

## THIRTY-SECOND DAY

Friday, March 9, 1979

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Reverend Matthew Alencastre, SS.CC., Pastor, Blessed Sacrament Church, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Twenty-Eighth and Thirty-First Days.

The following introductions were then made to the members of the Senate:

Senator Yee introduced 44 fifth grade students from Manoa Elementary School, accompanied by their teachers Mrs. Takahashi and Mrs. Tagawa.

Senator Toyofuku introduced the members of the Kapaa High School (Kauai) pep squad and their two advisors, Ms. Marie Nakamura and Ms. Jill Yoshimatsu, who are here in Honolulu to cheer their team on in the State AA Basketball Tournament.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 102 and 103) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 102) transmitting the 1978 Annual Report of the Energy Resources Coordinator, prepared by the State Energy Resources Coordinator (Director of Planning and Economic Development), pursuant to Section 196-4(11), HRS, was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 103) transmitting a final report, January 1978, titled: "Carrying Capacity Action Research: A Case Study in Selective Growth Management, Oahu, Hawaii," submitted to the U.S. Department of Housing and Urban Development, Office of Policy Development and Research, and prepared by the Department of Planning and Economic Development, was referred to the Committee on Economic Development.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 88 to 119) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 88) transmitting House Bill No. 168, which passed Third Reading

in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 168, entitled: "A BILL FOR AN ACT RELATING TO BALL OR MARBLE MACHINES", passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce.

A communication from the House (Hse. Com. No. 89) transmitting House Bill No. 257, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 257, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FORMS AND REPORTS", passed First Reading by title and was referred to the Committee on Government Operations and Efficiency, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 90) transmitting House Bill No. 282, H.D. 1, which passed Third Reading in the House of Representatives, on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 282, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD INFORMATION", passed First Reading by title and was referred to the Committee on Judiciary, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 91) transmitting House Bill No. 365, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 365, entitled: "A BILL FOR AN ACT RELATING TO COMPENSATION OF PUBLIC OFFICERS AND EMPLOYEES", passed First Reading by title and was referred to the Committee on Human Resources, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 92) transmitting House Bill No. 366, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 366, entitled: "A BILL FOR AN ACT RELATING TO INITIAL APPOINTMENTS", passed First Reading by title and was referred to the Committee on

Human Resources, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 93) transmitting House Bill No. 529, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 529, entitled "A BILL FOR AN ACT RELATING TO THE STATEWIDE TRANSPORTATION COUNCIL", passed First Reading by title and was referred jointly to the Committee on Transportation and the Committee on Agriculture.

A communication from the House (Hse. Com. No. 94) transmitting House Bill No. 577, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 577, entitled: "A BILL FOR AN ACT RELATING TO SERVICES FOR INDIGENT CRIMINAL DEFENDANTS", passed First Reading by title and was referred to the Committee on Judiciary, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 95) transmitting House Bill No. 727, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 727, entitled: "A BILL FOR AN ACT RELATING TO USE OF PUBLIC LANDS FOR AGRICULTURAL PURPOSES", passed First Reading by title and was referred jointly to the Committee on Agriculture and the Committee on Economic Development.

A communication from the House (Hse. Com. No. 96) transmitting House Bill No. 732, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 732, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CAPITAL LOAN PROGRAM", passed First Reading by title and was referred to the Committee on Economic Development, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 97) transmitting House Bill No. 750, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B.

No. 750, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION", passed First Reading by title and was referred to the Committee on Human Resources, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 98) transmitting House Bill No. 1311, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1311, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT", passed First Reading by title and was referred to the Committee on Economic Development, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 99) transmitting House Bill No. 1449 which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1449, entitled: "A BILL FOR AN ACT RELATING TO UNION LABELS", passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce, then to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 100) transmitting House Bill No. 1607, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1607, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES' HEALTH FUND", passed First Reading by title and was referred to the Committee on Human Resources, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 101) transmitting House Bill No. 1665, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1665, entitled: "A BILL FOR AN ACT RELATING TO HOUSING", passed First Reading by title and was referred to the Committee on Housing and Hawaiian Homes.

A communication from the House (Hse. Com. No. 102) transmitting House Bill No. 1666, H.D. 1, which passed Third Reading in the House of Representatives

on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1666, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", passed First Reading by title and was referred to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 103) transmitting House Bill No. 45, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 45, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CORPS OF CIVILIAN WORKERS", passed First Reading by title and was referred to the Committee on Human Resources, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 104) transmitting House Bill No. 107, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 107, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING", 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. 166, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 166, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOOD, DRUGS, AND COSMETICS", passed First Reading by title and was referred to the Committee on Health, then to the Committee on Consumer Protection and Commerce.

A communication from the House (Hse. Com. No. 106) transmitting House Bill No. 278, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 278, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVESTMENT TAX CREDITS", passed First Reading by title and was referred to the Committee on Economic Development, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 107) transmitting House Bill No. 451, which passed Third Reading in the House of Representatives on March

8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 451, entitled: "A BILL FOR AN ACT RELATING TO PROMOTING A DANGEROUS DRUG", passed First Reading by title and was referred to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 108) transmitting House Bill No. 498, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 498, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE POWERS OF BOARDS OF DIRECTORS", passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce.

A communication from the House (Hse. Com. No. 109) transmitting House Bill No. 585, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 585, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO 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. 110) transmitting House Bill No. 643, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 643, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS", passed First Reading by title and was referred to the Committee on Judiciary, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 111) transmitting House Bill No. 737, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 737, entitled: "A BILL FOR AN ACT RELATING TO THE CONFIDENTIALITY OF TAX RETURNS AND INFORMATION IN TAX RETURNS", passed First Reading by title and was referred to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 112) transmitting House Bill No. 742, H.D. 1, which passed Third

Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 742, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING", 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. 113) transmitting House Bill No. 867, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 867, entitled: "A BILL FOR AN ACT RELATING TO APPEALS FROM THE DECISIONS OF THE LIQUOR COMMISSION", passed First Reading by title and was referred to the Committee on Intergovernmental Relations, then to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 114) transmitting House Bill No. 988, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 988, entitled: "A BILL FOR AN ACT RELATING TO ARSON INVESTIGATION", passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce, then to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 115) transmitting House Bill No. 1186, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1186, entitled: "A BILL FOR AN ACT RELATING TO THE BANK EXAMINER", passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce.

A communication from the House (Hse. Com. No. 116) transmitting House Bill No. 1505, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1505, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX", passed First Reading by title and was referred to the Committee on Tourism, then to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 117) transmitting House Bill

No. 1557, H.D. 1, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1557, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTY COMMITTEES ON THE STATUS OF WOMEN", passed First Reading by title and was referred to the Committee on Intergovernmental Relations, then to the Committee on Judiciary.

A communication from the House (Hse. Com. No. 118) transmitting House Bill No. 1673, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1673, entitled: "A BILL FOR AN ACT RELATING TO THE INSTITUTE FOR MANAGEMENT AND ANALYSIS", passed First Reading by title and was referred to the Committee on Ways and Means.

A communication from the House (Hse. Com. No. 119) transmitting House Bill No. 1674, which passed Third Reading in the House of Representatives on March 8, 1979, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 1674, entitled: "A BILL FOR AN ACT RELATING TO DRUGS", passed First Reading by title and was referred to the Committee on Health, then to the Committee on Consumer Protection and Commerce.

#### SENATE CONCURRENT RESOLUTION

A concurrent resolution (S.C.R. No. 44), entitled: "SENATE CONCURRENT RESOLUTION RECOGNIZING THE STATE LEGISLATURE AS THE PRIMARY POLICY MAKING BODY OF THE STATE AND CONFIRMING ITS SUPPORT OF THE CONSTRUCTION OF THE H-3 FREEWAY", was jointly offered by Senators Anderson, Hara, Toyofuku, Saiki, Young, Takitani, George, Yamasaki, Ushijima, Kawasaki, Ajifu, Soares, Cayetano and Yee and was read by the Clerk.

By unanimous consent, S.C.R. No. 44 was referred to the Committee on Transportation.

#### SENATE RESOLUTION

A resolution (S.R. No. 221), entitled: "SENATE RESOLUTION COMMENDING THE ILWU AND THE SUGAR INDUSTRY ON THE SUCCESSFUL CONCLUSION OF THEIR SUGAR NEGOTIATIONS", was jointly offered by Senators Yee, Yamasaki,

Cayetano and Hara, and was read by the Clerk.

On motion by Senator Yee, seconded by Senator Yamasaki and carried, S.R.No. 221 was adopted.

#### STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 429), informing the Senate that Senate Resolution Nos. 218 to 220 and Standing Committee Report Nos. 422 to 428 have been printed and are ready for distribution.

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

Senator Toyofuku, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 430) recommending that Senate Bill No. 1422 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, the report of the Committee was adopted and S.B. No. 1422, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SERVICE", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 1422.

Senators Ushijima and Yim, for the majority of the Committees on Intergovernmental Relations and Economic Development, presented a report (Stand. Com. Rep. No. 431) recommending that Senate Bill No. 1164 pass Second Reading and be referred to the Committee on Judiciary.

Senator Ushijima moved that Stand. Com. Rep. No. 431 be received and placed on file, seconded by Senator Yim and carried.

Senator O'Connor, for the Committee on Judiciary stated that he had granted the waiver of the referral of S.B. No. 1164 to the Committee on Judiciary.

Senator Ushijima then moved that S.B. No. 1164 pass Second Reading and be placed on the calendar for Third Reading, seconded by Senator Yim.

Senator Abercrombie then rose to speak against the motion and stated as follows:

"Mr. President, I rise to speak against this bill being placed on the calendar for third reading.

"I'll develop arguments further should

this bill go forward as I expect it might.

"We went through a prolonged discussion in the recent past in the legislature concerning the transfer of development rights; and as with so many other things in legislative life, the things that can rapidly become panacea.

"The transfer of development rights idea has been utilized in other areas with differing degrees of success, depending on your point of view. The circumstances surrounding the transfer of development rights in the State of Hawaii, particularly in the City of Honolulu, leaves a good deal to be desired.

"I think that we're rushing into this situation much too fast and that we may very, very much regret, just as we have with various so-called designed districts and the variances that occur, regret the results.

"I have a good idea that this transfer of development rights is going to mean a virtual destruction of anything in the way of planning in this particular city. It may be of some use somewhere else, I don't know, but the City and County of Honolulu, I fear, will find the results of this so-called progressive measure to be the exact opposite. As a matter of fact, I think if the transfer of development rights bill passes, as it says in the committee report, this new concept in land use planning has potential far-reaching benefits to our community, I believe the results will be far-reaching, but if the benefits will be the same is quite another matter.

"As a matter of fact, I believe if this bill passes, the likelihood of needing a Department of Planning, a Planning Commission, or for that matter, needing anything other than a City Council that will indeed have to sit behind locked doors, will be obviated.

"Now, there's that pending, a thorough and complete discussion by way of study, of the transfer of development rights as it affects planning in the City and County of Honolulu for one, let alone the other counties, is in order before it should be passed. Thank you."

Senator Cayetano then added as follows:

"Mr. President, I realize that at this juncture, we are just placing the bill in passing second reading, but I also rise to speak against the bill.

"My recollection is that this bill, the referral of this bill, should have come to Ways and Means but, Mr. President, you did not refer it to Ways and Means and I didn't pursue the matter further.

"I join with the Senator from Manoa in calling for a study because the financial implications of this bill to the state are unknown.

"The creation of this new concept of transferable development rights may or may not have an impact on the state's finances when it comes to the question of eminent domain proceedings. I would prefer that we hold this bill until we look into that so that all of us can be informed before we do vote on it."

Senator Carroll then added as follows:

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

"Mr. President, it was my understanding when I signed this measure, with reservations, that it would be referred to Judiciary and I thought that we would get a crack at the bill there. And we were told by the people who testified and as the committee report indicates, there were a number of people all testifying in favor of it, that they would find the answers to various questions that we asked.

"This particular bill goes directly at one of the most troublesome problems that we have, at least in the Waikiki district, which is density. And as far as I can read this and as far as the answers that were given to us by the people who testified, they do not know what the impact of this type of a bill will be on an area such as Waikiki, where they already have a special design district ordinance in place.

"Inasmuch as the question of density is so crucial to this day and time, and inasmuch as it was the testimony of these persons who are noted here that they would come before the Judiciary Committee, and inasmuch as there is absolutely no urgency to this matter, I think that to refer this, rather, to avoid the referral to Judiciary is to do a very unwise thing.

"I ask that this matter be referred to Judiciary, as it was originally proposed, and that we get the answers to the questions which have been asked, before we take any further action on the measure. I therefore urge that all vote 'no'."

Senator Ushijima then clarified the matter by stating as follows:

"Mr. President, at the hearing that we had in Intergovernmental Relations, there were quite many people that testified as to how useful this planning device would be and this, basically, was an enabling legislation.

"Now, because we have the in-house restriction as to movement of bills, I met with the Chairman of the Judiciary Committee.

Really, the purpose of this maneuver, basically, is that we stay within the confines of the in-house rules that we've made and that the Judiciary Committee is going to study this matter based upon all the information that we pass over to them.

"The purpose of separating the committee report, basically, was for the amendments to be submitted by the Judiciary Committee and at that time we can then debate as to the merits or demerits of this particular measure.

"I understand that with Kakaako and many of the other planning problems that we have right now, they felt that waiting for any kind of incubation period would be not for the best interest, so far as planning is concerned.

"That's the reason why this matter is being handled this way. Thank you."

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

The Senate reconvened at 12:30 o'clock p.m.

Senator Ushijima then rescinded his motion and Senator Yim withdrew his second.

Senator Ushijima moved that S.B. No. 1164, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT AND TRANSFER OF DEVELOPMENT RIGHTS", be recommitted jointly to the Committees Intergovernmental Relations and Economic Development, seconded by Senator Yim, and so ordered by the President.

At 12:30 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

Senator Anderson then rose to state as follows:

"Mr. President, as I understand the movant, the final action that will determine this bill does in fact kill the bill for this session anyway.

"I was trying to see if an acceptable alternative might be the move of second reading to the committee and then between now and Monday night, when the deadline comes, to see if you couldn't satisfy the questions, whatever's been discussed and not agreed to.

"I think it's wrong, Mr. President, to kill this subject matter this legislative session and there seems to be no awareness as to whether there is a companion bill in the House. I'm sure that some Senators philosophically, or as it pertains to

the impact of their district, may be disagreeable, but, it's no more than a tool that would be used by the counties.

"We used this concept when we put together the Windward Regional Plan some four or five years ago as a strong possibility to maintain open space in Windward Oahu when we got into the Waiahole-Waikane, Kahuku, Kuilima areas.

"It's long overdue and I really think the city and county and all the counties of the state, in today's complex society, need all the tools at hand to make these complex decisions to preserve what's left of Hawaii. And I'm sure at times the application of this, if and when it ever does pass, will be, I'm sure, misused and at times we will be unhappy with the decision; but it's a tool that's enabling legislation and for us to kill this kind of legislation, and then be so critical of what's happening to our state, is somewhat contradictory and I would really hope that the majority leadership will seek out another vehicle or try to resolve this between now and Monday night, or, hopefully, find the companion bill in the House.

"This subject matter should not be put to sleep this year."

Senator Kuroda then stated as follows:

"Mr. President, in response to the statements made by the Senator from the Windward District, it is the majority caucus decision to lay this aside for now and I think it is only proper that some explanation be made in the use of the word 'kill' the bill.

"There is no deliberate attempt to stymie any meritorious legislation. This matter has been discussed very thoroughly in caucus and it is the consensus of the majority caucus, and with full discussion, that this matter should rest until next year. However, we will take on advisement the suggestion that the Senator has made, and should there be a vehicle that might permit us to further discuss this I'm sure we'll do this."

Senator Anderson then stated as follows:

"Mr. President, I'd just like to state then that since it was a caucus decision, one that I wasn't privy to, I'd like a negative vote cast for Anderson."

At 12: 40 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12: 44 o'clock p.m.

Senator Abercrombie then added as follows:

"Mr. President, I would not like the impression left that the recommittal means that

it's being done for some arbitrary capricious reason.

"One of the reasons that we couldn't deal with anything by Monday morning is that my exposition to the committee alone on transfer of developments rights, a file of which I have of some five-year standing now, is very thick at the moment, each of these pages jam-packed with fact and figures that would relate to the transfer of development rights, I don't think it's possible to do that--the points made, the pros and cons, and I'm happy to and will in the next few days be sending on to the Senators a research paper that I had done for me on this, and some research papers done on other areas, as well as commentaries from the Symposium on Property Development Rights at the University in December, 1975, and so on. So, it's quite clear that the possible abuses, and especially in a local context to transfer development rights, require a thorough study. And that's the reason."

The President then stated that "the Chair has so ordered the bill as being recommitted to the Committees on Intergovernmental Relations and Economic Development."

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 432) recommending that Senate Bill No. 276 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.B. No. 276, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST PROPERTY RIGHTS", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 276.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 433) recommending that Senate Bill No. 594, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.B. No. 594, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROMOTING A DANGEROUS DRUG", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of

Hawaii, the 48-hour notice was given on S.B. No. 594, S.D. 1.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 434) recommending that Senate Bill No. 599, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.B. No. 599, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 599, S.D. 1.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 435) recommending that Senate Bill No. 614 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.B. No. 614, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PENAL CODE", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 614.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 436) recommending that Senate Bill No. 275 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.B. No. 275, entitled: "A BILL FOR AN ACT RELATING TO PORNOGRAPHY", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 275.

Senator Toyofuku, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 437) recommending that Senate Bill No. 621, as amended in S.D. 1, pass Second Reading and be placed

on the calendar for Third Reading.

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, the report of the Committee was adopted and S.B. No. 621, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 621, S.D. 1.

Senator Toyofuku, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 438) recommending that Senate Bill No. 671, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, the report of the Committee was adopted and S.B. No. 671, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE INFORMATION AGENCY", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 12, 1979.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 671, S.D. 1.

#### ORDER OF THE DAY

#### MATTERS DEFERRED FROM MARCH 8, 1979

Senate Bill No. 10, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 10, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RESIGNATION FROM PUBLIC OFFICE (CONSTITUTIONAL AMENDMENTS OF ARTICLE II, SECTION 7)", was recommitted to the Committee on Judiciary.

Senate Bill No. 1059:

On motion by Senator Campbell, seconded by Senator Young and carried, S.B. No. 1059, entitled: "A BILL FOR AN ACT RELATING TO PAU HANA YEARS", was recommitted to the Committee on Education.

#### THIRD READING

Senate Bill No. 9, S.D. 1:

Senator O'Connor moved that S.B. No. 9, S.D. 1, having been read throughout,



pass Third Reading, seconded by Senator Cobb.

The motion was put by the Chair and carried, and before the vote was announced, Senator Abercrombie rose on a point of clarification:

"Mr. President, speaking in favor of the bill, I just merely want to note for the record that while we are passing what many people believe to be an open primary, that is not in fact what most people understand the open primary to be; and I hope that when the wrath of the public comes down, they will realize that the legislature here, in particular, the Judiciary Committee, simply has done its best to implement what the Constitutional Convention put forward.

"There will be howls, I think of despair, when people think they're going to have an open primary as they understand it, and find out they don't have it. That's not the fault of the Judiciary Committee, it's the legislature that has to do with the Constitutional Convention faking out the electorate."

The Clerk announced that S.B. No. 9, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIMARY ELECTIONS (CONSTITUTIONAL AMENDMENT OF ARTICLE II, SECTION 4)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Yee).

Senate Bill No. 1118:

On motion by Senator Mizuguchi, seconded by Senator Yim and carried, S.B. No. 1118, entitled: "A BILL FOR AN ACT RELATING TO FERRIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1760:

Senator Mizuguchi moved that S.B. No. 1760, having been read throughout, pass Third Reading, seconded by Senator Yim.

The motion was put by the Chair and carried, and before the vote was announced, Senator O'Connor rose on a point of clarification:

"Mr. President, I'm voting in favor of Senate Bill No. 1760, but I withdraw for the attention of the record to line 10 of page 1 of the bill in which it states that the Director of Transportation and his employees shall enforce orders, they should pursuant to rules, and all other laws of the state.

"I take it, the intent of this section, as has been historically understood, means that all the other laws of the state that these people are to enforce, are those that have to do with the Transportation Department and not all the other laws of the state in their entirety.

"With that understanding, I'm going to vote for this bill."

The Clerk announced that S.B. No. 1760, entitled: "A BILL FOR AN ACT RELATING TO AERONAUTICS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1588:

On motion by Senator Yim, seconded by Senator Carpenter and carried, S.B. No. 1588, entitled: "A BILL FOR AN ACT RELATING TO LAND USE", was recommitted to the Committee on Economic Development.

Senate Bill No. 1096, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1096, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 12:51 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.

Senate Bill No. 1097, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1097, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1098, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1098, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of

Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1099, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1099, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1100, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1100, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1101, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1101, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1102, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1102, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1103, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1103, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1104, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1104, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been

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

Ayes, 25. Noes, none.

Senate Bill No. 1105, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1105, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1106, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1106, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 1108, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1108, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At this time, Senator Abercrombie, on behalf of Senators Cobb, Kawasaki and himself, introduced to the members of the Senate Mr. Buck Buchwach who was sitting in the Senate gallery.

The President then made the following remarks:

"The Chair would like to make several comments dealing with the scheduling of bills for floor action.

"As everyone knows, Monday is the deadline for decking of all bills and we would appreciate it very much if the chairmen of the respective committees would have their reports prepared sometime between Saturday and Sunday so as to allow the print shop sufficient time to produce the record number of bills that is anticipated to come out of the committees.

"More importantly, I ask the Senators to be available over the weekend for

signatures so the particular reports can be signed and sent down.

"The other request that the Chair would like to make. In order to avoid errors in the legal kinds of language that are necessary in all bills, we are asking the committee chairmen to first present their bills to the majority attorney's office for final check, for submittal to the Clerk

of the Senate."

ADJOURNMENT

At 1:00 o'clock p.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11:00 o'clock a.m., Monday, March 12, 1979.