

THIRTY-FIFTH DAY

Wednesday, March 14, 1979

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, convened at 11:00 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Seiko Okahashi of the Honpa Hongwanji Mission, Hawaii Betsuin, after which the Roll was called showing all Senators present with the exception of Senator Yee, who was excused.

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

DEPARTMENTAL COMMUNICATION

A communication from the Office of the Legislative Auditor (Dept. Com. No. 9), transmitting a report entitled, "Status Report on the Implementation of Job Sharing in the Department of Education", was read by the Clerk and was referred to the Committee on Education.

HOUSE COMMUNICATION

A communication from the House (Hse. Com. No. 211), transmitting House Concurrent Resolution No. 123, which was adopted by the House of Representatives on March 13, 1979, was read by the Clerk and was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.C.R. No. 123, entitled: "HOUSE CONCURRENT RESOLUTION CONGRATULATING CENTRAL PACIFIC BANK ON ITS TWENTY-FIFTH ANNIVERSARY OF SERVICE TO HAWAII'S PEOPLE", was adopted.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 234 to 239) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 234), entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO APPLY FOR AND UTILIZE THE MAXIMUM AMOUNT OF FUNDS AVAILABLE FOR THE CONSTRUCTION OF BIKEWAYS UNDER SECTION 134 OF THE FEDERAL AID HIGHWAY ACT OF 1976", was jointly offered by Senators Carroll, George, Mizuguchi, Young, Ajifu, Ushijima, Cobb, Saiki, Hara, Takitani, Campbell, Chong, Kuroda, Carpenter and Toyofuku.

By unanimous consent, S.R. No. 234 was referred to the Committee on Transportation.

A resolution (S.R. No. 235), entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH A BICYCLE SAFETY EDUCATION PROGRAM", was jointly offered by Senators Carroll, George, Mizuguchi, Cobb, Young, Carpenter, Ushijima, Toyofuku, Hara, Takitani, Chong and Ajifu.

By unanimous consent, S.R. No. 235 was referred to the Committee on Education.

A resolution (S.R. No. 236), entitled: "SENATE RESOLUTION CONGRATULATING THE WAIPAHU HIGH SCHOOL MARAUDERS BASKETBALL TEAM FOR WINNING THE OAHU INTERSCHOLASTIC ASSOCIATION BASKETBALL CHAMPIONSHIP", was jointly offered by Senators Young, Cayetano, Kuroda, Mizuguchi, Yamasaki, Abercrombie, Chong, Ushijima, Carpenter, Cobb, Takitani, Campbell, Hara, Saiki, Ajifu, George, Kawasaki and Toyofuku.

On motion by Senator Young, seconded by Senator Cayetano and carried, S.R. No. 236 was adopted.

A resolution (S.R. No. 237), entitled: "SENATE RESOLUTION CONGRATULATING NAOMI TAMASHIRO FOR RECEIVING THE BAUSCH & LOMB AWARD", was jointly offered by Senators Young, Kuroda, Cayetano, Mizuguchi, Hara, George, Chong, Yamasaki, Kawasaki, Soares, Ajifu, Toyofuku, Takitani, Carpenter, Abercrombie, Campbell and Ushijima.

On motion by Senator Young, seconded by Senator Kuroda and carried, S.R. No. 237 was adopted.

A resolution (S.R. No. 238), entitled: "SENATE RESOLUTION CONGRATULATING PAUL K. SHIMIZU FOR RECEIVING THE OUTSTANDING CIVILIAN SERVICE AWARD FROM THE UNITED STATES ARMY", was jointly offered by Senators Young, Cayetano, Carpenter, Kuroda, Abercrombie, Yamasaki, Takitani, Chong, Cobb, Campbell, Ushijima, Hara, Saiki, Ajifu, George, Kawasaki and Toyofuku.

On motion by Senator Young, seconded by Senator Cayetano and carried, S.R. No. 238 was adopted.

A resolution (S.R. No. 239), entitled: "SENATE RESOLUTION CONGRATULATING AND COMMENDING STAN MORIOKA, OAHU INTERSCHOLASTIC ASSOCIATION WESTERN DIVISION BASKETBALL COACH OF THE YEAR FOR 1979", was jointly

offered by Senators Young, Cayetano, Kuroda, Mizuguchi, Yamasaki, Abercrombie, Hara, Cobb, Campbell, Ushijima, Saiki, Chong, Carpenter, George, Takitani, Kawasaki, Toyofuku and Ajifu.

On motion by Senator Young, seconded by Senator Cayetano and carried, S.R. No. 239 was adopted.

At 11:20 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.

STANDING COMMITTEE REPORT

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 634), informing the Senate that Senate Concurrent Resolution Nos. 46 to 48 and Senate Resolution Nos. 228 to 233 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.

ORDER OF THE DAY

RE-REFERRAL OF HOUSE BILLS

The President made the following re-referral of a House Bill which had been received on Thursday, March 8, 1979:

House Bill Referred to:

No. 1104,
H.D. 1 Committee on Intergovernmental Relations, then to the Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

The President then made the following re-referral of House Bills which had been received on Monday, March 12, 1979:

House Bill Referred to:

No. 384,
H.D. 1 Committee on Ecology, Environment and Recreation

No. 426 Jointly to the Committee on Health and the Committee on Judiciary

No. 556 Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

No. 1341 Committee on Housing

and Hawaiian Homes, then to the Committee on Judiciary

No. 1401,

H.D. 1 Jointly to the Committee on Health and the Committee on Judiciary

No. 1668 Committee on Ecology, Environment and Recreation, then to the Committee on Ways and Means

No. 1677 Committee on Ecology, Environment and Recreation

THIRD READING

Senate Bill No. 578:

Senator O'Connor moved that Senate Bill No. 578, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Toyofuku then asked for a ruling of the Chair as to a possible conflict of interest as follows:

"Mr. President, there are several bills that we will be considering today that relate to insurance. I am the owner of an independent insurance agency. We do not have any rate-making authority as such; we don't have any policy determination, as such; but I do sell the product. Will I be permitted to vote?"

The President replied that there was no conflict and Senator Toyofuku was allowed to vote.

The motion was put by the Chair and carried, and S.B. No. 578, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE XVII, SECTION 2 OF THE CONSTITUTION OF THE STATE OF HAWAII TO CHANGE AMENDMENT APPROVAL REQUIREMENT", having been read throughout, passed Third Reading by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

Standing Committee Report No. 441 (S.B. No. 1739, S.D. 1):

On motion by Senator Yim, seconded by Senator Carpenter and carried, Stand. Com. Rep. No. 441 and S.B. No. 1739, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AQUARIUM FISH PERMITS", were recommitted to the Committee on Economic Development.

Standing Committee Report No. 445 (S.B. No. 10, S.D. 2):

Senator O'Connor moved that Stand. Com. Rep. No. 445 be adopted and S.B. No. 10, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Carroll then spoke for the motion as follows:

"Mr. President, I rise to speak in favor of this measure with grave reservations.

"Mr. President, the Constitutional Convention passed an amendment which says that any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held. According to, as least to the Legislative Reference Bureau, no legislative action was required with respect to this amendment.

"In spite of that fact, your Senate Judiciary Committee prepared a bill which is before us today as Senate Bill No. 10, S.D. 1.

"In the original bill, there were certain defects which made that particular measure constitutionally unfavorable.

"Your Senate Judiciary Committee has addressed a number of possible changes I had raised earlier privately on this matter but I would still like to have it entered into the Journal so that at least the ramifications are known to the members of this Body before they vote on this measure and also for the future.

"Now there are several questions that really need to be answered with respect to this measure and with the Con-Con amendment itself. One of these is, what is the state objective sought to be gained by our statute? Are we creating a rational relationship to that objective? Are the provisions reasonable and not arbitrary and are all persons in similar circumstance treated alike?

"Now at the same time that we talk about the command of the 14th Amendment, we also have to consider the law with respect to constitutional amendments and there is a quote which states that with respect to an amendment, that here as always, we enter upon a consideration of the validity of a constitutional amendment after its adoption by the people with every presumption in its favor.

"The question is not whether

it is possible to condemn the amendment but whether it is possible to uphold it and we shall not condemn it unless in our judgment, the rationality is manifest beyond a reasonable doubt.

"Now the reason that I mention the language of the constitutional amendment is because of the fact that we have got to consider the statute in terms of the framework of the constitutional amendment and that has been attempted with Senate Draft 1.

At 12:02 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:03 o'clock p.m.

Senator Carroll continued:

"Mr. President, this bill in fact infringes on what we traditionally consider 1st and 14th Amendment rights. I would like to review the legal problems with this measure in connection with the new committee report on the bill which does attempt to justify the measure from a constitutional standpoint.

"Now, first of all, the Standing Committee Report begins by citing the State Ex. rel. Davis v. Adams for the broad proposition that 'the form of S.D. 1 generally follows the concepts of the Florida "resign to run" statute which sustained a successful constitutional challenge in the Supreme Court of Florida.'

"Now, Davis was a Florida Supreme Court case, but it dealt only with the question of whether a local county sheriff could be forced to resign in order to run for the U.S. House.

"The more appropriate case from that jurisdiction which could have been cited is Holley v. Adams which construed the Florida resign to run statute as to state office. Now, both Holley and Davis were handed down in 1970 prior to several U.S. Supreme Court decisions concerning state restrictions on elections and candidates, which should provide the analytical framework for a constitutional review of this measure before us.

"Now, the Florida Supreme Court's lack of benefit of the more recent U.S. Supreme Court cases is obvious to the extent that the Court in Holley cited administrative costs of special elections as a major reason for upholding the resign to run law. In Craig v. Boren and Bullock v. Carter, the U.S. Supreme Court cases which were handed down in 1977 and 1972 respectively, the U.S. Supreme Court has held that

administrative costs could not be used to justify governmental restrictions on constitutionally protected activities.

"Now, moreover, a review of the Holley case shows an almost complete lack of analysis of the resign to run law from a constitutional viewpoint.

"The remaining discussion on page 2 of our Standing Committee Report pertains to the issue of whether a resign to run statute can be applied to candidates for Federal office. The Standing Committee Report correctly concludes that a state statute may not place such restrictions on candidates for Federal office and I certainly concur in the deletion of such a provision. Now this correction incidentally bears no relationship to the constitutional infirmity as it relates to candidates for State or county office.

"Now, moving to page 3 of the Standing Committee Report, the report cites Deeb v. Adams, Morial v. Judiciary Commission of Louisiana, and Perry v. St. Pierre, for the proposition that resign to run laws have been upheld against constitutional challenges as applied to state offices. Morial and Perry are good cases to cite to the extent that they are cases which were decided after the U.S. Supreme Court cases of Bullock and Broadrick, and I accept them on that basis.

"Now Morial and Perry are clearly distinguishable from the case at hand and from this statute in that Morial deals with judges and, of course we do not have elected judges, and Perry deals with civil service personnel. The only case handed down after the U.S. Supreme Court pronouncements in Bullock, Broadrick, and Letter Carriers, is Barry v. District of Columbia. Applying the analytical framework that's established by the recent U.S. Supreme Court decisions, the court in Barry found that the resign to run provision in Washington, D.C.'s statute is in violation of the First Amendment of the right to political association and activity rights and equal protection rights as well.

"The Standing Committee Report finishes by listing four state interests which might justify this intrusion into constitutionally protected areas. It recites: (a) continuity in office; (b) the policy of Patterson v. Burns which is a Hawaii case which states that elective office should be filled by election rather than by appointment; (c) it talks about the reasons which

are expressed in Morial with respect to judges; and (d) it talks about devotion to duty as expressed in the Con-Con committee report.

"Now reasons (a) and (d), i.e. continuity in office and devotion to duty, were effectively disposed of in the Barry case. I cite from the Barry case at page 1254, in which that federal judge stated that continuity and devotion to duty are promoted only to the extent that the statute may deter office-holders from running in the middle of their term.

"The deterrent effect, however, is speculative, at best, and is belied by Barry's own determination to run, regardless of the decision in this case. Moreover, any deterrent effect that does exist, operates against the public interest, by reducing the pool of best qualified candidates available to run for the district's highest office.

"With seventeen of the city's twenty-six elected officials constrained this year by the challenged provision, such a reduction cannot be termed diminimus and they go on to overthrow the statute which set up that requirement.

"Now, in the Morial case and I'd like to just mention this language...and this language also is not complete within the committee report but I think it should be noted...is that, and this is at page 302 of 565 Federal Report Second, and it states that the state's interest in their relation to the resign to run rule, now granted, this is regarding judges rather than elected officials, but the language is important here.

"Having determined that Louisiana's resign to run rule must meet the test of reasonable necessity, we now turn to the articulation of the state's interest to see whether the rule is reasonably necessary to effectuate those interests.

"Louisiana vigorously defends the resignation requirement as a measure designed to insure the actual and perceived integrity of state judges.

"The specific evils targeted are three. First, the state wishes to prevent abuse of the judicial office by a judge candidate during the course of the campaign. The state also wishes to prevent abuse of the judicial office by judges who have lost their electoral bids and return to the bench. Finally, Louisiana asserts an interest in eliminating even the appearance of impropriety by judges both during and after the campaign.

"I do not say, Mr. President, that these totally parallel the purposes

which are set forth in our Standing Committee Report, but that language is at least supportive.

"Patterson v. Burns which is cited in the standing committee report really is not applicable to this bill which is before us today--I just want to note that. And reason three, which is the justification set forth in Morial is distinguishable as I have noted.

"Now, finally, I realize that there may have been an attempt to narrow this measure and bring it within constitutionally acceptable limits by delaying the effective date of the resignation. And while this may address one of the concerns raised in Barry, it does not take care of the many other problems which are discussed in the Barry case, and I would commend that to anyone's reading who is perhaps considering challenging this statute.

"Now, for example, the equal protection violation created by resign to run provision and a staggered term system, which has also been mandated here for the Senate at least, is not remedied. If anything, this bill will aggravate the equal protection problem by creating three separate classes, that is two separate classes, of elected officials, along with the existing class of all other persons wishing to run.

"Now, the Barry case is a Washington, D.C. case decided by a federal judge at the trial court level. So, as far as I am concerned, and I hasten to add this, I do not feel and I think I'm correct that, the mandates or the conclusions raised there, are not binding on us, but they certainly are clearly indicators of how, at least one federal judge is thinking.

"Now, the Constitutional Convention has spoken and the matters which I have addressed here, and, Mr. President, I would not take this much time to speak on the subject matter if I felt that the Constitutional Amendment itself did not contain some of the infirmities which I have addressed here...

"I believe that this law is subject to attack. In spite of that fact, I think that the purpose, the idea of having persons resign from public office is well taken; and I think that the people of this state knew what they wanted when they asked for this particular measure to be passed by the Constitutional Convention. So with those reservations regarding the law, I ask that all vote 'aye'. Thank you."

Senator O'Connor then spoke in favor of the measure as follows:

"Mr. President, I'm not going to repeat the learned arguments of my brother Senator across the aisle, nor am I going to talk legally. I rise to speak in favor of this measure.

"Anyone who wanted to argue federal cases or state cases or anything like that, should have appeared before the Constitutional Convention. Our job is to take a Constitutional Amendment which was approved by the voters, and make some sense out of it.

"This bill which is before the Body this morning, is simply a bill to take an existing constitutional mandate which has not been challenged constitutionally by anyone, and turn it into a statute which is logical, straight-forward and make some sense.

"Mr. President, your Judiciary Committee has, therefore, taken the constitutional mandate and set up a pattern of resignations prior to running, which will insure that incumbents will be able to fill out the length of their existing terms and that people who take office, as the result of election, will have an office to step into, where resignation has been filed, if the incumbent in fact ran for some other office. With the patterns established by the bill, the common sense area of the elections will be taken care of and hopefully, the constitutional mandate will not evaporate in the next election in 1980 for want of direct and specific guideline established by this legislature.

"It is important that this measure is passed in this year, so that those people who presently hold public office, can anticipate what they should do, if they desire to run for some other office where the terms overlap in the 1980 election.

"For these reasons, I would urge all to vote in favor of this measure. Thank you."

Senator Carpenter then spoke in opposition to the measure as follows:

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

"On simple common logic, at least my logic, in that I believe that this measure essentially denies the freedom of choice, freedom of speech, denies the possibility of the best candidate availability to the voters for whatever office the candidate might hold himself for, limits the field; and as I see it, any limitation imposed to the public,

in terms of elected office is a limitation on the democracy and the kind of government that we have.

"I cannot help but feel that the compelling interest that had been expressed in the report today, are not really compelling at all; and that we need not enact this particular piece of legislation, if indeed, we are to say that the voters of Hawaii are not akamai enough to make the kind of choice for public office, as I believe they can and have in the past and certainly will in the future.

"I believe that even if this measure does not pass on this floor today, that the Lieutenant Governor of the State of Hawaii has more than adequate power to make a ruling to speak to the issue as put forth by the voters in the Constitutional Amendment.

"I believe that the voters erred in making this recommendation and erred further in requiring that this recommendation be carried forth in the manner in which it is set down on paper today.

"Mr. President, I would like to reiterate my position in speaking against this measure. Thank you."

Senator Kuroda then spoke for the measure as follows:

"Mr. President, I do agree with the previous speaker with regards to the need for the people to assert themselves and make their choices known. However, the time has passed for them to do so. When the Constitution decreed that the candidate must resign from the office, we have no choice but to follow that, and if we don't have a measure of this type that delineates and a specific, as to what candidates must do and will do, we're going to find ourselves in a big 'chop suey' when the time comes for the next election. Thank you."

Senator O'Connor then responded as follows:

"Mr. President, in brief response to those in this Body who are opposed to resignation in total, I might say that some members of this Body might recall that in earlier years, I stood out as one who objected to this idea entirely and had some late night and very nasty encounters with a few members of this Body over that issue, when other bills were discussed many years ago.

"However, we do have a constitutional

mandate and I want to insure that everyone understands that the law which is before them will fall together with this constitutional mandate if a mandate is challenged in court and declared unconstitutional. There's a specific provision in the law which would then make the entire law unconstitutional simultaneously.

"So, if the matter is challenged, if there's any law suit and its found to be unconstitutional, then the matter that we are voting on this morning, will go with it.

"Thank you."

Senator Abercrombie spoke in opposition to the measure as follows:

"Mr. President, I thought a long time about whether I should do it or not and I've concluded that by referring to my past legislative experience, it would be hypocritical for me to vote for something that I believe is unconstitutional.

"I don't denigrate in the least, the efforts of the Judiciary Committee to take as its functioning premise that it should take the constitutional amendments such as they are, from the past election and attempt to enact legislation which would enable essentially...enabling legislation which would put them into the force of law required.

"In this particular instance...as I believe that the people of the country cannot vote away their rights, for example, the first ten amendments to the Constitution...I believe it is unconstitutional to vote away, that you could not take a referendum on whether you wanted to get rid of freedom of speech and if that was--if it came out in the majority--why that's what we would do--get rid of freedom of speech.

"I do not think that it is right for a legislator who believes sincerely that there is something about to be passed which is unconstitutional to do so, even if there was a mandate in the sense of a vote having been taken...if it is your own conclusion that something is unconstitutional. In this particular instance, I believe it is unconstitutional and I think it is the obligation of every free man and woman in the United States of America not to have their thoughts made up for them by the legal profession or by judges or by the institutions. That is to say, unless and until a judicial rendering is made to put one's conscience and one's beliefs in advance, I do believe there will be a challenge to this law, should it pass; and I do believe that it would

succeed.

"I believe that there is no way on earth that the Judiciary Committee can write a bill which will in fact succeed and meet the Federal constitutional requirements.

"One further point...in the past we have had arguments, very deep-seated, emotionally-charged arguments, that have taken place over what is constitutional and not constitutional in respect of certain legislation which has appeared before both bodies, just within the past session.

"People voted at that time as to whether they thought something was constitutional or not. That was the basis upon which much of this vote took place. One need only refer to the so-called residency bills to see this argument being made. I see no difference philisophically...I concluded there's no difference philisophically, if I believe something to be unconstitutional, even if it was popular, I feel I must vote against it.

"The same applies here--even if something is unconstitutional and it is popular, if I believe it to be unconstitutional and it is popular, even to the point of having been voted on by a majority of the people voting as having done, having their approval. If I then, subsequently, am required to vote on legislation in respect of it, and I still believe it to be unconstitutional; by weight of conscience, I must vote against it.

"Given these premises, that's why I recommend a 'no' vote."

The motion was then put by the Chair and carried, and Stand. Com. Rep. No. 445 was adopted and S.B. No. 10, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RESIGNATION FROM PUBLIC OFFICE (CONSTITUTIONAL AMENDMENTS OF ARTICLE II, SECTION 7)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Abercrombie, Anderson, Carpenter and Yamasaki). Excused, 1 (Yee).

Senate Bill No. 271:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 271, entitled: "A BILL FOR AN ACT RELATING TO PROMPT COMPLAINT", having been read throughout, passed Third Reading on the following showing of Ayes

and Noes:

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

Standing Committee Report No. 447 (S.B. No. 49, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 447 was adopted and S.B. No. 49, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIAL SALARY COMMISSION (CONSTITUTIONAL AMENDMENTS OF ARTICLE VI AND XVIII)", having been read throughout, passed Third Reading by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

Standing Committee Report No. 448 (S.B. No. 51, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 448 was adopted and S.B. No. 51, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIAL SELECTION COMMISSION (CONSTITUTIONAL AMENDMENTS OF ARTICLES VI AND XVIII)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 449 (S.B. No. 436, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 449 was adopted and S.B. No. 436, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DEFERRED COMPENSATION PLANS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 450 (S.B. No. 552, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 450 was adopted and S.B. No. 552, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONCESSIONS ON PUBLIC PROPERTY", having been read throughout, passed Third Reading on the following showing

of Ayes and Noes:

Ayes, 23. Noes, 1 (Anderson).
Excused, 1 (Yee).

Standing Committee Report No.
451 (S.B. No. 678, S.D. 1):

On motion by Senator Cayetano,
seconded by Senator Kawasaki and
carried, Stand. Com. Rep. No. 451
and S.B. No. 678, S.D. 1, entitled:
"A BILL FOR AN ACT RELATING TO
STATE HIGHWAY FUND", were recommitted
to the Committee on Ways and Means.

Standing Committee Report No.
452 (S.B. No. 984, S.D. 1):

On motion by Senator Cayetano,
seconded by Senator Kawasaki and
carried, Stand. Com. Rep. No. 452
was adopted and S.B. No. 984, S.D.
1, entitled: "A BILL FOR AN ACT
RELATING TO HILO HOSPITAL", having
been read throughout, passed Third
Reading on the following showing
of Ayes and Noes:

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

Standing Committee Report No.
453 (S.B. No. 1537):

Senator Cayetano moved that
Stand. Com. Rep. No. 453 be adopted
and that S.B. No. 1537, having been
read throughout, pass Third Reading,
seconded by Senator Kawasaki.

Senator O'Connor then stated
that he might have a conflict of
interest on this measure as he was
a member of the Board of Directors
of the old Kapiolani Hospital and
asked to be excused from voting
on the bill.

The President replied that Senator
O'Connor would be excused from voting.

The motion was put by the Chair
and carried, and Stand. Com. Rep.
No. 453 was adopted and S.B. No.
1537, entitled: "A BILL FOR AN ACT
RELATING TO KAPIOLANI CHILDREN'S
MEDICAL CENTER", having been
read throughout, passed Third Reading
on the following showing of Ayes
and Noes:

Ayes, 23. Noes, none. Excused,
2 (O'Connor and Yee).

Standing Committee Report No.
454 (S.B. No. 1540, S.D. 1):

By unanimous consent, consideration
of Stand. Com. Rep. No. 454 and S.B.
No. 1540, S.D. 1, was deferred to

the end of the calendar.

Standing Committee Report No. 455 (S.B.
No. 1594, S.D. 2):

On motion by Senator Cayetano,
seconded by Senator Kawasaki and carried,
Stand. Com. Rep. No. 455 was adopted
and S.B. No. 1594, S.D. 2, entitled:
"A BILL FOR AN ACT RELATING TO
AIR POLLUTION PERMIT FEES", having
been read throughout, passed Third
Reading on the following showing of
Ayes and Noes:

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

Senate Bill No. 744, S.D. 2:

On motion by Senator Toyofuku,
seconded by Senator Hara and carried,
S.B. No. 744, S.D. 2, entitled: "A
BILL FOR AN ACT RELATING TO PUBLIC
OFFICERS AND EMPLOYEES", was
recommitted to the Committee on Human
Resources.

Senate Bill No. 1400, S.D. 1:

By unanimous consent, consideration
of S.B. No. 1400, S.D. 1, was deferred
to the end of this evening's calendar.

Senate Bill No. 1414, S.D. 1:

By unanimous consent, consideration
of S.B. No. 1414, S.D. 1, was deferred
to the end of the calendar.

Senate Bill No. 1330, S.D. 1:

On motion by Senator Toyofuku,
seconded by Senator Yamasaki and carried,
S.B. No. 1330, S.D. 1, entitled: "A
BILL FOR AN ACT RELATING TO BLIND
AND VISUALLY HANDICAPPED PERSONS",
having been read throughout, passed
Third Reading on the following showing
of Ayes and Noes:

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

Senate Bill No. 1390, S.D. 1:

On motion by Senator Toyofuku,
seconded by Senator Yamasaki and carried,
S.B. No. 1390, S.D. 1, entitled: "A
BILL FOR AN ACT RELATING TO TEMPORARY
DISABILITY INSURANCE", having been
read throughout, passed Third Reading
on the following showing of Ayes and
Noes:

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

Standing Committee Report No. 461
(S.B. No. 25, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 461 be adopted and S.B. No. 25, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator O'Connor then spoke against the motion as follows:

"Mr. President, as this bill went from the Judiciary Committee to the Ways and Means Committee, there was a provision in it that stated that the central tax map function provided by the State Tax Office, was not one of the functions which would be transmitted to the counties under this constitutional amendment. I, for one, believe strongly that that should be the situation.

"The Ways and Means Committee has amended the bill indicating that that function would, in fact, be part of the functions to be given to the counties. I, for one, believe that this state, from a real property standpoint and the management of real property, would be tied up in a knot when the four counties have their own tax map function, their own ability to assign tax map key numbers to properties and the entire management of that area.

"For that reason, Mr. President, I'm going to vote 'no' against this bill, as I believe that is clearly indicated by the change made by the Ways and Means Committee. I firmly and strongly believe that this is an area of government where we're going to just take a terrible beating as a result of this type of interpretation of the constitutional change suggested by the Constitutional Convention and mandated by the people."

At 12:31 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:36 o'clock p.m.

Senator Cayetano then responded as follows:

"Mr. President, in response to Senator O'Connor's remarks, first, I'd like to say that as a practical matter, I certainly agree with the similar problems that he has raised. However, the Con Con amendment states and I quote, 'all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties.' This function that Senator O'Connor referred to, is considered a function which is related to the taxation of real property and we cannot separate

that from the rest of the functions which are being transferred."

Senator Carpenter then spoke against the motion as follows:

"Mr. President, I'd like to speak against the measure. I believe that while the Constitution may speak to the uniform real property tax assessment as being something that has to be enjoined by a majority, if not all of the political subdivisions of the state, the very fact that we do not, in effect, give the counties the full and real authority of the real property taxes, continues to conflict with the various county general plans and does not allow them to proceed on a course that would meet the priorities that each of them have set up in their own county general plans.

"I'd like to suggest that this bill be recommitted since there's no real urgency. The remanding of the real property tax picture to the counties, does not take place for quite a number of years to come and can be discussed with each of the individual counties during an interim period to ensure that we're not going on a collision course--the State Plan with the various county plans."

Senator Cayetano responded as follows:

"Mr. President, in response to Senator Carpenter's remarks, may I state that the language on page one of the bill, under section 246, 'Uniform Real Property Tax Assessment', is taken directly out of the Constitutional Convention amendments itself and to recommit this bill and put it up for further study would really do, in my view, no good--we're just prolonging the inevitable."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 461 was adopted and S.B. No. 25, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY TAX ASSESSMENT (CONSTITUTIONAL AMENDMENTS OF ARTICLE XVIII)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Carpenter, Carroll, Hara, O'Connor and Saiki). Excused, 1 (Yee).

Standing Committee Report No. 462 (S.B. No. 153, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 462 be adopted and S.B. No. 153, S.D. 2, having been read throughout, pass Third Reading.

Senator O'Connor then stated as follows:

"Mr. President, this bill amends a section of the Hawaiian Homes Act, Section 214. Article XI, Section 3 of the State Constitution, does not allow us to amend that Section. I would like to place this matter on the record and we have agreed that we will bring it to the attention of the House."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 462 was adopted and S.B. No. 153, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 463 (S.B. No. 179, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 463 was adopted and S.B. No. 179, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PAYMENT OF WITNESS EXPENSES BY THE PUBLIC PROSECUTOR OR COUNTY ATTORNEY, AND BY THE PUBLIC DEFENDER", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 464 (S.B. No. 209, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 464 be adopted and S.B. No. 209, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Carroll then spoke against the motion as follows:

"Mr. President, earlier this year, there were a number of bills introduced which would have eliminated the payment of free no-fault insurance for welfare recipients. This particular measure provides that not more than one vehicle per public assistance unit will be insured and it provides further that some latitude will be given to the Department of Social Services regarding the necessity for other vehicles.

"Now, I have great sympathy for our citizens who are in need

and I think we have an obligation and a duty to take care of these citizens. But, at the same time, I do not see any reason to aggrandize the situation which essentially creates a class of citizens who are able to drive when other persons who are actually paying the taxes to, in effect, allow these people their particular mode of life to have means and modes of transportation that are not even available to them.

"And, Mr. President, I refer specifically to many people who live in Waikiki and are not able to afford the luxury of operating an automobile, not only the insurance, but the simple operation. And in this particular case, some of these families, because of medical necessity, have to have them, and for these people I say we must make this provision. But to arbitrarily, across the board, allow even one automobile to be given free insurance coverage by the tax dollars of the rest of the citizenry is not right.

"Mr. President, I realize this is a compromise measure. It's one that I do not think is correct, and it's one that I urge that everyone would vote 'no' on. Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 464 was adopted and S.B. No. 209, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Carroll, Hara and Soares). Excused, 1 (Yee).

At 12:44 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:47 o'clock p.m.

Senator Soares then inquired of the Chair if it were possible for him to reconsider his action on the vote on S.B. No. 209, S.D. 2.

The President replied that the vote had been taken and announced, therefore, the vote could not be changed.

Senator Soares then stated, "Mr. President, just for the record, I want to note that the stirring speech that I have next to me here, convinced me that I vote 'no' with him, and I should have voted 'aye' with me."

At 12:48 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:50 o'clock p.m.

Standing Committee Report No. 465 (S.B. No. 399, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 465 and S.B. No. 399, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT CARE HOMES, FAMILY BOARDING HOMES, AND OTHER SIMILAR INSTITUTIONS", were recommitted to the Committee on Ways and Means.

Standing Committee Report No. 466 (S.B. No. 481, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 466 was adopted and S.B. No. 481, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused 2 (Ajifu and Yee).

Standing Committee Report No. 467 (S.B. No. 538, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 467 was adopted and S.B. No. 538, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL AIR PATROL", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 468 (S.B. No. 618, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 468 and S.B. No. 618, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYMENT SECURITY LAW", were recommitted to the Committee on Ways and Means.

Standing Committee Report No. 469 (S.B. No. 659, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 469 and S.B. No. 659, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF PHARMACY", were

recommitted to the Committee on Ways and Means.

Standing Committee Report No. 470 (S.B. No. 835, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 470 and S.B. No. 835, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REVENUE BONDS", were recommitted to the Committee on Ways and Means.

Standing Committee Report No. 471 (S.B. No. 1742, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 471 was adopted and S.B. No. 1742, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR ADJUSTMENT AUTHORIZED BY CHAPTER 89C, HAWAII REVISED STATUTES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 472 (S.B. No. 1758, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 472 and S.B. No. 1758, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VESSELS", were recommitted to the Committee on Ways and Means.

Senate Bill No. 86, S.D. 1:

By unanimous consent, consideration of S.B. No. 86, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 474 (S.B. No. 17, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 474 was adopted and S.B. No. 17, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAX REVIEW COMMISSION, (CONSTITUTIONAL AMENDMENTS OF ARTICLE VII)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 475 (S.B. No. 31, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried,

Stand. Com. Rep. No. 475 was adopted and S.B. No. 31, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE PAYMENTS (CONSTITUTIONAL AMENDMENTS OF ARTICLE IX, SECTION 3)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 476 (S.B. No. 53, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 476 was adopted and S.B. No. 53, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INTERMEDIATE APPELLATE COURT (CONSTITUTIONAL AMENDMENTS OF ARTICLE VI)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 8 (Abercrombie, Anderson, Carpenter, Chong, Cobb, Kawasaki, Soares and Yim). Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 477 (S.B. No. 108, S.D. 2):

By unanimous consent, consideration of Stand. Com. Rep. No. 477 and S.B. No. 108, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 478 (S.B. No. 400, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 478 and S.B. No. 400, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS REGISTRATION", were recommitted to the Committee on Ways and Means.

At 12: 55 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1: 00 o'clock p.m.

Standing Committee Report No. 479 (S.B. No. 586, S.D. 1):

Senator Cayetano moved that Stand. Com. Rep. No. 479 be adopted and S.B. No. 586, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Kawasaki then spoke in favor of the motion as follows:

"Mr. President, in supporting this bill, I would like to have entered into the record that perhaps the executives of each county should note that the Ways and Means Committee this year has taken a very statesmanlike attitude on this perennially controversial bill that has come to the Ways and Means Committee.

"I would hope that the executives in each county and particularly the City and County of Honolulu, will demonstrate statesmanship in return to justify our position in forwarding in behalf of this bill."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 479 was adopted and S.B. No. 586, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL OBLIGATION BONDS OF COUNTIES OF THE STATE OF HAWAII", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Hara). Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 480 (S.B. No. 663, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 480 and S.B. No. 663, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE", were recommitted to the Committee on Ways and Means.

Standing Committee Report No. 481 (S.B. No. 1115, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 481 was adopted and S.B. No. 1115, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE RATES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 482 (S.B. No. 1373, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 482 was adopted and S.B. No. 1373, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION: MAKING SUPPLEMENTARY APPROPRIATIONS OUT OF GENERAL REVENUES TO COVER CERTAIN DEFICIENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 1979", having been read throughout, passed Third Reading on the following showing

of Ayes and Noes:

Ayes, 22. Noes, 1 (Yim). Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 483 (S.B. No. 1389, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 483 was adopted and S.B. No. 1389, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNING AND DEVELOPMENT OF KAUAI", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 484 (S.B. No. 1483, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 484 was adopted and S.B. No. 1483, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTION FROM CIVIL SERVICE FOR THE HAWAII HOUSING AUTHORITY TENANT HIRE PROGRAM", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 485 (S.B. No. 1546, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 485 was adopted and S.B. No. 1546, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN HOME LANDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 486 (S.B. No. 1721, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 486 was adopted and S.B. No. 1721, S.D. 2, entitled: "A BILL FOR AN ACT ESTABLISHING A TWENTIETH ANNIVERSARY HAWAII STATEHOOD CELEBRATION COMMITTEE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Anderson

and George). Excused, 2 (Ajifu and Yee).

Standing Committee Report No. 487 (S.B. No. 1764, S.D. 1):

Senator Cayetano moved that Stand. Com. Rep. No. 487 be adopted and S.B. No. 1764, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Kawasaki then spoke against the bill as follows:

"Mr. President, I signed the Standing Committee Report emanating from the Ways and Means Committee 'I do not concur' and I expect to vote 'no' on this bill, primarily because I'm at a loss to find any compelling reason for us to put this immigrant services program under the Governor's Office.

"We have had two bills designed to remove some of these sub-agencies and sub-programs from the Governor's Office (quote) 'for administrative purposes only'--two bills designed to remove these agencies from the Governor's Office into the relevant agencies, like the Department of Social Services and Housing, the Department of Health, etc., primarily on the premise that the Governor has enough to do without having to oversee the program administration of some of these sub-agencies, and I am at a loss to find that all of a sudden this bill puts immigrant services under the Governor's Office.

"Now, Mr. President, if the Governor or the administration desires not to be criticized on the premise that they're using some programs for political purposes, then I think it behooves the executive and the administration, not to do a reverse move here when the trend is established to free the Governor of some of these small agency programs.

"As I said, Mr. President, I see no compelling reason as to why immigrant services with all that it entails, is to be put under the Governor's Office and I am very vehemently opposed to this move."

The motion was then put by the Chair and carried, and Stand. Com. Rep. No. 487 was adopted and S.B. No. 1764, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE IMMIGRANT SERVICES CENTER", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 2 (Kawasaki and Soares). Excused, 3 (Ajifu, Carroll and Yee).

Senate Bill No. 1800, S.D. 1:

On motion by Senator Soares, seconded by Senator Kawasaki and carried, S.B. No. 1800, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VIOLATIONS OF THE TAX LAWS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Ajifu, Carroll and Yee).

Senate Bill No. 411, S.D. 2:

On motion by Senator Abercrombie, seconded by Senator Kawasaki and carried, S.B. No. 411, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DISTRIBUTION OF OVERHEAD COSTS IN UNIVERSITY OF HAWAII GRANTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Ajifu, Carroll and Yee).

At 1:08 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:30 o'clock p.m.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

Standing Committee Report No. 454 (S.B. No. 1540, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. No. 454 was adopted and S.B. No. 1540, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EQUIPMENT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Saiki). Excused, 2 (Carroll and Yee).

Senate Bill No. 1414, S.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, S.B. No. 1414, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Kawasaki). Excused, 2 (Carroll and Yee).

Senate Bill No. 86, S.D. 1:

Senator Cobb moved that S.B. No. 86, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator O'Connor then spoke against the measure as follows:

"Mr. President, I rise to speak against this bill. My opposition to this measure is not short-lived; it's not the result of lobbying efforts in this particular session or adherence to any group or anything of that nature. I have dealt with this measure for seven years, starting in the House of Representatives and continuing through this year in the Senate. This is a proposal for commercial multi-purpose insurance packages which would allow insurance companies to package together perils in one package and offer them to consumers.

"The large national insurance companies beat the drums on this measure saying that it will save premiums, and saying that for businessmen in this community and other communities, this measure should be adopted because the businessmen shall pay less for insurance. And they've sold this measure in most of the other states of the Union on that premise.

"Unlike the homeowner's policy, which is also a multi-peril policy, the packages sold for the commercial policies are significantly different, depending upon the nature of the business and the nature of the perils that are packaged together. The homeowner's policy contains the same perils and is packaged for all and is sold uniformly across the United States as a multi-peril situation.

"The major difference between these two areas of insurance is that, the homeowner's policy can be shopped by the consumer from company to company and you can buy essentially the same coverage of homeowner's policy and find out just exactly who is selling it for the less amount of money premium-wise, and pay that lesser amount of money.

"In the commercial policy, such is not the case. And the only request that I personally and others in this Body have made of certain insurance companies who are beating the drums for this policy for many years is, 'will you tell the consumer how much he is paying for each peril in the package that you write?' And the big companies, and this is really a big company measure, the big companies have invariably said, 'no, we can't do that.' And I don't

know the reason they can't do it.

"So, from a consumer standpoint in this state, the passage of this bill is bad because the consumer will never know whether or not he's paying more or less for those perils which he needs when he's buying a package which contains many perils that he doesn't need.

"For example, a standard provision in one of these policies is a provision having to do with boilers and equipment. Very few people in Hawaii have boilers, when we don't have any need for heating. And yet those are standard provisions in most commercial multi-purpose policies.

"I have opposed this bill year in and year out and I oppose it today, and I guess I'll go down with my flags waving opposing the measure, because I believe it firmly to be anti-consumerism for this state. The consuming businessman is going to take it on the chin, when a large national insurance company sells this kind of policy in Hawaii. I am going to vote against this bill."

Senator Kawasaki then inquired if the Chairman of the Committee on Judiciary would yield to a question, to which Senator O'Connor replied in the affirmative.

Senator Kawasaki then queried, "Could we not have, by the language of the bill, provided a mandate to the insurance company to list the cost of the different types of insurance covered under this overall policy?"

Senator O'Connor answered, "Mr. President, I proposed such a mandate in the committee and was voted down. That exactly is what I'm talking about. This bill should contain a mandate that the insurance company provide to the consumer, what each peril will cost by way of premium--in which case, there's nothing wrong with the bill."

Senator Kawasaki then proceeded to speak in favor of the measure, as follows:

"Mr. President, in listening to the answer then, it seems to me perhaps it would be better for us to pass this bill to hopefully give some relief to the businessmen buying these kind of policies, and if we find that the big national insurance companies are doing exactly what you're afraid they are going to do, then I say we can hopefully garner enough votes both in the Judiciary Committee and

the floor of this Senate to mandate exactly the kind of language we're talking about to show what the prices are for the different type of coverages.

"I'd rather pass this bill even in its present form than not have anything at all. I'd like to give it a test and put the insurance companies to a test, certainly."

Senator Cobb then spoke in favor of the measure as follows:

"Mr. President, I rise to speak in favor of this bill. To begin with, one of the previous speakers indicated that if you bought a commercial multi-peril package, you'd have to buy boiler plate insurance, volcano insurance or any other of the types of insurance that would be packaged under the multi-peril. This is not the case.

"The way the bill is worded, it is very clear that the only required options, if a commercial multi-peril package is bought, is fire and liability. All other options are optional, exactly that, the choice of the consumer.

"I dispute the contention that this bill is anti-consumer since the other 49 states have already passed this legislation. I dispute the contention that this bill is anti-consumer when our own Department of Regulatory Agencies and the Office of Consumer Protection testified in favor of the bill, and without this kind of breakdown that is requested.

"But; Mr. President, because of this concern for the premium breakdown, we put in the bill the requirement that the purchaser of this kind of insurance must be told of his right to a detailed breakdown and that he can only weigh that right in writing, and that must be on the policy or on associated papers.

"I further dispute the idea that this bill is anti-consumer, when the savings that were cited to us in the Committee on condominiums and apartments ranged from 20% to 30%; for hotels, 9% to 12%; for public institutions, 18% to 23%; for industrial and manufacturing firms, 16% to 20%; for mercantile firms, 14% to 16%; and for processing and service, barber shops and dry cleaners, from 16% to 20%. Mr. President, no one, no one disputed those figures.

"In effect, what this bill allows for the first time, is for us to view the small businessmen and other people who own hotels or condominiums or public institutions to view them as consumers and to give them the option, not the requirement but the option, to purchase multi-peril insurance.

"And that, Mr. President, is all this bill does. It does not mandate commercial multi-peril insurance, it merely provides the option for the consumer to purchase. Accordingly, I'd like to ask my colleagues to support this bill."

Senator Abercrombie added, "Mr. President, in speaking in favor of the bill... I am acquainted with several business people who are women, and just for purposes of procedure in the future, do you suppose we might refer to businesspeople?"

The motion was put by the Chair and carried, and S.B. No. 86, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 13. Noes, 10 (Carpenter, Cayetano, George, Hara, O'Connor, Saiki, Takitani, Toyofuku, Ushijima and Yamasaki). Excused, 2 (Carroll and Yee).

Standing Committee Report No. 477 (S.B. No. 108, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 477 was adopted and S.B. No. 108, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII NATURAL ENERGY INSTITUTE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Yee).

At 1:40 o'clock p.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate stood in recess until 8:15 o'clock p.m., this evening.

NIGHT SESSION

The Senate reconvened at 9:40 o'clock p.m., with all Senators present with the exception of Senator Yee, who was excused.

Senate Bill No. 1303:

On motion by Senator O'Connor, seconded by Senator Mizuguchi and carried, S.B. No. 1303, entitled: "A BILL FOR AN ACT RELATING TO ADOPTION OF CHILDREN", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 492 (S.B. No. 429, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 492 was adopted and S.B. No. 429, S.D. 2, entitled: "A BILL FOR AN ACT ESTABLISHING STANDARDS FOR PURCHASE OF SERVICES, GRANTS, AND SUBSIDIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 493 (S.B. No. 26, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 493 was adopted and S.B. No. 26, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO STATE MANDATES (CONSTITUTIONAL AMENDMENTS OF ARTICLE VIII, SECTION 5)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 494 (S.B. No. 19, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 494 was adopted and S.B. No. 19, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE SPENDING LIMITATION (CONSTITUTIONAL AMENDMENTS OF ARTICLE VII, SECTION 5)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 495 (S.B. No. 20, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 495 be adopted and S.B. No. 20, S.D. 2, having been read throughout, pass Third Reading.

Senator Saiki then spoke against the motion as follows:

"Mr. President, I am going to vote 'no' on this measure because I feel that this particular Constitutional Convention amendment will not implement the intent of the total package presented by the

Constitutional Convention to reduce state spending.

"Other measures requiring the Governor and the Legislature to stay within the limits of our state's financial resources are commendable. But this measure can take the lid off of internal budgeting and spending. If anything, it may encourage a spending cycle. As in Parkinson's law, expenditures will rise to meet income.

"In 1976, we had in our state coffers, a surplus of about 18 million dollars. Every year since then the state has dipped into this surplus to meet its obligations. If we did not have this surplus available, we would not have had the resources to meet our needs and a sort of tax increase may have had to be considered.

"All of us like to keep a little money tucked away for a rainy day. This measure actually prevents the state from saving and if anything, encourages spending. I feel the Con Con delegates, in trying to resolve a problem, instead created one, and I intend to vote 'no.'"

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 495 was adopted and S.B. No. 20, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF EXCESS REVENUES (CONSTITUTIONAL AMENDMENTS OF ARTICLE VII, SECTION 6)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Saiki). Excused, 1 (Yee).

Senate Bill No. 77, S.D. 3:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 77, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL PARKS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 117, S.D. 5:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 117, S.D. 5, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION", was recommitted to the Committee on

Ways and Means.

Standing Committee Report No. 498 (S.B. No. 181, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 498 was adopted and S.B. No. 181, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROSECUTION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 499 (S.B. No. 402, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 499 was adopted and S.B. No. 402, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REIMBURSEMENT TO THE CITY AND COUNTY OF HONOLULU UNDER SECTION 70-111, HAWAII REVISED STATUTES; FOR ADVANCES MADE BY IT FOR THE STATE'S SHARE OF THE COST OF IMPROVEMENTS ASSESSED AGAINST PUBLIC AND EXEMPT LANDS IN THE VARIOUS IMPROVEMENT DISTRICTS WITHIN THE CITY AND COUNTY OF HONOLULU AND MAKING APPROPRIATION THEREFOR", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Hara and Soares). Excused, 1 (Yee).

Standing Committee Report No. 500 (S.B. No. 601, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 500 was adopted and S.B. No. 601, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ADVISORY COMMISSION ON MANPOWER AND FULL EMPLOYMENT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 501 (S.B. No. 754, S.D. 1):

Senator Cayetano moved that Stand. Com. Rep. No. 501 be adopted and S.B. No. 754, S.D. 1, having been read throughout, pass Third Reading.

Senator Hara asked the Chair to allow him to be excused from voting on this measure as there might be a

conflict as the bill might affect him in his present retirement status. At this time, Senators Yamasaki and Ushijima also asked to be excused from voting on this measure for the identical reason.

The President announced that Senators Hara, Yamasaki and Ushijima would be excused from voting on this bill.

The motion was then put by the Chair and carried, and Stand. Com. Rep. No. 501 was adopted and S.B. No. 754, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Ushijima, Yamasaki and Yee).

Standing Committee Report No. 502 (S.B. No. 839, S.D. 1):

Senator Carpenter moved that Stand. Com. Rep. No. 502 be adopted and S.B. No. 839, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Abercrombie.

Senator Kawasaki then spoke against the measure as follows:

"Mr. President, I'm voting 'no' on this measure because I'm not quite satisfied as to the credence that I can give to figures given by the Ohana group, who want to maintain the establishment of the program for leprosy over at Pearl City and, conversely, the figures submitted to us in the Committee on Ways and Means by the Department of Health. Now I understand there's going to be some third objective group giving thorough study to this matter and giving us some recommendations as to what they find in the way of cost figures and everything else.

"Mr. President, pending this release of information to us, I will keep my mind open and vote 'no' rather than, at this point, commit myself to establishment of the facilities at Pearl City. This is the reason for my 'no' vote."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 502 was adopted and S.B. No. 839, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEPROSY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Kawasaki).
Excused, 1 (Yee).

Standing Committee Report No. 503 (S.B. No. 1292, S.D. 1):

By unanimous consent, consideration of Stand. Com. Rep. No. 503 and S.B. No. 1292, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 504 (S.B. No. 1611, S.D. 2):

By unanimous consent, consideration of Stand. Com. Rep. No. 504 and S.B. No. 1611, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 505 (S.B. No. 1771, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 505 was adopted and S.B. No. 1771, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DEVELOPMENTAL DISABILITIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 506 (S.B. No. 1329, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 506 and S.B. No. 1329, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION", were recommitted to the Committee on Ways and Means.

At 9:50 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:52 o'clock p.m.

Senate Bill No. 283, S.D. 1:

Senator Cayetano moved that S.B. No. 283, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Carroll then spoke against the measure as follows:

"Mr. President, this bill does two things--one is it raises the amount of money that the small claims court's jurisdiction has to \$600, which is quite good, in fact, it probably should be higher. The other aspect of this bill is that it allows the Small Claims Division to grant equitable relief with respect to orders which affect repair, replacement,

refunding of money, reform and rescission and it will not always be clear to a judge at the commencement of an action when a party is requesting any one of these types of injunctive relief; precisely, the amounts of money which would potentially be involved; and also whether or not the order would exceed these amounts.

"So, Mr. President, what in effect will have to happen is that the court will have to have a hearing with respect to this matter, and then if he finds, as I suspect he frequently will, that the matter is not properly within the jurisdiction of his court, the parties will then have to go either to the District Court or even possibly to another court in the Circuit Court.

"So, Mr. President, I feel that what this particular measure will do is to create more problems than it will solve. It will put people in the area of attempting to practice law on some extremely complex matters, seeking injunctive relief without the benefit of counsel. I feel that this is a very ill-advised bill and I think that we should vote 'no' on it."

Senator O'Connor then responded as follows:

"Mr. President, I'd like to explain to my learned colleague the reason for this added section.

"Several years ago, in our wisdom, we gave the Small Claims Court complete jurisdiction over the Landlord-Tenant Code. The Landlord-Tenant Code provides for this exact relief in all matters pertaining to the landlord-tenant situation.

"Because judges of the Small Claims Court are today sitting and giving equitable relief in the very areas of repair, replacement, refund, reform and so forth under the Landlord-Tenant Code, that court has asked for this jurisdiction to be explicit in the statute. That's why it is added to this bill. It's not something that they are not doing today; they are doing it already; this simply makes it more explicit."

Senator Carroll, in rebuttal, spoke as follows:

"Mr. President, I'm really very tired of hearing the comment that something is being done and therefore we ought to legalize it.

"I'm fully aware of the fact which the Senator from Hawaii Kai has

just mentioned, but the real problem is that when we open up the jurisdiction, as we're very clearly doing here, we're not leaving it in the Landlord-Tenant Code. We're taking it out and we're saying that this subject matter will now be subject matter within the jurisdiction of that court and that is precisely the reason I'm raising it. That is the reason I ask we vote 'no'."

The motion was put by the Chair and carried, and S.B. No. 283, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL CLAIMS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Anderson, Carroll and Soares). Excused, 1 (Yee).

Senate Bill No. 393, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 393, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE: DEFERRED ACCEPTANCE OF GUILTY PLEA", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 554, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 554, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL OFFENSES", was recommitted to the Committee on Judiciary.

Senate Bill No. 587, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 587, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NUISANCE ABATEMENT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Senate Bill No. 1051:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1051, entitled: "A BILL FOR AN ACT RELATING TO PERSONNEL OF THE DISCIPLINARY BOARD OF THE SUPREME COURT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused,

1 (Yee).

Senate Bill No. 1230:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1230, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Cayetano). Excused, 1 (Yee).

At 9:58 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:59 o'clock p.m.

Senate Bill No. 1677, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1677, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TERRORISTIC THREATENING", was recommitted to the Committee on Judiciary.

Senate Bill No. 1682, S.D. 1:

Senator O'Connor moved that S.B. No. 1682, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Abercrombie spoke against the bill as follows:

"Mr. President, you could call this a chicken bill, possibly or something in that nature... a chicken bill, some people might add another phrase to that but I however, have learned my lesson. If it's any gambling device, fighting animals are birds and paraphernalia implements, furniture, etc.

"I think it's a bill that has an invidious intent. Chickens will now become the property of apparently, the Honolulu Police Department.

"We have just recommitted a bill, which, I believe the House Bill had not come over, might well have passed, on terroristic threat. I wonder if we will find a situation in which chickens will be brought into court and charged with terroristic threatening of a police officer because they have little gaffs on their claws.

"I really don't see where it's going to be at all possible to deal with this particular measure except in

situations in which it is directed towards cockfighting. And I think that we have for too long avoided the realities involved in that.

"While Senator Carroll has made an excellent point of not accommodating something that is already going on, and making it legal or recognizing it or acquiescing to it, simply because it is going on, I think that a case can be made here that this kind of addition to the language, will be directed principally at cockfighting and that the capacity of the police department to deal with this language, in a way which will not end up with the police department having to get into all kinds of tangles in court over what constitutes furniture, what constitutes personal property, what constitutes vessels, possibly not aircraft... I wasn't aware that there were fighting chickens and aircrafts these days, but I suppose it is possible... that this personal property thing and all the rest of it will become an awesome burden for the courts to deal with.

"I'd much rather see a bill directed towards cockfighting than vote for this bill. Thank you."

The motion was put by the Chair and carried, and S.B. No. 1682, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FORFEITURE OF PROPERTY USED IN ILLEGAL GAMBLING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Carpenter). Excused, 1 (Yee).

Standing Committee Report No. 515 (S.B. No. 483):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 515 was adopted and S.B. No. 483, entitled: "A BILL FOR AN ACT RELATING TO HOLIDAYS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1494, S.D. 1:

By unanimous consent, consideration of S.B. No. 1494, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 517 (S.B. No. 1588, S.D. 2):

On motion by Senator Yim, seconded by Senator Carpenter and carried, Stand.

Com. Rep. No. 517 and S.B. No. 1588, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LAND USE", were recommitted to the Committee on Economic Development.

Senate Bill No. 336, S.D. 1:

On motion by Senator Abercrombie, seconded by Senator Ushijima and carried, S.B. No. 336, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EAST-WEST CENTER", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Anderson, Hara, Saiki and Soares). Excused, 1 (Yee).

Senate Bill No. 1196:

Senator O'Connor moved that S.B. No. 1196, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Abercrombie spoke against the measure as follows:

"Mr. President, I wish to speak against the bill on the grounds that the language presently existing in the law is far more of a deterrent than the changes that have been made.

"It is my distinct impression that the judges may, where they may now in the area of drunk driving, fine up to a thousand dollars, in prison for not more than one year, may be guided by the new language as the intent of the legislature that the first offense be as little as a \$150 fine with no minimum suspension. For the second offense within one year, \$250 fine and one month suspension.

"I am ill at ease with the continuing insertion of the offense one year. It indicates to me that if a similar offense occurred more than one year after the first offense, it would be treated as if it was just starting all over again.

"I think that drunk driving is probably the worst, the single worst social act of criminality, that takes place in our society, on a basis in which there is little or no regulation other than the individual himself or herself, to rely upon in terms of their discretion.

"I have driven drunk myself in the past. I'm not happy at all that that happened. Through good fortune, I did not injure myself or anyone else. It may be that there are others here

who have experienced a similar situation, and may have experienced them, as I have, more than once.

"So, Mr. President, I'm not making an argument on the basis of self-righteousness; I'm making an argument on the basis that anyone who drives drunk is not only a threat to himself or herself, but a threat to everyone else on the road and that it is vitally important that we make clear to people that such activity will not be tolerated. I think this is an area of activity not necessarily thought to be criminal as such, and yet the taking of lives probably exceeds that of, in all probability, exceeds that of deliberate murder in the United States of America.

"In this respect, I feel that the language as it now exists, the \$1,000 fine and prison for not more than one year, gives the kind of latitude to a judge that would encourage, rather than discourage the kind of... encourage more appropriate sentences rather than the language that has been added which I believe discourages a more harsh attitude towards drunk driving. Thank you."

The motion was put by the Chair and carried, and S.B. No. 1196, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Senate Bill No. 247, S.D. 1:

By unanimous consent, consideration of S.B. No. 247, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 1535, S.D. 1:

By unanimous consent, consideration of S.B. No. 1535, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 1548, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Campbell and carried, S.B. No. 1548, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE HEALTH PLANNING AND DEVELOPMENT AGENCY", was recommitted to the Committee on Health.

Senate Bill No. 870, S.D. 2:

Senator Mizuguchi moved that S.B. No. 870, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Mizuguchi then spoke for the measure as follows:

"Mr. President, I rise to speak in favor of the bill.

"The purpose of this bill is to strengthen and improve Hawaii's Water Carrier Act.

"The Senate Committees on Transportation and Public Utilities were briefed on the Governor's Task Force Report on Inter-Island Surface Transportation. This report was quite critical of methods utilized by the common carrier which now holds the certificate of public convenience and necessity to evade its responsibilities and to take advantage of deficiencies or loopholes in the Water Carrier Act.

"The file and suspend procedures of the Act are substantially revised by this bill. Existing law provides that the Public Utilities Commission may suspend any new rate, fare, or charge for a period not to exceed six months. Under current law, when the carrier files for an increase, it goes into effect by operation of law upon the expiration of six months even though the Commission may not have made a decision as to the reasonableness of the increased rates.

"The Water Carrier Act has been amended so that the procedure will be similar to that already applicable to other public utilities. Under this bill the Commission may permit a changed rate to go into effect in accordance with the filing of the carrier or it may suspend the rate pending a hearing and final decision. No rate increase which would have the effect of increasing the carriers' gross revenues during the test year by three percent or more may take effect without the prior approval of the Commission.

"In the case of a rate increase exceeding that amount, a contested case hearing and a public hearing must be held for consumers of each county who are affected. It is essential that large rate increases by a single carrier in the vitally important inter-island barge trade should be subject to scrutiny by the Commission and the public. However, the Commission will still be able to grant a temporary rate increase after a public hearing and upon a showing by the carrier of probable entitlement and financial need.

"The traditional arguments made by utilities in favor of file and suspend provisions, i.e., that they are necessary

in order to insure that there is no undue regulatory lag, are no longer persuasive with our full-time Public Utilities Commission, for they have been able to make final decisions within a reasonable length of time. Other utilities have been successful at realizing good profits under a similar but more stringent system for rate increases.

"The existing file and suspend provisions of Hawaii's Water Carrier Law have encouraged excessive filings and abuse by the certified carrier. The report of the Governor's Task Force on Inter-Island Surface Transportation documents a blizzard of rate requests from the certified carrier.

"Beginning with the establishment of such procedures in mid 1974, and continuing with distressing regularity for the next four years, such requests were the most prolific of any company or utility under P.U.C. jurisdiction. These numerous filings became so complex that two applications were sometimes being considered concurrently. As a result of this confusion, which the carrier was able to induce under the existing law, the carrier received \$500,000 in excess of what the Commission determined was necessary to enable it to learn a reasonable rate of return. The modified file and suspend procedures of this bill will encourage the carrier to plan its financial needs in advance and approach the Commission with fewer but better prepared cases.

"This bill will also increase the civil penalty which may be levied against a water carrier or any officer, agent, employee, or representative. The existing penalty of only \$100 is unreasonably low for a large corporation with considerable resources. The Commission will be authorized to impose a civil penalty ranging from \$100 to \$5,000 depending on the circumstances.

"The existing language in subsection (e) of Section 271G-14 provides that a water carrier shall not be required to secure from the Commission authority to lease vessels, vessel equipment, or vessel towing equipment from another water carrier.

"The effect of this section is to limit the Commission's ability to act as a check on inter-corporate transactions which may result in benefits to the affiliate companies at the expense of the water carrier. For example, approximately one third of the present carrier's expenses are paid to affiliates. A significant portion of such expenses is paid for tug services. While the Commission has disallowed some expenses paid to affiliates, the carrier has argued

that this section limits its authority to do so. The Report of the Governor's Task Force on Inter-Island Surface Transportation found that inter-corporate self dealing between the certified carrier and its affiliate companies operated to the detriment of the carrier's rate-payers. By the repeal of subsection (e) these transactions may be examined by the Commission.

"I urge you to vote for Senate Bill No. 870, S.D. 2, which should prevent future abuses of the Water Carrier Act."

The motion was put by the Chair and carried, and S.B. No. 870, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INTER-ISLAND TRANSPORTATION SYSTEM", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 868, S.D. 2:

Senator Mizuguchi moved that S. B. No. 868, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Yim.

Senator Mizuguchi then spoke in favor of the measure as follows:

"Mr. President, I rise to speak in favor of the bill.

"The purpose of this bill is to establish a temporary General Aviation Airport Site Selection Commission. This Commission would be charged with the responsibility of selecting a site for a new general aviation airport.

"I am very concerned about the safety of all who use the Honolulu International Airport. Recent events in San Diego and other places around the world have clearly demonstrated the serious danger created by the heavy mix of jetliners and general aviation aircraft at or near a high-traffic international airport. In order to reduce the danger of collisions and consequent loss of life and property, smaller aircraft must be assigned to a general aviation airport which is situated so as to be safe, convenient and economical. Such assignment would eliminate some of the traffic at Honolulu International Airport, thereby making that airport safer for all users and passengers.

"The greater needs of the community for safety require the siting and

construction of such an airport within the shortest possible time. Since the Legislature does not have sufficient time to critically examine what types of aircraft and services should be moved to a new general aviation airport site, review all proposed sites, receive vital community input, weigh the advantages and disadvantages of each proposed site and thereafter make a selection based on the needs for safety, economics and convenience, both at Honolulu International Airport and at the newly selected site, the Legislature should pass this bill which will establish a Commission to make the final site selection for the State.

"The Commission is designed to maximize community input in the decision-making process. It will have seventeen members. There will be a citizens advisory council, which will choose from among its members those who shall sit on the Commission. Citizens to the council will be from the Neighborhood Boards for all the communities that might be affected by the site selection.

"There will be members of the Commission who have the necessary technical expertise on the needs of the general aviation community for a safe and useable location. There will be representation from the general aviation sector. There will be representatives from the agricultural industry. There will be a representative from our business community. Finally there will be members from the relevant governmental agencies. The Director of the Department of Transportation will be the chairman of this Commission since his department will be responsible for implementing the final decision.

"This Commission will be required to first investigate the feasibility of securing joint use of existing military facilities.

"This bill will provide the general public with a significant opportunity to make actual decisions which will affect the daily lives of all residents of the state. This bill sets forth guidelines for their decision-making.

"I urge you all to vote in favor of this bill and allow for a community consensus on this issue."

Senator Carroll spoke in favor of the bill as follows:

"Mr. President, I just want to urge everyone to vote 'aye' on this measure, but I have just one reservation; and that is, that in the Standing Committee Report, they are talking about a temporary General Aviation Airport Site Selection Commission and I presume that the temporary

refers not to the site but rather to the Commission."

Senator Mizuguchi assured the previous speaker that he was correct in his presumption.

The motion was put by the Chair and carried, and S.B. No. 868, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GENERAL AVIATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1117:

On motion by Senator Mizuguchi, seconded by Senator Yim and carried, S.B. No. 1117, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE TRANSPORTATION COUNCIL", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 608, S.D. 1:

By unanimous consent, consideration of S.B. No. 608, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 609:

On motion by Senator Campbell, seconded by Senator Young and carried, S.B. No. 609, entitled: "A BILL FOR AN ACT RELATING TO ADULT EDUCATION PROGRAM", was recommitted to the Committee on Education.

Senate Bill No. 610:

By unanimous consent, consideration of S.B. No. 610 was deferred to the end of the calendar.

Senate Bill No. 931:

On motion by Senator Campbell, seconded by Senator Young and carried, S.B. No. 931, entitled: "A BILL FOR AN ACT RELATING TO RELIGIOUS HOLY DAYS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 530 (S.B. No. 1059, S.D. 1):

On motion by Senator Campbell,

seconded by Senator Young and carried, Stand. Com. Rep. No. 530 was adopted and S.B. No. 1059, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PAU HANA YEARS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1518, S.D. 1:

On motion by Senator Campbell, seconded by Senator Young and carried, S.B. No. 1518, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FOUNDATION ON CULTURE AND THE ARTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 532 (S.B. No. 28, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 532 was adopted and S.B. No. 28, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE POWER OF THE BOARD OF EDUCATION (CONSTITUTIONAL AMENDMENTS OF ARTICLE X, SECTION 3)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Hara). Excused, 1 (Yee).

Standing Committee Report No. 533 (S.B. No. 46, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 533 was adopted and S.B. No. 46, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC OFFICE AND EMPLOYMENT (CONSTITUTIONAL AMENDMENTS OF ARTICLE XVI, SECTION 3)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Standing Committee Report No. 534 (S.B. No. 172, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 534 was adopted and S.B. No. 172, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING", having been read throughout, passed Third Reading on the following

showing of Ayes and Noes:

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

Senate Bill No. 174:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 174, entitled: "A BILL FOR AN ACT RELATING TO ATTACHMENT", was recommitted to the Committee on Judiciary.

Senate Bill No. 176, S.D. 1:

Senator O'Connor moved that S.B. No. 176, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Chong then spoke against the bill as follows:

"Mr. President, recorded land title is a relatively recent development in Hawaii's history and there are many descendants to whom these islands once belonged, who are unable to substantiate or legally establish their right to the land.

"The cutting edge of this legislation, I feel, would be felt by these individuals although, I'm sure that the intent of this bill has some justification because it purports to clarify the existing law.

"At the public hearing on the bill, there was no extended debate, there was no strong testimony for or against it and consequently I feel that no compelling need for this kind of legislation was demonstrated at this time. I don't think that we should rush into something like this hastily in view of the previous statements I have made.

"Thank you."

The motion was put by the Chair and carried, and S.B. No. 176, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ASSISTANCE TO DISPLACED PERSONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Abercrombie, Carpenter, Chong and Kawasaki). Excused, 1 (Yee).

Senate Bill No. 596, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 596, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

CRIMINAL PROPERTY DAMAGE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 639:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 639, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 539 (S.B. No. 670):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 539 was adopted and S.B. No. 670, entitled: "A BILL FOR AN ACT RELATING TO PROCEDURES FOR ADOPTION, AMENDMENT OR REPEAL OF RULES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Senate Bill No. 757:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 757, entitled: "A BILL FOR AN ACT RELATING TO JUVENILE RECORDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Chong). Excused, 1 (Yee).

Senate Bill No. 1681, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1681, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMES", was recommitted to the Committee on Judiciary.

Senate Bill No. 1703, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1703, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE XVII, SECTION 2, OF THE HAWAII CONSTITUTION, TO SPECIFY VOTING PROCEDURE FOR CONSTITUTIONAL AMENDMENTS", having been read throughout, passed Third Reading

by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

Senate Bill No. 1091, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1091, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAPSING OF CAPITAL IMPROVEMENT FUNDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (George and Kuroda). Excused, 1 (Yee).

Standing Committee Report No. 544 (S.B. No. 1322, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 544 was adopted and S.B. No. 1322, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNAUTHORIZED VEHICLES ON SCHOOL AND LIBRARY GROUNDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Kawasaki).
Excused, 1 (Yee).

Standing Committee Report No. 545 (S.B. No. 710):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 545 was adopted and S.B. No. 710, entitled: "A BILL FOR AN ACT RELATING TO APPEALS FROM THE DECISIONS OF THE LIQUOR COMMISSION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Anderson).
Excused, 1 (Yee).

Standing Committee Report No. 546 (S.B. No. 1492, S.D. 2):

By unanimous consent, consideration of Stand. Com. Rep. No. 546 and S.B. No. 1492, S.D. 2, was deferred to the end of the calendar.

Senate Bill No. 1727, S.D. 1:

On motion by Senator O'Connor,

seconded by Senator Cobb and carried, S.B. No. 1727, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST THE PERSON", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Cayetano). Excused, 1 (Yee).

Senate Bill No. 849, S.D. 1:

By unanimous consent, consideration of S.B. No. 849, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 1003, S.D. 1:

Senator Ushijima, moved that S.B. No. 1003, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Yim.

Senator Carroll then rose to speak in favor of this measure as follows:

"Mr. President, I rise to speak in favor of this measure and I would like to offer as part of my remarks a letter from William E. Wanket who is the Acting Director of the City and County of Honolulu, Department of Land Utilization.

"This bill is an excellent bill. It's badly needed in Waikiki but unfortunately as with many measures which pass through these halls, it has a problem, and in this case, piggeries in Waianae were not contemplated when the bill was written up.

"I do not want to see the bill die and Mr. Wanket, having been informed of my concerns, informed me in turn that he has designated--and I indicate all the areas in yellow on this map--as areas which will allow piggery use which is currently very restricted on this island.

"He also attaches a proposed ordinance to allow for the permit issuance for persons wishing to get this special permit. So with the assurance from Mr. Wanket that persons who have prior nonconforming use piggeries in existence will be taken care of.

"With this extended allowance, I would urge that we vote on it. I'd like to ask that this letter, the map as attachment 1 and the proposed ordinance as attachment 2 be inserted into the record and incorporated with these remarks. Thank you."

"CITY AND COUNTY
OF HONOLULU

DEPARTMENT OF
LAND UTILIZATION

March 8, 1979

Honorable John S. Carroll
The Senate
10th Legislature
State Capitol
Honolulu, Hawaii

Dear Senator Carroll:

Senate Bill 1003 Relating to the
Amortization of Non-conforming UsesMr. Robert Jones of our department
told me of your concern for piggeries
which could be affected under Senate
Bill 1003 relating to the amortization
of non-conforming uses.On the particular subject of piggeries,
the City Administration and theCity Council are considering the attached
proposed ordinance which would permit
piggeries to be located in areas from
which they are currently prohibited.The attached map shows in red the
areas in which they are permitted
today and the areas in yellow are
the new sections where they could
locate under the special permit provisions
of the proposed ordinance. See
page 4 of the attached proposed ordinance.

Respectfully,

/s/ William E. Wanket

WILLIAM E. WANKET
Acting DirectorWEW:ey
Attach."

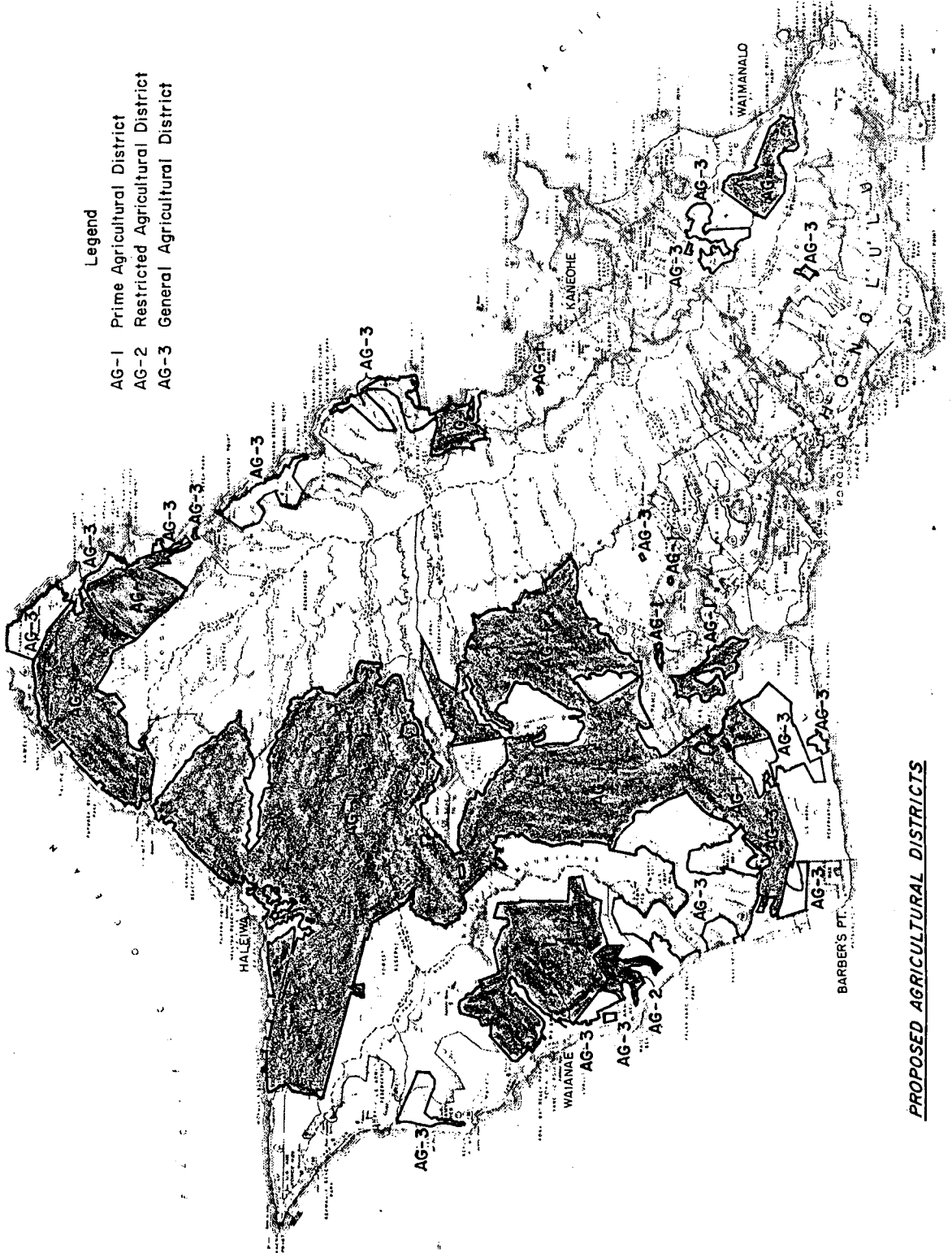
SEE FOLLOWING PAGES FOR MAP

AND PROPOSED CITY AND COUNTY ORDINANCE

ATTACHMENT 1

Legend

- AG-1 Prime Agricultural District
- AG-2 Restricted Agricultural District
- AG-3 General Agricultural District



PROPOSED AGRICULTURAL DISTRICTS

ATTACHMENT 2

ORDINANCE NO. _____

BILL NO. _____ (1978)
(DRAFT No. 1)

A BILL FOR AN ORDINANCE TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1969, AS AMENDED, BY AMENDING VARIOUS SECTIONS RELATING TO AGRICULTURAL USES AND AGRICULTURAL DISTRICTS AND TO RECLASSIFY EXISTING AGRICULTURAL DISTRICTS ACCORDING TO SUCH AMENDED DISTRICTS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION I. Section 21, Revised Ordinances of Honolulu 1969, as amended, is hereby further amended in the following particulars:

A. A new Section 21-292 is added as follows:

Section 21-292. Agricultural Cooperative

- (a) Agricultural Cooperative shall be applicable in any Agricultural District.
- (b) Use Regulations.
 - (1) For the purpose of this Article, Agricultural Cooperative shall mean an area accommodating joint facilities for farming activities by farm cooperatives including the clustering of homes within a larger site to promote economy of services and utilities as well as to promote the most efficient use of the remainder area for agricultural pursuits. The maximum number of dwelling units shall not exceed 2 per 5 acres.
 - (2) Within an Agricultural Cooperative, all principal, accessory, and Special Permit uses and structures permitted within AG-1 Prime Agricultural District and AG-2 Restricted Agricultural District shall be permitted.
- (c) Land Area Requirements. The minimum land area required for an Agricultural Cooperative shall be 10 acres.
- (d) A farming plan for the Agricultural Cooperative shall be submitted.
- (e) Sufficient evidence shall be presented that such Agricultural Cooperative can be economically self-sustaining in an agricultural pursuit including but not limited to estimated gross receipts, soil suitability, and type of agricultural pursuit proposed.
- (f) Dwelling units shall be occupied solely by those pursuing agricultural production within the Agricultural Cooperative.
- (g) Certification shall be submitted that any lessors or buyers will conform with conditions (d), (e), and (f) above.
- (h) Building Height and Setbacks. Building height and setbacks shall be determined by the approved Agricultural Cooperative plan taking into consideration the surrounding land use, and compliance with the intent of the General Plan and other requirements of the underlying zoning district.
- (i) Parking, Loading and Sign Regulations. Parking, loading and sign requirements shall be specified in the approval of the Agricultural Cooperative plan.
- (j) Development Under the Plan. The Director of Land Utilization shall approve final drawings prior to issuance of building permits in accordance with the approved plan.
- (k) Transfer of Rights. Any assignment and/or transfer of any substantial interest in the land parcel designated as an Agricultural Cooperative by resolution shall be subject to the approval and consent of the City Council (except for such assignment and/or transfer to any mortgagee or to any purchaser upon foreclosure). Such approval and consent shall not be unreasonably withheld provided

that the assignee and/or transferee agrees in writing to comply with all the conditions imposed herein.

- B. Article 4, including Sections 21-400 through 21-412, is hereby amended in its entirety to read as follows:

ARTICLE 4. AGRICULTURAL DISTRICTS

A. AG-1 Prime Agricultural District.

Sec. 21-400. Legislative Intent.

The purpose of the AG-1 Prime Agricultural District is to protect and preserve prime agricultural lands for the performance of agricultural functions by permitting only those uses which perpetuate the retention of those lands in the production of food, feed, forage, fiber crops, and horticultural plants.

Sec. 21-401. Use Regulations.

Within an AG-1 Prime Agricultural District, only the following uses and structures shall be permitted:

(a) Principal uses and structures:

- (1) Agricultural, aquacultural, apiary and horticultural uses, including orchards, vineyards, nurseries and the raising and grazing of livestock and other than swine.
- (2) Forests and forestry.

(b) Accessory uses and structures:

Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures, including:

- (1) In connection with the principal use, no more than one roadside stand for sale of products produced on the premises, provided that no such stand shall exceed 500 square feet in floor area nor be erected within 20 feet of the property line fronting any street.

(c) Special Permit uses and structures:

Uses and structures hereinafter specified, subject to compliance with the provisions of parts E and F of Article 2 hereof as applicable to specific uses:

- (1) Extractive industries, including the removal of sand, rock, soil and gravel.
- (2) Public utility transmission and distribution lines and substations to primarily serve agricultural purposes.
- (3) Watersheds, wells, water reservoirs and water control structures.
- (4) The keeping of swine.
- (5) Dwellings not exceeding one for each five acres of lot area provided that:
 1. The occupants of such dwelling shall be full-time employees pursuing agricultural production on that parcel.
 2. Sufficient evidence is presented that such lots can be economically self-sustaining in an agricultural pursuit including but not limited to estimated gross receipts, availability of water, soil suitability, and type of agricultural pursuit proposed.
 3. The recorded owner of the land encompassed by this Special Permit shall be required to file with the Bureau of Conveyances of the State of Hawaii a declaration of the above-mentioned restrictive conditions 1 and 2. A certified copy of the documents issued by the Bureau of Conveyances shall be presented to the Department of Land Utilization as evidence of recordation prior to issuance of the Building Permit.

Sec. 21-402. Minimum Lot Area, Lot Width, Yard Spacing and Maximum Lot Coverage Regulations.

Within an AG-1 Prime Agricultural District, the following shall constitute the lot, yard and open space requirements:

- (a) The minimum lot area shall be no less than 5 acres.
- (b) The minimum lot width shall be not less than 150 feet.
- (c) The minimum front yard setback shall be not less than 15 feet.
- (d) The minimum side and rear yard setbacks shall be not less than 10 feet.
- (e) All front, side and rear yards shall be landscaped or cultivated open space, provided that guy wires, walks, driveways and paved living areas shall be permitted.
- (f) The maximum lot coverage of all residential buildings shall be 2,500 square feet per dwelling.

Sec. 21-403. Height Regulations.

No portion of any building or other structure located within an AG-1 Prime Agricultural District shall exceed 15 feet in height provided that additional height of 2 feet is permitted for every foot of additional setback. Said additional setback shall be a continuous vertical plane from the top of the structure to the 15-foot height limit, provided that residential structures shall not exceed 25 feet above the high point of the ground under the structure.

Sec. 21-404. Sign Regulations.

Within an AG-1 Prime Agricultural District, only one sign, not exceeding 12 square feet in area, shall be permitted on any zoning lot in connection with any use. No sign shall be directly illuminated or mounted closer than 10 feet to the property line fronting a street or be higher than 8 feet above the ground elevation.

Sec. 21-405. Off-Street Parking Requirements.

Within an AG-1 Prime Agricultural District, the following specified uses shall comply with the off-street parking requirements designated therefor:

- (a) Dwellings: 2 spaces per dwelling unit. The requirement for providing and maintaining off-street parking spaces with an all-weather surface as called for by Section 21-204(b) (1) shall not apply. In lieu of an all-weather surface, the off-street parking spaces may be surfaced with crushed rock or limestone.
- (b) Uses permissible under Special Permits shall comply with the off-street parking requirements specified in the Special Permit.

B. AG-2 Restricted Agricultural District.

Sec. 21. Legislative Intent.

The purpose of the AG-2 Restricted Agricultural District is to permit a wider range of agricultural uses than that allowed in the AG-1 Prime Agricultural District. Accordingly, this district should be located away from urban areas and in areas where urbanization is not expected in the foreseeable future.

Sec. 21-411. Use Regulations.

All of the uses and structures permitted in the AG-1 Prime Agricultural District shall be permitted in the AG-2 Restricted Agricultural District. In addition, the raising or keeping of swine shall be permitted as a principal use.

Sec. 21-412. Other Requirements Generally.

All of the other requirements applicable to an AG-1 Prime Agricultural District shall apply within an AG-2 Restricted Agricultural District, except that

the minimum lot area shall not be less than 3 acres.

C. AG-3 General Agricultural District.

Sec. 21-420. Legislative Intent.

The purpose of the AG-3 General Agricultural District is to set aside agricultural lands for the performance of agricultural functions and other uses which would not detract from the agricultural character of the district.

Sec. 21-421. Use Regulations.

Within an AG-3 General Agricultural District, only the following uses and structures shall be permitted:

(a) Principal uses and structures:

- (1) Agricultural, aquacultural, apiary, horticultural uses, including orchards, vineyards, nurseries and the raising and grazing of livestock other than swine.
- (2) Dwellings, one-family detached, provided that such dwellings and any accessory uses appurtenant thereto shall be contained within an area not to exceed 5,000 square feet of the lot.
- (3) Fish hatcheries and fish ponds.
- (4) Forests and forestry.
- (5) Game preserves.
- (6) Public utilities installations and substations, provided that offices or storage or maintenance facilities shall be permitted only as a Special Permit.
- (7) Watersheds, wells, water reservoirs and water control structures.

(b) Accessory uses and structures:

Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures, including:

- (1) In connection with agricultural use, no more than one roadside stand for sale of agricultural products produced on the premises, provided that no such stand shall exceed 500 square feet in floor area nor be erected within 20 feet of the property line fronting any street.

Private utilities, including temporary sewage treatment plants, shall also be permitted as accessory uses, provided such use is approved by the Director of Department of Land Utilization. Private utilities so approved shall be permitted notwithstanding the location on a non-contiguous zoning lot or in another zoning district of the principal use or uses served thereby, and paragraph (1) of the definition of "accessory use" in Section 21-110 shall be inapplicable thereto.

(c) Special Permit uses and structures:

Uses and structures hereinafter specified, subject to compliance with the provisions of parts E and F of Article 2 hereof as applicable to specific uses:

- (1) Airports and heliports.
- (2) Animal hospitals, pounds, shelters, commercial kennels.
- (3) Cemetery, columbarium, crematory, and mausoleum.
- (4) Churches.
- (5) Extractive industries, including the removal of sand, rock, soil and gravel.

- (6) Private golf courses, including par-3 with a minimum area of 10 acres, together with such uses which are incidental to golf courses, provided that such uses shall be designed and scaled to meet only the requirements of the users of the golf courses, and no signs or other indications of such uses shall be visible from any public way.
- (7) Monasteries and convents.
- (8) Private marinas, including facilities for storage and repair of boats and sale of boating supplies and fuel.
- (9) Public structures and uses.
- (10) Private refuse dumps, sanitary fills and incinerators.
- (11) Storage or maintenance installations for public utilities.
- (12) Television or broadcasting line-of-sight relay devices.
- (13) Private recreational camps.
- (14) Private riding academies.
- (15) Facilities for movie and television program production.
- (16) Carnivals, circuses, luaus, and fairs.
- (17) Temporary structures and uses incidental to land development or building construction.

Sec. 21-422. Minimum Lot Area, Lot Width, Yard Spacing and Maximum Lot Coverage Regulations.

Within an AG-3 General Agricultural District, the following shall constitute the lot, yard and open space requirements:

- (a) The minimum lot area shall be not less than 2 acres, provided further that the aforesaid minimum lot area requirement shall not be applicable to lots which were approved or were approved tentatively under the Subdivision Rules and Regulations of the City Planning Commission prior to January 2, 1969.
- (b) The minimum lot width shall be not less than 150 feet.
- (c) The minimum front yard setback shall be not less than 15 feet.
- (d) The minimum side and rear yard setbacks shall be not less than 10 feet.
- (e) All front, side and rear yards shall be landscaped or cultivated open space, provided that guy wires, walks, driveways and paved living areas shall be permitted.
- (f) The maximum lot coverage shall be 50 percent for all buildings and structures situated on a zoning lot except those used for purposes of production of agricultural products shall not be considered for purposes of maximum lot coverage.
- (g) Notwithstanding the requirements set forth in subsections (c) and (d) hereinabove, nonconforming lots which are less than one acre in area shall have the following minimum yard requirements:

Front yard setbacks 10 feet

Side and rear yard setbacks 6 feet

It is further provided that such lots shall be exempt from the requirements of subsection (b) hereinabove.

Sec. 21-423. Height Regulations.

No portion of any building or other structure located within an AG-3

Prime Agricultural District shall exceed 15 feet in height provided that additional height of 2 feet is permitted for every foot of additional setback. Said additional setback shall be a continuous vertical plane from the top of the structure to the 15-foot height limit, provided that residential structures shall not exceed 25 feet above the high point of the ground under the structure.

Sec. 21-424. Sign Regulations.

Within an AG-3 General Agricultural District, only one sign, not exceeding 12 square feet in area, shall be permitted on any zoning lot in connection with any use. No sign shall be directly illuminated or mounted closer than 10 feet to the property line fronting a street or be higher than 8 feet above the ground elevation.

Sec. 21-425. Off-Street Parking Requirements.

Within an AG-3 General Agricultural District, the following specified uses shall comply with the off-street parking requirements designated therefor:

- (a) Animal hospital, pound, shelter, commercial kennel: at least 1 space per 400 square feet of floor space, provided that there shall be provided no less than 4 parking spaces.
- (b) Churches: at least 1 space per 5 seats or bench seating spaces in the main auditorium.
- (c) Dwellings: at least 2 spaces per dwelling unit. The requirement for providing and maintaining off-street parking spaces with an all-weather surface as called for by Section 21-204(a)(4) shall not apply. In lieu of an all-weather surface, the off-street parking spaces may be surfaced with crushed rock or limestone.
- (d) Elementary and intermediate schools: at least 1 space per 15 seats in the main auditorium.
- (e) Golf courses: at least 3 spaces per hole of the main course.
- (f) High school, college or university: at least 1 space per 5 seats in the main auditorium or 5 spaces per classroom, whichever is greater.
- (g) Lodging units: at least 1 space for each lodging unit outside of the District of Honolulu; at least 1 space per 2 lodging units within the District of Honolulu.
- (h) Botanical and zoological gardens: at least 1 space per 10,000 square feet of lot area.

SECTION II. All existing AG-1 Restricted Agricultural zoned land depicted on Exhibits ___ through ___ attached hereto are reclassified to AG-1 Prime Agricultural District.

SECTION III. All other existing AG-1 Restricted Agricultural zoned land is hereby reclassified AG-3 General Agricultural District.

SECTION IV. All AG-2 General Agricultural District zoned land is hereby reclassified AG-2 Restricted Agricultural District.

SECTION V. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Council members

DATE OF INTRODUCTION:

Honolulu, Hawaii

APPROVED AS TO FORM & LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 1978.

FRANK F. FASI, Mayor
City and County of Honolulu"

The motion was put by the Chair and carried, and S.B. No. 1003, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTY ZONING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 551 (S.B. No. 286, S.D. 1):

By unanimous consent, consideration of Stand. Com. Rep. No. 551 and S.B. No. 286, S. D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 552 (S.B. No. 451):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 552 was adopted and S.B. No. 451, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 553 (S.B. No. 494, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 553 was adopted and S.B. No. 494, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE LANDLORD-TENANT CODE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 554 (S.B. No. 665, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried,

Stand. Com. Rep. No. 554 and S.B. No. 665, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVESTIGATORS OF THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING", were recommitted to the Committee on Judiciary.

Standing Committee Report No. 555 (S.B. No. 893, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 555 was adopted and S.B. No. 893, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1043, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1043, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AWARDED OF INTEREST IN CIVIL CASES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1049, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1049, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NOISE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Ajifu, Saiki and Soares). Excused, 1 (Yee).

Senate Bill No. 1284, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1284, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PROBATE CODE AND TRUSTS", having

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

Ayes, 23. Noes, 1 (Abercrombie).
Excused, 1 (Yee).

Standing Committee Report No. 559 (S.B. No. 1324, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 559 was adopted and S.B. No. No. 1324, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie).
Excused, 1 (Yee).

Senate Bill No. 1415:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1415, entitled: "A BILL FOR AN ACT RELATING TO BAIL", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Abercrombie, Cayetano and Chong). Excused, 1 (Yee).

Standing Committee Report No. 561 (S.B. No. 1437, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 561 was adopted and S.B. No. 1437, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOPEDES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie).
Excused, 1 (Yee).

Standing Committee Report No. 562 (S.B. No. 1657, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 562 be adopted and S.B. No. 1657, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Carpenter then declared that he is an employee of C. Brewer and Co., Ltd. and may be in conflict on this measure.

The President announced that Senator Carpenter would be excused from voting on this bill.

The motion was put by the Chair

and carried, and Stand. Com. Rep. No. 562 was adopted and S.B. No. 1657, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SUGAR PRODUCERS CROP LOANS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Kawasaki).
Excused, 2 (Carpenter and Yee).

Senate Bill No. 83, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 83, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII REGULATORY LICENSING REFORM ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie).
Excused, 1 (Yee).

Senate Bill No. 158, S.D. 2:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 158, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Carroll, Cayetano, O'Connor and Soares). Excused, 1 (Yee).

Senate Bill No. 205:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 205, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE", was recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 212, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 212, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXICABS", having been read throughout, passed Third Reading on the following showing

of Ayes and Noes:

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

Senate Bill No. 557:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 557, entitled: "A BILL FOR AN ACT RELATING TO THE VEHICLE INDUSTRY LICENSING ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No.
570 (S.B. No. 581, S.D. 1):

On motion by Senator Cobb, seconded by Senator Chong and carried, Stand. Com. Rep. No. 570 was adopted and S.B. No. 581, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 652, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 652, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR BIKES", was recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 691:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 691, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING BOARD", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 692:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 692, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF MASSAGE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused,

1 (Yee).

Senate Bill No. 694:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 694, entitled: "A BILL FOR AN ACT RELATING TO THE COLLECTION AGENCY BOARD", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 695, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 695, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ELEVATOR MECHANICS LICENSING BOARD", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 696, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 696, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEGREE GRANTING INSTITUTIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 697:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 697, entitled: "A BILL FOR AN ACT RELATING TO THE BOXING COMMISSION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 698:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 698, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII REGULATORY LICENSING REFORM ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 784, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 784, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COSMETOLOGY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (George, Saiki and Takitani). Excused, 1 (Yee).

Senate Bill No. 881, S.D. 1:

By unanimous consent, consideration of S.B. No. 881, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 885:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 885, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 14. Noes, 10 (Ajifu, Anderson, Carroll, George, Hara, Saiki, Soares, Takitani, Toyofuku and Ushijima). Excused, 1 (Yee).

Senate Bill No. 922:

Senator Cobb moved that S.B. No. 922, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Abercrombie then spoke against the measure as follows:

"Mr. President, I'm speaking against the bill, for a very simple reason. This opens up the situation to kick-backs, to extortion, possibly even blackmail.

"I don't see any reason why there is a necessity for this bill. On the contrary, I see a lot of danger with the kind of control that is already existing in the real estate area in the state as a result of money coming from the outside which has little or no regard for individuals here in the State of Hawaii.

"I fear that this will become an opportunity for a kind of splitting of fees for payback system that will now be given a cover by this real estate broker-salesman bill... that a commission will be a mask for favoritism for considerations that might not otherwise be legal. I would not like to give this kind of activity the cloak of legitimacy.

"Mr. President, the intent may be good in the drafting of the bill and in the motivation behind it, but I believe its results will be such that nefarious activity will be encouraged."

The motion was put by the Chair and carried, and S.B. No. 922, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESMEN", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Abercrombie, Carroll and Cayetano). Excused, 1 (Yee).

Senate Bill No. 923:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 923, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE", was recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 924, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 924, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INDUSTRY LICENSING", was recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 946:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 946, entitled: "A BILL FOR AN ACT RELATING TO REGULATION OF MOTOR VEHICLE REPAIRS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1116, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1116, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOXING CONTESTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1188, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1188, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MOTOR VEHICLE ACCIDENT REPARATIONS

ACT", was recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 1278, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1278, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ROOFING CONTRACTOR GUARANTEE BONDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1315:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1315, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1375, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1375, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Senate Bill No. 1428, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1428, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MINIMUM FINANCE CHARGES ON RETAIL INSTALLMENT CONTRACTS", was recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 1435:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1435, entitled: "A BILL FOR AN ACT RELATING TO SPECIFIC POWERS OF INDUSTRIAL LOAN COMPANIES", was recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 1438, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1438, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES",

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

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

Senate Bill No. 1439, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1439, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1440, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1440, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Hara). Excused, 1 (Yee).

At 10:37 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:40 o'clock p.m.

Senate Bill No. 1441, S.D. 1:

By unanimous consent, consideration of S.B. No. 1441, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 597 (S.B. No. 1634, S.D. 2):

Senator Cobb moved that Stand. Com. Rep. No. 597 be adopted and S.B. No. 1634, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator O'Connor then spoke against the bill as follows:

"Mr. President, although I agree with the intent of this bill, the bill has also unfortunately knocked out the provisions as it applies to canned, picked and preserved fruits or foods. Therefore, I'm going to have to vote against it and I just...it's unfortunate, but it's done two things. Thank you."

Senator Soares then inquired if the Chairman of the Committee on Consumer

Protection and Commerce would yield to a question, to which Senator Cobb replied that he would.

Senator Soares then asked how this bill would affect the Portuguese pickled onions and Senator Cobb answered that they would be excluded.

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 597 was adopted and S.B. No. 1634, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII FOOD, DRUG, AND COSMETIC ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (O'Connor).
Excused, 1 (Yee).

Senate Bill No. 1752, S.D. 1:

By unanimous consent, consideration of S.B. No. 1752, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 599 (S.B. No. 1769, S.D. 2):

On motion by Senator Cobb, seconded by Senator Chong and carried, Stand. Com. Rep. No. 599 was adopted and S.B. No. 1769, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SPEECH PATHOLOGISTS AND AUDIOLOGISTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 600 (S.B. No. 1778, S.D. 1):

On motion by Senator Carpenter, seconded by Senator Chong and carried, Stand. Com. Rep. No. 600 and S.B. No. 1778, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REGISTERED NURSES: QUALIFICATION: LICENSES: FEES: TITLE: EXISTING LICENSED NURSES: VERIFICATION OF LICENSES", were recommitted to the Committee on Consumer Protection and Commerce.

Senate Bill No. 168, S.D. 1:

By unanimous consent, consideration of S.B. No. 168, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 273:

Senator O'Connor moved that S.B. No. 273, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Cayetano then spoke against the bill noting that it is his hope that this measure will "die" in the House of Representatives.

The motion was put by the Chair and carried, and S.B. No. 273, entitled: "A BILL FOR AN ACT RELATING TO USE OF FORCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Abercrombie, Cayetano and Chong). Excused, 1 (Yee).

Senate Bill No. 182, S.D. 1:

Senator O'Connor moved that S.B. No. 182, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Abercrombie spoke against the measure as follows:

"Mr. President, my reason for speaking against the bill is that we are moving more and more into the area of mandatory sentencing provisions and less and less from an area, which I thought we want to take a more enlightened view as to what should be the direction of our jurisprudence and penology, less and less in the area of discretion on the part of judges.

"From my somewhat brief experience in the criminal courts, sometime back, it was apparent to me virtually from the first day that I appeared in court, where sentencing was to take place, that it was absolutely vital that the judge have as much discretion as possible so that he or she might direct attention to the dynamics of the case that was before the court.

"We do not, in my judgment, alter one wit, the circumstances which bring people into the criminal courts, by virtue of imposing mandatory sentencing. The only circumstance in which I believe an indication of mandatory sentencing or its equivalent would have any effect is in the area of firearms, that is to say, the utilization of a gun and a commission of an offense--a criminal offense. Other than that...and I realize that that may be involved in some of these felony situations...other than that, to extend mandatory sentencing provisions as a philosophy, regardless of whether it is manifested in any particular bill, is to take away from the judge, the kind of discretion that is necessary in order that our system of justice distinguish itself from others throughout the world, on the grounds that it treats each individual as an

individual and each case as an individual case within the context of the value system that we espouse as Americans.

"There seems to have been a penchant recently for trying to solve our problems as they relate to criminal activity in our social structure by mandatory sentencing. The end result, at least to some degree, has been increased tension in the prisons, an increased cost to the state, in terms of the kind of custodial care that is necessary for prisoners put in under the circumstances of mandatory sentencing and a diminishing of the role of the judge.

"Inevitably, Mr. President, when you diminish the role of the judge in this area, you diminish the caliber of the judges. There is no incentive, if you will, to place good judges on the bench when the society is indicating ahead of time that it does not trust the judges' discretion; that the judges' intelligence, the judges' willingness and ability to judge the individual circumstance in the interest of society, is not a requirement for being placed in that judgeship. This is regardless of whether we appoint judges or whether we elect judges or whether we have judges on the bench by some intermediate means.

"It seems to me that, if we go this route to its logical extension, carry it out to the logical end, that we will remove completely from judges, their ability and capacity to direct their attention to the individual case. If we do so, we have entered into a situation which I believe will have political repercussions, political repercussions, in this sense, that we will be treating all people as if they were other class; all people as if their motivations were all the same; all people as if the premises upon which a judgement is to be made can be seen in a singular case, in a singular sense. This simply is not true.

"I don't care if it's a case of murder on down to traffic tickets. This is not true.

"Spending a single day in a criminal courtroom will convince even the most casual observer that this is not true. This violates, from my perspective, the most fundamental premise of the American jurisprudence system...that we treat each other as individuals and that no matter how difficult it is, to see this as a necessity.

"Mr. President, it is precisely at the time that it is most difficult

that we must stand fast to that kind of principle. Precisely at those times when the emotions run the highest when one is most likely to cry out for a kind of vengeance that goes across the board regardless of the individuals before the bar. It's precisely that time that we must draw back and reaffirm our commitment to justice in terms of the individual in the United States of America.

"The alternative I fear is a gradual slide into a form of American fascism. The kind of fascism that is now practiced in the Soviet Union. You can see by the most cursory introduction to an examination of how the legal system has gradually evolved with increasing severity in the Soviet Union in the last decade, the last fifteen years rather, that the criminal courts are now being utilized to punish political crime and that no differentiation is made among the people who appear before the courts there.

"This has been done of course in the past in other societies and is done now, throughout the world in one society after another, which posits a view that the individual does not count in front of the bar.

"The Soviet Union has a constitution, Mr. President, which not only parallels that of the United States in terms of its recognition on paper of individual rights, but in some instances could be said to exceed it. And yet in practice, because of the lockstep methods by which people are dealt with, the sense of the individual humanity that is before the bar in the Soviet Union disappears.

"I maintain to you, Mr. President, and to the members here, that mandatory sentencing is a step in the direction of a kind of American fascism that will be defined by us as freedom-- freedom from fear, freedom from the criminal elements, and in the process, we will destroy the very elements that make the American jurisprudence system stand above all others in terms of its fairness. Thank you."

Senator Anderson then spoke in favor of the measure as follows:

"Mr. President, I'd like to speak in favor of this bill. You're talking about, Mr. President, requiring a mandatory sentence for murder, kidnapping, assault in the first degree, rape, robbery, etc. and on and on and on.

"I think the public has become pretty much fed up with the process. I think the public is pretty much fed up with the courts and the judges and the politicians.

"I think the fear of being able to leave your home at night for fear of being robbed or raped or murdered, is paramount in this town like never before. I think the time has come, while it may be an over-reaction, to pass this kind of legislation.

"I think the criminal element that you find in Oahu Prison, the repeaters and habituals, in tremendous percent, are the people that are in that institution.

"We have tried rehabilitation over the years. We have spent thousands and hundreds of thousands of dollars trying to rehabilitate these people, to try to give them this so-called first, second, third, fourth, fifth and sixth chance to rehabilitate, all to no avail.

"I think the time has come to demonstrate to this element that enough is enough. I think the time has come to show them that a mandatory sentence is what they can expect if they're going to continually prey on the public and the people of our state and I think it's time to crack down on them, Mr. President.

"I think this concern for fellow man is legitimate in some areas, but to this element of society, who thinks nothing of being arrested anymore, because they know they're going to be back on the streets tomorrow or the next day or before the policeman has really typed out his report, has gotten our criminal courts and our criminal justice into a rather comical situation.

"This bill should have passed last year or the year before. It's just too bad that we can't amend it to, once we lock them up, we throw the key away."

Senator Abercrombie responded as follows:

"Mr. President, this is by way of rebuttal. If you will notice in the offenses here, we are relating, promoting a dangerous drug in the first degree, dangerous drug in the second degree, relating promoting of a harmful drug in the first degree. I can assure you that there is a great deal of difference between someone who has found himself in that circumstance, committing a second offense of some kind, than someone who is a murderer or rapist, burglar and so on. The fact of the matter is, if we were to arrest the people who were doing that, I suspect that the sons and daughters of some of the people in this room would

be eligible for this mandatory sentencing.

"I recall very well when I first dealt with this issue, being berated by a member of the Board of Supervisors in the County of Marin, for what he termed a scare situation by speaking about this that the sons and daughters of people, perhaps even as high as the officials of the County of Marin in California, might be involved in this and would therefore be considered criminals. And I found it interesting that six months later, this particular individual's son was arrested for precisely the circumstance that I outline.

"Mr. President, that did not give me any joy--quite the contrary. It affirmed what I thought to be a rather foolish attitude on the part of society which had consequences that went far beyond the necessities of defending the public against criminal activity. I want to indicate as well that if I thought for a moment that the imposition of mandatory sentencing would do anything about some of the other categories, I would most certainly have to change my opinion. But nothing which was said by the previous speaker, addressed itself in the least, to mandatory sentencing having anything to do with the prevention of these crimes.

"I do not think the people would walk the streets any safer tonight, nor whether the public is fed up or not, that appealing to what might be popular in terms of mandatory sentencing, will do the slightest bit to alter the circumstances."

Senator Carroll then spoke in favor of the measure as follows:

"Mr. President, it is indeed a popular thing to do today to vote for this type of a measure and I suppose it will sound smug for us to say that many of us here on this particular side of the aisle have been introducing and hoping that this type of measure would come to pass from as long ago as 1966 and 1968. It think that it's a mark of success in a way that the message has finally gotten home to where it's going to do some good.

"With respect to the comments of my learned colleague from Manoa, having to do with the promotion of drugs, I think it's very clear and I think that even he will agree with me, when we think back over the impact that drug users had in our community. When we go to Hahione, when we go to Waimano Home, when we go to the Koolau Home, when we go to the Oahu Prison and even when we go to our high schools and when we do see the impact

on some of our own children and we see the devastating effects of drugs, I believe, Mr. President, that the impact of that particular crime is just as bad, if not worse, than burglary and arson and some of the other types of property crimes which are very readily accepted under this law. I think this bill is long overdue and I urge that we all vote 'aye'."

Senator O'Connor then stated as follows:

"Mr. President, just to clarify what this bill is all about, I would like to state that this bill amends a bill which was passed two years ago for minimum mandatory sentencing.

"This bill straightens out a situation that existed in the prior law where the minimum mandatory sentence would only apply where exactly the same crime was committed again. This bill imposes a sentence, if one of these heinous felonies where bodily injury is involved is committed after the person becomes a felon and has been found guilty and convicted of a class A or class B felony, making the law easier to work with.

"So, Mr. President, we have this law on the books. This bill is put forth in order to clarify an existing law on mandatory minimum sentencing."

The motion was put by the Chair and carried, and S.B. No. 182, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Senate Bill No. 1241:

Senator O'Connor moved that S.B. No. 1241, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Ushijima then spoke against the measure as follows:

"Mr. President, I signed the committee report on this bill free and clear. Now I'm going to vote against this bill and I want to explain my reasons for voting 'no'.

"When this bill was considered in the Judiciary Committee, I asked one question and that was the cost implications on this particular bill. At that time, no one could answer it. In the meantime, I found out that there are cost implications

and that the workload for the Attorney General's office will increase significantly and I just want to point out to this Body that by legislation this is the way that we increase costs.

"I think that insofar as making the State the defendant in all action to quiet titles, we have been living it without the necessity up to this point. I don't see any necessity for doing it now--except to increase costs."

The motion was put by the Chair and carried, and S.B. No. 1241, entitled: "A BILL FOR AN ACT RELATING TO QUIETING TITLE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Cayetano and Ushijima). Excused, 1 (Yee).

Senate Bill No. 1238, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1238, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL TORTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1339:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1339, entitled: "A BILL FOR AN ACT RELATING TO THE LIMITATION OF ACTION FOR DAMAGES BASED ON CONSTRUCTION TO IMPROVE REAL PROPERTY", was recommitted to the Committee on Judiciary.

Senate Bill No. 1510, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1510, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SECURITY GUARDS", was recommitted to the Committee on Judiciary.

Senate Bill No. 1680, S.D. 1:

Senator O'Connor moved that S.B. No. 1680, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Campbell then spoke in favor of the measure as follows:

"Mr. President, I rise to speak in favor of this bill. The purpose of the bill is to strengthen the Crime Commission which was deputized to fight crime

in this state.

"Mr. President, I wouldn't take up the time of this Body to simply state my support for the bill if it were not for the fact that the opportunity to sign the committee report somewhat escaped me and I want to urge my colleagues to support the measure. Thank you."

Senator Soares then inquired if the Chairman of the Committee on Judiciary would yield to a question, to which Senator O'Connor replied that he would.

Senator Soares then proceeded, "Mr. President, I am not a member of the Committee on Judiciary but I recall that during last year's testimony before the Ways and Means Committee regarding the Crime Commission, a number of statements were made by the Police Department relative to the immunity being asked for by the Commissioner's staff and employees that was not accorded or not the privilege of the Police Department. I wonder if that still prevails in this bill--whether the police department members of the enforcement bureau are immune to civil penalty or civil cases or not."

Senator O'Connor answered, "Mr. President, the Police Department has a certain type of privilege which attaches to each of the members if they act within the scope and purview of their office. They then are privileged from civil actions in those particular actions.

"If you will notice the words which are used in this civil immunity section, we tried to track existing Supreme Court law in the State of Hawaii. We only gave the Commission members and the staff and employees civil immunity except where done or made with actual malice... actual malices where someone intentionally or maliciously takes an act which impairs or injures another individual.

"This same kind of privilege would attach to an ethics commission, a disciplinary commission for the bar and other commissions in the community by action of law, and since this is a statutory immunity, we extended the same type of immunity to the Commission members."

Senator Soares then continued, "Mr. President, the second question I might ask of the Chairman, and that is that also on the discussion of this bill during the last session in the Ways and Means Committee... the apprehension that probably the various police departments was the requirement or the need to provide information to the Commission on cases

that were being worked on in exclusive confidence, you might call it, by the departments, and the Commission would then have the right or the privilege to step into that case or investigation and ask for information from the department that they felt to be very confidential and very delicate at the time. I'm wondering whether that question was also raised this year in committee by the Police Department."

Senator O'Connor replied, "The question was raised and answered by the Chairman of the Crime Commission to the extent that such request for information would not be made, and that, in fact, there still exists a diversion between the police and the Commission on this particular point.

"The matter was included in the bill this time with a clear understanding that there will be an attempt made by the Commission not to tread in the areas where the police were acting. However, if such be the case in the future, this certainly can be changed."

Senator Soares queried further, "Mr. President, did the various county police departments testify in favor of this bill?"

Senator O'Connor answered, "Mr. President, they testified against it, particularly in the immunity area, which caused us to change the immunity area that fit the testimony given by the police."

The motion was put by the Chair and carried, and S.B. No. 1680, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A CRIME COMMISSION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Abercrombie, Soares and Yamasaki). Excused, 1 (Yee).

Standing Committee Report No. 609 (S.B. No. 1702, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 609 was adopted and S.B. No. 1702, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HORIZONTAL PROPERTY REGIMES: QUIET TITLE ACTIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 610

(S.B. No. 889, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 610 was adopted and S.B. No. 889, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STANDARD FORM FIRE INSURANCE POLICY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1184:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1184, entitled: "A BILL FOR AN ACT RELATING TO STATE COURT RECEIVER-SHIPS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1191:

Senator O'Connor moved that S.B. No. 1191, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Abercrombie stated that he was voting against the measure as "this will open the door to union-busting."

The motion was put by the Chair and carried, and S.B. No. 1191, entitled: "A BILL FOR AN ACT RELATING TO ARRESTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Standing Committee Report No. 613 (S.B. No. 1539, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 613 was adopted and S.B. No. 1539, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXCEPTION TO LIABILITY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Cayetano). Excused, 1 (Yee).

Senate Bill No. 1650, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1650, S.D. 1, entitled: "A BILL

FOR AN ACT RELATING TO CONSOLIDATION AND MERGER OF CORPORATIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 615 (S.B. No. 32, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 615 was adopted and S.B. No. 32, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DOMICILIARY CARE (CONSTITUTIONAL AMENDMENTS OF ARTICLE IX, SECTION 2)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 616 (S.B. No. 446, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 616 was adopted and S.B. No. 446, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MINORS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Ajifu, Hara and Soares). Excused, 1 (Yee).

Senate Bill No. 919, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 919, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Standing Committee Report No. 618 (S.B. No. 1333, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 618 was adopted and S.B. No. 1333, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIER SAFETY LAW", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Hara). Excused, 1 (Yee).

Senate Bill No. 1161, S.D. 1:

By unanimous consent, consideration of S.B. No. 1161, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 390, S.D. 1:

By unanimous consent, consideration of S.B. No. 390, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 522, S.D. 1:

By unanimous consent, consideration of S.B. No. 522, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 622 (S.B. No. 664, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 622 was adopted and S.B. No. 664, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ASSIGNMENT OF WAGES FOR CHILD SUPPORT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 623 (S.B. No. 891):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 623 and S.B. No. 891, entitled: "A BILL FOR AN ACT RELATING TO ARSON INVESTIGATION", were recommitted to the Committee on Judiciary.

Senate Bill No. 1042, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1042, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COURT COSTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1169, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1169, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF VEHICLES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Senate Bill No. 1218, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1218, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS", was recommitted to the Committee on Judiciary.

Standing Committee Report No. 627 (S.B. No. 1282):

By unanimous consent, consideration of Stand. Com. Rep. No. 627 and S.B. No. 1282 was deferred to the end of the calendar.

Standing Committee Report No. 628 (S.B. No. 1591):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 628 was adopted and S.B. No. 1591, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL QUALITY COMMISSION AND ENVIRONMENTAL IMPACT STATEMENTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 629 (S.B. No. 632):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 629 was adopted and S.B. No. 632, entitled: "A BILL FOR AN ACT RELATING TO ADULT THEATERS, BOOKSTORES, AND CABARETS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Abercrombie, Ajifu, Chong and Soares). Excused, 1 (Yee).

Senate Bill No. 1323, S.D. 2:

Senator O'Connor moved that S.B. No. 1323, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Chong then spoke against the bill as follows:

"Mr. President, I'd just like to repeat what I said when this bill came up earlier in the session. We're dealing with a very serious issue here, and by watering down existing statutes which protected the plug from being pulled, I think that we may be making a serious mistake."

The motion was put by the Chair and carried, and S.B. No. 1323, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF DEATH", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Chong). Excused, 1 (Yee).

Senate Bill No. 1328, S.D. 1:

Senator Chong moved that S.B. No. 1328, S.D. 1, be recommitted to the Committee on Public Utilities, seconded by Senator Mizuguchi.

Senator Chong then stated as follows:

"Mr. President, the intent of this administration bill is to nudge the motor carrier industry of Hawaii towards a free enterprise, free competition model. I believe that most of us agree with this intent because we believe that government should not intrude into the lives of our people where this is not warranted. That is why your Committee moved this bill to the floor for full consideration of the Senate.

"However, over the past three days several serious concerns and questions were raised that require further inquiry. I feel that these serious concerns should be looked at and I request that this administration bill be recommitted so that your Committee on Public Utilities can examine them during the interim."

The motion was put by the Chair and carried, and S.B. No. 1328, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS", was recommitted to the Committee on Public Utilities.

Senate Bill No. 1516, S.D. 1:

By unanimous consent, consideration of S.B. No. 1516, S.D. 1, was deferred to the end of the session.

Senate Bill No. 1737, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 1737, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie). Excused, 1 (Yee).

Senate Bill No. 3, S.D. 2:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried,

S.B. No. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS AND AUTHORIZING THE ISSUANCE OF BONDS", was recommitted to the Committee on Ways and Means.

MATTER DEFERRED FROM
THE MORNING SESSION

Senate Bill No. 1400, S.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, S.B. No. 1400, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION", was recommitted to the Committee on Human Resources.

At 11:17 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:27 o'clock p.m.

MATTERS DEFERRED FROM
EARLIER IN THE CALENDAR

Standing Committee Report No. 503
(S.B. No. 1292, S.D. 1):

Senator Cayetano moved that Stand. Com. Rep. No. 503 be adopted and S.B. No. 1292, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Abercrombie then spoke against the measure as follows:

"Mr. President, I oppose this because I think it is unconstitutional in line with my previous conversation on the floor. I believe I should vote against it. The unconstitutionality revolves around disallowing me to receive a contribution over \$2,000."

Senator Carroll then spoke in opposition to the measure as follows:

"Mr. President, I rise also to speak against it. There is an income tax check-off method here which will provide initially a fund for this.

"In addition to that method, there is also a provision for public funding from the public coffers for these campaigns. I realize that the language of the Standing Committee Report says that we will clean it up elsewhere and do more with it and it will be a vehicle and so on and so forth; but, Mr. President, it's my belief that what goes out of the floor of this Senate should be in a finished format.

"As far as I'm concerned, there's nothing in the mandate of the Constitutional Convention that says that anybody

has to pay for my or anybody else's campaign. And if people want to voluntarily contribute and create a public fund for public financing, that's fine, but I certainly am not going to vote for this measure and I urge that all others do likewise."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 503 was adopted and S.B. No. 1292, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUFFRAGE AND ELECTIONS (CONSTITUTIONAL AMENDMENTS OF ARTICLE II, SECTIONS 5 AND 6)", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 5 (Abercrombie, Ajifu, Anderson, Carroll and Kawasaki). Excused, 2 (Yee and Young).

Standing Committee Report No. 504 (S.B. No. 1611, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 504 was adopted and S.B. No. 1611, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PREMARITAL EXAMINATIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Soares). Excused, 2 (Yee and Young).

Senate Bill No. 1494, S.D. 1:

Senator Yim moved that S.B. No. 1494, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Carpenter.

Senator Mizuguchi then spoke in favor of the bill as follows:

"Mr. President, the purpose of this bill is to provide added protection for remaining conservation land. I believe that there is a vital need to protect land classified as conservation land from further encroachments.

"Since lands were originally placed within the conservation district for specific reasons including watersheds, parks, scenic, historical or archaeological sites, wilderness, beach reserves, the conservation of natural eco-systems, endemic flora and fauna and open space, their removal from the conservation district may result in a loss of important values to the State.

"This bill will require the demonstration of a compelling reason by the petitioner before the Land Use Commission grants a petition to reclassify lands classified

as conservation land. This will ensure that reclassification of conservation land will be permitted only for the exceptional case.

"In 1975, we adopted guidance policies or guidelines to guide the Land Use Commission in acting on petitions for reclassification (HRS 205-16.1). One of the guidelines stated that 'insofar as practicable conservation lands shall not be reclassified as urban lands' (HRS 205-16.1(7)). Yet conservation land has been reclassified, even as urban land. However, there is already ample land classified as urban that is not being utilized or that is under-utilized. Thus, the amount of land classified as conservation has dwindled while the amount of urban land has increased.

"There is adequate land already classified as urban on all the islands of Hawaii for the full development of the urban uses forecast for the next twenty years without taking conservation land for that purpose. Thus, this interim guideline has not provided adequate guidance to the Land Use Commission, when considered in light of the need to preserve what conservation land remains. This bill will take positive steps to further protect conservation land.

"In addition, this bill will require recommendations in conservation cases from the Department of Land and Natural Resources and the County Board of Water Supply in order to insure that the Land Use Commission may adequately evaluate if there will be significant adverse effects upon the environment, endemic flora and fauna, forest reserves, watershed areas, water supply or other resources of the area. It will aid the Land Use Commission in its decision-making to receive more direct input from these two important agencies.

"I urge you to vote in favor of this bill."

The motion was put by the Chair and carried, and S.B. No. 1494, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION LAND", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Soares). Excused, 2 (Yee and Young).

Senate Bill No. 247, S.D. 1:

Senator Carpenter moved that S.B. No. 247, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Kawasaki then stated as follows:

"Mr. President, I am voting 'no' for this because I'm a little concerned about reducing the indemnity fund from five to three million dollars.

"I understand from staff of the Department of Regulatory Agencies that there is one suit pending in court today that involves about a million dollars. Supposing we had about three of this kind of suits involving these sums of money, it would completely deplete the fund of three million dollars.

"It just seems odd to me that a profession that's supposed to be the highest paying profession in contemporary society today, with about twelve hundred physicians in the profession, that they could not raise a fund of five million dollars for their insurance requirements.

"I am just concerned about the inadequateness of the three million dollar figure. If we have a whole rash of suits involving large sums of money, it would just be completely depleted. For that reason, I am voting 'no'."

The motion was put by the Chair and carried, and S.B. No. 247, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIANS COOPERATIVE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Kawasaki).
Excused, 1 (Yee).

Senate Bill No. 1535, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Campbell and carried, S.B. No. 1535, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ESTABLISHMENT OF AN EMERGENCY MEDICAL TRAINING SERVICES' LIST", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 608, S.D. 1:

On motion by Senator Campbell, seconded by Senator Young and carried, S.B. No. 608, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPULSORY ATTENDANCE OF SCHOOL CHILDREN", was recommitted to the Committee on Education.

Senate Bill No. 610:

On motion by Senator Campbell,

seconded by Senator Young and carried, S.B. No. 610, entitled: "A BILL FOR AN ACT RELATING TO THE STATE LIBRARIAN", was recommitted to the Committee on Education.

Standing Committee Report No. 546 (S.B. No. 1492, S.D. 2):

Senator O'Connor moved that Stand. Com. Rep. No. 546 be adopted and S.B. No. 1492, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Ushijima then asked for a ruling of the Chair on a possible conflict of interest as he is associated with a life insurance company.

The President announced that there was no conflict and Senator Ushijima was allowed to vote.

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 546 was adopted and S.B. No. 1492, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII INSURANCE LAW", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Abercrombie).
Excused, 1 (Yee).

At 11:37 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:40 o'clock p.m.

Senate Bill No. 849, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, S.B. No. 849, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAX ON GAINS FROM THE SALE OR EXCHANGE OF REAL PROPERTY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Ajifu, Anderson, Carroll, George, Kawasaki and Saiki).
Excused, 1 (Yee).

Standing Committee Report No. 551 (S.B. No. 286, S.D. 1):

Senator O'Connor moved that Stand. Com. Rep. No. 551 be adopted and S.B. No. 286, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Kawasaki then spoke against the measure as follows:

"Mr. President, I am voting 'no' for this bill because I think this is too much of an incursion on a citizen's right to work for whomever he pleases and to work for whatever wages he wants to. To require a government worker to have to work at 'prevailing wages', may be, I think, incurring a hardship many times.

"I think there are extenuating circumstances by which a government worker would like to work on an outside job, at wages not prevailing. I think this is just another step in the direction of our government edict, thus controlling a life of a citizen in this state.

"As I said, Mr. President, I think this is too much of an incursion on a citizen's right and for that reason I will vote 'no' for this bill."

Senator Carroll then spoke against the measure as follows:

"Mr. President, I'd like to have the learned Senator's remarks adopted by reference and made as my own and I believe, in addition, that we have no business interfering with what somebody does with their time."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 551 was adopted and S.B. No. 286, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OUTSIDE EMPLOYMENT FOR PUBLIC EMPLOYEES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 14. Noes, 10 (Ajifu, Anderson, Campbell, Carroll, Chong, Cobb, George, Kawasaki, Saiki and Soares). Excused, 1 (Yee).

Senate Bill No. 881, S.D. 1:

Senator Cobb moved that S.B. No. 881, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Cayetano then spoke in opposition to the measure as follows:

"Mr. President, the reason I am opposing this bill is that the amendment to the bill states that 'any person who', and the amendment is 'wilfully violates or omits to comply with any of the provisions of this chapter shall be fined not more than \$5,000 and his license may be revoked.'

"My understanding of the present law is that a violation may be either wilfully or by negligence, and this bill would amend the law to mandate that a violation could only be one that

is wilfully done and not negligently done. I don't think that is correct."

The motion was put by the Chair and carried, and S.B. No. 881, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Abercrombie, Ajifu and Cayetano). Excused, 1 (Yee).

Senate Bill No. 1441, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 1441, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1752, S.D. 1:

Senator Cobb moved that S.B. No. 1752, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Carroll then spoke against the measure as follows:

"Mr. President, only one state has a law similar to this one and that is Colorado and that law does not take effect, apparently until 1981.

"I signed the committee report free and clear and I had intended to vote in favor of it, but as I examine my conscience and this bill, I think that rather than enhancing or benefiting our students who are in the very difficult field of accounting, that rather we are penalizing them. I therefore urge that we vote 'no' on this measure."

Senator Soares then asked if the Chairman of the Committee on Consumer Protection and Commerce would yield to a question, to which Senator Cobb replied in the affirmative.

Senator Soares then asked why the committee report indicates that an applicant may take the exam if he expects to complete the minimum educational requirements within 120 days of the exam, and yet the provision is not reflected in the bill.

Senator Cobb then stated that the bill originally intended to have the 120-day provision but that the Committee amended it to allow a student two years to take that examination and to get the

thirty additional hours, and directed the attention to page 4, lines 16 to 18 of the bill.

Senator Cobb then explained further, "Mr. President, the question has been raised concerning the technicality of the 120 days and the bracketing from that. We'll address the problem to the House of Representatives in terms of removing the bracketing item and allowing the discretion for the students particularly from the neighbor islands, to take it and I'll so inform the members of the House committee on that. It was not reflected in the committee report."

At 11:47 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:50 o'clock p.m.

The motion was put by the Chair and carried, and S.B. No. 1752, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Carroll and Yamasaki). Excused, 1 (Yee).

RECONSIDERATION OF ACTION TAKEN EARLIER

Senate Bill No. 881, S.D. 1:

Senator O'Connor moved that the Senate reconsider its action taken earlier on S.B. No. 881, S.D. 1, seconded by Senator Cayetano.

Senator O'Connor stated, "Mr. President, the reason I made the motion to reconsider the action on this bill is that, if the bill passes as is, with the word 'wilful' in it, there will be no penalty section in this chapter for any of the other offenses which are not necessarily wilful."

The motion was put by the Chair and carried.

On motion by Senator Cobb, seconded by Senator Chong and carried, S.B. No. 881, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS", was recommitted to the Committee on Consumer Protection and Commerce.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

Senate Bill No. 168, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B.

No. 168, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GRAND JURY PROCEEDINGS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 1161, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 1161, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ATTORNEYS' FEES AND COSTS AND EXPENSES OF LITIGATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 390, S.D. 1:

Senator O'Connor moved that S.B. No. 390, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Ushijima then remarked as follows:

"Mr. President, I just want to explain my 'I do not concur' signature on this committee report.

"First of all, I believe that the committee report does not clarify the question as to whether this bill meets the constitutional test of one man, one vote, and I believe that it does not. This is the reason why I have signed, 'I do not concur'.

"Also, looking very closely at the bill, I believe that the title is defective, because it refers to Articles II, III and VII of the Constitution and the bill amends only Article II.

"Section 1 of the bill is defective, I believe also, because it states that the purpose of the bill is to propose amendments to Articles II, III and VII, whereas the bill only amends Article II.

"I don't know what weight that would have, but I'm just pointing these things out and for these reasons I am voting 'no' against this particular bill."

Senator Ajifu then rose on a point of personal privilege and stated as follows:

"Mr. President, my support for the initiative process has always been well known among my fellow legislators and in the community. To my knowledge, I have never given reason for there

to be any doubt of this support.

"I have been aggrieved, however, by certain unfair tactics practiced to discredit me in the community by two organizations that I ordinarily would have high regard for.

"During the past few days, representatives of these organizations--the League of Women Voters and Common Cause-- have called me to task because they believed I was opposed to this bill, which would begin the initiative mechanism for our state.

"They made the mistake of jumping to conclusions about my position on this issue, and then directing a telephone campaign against me based on this erroneous information.

"Maybe it's not the first time anyone has ever made a mistake, but because these two organizations have such wide community influence and because they use a telephone campaign technique very successfully, I find it inexcusable that they proceeded to spread false rumors about my position on this issue.

"Especially disturbing was the fact that many of the members who were directed to call me are my constituents.

"All this damage to my reputation has been done, and all based on misinformation. It seems that it would have been better all around for their reputations and for mine if they had taken a few minutes to check with me first-hand and find out my feelings on the matter.

"I think it is incumbent upon such citizen groups as the League of Women Voters and Common Cause to be ever more careful of their information and to be wary of sources who may be misstating the facts... particularly if they intend to direct any kind of large-scale lobbying effort at an individual or group of elected officials.

"We need greater vigilance on the part of citizen groups, and I wholeheartedly support the intentions of these volunteers who seek to bring about improvements in the government process.

"While I give both these organizations a lot of credit for the hard work they have done in the past, I cannot condone this kind of practice on their part.

"I hope they will realize how this damages their own credibility and the causes they so strongly support, and that in the future, they will use greater care in confirming vital information before dispensing it to others.

"Thank you."

The motion was put by the Chair and carried, and S.B. No. 390, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLES II, III, AND XVII OF THE CONSTITUTION OF THE STATE OF HAWAII TO PROVIDE FOR THE INITIATIVE", having been read throughout, passed Third Reading by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hara, Takitani, Toyofuku, Ushijima and Yamasaki). Excused, 1 (Yee).

Senate Bill No. 522, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried S.B. No. 522, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Cayetano). Excused, 1 (Yee).

Standing Committee Report No. 627 (S.B. No. 1282):

Senator O'Connor moved that Stand. Com. Rep. No. 627 be adopted and S.B. No. 1282, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Abercrombie then stated as follows:

"Mr. President, hesitant to do so, I must rise and speak against this. I think that we're reaching some new height in legislative activity when we want to move in a situation where people may very well have a different idea as to what constitutes a legitimate claim in an unemployment case and start talking about felonies.

"Maybe the people who are willing to vote for the measure don't picture the time when they might ever find themselves in the unemployment line, trying to explain themselves to someone or feeling that they have told the truth, when in fact, someone else views the matter in a different way and accuses them of making false information... to put a felonious category in the area of unemployment insurance, seems to me to be a travesty."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 627 was adopted and S.B. No. 1282,

entitled: "A BILL FOR AN ACT RELATING TO PENALTIES FOR FALSE STATEMENTS AND REPRESENTATIONS IN REGARD TO UNEMPLOYMENT COMPENSATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Abercrombie, Cayetano, Kawasaki and Yamasaki). Excused, 1 (Yee).

Senate Bill No. 1516, S.D. 1:

Senator Cobb moved that S.B. No. 1516, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Carroll then spoke in opposition to the measure as follows:

"Mr. President, I have really quite a lot to say, but I can't get it in and still allow the bill to pass. What I will say is that the committee work on this bill is not done and that what we're sending to the House is nothing that I feel that any of us can put our names on with pride.

"There are all kinds of problems with the bill--legal problems, definition problems. We're not taking care of the problems that we should be looking down the road to see. I'm quite certain that this matter is not going to be cleaned up in conference. I think that the passage of this measure is probably the best argument I've ever heard, and I've always opposed a unicameral legislature and I hope we all vote 'no'."

Senator Cobb then requested that the following letter be entered into the Journal regarding S.B. No. 1516, S.D. 1:

"HAWAII COUNCIL OF ASSOCIATIONS OF APARTMENT OWNERS
A non-profit organization
P.O.Box 22817
Honolulu, Hawaii 96822

March 8, 1979

Mr. Russell Blair, Chairman
House Committee on Consumer Protection
and Commerce
State Capitol
Honolulu, Hawaii 96813

RE: Time Sharing Legislation

Dear Mr. Blair:

We are very much concerned about the need for some legislation to be

passed this session to restrict the selling of individual apartments on a time-sharing basis. We are, therefore, very pleased to learn that Senate Bill 1516 is progressing and may be suitable as a vehicle for passage of the law in this session.

However, if it is not possible to get this Bill or any of the House Bills passed, it will create a period of risk for many of our Council members. In the absence of any law, we understand it is possible for individual apartment owners to sell their apartments on a time-sharing basis.

We therefore, urge that should there be difficulty in getting some time-sharing legislation in this session, that a stop-gap measure be taken to pass a law which would restrict the sale on a time-sharing basis of apartments in existing condominiums without some appropriate approval e.g., approval of the Board of Directors.

Should you have any questions, please call me at 531-1684. Thank you for your consideration.

Very truly yours,

/s/ William G. Van Allen

William G. Van Allen
Vice President

WGVA/njt

cc: Messrs.
Gus Kirkpatrick,
Aaron M. Chaney, Inc.
Brian Thomas, P.O. Box 3727
Richard Hagstrom, VP, Bank of Hawaii
Mitsuo Shito, Chairman, House Committee
on Housing
Dennis Yamada, Chairman, House Committee
on Judiciary
Wright Hiatt, President, HCAAO"

The motion was put by the Chair and carried, and S.B. No. 1516, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Abercrombie, Carroll, Cayetano, Kawasaki, Toyofuku and Ushijima). Excused, 1 (Yee).

ADJOURNMENT

At 11:59 o'clock p.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, March 15, 1979.