature is preventing the passage of a capital punishment bill.

I am unequivocally opposed to capital punishment based on the facts, but that is not my only concern in this session. The Judiciary Committee cannot be concerned only with one issue such as capital punishment as the Senator from the Fifth District would like to see. We have to review and have reviewed in depth, the Budget of the Judiciary and other programs of the Executive Budget within the purview of the Committee. In view of the present fiscal situation of the State, there can be no doubt that detailed review and consideration of the budget is of utmost importance.

We are looking at medical malpractice, and medical practitioners would probably feel that that was the most important function of the Judiciary

Committee.

We are considering the problems of the industrial loan industry. Investors of THC Financial, the industrial loan companies and other finance-related companies probably view that as the most important legislation before the Judiciary Committee.

We are looking into problems related to the construction industry. Employment is down and the construction industry probably feels that matters related to construction are the most important legislation before the Judiciary Committee.

We are considering crime control bills. In that regard, capital punishment should not be considered as a crime control measure because it merely relates to sentencing.

I could go on but I believe that this is sufficient to show that the Committee on Judiciary is considering many important issues that have a significant impact on the people of the State.

In short, we must proceed and go forward because we have important legislation to consider. We should not dwell on one measure like capital punishment especially when there has been no affirmative showing that capital punishment is a deterrent to crime and no assurance that an innocent man will not be executed.

We are not however standing still in this area, as I have directed my staff to prepare correspondence to my counterparts in the legislatures in the other forty-nine states asking whether capital punishment has been a deterrent to crime in their state and whether they have adopted a procedure to insure that an innocent man is not executed.

In summary, this State has many problems, and I believe that we should direct our energies to meeting those problems rather than discussing for an inordinate time, a bill whose merits, I feel, are questionable. The best interests of the State and the Senate, in my opinion, will not be served by having continued discussion on this matter.

I feel further, Mr. President, that the motion, if it is acted on favorably will establish a dangerous precedent. I feel it is wrong and it should not be voted on by the required number of votes.

Thank you."

Senator Ching rose on a point of information and questioned if his understanding was correct that under the provisions of the Constitution under which the motion is made that a 1/3 vote of the members to which the Senate is entitled to is all that is required for the motion to carry.

The President answered that Senator Ching's understanding was correct.

Senator Ching then queried if the bill in question had been in the possession of the Committee on Judiciary for the required twenty legislative days.

At 12: 50 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12: 52 o'clock p.m., and the Clerk reported that Senate Bill No. 184 had been in the Committee on Judiciary for 31 legislative days.

Senator Kawasaki rose and remarked as follows:

"Mr. President, I want to briefly respond to the statement made by the distinguished Senator from the Seventh District.

I think he is being rather presumptuous to assume that I am wholly preoccupied with the passage of the Death Penalty Bill. This is not so. If this were so, I would not have introduced many, literally dozens of bills and resolutions of which I am greatly concerned. Had this statement that he made been true, I would not have participated vigorously in some of the bills in the Judiciary Committee, some of which he supports and which I concurred in. Therefore,

I think that this statement has to be corrected."

The motion to recall Senate Bill No. 184, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL CRIMES", from the Committee on Judiciary was put by the Chair, and Roll Call having been requested, carried on the following showing of Ayes and Noes, in accordance with Article III, Section 13, of the Constitution of the State of Hawaii:

Ayes, 11. Noes, 13 (Chong, Hara, King, Kuroda, Nishimura, O'Connor, Toyofuku, F. Wong, R. Wong, Yamasaki, Yim, Young and Ushijima). Excused, 1 (Takitani).

At 12: 54 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12: 55 o'clock p.m.

The President appointed the Vice-Chairman of the Committee on Judiciary, Senator O'Connor, as Chairman of the Committee of the Whole to consider Senate Bill No. 184 which is before the Senate.

Senator O'Connor then announced that the Committee of the Whole on Senate Bill No. 184 will hold a public hearing on Monday evening, March 14, at 7: 00 p.m., in this Chamber, and added that decision-making on the bill will follow at the end of all the testimony.

ADJOURNMENT

At 12: 59 o'clock p.m., on motion by Senator Taira, seconded by Senator Anderson and carried, the Senate adjourned until 11: 30 o'clock a.m., Monday, March 14, 1977.