

FIFTY-EIGHTH DAY

Wednesday, April 18, 1979

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

The Divine Blessing was invoked by Reverend Masanori Ogasawara, Higashi Hongwanji, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Fifty-Seventh Day.

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

Senator Carpenter, on behalf of the Senators from the Big Island, introduced Mrs. Linda Dela Cruz of the Guava Growers Association.

Senator Carroll, on behalf of the Senators from the Sixth Senatorial District, introduced Ms. Valerie Bavero.

At this time, Senator Kuroda rose to make an introduction and stated as follows:

"Mr. President, I'd like to take a little time from my colleagues here to make a special introduction.

"This gentleman was in these halls in 1972 on Opening Day and in 1975 on Opening Day and he has asked to come back again.

"When I visited my brother to ask him how he was, my brother shocked me by saying that he had been working on the roof.

"This gentleman happens to be my father who is 96 years old. He left Japan when he was 22 and he's been here 74 years. What's amazing about what I'm telling you is that, it's only this morning that he is recalling these things to my sister-in-law and to me, even saying that in 1904, when he went from Hiroshima to Yokohama to wait for a boat, he says, at that time the Russo-Japanese War was on.

"So, before he experiences any mishap on any more house roofs, we thought it would be a good idea if we have him come and give Senator Carroll an opportunity to meet another Democrat who thinks like a Republican.

"Mr. President, inasmuch as the Kuroda family is very proud of our father and he takes pride in his son, I'd like to have Senator Carroll and his colleagues

be given the opportunity to shake my father's hand."

Senator Kuroda then introduced to the Honorable Body his father Toyochi Kuroda, accompanied by his sister-in-law Ruth and niece Clareen.

At 11:52 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:57 o'clock a.m.

Senator Carroll then rose on a point of personal privilege and stated as follows:

"Mr. President, I was frankly honored to have your good Majority Floor Leader mention my name and I think many people are wondering why he happens to pick me in particular. I think the reason is that back in 1950, I guess it was, I was driving a truck for Standard Oil and I used to deliver oil products to his father. While Joe was rather surly to me at times and ordered me around quite a bit, the father, as a good Republican, was always gracious, humanistic and kind. I feel honored that he did mention me and I'd like to thank him. Thank you."

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. No. 476 to 480) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 476), informing the Senate that on April 14, 1979, he signed the following bills into law:

H.B. No. 165 as Act 4, entitled:
"RELATING TO LIQUOR LICENSE";

H.B. No. 356 as Act 5, entitled:
"RELATING TO NONFORFEITURE OF EMPLOYMENT RIGHTS FOR ABSENCE REQUIRED BY NATIONAL GUARD DUTY";
and

H.B. No. 404 as Act 6, entitled:
"RELATING TO PROMPT COMPLAINT",

was placed on file.

A message from the Governor (Gov. Msg. No. 477), transmitting copies of the 1978 Annual Report prepared by the Department of Planning and Economic Development was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 478), transmitting copies of

the Fiscal Year 1978 Annual Report prepared by the Department of Agriculture was referred to the Committee on Agriculture.

A message from the Governor (Gov. Msg. No. 479) returning the following bill without his approval, together with his statement of objections relating to the measure as follows:

"STATE OF HAWAII
EXECUTIVE CHAMBERS

APRIL 16, 1979

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 1537

Honorable Members
Tenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith Senate Bill No. 1537, entitled, 'A Bill for an Act Relating to Kapiolani Children's Medical Center.'

The purpose of this bill is to amend appropriations for capital improvement projects (grants-in-aid) made by Act 226, Session Laws of Hawaii 1976, and by Act 9, first Special Session 1977, to the Children's Hospital by substituting 'Kapiolani Children's Medical Center' for 'Children's Hospital.'

Kuikeolani Children's Hospital (also known as Children's Hospital) is an existing private non-profit corporation which is now located at the place of business of the Kapiolani Children's Medical Center at 1319 Punahou Street. The Kapiolani Children's Medical Center is a separate corporate entity whose members are Children's Hospital and Kapiolani Hospital, which is still another existing separate corporate entity. Since Children's Hospital and Kapiolani Children's Medical Center are two separate entities, the substitution of Kapiolani Children's Medical Center for Children's Hospital makes, in effect, two new appropriations. Being an appropriations bill, it is constitutionally defective, as it was passed on final reading before the general appropriations bill in violation of Article VII, Section 9 of the Constitution of the State of Hawaii, which provides that in a regular session in an odd-numbered year, 'no appropriation bill, except . . . shall be passed on final reading until . . . the general appropriations bill, shall have been transmitted to the governor.'

In addition, two new appropriations sought to be made by this bill constitute 'grants to the Kapiolani Children's Medical Center' which, under Section 4 of Article

VII, must be made pursuant to standards prescribed by law. Since there is presently no law in effect prescribing those standards, this bill is also in violation of Article VII, Section 4.

Although the purpose and intent of the bill have merit, because of the foregoing constitutional problems, I am returning Senate Bill No. 1537 without my approval as provided by Section 16 of Article III of the State Constitution.

Respectfully,

/s/ George R. Ariyoshi

GEORGE R. ARIYOSHI
Governor of Hawaii"

"P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1537, entitled, 'A Bill for an Act Relating to the Kapiolani Children's Medical Center' passed by the Legislature was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1537 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, GEORGE R. ARIYOSHI, Governor of the State of Hawaii, hereby issue this proclamation pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1537 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

Done at Hawaii State Capitol,
Honolulu, State of Hawaii,
this 16th day of April,
1979.

/s/ George R. Ariyoshi

GEORGE R. ARIYOSHI
Governor of Hawaii",

was placed on file.

A message from the Governor (Gov. Msg. No. 480), transmitting copies of a Hawaii Economic Research Report on a Study of the Economic Impact of

Deposit and Return Legislation on the State of Hawaii, March 1979, prepared by the Department of Planning and Economic Development, in response to H.R. No. 353 (1978), was referred to the Committee on Ecology, Environment and Recreation.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 122 and 123) were read by the Clerk and were disposed of as follows:

A concurrent resolution (S.C.R. No. 122), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM STUDY ON BAIL", was jointly offered by Senators O'Connor, Campbell, Chong, George and Saiki.

By unanimous consent, S.C.R. No. 122 was referred to the Committee on Judiciary, then to the Committee on Legislative Management.

A concurrent resolution (S.C.R. No. 123), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM STUDY ON THE HAWAII CRIMINAL JUSTICE INFORMATION DATA CENTER", was offered by Senator O'Connor.

By unanimous consent, S.C.R. 123 was referred to the Committee on Judiciary, then to the Committee on Legislative Management.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 471 to 476) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 471), entitled: "SENATE RESOLUTION EXPRESSING SUPPORT FOR THE MAY 1, 1979 CRIME PREVENTION WEEK AND THE HAWAII LEAGUE OF SAVINGS ASSOCIATION ROBBERY REWARD PROGRAM", was jointly offered by Senators Cobb, O'Connor, Carpenter, Carroll, Yim, Soares, Takitani, Ushijima, Anderson, Toyofuku, Yamasaki, Mizuguchi, Campbell, Saiki, Chong, Yee, Kuroda, Cayetano, Young, George, Abercrombie, Ajifu, Hara and Kawasaki.

On motion by Senator Cobb, seconded by Senator O'Connor and carried, S.R. No. 471 was adopted.

A resolution (S.R. No. 472), entitled: "SENATE RESOLUTION HONORING THE MEMORY OF ROBERT G. DODGE", was jointly offered by Senators George, O'Connor, Campbell, Anderson, Mizuguchi, Yamasaki, Soares, Toyofuku, Cayetano, Yim, Wong, Saiki, Chong, Hara, Kawasaki, Kuroda, Cobb, Carroll, Carpenter, Young, Ajifu, Abercrombie, Ushijima,

Yee and Takitani.

On motion by Senator George, seconded by Senator O'Connor and carried, S.R. No. 472 was adopted by a rising vote.

A resolution (S.R. No. 473), entitled: "SENATE RESOLUTION CONGRATULATING THE KANEOHE BOBBY SOX LEAGUE MINOR ALL-STAR TEAM FOR WINNING THE 1978 EASTERN DIVISION CHAMPIONSHIP", was jointly offered by Senators Anderson, Ajifu, George, Soares, Hara, Carroll, Takitani, Saiki, Chong, Carpenter, Yamasaki, Cayetano, Kawasaki, Kuroda, Campbell, Mizuguchi and Toyofuku.

On motion by Senator Anderson, seconded by Senator Ajifu and carried, S.R. No. 473 was adopted.

A resolution (S.R. No. 474), entitled: "SENATE RESOLUTION RECOGNIZING AND CONGRATULATING THE KANEOHE BOBBY SOX MAJOR ALL-STAR TEAM FOR WINNING THE 1978 STATE CHAMPIONSHIP AND ITS ACHIEVEMENTS IN NATIONAL COMPETITION", was jointly offered by Senators Anderson, Ajifu, George, Takitani, Hara, Carroll, Saiki, Soares, Carpenter, Yamasaki, Cayetano, Kawasaki, Kuroda, Campbell, Chong, Mizuguchi and Toyofuku.

On motion by Senator Anderson, seconded by Senator Ajifu and carried, S.R. No. 474 was adopted.

A resolution (S.R. No. 475), entitled: "SENATE RESOLUTION HONORING DAVE WARREN AND THE 1979 HUMANITIES CONFERENCE OF THE HAWAII COMMITTEE FOR THE HUMANITIES", was jointly offered by Senators Campbell, Young, Chong, Cobb, Takitani, Saiki, Abercrombie, Anderson, Soares, Yim, Yamasaki, Toyofuku, Kuroda, Carroll, Ajifu, Ushijima, Cayetano, George, Carpenter, O'Connor and Kawasaki.

On motion by Senator Campbell, seconded by Senator Young and carried, S.R. No. 475 was adopted.

At this time, Senator Campbell rose to introduce the honoree and stated as follows:

"Mr. President, we are happy to extend our fondest aloha to David Warren who is the director of research at the Cultural Studies Development Center, the Institute of American Indian Affairs at Santa Fe, New Mexico.

"Mr. Warren was the featured speaker at the 1979 Humanities Conference that was sponsored by the Hawaii Committee for the Humanities."

The honoree was then presented with a certified copy of the resolution by Senator Campbell and a lei by Senator Young.

Also introduced to the members of the Senate were Mrs. Annette Lew and Mr. Ralph Morelli of the Hawaii Committee for the Humanities.

At 12:04 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:29 o'clock p.m.

A resolution (S.R. No. 476), entitled: "SENATE RESOLUTION CONGRATULATIONS TO KAMEHAMEHA SCHOOL CANOE CLUB", was jointly offered by Senators Campbell, Carpenter, Cobb, Toyofuku, George, Abercrombie, Cayetano, Kawasaki, Ajifu, Takitani, Ushijima, Anderson, Soares, Yamasaki, Chong, Young, Saiki, Kuroda, Mizuguchi, Yim, Carroll and O'Connor.

On motion by Senator Campbell, seconded by Senator Carpenter and carried, S.R. No. 476 was adopted.

STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 1073) informing the Senate that Senate Resolution Nos. 462 to 470, Conference Committee Report Nos. 3 to 79 and Standing Committee Report Nos. 1018 and 1072 have been printed and are ready for distribution.

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

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1074) recommending that House Bill No. 742, H.D. 1, pass Third Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 742, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING".

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1075) recommending that House Bill No. 867 pass Third Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 867, entitled: "A BILL FOR AN ACT RELATING TO APPEALS

FROM THE DECISIONS OF THE LIQUOR COMMISSION".

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1076) recommending that House Bill No. 1211, H.D. 1, pass Third Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 1211, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII".

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1077) recommending that House Bill No. 1656, H.D. 1, pass Third Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 1656, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNAUTHORIZED VEHICLES ON SCHOOL AND LIBRARY GROUNDS".

Senators Carpenter and O'Connor, for the Committees on Health and Judiciary, presented a joint report (Stand. Com. Rep. No. 1078) recommending that Senate Resolution No. 406, as amended in S.D. 1, be referred to the Committee on Legislative Management.

On motion by Senator Carpenter, seconded by Senator O'Connor and carried, the joint report of the Committees was adopted and S.R. No. 406, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE RETENTION OF MEDICAL RECORDS", was referred to the Committee on Legislative Management.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1079) recommending that House Bill No. 288 pass Third Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 288, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS".

Senator Yim, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1080) recommending that House Concurrent Resolution No. 37, H.D. 1, be adopted.

On motion by Senator Yim, seconded by Senator Carpenter and carried, Stand. Com. Rep. No. 1080 was adopted and H.C.R. No. 37, H.D. 1, entitled: "HOUSE

CONCURRENT RESOLUTION REQUESTING PRESIDENT CARTER TO INVOKE THE PELLY AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT TO PREVENT THE ILLEGAL SLAUGHTER OF WHALES", was adopted.

Senator Yim, for the majority of the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1081) recommending that Senate Resolution No. 401, as amended in S.D. 1, be adopted.

Senator Yim moved that Stand. Com. Rep. No. 1081 and S.R. No. 401, S.D. 1, be adopted, seconded by Senator Carpenter.

Senator Carroll then rose to speak against the measure and stated as follows:

"Mr. President, once again, the Senate, I think, is doing in this particular case an almost insane thing for two reasons. The first is that when the U.S. Department of Interior receives this particular document, which I would hope they never have the opportunity, they are probably going to laugh or become nauseous.

"The purpose of this resolution is to allow two fishing boats, and granted they are research boats, but they are basically two fishing boats, to go into the interior areas of the Leeward Hawaiian Islands on an occasional basis for the purpose of gathering up approximately 6,000 pounds of baitfish. And I think for those of us who understand the catch technique, it means seining within these sheltered areas.

"Now, first of all, I have nothing against the practice except that, in this particular case and in this particular area, the federal and the state governments and this state government have already appropriated in the vicinity of \$2 million to be spent over a five-year period for the purposes of finding out what is happening among the various ecosystems in the Leeward chain.

"In this particular resolution we're talking about the fact that \$87,000 has been appropriated for a survey to determine seasonal availability and catch rates, which is fine. But to go into these areas at this time when we're one year into this five-year study plan and with the almost laughable language, and I was really surprised to see this, but the language says that with the joint consent that qualified researchers and technicians will be required to accompany the survey vessels to observe and assess the impact of allowing these two survey vessels to capture bait and observe that impact on the environment and wildlife in the Hawaiian Islands...this is like going

to watch a war and then taking a survey of the wounded to find out how badly hurt they are. That makes absolutely no sense.

"I realize that in past months, here and across the way, I've spoken on this subject matter. I appreciate what is being tried to be done here but this again is extremely premature, potentially could damage irreparably the impact of the studies that are being carried on there at the present time. They could obliterate some of the material that the scientists have been working on over the past, nearly 13 years, with very small amounts of money and now they do finally have the money to go forward and develop real base line management data so I would suggest that when this matter goes to the Department of the Interior that the effects which I alluded to earlier will occur.

"I don't think they are going to allow us in there and, frankly, if they do, I think they ought to be shot. I think this resolution should also be shot down and I ask that all vote 'no.'

"Thank you."

Senator Abercrombie also rose to speak against the measure and stated as follows:

"Mr. President, speaking against the resolution as did Senator Carroll... Senator Carroll has risen on several occasions as he indicated, in the past here, and spoken against the idea of encouraging into the Leeward Hawaiian Islands at this time with the idea of coming in for commercial purposes.

"I think that there is an element of greed operating here that is interfering at a most critical moment with the efforts that are being made by the Department of Interior, for once, on behalf of this planet.

"As I have indicated on this floor in the past, purely by coincidence and not because I had any knowledge of the situation, I had the occasion to see a presentation by the Department of Interior concerning its research in the Leeward Hawaiian Islands and what is proposed and what it wanted to do and why it needed to do what it wanted to do. I think that if anyone in this Body had seen this or would have the opportunity to be brought up to date by the Department of Interior that they would agree with Senator's Carroll's remarks.

"I have also noted that simply because it seems to be something rather remote from us, that the seriousness of his pleas, if you will, to us does not necessarily

seem to be given full consideration. I feel that there is very definitely a time in which commercial consideration and which considerations in respect of our respect for this planet cross and are not necessarily compatible.

"In this particular instance, we're being asked by very competent people who are doing the research to please allow them to carry this out and to finish it before we make any encouragement, as indicated earlier. It is in the interest of this state, especially a state which has a fragile an ecosystem as we do, to show some respect for the rest of it. Even if none of us ever see those Leeward Islands; even if it is an abstraction in our minds just as justice often is, as kindness often is, as mercy is, as the common good is; even as we struggle with those particular concepts and try to manifest them in resolutions and law here on this floor; thus, so, we must regard these Leeward Islands.

"I consider it a singular service that I might or any other Senator might be able to perform in this Body, that we were able to leave here knowing that we did our best to preserve these islands in such a fashion as to protect the beings, though they be not human on those islands. Then we would be truly, it seems to me, carrying forward with that which graces us more than any other life."

Senator Yee then rose to speak on the measure and stated as follows:

"Mr. President and members of the Senate, I apologize for standing up and speaking in favor of the bill but the two speakers before me force me to.

"One wants to shoot me down, the other one says there's an element of greed in me. Well, I think in order for ..."

Senator Abercrombie then interrupted on a point of order and stated as follows:

"Mr. President, at no time did I indicate that Senator Yee had an element of greed in him. I think that's a totally unfair characterization of what I just said and I think it is a disservice to my remarks."

The President then stated, "Point is taken, Senator Abercrombie. Senator Yee's reference was not made to you."

Senator Yee then continued as follows:

"Mr. President, in order for me to proceed and to explain to the members here why the resolution is necessary, and I think it is a good resolution, is that we should take a look at the total picture of not only the birds, the bees,

the plants and the monk seals up in those areas. I speak both as a legislator and as chairman of the Western Pacific Fishery Council that has the jurisdiction of managing all of the resources... fishery resources of the State of Hawaii, Guam, Northern Marianas and American Samoa.

"We are charged by law to manage our fishery resources as well as to permit harvesting so that it would not damage the resources. We're also charged by law to respect the various endangered species, especially monk seals, humpback whales and everything else. There is no intent by any fisherman, there is no intent by any jurisdiction to do the things that these people are afraid of.

"There have been experimental boats in the French Frigate Shoals and much of it has been overly protected. We say that they can be compatible.

"For example, they say that the monk seal is an endangered specie. We should do everything to take care of them and as a result the Interior Department, Division of Fish and Wildlife, refuses to let any human being set foot on the Leeward Islands in protection of the monk seals. Yet, in the French Frigate Shoals on Tern Island, there is a Coast Guard loran station located there with people living on that island. And a funny thing happens, the same scientists they talk about can't explain why the monk seal population decreases in all the other islands like Laysan and further down but yet they sustain and the population increases where there's human habitation on French Frigate Shoals. So, there is contradictory scientific data that they talk about.

"What we want to do here is, because of the vast resource of baitfish in the Pacific, to take sufficient supplies out without endangering the reproduction of these supplies or without depletion of these supplies, to utilize this for bait and to test where our various tuna resources are up in the Leewards.

"We're not here or the fishermen are not here to destroy any part of what they're talking about. It does not destroy any of the scientific studies that they're doing. They're taking a 'Holy to God' attitude of 'just don't step on my sword because we don't want one little bee hurt.' Well, believe me, they've been hurting a lot more people than the bees up there.

"Thank you."

Senator Carroll then remarked in rebuttal as follows:

"Mr. President, first of all, I'm quite sure my learned colleague and running-mate certainly does not think that I meant to shoot him down personally, but rather the bill. I see him smiling so I'm sure I can count on that.

"What I would like to do, Mr. President, is just to read a little bit of the language from the Fishery Management Plan for the spiny lobster fishery of the Western Pacific Region which I just happen to have on my desk here. And it speaks very well because this is written in 1978---it is a third draft, actually done in July of 1978, first prepared in 1977---but this is the tenor of the types of studies that are going on and this one only speaks to the spiny lobster, but it's the generic type of language that you find in these studies.

"The overall objective of the proposed management program is to institute enough basic conservation measures to safeguard the stock against the serious lowering of productivity and to protect other important elements of the environment while placing the minimum of obstacles in the way of further development of the fishery.

"In the development of the plan, all available relevant biological data on the resources were considered, and reference was had to experience in the management of the spiny lobster fisheries in other parts of the world. The economic characteristics of the Hawaiian fishery and its market were examined as well as its relation to the world market."

"So, the point of it is, Mr. President, as I said earlier, it's not that we're trying to say 'never go to the Leeward chain.' It's not that we're saying, 'do not fish, do not take lobster.' We're not looking for total prohibition. We're only looking to develop the baseline management data so that we can intelligently exploit that resource.

"To go in there now is premature. Potentially, we can do irreparable damage, possibly without even knowing that it's being done, and I would therefore urge that we all vote against this measure."

Senator Abercrombie added his rebuttal and stated as follows:

"Mr. President, in just brief rebuttal in reference to Senator Carroll's remarks, as well.

"Because the scientific baseline data is now being gathered, and if it's gathered correctly, we may in fact then be able to utilize those islands in a way that is economically beneficial to us or to other people. If we come in now, we

can wreck it. And I think that the remarks of the Senator from Manoa who spoke in support, play up or point up, I should say, illustrate geographically the weakness of this resolution.

"If this kind of analogy or this kind of understanding of the scientific method was utilized in the preparation of this resolution, we are in very serious trouble... because where the monk seals are concerned, is the inference to be drawn that because human beings are on the French Frigate Shoals that the monk seals therefore proliferate or is it more likely a proposition to be put forward that French Frigate Shoals are a more likely place for monk seals to be than other places.

"The implication would have to be, if one was to accept this scientific evaluation as enunciated by the Senator, that other areas are equally capable of sustaining the monk seal, regardless of whether human beings are there and I think that that would be a foolish proposition if only to the degree that that proposition remains unfounded at this time.

"One of the things that you need to do as a scientist is to go and see exactly what kind of circumstances prevail so that you can see whether the monk seal or any other species or any other kind of animal, any other kind of life may be sustained. So that if you go into this area now, you are doing exactly the opposite of what the Senator says is the situation, and that's what the scientific method is all about.

"The scientific method involves experimentation based on observation for the results as opposed to going in to doing whatever you please and then seeing what happens afterward and just recording it.

"The argument in favor of this resolution is, in fact, upon examination, an argument against it."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 1081 was adopted and, Roll Call vote having been requested, S.R. No. 401, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING CONCURRENCE BY THE U.S. DEPARTMENT OF INTERIOR WITH THE STATE DEPARTMENT OF LAND AND NATURAL RESOURCES FOR ACCESS INTO THE LAGOONS OF THE NORTHWESTERN HAWAIIAN ISLANDS TO CAPTURE BAITFISH FOR THE PURPOSES OF A SURVEY OF SURFACE TUNA RESOURCES OF THE LEEWARD HAWAIIAN ISLANDS", was adopted on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Abercrombie, Carroll and Chong).

At 12:48 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.

At this time, Senator Chong, introduced to the members of the Senate Ms. Georgia Miller, past president of Waikiki Residents' Association, community activist and his 6th grade English teacher.

Senators Kawasaki and O'Connor, for the Committees on Government Operations and Efficiency and Judiciary, presented a joint report (Stand. Com. Rep. No. 1082) recommending that Senate Resolution No. 324 be referred to the Committee on Legislative Management.

On motion by Senator Kawasaki, seconded by Senator O'Connor and carried, the joint report of the Committees was adopted and S.R. No. 324, entitled: "SENATE RESOLUTION REQUESTING AN INTERIM STUDY OF THE TRANSFER OF CERTAIN STATE PROGRAMS AND ORGANIZATIONAL SEGMENTS TO IMPROVE ACCOUNTABILITY, EFFICIENCY, AND DELIVERY OF SERVICES", was referred to the Committee on Legislative Management.

Senators Kawasaki and O'Connor, for the Committees on Government Operations and Efficiency and Judiciary, presented a joint report (Stand. Com. Rep. No. 1083) recommending that Senate Concurrent Resolution No. 73 be referred to the Committee on Legislative Management.

On motion by Senator Kawasaki, seconded by Senator O'Connor and carried, the joint report of the Committees was adopted and S.C.R. No. 73, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM STUDY OF THE TRANSFER OF CERTAIN STATE PROGRAMS AND ORGANIZATIONAL SEGMENTS TO IMPROVE ACCOUNTABILITY, EFFICIENCY, AND DELIVERY OF SERVICES", was referred to the Committee on Legislative Management.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1084) recommending that the Senate advise and consent to the nomination of Wayne K. Minami for Attorney General of the State of Hawaii, in accordance with Governor's Message No. 43.

By unanimous consent, action on Stand. Com. Rep. No. 1084 and Gov. Msg. No. 43 was deferred until Thursday, April 19, 1979.

Senator Carpenter, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1085) recommending that Senate Resolution No. 325 be adopted.

On motion by Senator Carpenter, seconded by Senator Campbell and carried, the report of the Committee was adopted and S.R. No. 325, entitled: "SENATE RESOLUTION ENCOURAGING THE RENOVATION OF THE OLD KONA HOSPITAL FOR USE BY STATE, COUNTY AND PRIVATE AGENCIES SERVING THE COMMUNITY OF KONA", was adopted.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1086) recommending that Senate Concurrent Resolution No. 94 be referred to the Committee on Legislative Management.

By unanimous consent, the referral of S.C.R. No. 94 to the Committee on Legislative Management was waived.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 94, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO A STUDY OF THE JUVENILE JUSTICE PLAN AND SUPPLEMENT", was adopted.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1087) recommending that Senate Concurrent Resolution No. 106 be referred to the Committee on Legislative Management.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 106, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM STUDY BE CONDUCTED ON THE COORDINATION BETWEEN THE SUB-UNITS OF THE STATE CRIMINAL JUSTICE SYSTEM", was referred to the Committee on Legislative Management.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1088) recommending that Senate Concurrent Resolution No. 107 be referred to the Committee on Legislative Management.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 107, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A REVIEW OF LAWS RELATING TO GUARDIANSHIP, CIVIL COMMITMENT, AND PROTECTIVE SERVICES", was referred to the Committee on Legislative Management.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1089) recommending that Senate Concurrent Resolution No. 108, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand.

Com. Rep. No. 1089 and S.C.R. No. 108, S.D. 1, was deferred to the end of the calendar.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1090) recommending that Senate Concurrent Resolution No. 112 be adopted.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 112, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM STUDY OF THE REVISION OF THE HAWAII REVISED STATUTES", was adopted.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1091) recommending that Senate Concurrent Resolution No. 122 be referred to the Committee on Legislative Management.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 122, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM STUDY ON BAIL", was referred to the Committee on Legislative Management.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1092) recommending that Senate Concurrent Resolution No. 123 be referred to the Committee on Legislative Management.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 123, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM STUDY ON THE HAWAII CRIMINAL JUSTICE INFORMATION DATA CENTER", was referred to the Committee on Legislative Management.

Senator O'Connor, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1093) recommending that Senate Concurrent Resolution No. 10 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1093 and S.C.R. No. 10 was deferred to the end of the calendar.

Senator Cayetano, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1094) recommending that the Senate advise and consent to the nomination of Dennis L. Lau to the Board of Taxation Review, First Taxation District - Oahu, in accordance with Governor's Message No. 469.

By unanimous consent, action on Stand.

Com. Rep. No. 1094 and Gov. Msg. No. 469 was deferred until Thursday, April 19, 1979.

Senator Cayetano, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1095) recommending that the Senate advise and consent to the nomination of Barry K. Taniguchi to the Board of Taxation Review, Third Taxation District - Hawaii, in accordance with Governor's Message No. 471.

By unanimous consent, action on Stand. Com. Rep. No. 1095 and Gov. Msg. No. 471 was deferred until Thursday, April 19, 1979.

Senator Cayetano, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1096) recommending that the Senate advise and consent to the nomination of Charles J. Leland to the Board of Taxation Review, First Taxation District - Oahu in accordance with Governor's Message No. 470.

By unanimous consent, action on Stand. Com. Rep. No. 1096 and Gov. Msg. No. 470 was deferred until Thursday, April 19, 1979.

Senator Cayetano, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1097) recommending that the Senate advise and consent to the nomination of Atsushi Hirano to the Board of Taxation Review, Fourth Taxation District - Kauai, in accordance with Governor's Message No. 472.

By unanimous consent, action on Stand. Com. Rep. No. 1097 and Gov. Msg. No. 472 was deferred until Thursday, April 19, 1979.

Senator Cayetano, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1098) recommending that the Senate advise and consent to the nomination of George E. Luppold to the Board of Taxation Review, Second Taxation District - Maui, in accordance with Governor's Message No. 473.

By unanimous consent, action on Stand. Com. Rep. No. 1098 and Gov. Msg. No. 473 was deferred until Thursday, April 19, 1979.

Senator Cayetano, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1099) recommending that the Senate advise and consent to the nomination of Kanji Wakamatsu to the Board of Taxation Review, Second Taxation District - Maui, in accordance with Governor's Message No. 474.

By unanimous consent, action on Stand.

Com. Rep. No. 1099 and Gov. Msg. No. 474 was deferred until Thursday, April 19, 1979.

Senator Takitani, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 1100) recommending that the Senate advise and consent to the nominations of the following:

Richard I. C. Caldito to the Board of Agriculture, in accordance with Governor's Message No. 119;

Barry M. Brennan, Ph.D., to the Advisory Committee on Pesticides, in accordance with Governor's Message No. 120;

Katsumi Higa to the Advisory Committee on Pesticides, in accordance with Governor's Message No. 121; and

George M. Nakasato to the Advisory Committee on Pesticides, in accordance with Governor's Message No. 122.

By unanimous consent, action Stand. Com. Rep. No. 1100 and Gov. Msg. Nos. 119, 120, 121 and 122 were deferred until Thursday, April 19, 1979.

Senator Ushijima, for the Committee on Intergovernmental Relations, presented a report (Stand. Com. Rep. No. 1101) recommending that the Senate advise and consent to the nominations of the following:

Robert H. Ishimoto to the Civil Defense Advisory Council, in accordance with Governor's Message No. 429, and

Roland D. Sagum to the Civil Defense Advisory Council, in accordance with Governor's Message No. 430.

By unanimous consent, action on Stand. Com. Rep. No. 1101 and Gov. Msg. Nos. 429 and 430 were deferred until Thursday, April 19, 1979.

ORDER OF THE DAY

FINAL READING

Conference Committee Report No. 2 (S.B. No. 86, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Cobb, seconded by Senator Chong and carried, Conf. Com. Rep. No. 2 was adopted and S.B. No. 86, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE", having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

MATTERS DEFERRED FROM APRIL 17, 1979

Standing Committee Report No. 1015 (S.R. No. 194, S.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 1015 and S.R. No. 194, S.D. 1, entitled: "SENATE RESOLUTION RECOGNIZING AND COMMENDING THE 'NUCLEAR ARMS: CONSCIENCE, LAW AND SURVIVAL' FORUM FOR ITS OUTSTANDING EFFORTS TO ALERT HAWAII'S PUBLIC TO THE POTENTIAL DANGERS OF NUCLEAR WEAPON STORAGE NEAR POPULATION CENTERS AND FOR PRESENTING ISSUES RELATING TO THE NUCLEAR ARMS RACE AND THE DISARMAMENT QUESTION", was deferred until Thursday, April 19, 1979.

Standing Committee Report No. 1064 (S.R. No. 265, S.D. 1):

On motion by Senator Carpenter, seconded by Senator Campbell and carried, Stand. Com. Rep. No. 1064 and S.R. No. 265, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING DEVELOPMENT AND FORMULATION OF PATIENT'S RIGHTS STANDARDS", was recommitted to the Committee on Health.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

Standing Committee Report No. 1089 (S.C.R. No. 108, S.D. 1):

Senator O'Connor moved that Stand. Com. Rep. No. 1089 and S.C.R. No. 108, S.D. 1, be adopted, seconded by Senator Cobb.

At this time, Senator Kawasaki rose to speak on the measure and stated as follows:

"Mr. President, while I'm voting for this bill, I think it's important that I express a concern about what might happen.

"According to this committee report, what is intended here is that the term, tenure of the Chairman of the Crime Commission, be extended beyond July of this year, the deadline of when his term expires.

"What happens if the chairman declines to serve beyond what is intended, to this very thankless of all jobs that I could think of, particularly where there's no compensation involved?

"The intent here also, according to this bill, is that during the interim, there'd be some hearings held to try

to select someone to be the chairman of the Crime Commission that is going to be appointed by two-thirds affirmation of the legislature here -- both the House and the Senate -- again without compensation prescribed, again, as I said, to a thankless position.

"I am concerned that we're going to find a dearth of people wanting to even serve in this position. This is the reason why bills were introduced, to provide some reasonable compensation for this position as Chairman of the Crime Commission. This is a job that is subjected to all kinds of threats, intimidation, pressures.

"I believe that unless we do provide some measure of compensation, even during the hearings that we are going to hold to select a person to be selected by the legislature, and this is known to the possible applicants for this position, we're going to find ourselves in the same predicament again with no one really wanting to serve in this office. I just want to enter this concern that I have."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 1089 was adopted and S.C.R. No. 108, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO APPOINTMENT OF THE CHAIRMAN OF THE HAWAII CRIME COMMISSION", was adopted.

At 1:06 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:12 o'clock p.m.

Standing Committee Report No. 1093 (S.C.R. No. 10):

Senator O'Connor moved that Stand. Com. Rep. No. 1093 and S.C.R. No. 10 be adopted, seconded by Senator Cobb.

At this time, Senator Chong remarked as follows:

"Mr. President, I'd like to make a few observations on this resolution which calls upon the United States Congress to exempt Hawaii from the multi-lingual requirements of Title III of the Voting Rights Act of 1975.

"In the committee report and in the resolution, it cites that it was 'not cost effective.' I think that's a totally irrelevant argument for the resolution.

"My major concern is that it could cause a dangerous precedence, because if we here in Hawaii as a state go into Congress asking for exemption from

this type of requirement, it could cause other states to do the same and I am fearful that the original intent of Title III of the Voting Rights Act which is very simply to give all Americans the opportunity to vote and to participate in our great democracy would be watered down. I think, especially here in Hawaii where we have so many different ethnic groups, new groups coming in, all of whom are being encouraged to vote, it would not be fitting of the state, especially us in Hawaii, to go into Congress with this kind of a request.

"I urge the members to vote 'no' on this one."

The motion was put by the Chair and carried and Stand. Com. Rep. No. 1093 was adopted and, Roll Call vote having been requested, S.C.R. No. 10, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO EXEMPT HAWAII FROM THE MULTI-LINGUAL REQUIREMENTS OF TITLE III OF THE VOTING RIGHTS ACT, AS AMENDED IN 1975", was adopted on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Abercrombie and Chong).

SUSPENSION OF RULES

Senator O'Connor moved that the Rules of the Senate be suspended for the purpose of reconsidering action taken on April 6, 1979, on Senate Bill No. 599, S.D. 1, H.D. 1, seconded by Senator Cobb and carried.

At this time, Senator O'Connor stated that the "motion is as a result of a conference committee decision. In brief explanation, this is a matter which has to do with the criminal trespass and the House made an amendment in order that the matter would not fall under certain problems which might be engendered by the National Labor Relations Act."

RECONSIDERATION OF ACTION TAKEN

Senator O'Connor moved that the Senate reconsider its action on S.B. No. 599, S.D. 1, H.D. 1, seconded by Senator Cobb and carried.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, the Senate agreed to the amendments proposed by the House of Representatives to Senate Bill No. 599, S.D. 1, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on S.B. No. 599, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE".

In accordance therewith, the President discharged the Managers who were appointed on the part of the Senate.

At this time, Senator Yee rose on a point of personal privilege and stated as follows:

"Mr. President, I do not want to burden the Senators here very long so I'll try to be extremely brief in my comments.

"My personal privilege relates to the death of the time-sharing bill last night at about five to twelve: I feel that you should know some of the factors I have evaluated that led to its demise. It bothers me and I know it bothers many of you because now without any regulation which we had hoped to enact this session, people can continue time-sharing units throughout the state without any regulation. This means that it can result in tremendous discomfort and disadvantages to permanent residents in various condominiums throughout the state.

"We tried to come up with a good bill, which I think we did, to protect the people in general, at-large, and I think we did very well in protecting the people and the residents of Waikiki, most of them. But, unfortunately, couple of factors entered the picture and I'd like to say this for the record so that it will show that we did our best to get a time-sharing bill through.

"Unfortunately, a handful of residents of Waikiki who are well-meaning, but they were very uncompromising in some of their positions, or maybe I should say in most of their positions... at the end of the evening, they took the position that they were not satisfied with what the Senate draft had come up with and in the general consensus in the House, not completely in general, they indicated to the House members and me, personally, that they preferred no bill to what we have and here we have been trying to do everything we can, basically, to protect all of the permanent residents who live in condominiums and residences in Waikiki, this special zone district.

"On the other hand, the time-sharing people tried to do their best, but also there were a few and, again, a handful of them that wanted more and more and they weren't as giving as some of the others. These disagreements, I would say on both sides, had influenced the House to a great extent and as a result they felt that our draft was unacceptable.

"This is the reason we have no time-sharing control and I'm using this method so that people who live in condominiums, no matter where, that if you're concerned about time-sharing in your buildings,

as the Waikiki residents did not want mixed uses, that if anyone who buys a unit and wants to time-share, they must now take action on their own part through their bylaws or to the various ordinances to protect themselves.

"I hope, also, that people that are engaged in time-sharing would not continue with some of the misconceptions and misrepresentations, and some wild sellings that they do which will leave a 'black eye' in the State of Hawaii because most of these time-sharing units are still out-of-state, and we should be concerned about this.

"Thank you, Mr. President."

Senator Carroll also rose on a point of personal privilege with regard to the time-sharing measure and stated as follows:

"Mr. President, in regard to the matter that was just raised by my learned colleague, I would simply like to say that I observed the conference committee's activities over the entire period and until last night, when I was cajoled out of spending my time there.

"I think that the bulk of what our Minority Leader has alluded to is correct, but I think that it is unfair to characterize the Waikiki residents as being bullheaded or unyielding or unreasonable. And I think that in order to understand what happened, the residents who were there and whom I have conferred with since last night, indicated that they were distressed with the final Senate draft that did appear.

"I think that it's very unfair to lay the blame for the killing of the bill on the Waikiki residents. I think there was impasse on both sides and, as a matter of fact, the draft which did finally emerge was rejected by the Chairman of the House Consumer Protection Committee.

"I frankly feel that in Waikiki in particular, where the people are being encroached upon from every side by buildings, by the City Council's inactions or unwillingness to observe their own rules and regulations and laws, that they certainly have a right to express themselves, which they did. But I think we cannot take the blame off of either the House or the Senate for the failure of this measure and lay it outside of these chambers. I do agree totally with the Minority Leader, with his remarks regarding the time-share industry and their cleaning up of their own act. And as I understand it, because of the actions of Senator Cobb and Representative Blair and other members of both committees, that they have started now to police, and they

have indeed restrained themselves and terminated certain types of selling practices. So all of this is to the good.

"A tremendous amount has been learned on both sides of the House, both sides of this legislature, and I look forward to a very productive period to come up now with respect to time-sharing, and I will have the good sense not to vote 'no' on the measure next time around so that I may participate more fully. Thank you."

Senator Cobb then added his comments as follows:

"Mr. President, rising not to respond or rebut, but merely to add and perhaps elaborate somewhat on the comments that were made.

"The differences that existed between the conferees, although much of the discussion concern the Waikiki area, went far beyond that. It went into the zoning problems and the differences that we encountered also on the neighbor islands. In addition, the House conferees, through most of the seven meetings that we had, had not come to terms with the discussion of even the definitions contained within the bill, much less many of the other registration and disclosure requirements. It was only very late in the negotiations that this ever reached that state.

"I did say last night, and I'll repeat it here on the floor today, that if I see any activities of breach of street sales involving time-share units, I will personally take the matter up with the Attorney General and with the Department of Regulatory Agencies because this is something that we have already agreed upon as a conference matter.

"We further agreed in conference to allow an increase to 85 or higher... 85% of the residents in a given area, even if it's in a hotel zone, who own a condominium, to ban together to prohibit the time-share unit in their building. This avoids the constitutional problem of the property taken by the state and at the same time recognizes the legitimate right of property owners to determine the use of their own building.

"This and other matters are going to be addressed not only during the interim, but certainly next session.

"I look forward to working with my colleagues who served with me, including Senator Carroll, even though he is not a member of the conference committee, in getting together legislation for this. For that reason, I'm not going to ask for a discharge of the conferees because I want both options to remain open to

this Body, mainly to take the matter up further in conference or going with a separate bill next session.

"Thank you, Mr. President."

At this time, Senator Abercrombie rose on a matter of personal privilege and stated as follows:

"Mr. President, I regret to take the time of the Body for rising on a matter of personal privilege, but on the other hand, I feel it is absolutely necessary that I do so and this is a matter which reflects on every member in this Body in respect of how we will have business conducted in the halls of this legislature.

"Yesterday, at approximately 6:00 o'clock (p.m.), three members of my staff were threatened with physical violence by David Trask, the head of the HGEA. He further cursed them on a racial basis. I was not in the building at that time or it would have ended immediately, I can guarantee you that. I am going to subsume my own personal feelings.

"I'm glad that I actually had the opportunity to find out about it afterwards because my personal feelings of course are ... except that I'm extremely upset by it.

"Staff members here are used to emotion in the Capitol, are used to it from the legislators; they're most certainly used to it from me, but, Mr. President, I submit to you that in a free country, it is absolutely intolerable for anyone to enter the halls of a legislature and physically threaten another citizen or resident or alien or any person who are in the halls for whatever legitimate reason and further to curse them racially in the state.

"I do not believe that Mr. Trask understood that the people whom he threatened were members of my staff. He could not have known as they were half-way down the hall from my office.

"When I heard about it, I instructed the people on my staff to prepare affidavits to be submitted to the Capitol Security and to have them notarized. I asked them to tell me only briefly what happened, the bare facts, and discussed it with them no further before the Capitol Security was called and I have just now seen these affidavits for the full story so that under no circumstances could it be said that I attempted to influence what was in these affidavits in any way, shape or form.

"Very briefly, between 6:00 o'clock and 6:05 p.m., my administrative assistant was threatened by David Trask, executive director of Hawaii Government Employees

Association. The threat occurred on the second floor of the State Capitol on the Ewa corridor; accompanied by Phil Hauret who stands there in the Senate Sergeant-at-Arms' Office.

"I left room 227, I'm now reading the affidavit of Michael Slackman, 'to go down to the Ewa mauka elevator core. As we rounded the corner, we passed David Trask who was accompanied by two other men.

"The door to our office was open and the office was occupied by two people who were not members of our staff--one of them being a 15-year old high school student who is a volunteer in my office. Since the door was open and no staff members were in the office, I leaned around the corner of the corridor and looked back down the hall to see whether he was going to enter our office.

"Trask and the men accompanying him were proceeding in the opposite makai direction down the Ewa corridor. They stopped in the vicinity of room 227, turned around and glared at us. Trask shouted, "What are you looking at?" I replied, "Nothing, I'm just looking."

"He challenged me again (I don't remember what he said to me at that particular point). I replied, "It's a free country." Trask responded (still shouting), "I'm going to slap your head" or "do you want your head slapped?" or "I'm going to have your head slapped." I do not remember the phraseology he used, but he used the word "head" and "slap" in a threatening manner.

"After this exchange, I turned and walked down to the elevator and went down to the basement level. I called our office to find out whether Trask had come into the office and came back up to room 227."

"I have other affidavits here that indicate that racial terminology was used about who was being followed; that the paranoid behavior of this man, the despicable behavior of this man has become a public scandal. Not only is he threatening senators--that's one thing to threaten politicians--anybody can threaten a politician in terms of his election, but to come into the halls of this legislature and physically threaten someone and at the same time curse them for their racial ancestry, and he must be cursing himself because I understand there are some haoles in his background too. And if he wants to curse his own family, he can curse his own family. It, maybe, is by his very existence.

"But, Mr. President, I can assure you that, and I assured my staff at that

time when they asked what to do, when they wondered about it, and the reason they wondered about it was they knew it was David Trask.

"I asked Valerie, 'Why didn't you go immediately to Capitol Security? What did you think?' She said, 'If it had been anybody else, I would have gone down immediately and told them there was a maniac in the hallway who had threatened us.'

"We've had to deal with these things in our offices. I'm sure almost every senator in this place had someone who is deranged or emotionally upset or highly charged for whatever reason to come into their office and cry or weep or demand something and we've had to have the Capitol Security come up, or have to have an adult with them.

"The reason she didn't go down and complain about a maniac is that it was David Trask, and she thought that's the way he is. When she came back upstairs, Trask was emerging from one of the offices of one of the senators and she went the other way around on the second floor to avoid him, out of fear. Out of fear!

"No member of my staff or any other member of anybody's staff in this legislature is going to walk in fear in this legislature of David Trask or anyone else. No member of the public is going to come into this legislature and have to fear that they will be met by the threat of physical abuse or to be cursed for their racial ancestry by such a person.

"I have said his behavior is despicable, that's true. I say further, this man is a fascist dictator. This man is leading the public employees of this state down the primrose path to the destruction of their legitimate desire. Every time he opens his mouth with his threats and his bullying, he loses more and more credibility in terms of the general public for all public employees.

"I continue to pay my dues as a teacher, despite the fact that I am not teaching. It's checked off right off my pay. It has been from day number one since I went into the legislature. I find it shameful that I am associated in the trade union movement and in the union movement with such a person.

"It is about time that this man was brought down to size. It is about time that the mouth that walks is shut. Now, if he cares to pursue that personally, I will be more than happy to do it, and work him within an inch of his life. On the other hand, I don't like feeling that way.

"How do you think I felt yesterday when that happened, when I came in my office? I don't want to feel those kinds of emotions. I don't like to have those kinds of thoughts come through me. I want to be a responsible person in here and I'm willing to take the jerk on any actions that I take or do not take on this floor or under the charge of my duty as a legislator. If, in the judgment of the public, those activities are not suitable in their sight, they may remove me from office. But I most certainly can feel justified, I think, in bringing to your attention that the emotion I felt when I heard that was, at the very least, human. And once bringing myself under the control of what I felt to be a rational situation here, I reported this situation to the Majority Leader's office and indicated I would make a statement today.

"Mr. President, I ask, on the basis of these affidavits, that you reprimand Mr. David Trask of the Hawaii Government Employees Association for his intolerable behavior in these halls and indicate to him in writing that it will not be tolerated and that any further repetition in any way, shape or manner of this kind of thing will be brought immediately to the attention of Capitol Security and he will be removed from these premises.

"And I can tell you this, if he ever so much as breathes a threat in my direction or in my hearing, in the direction of any legislator, I will personally go to the prosecutor's office and have him charged. I guarantee you that.

"This man is going to be brought to heel and I'm not the only one who feels it. He is a threat to the foundation of freedom in this state and he is going to be brought down to the bully and fascist dictator that he is.

"I repeat my request, Mr. President, that you reprimand him in writing."

The President then made the following statement:

"The Chair would like to note for the record that I have received from the Governor information relating to the cost items of the arbitrated wage increases for Unit 11, Fire Fighters. Copies of this letter (dated April 16, 1979) to me will be circulated shortly to all members of the Senate."

Senator Anderson then queried as follows:

"Mr. President, do I understand you correctly, that the communication that you referred to is the ten-day notice on the collective bargaining agreement, as required by law?"

The President replied, "It is the arbitrated contract of the Unit 11 people."

Senator Anderson further remarked as follows:

"Mr. President, we have appointed, I understand, a conference committee on collective bargaining contracts. I think it's in the 12 different bills and I think you appointed conferees. May I ask the Clerk of the Senate the status of the House, whether or not the Journal is open... have they adjourned or..."

The Clerk replied: "My understanding, Mr. President, to answer the Senator, is that the House has adjourned for today and the Journal is closed."

Senator Anderson further remarked and queried as follows:

"Mr. President, if I understand the Clerk correctly and I think I do, what the House has done then ... has gone around the standing conference committee that we have for deliberations on this bill, and has deliberately then 'lice-boxed' the firemen's collective bargaining bill, as sent forth by the arbitrators. I find this totally irresponsible.

"We have been discussing this now for a week. We had been hoping to get into conference to find out the exact details. We are hoping to find a compromise. We were hoping to find a solution to the firemen. Now, with the House adjourning and closing the Journal, the burden, of course, is now on the Senate.

"May I ask what these intentions, Mr. President, has to do with this communication?"

The President replied that "it is the position of the Chair that we will request that the Journal remain open till 12 midnight to receive substantive resolutions, committee reports on confirmations, and for that matter, we had thought, originally, that should a bill come down relating to Unit 11 that it would provide the avenue of decking the bill to meet the constitutional requirement for 48 hours. That is the intent of the Senate."

Senator Anderson then remarked as follows:

"Mr. President, I'd like to speak to this point if I may, then.

"This is a rather late date to be getting into conference in the first place. The collective bargaining contract, once sent down by the Governor, is one that the Senate and the legislature as a whole only can accept or reject; we cannot amend it; we cannot change it. Therefore,

I guess, the need for conference then is very little. Our role, as I say, is simply to approve or disapprove of it.

"I would like to ask for the Body's consideration then to have you discharge the conferees and vote now on the measure or at least clock it for 48 hours. And I would like to then strengthen my arguments, Mr. President.

"We have now for several years been trying to find a way to allow the firemen of this state not to strike, like the situation that happened in Memphis some years ago.

"Several years ago, we passed a bill that was vetoed by the Governor because he felt then that he didn't want mainland arbitrators coming down here and making local decisions. We finally overcame his concerns and his vetoes last year and we passed House Bill No. 1815 which is, 'A Bill for an Act Relating to Collective Bargaining.' And I'd like to read a couple of clauses very easily out of the committee report.

"It says, 'The purpose of this bill is to amend Section 89-11, Hawaii Revised Statutes...'"

Senator O'Connor then rose on a point of order and stated as follows:

"As I understand the ruling of the Chair, Mr. President, our Journal is to remain open until midnight tonight for the possibility that this bill may be acted upon. The speaker is speaking as though there absolutely shall be no action and the point of order that I raise is that his speech is premature and may be better given tomorrow rather than today, at a time when maybe we have less time to worry about committee meetings and other very important things that are going to happen this afternoon and more time to listen to the learned and eloquent speaker."

Senator Anderson remarked as follows:

"Mr. President, I happen to feel there's nothing more important facing this legislature right now than the question of money, the union contracts, the impact, the strikes and its relative effects on all of us down the road."

The President then stated:

"Senator Anderson, I think the question raised by Senator O'Connor's point of order is well taken. I think, if you want to discuss your feelings about the particular bill in question, that you should restrict your remarks on a point of personal privilege relative

to actions taken about that bill."

Senator Anderson then replied as follows:

"Mr. President, if I'm going to go that route then I'll have to make a motion to adopt the measure from the Governor and then speak to that measure.

"This Body will keep its Journal open and I would prefer not to do that and I would prefer not to, at this time, put you into an awkward position. But, with the House closing its Journal, as I said, they have thus 'ice-boxed' this bill because the Clerk there says there will be no more business or no more communications coming out of the House.

"If my understanding is correct then there shall not be any conference on this bill. Now, my learned colleague can correct me, if I'm wrong."

The President answered:

"Before Senator O'Connor answers, the understanding that I have, so that we can bring some understanding to this question being raised here on the floor, is that, in fact, and I have no reason to doubt it as the Clerk has informed me through communication with the House that the Journal is closed and that no substantive matters on conferences...conference committee reports will be received, your statement about the Journal being closed is correct. However, the Senate..."

Senator Anderson then asked, "Thus, there shall be no conference, is that not correct?"

And the President replied: "I would interpret the action of the House as being that they will not be in receipt of any conference committee reports of which the bill in question has been referred, as of this moment, today.

Senator Anderson further inquired: "Was that your intention or your understanding with the House that this matter was going to be closed today without conference?"

The President replied: "No, it was not my understanding with the House; however, we were going to communicate with the House as to an understanding of how to handle this particular matter. But I cannot speak for the House."

Senator O'Connor again rose on a point of order and asked: "Mr. President, can we get on with the business of this Body, and if there's a colloquy to be held between the Speaker and the President, maybe it can be done in your office?"

Senator Ushijima, then rose on a point of inquiry and asked: "Mr. President, what are we talking about, what bill are we talking about?"

The President replied, "Senator Ushijima, we are talking about no bill. We are talking about a bill that is in position in the conference committee which the conferees have kept alive and that the message of Governor would be..."

Senator Ushijima further inquired: "We're talking about a bill with no bill, is that it?"

The President continued his reply and stated: "No, Senator Ushijima, the bill in question is in conference. The question is one of plugging in the agreed upon amount that has been transmitted by a letter to this Body."

At 1:48 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:53 o'clock p.m.

At this time, Senator Anderson further remarked as follows: "Mr. President, the clarification of the clarification is evidently quite clear. The House in closing their Journal has, for all practical purposes, killed the bill."

Senator O'Connor again rose on a point of order and asked: "Is the speaker speaking on a point of personal privilege or on something that's not before us?"

The President replied that, "He is speaking on a point of personal privilege."

Senator O'Connor then asked that the speaker state his point.

The President replied that he will be stating his point.

Senator O'Connor remarked: "I trust he will."

Senator Anderson replied and remarked as follows:

"If you sit down for a few minutes, you'll have lunch quicker.

"Because of that purpose and the reason for them closing their Journal, Mr. President, I find it very unfair. I find it very unrealistic that such an important issue facing this legislative Body could be handled so lightly.

"We have, this Body and the one across the street, over the last couple of years, have attempted to find ways to circumvent and stop a major strike among the firemen. This issue has been bothering me for

a week now and I have talked to the administration, the unions, HPERB. I think I have heard all sides.

"As of a week ago, I was pretty much like a lot of people here--no COLA for firemen, no COLA for anybody else. If you look at the collective bargaining bill, Mr. President, there are 12 units, and I think it was this Body's intention to represent and have them argue independently and individually. We passed arbitration so that the situation facing us could be circumvented. There are people in this Body and people across the hall who felt very, very strongly about binding arbitration.

"What we have done or really the House has done at this point, is put the firemen into a very precarious position. I cannot accept the Governor's message and I do argue with it when he says, and I quote, 'I am very concerned about the impact this fire fighters' agreement will have on our negotiation', meaning of course, Senator Abercrombie's friend, David Trask and others in SHOPO, the teachers, and the University. What he's saying here is that he can't say yes to the firemen because he doesn't know how to say no to anybody else.

"The firemen are separate. Their problems are different. Their arguments are different. They cannot strike, the others can. They went to binding arbitrations to resolve it, that was the alternative, as this legislative Body had passed it. It was a way to end strikes in a very critical area.

"What we're saying here is, because we're fearful of the major larger unions, we cannot consider this one because it must be precedent setting.

"If you'll look at the law, there is no fall-back position really because if we say no the firemen go back to the bargaining table and they make their proposal, the state makes its proposal and then they go to binding arbitration again. And I looked in the dictionary and I failed to find any real definition of binding arbitration.

"What is binding? If, for instance, the arbitrators should come out with a 5% or 4% for the firemen, they are then compelled to eat that. They would have had to accept it and not have it ratified by the membership. But because it comes out unsatisfactory to the Governor, he's opposed to it, and I'm not going to belabor this, but I have testimony here from the City Council of Honolulu, Mr. Boranian, who favored the binding arbitration bill when it was before us.

"I have newspaper clippings here

by a House member who is now a senator, who was willing to call a special session two years ago to override the Governor's veto on binding arbitration. Binding arbitration was very dear to our hearts and yet today, we have let the House..."

Senator Abercrombie then rose on a point of order and asked: "Is the Senator referring to me?"

The President replied: "No, he did not make a direct reference to you. He said, 'a senator.'"

Senator Abercrombie then asked further:

"Mr. President, may I rise on a point of personal privilege? May I ask the Senator if he is referring to me?"

Senator Anderson replied: "If the shoe fits, you wear it. Mr. President, as I was saying..."

Senator Abercrombie again asked: "Is the Senator referring to me?"

The President replied: "His answer was, 'If the shoe fits, wear it.'"

Senator Abercrombie again asked: "Well, I'm going to ask again then because I have to listen to this whole thing. Is the Senator referring to me or not? If the shoe fits wear that one, is he referring to me?"

Senator Anderson replied:

"For all those who want to fix their conscience, I'm speaking to all of you. For all of those that had signed committee reports when you were in the House, for all of you who signed committee reports in the Senate, I speak to all of you."

Senator Abercrombie then remarked: "In other words, Senator Anderson is willing to give a speech and is going to say what he's talking about."

The President then asked that Senator Abercrombie allow Senator Anderson to continue and Senator Abercrombie replied: "I will, if he tells me what he's talking about."

Senator Anderson continued and stated:

"Mr. President, before I was so rudely interrupted..."

And Senator Abercrombie again rose and stated:

"Before I think I was so rudely mentioned in a way that is not true..."

Senator O'Connor rose on a point of order and stated:

"Mr. President, the point of information is not sufficient to interrupt the speaker while speaking. Only a point of order may do that."

Senator Abercrombie then stated: "If I thought I was getting information I probably would have risen on..."

At 1:59 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:00 o'clock p.m.

Senator Anderson then rose to continue, as follows:

"Mr. President, as I was saying..."

Senator Abercrombie again interrupted and asked:

"Mr. President, will the Senator yield...?"

Senator Anderson continued to speak, as follows:

"Mr. President, I'm very sorry that the House closed its Journal. I was very much looking forward to this Body getting to agree with the..."

Senator Abercrombie again rose to be recognized.

Senator Cayetano then stated: "Mr. President, will you rule somebody out of order?"

The President then replied:

"Yes. Senator Abercrombie, I will have to rule you out of order. The floor has not been yielded by Senator Anderson. Would you..."

Senator Abercrombie stated: "I didn't know it had been given back."

The President replied: "It has been given back."

Senator Abercrombie then thanked the President and the President asked that Senator Anderson proceed with his remarks.

Senator Anderson continued and stated as follows:

"Mr. President, I will ask that you and the Chairman of the Ways and Means Committee go over to the House this afternoon and discuss with the House leadership their reasons or the status or if in fact that the Journal is really closed. Is it being opened like we have seldom done as a misunderstanding?"

"But, I would really ask that this

Body and its leadership exercise every option to see where this bill is and if in fact it can be resurrected before midnight tonight. I think it's important. I would think that this Body should be concerned about the alternative and that might be a long lasting strike--closing up airports and harbors and everything else. I think there is room for compromise.

"I think the legislation that we passed, Mr. President, affords reasonable people to come to reasonable agreements. I think if you exercise the leadership with Senator Cayetano, to try to bring these two bodies together, I think that we can resolve this and forego a strike that will have far more reaching impact, financially, than the dollars that we're talking about.

"Thank you."

Senator Cayetano then rose on a point of personal privilege and stated:

"Mr. President, I would like to respond to the previous speaker's remarks.

"First, with respect to the arbitration bill, I think we should make very clear what that bill provides or what the law provides.

"That law does not bind the legislature.

That law only binds the parties which are directly involved in the arbitration process; namely, in this particular case, the fire fighters union and the executive.

"Now, with respect to the bill itself, midnight last night was the final deadline for conference drafts. That was a deadline, a limitation which was agreed to by members of the minority and the majority of both Houses. If we are to extend the deadline or make any adjustments thereto, we cannot do it unilaterally here in the Senate. We will have to have the compliance of the House.

"One other problem of course would be for us to meet the constitutional deadlines with respect to notice and with respect to the decking of bills. At this particular point, as far as I'm concerned, if we are to adjourn on time on the Sixtieth Day the time has run out.

"Thank you."

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, April 19, 1979.