

FORTY-SEVENTH DAY

Monday, April 5, 1982

The Senate of the Eleventh Legislature of the State of Hawaii, Regular Session of 1982, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Robert Meyer, Pastor of Trinity Lutheran Church in Wahiawa, after which the Roll was called showing all Senators present.

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

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

Senator Anderson, on behalf of the Senate, introduced a group of 24 student government officers from the Windward District, representing Castle, Kahuku, Kailua and Kalaheo High Schools, who were accompanied by their advisers.

Senator Yamasaki, on behalf of the Senators from the Second Senatorial District, introduced the following senior citizens from Maui: Mr. and Mrs. Francis DeMello, Mr. and Mrs. Kenzo Takumi, Mr. Wallace Miyahira, Mr. Dyke Kondo, Miss Masayo Kawabe, and Mrs. Charlotte Yoshioka.

Senator Kuroda then rose to remark as follows:

"Mr. President, I'd like to introduce an old friend. The old friend, Mr. President, and members of the Senate, is this cold, fresh milk. This fresh milk I introduce as an old friend is one that has been considered free of heptachlor.

"Each year for the past three years during the final three weeks of the legislative session, Foremost and Meadow Gold Dairies have provided milk for distribution within the Senate. There are five major groups within this Senate that work day and night and through weekends. That's the Clerk's Office, Judiciary Committee, the Ways and Means Committee, the Majority Research Office and the Minority Research Office. Each year for the past three years we have received milk from the two dairies for distribution, basically, because by this time the hardworking people have overused the water, sometimes alcoholic beverages, but mostly the carbonated water, and so milk is something that they look forward to. This morning I've been able to get the half-pint milk from Foremost and Meadow Gold Dairies.

"Meadow Gold Dairies have run out of the fresh whole milk because it's a popular drink but we have reconstituted milk here, but Foremost still has fresh milk here.

"In this way, we recognize that the milk industry is doing its part and the processors are doing their part in bringing fresh milk to us. I think it is a privilege on the part of the Senate to help bring back public confidence in milk. So, Mr. President, members of the Senate and members of the hardworking staff, the milk will be distributed this morning. Some have already been made available and when we Senators and staff go back into the caucus room, you will see the refrigerator filled with milk for our consumption.

"Thank you very much, Mr. President, for letting me introduce our old friend, good, fresh, whole milk without heptachlor."

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 236 to 266) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 236), submitting for consideration and confirmation to the Boxing Commission, the nomination of George Kaahanui, Jr., term to expire December 31, 1984, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 237), submitting for consideration and confirmation to the Credit Union Review Board, the nomination of Patrick Petti, term to expire December 31, 1985, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 238), submitting for consideration and confirmation to the Board of Electricians and Plumbers, the nomination of John H. Sakamoto, term to expire December 31, 1985, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 239), submitting for consideration and confirmation to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, the nominations of Armando Q. Rollolazo and Jerry Michael Hiatt, terms to expire December 31, 1985, was referred to the Committee on Consumer Protection

and Commerce.

A message from the Governor (Gov. Msg. No. 240), submitting for consideration and confirmation to the Motor Vehicle Repair Industry Board, the nomination of Toru Suzuki, term to expire December 31, 1985, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 241), submitting for consideration and confirmation to the Board of Examiners in Naturopathy, the nominations of Rodney C.Y. Chun, N.D., and Arthur K. Kusumoto, terms to expire December 31, 1985, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 242), submitting for consideration and confirmation to the Board of Examiners of Nursing Home Administrators, the nominations of Philip R. Baltch, term to expire December 31, 1983, and Janet M. Hirata, term to expire December 31, 1985, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 243), submitting for consideration and confirmation to the Real Estate Commission, the nomination of Thomas T. Nakahara, term to expire December 31, 1985, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 244), submitting for consideration and confirmation to the Board of Speech Pathology and Audiology, the nominations of the following:

Ralph Uemae, term to expire December 31, 1985;

Roland Tam, M.D., term to expire December 31, 1983; and

Sandra K. Harada, term to expire December 31, 1985,

was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 245), submitting for consideration and confirmation to the Stadium Authority, the nomination of Alfred P. Fernandez, term to expire December 31, 1985, was referred to the Committee on Ecology, Environment and Recreation.

A message from the Governor (Gov. Msg. No. 246), submitting for consideration and confirmation to the Board of Land and Natural Resources, the nomination of Roland Higashi, term to expire December 31, 1985, was referred to the Committee

on Economic Development.

A message from the Governor (Gov. Msg. No. 247), submitting for consideration and confirmation to the Board of Planning and Economic Development, the nominations of Lee Gray and Peter Starn, terms to expire December 31, 1985, was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 248), submitting for consideration and confirmation to the Commission on Population and the Hawaiian Future the following nominations:

Marc E. Duncan, term to expire December 31, 1985;

Evelyn Olores, term to expire December 31, 1985;

Jane H. Fukunaga, term to expire December 31, 1985; and

James E. Dannemiller, term to expire December 31, 1983,

was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 249), submitting for consideration and confirmation to the 1984 Hawaii Statehood Silver Jubilee Committee, the nominations of Elmer F. Cravalho, Francis M. Stillman, Sr., Edward J. Burns, Shigeto Murayama, Barbara Daly, Clayton K.K. Naluai, Barbara Meheula, Wayne Ishihara, Herbert E. Wolff, Sandi Eagleson and Domingo Los Banos, all terms to expire June 30, 1986, was referred to the Committee on Education.

A message from the Governor (Gov. Msg. No. 250), submitting for consideration and confirmation to the Library Advisory Commission, City and County of Honolulu, the nominations of Linley Chapman and Marian A. Harris-de-Ochoa, terms to expire December 31, 1985, was referred to the Committee on Education.

A message from the Governor (Gov. Msg. No. 251), submitting for consideration and confirmation to the State Health Planning and Development Agency, the nomination of KeNam Kim, term to expire December 6, 1982, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 252), submitting for consideration and confirmation to the East Honolulu Subarea Health Planning Council, the nomination of Hilda W. Ornitz, term to expire December 31, 1985, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 253), submitting for consideration and confirmation to the West Honolulu Subarea Health Planning Council, the nominations of Judith Ann Naniole and Francis Okita, terms to expire December 31, 1985, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 254), submitting for consideration and confirmation to the Central Oahu Subarea Health Planning Council, the nomination of Alan K. Yoshida, D.D.S., term to expire December 31, 1985, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 255), submitting for consideration and confirmation to the Waianae Coast Subarea Health Planning Council, the nominations of Leonard F.K. Kwan, Jr., and Denise M. Jones, terms to expire December 31, 1985, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 256), submitting for consideration and confirmation to the Windward Oahu Subarea Health Planning Council, the nomination of Claudette G. Mulder, term to expire December 31, 1985, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 257), submitting for consideration and confirmation to the Maui County Subarea Health Planning Council, the nominations of Michele A. Katsutani, Mamoru Tofukugi, M.D., and Richard Higashi, terms to expire December 31, 1985, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 258), submitting for consideration and confirmation to the Kauai County Subarea Health Planning Council, the nomination of Herbert Morris, Jr., term to expire December 31, 1985, was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 259), submitting for consideration and confirmation to the Hawaii Housing Authority, the nomination of Vance Cannon, term to expire December 31, 1983, was referred to the Committee on Housing and Hawaiian Homes.

A message from the Governor (Gov. Msg. No. 260), submitting for consideration and confirmation to the Hawaii Housing Authority, the nomination of Masanori Emoto, term to expire December 31, 1984, was referred to the Committee on Housing and Hawaiian Homes.

A message from the Governor (Gov.

Msg. No. 261), submitting for consideration and confirmation to the Hawaii Housing Authority, the nomination of Roy Nakamoto, term to expire December 31, 1983, was referred to the Committee on Housing and Hawaiian Homes.

A message from the Governor (Gov. Msg. No. 262), submitting for consideration and confirmation to the Advisory Commission on Manpower and Full Employment, the nominations of Donn A. Carswell, Alice H. Kim, and Roy R. Yonahara, terms to expire June 30, 1985, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 263), submitting for consideration and confirmation to the Board of Social Services and Housing, the nominations of Rose T. Ohashi and Marilyn Wong, terms to expire December 31, 1985, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 264), submitting for consideration and confirmation to the Hawaii Crime Commission, the nomination of Cora K. Lum, term to expire January 30, 1984, was referred to the Committee on Judiciary.

A message from the Governor (Gov. Msg. No. 265), submitting for consideration and confirmation to the Board of Registration, Island of Oahu, the nomination of Amado Iilar Yoro, term to expire December 31, 1985, referred to the Committee on Judiciary.

A message from the Governor (Gov. Msg. No. 266), submitting for consideration and confirmation to the State Highway Safety Council, the nominations of Keith Thomas Burley and Howard H. Tagomori, terms to expire December 31, 1985, was referred to the Committee on Transportation.

SENATE CONCURRENT RESOLUTION

A concurrent resolution (S.C.R. No. 58), entitled: "SENATE CONCURRENT RESOLUTION URGING CONGRESS TO AMEND PRESIDENT REAGAN'S NEW FEDERALISM PROGRAM," was offered by Senators Cayetano, Abercrombie, Carpenter, Kawasaki, Uwayne, Kuroda, Yamasaki, Wong, Young, Holt, Toyofuku, Machida, Cobb, Campbell, O'Connor, Ushijima and Ajifu, and was read by the Clerk.

By unanimous consent, S.C.R. No. 58 was referred to the Committee on Government Operations and Intergovernmental Relations.

SENATE RESOLUTION

A resolution (S.R. No. 80), entitled: "SENATE RESOLUTION URGING CONGRESS TO AMEND PRESIDENT REAGAN'S NEW FEDERALISM PROGRAM," was offered by Senators Cayetano, Abercrombie, Carpenter, Kawasaki, Uwayne, Kuroda, Yamasaki, Wong, Young, Holt, Toyofuku, Machida, Cobb, Campbell, O'Connor, Ushijima and Ajifu, and was read by the Clerk.

By unanimous consent, S.R. No. 58 was referred to the Committee on Government Operations and Intergovernmental Relations.

STANDING COMMITTEE REPORT

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 785-82), informing the Senate that Standing Committee Report Nos. 709-82 to 784-82, Governor's Message Nos. 236 to 266, Senate Concurrent Resolution No. 58, and Senate Resolution No. 80 have been printed and distributed to all members of the Senate.

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

ORDER OF THE DAY

THIRD READING

House Bill No. 2173-82:

On motion by Senator Uwayne, seconded by Senator Abercrombie and carried, H.B. No. 2173-82, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2339-82, H.D. 1:

On motion by Senator Uwayne, seconded by Senator Abercrombie and carried, H.B. No. 2339-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JURISDICTION OF THE HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2848-82:

On motion by Senator Uwayne, seconded by Senator Abercrombie and carried, H.B. No. 2848-82, entitled: "A BILL FOR AN ACT RELATING TO SICK LEAVE EXCEPTIONS," having been read throughout, passed Third Reading on the following

showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2230-82, H.D. 1, S.D. 1:

Senator Soares, moved that H.B. No. 2230-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Yamasaki.

Senator Campbell spoke in favor of the measure and stated:

"Mr. President, the purpose of the bill is to authorize the Public Utilities Commission (PUC) to direct public utilities to acquire electricity generated from non-fossil fuel sources if such action, a tenet of the PUC, is in the public interest.

"I'd like to commend the committee, Mr. President, for being, and this is according to the draft, I wish to commend them for being deeply dedicated and committed to the promotion and encouragement of alternate energy. Thank you."

The motion was put by the Chair and carried, and H.B. No. 2230-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICITY GENERATED FROM NON-FOSSIL FUELS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2889-82, H.D. 1, S.D. 1:

On motion by Senator Soares, seconded by Senator Abercrombie and carried, H.B. No. 2889-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1042, H.D. 1:

Senator Cobb moved that H.B. No. 1042, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwayne.

Senator Cobb then rose to state as follows:

"Mr. President, I'd like to take note of the typographical error in the bill and make a Journal entry to correct it.

"The typographical error is contained on page 1, line 8, of the bill referring

to 'Section 490: 1.' It should be corrected to read: 'Section 490: 9.'"

The Chair directed that the Journal so note the correction.

The motion was put by the Chair and carried, and H.B. No. 1042, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE FILING OF FINANCING STATEMENTS BY CONSIGNORS AND LESSORS UNDER THE UNIFORM COMMERCIAL CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1488, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 1488, H.D. 1, 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, 25. Noes, none.

House Bill No. 2029-82, H.D. 2:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2029-82, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO BILLIARDS AND BOWLING ALLEYS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2191-82, H.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2191-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLICITATION OF FUNDS FROM THE PUBLIC," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2405-82:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2405-82, entitled: "A BILL FOR AN ACT RELATING TO DISCLOSURE OF FINANCE COSTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2550-82, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2550-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SAVINGS AND LOAN ASSOCIATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2902-82:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2902-82, entitled: "A BILL FOR AN ACT RELATING TO SAFETY DEPOSIT BOXES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2935-82, H.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2935-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BRANCH BANKS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

House Bill No. 3030-82:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 3030-82, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 473, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Kawasaki and carried, H.B. No. 473, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

ADVISE AND CONSENT

Standing Committee Report No. 617-82 (Gov. Msg. No. 123):

Senator Kobayashi moved that Stand.

Com. Rep. No. 617-82 be received and placed on file, seconded by Senator George and carried.

Senator Kobayashi then moved that the Senate advise and consent to the nomination of Jack Kellner to the Environmental Council, term to expire December 31, 1985, seconded by Senator George.

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

Ayes, 25. Noes, none.

At this time, Senator Kawasaki remarked:

"Mr. President, while I'm voting in favor of the confirmation of these appointments, I would think that the Governor, the appointing authority, would be better advised to perhaps appoint some different people to some of these boards and commissions.

"I notice some of these appointees have served as much as eight years, and two, three consecutive terms. It seems to me that we don't have a dearth of willing people to serve on some of these meaningful boards and commissions. I would hope that the Governor would attempt to find different people, qualified people to serve on some of these boards and commissions. We seem to be repeating these appointments over and over again, session after session."

Standing Committee Report No. 618-82 (Gov. Msg. No. 126):

Senator Kobayashi moved that Stand. Com. Rep. No. 618-82 be received and placed on file, seconded by Senator George and carried.

Senator Kobayashi then moved that the Senate advise and consent to the nominations of Ivan H. Morita and Donald K. Andrews, to the Aquatic Life and Wildlife Advisory Committee, City and County of Honolulu, terms to expire December 31, 1985, seconded by Senator George.

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

Ayes, 25. Noes, none.

Standing Committee Report No. 619-82 (Gov. Msg. No. 129):

Senator Kobayashi moved that Stand. Com. Rep. No. 619-82 be received and placed on file, seconded by Senator

George and carried.

Senator Kobayashi then moved that the Senate advise and consent to the nominations of William Kikuchi, Ph.D., Herbert M. Mark, Richard Paglinawan, Betty Ann Rocha, and Bernhard Hormann, Ph.D., to the Hawaii Historic Places Review Board, terms to expire January 1, 1986, seconded by Senator George.

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

Ayes, 25. Noes, none.

Standing Committee Report No. 620-82 (Gov. Msg. No. 130):

Senator Kobayashi moved that Stand. Com. Rep. No. 620-82 be received and placed on file, seconded by Senator George and carried.

Senator Kobayashi then moved that the Senate advise and consent to the nomination of Augustine S. Furumoto to the Natural Area Reserves System Commission, term to expire December 31, 1985, seconded by Senator George.

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

Ayes, 25. Noes, none.

Standing Committee Report No. 621-82 (Gov. Msg. No. 131):

Senator Kobayashi moved that Stand. Com. Rep. No. 621-82 be received and placed on file, seconded by Senator George and carried.

Senator Kobayashi then moved that the Senate advise and consent to the nomination of Brian L. Gray to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, term to expire December 31, 1985, seconded by Senator George.

Ayes, 25. Noes, none.

THIRD READING

House Bill No. 2172-82:

On motion by Senator Kobayashi, seconded by Senator George and carried, H.B. No. 2172-82, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE DISPOSAL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 161, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 161, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WEIGHT OF BREAD," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Anderson and Henderson).

House Bill No. 1653, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 1653, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REQUIREMENTS FOR AMENDMENT OF THE DECLARATION AND BYLAWS OF CONDOMINIUM ASSOCIATIONS UNDER THE HORIZONTAL PROPERTY ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2028-82:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2028-82, entitled: "A BILL FOR AN ACT RELATING TO HOTELS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2193-82, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2193-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2198-82, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2198-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF DENTAL EXAMINERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2295-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2295-82, H.D. 1, 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, 25. Noes, none.

House Bill No. 2408-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2408-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CREDIT UNIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2446-82, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2446-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BEAUTY CULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2870-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2870-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Cayetano spoke in favor of the measure and stated:

"Mr. President, I'm in favor of this bill but I'd like to point out for the record that on page 3, lines 7 to 13, there appears to be a contradiction to the purpose of the bill.

"Line 7 reads as follows: '...The term "sensitivity-awareness groups" does not include certified psychologists, or psychologists with a temporary permit, ...' etc., etc.

"My experience has been that in these groups...these are sensitivity groups...many of them are in fact led or have been formed by certified psychologists or psychologists with this kind of permit, and it seems to me that this section of

the bill may in fact emasculate the bill from being what it is intended to do, and that is, namely, to regulate these sensitivity-awareness groups. So, I would hope that if this bill does go into conference that the conferees would take note of that problem and deal with it accordingly."

The motion was put by the Chair and carried, and H.B. No. 2870-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SENSITIVITY-AWARENESS GROUPS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Anderson, Henderson and Yee).

House Bill No. 2890-82, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2890-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INDUSTRIAL LOAN COMPANY GUARANTY ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2942-82, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 2942-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPEECH PATHOLOGISTS AND AUDIOLOGISTS," was recommitted to the Committee on Consumer Protection and Commerce.

House Bill No. 2980-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2980-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL CORPORATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 790, H.D. 1:

On motion by Senator Young, seconded by Senator Holt and carried, H.B. No. 790, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2097-82:

On motion by Senator Young, seconded by Senator Holt and carried, H.B. No. 2097-82, entitled: "A BILL FOR AN ACT RELATING TO FAIR HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (O'Connor, Toyofuku and Ushijima).

House Bill No. 2380-82:

By unanimous consent, H.B. No. 2380-82, entitled: "A BILL FOR AN ACT RELATING TO ELDERLY HOUSING," was recommitted to the Committee on Housing and Hawaiian Homes.

House Bill No. 3119-82, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Holt and carried, H.B. No. 3119-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL GROUP LIVING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Cobb).

House Bill No. 2095-82, H.D. 1, S.D. 1:

On motion by Senator Kawasaki, seconded by Senator Ajifu and carried, H.B. No. 2095-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VEHICLE NUMBER PLATES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2406-82, H.D. 2:

On motion by Senator Kawasaki, seconded by Senator Ajifu and carried, H.B. No. 2406-82, H.D. 2, 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, 1 (Cobb).

House Bill No. 2939-82, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 2939-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CLARIFICATION OF THE DEFINITION

OF STANDARD BAR," was recommitted to the Committee on Government Operations and Intergovernmental Relations.

House Bill No. 2215-82, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2215-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 7 (Campbell, Holt, Machida, Mizuguchi, O'Connor, Toyofuku and Ushijima).

At this time, Senator Kawasaki rose on a point of personal privilege and stated:

"Mr. President, while we are very magnanimously, in a statesmanlike fashion, passing all these House bills on Third Reading, might I request that you send someone from the Sergeant-at-Arms staff over to the other side of the rotunda to see how many of the meritorious Senate bills are faring."

House Bill No. 2224-82, H.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2224-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2377-82, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2377-82, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2598-82, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2598-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT TO AMEND SECTION 708-833.5, HAWAII REVISED STATUTES, RELATING TO SHOPLIFTING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (O'Connor).

House Bill No. 2629-82, H.D. 1:

By unanimous consent, action on H.B. No. 2629-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CUSTODIAL INTERFERENCE," was deferred until Tuesday, April 6, 1982.

House Bill No. 2750-82, H.D. 1, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Cobb and carried, H.B. No. 2750-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Cayetano and O'Connor).

House Bill No. 2972-82, H.D. 1, S.D. 1:

Senator Carpenter moved that H.B. No. 2972-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Ushijima then rose to ask if the chairman of the Judiciary Committee would yield to some questions.

The Chair asked Senator Carpenter if he would yield and Senator Carpenter replied in the affirmative.

Senator Ushijima asked: "Mr. President, according to the bill in Section 669-3, the first paragraph, sub-section (b), it says that '...shall be made in an English language newspaper published in and having a general circulation in the circuit...' Now, as a matter of clarification, would the paper like the Hawaii Hochi, which does have an English section, be considered an English language paper?"

Senator Carpenter answered: "Mr. President, to my knowledge the Hawaii Hochi's primary language is Japanese and would not be considered an English language newspaper, in this sense, no."

Senator Ushijima thanked Senator Carpenter and further asked: "As you go further down the paragraph, it says that '...in an English language newspaper having a general circulation in the State...' Now, what papers would be considered having general circulation in the state?"

Senator Carpenter answered: "The

two most prevelant ones are the Advertiser and the Honolulu Star-Bulletin."

Senator Ushijima further inquired: "Would there be any others?"

Senator Carpenter answered: "In the state, I'm not aware at this time if there are."

Senator Ushijima thanked Senator Carpenter then spoke against the measure as follows:

"Mr. President, the bill states that in an action to quiet title there are two things that are necessary.

"First of all, in giving notice to unknown persons, it says under subparagraph (b) that '...it shall be made in an English language newspaper, published in and having a general circulation in the circuit...' that's number one. Then it says that if the land is located in circuits other than the first circuit, the second, third and fourth, then it must also be published in a newspaper of general circulation.

"As an example, if I commence an action to quiet title in the third circuit, that's on the Island of Hawaii, there are two requirements that are necessary. First of all, it has to be published in a newspaper of general circulation in that circuit. I have to have it published right there on the Island of Hawaii.

"Then it says that in the second requirement if it is not located in the first circuit, then it has to be published again in a newspaper of general circulation throughout the state.

"In other words, for those who are outside of the first circuit, publications of actions to quieting title will have to be published twice. These expenses are pretty heavy; they go into hundreds of dollars.

"Also, it says that if land or action to quiet title is started in the first circuit, then you have to publish it only in a newspaper of general circulation. Of course, general circulation as I understand it means that everybody on the neighbor islands reads these publications.

"I'm totally opposed to the bill because what it does is that it creates an added expense insofar as these actions are concerned that are started in the circuits other than the first circuit. On that basis, I am totally opposed to this bill. Thank you."

Senator O'Connor then rose on a point

of clarification as to a conflict of interest and stated:

"Mr. President, I would like to declare a conflict. As an attorney, I have at least ten quiet title action clients where I'm personally involved in today and I'm sure, over the next five years, I'll be involved in lots more."

The Chair ruled that Senator O'Connor is not in conflict.

Senator O'Connor thanked the Chair then rose to ask: "Mr. President, I'd like to ask the chairman a question concerning Section 2 of the bill which has to do with an amendment to the adverse possession section."

The Chair inquired if the chairman would yield to a question and Senator Carpenter replied that he would.

Senator O'Connor then queried:

"Mr. President, the section seeks to amend the use of adverse possession to quieting title actions and it sets up but two requirements, as I read it. One, that you can claim adverse possession by showing that you acted in good faith under claim of right, or that you had color of title.

"My question to the chairman is, are those the only two requirements that will then be required in adverse possession in quiet title actions?"

Senator Carpenter answered: "Mr. President, my understanding is that whatever is allowed at the present time, these become additional to. That is, my understanding is that adverse title action requires some kind of hostile action on the part of the individual claiming adverse possession; that is, the setting up of a fence or boundary or some kind of edifice and the occupation of a certain property. So, these would be additive to that."

Senator O'Connor further queried: "Mr. President, today in Hawaii, we have a very distinct difference in adverse possession as between joint tenants by Supreme Court case law and adverse possession as between people who are not joint tenants. Does this seek to modify the Supreme Court case law which we presently lived by for a long time in this area?"

Senator Carpenter answered: "To my knowledge, it does not."

Senator O'Connor remarked: "In which case, Mr. President, I rise to speak against the bill."

"First of all, this is a bill which really discriminates against claimants and attorneys representing them who bring claims in the areas away from Oahu in that the double publication requirement that Senator Ushijima earlier referred to will apply. Therefore, every attorney and every claimant on any one of the other islands is going to have to publish both in a periodical in that circuit and simultaneously publish in one of the two major newspapers.

"The real problem in this area comes when you have a newspaper strike of the Hawaii Newspaper Agency, and this happened to us in the past. The body may recall that we had a strike that went on for a long, long time not too many years ago. And during that period of time legal notices and legal publications which are required by the court to be quickly published once the orders are signed must be put in some kind of newspaper. The only newspapers then available were the newspapers on the neighbor islands and the Hawaii Hochi, and they were used regularly and we are presently standing a court order in the first circuit that the Hawaii Hochi is a newspaper of general publication which can be used for this sort of publication.

"You would bring, Mr. President, the legal system of the state, insofar as quiet title action, to a halt because you don't just publish the first notice under this section but you publish every other notice that's required by the court as long as these actions go on, and there are a lot of them that require publishing.

"In addition, on Oahu which evidently is only limited to the Advertiser and the Star-Bulletin, there are other newspapers today of general circulation on Oahu, like the Press newspapers, and I would suggest that there is no reason in the world that if you're going to impose this double standard not to impose it on Oahu also. Let some other Oahu newspaper make some money out of this situation, if that's the intent of the bill.

"There simply seems to be no reason to require a double publication standard in any circuit if you're not going to make it uniform, and it appears to be discriminatory and really a violation of due process simply to require it to be done on outside islands.

"Secondly, in the area of adverse possession, the law of adverse possession in this jurisdiction today is extremely plain, made so by a series of Supreme Court decisions which are time-honored and have been hammered out for years and years.

"In some instances for adverse possession the requirements which are added to 669-1(b) are already in the law and need not be articulated again in the statute. In other instances, they are not necessarily mandated by the law for susceptible reasons which the Supreme Court has already nailed down.

"To add two areas to the statutory law where the Supreme Court decisions outline at least six or more requirements for adverse possession, to my way of thinking, is fragmenting the law of adverse possession which is already terribly fragmented by a Constitutional amendment, the statutory section on it, and all of the Supreme Court decisions to a point where we're simply not going to know eventually where to look for this basic law of this jurisdiction. And for that reason I'm going to vote against this bill."

Senator Kawasaki also rose to speak against the measure and stated:

"Mr. President, I find quite refreshing, the interesting discussion taking place on this bill. For a change we are having discussions here not to enhance the monopoly already enjoyed by the two major newspapers here and the points made by both of the speakers, Senator O'Connor and Senator Ushijima, are well taken.

"As Senator O'Connor has said, the Hawaii Hochi does in fact have an English edition, completely English as a matter of fact, that is of general circulation; that is to say, it's not limited only to subscribers here on the Island of Oahu.

"These independent newspapers like the Hochi and some of the other small newspapers have to depend quite considerably on the revenues of these legal ads that are placed in the newspapers in order to even exist and compete as a newspaper entity, and to preclude these papers from having the advantage of legal ads placed in their papers, I think, works for the monopoly and against an open, competitive situation.

"Incidentally, there was no mention made here of the fact that the advertising rates of papers like the Hawaii Times and Hawaii Hochi and Hawaii Herald are considerably less than advertising legal ads in the major newspapers and, as a consequence, saves people who have to pay for these costs of legal ads a considerable amount of money.

"I would like to have perhaps the

chairman of the Judiciary Committee reconsider, at least his personal opinion, that to advertise in a paper of general circulation in the English language does not only include the Advertiser and the Star-Bulletin. I am sure a broader liberal interpretation could also include papers like the Hawaii Hochi which does have a general circulation throughout the islands and, indeed, have an English edition."

Senator Carpenter responded:

"Mr. President, the intent of this bill certainly is not to enhance the pocketbooks of the newspapers, but rather to enhance the resolution of long standing unresolved property ownership within the State of Hawaii, particularly, by individuals who are primarily of Hawaiian extraction who own lands in undivided interest.

"Mr. President, the essence of this bill as I see it is to prevent stealing of land, i.e., making it more difficult for any party to steal land within the State of Hawaii. Thank you."

Senator Kawasaki then stated:

"Mr. President, I fully understand the intent of this bill.

"I would like to have entered into the records of the Senate Journal at least my opinion, interpretation, that to provide the requirement that legal ads be placed in a paper of general circulation in the English language does permit the Hawaii Hochi also to be used, and if that is the understanding, then I certainly can support and vote for this bill."

Senator Cayetano also rose to speak against the bill and stated:

"Mr. President, first, let me say that in response to the arguments made by Senator O'Connor regarding the newspaper strike, I don't think that's a particularly relevant or meaningful argument because I'm sure that the Hawaii Times and the Hochi may go on strike also. And this is being required in the law anyway.

"I'm opposed to this bill even though I think that the intent of the bill as to the purposes stated by Senator Carpenter are good. The problem is that this bill imposes a requirement which cuts right across-the-board. It applies to the rich, the middle class and the poor.

"The rich will be able to afford the rates, the added rates that we're talking

about, but I think this is going to hurt the small guy who will find that there is a tremendous difference in the publishing rates between the Hawaii Times and the Honolulu Advertiser or the Star-Bulletin. And for that reason, I'm opposed to this bill."

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

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

At this time, Senator Carpenter rose to remark as follows:

"Mr. President, my understanding is that there are several newspapers that do print in foreign language but also have English sections; in fact, are printed all in English even though they may carry a name that may not necessarily be.

"Mr. President, I think I indicated earlier that the Honolulu Advertiser and the Honolulu Star-Bulletin are two papers of general circulation which, to my knowledge, are English language newspapers. If there are any others, certainly they will qualify under the language of this bill."

Senator Cayetano responded:

"Mr. President, if that's the case, then I think it obviates the purpose of this bill.

"The people who are pushing for this bill are primarily from OHA, I believe, who want the major papers to be the papers of general circulation that we are talking about here.

"If we are to state for the record that the Hawaii Times and some of these other papers are going to qualify as general circulation, however it's worded here, '...an English language newspaper published in and having a general circulation in the circuit,' we're back to square one because people will continue to use those papers, and the issue that the proponents of this bill were trying to push was notice to as wide a population as possible. So, I don't think that the remarks just made would resolve the problem.

"One other comment, before I sit down on this matter... the requirement regarding 'good faith under claim of right or color of title' again will go adverse, I think, to the objectives of the people who want this bill.

"We have many cases in this state

of Hawaiians living as 'squatters' on land owned by someone else, very often living there for many, many years. These people would be precluded from claiming under adverse possession if this bill passes. I don't think that's the intent of OHA, and if what people here want to do is to help the Hawaiians out, it's not going to do it."

Senator Abercrombie then rose to remark:

"Mr. President, could I ask the chairman to comment on the last remarks because that's the question that I had. I want to vote in a way that will make it easier for people, who, in my understanding, in previous times could claim land...if they met in 'good faith'...could claim that they had occupied that land for a certain period of time and had occupied it under certain circumstances, and that those who had previously claimed or are now claiming that they own that land and that therefore the people who are asking to have it could not have it would find themselves being able to assert their rights to it having gone through those procedures, like staying there 20 years, doing it in the open, etc., and no claims being made against them.

"The previous speaker had stated, and I'm assuming that he does it from his knowledge as an attorney, that with the provision in the bill on 'good faith under claim of right or color of title' that that claim will no longer be a valid one and will be turned down on the grounds that it did constitute good faith because you knew you were on land or should have known that you were on land that was not yours regardless of what you thought to be the circumstances, if you should occupy it for 10 years under the other condition.

"The gist of my question is that, will the addition of this new language with respect to good faith actually obviate or overturn the long held assumptions with respect to adverse possession for people who did not have a claim to the land in the first place?"

The Chair asked Senator Carpenter if he would care to respond to the question and Senator Carpenter replied: "I'm not sure I understood the question."

Senator Abercrombie responded:

"Mr. President, I can understand why, because I'm confused myself as to what constitutes good faith.

"In other words, as I understood it before, if you could occupy a piece

of land for a certain period of time and under certain conditions, that is to say you didn't occupy it just that night...you maybe built a house there; you maybe raised vegetables there; you live there...that after 20 years you could lay claim to that land.

"If someone else came in and said, 'Hey, wait a minute, I've held that land all this time; that's been mine all this time.' They first had a right to say either 'so what' or 'even if you did, I've occupied it under these circumstances for the past 20 years, therefore, I have a right to claim this land as my own.' Now, that has been recognized in the past and it was not acting in bad faith to do that. What I want to know is that in the language of this bill with respect to the phrase 'in good faith under claim of right or color of title' will that procedure that people have utilized in the past to lay claim to land be obviated?"

Senator Carpenter answered: "The answer is no, Mr. President."

At 12:41 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:43 o'clock p.m.

Senator Kawasaki then added as follows:

"Mr. President, I appreciate the Judiciary chairman's characteristic and gentlemanly acknowledgment of the fact that there are other papers beside the Star-Bulletin and Advertiser that publish in the English language and are of general circulation and that these papers would qualify for legal ads of this category. I can wholeheartedly support the bill, this being the case."

The motion was put by the Chair and, Roll Call vote having been requested, H.B. No. 2972-82, H.D. 1, S.D. 1, 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, 15. Noes, 10 (Campbell, Cayetano, Henderson, Holt, Machida, Mizuguchi, O'Connor, Toyofuku, Ushijima and Yamasaki).

House Bill No. 3124-82, H.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 3124-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING

TO AUTHORIZED ABSENCE FROM A PSYCHIATRIC FACILITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Soares).

House Bill No. 1515, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 1515, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DUTIES OF SAFE DEPOSIT COMPANIES, TRUST COMPANIES, BANKS, ETC.," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2051-82, H.D. 2, S.D. 1:

By unanimous consent, H.B. No. 2051-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," was recommitted to the Committee on Ways and Means.

House Bill No. 2147-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2147-82, H.D. 2, 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, 25. Noes, none.

House Bill No. 2165-82, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2165-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2205-82, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2205-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INHERITANCE TAXATION," having been read throughout, passed Third Reading on the following showing

of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2206-82, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2206-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2240-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2240-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN IN FOSTER CARE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2241-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2241-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RECOVERY OF MONEY OWED TO THE STATE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2243-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2243-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELDERLY ABUSE OR NEGLECT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2247-82, H.D. 1:

Senator Yamasaki moved that H.B. No. 2247-82, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Cayetano spoke in favor of the bill and stated:

"Mr. President, this bill is going

to cost the state about \$8.6 million in revenue annually. It's the result of conformance with the federal income tax law. The reason I'm voting for it, after having voted against all of the tax credits and other kinds of bills relating to tax exemptions, etc., in the past few weeks is that I have come to the conclusion that the only way we can stop giving away money here is to make sure that we don't have any to give away."

Senator Abercrombie also spoke for the measure and stated:

"Mr. President, speaking in favor of this, because members may note that I had voted that I do not concur. As a result of the discussion in caucus, I have changed my mind for much the same reason as Senator Cayetano has just mentioned with this addendum with which I'm sure he'll agree that to the degree that we are going to have tax reductions that this goes across-the-board to people in general, as opposed to special interests who at this time should not be receiving many of these tax breaks because of the financial situation within which we find ourselves.

"And if this is the way we're going to do it, that's fine, then we'll have to deal with it accordingly when our revenue picture is presented to us in the next biennium and those to come."

Senator Cobb added:

"Mr. President, like the Federal Government, it's predictable that within a year to 18 months, or two years at the most, we'll be considering a revenue enhancement measure to make up for some of the losses caused by this. But, I'm sure we'll be conforming that to the action of the Federal Congress as well."

Senator Abercrombie then said:

"Mr. President, for purposes of clarification of the previous speaker's remarks, revenue enhancement means a tax increase."

The motion was put by the Chair and carried, and H.B. No. 2247-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2313-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded

by Senator Anderson and carried, H.B. No. 2313-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DRIVER EDUCATION AND TRAINING FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2400-82, S.D. 1:

Senator Yamasaki moved that H.B. No. 2400-82, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Cayetano then stated: "Mr. President, I am just going to say that this is going to cost us \$1.7 million and this time I'm voting for it because I don't want us to have any more money in the future to give away."

The motion was put by the Chair and H.B. No. 2400-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INHERITANCE TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2438-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2438-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENCOURAGEMENT OF FEDERALLY CERTIFIED DEVELOPMENT COMPANIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2560-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2560-82, H.D. 1, S.D. 1, 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, 1 (Kawasaki).

House Bill No. 2561-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Abercrombie and carried, H.B. No. 2561-82, H.D. 1, S.D. 1,

entitled: "A BILL FOR AN ACT RELATING TO MANAGEMENT OF STATE FUNDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Ajifu, Anderson, Henderson, Saiki and Soares).

House Bill No. 2562-82, H.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2562-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEPOSITS OF PUBLIC FUNDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2765-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2765-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOLS SPECIAL FEES AND CHARGES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2815-82, H.D. 1, S.D. 1:

Senator Yamasaki moved that H.B. No. 2815-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Campbell spoke against the measure and stated:

"Mr. President, the purpose of the bill is to give each county the option of adding to each vehicle registration a fee not to exceed 50 cents for the purposes of highway beautification and disposition of abandoned vehicles.

"Mr. President, I support the concept of having such increase in vehicle registration fee to be used for the beautification of our highways, but I strongly oppose using any part of that fee for abandoned cars because I think those who are responsible for abandoning their cars ought to pay and not the innocent consumer. Thank you."

Senator George, speaking for the measure, stated:

"Mr. President, I was going to explain briefly that up until about five years ago a very similar measure was in place. It was unfortunately, we are

given to understand, inadvertently erased from the books. Putting it back will give the counties once again an opportunity to build up their funds to use for highway beautification. If the county deems it necessary to use it to clear up unsightly accumulations of abandoned vehicles, they may, or they may use it for planting or for any other beautification purpose."

Senator O'Connor also rose to speak against the measure and stated:

"Mr. President, I'm going to vote against this bill.

"I, earlier in this session, talked a little bit about special funds and the establishment of special funds. I was one of those, several years ago, who worked hard to wipe out special funds scattered throughout the Hawaii Revised Statutes and the county ordinances.

"I tried to vote no on Senate Bill 2765 a minute ago, you missed my vote... didn't make any difference, anyway. The reason I was going to vote no is because that bill set up a brand new special fund in the public school system which we will lose track of eventually. This bill sets another new special fund called 'The Highway Beautification and Disposal of Abandoned Vehicles Revolving Fund.' And, not only do we lose track of it, but it's set up in the counties, and we allow them to get 50 cents for registration into that fund.

"The purpose of the bill is excellent. Why scatter all of these special funds through the state and the counties where we have absolutely no control over them, lose track of them, and they continue to persist for years until such time as the proliferation of them will require us to go back and do one more time what we did in the early 1970's in the Legislature.

"For that reason, I am going to vote against this bill and although I will be in favor of the intent I will vote against every other bill that creates a special fund that we have before us this session.

"Thank you."

Senator Kawasaki then spoke in favor of the measure and stated:

"Mr. President, while I will vote for this bill, I think an amendment is in order here that we exclude requiring additional fee charge to registrations from the Fourth Senatorial District. Only this morning, I noticed on H-1 that Senator Kuroda is still continuing his litter picking program. If that is to continue in the Fourth District,

I don't think we need to charge people who are registering cars from the Fourth District."

Senator O'Connor responded: "Mr. President, in doing that Senator Kuroda keeps abandoning vehicles along the highway."

Senator Abercrombie also spoke for the bill and stated:

"Mr. President, I'm in favor of this bill but reference is made by the second previous speaker to a bill we just passed with respect to a special fund and maybe it warrants comment because sometimes we try to do things blanket across-the-board then we find ourselves getting some things in trouble.

"I might say here that the reason for that special fund is so that children in school can keep their club dues.

"I hardly think it serves the purpose of the state to take dues from school clubs and put them in the General Fund. I think that they're there for the children in those schools and that's why that fund exists."

The motion was put by the Chair and carried, and H.B. No. 2815-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REGISTRATION OF VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Campbell, Holt, Mizuguchi, O'Connor, Toyofuku and Ushijima).

House Bill No. 2817-82, H.D. 2, S.D. 1:

Senator Yamasaki moved that H.B. No. 2817-82, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator O'Connor spoke against the measure and stated:

"Mr. President, I don't know who the appropriate one is to address this question to but let me just speak against the bill and I will phrase the question as I speak against the bill and I will phrase the question as I speak and maybe someone can answer it.

"I'm concerned about this measure because in amending Section 249 which is really the key section of the bill there is no exception made for agricultural vehicles or agricultural motorized vehicles as the word is defined, and as I read the measure, all of those

will have to be registered.

"There is an exception made in the first section of the bill which has to do with Chapter 286, which is a completely different section.

"It appears to me that because that exception is not made throughout that this bill is going to have severe impact on many of our citizens who have motorized vehicles and never take them upon the highways or really off of their own properties. I believe that the impact has not been thought through except in one section.

"The committee report seems to reflect that that exception carries throughout, but in fact it does not. It only goes to one of the chapters that is modified or amended by the bill.

"For that reason, I am going to vote against the bill and I believe that the impact of this bill will be felt severely, primarily on the other islands where there is a proliferation of these vehicles which need not be registered, really, and which exist for the economic wherewithal of their owners primarily on their own properties."

Senator George then responded:

"Mr. President, as long as the previous speaker expressed some concern about not exempting, as I understand it, agricultural vehicles from one section of the bill which is amended, I think I can comment to that from the point of view that HSPA objected to the bill in its original form when we heard it as a Senate bill, testified before us when we had it as a House bill and, I believe, also before the Ways and Means Committee, supported the bill, and as a matter of fact had no complaints at all to raise by the time the bill achieved this language."

Senator Yamasaki added: "Mr. President, that's correct, the Ways and Means Committee did not receive any complaints from the Hawaiian Sugar Planters Association and they were in agreement with the amendment."

Senator O'Connor then queried: "Mr. President, maybe the prior speaker then can inform us as to why Chapter 249 wasn't amended to provide the same exception which was provided to Chapter 286?"

Senator Yamasaki answered: "Mr. President, I'm not sure why it wasn't amended, but the committee was satisfied with the explanation or the agreement by the Hawaiian Sugar Planters Association that they were excluded."

Senator O'Connor then said: "Mr. President, I would submit, again speaking against, the Hawaiian Sugar Planters Association is but one entity, and there are an awful lot of farmers and agriculturists out there who are a different entity and I'm sure would have severe impact from this bill."

At 1:02 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:05 o'clock p.m.

Senator George then stated: "Mr. President, to allay the apprehensions raised earlier, in further reference to Section 249, it refers back to the exemptions stated earlier so the same exemptions apply in that case."

The motion was put by the Chair and carried, and H.B. No. 2817-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OFF-ROAD VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Holt, Machida, Mizuguchi, O'Connor, Toyofuku and Ushijima).

House Bill No. 2879-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2879-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FEES AND CHARGES COLLECTED FROM THE USERS OF SCHOOL FACILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2969-82, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2969-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Ajifu).

House Bill No. 3136-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 3136-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING

TO THE ALOHA TOWER DEVELOPMENT CORPORATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Abercrombie, Anderson, Cayetano, Cobb, Kawasaki, Saiki, Soares and Wong).

House Bill No. 3143-82, H.D. 2, S.D. 1:

Senator Yamasaki moved that H.B. No. 3143-82, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Abercrombie.

Senator Anderson spoke against the measure and stated:

"Mr. President, this authority further compounds a situation that I think isn't going to work out. I don't think I have to refresh memories as to how it all started, but those days are behind us now and we have a Governor working very well with the Mayor and the City and County of Honolulu. The discussions and the dialogue, the moving around the city together, answering questions, demonstrates the closeness and the ties.

"This Kakaako bit, when I say it's outlived its usefulness is now an entity that really should be turned over to the City and County of Honolulu. Truly, we could not begin to move into this area some years ago because of the obstacle.

"We have spent well over \$5 million now, planning it, but now that we have an agreement and a working relationship with the city, it's my personal belief that we ought to hand this over... the plan and the bodies... to the City and County of Honolulu.

"Now that they have their development plans under consideration, the projections of Oahu and Honolulu, how it's going to grow, it's a very appropriate time to take this program and plug it in or delve it in to their own program so that one body, one agency, and one City Council, can plan the future and growth of this particular city.

"This super city council that's going to be established with this, that's somehow going to oversee these boundary lines, and now these proposed expanded boundary lines, are not going to work, Mr. President.

"We have gone into this bill in some depth and I'm willing to predict that we're going to see actually the core of Kakaako, the very heart, the core

of it, further deteriorate to a point through the years that only those on the perimeter are going to benefit because that's where the ingress and egress, that's where the water and the sewers are going to be. But those businessmen in the core who are going to be held in limbo as to whether or not this Legislature in fact is going to fund systematically, year after year, the millions and millions of dollars that are going to be needed to improve it.

"You've heard doomsday speeches about the lack of money and money drying up in this state, the tremendous demand for these dollars down the years. There is no assurance, Mr. President, that these businessmen who are in the core and who are going to be between the devil and the deep blue sea will not be able to go and refund or borrow money for his particular project because the state may or may not be here next year or the year after.

"When the businessman goes before the super city council and asks whether or not, according to some timetable, that they are in fact going to be on his block, more than likely they're going to say, 'Well, of course, it depends on the Legislature, if the Legislature funds this phase of it, then you will be there.'

"There's going to be a period of limbo, as I say, with a demand for dollars down the road, and knowing the Legislature as I do, projecting these commitments year after year is not a reality.

"Whereas, in fact, if we gave it to the City Council, and I might say Mayor Aileen Anderson totally agrees with the concept of receiving this responsibility, she then could dovetail it into her or their plans. They could then phase it in as they see it with the rest of the growth of this city. They then could come to the Legislature for grants-in-aid or kokua as the program moves on, and as our commitment and our funding so is available, we can release that money. But it's a lot more systematic and intelligent and it certainly ties into home rule.

"This looks very, very pretty on paper. This looks so nice on paper and I'm sure a lot of us are caught up with the split levels and the hanging gardens, but in reality expanding these boundaries is going to do nothing more than further aggravate it because the new boundaries are, for all practical purposes, state land and one more large estate.

"The confusion between the businessman being bounced around the City Council and super council and Kakaako core is going to be horrendous, and there's nothing but problems down the road versus an easy solution of giving it to the City and County of Honolulu. It's their responsibility, anyway, recognizing home rule and funding it intelligently in conjunction with the city.

"This is not the answer, Mr. President."

Senator Abercrombie then rose to speak in favor of the measure and stated:

"Mr. President, the previous speaker's speech could have been taken in many respects from the one I gave many years ago in the House when I voted against the establishment of the Hawaii Community Development Authority. I don't recall the exact vote but there may have been one or two but I think it was another one of my 50 to 1 votes that was operating over there at the time.

"I do not recall the vote in the Senate, but I daresay that the Senate vote was equally 'adamant,' shall we say, or equally clear in the vote. I don't know whether the previous Senator voted for the Authority at that time or not. If he did, I don't hold it against him or point backwards and say, 'Yea, you voted for something at one time and now you're changing your mind.'

"I wouldn't want to be in a position of having to stick with something year in and year out if I believed after a period of time that what I voted for was no longer applicable. However, in this particular instance, I believe that the previous speaker did submit a bill this year with respect to turning it back over to the city and I don't think it got anywhere.

"My position has been one of skepticism and votes in the negative with respect to the Hawaii Community Development Authority over the years. The problem is this, that this Legislature supported for years the Hawaii Community Development Authority appropriations. They did spend the \$6 million plus on planning that has taken place. And the Governor has now signed it into law.

"I asked the Governor, in January of this year, not to sign it into law pending at least a review with some of the business people which would include Senator Anderson, as a matter of fact, in the core.

"Some people may be familiar with Senator Anderson's business with the John Dominis Restaurant, but it's

my understanding that he also has property or an interest in property in one section of the core that was referred to. So, on his behalf and others in that area, I asked that the Governor refrain from signing the final implementation of the bill until those discussions could be held. That didn't happen, so now we have something that is in law.

"What I'm trying to do in supporting this is deal with the things as they are and as they appear to continue to be. I don't see what good it does me or anyone else to lament what happened when we have been the authors of what has happened. We've done it with full knowledge and forethought, I'm not sure of the legal term, but I think that if we were taken to court no legislator in here could deny that he or she knew what was going on all these years, now to suddenly discover that there is a super city council in the middle of Honolulu should be no news to anyone, nor to discover that they're going to ask for money.

"What do we think the planning that we voted for all these years was going to do? The 'due' bill is here now, and they want the money.

"Now, if it goes back to the City Council, this plan is not going to go forward because the City Council's already planned differently than what the Hawaii Community Development Authority has said, so if it goes back to the city then what you are saying is that all the planning that we did for the last six years is something we didn't really want to pay attention to and had no intention of carrying through on.

"The Governor has signed it, and that means that the state says that this plan is a good plan.

"I was at the hearings, all the hearings, with respect to the vote on this plan. I didn't see any legislators other than myself and a couple of other legislators there at those hearings voicing any kind of complaints about what this plan said it was going to do. That plan made very clear, almost down to the last penny, how much money they were going to ask for, so it's not as if the Authority has suddenly popped up with several millions of dollars--tens of millions of dollars, actually--a request that we didn't realize was going to be there. My God, they publish stuff in the papers and everywhere else...papers of general circulation in English and otherwise, I suppose...to let everybody know.

"If this goes back to the city and

the City Council has a different plan, they are going to end up as the good Senator says with a grant-in-aid request anyway. So, what's the difference if the Authority is asking for it or the city is asking for it because in the end drainage is drainage, the ditches are ditches, and all the rest of it.

"There may be differences in degree of terms of development, in terms of high-rises and so on, but in terms of the concentration of industrial enterprise or commercial enterprise or housing development, they will be there only to a difference in degree as I indicated. So, the grant-in-aid from the city in all likelihood is not going to be a request for any less than what the Authority is asking for right now. So, you will find, if we fail to pass this, that we will also create another problem. The way this district is drawn right now is sort of like Botswana in South Africa. It exists as an entity inside another larger entity. It's kind of a big rectangle in the core of Honolulu.

"The reason we're asking to extend the boundaries is that once you get the drainage underway...supposing that you move the money...once you get your Ala Moana Boulevard you have to cross the city street and then you get to state land.

"Now, you want to talk about limbo; you want to talk about holding business people up; just think about having to go to the city and the state and the Development Authority to try and get all your necessary permits and so on just to put a drainage ditch across the street and out to wherever the design has it going into the ocean or connecting up with other sewer facilities and so on, in connection with the city and county.

"As for the hanging gardens, I think what's happening now is you have business people hanging by their thumbs, fiscal thumbs, in the core district.

"The reason we want to extend the system is to give some possible alternative to the people involved, the small business people involved, a possible alternative for relocation. It's not an easy answer.

"I'm trying to come up with something after the fact, and the fact is that this Development Authority exists; the Governor signed it into existence and we have to deal with it now. So, unless we want to abandon these people now that we put them into this position it seems to me that the least we can do, pending a resolution of where the money is going to go, is to extend the boundaries and give them this opportunity.

"And, finally, Mr. President, I want to point out that the Ways and Means Committee and the chairman of the HHH committee have indicated very clearly that the only money we're putting forward at this particular stage is the design to see whether or not the kind of problem funding the previous speaker brought up will be resolved in some fashion that is compatible for his desires. If that isn't done within the next year then I can guarantee you that we are going to have to face this problem year in and year out and carry through on the obligation that we set right now.

"What I ask in essence to pass this bill is let's not abandon the people who are caught in this situation right now. Let's give them some breathing room. I think this bill does that."

Senator Anderson then responded and remarked:

"Mr. President, several things... number one, the alluding to Senator Anderson's piece of property in Kakaako is a leasehold with eight years to go for a piece of property that belongs to Bishop Estate and I have no key position in Kakaako at all in the existing boundaries. And, that isn't the point.

"I have heard and we've discussed this back and forth and the good Senator's concern for those in the core is misspent some place. He perceives that by expanding the boundaries we are going to have some sort of an authority to relocate those people in the core to this new area.

"This new area, Mr. President, is where the garment industry is going to go. It's where the food processing is going to go, and whether he likes it or not, it is a park that the Governor has so designated.

"There is a DAGS and a city and county refuse yard there. There is no room per se to relocate anybody from the core to that. The reason the boundaries didn't encompass that piece of property in the first place, Mr. President, was it was state land for all practical purposes, and why in the world do we need to master plan state land that has been committed to fourteen different uses.

"There is no obligation to take care of those people, Senator, in the core until the government is actually going to aggravate it or relocate them. Only when a road-widening program comes along or that person in the core is going to be aggravated by some government action, then and then only will government

have a responsibility to relocate these people by expanding these boundaries.

"While your intent and your concern is legitimate and sincere it does not in fact take care of these businessmen in this core whatsoever. Only time will tell.

"I will come back some ten years and all of us will sit around and have a beer and you're going to find Kakaako core deteriorating, waiting for government action, waiting for the roads and the sewers and the water to come into the core versus taking care of all the people on the outside.

"There is no way in the world expanding this boundary takes care of the concerns of the good Senator. This is a mistake. It should never have happened; and, yes, I supported this four or five years ago.

"If the same situation existed between our Governor and our Mayor and you had a tremendously good asset sitting there as Kakaako is, I would support it again, but times change and situations change.

"We have a good study. There's nothing wrong with the goals and objectives of this. It's just that the wrong government is going to be the implementing agency, and it shouldn't be the state. Now is the time to give it back to the city and have them delve into it.

"How in the world can Mayor Anderson and the City Council and Planning Department who are now grappling with the growth and the direction of the city sit down intelligently and not have all the cards on the table. This super city council over here is in fact holding back a tremendous pocket of people potential in downtown Honolulu when maybe all of their priorities and dollars they're talking about is going to Makakilo and West Beach.

"It doesn't make sense from a planner's standpoint. We made a mistake; we should correct it. If I were to ask the good Senator to accept everything in the Department of Education that we've done over the last three, four, five or six, seven years ago and say because we did you will live with it, you would bounce off your seat and hit the ceiling.

"You were the first Senator to look at ongoing programs in your division and your area and you have proposed not one, but a hundred changes because of the mistakes in the past. This is

no different."

Senator Abercrombie then responded and stated:

"Mr. President, first of all, if the good Senator thought I was making an allusion to the ownership of property or something in the core, I was not. It was not my intent but rather to respond to a point he had made a previous time to me that he was quite familiar with the activity in the core because he had an interest.

"I didn't mean to say that or indicate that he owned land there but rather that he was familiar with it and I recognize that.

"Secondly, with respect to the people, and I think this is very important, who are affected by government action...the reason that I am going on at some length about this, Mr. President, and I think that Senator Anderson and I are discussing this at such length, is that it is so important to what happens in the city and county and the state as a whole.

"Senator Young and I had a meeting with 76 business people...76 people representing the businesses and their employees, two weeks ago...less than two weeks ago. That was simply the largest and latest meeting that we had, all of whom have businesses in the core that we're talking about, all of whom wanted to see these boundaries extended on the simple basis that government action has already taken place by virtue of the Governor signing the bill that made the Kakaako Plan law. They are now facing, today, renegotiations on their leases and so on which have already been affected by this law being in existence and the amounts of money being asked for them to be able to continue in business are enormous. They face relocation problems today, not ten years down the future, and that's what this alternative in terms of extension of the boundaries is so vital at least for the hope of an alternative.

"Next, I think that it's quite true that times do change and mayors change, and what happens if we get a city council and mayor very shortly that go back to where we have antagonistic circumstances between the Legislature and the city and county? Do we then switch back?

"It's not so much that I'm saying then in conclusion that I'm unwilling to change. It's quite the opposite. I think the fact, and I commented on the irony of this situation to the good

Senator before...I think, my standing up and arguing to do something to further the Hawaii Community Development Authority is in fact proof of the fact that I'm willing to get into a change because I never thought, and I'm sure Mr. Suefuji the director never thought even a year ago that Senator Abercrombie would be on his feet trying to defend the Hawaii Community Development Authority.

"I not so much as changed my mind but my view is such that I have to deal with what's in front of me in a way that hopefully will be in favor of the broadest public interest and for that reason, at this stage of the game, I think the advancement of this bill is in order."

Senator Anderson then stated:

"Mr. President, I'm so confident of what I say that I would like to move this measure to the end of the calendar so that we can bring Ray Suefuji down here so that we can talk for a few minutes, and then if you can tell me that Ray Suefuji or legal counsel can tell me that the very signature, the fact that the Governor signed this into law, in fact, is going to relocate or force relocate or allow those businessmen, the 76 that came to your office, to qualify now some three, four, five, six, seven years down the road, then I'll change my vote.

"The truth of the matter is those businesses in this gray area are in a dilemma. They don't know whether they should sign or negotiate new leases with the master landowners in that area, and they are looking for some answers...should I negotiate my lease to stay for three, four, five years; what's going to happen to me when you ultimately get to this core?

"Mr. President, you bring Mr. Suefuji down here and if he can tell me with legal counsel that the signature that the Governor put to this document, in fact, has committed the state to relocate those people today, then I'll flip-flop and support it."

By unanimous consent, action on H.B. No. 3143-82, H.D. 2, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 674-82 (H.B. No. 329, H.D. 1, S.D. 2):

By unanimous consent, Stand. Com. Rep. No. 674-82 and H.B. No. 329, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES EXCLUDED OR EXEMPT

FROM COLLECTIVE BARGAINING," were recommitted to the Committee on Ways and Means.

Standing Committee Report No. 675-82 (H.B. No. 1974-82, H.D. 2, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 675-82 was adopted and H.B. No. 1974-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PURCHASING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 676-82 (H.B. No. 2207-82, S.D. 1):

Senator Yamasaki moved that Stand. Com. Rep. No. 676-82 be adopted and H.B. No. 2207-82, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

At this time, Senator Cayetano spoke against the measure and stated:

"Mr. President, the energy crisis began sometime in 1973 and in response to the crisis our government, federal and state, passed laws which provided tax credits for energy-efficient devices, such as solar energy, etc. Now, this bill extends the tax credit to a heat pump.

"I think the time has come for us to consider doing away with the tax credit.

"Having purchased a solar heater for my home from the company that Senator Cobb works for, I have discovered to my dismay, supported by the wise words of our Tax Director George Freitas, that the tax credit on these things merely add to the price. In other words, in the end the consumer still pays the same amount that he would pay if there were not any kind of a tax credit. That's one reason that I'm against it, against continuing it.

"The second reason is that there is no longer any need for an incentive to get the solar energy devices for energy-efficient kinds of devices.

"If people don't know and understand in this day and age the need to do so when we in government are giving money for windmills and everything else, then that person is simply not keeping up with the facts of life."

The motion was put by the Chair and Stand. Com. Rep. No. 676-82 was

adopted, and H.B. No. 2207-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX INCENTIVES FOR SOLAR ENERGY DEVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Abercrombie, Carpenter, Cayetano, Kawasaki, Kobayashi and Kuroda).

Standing Committee Report No. 677-82 (H.B. No. 2210-82, H.D. 1, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 677-82 was adopted and H.B. No. 2210-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE HIGHER EDUCATION LOAN FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 678-82 (H.B. No. 2349-82, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 678-82 and H.B. No. 2349-82, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 679-82 (H.B. No. 2511-82, H.D. 2, S.D. 2):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 679-82 was adopted and H.B. No. 2511-82, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO COMPLIANCE RESOLUTION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 680-82 (H.B. No. 2674-82, H.D. 1, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 680-82 was adopted and H.B. No. 2674-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (George, Kobayashi and Saiki).

Standing Committee Report No. 681-82 (H.B. No. 2806-82, H.D. 2, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 681-82 was adopted

and H.B. No. 2806-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1094, H.D. 1:

On motion by Senator George, seconded by Senator Kawasaki and carried, H.B. No. 1094, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSPECTION OF VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2092-82, H.D. 2, S.D. 1:

On motion by Senator George, seconded by Senator Kawasaki and carried, H.B. No. 2092-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE SAFETY RESPONSIBILITY ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2105-82:

On motion by Senator George, seconded by Senator Kawasaki and carried, H.B. No. 2105-82, entitled: "A BILL FOR AN ACT RELATING TO THE TOWING OF ABANDONED VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2232-82, H.D. 1:

On motion by Senator George, seconded by Senator Cobb and carried, H.B. No. 2232-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DRIVING OF MOPEDES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Carpenter, Cayetano, Henderson, Kawasaki and Saiki).

House Bill No. 2975-82, H.D. 1, S.D. 1:

On motion by Senator George, seconded by Senator Kawasaki and carried, H.B. No. 2975-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING

TO THE DRIVER IMPROVEMENT PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Carpenter and Cobb).

House Bill No. 2624-82, H.D. 1, S.D. 1:

On motion by Senator Kobayashi, seconded by Senator Henderson and carried, H.B. No. 2624-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOREST AND WATER RESERVE ZONES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2148-82, S.D. 1:

Senator Ajifu moved that H.B. No. 2148-82, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kobayashi.

Senator Abercrombie then remarked: "Mr. President, I'm glad that we're finally seeing some tough crime bills passing, and I don't want anybody saying that we haven't done our duty."

The motion was put by the Chair and H.B. No. 2148-82, S.D. 1, entitled: "A BILL FOR AN ACT AMENDING CHAPTER 142, HAWAII REVISED STATUTES, RELATING TO ANIMALS, BRANDS, AND FINES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2150-82, S.D. 1:

Senator Ajifu moved that H.B. No. 2150-82, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator O'Connor then rose to speak against the measure and stated:

"Mr. President, I'm going to vote against this bill.

"The bill that we just passed, House Bill 2148-82, has to do with feeding of garbage to swine, and this bill says that it will take effect only if the other bill in any form passes the Legislature. I don't understand that provision.

"Further, I don't understand it because

the earlier bill has its own penalty section, as Senator Abercrombie so adequately pointed out, probably the toughest crime bill that we pass this year. And, I don't understand why we're going to change the penalty section having to do with this Chapter 142, when we are evidently going to have a penalty section all by itself having to do with cooking garbage for swine. Therefore, I'm going to vote against this bill.

"I know it's a very important measure, but the very importance of it is the reason that my vote will be no."

Senator Holt then rose to inquire if the chairman would yield to a question and Senator Ajifu replied in the affirmative.

Senator Holt asked: "Mr. President, I'm wondering if the chairman made a condition upon the previous bill's passing and if it's also retroactive because Section 3 also says, 'This act shall take effect on January 1, 1982?'"

Senator Ajifu answered: "Yes, Mr. President, the second bill is basically to keep the penalty section of this chapter the same as we have passed in House Bill 2148.

"Presently, the existing law provides for, in Chapter 142-12, where the penalty is a maximum of \$500 and six months imprisonment. This will make it uniform to the previous bill that was passed, House Bill 2148."

Senator Cayetano then rose to state as follows:

"Mr. President, I am totally confused. My counsel, Senator O'Connor, says that this bill only pertains to the pigs, yet Senator Holt raised a very, very important point about the effective date of the bill.

"The bill has a criminal penalty and all we're talking about...the bill going back to January 1, 1982...then this would qualify as an *ex po facto* law which would be unconstitutional. So, may we call a recess so we can take a look at this?"

The Chair, in response, stated: "We will defer the measure to the end of the calendar, if there be no objections."

By unanimous consent, action on H.B. No. 2150-82, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2565-82, S.D. 1:

On motion by Senator Ajifu, seconded

by Senator Kawasaki and carried, H.B. No. 2565-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL COOP ASSOCIATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 1489, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwayne and carried, H.B. No. 1489, H.D. 1, 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, 23. Noes, none. Excused, 2 (Abercrombie and Yee).

House Bill No. 2018-82:

On motion by Senator Cobb, seconded by Senator Uwayne and carried, H.B. No. 2018-82, entitled: "A BILL FOR AN ACT RELATING TO APPLICABILITY OF GENERAL INSURANCE LAW," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2866-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2866-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwayne.

Senator Kawasaki then spoke against the measure and stated:

"Mr. President, I am voting against this bill because I think it is wrong for us, as provided in this bill, to declare void a written examination passed satisfactorily by an applicant for the real estate salesman and the broker's license if he had not taken 'the prerequisites,' one of which would be a formal course in real estate principles, at a duly constituted 'school.'

"If a man is intelligent enough, is of good enough character to have been an applicant to apply for a real estate salesman or broker's license, if he is intelligent enough without going to a duly constituted course on the basis of books and textbooks available, he was intelligent enough to have learned the subject well enough on his own

to pass an examination with a satisfactory score, then his examination scores should not be voided. For this reason, I vote against this bill."

The motion was put by the Chair and carried, and H.B. No. 2866-82, H.D. 1, S.D. 1, 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, 2 (Cayetano and Kawasaki). Excused, 2 (Abercrombie and Yee).

House Bill No. 2489-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2489-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Kawasaki spoke against the measure and stated:

"Mr. President, I will vote against this bill primarily because I see no magic in qualifying a person to be a journeyman electrician. The magic being four years of full-time experience or 8,000 hours as a journeyman.

"I see no particular magic formula in those requirements of four years experience or 8,000 hours of instruction."

The motion was put by the Chair and carried, and H.B. No. 2489-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICIANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Anderson, Cayetano and Kawasaki). Excused, 1 (Yee).

House Bill No. 2057-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2057-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUGS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2697-82:

On motion by Senator Henderson, seconded by Senator Carpenter and

carried, H.B. No. 2697-82, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2698-82, H.D. 2, S.D. 1:

By unanimous consent, H.B. No. 2698-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF MOTOR VEHICLE EQUIPMENT," was recommitted to the Committee on Transportation.

House Bill No. 2477-82, H.D. 1, S.D. 1:

On motion by Senator Kobayashi, seconded by Senator George and carried, H.B. No. 2477-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE DISPOSAL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2183-82, H.D. 1, S.D. 1:

On motion by Senator Henderson, seconded by Senator Carpenter and carried, H.B. No. 2183-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MARINE AFFAIRS COORDINATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2813-82, H.D. 1, S.D. 1:

On motion by Senator Henderson, seconded by Senator Carpenter and carried, H.B. No. 2813-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2682-82, S.D. 1:

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

H.B. No. 2682-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PLANNING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Abercrombie, Carpenter and Kawasaki). Excused, 1 (Yee).

House Bill No. 2167-82, H.D. 1:

On motion by Senator Cayetano, seconded by Senator Carpenter and carried, H.B. No. 2167-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROPHYLAXIS FOR THE PREVENTION OF BLINDNESS IN THE NEWBORN," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2444-82, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Carpenter and carried, H.B. No. 2444-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEATH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2170-82:

By unanimous consent, action on H.B. No. 2170-82 was deferred to the end of the calendar.

Standing Committee Report No. 705-82 (H.B. No. 2176-82, H.D. 2, S.D. 1):

On motion by Senator Henderson, seconded by Senator Carpenter and carried, Stand. Com. Rep. No. 705-82 was adopted and H.B. No. 2176-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Campbell, Holt and O'Connor). Excused, 1 (Yee).

Standing Committee Report No. 706-82 (H.B. No. 2177-82, H.D. 1, S.D. 1):

Senator Henderson moved that Stand. Com. Rep. No. 706-82 be adopted and H.B. No. 2177-82, H.D. 1, S.D. 1, having been read throughout, pass

Third Reading, seconded by Senator Carpenter.

Senator O'Connor then rose to speak against the measure and stated:

"Mr. President, I rise to speak against this bill and my remarks will also go to House Bill 2176 which we just passed.

"These bills have to do with additional penalties for people who encroach upon state land under any circumstances, and they have to do with sanctions or penalties for such encroachment.

"House Bill 2177 adds administrative costs and damages to state lands to a fine which is to be imposed, as I read the section, by the court when the department enforces the regulations having to do with encroachment.

"Mr. President, the difficulty, and this is of course the difficulty we have argued before on the very section we have before us and it was modified when we had our earlier arguments, is that when you combine criminal and civil sanctions in a matter, which this bill does, you combine apples and oranges.

"Secondly, of course, you must have hearings to prove damage. You must have hearings to prove administrative costs and those things are things which in this kind of context are illusory.

"Further, when you talk about a fine of \$500 per day for someone who's lived adjacent to state land for say 40 years and has inadvertently used it for that period of time, you may be talking about a substantial sum of money.

"I think that there has been little thought given to these measures when it comes to the everyday problem of people living adjacent to state land. For example, in my district there are homes abutting state land where the boundaries are not necessarily clearly defined and there is a case where they built three houses upon state land adjacent to their backyards. This can cause all kinds of problems.

"I vote against this measure and I voted against House Bill 2176 for the problems I've explained."

Senator Henderson spoke in favor of the measure and stated:

"Mr. President, the language that the previous speaker alluded to already existed in the law. As far as the fine, it was mandatory in the old language.

"We changed 'shall' to 'may' and

have included in addition to that the administrative cost and damages to state land.

"I urge the support of this measure."

Senator Kawasaki then spoke against the measure and stated:

"Mr. President, I think the points made by the Senator from the Seventh District is well taken.

"The chairman of the committee from which this bill emanated very liberally did change the language to substitute the word 'may' for 'shall.' But, I think, the fact that the bill did exist as statute doesn't particularly detract from the points made by Senator O'Connor that perhaps this bill and the statute that is in existence should be amended. Certainly, we would be working a hardship on those people who live adjacent to state land and might be encroaching in a minimal way.

"Perhaps the Committee on Economic Development could, in the next session or in conference committee, alter the language... amend the language to make it a little more livable."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 706-82 was adopted and H.B. No. 2177-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOREST AND WATER RESERVE ZONES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 8 (Campbell, Cayetano, Holt, Kawasaki, Machida, Mizuguchi, O'Connor and Ushijima). Excused, 2 (Saiki and Yee).

House Bill No. 3007-82, H.D. 1, S.D. 1:

On motion by Senator Kuroda, seconded by Senator Soares and carried, H.B. No. 3007-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIABILITY OF HOTELKEEPERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (O'Connor). Excused, 2 (Saiki and Yee).

House Bill No. 2627-82, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 2627-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT TO AMEND THE HAWAII WATER CARRIER LAW," was

recommitted to the Committee on Public Utilities.

House Bill No. 1340, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 1340, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2125-82, H.D. 1, S.D. 1:

Senator Carpenter moved that H.B. No. 2125-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cayetano.

Senator O'Connor then spoke on the measure and stated:

"Mr. President, I'm going to vote in favor of this bill but I'd like to make some comments about it.

"We have a statute which unfortunately is derived from a recent amendment to our Constitution requiring plain language in legal transactions. This bill does exactly what I thought would eventually happen in this matter. It guts, probably entirely, that provision by creating three pages of exceptions to what plain language is.

"I would anticipate, as we go on in this jurisdiction, plain language will come to mean what it meant before that constitutional provision in the statutes, for which a statutorily effective measure was passed.

"I think that we've all reached the point where we understand that plain language doesn't mean trying to turn into simple English that is talked on the street corner, some of the most complicated documents and procedures in our jurisdiction.

"This bill recognizes that but there are an awful lot more not listed on these three pages, and I hope that someday somebody comes along and adds all of those also."

The motion was put by the Chair and H.B. No. 2125-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLAIN LANGUAGE IN CONSUMER TRANSACTIONS," having been read

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

Ayes, 22. Noes, none. Excused, 3 (Kobayashi, Saiki and Yee).

At 1:50 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:59 o'clock p.m.

House Bill No. 2318-82, S.D. 1:

Senator Carpenter moved that H.B. No. 2318-82, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cayetano.

Senator Abercrombie rose to speak against the measure and remarked:

"Mr. President, having failed to prevail upon the chairman of the committee despite my knowledgeable, articulate, inciteful and adamant presentation based on my vast fund of experience and academic background as well as my obvious sincerity, I rise, nonetheless, in a spirit of democratic interchange to urge everyone, save the chairman unless I can convince him in this one last speech, to vote against the Intake Service Center propositions that are put before you in this bill.

"Briefly, Mr. President, I believe that the Intake Service Center to the degree that it should exist at all, that is to say, that the personnel associated with the Intake Service Center and their duties should exist at all, should exist within the Judiciary.

"The Intake Service Center is an aberration, the origin of which is obscured in the midst of planning time in the Correctional Master Plan and those individuals and those duties which are not necessarily a part of the Judiciary should be a part of a department of corrections and subject to the department of corrections such as has been proposed but at the very least if not in a separate department of corrections in that division of the Department of Social Services and Housing which has authority over the prison system.

"To have intake service centers under the proposition put forward here, in my belief, in my judgment, will lead only to another year's existence with nothing really accomplished for them and that eventually, I am certain, we must move back to the proposition that these duties and obligations come under the Judiciary and under the

department or division of corrections itself."

Senator O'Connor also spoke against the measure and stated:

"Mr. President, this bill places the primary function of the probation office of the Judiciary under the Intake Service Center and would place the work presently done by that office in pre-trial reports, pre-sentence diagnosis and reports under the Intake Service Center.

"That office does a good job. It is there to do the job. It is fully staffed. We've staffed it over the years, and if you shift these functions, you must shift dozens of people with the functions in order to have them carried out appropriately.

"We went through this debate two or three years ago and decided that it was simply not worthwhile to shift the probation section of the Judiciary under the Intake Service Center.

"The grades didn't correspond; the man in charge of that division is a higher grade today than the man in charge of the Intake Service Center and all down the line they don't mesh.

"There are so many good reasons not to do that that I can't go into them here. The debate has been ongoing. For those reasons I would vote against this bill."

By unanimous consent, action on H.B. No. 2318-82, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2355-82, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2355-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwayne and Yee).

House Bill No. 2606-82, H.D. 2, S.D. 1:

Senator Carpenter moved that H.B. No. 2606-82, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cayetano.

Senator Abercrombie then spoke in favor of the bill and stated:

"Mr. President, for the purposes

of the record, I would like to indicate that I would hope that should this bill be in conference...I'm hoping that this bill will be in conference...that the provision for the 30-day written notice could be examined in light of what is likely to take place in an ongoing work-furlough program and that with respect to the references to housing, clothing, recreational activities and training expenses, etc., that a reasonable proportion of the earnings be directed to those expenses of the state so that the individual involved may devote some portion of his or her income from the work-furlough program to paying rent, to paying other bills, and to acquiring some means of support in terms of reserve when they leave the prison system."

The motion was put by the Chair and carried, and H.B. No. 2606-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMITTED PERSONS, FURLOUGH, EMPLOYMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwaine and Yee).

House Bill No. 2826-82, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2826-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WAIMANO TRAINING SCHOOL AND HOSPITAL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwaine and Yee).

Standing Committee Report No. 715-82 (H.B. No. 2348-82, H.D. 1, S.D. 2):

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, Stand. Com. Rep. No. 715-82 was adopted and H.B. No. 2348-82, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO METAL AND GEM DEALERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwaine and Yee).

Standing Committee Report No. 716-82 (H.B. No. 2385-82, H.D. 1, S.D. 1):

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, Stand. Com. Rep. No. 716-82 was adopted and H.B. No. 2385-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL LIABILITY IN MOTOR VEHICLE ACCIDENT REPAIRATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwaine and Yee).

House Bill No. 2733-82, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Holt and carried, H.B. No. 2733-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY LEASES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 2 (Ajifu and Henderson). Excused, 3 (Saiki, Uwaine and Yee).

House Bill No. 2869-82, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Holt and carried, H.B. No. 2869-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwaine and Yee).

House Bill No. 3117-82, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Holt and carried, H.B. No. 3117-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING COOPERATIVES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwaine and Yee).

House Bill No. 34, H.D. 2:

On motion by Senator Abercrombie, seconded by Senator Kuroda and carried, H.B. No. 34, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GIFTED CHILDREN," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Saiki, Uwaine and Yee).

House Bill No. 2161-82, H.D. 1, S.D. 1:

Senator Abercrombie moved that H.B. No. 2161-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kuroda.

At this time, Senator Campbell asked if the chairman would yield to a question and Senator Abercrombie replied in the affirmative.

Senator Campbell inquired as follows:

"Mr. President, this bill will exempt from the jurisdiction of the Department of Education private trade, vocational and technical schools that are licensed by the Department of Regulatory Agencies. The committee has amended the bill by substituting registered for licensed to more accurately reflect the Department of Regulatory Agencies' function of registering, not licensing, of schools.

"I wonder if the chairman would indicate to me the difference between, in this particular instance, registered and licensed."

Senator Abercrombie answered:

"Mr. President, the reason for this bill is to separate them for administrative purposes.

"There are elements in the private trade, vocational and technical schools that are involved with the Regulatory Agencies as opposed to what the Department of Education regularly handles and this is to make the differentiation clear."

Senator Campbell thanked Senator Abercrombie for the answer then spoke against the measure, as follows:

"Mr. President, I intend to vote against this bill because I am opposed to the Department of Education being relieved of the responsibility of licensing any kind of institution that has students who get a diploma or a certificate indicating that they have completed a certain body of knowledge, thereby making them prepared to go into society and perform certain jobs. I think that kind of responsibility ought to be a responsibility of our Department of Education, and, if anything, this bill ought to be requiring our Department of Education to do a more diligent job in monitoring these schools so that they will have a curriculum that will be more to the best interests of our public."

Senator Abercrombie responded in support of the bill and stated:

"Mr. President, not so much in rebuttal, but in explanation.

"Mr. President, what would happen is that the board will simply become, as it is now, a pro forma organization monitoring, if you will.

"The reason this is in is that no school, private trade, vocational, technical school, as defined in the bill, can exist unless it meets all the standards with respect to courses and teaching and equipment and services that are required, either under the Department of Regulatory Agencies or the board or commission that we have set up to oversee these operations.

"If we want to double up the oversight, why we can, but if we do, then I suggest that we get rid of the boards and commissions and get rid of the Regulatory Agencies' activity and give it to the Board of Education, at which point you will have the Board of Education coming in and asking for personnel to do these kinds of things that are now done either on what we call a voluntary basis by virtue of boards and commissions, and I suppose they get their per diem or something for their meetings, or by the Department of Regulatory Agencies itself. So, this does not diminish the requirements associated with either the academic content or other aspects of the trade schools, vocational schools, or technical schools, but rather deals with the reality that the Board of Education would be performing a pro forma oversight."

Senator Cobb also spoke in favor of the measure and stated:

"Mr. President, one observation in addition, in favor of the measure.

"To support partially what the chairman said is that the Department of Regulatory Agencies in its boards and commissions meet either the vocational or professional standards so I'm sure those standards are met in either accrediting or licensing a school or supervising a school. And there is an active ongoing regulatory program now going on and has been going on for some time within the Department of Regulatory Agencies and I'll be alluding to that in some further bills that we will be discussing."

Senator Campbell, in rebuttal, stated:

"Mr. President, I do not see the Department of Regulatory Agencies in the same light as I see the Department of Education as setting up curriculum and setting up programs of education, and that is the basis upon which I take the position that the Department of Education should not be relieved of

this kind of jurisdictional responsibility."

The motion was put by the Chair and carried, and H.B. No. 2161-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE TRADE, VOCATIONAL AND TECHNICAL SCHOOLS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 3 (Campbell, O'Connor and Toyofuku). Excused, 2 (Saiki and Yee).

House Bill No. 2667-82, H.D. 1, S.D. 1:

On motion by Senator Abercrombie, seconded by Senator Kuroda and carried, H.B. No. 2667-82, H.D. 1, 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, 23. Noes, none. Excused, 2 (Saiki and Yee).

House Bill No. 509, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 509, H.D. 1, 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, 22. Noes, 1 (Kawasaki). Excused, 2 (Saiki and Yee).

House Bill No. 1553, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 1553, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MERGERS OR CONSOLIDATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2192-82, S.D. 1:

Senator Cobb moved that H.B. No. 2192-82, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator O'Connor then rose to inquire as follows:

"Mr. President, I notice that the last section of this bill is identical to the last section of the bill we just passed,

occupying a major portion of both bills.

"I wonder if there is some good reason for that. I know it's clever draftsmanship, I just wondered if there is some good reason for it."

The Chair then requested the chairman of the Consumer Protection and Commerce Committee to respond to the inquiry and Senator Cobb answered:

"Mr. President, there's a very good reason. Because the House didn't bother hearing the Senate bill on this same subject of corporations that went over, we took the provisions of this bill and inserted it into two House bills. They'll have their choice...which one they want to accept in conference. But, I will not accept the discourtesy of the House refusing to hear a Senate bill, and letting that go unchallenged. That's why it's in both of these bills."

The motion was put by the Chair and carried, and H.B. No. 2192-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2199-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2199-82, H.D. 1, S.D. 1, 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, 18. Noes, 5 (Anderson, George, Kawasaki, Kobayashi and Soares). Excused, 2 (Saiki and Yee).

House Bill No. 2270-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2270-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MOTOR VEHICLE ACCIDENT REPARATIONS ACT," having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Campbell then rose to speak against the bill and stated:

"Mr. President, this bill relates to the cancellation of no-fault insurance policies. It states that 'if the insurer has manifested in writing an offer to renew to the named insured at least

thirty days prior to the end of the policy period and the offer is not accepted before the expiration of the policy term, the policy shall lapse upon that expiration date.'

"Mr. President, I feel that this bill will work an undue hardship on the consumer, particularly the automobile owners who get a notice of a sizeable increase in the cost of their premiums. A person in that position, in my judgment, needs some time to try to negotiate a reduction in that premium. Also, if such a person does not succeed, that individual needs some time to try to find a new insurance agency.

"Mr. President, I think this issue is of critical importance in light of the fact that the state requires that every car owner have auto insurance.

"If the insured were not required by the state to have car insurance he or she would have some more available time to negotiate a better auto policy or to find a new insurance company.

"The passage of this bill just further tightens the screws on the insurance consumer, therefore, I'm going to vote against the bill."

Senator Kawasaki added: "Mr. President, I think the comments made by the previous speaker are well taken. I will vote against the bill for the same reason."

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

"Mr. President, speaking against the bill, with reference to the previous two speakers, I found myself in exactly the same kind of situation as Senator Campbell mentioned, and as a result I feel that this is an anti-consumer bill as well."

At 2:19 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:20 o'clock p.m.

By unanimous consent, action on H.B. No. 2270-82, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2334-82:

On motion by Senator Cobb, seconded by Senator Uwayne and carried, H.B. No. 2334-82, entitled: "A BILL FOR AN ACT RELATING TO DISCRIMINATORY PRICING IN SUPPLYING LIQUOR," having been read throughout, passed

Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 2404-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2404-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwayne.

Senator Kawasaki spoke against the bill and stated:

"Mr. President, I must say that this title is very appropriate. It relates to usury.

"While we all inveigh against the ill effects of high interest rates and the high interest rate climate that all consumers find themselves in, enactment of bills like this, I think, just adds to the hardship of an ordinary consumer, and perhaps we should take stock of what's happening here; study some of the effects of these bills more carefully and then perhaps introduce bills like this.

"While it may be the fashion today to talk about adjustable interest rate mortgages, this certainly is not helping the ordinary consumer. I will vote against this bill."

The motion was put by the Chair and carried, and H.B. No. 2404-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO USURY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 4 (Abercrombie, Cayetano, Kawasaki and Young). Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 2434-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwayne and carried, H.B. No. 2434-82, H.D. 1, 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, 20. Noes, 2 (Abercrombie and Anderson). Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 2836-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2836-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE SERVICING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 2888-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2888-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Abercrombie then spoke against the bill and stated:

"Mr. President, from the point of view of so-called time-sharing which is, as I have indicated on this floor as far as I am concerned, nothing more than organized mugging of tourists who come here and any people who live here who happen to get trapped in the vicinity of the people who do this, especially in Waikiki, I don't see that these refinements, if you will, will do anything in any way to offset the rapacious nature of these people. They will ignore any and all restrictions upon them.

"One part of the bill, from my point of view, actually is going to increase the possibility of these things because if you come in with a whole project, that is to say, a fully developed finance project from the beginning, it will actually probably increase the number of time-sharing units that we're going to have. We're not just going to hold the line on them. And, as far as the projects be 'situated in the areas zoned by the county for hotel, transient vacation rental or resort use' and so on, considering how small Waikiki is, in particular, this will in effect be a cosmetic change and will not get at the core of our problem.

"I think we should be sending the ban back to the House and forcing them to deal with it or not deal with it, if they will, because then, every kind of attempt that we make with respect to so-called regulation is doomed to failure."

Senator Cobb responded and stated:

"Mr. President, I cannot let that go unchallenged.

"In the last year five companies

involved in time-sharing have gone out of business because of the stringent regulations that are already on the books. One of the individuals complained about by the Senator from the Sixth District on the floor of this Senate less than a week ago left town because of the strong regulatory environment that's here in Hawaii.

"This bill will, in effect, impose a geographic ban on any area except that zoned for hotel and resort by the county and it will require that in such an area the project be either a hotel or a wholly-owned building within that very limited zoning.

"Less than ten percent of Waikiki is zoned hotel which will allow this. It will put a stop to areas of various projects or, if you will, scams such as Paradise Palms that failed.

"This and the other bill on the subject of escrow and OPC and telephone solicitations are going to make even more stringent the regulation. I would reject, utterly, the concept that there is either no regulation or that it's not having an impact.

"I've seen that impact. The number of complaints are down dramatically. The number of people who are now licensed and who are now following the regulations is dramatic compared to a year ago.

"The strong regulatory aspects of the law have been in effect not since January as claimed by the time-sharing industry but since May of last year. Every handbill I have seen this year now has the disclosure requirement being met. And, I've been down there personally at least twice a week, checking on it myself, and I know others have been doing the same thing.

"I know it takes time to work. I would like to see a ban, and I'm going to press for a complete ban in a conference committee, but if the House rejects that, I want to achieve at least a geographic ban on any area except a hotel or wholly-owned building in a resort area.

"Thank you."

Senator Kawasaki then rose to inquire if the Senator from the Seventh District would yield to a question and Senator Cobb answered in the affirmative.

Senator Kawasaki asked: "I'd like to ask the Senator, whatever happened to the commitment of sorts that I understood was given to you by the chairman of the comparable committee in the House... that if we pass in the Senate here a bill banning

time-sharing, then he will help shepherd it to acceptance over in the House?"

Senator Cobb replied: "Mr. President, he made such a public statement in the newspapers and then in the House, after it had a hearing, turned around and killed the bill. I cannot answer for the House chairman."

Senator Kawasaki retorted: "Very consistent with the House position."

Senator Abercrombie spoke against the measure and stated:

"Mr. President, any of these people leaving town is because they are crooks and they're afraid they are going to get arrested. It doesn't have anything to do with regulation. They get around it whatever way they can. Fraud is another thing; that's illegal regardless of what the regulations are.

"As for the ten percent, I'm familiar with that. I travel to Waikiki quite regularly myself, both because I have friends there... I go to see them... I have business friends there whose premises I frequent. And, Waikiki, as you know, is about seven-tenths of a mile long, and you can practically throw a coin across the width of Waikiki from the ocean to the canal.

"The question here is people being harrassed and I submit to you that the bad impressions that people are going to have of Hawaii and in particular with Waikiki are going to continue and that... at least when you are dealing with a hooker on Kuhio Avenue you know what you're dealing with and possibly going to get value received, but if you deal with a time-share you are really going to be screwed."

Senator Cobb responded and said: "Mr. President, I think his last remarks should be directed towards House Bill 3078 which is on the regulatory aspects rather than the geographic ban being addressed in this bill because, regardless of whether it is a geographic ban or total ban, those units that are grandfathered in would still be subject to sale. They could not be invalidated by statute."

Senator Abercrombie added: "Mr. President, that does remind me of the hookers even more."

The motion was put by the Chair and carried, and H.B. No. 2888-82, H.D. 1, 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, 21. Noes, 1 (Abercrombie).
Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 2936-82, H.D. 1, S.D. 1:

Senator Cobb, moved that H.B. No. 2936-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Kawasaki spoke against the bill and said: "Mr. President, it's another one of those usury bills, the provisions of which if implemented five years ago would have thrown the proprietors of these company practitioners into jail. But, today, we sanction this in a rather blase fashion. We accept this.

"This is a bad bill."

Senator Cobb, speaking in favor of the measure, then stated:

"Mr. President, I'm not going to let that go unchallenged either.

"A lot of the provisions in this bill reflect a practice that has been going on for some time and has been recognized, at least on the federal level, and is now being addressed at the state level, particularly in the area of points.

"I think we need to get one thing straight on the whole question of interest and usury, and that is, if we still had stated a twelve percent ceiling, as has been advocated by some members of this body, there wouldn't be any business going on in the State of Hawaii. There wouldn't be any mortgages being made. There wouldn't be very few loans at all being made. That's the reality.

"We don't set interest rates here in Hawaii. That's done as a function of the national economy.

"I wish that wasn't the case but wishful thinking isn't going to change reality.

"As far as this particular measure here, we did have a problem in the committee with the so-called point system that's being imposed where points plus interest could exceed 24%, so the first draft that came out of my committee said, 'No, we're not going to allow that at all.' Then, in fairness to the lender they came back and said, 'What if they guy pays off the contract in less than 90 days?' We compromised as a detail and said, 'If the consumer pays it off in 90 days or less, then and only then could point plus interest

exceed the 24%, but if it's longer than 90 days it could not.'

"Mr. President, I think when we look at the whole subject of interest and usury we are living in a dream world if we think that the old days of 10% or 12% have any relationship at all to the reality of what's happening in the American economy."

The motion was put by the Chair and carried, and H.B. No. 2936-82, H.D. 1, 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, 19. Noes, 3 (Abercrombie, Kawasaki and Young). Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 3072-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 3072-82, H.D. 1, 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, 20. Noes, 2 (Abercrombie and Ajifu). Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 3078-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 3078-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Abercrombie rose to speak against the measure and stated:

"Mr. President, I guess this bill is what the chairman referred to with respect to regulation as opposed to geography before. I notice one of the elements involved is a telephone solicitation.

"I wonder if the chairman could explain how telephone solicitation will be prohibited with respect to the First Amendment of the United States Constitution and applicable sections of the Hawaii State Constitution with regard to free speech and the conducting of commerce."

Senator Cobb then responded and stated:

"Mr. President, a declaratory ruling

of the Real Estate Commission in 1978 regulated telephone solicitation as it applied to real estate. In that ruling, they specified very clearly that permissible regulation is entirely legal in regulating telephone solicitation. This bill strictly regulates such solicitation, if it's not outrightly prohibited.

"It says that if there is a written permission of the hotel manager to solicit and there is a disclosure within each room of the offering, then and only then may solicitation take place. It is entirely consistent with the Real Estate Commission ruling of 1978."

Senator Abercrombie added: "Mr. President, I wasn't aware that the Real Estate Commission in the State of Hawaii had subsumed the duties and obligations of the Supreme Court of the United States. But, I'm very pleased to learn that and I'm sure the time-sharing salesman will be delighted to know that the Real Estate Commission has such awesome power, and I'm sure it will be ignored just about as fast as it is put into effect to the degree that it's put into effect at all.

"With respect to the definitions of 'booth' and an 'invitee,' could the chairman indicate to me the difference between an 'invitee' and an 'invitor' with respect to the 'booths' and what constitutes an 'outside public contact'?"

Senator Cobb answered: "Mr. President, an 'invitor' is the one who does the inviting and 'invitee' is one who is invited."

Senator Abercrombie thanked the chairman then spoke against the bill and stated:

"Mr. President, I speak against because we now have the euphemism called the invitee, which I think is an interesting phrase for the word victim. We have outside public contacts and booths and what that means and of course what that refers to is the hustling of the victim with time-sharing. So, what all this is going to do is to add another series of ostensible regulations which will be overthrown or ignored by the time-sharing industry.

"I would remind this body that at the very time testimony was being taken in the Consumer Protection Committee and assiduously recorded by a stenographer for future reference that the time-sharers were...and in the course of this testimony indicating how anxious they were to obey all the rules and regulations, if only they be given a chance, were preparing for a court case to overturn all the regulations that we've put into effect so far. I don't see any reason to believe

they wouldn't try to do the same thing here."

Senator Cobb responded: "Mr. President, as I understood the presence of the stenographer during the hearing we had at that particular time was to prepare a legal case to overturn the proposed ban that this Senate passed."

The motion was put by the Chair and carried, and H.B. No. 3078-82, H.D. 1, 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, 17. Noes, 5 (Abercrombie, Campbell, Cayetano, Mizuguchi and Toyofuku). Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 3140-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 3140-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICINE AND SURGERY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 3176-82, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 3176-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LANDSCAPE ARCHITECTS," was recommended to the Committee on Consumer Protection and Commerce.

House Bill No. 791, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Holt and carried, H.B. No. 791, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 2 (Abercrombie and Cayetano). Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 2222-82, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2222-82, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2331-82, H.D. 1, S.D. 1:

Senator Ajifu moved that H.B. No. 2331-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kobayashi.

Senator Anderson spoke against the measure and stated:

"Mr. President, I'm not sure what pre-qualification might be defined as by the Department of Land and Natural Resources, but I find this bill as it's written with the pre-qualification kind of a closed-shop affair.

"I don't know who would be able to tell me and for what reason that Andy Anderson couldn't become a farmer or a rancher, if he so decided.

"If I want to become a farmer tomorrow and I want to get a piece of land and bid openly in the fair market, and I want to hire the most competent farmer to be my manager and I can demonstrate that maybe I have no qualification but that my commitment to farming would be carried out, this bill would disqualify me.

"If I decided to be a country-gentleman and get a ranch and I want to lease four or five thousand acres of land on public auction and hire, which is very common in this state, a well-qualified ranch manager, this bill would disqualify me.

"I don't know what the intent of this is except to keep out anybody from getting into this area and as I say, it's a closed-shop. The content, I think, is very narrow and I happen to find the bill very offensive."

The motion was put by the Chair and carried, and H.B. No. 2331-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 5 (Abercrombie, Anderson, George, Henderson and Kawasaki). Excused, 3 (O'Connor, Saiki and Yee).

House Bill No. 2332-82, H.D. 1, S.D. 1:

Senator Ajifu moved that H.B. No. 2332-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Henderson.

Senator Kawasaki spoke against the measure and stated:

"Mr. President, this bill by amendment now changes our laws regarding the use of state land for intensive agricultural use. We now specify by statute that these leases would be no less than a minimum of 20 years' term and no more than 35 years for certain categories of leases.

"It's one thing for us to put a maximum length of time that one person can lease state land...35 years in this particular case...but it's quite another to say that in no way can the state lease out these lands for a term no less...at a minimum of 20 years. There may be very good reasons why the state may want to lease an agricultural use land for a term shorter than 20 years, many reasons. By enacting to statute a minimum of 20 years, I think, we give the state less flexibility, and I think this bill is unnecessary."

The motion was put by the Chair and carried, and H.B. No. 2332-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND LEASES FOR AGRICULTURAL USE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 4 (Abercrombie, Anderson, Cayetano and Kawasaki). Excused, 3 (O'Connor, Saiki and Yee).

At this time, the Chair made the following announcement:

"Members of the Senate, we will be taking a recess and will reconvene at 6:00 p.m. this evening. Hopefully, we will finish the business of the Senate at such time when all matters have been voted on."

At 2:42 o'clock p.m., on motion by Senator Cobb, seconded by Senator Anderson and carried, the Senate stood in recess until 6:00 o'clock p.m., this evening.

EVENING SESSION

The Senate reconvened at 6:00 o'clock p.m., with all Senators present.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 267 and 268) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 267), transmitting copies of the final reports on Alternative I, Work Products No. 5, Part I, No. 5, Part II, No. 6, No. 7, Part I, No.

7, Part II, Nos. 8, 9 and 10, and Alternative II, Work Products No. 5, Part II, Nos. 6, 7, 8 and 9, of the Hawaii Community Development Authority's Phase III planning process for the Kakaako Community Development District plan project, was referred to the Committee on Housing and Hawaiian Homes.

A message from the Governor (Gov. Msg. No. 268), informing the Senate that on April 1, 1982, he signed House Bill No. 2319-82 as Act 3, entitled: "RELATING TO THE JUDICIARY," was placed on file.

HOUSE COMMUNICATION

A communication from the House (Hse. Com. No. 324), transmitting House Concurrent Resolution No. 141, which was adopted by the House of Representatives on April 5, 1982, was read by the Clerk and was placed on file.

On motion by Senator Kuroda, seconded by Senator Anderson and carried, H.C.R. No. 141, entitled: "HOUSE CONCURRENT RESOLUTION COMMENDING LEIMOMI MO'OKINI LUM FOR THE OPERATION AND MANAGEMENT OF THE MO'OKINI HEIAU," was adopted.

STANDING COMMITTEE REPORTS

Senator Ajifu, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 786-82) recommending that Senate Concurrent Resolution No. 3, as amended in S.D. 1, be referred to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 3, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE AGRICULTURE PLAN," was referred to the Committee on Economic Development.

Senator Kobayashi, for the Committee on Ecology, Environment and Recreation, presented a report (Stand. Com. Rep. No. 787-82) recommending that Senate Concurrent Resolution No. 7, as amended in S.D. 1, be referred to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 7, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE RECREATION PLAN," was referred to the Committee on Economic Development.

Senator Kobayashi, for the Committee on Ecology, Environment and Recreation,

presented a report (Stand. Com. Rep. No. 788-82) recommending that Senate Concurrent Resolution No. 8, as amended in S.D. 1, be referred to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 8, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE CONSERVATION LANDS PLAN," was referred to the Committee on Economic Development.

Senator Kobayashi, for the Committee on Ecology, Environment and Recreation, presented a report (Stand. Com. Rep. No. 789-82) recommending that Senate Concurrent Resolution No. 9, as amended in S.D. 1, be referred to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 9, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE HISTORIC PRESERVATION PLAN," was referred to the Committee on Economic Development.

Senator Saiki, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 790-82) recommending that Senate Concurrent Resolution No. 14, as amended in S.D. 1, be referred to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 14, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE HIGHER EDUCATION PLAN," was referred to the Committee on Economic Development.

Senator Abercrombie, for the Committee on Education, presented a report (Stand. Com. Rep. No. 791-82) recommending that Senate Concurrent Resolution No. 4, as amended in S.D. 1, be referred to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 4, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE EDUCATION PLAN," was referred to the Committee on Economic Development.

Senator George, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 792-82) recommending that Senate Concurrent Resolution No. 13, as amended in S.D. 1, be referred

to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 13, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE TRANSPORTATION PLAN," was referred to the Committee on Economic Development.

Senator Cayetano, for the Committee on Health, presented a report (Stand. Com. Rep. No. 793-82) recommending that Senate Concurrent Resolution No. 5, as amended in S.D. 1, be referred to the Committee on Economic Development.

On motion by Senator Cobb, seconded by Senator Anderson and carried, the report of the Committee was adopted and S.C.R. No. 5, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE HEALTH PLAN," was referred to the Committee on Economic Development.

At 6:23 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:24 o'clock p.m.

ORDER OF THE DAY

THIRD READING

House Bill No. 2573-82, S.D. 1:

On motion by Senator Ajifu, seconded by Senator Carpenter and carried, H.B. No. 2573-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE WITHIN AGRICULTURAL DISTRICTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Abercrombie, Henderson, Uwayne and Yee).

House Bill No. 2778-82, H.D. 2, S.D. 1:

By unanimous consent, action on H.B. No. 2778-82, H.D. 2, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1882, H.D. 1, S.D. 1:

On motion by Senator Kobayashi, seconded by Senator Carpenter and carried, H.B. No. 1882, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROTECTION OF INSTREAM USES OF WATER," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Abercrombie, Henderson, Uwaine and Yee).

House Bill No. 1642, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 1642, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AERONAUTICS," 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, 21. Noes, none. Excused, 4 (Abercrombie, Henderson, Uwaine and Yee).

House Bill No. 1948-82, H.D. 2, S.D. 1:

Senator Yamasaki moved that H.B. No. 1948-82, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Carpenter.

Senator Kawasaki spoke against the measure as follows:

"Mr. President, I'm voting against this bill primarily because I think the raising of the ceiling on these agricultural loans is too extensive. For that reason, I will vote 'no' on this bill."

Senator Anderson also rose to speak against the measure and stated:

"Mr. President, I'd like to clarify a point that I think is very important.

"About four or five days ago, the Ways and Means Committee, based on the discussions we had for several weeks on the milk question, sat around and discussed the farm loan program standby fund that we might create for the milk industry because we anticipate that there's going to be millions of dollars lost. We don't want to see the industry closed down. We quickly calculated what it will cost and came up with a \$3 million figure.

"At that time, before us was the 'Ag' loan fund bill which was at the current service of \$2 million. We increased it to \$5 million...\$3 million for milk as a commitment to that problem... as our Committee on Health resolved the problem...and we finally hammered out a package for resolving it to an end and keeping the milk industry strong.

"Somewhere in the last four or five days this \$3 million standby loan fund

for the milk industry has gotten diluted, so to speak, into the overall 'Ag' loan bill, and before us we have a \$5 million bill but it does not specify that \$3 million is for milk. They can qualify under the 'Ag' loan.

"I'm concerned, Mr. President, because this bill also talks about emergencies and lending money to 'Ag' people or farmers.

"We also have a problem with papayas. Papayas under the emergency could qualify for part of this money.

"It could be the 'Med' fly or it could be anthuriums.

"The point I'd like to make is that by the time the milk people get there to make their applications it could...I'm not saying it will...but it could in all practical application not be there.

"Further, the 'Ag' loan program in this state has always been a sad program of high delinquency, poor procedures, no accountability, and I don't think anybody who has sat on Ways and Means for two years in a row hasn't been exposed to the terrible mishandling of the 'Ag' loan program, however good it was meant to be.

"Now, they have really gone so far as to authorize the Board of Agriculture to delegate authority to its chairman to approve loans where the requested amount plus any balance on existing loans does not exceed \$25,000. I don't think anybody in this state has the kind of authority to sit there and grant \$25,000 loans to anybody without applications, review, credit, ability to repay. I can just see the director sitting there with \$25,000 checks, ready to parcel out to be it cronies or legitimate farmers. This could be a terrible way to abuse what we already criticized so drastically.

"It's kind of hard to speak against this kind of measure because the farming community, in all sincerity, needs help, and I think the commitment by the state, the Constitution, right on down has been in this area. But when you take a bill and dilute its commitment from it, when you authorize the director to grant \$25,000 checks carte blanche, when you allow the farm loan program to continue on as it has in past practices without checking the quality or the credibility of the person they are lending money to, thus compounding the delinquency beyond reason, it makes it awfully hard to support this kind of measure.

"I support the \$3 million for the milk industry, no question, but I cannot

in all good conscience support this bill. Thank you."

Senator Kawasaki added his objections and stated:

"Mr. President, I just wanted to point out one particular sentence I object to.

"I think this is consistent with your concern about the \$50 million stabilization fund that the sugar industry was talking about. I think you and I both agreed that some collateral is required, but let me call your attention to item (c) on the third page of this bill.

"The Department of Agriculture, and I quote, 'The Department of Agriculture shall make loans to independent sugar growers under this section at an interest rate not to exceed 2% per year for which no collateral shall be required and there shall be no limit on the amount of a loan to an independent sugar grower as defined in this section.'

"I don't think there's any segment of our entire state population that is privy to such terms in the way of any kind of state commitment on loans, subsidies or whatever you want to call it... 2% a year, no collateral and no amount to the limit of the loan. This is just unheard of in this day and age when everybody else, the average citizen, is suffering from the burden of high interest rates that he has to pay for money he has to borrow as a necessity."

Senator Ajifu, on a point of clarification and in support of the measure, stated:

"Mr. President, I think the previous speaker was speaking to another bill which pertains to the \$2 million appropriation for the independent sugar growers. This bill only pertains to the Department of Agriculture Agricultural Loan Program which is in the revolving fund.

"The last speaker was, I believe, making reference to the \$2 million appropriation which is contained in another bill.

"But, speaking in favor of this bill, Mr. President, this bill addresses the problem that we have today, particularly with the dairy industry.

"If we are to assist the dairy industry in any way we must come up with this bill because under the Class 'D' emergency loan, there's no provision for this kind of emergency that exists today which the dairy farmers are faced with. And so what we have come

up with is an amendment which provides for the Department of Agriculture to determine during other emergencies.

"Also, in this part of the amendment, we have lifted the loan ceilings by allowing the Board of Agriculture to determine the maximum amount.

"For the first speaker's information, this bill does not lift the loan ceilings as it exists in Class 'A,' 'B,' and 'C.' It only lifts the loan amounts in this emergency section by authorizing the Board of Agriculture to determine the amounts.

"Thank you, Mr. President."

Senator Kawasaki then responded: "Mr. President, I apologize to the chairman of the Agriculture Committee. He is absolutely correct. I was one bill ahead of everyone."

Then, Senator O'Connor rose to speak against the measure and stated:

"Mr. President, in reviewing this bill I find that the arguments urged by the Republican coalition leader to be very persuasive and I'm surprised that this bill in its present form emerged when the intent was to provide the \$3 million fund for the dairymen whom we know are hard-pressed.

"It seems to me that we should have done that and not fool around with the entire agricultural loan program to the detriment of those dairymen.

"I intend to vote against this bill."

Senator Yamasaki, on clarification and in support of the measure, stated:

"Mr. President, I would like to clarify the subject matter that was just discussed previously and also by the first speaker on the separation of the benefits... loans to the sugar industry as well as to the milk industry.

"The speakers are correct that the understanding that we had in the Ways and Means Committee was that \$2 million shall go to the sugar loan program and, also, \$3 million to the milk industry program. However, as I sat down and analyzed the whole situation it appeared to me that if we had the \$5 million in a flexible loan program for both the sugar and milk industries the Board of Agriculture, through its chairman, could very well determine the best use of the total amount of money where the need is.

"For that reason, I will assume

full responsibility for the change that was made over the decision made by the committee."

The motion was put by the Chair and carried, and H.B. No. 1948-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Anderson, Campbell, Holt, Kawasaki, O'Connor and Saiki). Excused, 1 (Abercrombie).

House Bill No. 1949-82, H.D. 2, S.D. 1:

Senator Yamasaki moved that H.B. No. 1949-82, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Kawasaki, in opposition to the measure, stated:

"Mr. President, I would like the Journal to reflect my opposition to House Bill No. 1949-82 as I have discussed the 2%, no collateral, no limit."

The motion was put by the Chair and carried, and H.B. No. 1949-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LOANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 1971-82, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 1971-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN AFFAIRS," was recommitted to the Committee on Ways and Means.

At this time, Senator O'Connor rose on a point of parliamentary inquiry and asked:

"Mr. President, House Bill 1971-82 relating to Hawaiian affairs, which we just passed on the calendar, has just been recommitted. That bill has to do with the budget of the Office of Hawaiian Affairs. Are we going to pick that up at some other point, Mr. President?"

The Chair answered: "Senator O'Connor, my understanding is that the bill has been recommitted to Ways and Means and they will dispose of the bill in whatever manner they deem necessary."

House Bill No. 2049-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2049-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Abercrombie):

House Bill No. 2086-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2086-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INCOME TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2203-82, H.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2203-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2204-82:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2204-82, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

At 6:38 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:40 o'clock p.m.

House Bill No. 2244-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2244-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING

TO VETERAN'S RIGHTS AND BENEFITS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2312-82, H.D. 1, S.D. 1:

Senator Yamasaki, moved that H.B. No. 2312-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Kawasaki then rose to express his concern regarding the measure and stated:

"Mr. President, while I support passage of this bill, I have a little concern about the \$25,000 set aside for fiscal years '82, '83, and another \$35,000 set aside for the following biennium. I just wondered whether we need to set aside this kind of money for the Judicial Selection Commission.

"Why do they require such large amounts of money for the administration of...for their selection of judge candidates to be appointed by the Governor?"

"I can't see the logic of such a fund of \$60,000 for a four-year period being set aside as part of the Judicial Selection Commission. Otherwise, I can support the bill, but I do want to raise this point as a reflection of our concern to be noted by the administrator in the Judiciary."

Senator Yamasaki responded and said: "Mr. President, just to clarify the amount that was raised by the previous speaker, that fund that he raised was for litigation purposes that we have provided to the Judiciary."

The motion was put by the Chair and carried, and H.B. No. 2312-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY BUDGET," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2407-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2407-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LICENSE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2430-82, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2430-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2551-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2551-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TUITION WAIVERS FOR VETERANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2742-82, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2742-82, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2838-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2838-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HOUSING AUTHORITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2839-82, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 2839-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAX REVIEW COMMISSION," was recommitted to the Committee on Ways and Means.

House Bill No. 2947-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2947-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AN AQUA-CULTURE AND LIVE-STOCK FEEDS PRODUCTION PROGRAM," having been read throughout, passed Third Reading

on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

House Bill No. 2965-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2965-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 3142-82, H.D. 1:

By unanimous consent, H.B. No. 3142-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," was recommitted to the Committee on Ways and Means.

House Bill No. 3178-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 3178-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING BY COUNTIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 766-82 (H.B. No. 76, H.D. 2, S.D. 1):

Senator Yamasaki moved that Stand. Com. Rep. No. 766-82 be adopted and H.B. No. 76, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator O'Connor then remarked: "Mr. President, I'm going to vote in favor of this bill but I find a very strange figure inserted, an amount of \$1.00. I'm sure that if it passes and becomes law we'll want it to be something different from \$1.00, but, in any event, it sounds like a good idea."

Senator Cobb responded: "Mr. President, the conferees will probably consider the amount excessive but at least it ought to get to conference."

Then, Senator Yee added: "Mr. President, the reason for the \$1.00 is because there is an ongoing discussion between the State of California and Hawaii on a possibility of a joint venture

for a ship at Midway. At this point, we do not know how much it will cost and in order to keep this venture alive, we felt that a \$1.00 figure would be adequate."

Senator O'Connor then said: "Mr. President, echoing the earlier speaker, I think it is a commendable bill and I urge the chairman to keep it in its present form."

"California is going to pay the entire tab except for \$1.00. It will be of outstanding significance in this state, and I would urge the chairman and the conference committee to keep it exactly as it is and have it come out that way."

"Thank you, Mr. President."

The Chair remarked: "We're all praying for miracles."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 766-82 was adopted and H.B. No. 76, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISHERIES DEVELOPMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 767-82 (H.B. No. 765, H.D. 2, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 767-82 was adopted and H.B. No. 765, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 768-82 (H.B. No. 1970-82, H.D. 1, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 768-82 was adopted and H.B. No. 1970-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 769-82 (H.B. No. 2113-82, H.D. 2, S.D. 2):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 769-82 was adopted and H.B. No. 2113-82, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 770-82 (H.B. No. 2155-82, H.D. 2, S.D. 2):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 770-82 was adopted and H.B. No. 2155-82, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 771-82 (H.B. No. 2359-82, H.D. 1, S.D. 2):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 771-82 was adopted and H.B. No. 2359-82, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WITNESS SECURITY AND PROTECTION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 772-82 (H.B. No. 2559-82, H.D. 1, S.D. 1):

Senator Yamasaki moved that Stand. Com. Rep. No. 772-82 be adopted and H.B. No. 2559-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator O'Connor rose to speak on the measure and remarked:

"Mr. President, I'm going to vote in favor of this measure, but I do so with some hesitation.

"The total amount that we're paying seems excessive under the circumstances. I know that supposedly we're settling a \$1.8 million suit for half a million dollars. I never saw anything myself

that would justify the payment of a half a million dollars for this particular claim and it's my humble personal opinion that if we're going to pay this much and, of course, this goes for a lot of other things paid over the last few years, we're better off litigating these claims than we are settling them in these large amounts of money. But I would vote in favor of it, if it is what the Attorney General wants to do."

The motion was put by Chair and carried, and Stand. Com. Rep. No. 772-82 was adopted and H.B. No. 2559-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PAYMENT OF SETTLEMENT BETWEEN THE STATE OF HAWAII AND DILLINGHAM CORPORATION DBA HAWAIIAN DREDGING AND CONSTRUCTION COMPANY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

Standing Committee Report No. 773-82 (H.B. No. 2669-82, H.D. 1, S.D. 2):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 773-82 was adopted and H.B. No. 2669-82, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EXECUTIVE DEPARTMENTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (O'Connor).

Standing Committee Report No. 774-82 (H.B. No. 2679-82, S.D. 1):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 774-82 was adopted and H.B. No. 2679-82, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COUNSEL AND OTHER SERVICES FOR INDIGENT DEFENDANTS IN CRIMINAL AND RELATED CASES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Ajifu).

Standing Committee Report No. 775-82 (H.B. No. 2710-82, H.D. 2, S.D. 2):

By unanimous consent, Stand. Com. Rep. No. 775-82 and H.B. No. 2710-82, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LOANS TO SUGAR GROWERS," were recommitted

to the Committee on Ways and Means.

Standing Committee Report No. 776-82 (H.B. No. 2767-82, H.D. 3, S.D. 2):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 776-82 was adopted and H.B. No. 2767-82, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 777-82 (H.B. No. 2907-82, H.D. 2, S.D. 2):

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, Stand. Com. Rep. No. 777-82 was adopted and H.B. No. 2907-82, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1988-82, H.D. 1, S.D. 1:

Senator Yamasaki moved that H.B. No. 1988-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Kawasaki asked if the chairman of the Ways and Means Committee would yield to a question and Senator Yamasaki replied in the affirmative.

Senator Kawasaki asked: "Mr. President, is there a figure as to the revenue loss to the state that is to be the end result of the passage of this bill?"

Senator Yamasaki answered: "No, I don't think I have any figures on the revenue loss."

Senator Kawasaki then remarked and asked:

"Mr. President, my concern is that perhaps this is unequal treatment, particularly in regard to the hundreds of thousands of residential homeowners who have not had the benefit of this kind of \$25,000 out of their gross income...adjusted gross income not being taxable, that he can set aside over the years for the purchase of his first home.

"However commendable this idea may be, what about those people who struggled to pay for their first home or are still paying for their first home and have not had the benefit of this kind of legislation.

"Is there any legal problem that we might encounter in the future because of special legislation like this for a certain category of our population? This bothers me, and for that reason I will not be able to support this bill."

Senator Cayetano then rose to respond to Senator Kawasaki's question and said: "Mr. President, in answer to Senator Kawasaki's question as to the cost, I have a figure of \$1.7 million per year."

Senator O'Connor rose to inquire and remark as follows:

"Mr. President, since Senator Kawasaki rose a rhetorical question, I shall also.

"I am opposed to the bill because I read it as meaning that the first principal residence of all of us, after the passage of this bill, will be covered by the bill. I cannot see how it cannot be interpreted that way and not be discriminatory, and if it is interpreted in that fashion, then the cost of this bill is phenomenal.

"I cannot see any way that we can pass legislation of this nature and not have it applicable across-the-board and have it applied to the first principal residence of each taxpayer after the passage of the bill, and the definition section for first principal residence and the wording of the bill does not lead one to a solution which is contrary to the one that I expressed."

Senator Cayetano then said: "Mr. President, I'd like to have a short recess so I could figure out what Senator O'Connor is talking about."

At 6:53 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:58 o'clock p.m.

By unanimous consent, action on H.B. No. 1988-82, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2070-82, H.D. 1, S.D. 1:

Senator Yamasaki moved that H.B. No. 2070-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Campbell rose to speak

in favor of the measure and remarked:

"Mr. President, I rise to commend the chairman of the Ways and Means Committee for a job well done. He has proved to be hard-working, hard-nosed, hard-headed, hard-hitting, hard-bidding, hard-boiled, hard-cast and sometimes hard-mouthed. The record shows, though, that he's been dedicated and fair.

"I have a few reservations about the budget in spite of the fact that I'm going to vote for it. One of my primary concerns is that in this budget we have not adequately funded human services agencies to take care of the mentally ill, the handicapped, bi-cultural, the alienated, and the needy.

"Mr. President, it's a fact of considerable note, in my judgment, that the House has provided approximately \$3 million more for these services than we have done here in this Senate. It is my fervent hope that the issue of providing more funds to our human services agencies will be addressed in conference.

"The cutbacks imposed by the Federal Administration puts a heavy responsibility on this Legislature to do so.

"With those expressed reservations, Mr. President, I urge each of my colleagues to vote in favor of this measure. Thank you."

Senator Abercrombie also rose to speak in favor of the measure and stated:

"Mr. President, I rise in favor of the bill with my annual reservations.

"Approximately a year ago I stood here and stated that the appropriation for the so-called Ft. Ruger School in the University system should not go forward because I was confident that I would stand the following year without a single penny having been spent of that money and not a single step forward taken as far as that school was concerned, except more delays, inevitable delays because of the ill-conceived nature of the project.

"I stand here one year later and I see that my prediction which didn't take all that much to foresee has come true.

"I indicate to you again and to the members that I will be here a year, hopefully, from today, that we'll be exactly in the same situation if we go forward with the appropriation.

"Hopefully, next year we will see

the error of our ways and appropriate sums of money for the community college, commonly known as Kapiolani Community College, which will see to it that we have a new and useful facility for that institution and perhaps even a resolution of the conflict with respect to an extension of the school up at the Ft. Ruger site that does not involve the kind of awesome and burdensome expenses now associated with it, which in my judgment doom the possibility of it ever being started, let alone completed."

Senator Saiki, speaking in support of the measure, responded:

"Mr. President, I'm speaking in support of the budget and speaking in support of that very well conceived plan called the Kapiolani Community College at Ft. Ruger.

"I have before me the implementation plans with the construction date set at November of 1982.

"I guess I am much more of an optimist and a believer than the previous speaker. I recognize all of the problems that bureaucracy has created to some extent in holding this project up to a limited degree; however, I join the Senator in that if I am back next year and things are not moving according to schedule, I assure you that even I will take a second look. In the meantime, I will support this project wholeheartedly and urge them on."

Senator O'Connor, although in support of the measure, stated:

"Mr. President, I wish I could incorporate the speech I gave last year on the budget because it seems that 'deja vu' has struck again in looking at the budget of this year. I don't know why this Senate always seems or has seemed for the last two years to take a position that we must trim grants-in-aid to a point where people who have good projects and good programs bleed for lack of support, but we do.

"Fortunately, last year, most of the wide-sweeping cuts we made in grants-in-aid were restored in conference, but a couple this year are of direct and significant impact and I would recite them and urge that they be restored. One closest to my heart is the Kapahulu Senior Center which has been trimmed of its entire request; others such as the Susannah Wesley Community Center, the Kalihi-Palama Youth Intake Center, the Liliha Library After School Program, the Special Education Center of Oahu, the Adult Day Treatment Center, and most particularly

the one that we've seen nurtured and grow and become really a part of the Makiki community, the Neighborhood Justice Center of Honolulu which has been trimmed entirely from the House position to nothing.

"Some of these things...and I could go on...there are just a raft of them that have been trimmed in excess of \$3 million.

"I would urge that many of these be looked at again. I notice that two of my cohorts, immediately to my right, are appalled at one of the trims, which I am also, and with that reaction I'm sure we may get some of these things back in.

"Really, I think this year some of these grants-in-aid are more meritorious than in other years.

"The other two areas in this budget, Mr. President, that I, although voting for it, am somewhat skeptical of...first of all the emphasis and location of what's supposed to be our new general aviation airport at Dillingham Field.

"Dillingham Field, Mr. President, has been there for use of general aviation for in excess of 20 years that I know. General aviation has not used Dillingham Field. One glider school has used it extensively for some time. If general aviation was going to use it, they would have used it, and use would have dictated additional hangars, additional upkeep for maintenance out there to make the place a more viable airfield. It simply isn't used; hasn't been used except for touch-and-go landing; and any belief that it will be, I think, is a mistaken belief. And I think we're better off putting the general aviation field on Molokai than putting it at Dillingham Field...just a personal belief.

"Secondly, I see nothing in this budget...and the chairman may correct me if I'm wrong...to address the problem that we have with Washington.

"We were told and I believed that at the end of March of this year we would have the bills for the fiscal year '81-'82 passed by Congress which addressed health, education, welfare and those areas. These are four anticipated bills...none of them to my knowledge have passed. We haven't even seen drafts of them. We are still existing on a continuing resolution which was supposed to run out at the end of March and it's still continuing. I'm not sure that there's anything in this budget that addresses that problem.

"The next problem that we have with the budget is that this is the budget for next fiscal year. Of course, Congress in its wisdom hasn't even really come to grips with that budget but we do know that there will be substantial cuts in certain areas. I find nothing in this budget to address the problems that may arise and that we know will arise in those areas.

"Of course, the future based upon President Reagan's anticipated budget and the budget deficits and the cuts in social programs which have been widely broadcast are not addressed.

"I would hope that some of these things may be looked at in conference.

"I'm going to vote for this bill, Mr. President, because there are many things in it that I do support...the things that I mentioned, I cannot. I am also rather taken aback by the fact that we don't have, and I said this last year and I'll say it again this year, hardly any CIP in the Seventh Senatorial District, but I guess that's one of those things.

"Thank you, Mr. President."

Senator Cayetano also rose to speak in support of the bill and stated:

"Mr. President, I'd like to respond to some of the remarks made by Senator O'Connor. I'm not the chairman of the committee which handles the Kapahulu Senior Citizens Center or the Liliha Library After School Project, nor the Neighborhood Justice Center; however, the SECO which is the organization I believe Senator O'Connor refers to, their grant application was in my committee, and we have a policy to approach the grants cautiously for some of the reasons mentioned by Senator O'Connor himself.

"But, with respect to SECO, we have not shut them out. It's true that we did not grant their application because they were a new program, but we put money in the health budget for Waimano Home, I believe it was, which would enable the Health Department to purchase services from SECO. So, that is an arrangement that they can work out together.

"Now, regarding the general aviation airport, let me say that I think general aviation should be happy to get Dillingham Field.

"Recently, in the Honolulu Advertiser, I found the remarks of a Federal Aviation administrator very, very interesting. The gist of his remarks was something

like this.

"He said, you cannot force general aviation out of Honolulu International Airport because you cannot discriminate against classes of aircraft unless the airport is considered unsafe, and to directly quote this man, he said, 'FAA does not consider Honolulu International Airport unsafe.'

"If that's the case, maybe we shouldn't build an airport at all. If the FAA does not consider Honolulu International Airport unsafe, then why should we consider Honolulu International Airport unsafe. If the FAA considers Honolulu International Airport unsafe, it would begin to discriminate against classes of airplanes by excluding certain classes, namely, general aviation classes of airplanes.

"The Fourth Senatorial District, Mr. President, has more than its share of airports. We have Honolulu International Airport; we have an airport at Barbers Point, a military airport; we also have one at Dillingham Field; we have another one at Wheeler Field. We're carrying quite a load and I think our people are not resistant to the idea of building another airport, but I think Dillingham Field should be sufficient. Poamoho would take some very valuable agricultural land; moreover, it would open up that entire area, which is pristine at the present time, to urban sprawl. That is why we are opposed to it.

"The Department of Transportation, I think the Ways and Means Committee makes reference to this, can take many steps to curtail the growth of general aviation. It can begin to charge more reasonable fees for hangar space. It can begin to limit the number of tied-on spaces that we have available at Honolulu International Airport. Moreover, those who are crying for another airport are relying on growth figures for general aviation which I think are somewhat outdated.

"The Kentron report, which is kind of the Bible in this whole issue, once projected that if general aviation traffic was to grow at its present rate, and this was in 1977 that the report came out, I believe, that we would need two airports. We could build one tomorrow and we would need another one by 1995.

"Since that Kentron report came out, a lot of things have happened. For example, the student pilot enrollment at Honolulu International Airport has dropped by about 30%, and the reason

for this is because the veterans' benefits have run out, and veterans are no longer using the benefits to learn how to fly. Another reason is just the general state of the economy.

"It is simply becoming more and more expensive to fly. Gasoline, I don't know if they use gasoline, but fuel is becoming more expensive. Everything is becoming more expensive and the state of the economy itself has acted as a depressant on the growth of general aviation at Honolulu International Airport.

"Finally, there is the impact of deregulation, and also the impact of the air controllers strike.

"Actually, the situation at Honolulu International Airport has improved. Our traffic has been reduced, as I understand it, to the levels it was in 1975. So, I think a good case can be made for not building an airport at all at the present time. But, I'm willing to compromise. I hope other people in this Senate are willing to compromise. As far as I am concerned, Dillingham is sufficient.

"Now, what bothers me about the FAA... I'll wrap up my remarks now on the airport... is that in that same article that I mentioned this fellow from the FAA made the remark that he thought Dillingham was too far; it was not reasonably convenient, if you can believe that. Poamoho, he said, would be reasonably convenient.

"Those of us who live and intend to die here... I think we're pretty familiar with the island... I don't know where this guy comes from; I think his stay here is quite temporary... but we all know, Mr. President, that it is not too much farther to Dillingham than it is to Poamoho. So, while I feel for the pilots, I suppose they may have to spend a few more dollars driving out to Dillingham Airport in Mokuleia... I think it's better than us putting an airport in Poamoho, taking valuable agricultural land and putting that added burden on that community out there of having two airports, one at Wheeler and the other one, which would be at Poamoho, virtually less than ten miles apart. That's too much a price or burden to ask any community to bear."

Senator George, speaking in favor of the bill and responding to the previous speakers' remarks, stated:

"Mr. President, if I may address myself to the question of the general aviation airport and to the remarks of the two previous speakers, I think it's important for us to remember that

we don't. . . I'm speaking in favor of the budget, I beg your pardon, Mr. President. I've no intention of voting against the budget. I intend only to remark in somewhat rueful way about the item which appears on page 19 of said budget.

"An airport, a reliever airport or any other kind of airport is not built for today. An airport is built for predicted future needs, I think I'm most certainly not an expert. . . I've learned a little bit more about airports and reliever airports in my services as chairman of your Committee on Transportation, Mr. President, but I am most certainly still not an expert.

"I think, for me, the most convincing argument that some place down the line and probably fairly soon we're going to need another airport. A reliever airport is rooted in the very interesting premise that the users, those who contribute to the airport special fund, which is airport industry as well as those who use the airport in other ways, the concessionaires and so on, they are willing to pay for it. They're so eager to get general aviation out; to get somebody out into some place that will satisfy the FAA requirements that they are willing to pay for it. They're even willing to pay \$20 or \$25 million for it, and that to me is a statement of very real concern.

"Some place down the line and some place pretty soon we're going to have to have it.

"As long as the FAA gentleman has been quoted, perhaps it's important for me to say that the FAA is after all one of the authorities that is a policeman for us, and I'd like to send up a red signal flag. I'm not going to talk about Poamoho. I'm not going to talk about Bellows. I'm not going to talk about Wheeler, although we've shed a lot of tears and a lot of blood over all those places.

"What I am going to talk about is the. . . maybe I'd like to set up a signal flag that we don't march too swiftly down the path toward a reliever airport at Dillingham because a very strong signal has been sent to me and, I believe, only recently to the chairman of the Ways and Means Committee, that we may find ourselves in violation of the grant agreements which we signed at the time that Honolulu International Airport was constructed.

"We constructed that airport partly with the assistance of federal funds. In order to receive those federal funds

to pave those runways to accommodate our aircraft industry which feeds our tourist industry and which is terribly important to us, we signed agreements that said the FAA would be the arbiter and the one to say, if it became too crowded, who would move out and where they should move.

"I urge that we not move too swiftly towards implementation of this particular item. Thank you, Mr. President."

Senator Yamasaki also spoke in support of the measure and stated:

"Mr. President, I would like to also discuss this subject on the general aviation field which was referred to by the first two speakers.

"In regard to a communication that the chairperson of the Transportation Committee received and also a copy of which was sent to me, the communication refers to the question raised by the Department of Transportation on the subject of the general aviation field, naming of the general aviation field at Dillingham Field, and the FAA has responded in a letter dated April 5th. It is to the Deputy Director of the Department of Transportation and the Director of the Department of Transportation has transmitted a copy of the communication from Washington to the Ways and Means Committee.

"The letter states that the FAA does not consider Dillingham Airfield capable of functioning as a reliever airport.

"This is going to be a public matter anyway, so I thought that I should make this matter known to everyone in this body because we already have a decision to name Dillingham Field as the reliever general aviation airfield. When we take this subject matter to conference we will have to consider the question raised by the federal people.

"Thank you."

Senator Cayetano then asked if the chairman of the Ways and Means Committee would yield to a question and Senator Yamasaki replied in the affirmative.

Senator Cayetano asked: "Mr. Chairman, do you have the letter in front of you? Will you state to the Senators here the reason the FAA does not consider Dillingham Field appropriate?"

Senator Yamasaki answered: "Mr. President, I'd like to read the letter from H.C. McClure, Director, FAA, Western Pacific Region, to Mr. Jonathan

K. Shimada, Deputy Director, Department of Transportation, as follows:

'Dear Mr. Shimada:

Your letter of March 31, 1982 to Mr. Shea concerning a general aviation reliever airport for Honolulu International Airport (HIA), has been referred to this office for reply.

The Federal Aviation Administration (FAA) does not consider Dillingham Airfield capable of functioning as a reliever. Due to capacity limitations in addition to its location, it would not be able to provide the operational capabilities necessary to relieve HIA.

The primary function of a reliever airport is to provide the general aviation user with a suitable alternative to the airport to be relieved. A major consideration in determining suitability is that reasonable surface travel time be provided for the majority of potential users. We consider a surface travel time of 30 minutes or less as reasonable. Any travel time over 30 minutes seriously lessens an airport's ability to function as a reliever. The joint-use facilities at Dillingham do not meet this criteria.

If the State of Hawaii prohibits use of HIA by private light general aviation aircraft and those facilities which serve these aircraft, without providing a suitable alternative, the State would be in violation of the terms of its grant agreements with the FAA.

If found to be in violation of its grant agreements, the following actions could be taken by the FAA:

1. Suspend or cancel all FAA controlled programs presently provided.
2. Discontinue programming additional grant-in-aid projects.
3. Institute suit to enjoin certain practices or for specific performance.

We trust this satisfies your inquiry.

Sincerely,

H.C. McClure
Director"

Senator Cayetano further remarked:

"Mr. President, I've been through this before with the FAA and let me say that as far as I'm concerned this letter is another outrageous example of how the Federal Government deals with the states.

"Basically, the opinion stated in the letter read by Senator Yamasaki deals with the question of something that's reasonably convenient. They're talking about distance and travel time. As far as I'm concerned I don't want to see this state bow to an arbitrary type of decision set by some bureaucrat in Washington that tells us that we can't put a general aviation airport at some place that it takes 35 or 40 minutes to drive to and we can put another one in Wahiawa or some place like that because it only takes 30 minutes to drive to. That is totally unreasonable. It's ridiculous and it's outrageous. It's another example of how the Federal Government puts its foot on our necks here in the State of Hawaii.

"Now, if the FAA has not declared, does not feel that HIA is unsafe, as far as I'm concerned, there is no danger... no danger in the sense that all of the newspapers and the performance of the second general aviation airport have been talking about.

"I don't think we have to build another airport at this time.

"I've talked to pilots including one who is a member of this Senate. He doesn't believe a second general aviation airport has to be built at this time.

"If we want to be doomed to our fate in terms of accepting the projected growth of general aviation airport, then we deserve to be faced with this problem year after year after year. But, if we want to do something about it, then we can do as this Senate has stated in the budget... we can take those steps by limiting the number of spaces at HIA. We've done it in the boat harbors.

"We can start to charge fees which will make it expensive for people to fly in and out of HIA. And once we do all of these things, then the economic forces will take its toll and people will be moving to wherever the second general aviation airport will be built."

Senator George responded to the previous speaker's remarks and stated:

"Mr. President, just one additional small comment in response to the remarks of the previous speaker.

"I think in paraphrasing what we have just heard in this letter, he referred to only one of the two reasons that was cited by the FAA which was convenience and the second one which was referred to very distinctly in this was capacity.

"The FAA does not feel that Dillingham

has the capacity to handle any substantial portion of general aviation or any other kind of traffic beyond its present construction. Thank you."

Senator Cayetano then responded as follows:

"Mr. President, one final note on this.

"The Senator from the Third District is correct. I only referred to one of the elements. But the second ground mentioned by the FAA is based on projections in general aviation which has been used and outdated. It's like the Honolulu Rapid Transit System that we were trying to build here at one time. Outdated population figures were used until somebody decided to check on those figures and decided those figures were indeed outdated and that project no longer exists.

"Now, if the FAA is willing to re-evaluate the data that it's using to support its position, then I think it may be in for a pleasant surprise."

Senator Kuroda then stated:

"Mr. President, I'd just like to enter this discussion inasmuch as I also have an interest in this matter of aviation.

"With reference to the second word which was used, capacity, I think to understand what capacity means...it means the space available, landing strip, runways, and areas for supportive facilities. Dillingham has plenty of that.

"If the FAA is making reference to capacity with regard to aviation activities, the FAA is correct that the aviation activities don't exist. However, when we designate Dillingham as a general aviation field and light aviation does utilize the place, then there is every reason for FAA to now seek federal funds and with the support of some state funds provide resources and facilities.

"Now, we all know that Molokai Airport for many years used to be operated through our Honolulu radio. In other words, whenever aircraft lands or takes off from Molokai Airport, the pilot talks to the air controller on Diamond Head who is on Honolulu radio on a certain frequency. Until such time that Molokai Airport began to have more aviation activities did the FAA take steps to provide certain resources. This is also true of Keahole. Therefore, as the airfields are used, FAA responds, if resources are provided.

"I support the statements made by my good colleague from the Fourth Senatorial District. Those of us with interest in the Fourth Senatorial District feel that Dillingham is an appropriate place.

"Now that I have the floor, I'd like to make reference to the fact that we need to call our attention to a very recent tragedy in the town of Wahiawa.

"As a result of turbulent winds, cyclonic winds, a tornado passed through there...if you will recall, last year about this same time, atmospheric conditions caused a tornado to go through Palisades. I make reference to Palisades, Pearl City Palisades, I make reference to Poamoho.

"Poamoho is 800 feet above sea level. Pearl City Palisades is approximately 600 feet above sea level, and whenever we have certain atmospheric conditions, areas in Wahiawa become a very bad place for aviation activities.

"If you look through the information that can be made available, the Wheeler Field activities have undergone much damage through the years because of atmospheric conditions that occur every now and then. Poamoho is very vulnerable to that type of activity.

"I think that the choice of Dillingham is a good one."

Senator O'Connor then stated:

"Mr. President, I guess I initiated this by saying that I didn't think Dillingham was such a crack-a-jack place to have a reliever airport, and I will end on that note.

"The word capacity also includes other matters. It includes prevailing wind and the ability of pilots to use a field because of prevailing winds. Dillingham was built as a fighter strip during World War II. The prevailing wind comes from the ocean, across the field.

"To make an adequate field of it, there would have to be a strip built into the prevailing wind which could also be used when that prevailing wind turned, as it often does, 180 degrees and blows the other way. The wind at Dillingham today never blows up and down the strip; it blows across the strip.

"I could tell you an interesting story about when I soloed out there, but I won't do that because it wasn't too happy, but, nevertheless, to build such

a strip at Dillingham, into and out of the wind, we'd have to move a portion of the Waianae mountains. I think the capacity has something to do with that and I don't believe we're about ready to move the Waianae mountains to build an adequate reliever strip at Dillingham.

"Thank you, Mr. President."

Senator Henderson also added his remarks and stated:

"Mr. President, if I might state a current case.

"I happened to land an airplane yesterday at Honolulu International Airport and there was a 50-degree crosswind on fore right, and I don't think that a crosswind landing in today's aircraft is something that is that bad, frankly."

Senator Cobb then rose to remark on the bill and stated:

"Mr. President, getting away from aircraft and dive bombers, very briefly, I guess the discussion is a parochial one depending on whose ox is getting gored. I'd like to turn parochial for a minute and direct our attention to the project in the Seventh Senatorial District, euphemistically called Kapiolani Community College.

"I recall hearing a year ago when the President of the University of Hawaii testified publicly before our committee that the increase in parking and traffic and the increase in the number of students would require a considerable improvement in the road system...all four roads bordering the college...and that it would be the state's responsibility, not the city's I reiterate, the state's responsibility to pick up the tab for those kinds of improvements.

"When pressed further with questions as to when that tab should be picked up he indicated, obviously, in the early phases of the college development, either phase 1 or phase 2.

"I see now appropriations putting us well into phase 1 and not one word mentioned relative to the cost of road improvements or the state's meeting its obligation, or any ceiling on the number of students that would be at Kapiolani Community College at Ft. Ruger and would be impacting on the surrounding community.

"Like my colleague from the Seventh Senatorial District who serves as the chairman of the Higher Education Com- mittee, I'm going to be watching for

this very closely next year because if there is no progress on this issue, I intend to bring the whole matter up again."

Senator Campbell then rose to inquire:

"Mr. President, the remarks of the previous speaker force me to rise and ask the chairman of the Higher Education Committee a question because I'm confused at this point as to who is responsible for the improvement of the roads, whether it's the state or the City and County of Honolulu.

"I thought at the hearing of the Ways and Means Committee, at which time the issue was thoroughly discussed, that it was the city and county's responsibility for those improvements and I'd like to have the chairman of the committee at least clarify this for me?"

The Chair asked the chairman if she would yield to the question and Senator Saiki replied that she would.

Senator Saiki answered:

"Mr. President, before I address the question, the whole matter of the roads that abutt KCC, a subject fully discussed in my committee on Higher Education at the time that the CIP budget was put on public hearing, . . . and we missed you, Senator Cobb. . . as far as the Ways and Means Committee meeting was concerned, an overview of the CIP budget was presented and it was a conclusion of the University that in the first phase of the project, which will involve two academic buildings in that area, it will not be necessary at this time to increase the capacity of the roads that abutt KCC at Ruger. The primary responsibility of those roads is the responsibility of the city and county.

"Now what Senator Cobb is referring to is improving the portion of the road that is directly part of the campus, and that includes the sidewalks, for instance, on Kilauea Avenue. That matter is being considered for future appropriations, but for the first phase which we are addressing in this budget the roadway capacity will not be affected."

Senator Cobb then stated:

"Mr. President, last year's comments of the President of the University of Hawaii, if he is backing off from that position relative to the state being responsible not just for the sidewalks, but for the four surrounding roads immediately abutting the campus of KCC, I would have great difficulty supporting any improvement or construction costs for

that campus, particularly if there's been a change in his position from the public testimony of last year."

The motion was put by the Chair and carried, and H.B. No. 2070-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR THE FISCAL BIENNIUM JULY 1, 1981 TO JUNE 30, 1983," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 7:39 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:15 o'clock p.m.

House Bill No. 2090-82, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2090-82, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2201-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2201-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 782-82 (H.B. No. 2336-82, H.D. 2, S.D. 2):

Senator Yamasaki moved that Stand. Com. Rep. No. 782-82 be adopted and H.B. No. 2336-82, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Kawasaki spoke against the bill and stated:

"Mr. President, I'm voting against this bill. It seems to me that an industry that's been in existence over a century now most certainly should on its own resources, have been doing constant research without requiring at this late stage in year 1982, any government subsidy for research in sugar.

"I think this is absurd, and for that reason I'm going to vote against it."

Senator O'Connor then stated:

"Mr. President, I guess the concern all of us have is whether or not this research will benefit Hawaii or benefit Peru or Chile or the Philippines or all those other places that have benefited from our research in the past."

Senator Anderson then remarked as follows:

"Mr. President, to that point, I had a couple of notes on that very subject and I would like to enter into Journal that I believe from all the discussions that Senators had on this and its willingness to help, that the research that is done pertains to the Hawaii problem and better productivity as to growing sugar on Hawaiian land and not delving into the area where we might in fact be helping a foreign country to be our competitor in the years down the road."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 782-82 was adopted and H.B. No. 2336-82, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SUGAR RESEARCH AND DEVELOPMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 3139-82, H.D. 2, S.D. 1:

By unanimous consent, H.B. No. 3139-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST A PROCESSING ENTERPRISE," was recommitted to the Committee on Ways and Means.

House Bill No. 3092-82, H.D. 1, S.D. 1:

Senator Carpenter moved that H.B. No. 3092-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cayetano.

Senator O'Connor spoke against the bill and stated:

"Mr. President, this bill has to do with the Reapportionment Commission, and as I understand the effect of the change, the heart and soul of the matter is to attempt to require courts which review reapportionment plans to put back into the Reapportionment Commission the plan if it is invalidated.

"I would suggest that the usual circumstance of review of reapportionment plans rarely lends itself to that situation. The review is made on constitutional grounds...at least all reviews that we've ever had in the United States reapportionment plans...and the federal court maintains jurisdiction of the review until such time as the court resolves the matter.

"The court, historically, has either appointed a master or itself has reapportioned a plan which itself, for some reason or another did not fit the constitutional standards.

"I would suggest that this change which is proposed by this bill essentially is meaningless. I will vote against the measure."

Senator Carpenter, in support of the measure, remarked:

"Mr. President, I just would like to read a very short section in Article IV on reapportionment which prompts this bill.

"In Section 2 regarding the Reapportionment Commission, one of the paragraphs, about the third or fourth one down, reads: 'Not more than one hundred fifty days from the date on which its members are certified, the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts which become law after publication as provided by law. Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law.'

"Mr. President, this bill attempts to provide that by law. Thank you."

Senator O'Connor then further remarked:

"Mr. President, I would suggest that the bill is not required. No reapportionment plan becomes effective and is law until the federal court, if it is taken to a federal court, so decides.

"And if the federal court decides that the plan is not effective and is not law, then this Reapportionment Commission of ours can be reconvened to re-do the plan. Unfortunately, in the last go-around we just had in federal court, the court decided to go with the master rather than the Reapportionment Commission for purposes of its own.

"The Constitution is plain and can mandate the commission to come back

into effect if the plan is not effective or legal after review by the court. We don't need this bill."

Senator Cayetano supported the measure and stated:

"Mr. President, I was privileged to be at the meeting with the counsel for the Reapportionment Commission and the Lt. Governor, and this bill was suggested by the counsel, Mr. Funaki, as a safety measure, so to speak, to deal with the question raised by Senator Carpenter. That's all it is."

The motion was put by the Chair and carried, and H.B. No. 3092-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2022-82, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2022-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEFERRED ACCEPTANCE OF NOLO CONTENDERE PLEAS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (O'Connor).

House Bill No. 2640-82, H.D. 1, S.D. 1:

Senator Carpenter moved that H.B. No. 2640-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cayetano.

Senator O'Connor remarked: "Mr. President, just to make a point, the title of this bill is 'Relating to Aloha Stadium' and the content is vastly larger than the title."

The motion was put by the Chair and carried, and H.B. No. 2640-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ALOHA STADIUM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 3016-82, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and

carried, H.B. No. 3016-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BIRTH CERTIFICATES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2190-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2190-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Campbell then asked if the chairman would yield to a question and Senator Cobb replied in the affirmative.

Senator Campbell asked: "Mr. President, the purpose of this bill is to allow open rating system for determining no-fault insurance premium due to expire August 30, 1983 to become permanent. Mr. President, I have one or two questions I'd like to put to the chairman of the Consumer Protection Committee.

"The first question I'd like to put to the chairman is, when the Hawaii no-fault insurance law was proposed, did not the insurance companies say that they could provide insurance to welfare recipients at no cost under the Hawaii Joint Underwriting Plan?"

Senator Cobb answered: "That was my understanding although I've always opposed that provision and have made numerous attempts to repeal it, as well as several successful attempts to modify it."

Senator Campbell further inquired: "Are the companies now providing that service?"

Senator Cobb answered: "Mr. President, welfare recipients receive premiums at no charge today. The estimated cost to the motoring public is computed to be between \$3 and \$5 per premium, per six months."

Senator Campbell asked: "Is that under the Hawaii Joint Underwriting Plan?"

Senator Cobb answered that it is.

Senator Campbell then asked: "Did the House bill, prior to the Senate draft, provide for permanent extension of the open rating period?"

Senator Cobb answered: "Mr. President, the House bill as it came over provided

for a five-year period and in committee we received considerable testimony, including from the Department of Regulatory Agencies, that the open rating was working quite well and our committee made the decision to make it permanent. If the House disagrees, it will be a matter of conference."

Senator Campbell then rose to speak against the measure and stated:

"Mr. President, I stand at this point in opposition to this bill. Mr. President, I think it's about time some of us in public office come to the rescue of the beleaguered automobile owner.

"Let's have a quick look at what has happened to the no-fault insurance consumer.

"Number one, as an incentive to get no-fault automobile insurance passed, insurance companies promised to give, the chairman of the committee stated, the welfare recipients all the insurance at no cost, but we have found that this has been a considerable cost and the cost has been passed on to non-welfare recipients.

"Secondly, in the beginning the no-fault insurance law provided for an open rating period. I think, for three years... that was the beginning. And during that period the state insurance commissioner had the responsibility to evaluate the program and if insurance rates were going up unduly, according to law, he had the responsibility to set the rates.

"In spite of the fact that auto insurance rates did go up during that period, the Legislature was persuaded to increase the open rating period from three years to five years.

"Number three, the bill before us tonight now purports to extend that open rating period indefinitely.

"Number four, the state has tightened no-fault insurance regulations.

"On or about February 15, 1978, an insurance company appeared before the Consumer Protection Committee and made the following statement: 'Every driver cited for a moving traffic violation should be required to show proof that a no-fault auto policy was in force at the time of the traffic violation otherwise be subject to a minimum fine of \$100, with a higher fine for a second and subsequent similar violations. Present enforcement procedures are inadequate and unrealistic.'

"Now, Mr. President, within a few

months this Legislature had responded. And in an article in the Honolulu Advertiser dated August 23, 1978, I quote: 'Drivers caught without insurance will face a fine of at least \$100 and loss of their driver's license, suspension of car's registration, even impoundment of their car,' said David Ishikawa, the State Motor Vehicle Insurance Commissioner.'

"Number five, the cost of insurance is not stabilized.

"According to a report prepared by the National Conference of State Legislatures and I quote the report: 'States with no-fault law generally report that their systems are working well, but increases in premium rates are creating problems. The key factor behind passage of no-fault laws in some states was a promise that insurance premiums would be reduced. Some states even mandated rate reduction in their no-fault laws. But these reductions were recouped by insurance companies after the first year of no-fault.'

"Further along those lines, Mr. President, the Hawaii Insurance Commissioner in a report to the Legislature, Regular Session of 1981, made the following statement: 'One of the primary concerns of the Motor Vehicle Insurance Division, as well as all customers, is the ever-increasing cost of motor vehicle insurance.'

"And going back to the report of the National Conference of State Legislatures, it said, 'Many complaints are made about auto insurance, but the main complaint though is high cost of auto insurance. There are also complaints about unfair cancellation of policies, increasing a person's insurance rate even though the person may not have had an accident.'

"Now, Mr. President, let me wind up by simply saying that I have some grave concerns about the bill that's now before us. My first concern is that the open rating period is to expire August 30, 1983. That's a year away. What's the rush? Why are we addressing this problem as early as this year, 1982?

"My second concern, why are we permanently extending the open rating period before the insurance commissioner has a chance to evaluate the present rating period to see if it's necessary for him to take any further action?

"Mr. President, the least we should do, in my judgment, is recommit this bill for some revisions, thereby giving

the insurance commission an opportunity to evaluate the no-fault insurance for this current period. And if this is not the sentiment of this body, I strongly urge that we vote this measure down. Thank you."

At 8:33 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:35 o'clock p.m.

Senator Cobb then rose to respond to the previous speaker's remarks and stated:

"Mr. President, perhaps the previous speaker was not present when we had a report from the insurance commissioner and the Department of Regulatory Agencies. In fact I'd like to quote their testimony on this matter:

"During the second half of 1981, we requested our consultant actuary, Tillinghast, Nelson and Warren to conduct a study evaluating the open rating system and to prepare recommendations with regard to the August 31, 1983 termination date. A copy of the consultant's study report, dated September 1981, is included in our annual report to the 1982 Legislature.'

"I'd like to point out also some of the associated costs that have been borne by insurers in the State of Hawaii under the no-fault system.

"To date, approximately \$16 million has been paid out to welfare recipients for free insurance.

"To date, there's still a dollar per car fee for each year amounting to millions more.

"Third, that there's free insurance for any member of the public who is struck by a car where no automobile insurance is carried.

"Fourth, the assumption of a loss of revenues by the state when the gross excise tax on the agent's income including life agents was reduced. I believe that happened in 1978 and they are at least beginning to admit in one area the error of their ways.

"Finally, Mr. President, I'd like to address the question of rates and what's happened to them.

"The Motor Vehicle Insurance Commissioner in his annual report to the Legislature has stated that the great majority of rate increases have resulted from increases

in property damage claims, which is not, I repeat not, under the no-fault concept.

"If you look at what's happened in terms of insurance rates and compare that to either the rate of inflation, the increase in hospital costs, the increase in medical fees, the increase in virtually anything else that's covered, you'll find that the rate increase has been less than those items of increase over the last ten years.

"I think this is a responsible bill and should be voted up."

The motion was put by the Chair and carried, and H.B. No. 2190-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MOTOR VEHICLE ACCIDENT REPARATIONS ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Campbell, Kawasaki, O'Connor and Ushijima).

House Bill No. 2933-82, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Uwaine and carried, H.B. No. 2933-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTEREST ON CREDIT CARDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. No, 1 (Kawasaki).

House Bill No. 2154-82, H.D. 1, S.D. 1:

Senator Carpenter, moved that H.B. No. 2154-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Campbell then rose to speak against the measure and stated:

"Mr. President, I rise reluctantly to speak against this bill. I'm in favor of compulsory school attendance, and I'm certainly in favor of supporting the proper agencies responsible for seeing to it that our students attend school regularly. I do have some concerns about this bill that traces the kind of difficult responsibility on the parent or the guardian who fails to use what is called 'proper diligence' in enforcing the child's regular attendance at school.

"I think this bill which provides

that the parent or guardian be summoned to court after it's proved that the parents have not used 'proper diligence' to enforce the child's regular attendance at school, but the problem that I have with that, Mr. President, is that in looking at the bill, and I must admit I didn't do it that carefully, but in looking at the bill I fail to see that the bill defines what is 'proper diligence.'

"Is 'proper diligence' spanking a youngster if he doesn't attend school regularly, withholding his allowance, or punishing him or her in some other way? I think that term, those two words 'proper diligence' should be defined.

"Now, the intent of the bill, as I said before, is good, but if it's enforced, in my judgment, I think you will have the tendency to cause some problems between parents and their children. The pressure put on parents to force their youngsters to attend school regularly, in my judgment, will be so great that it would result in negative relations between parent and child.

"Now, the last thing I want to mention about this is the person responsible for reporting truancy should be well defined. In looking at the bill, it seems to me that anyone can make that complaint.

"With these reservations, and if they are not cleared up, I'm going to have to vote against the measure."

Senator Kawasaki spoke in favor of the measure and stated:

"Mr. President, I'm speaking in favor of this bill, but I too am a little concerned about the enforcement provision of this bill.

"Kids nowadays grow so fast and they grow to such sizes...taking an example of a family who doesn't have a father, oftentimes the mother is in no position to enforce anything on a child who's almost, generally, bigger than she, and I just wondered if imposing this kind of sanctions on a parent who means well, would like to force the child to go to school, who can't handle the kid primarily because of the size of the kid and the kid wasn't disciplined in his younger years, what's going to happen to that poor parent, particularly a mother of a family?

"I think we're going to create some difficulties for people like that, and as I said, who mean well, who want to enforce certain requirements on the kid, who's just not able physically to force the kid to go to school. I

think it's going to cause problems that we never anticipated and I just wondered if this bill addresses that problem."

Senator Carpenter, in support of the measure, responded and said:

"Mr. President, I think it will cause some problems and I think that those problems will be handled by the Family Court and I think it will cause some embarrassment to parents who cannot and do not exercise proper and due diligence in the handling of their children, and I think that's where it's going to end up.

"Hopefully, the Family Court can prevail upon the child, if he is an errant one, and the parent to become a lot more responsible toward each other."

The motion was put by the Chair and carried, and H.B. No. 2154-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMPULSORY SCHOOL ATTENDANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Campbell, Cayetano and O'Connor).

House Bill No. 2175-82:

On motion by Senator Henderson, seconded by Senator Yee and carried, H.B. No. 2175-82, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

At 8:45 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:46 o'clock p.m.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

THIRD READING

House Bill No. 2377-82, H.D. 1, S.D. 1:

Senator Carpenter, moved that H.B. No. 2377-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator O'Connor spoke against the measure and stated:

"Mr. President, I'm going to vote

against this bill. Lord knows we're all in favor of the right to farm, and I think that the right to farm is something that we should all espouse just like motherhood.

"The problem with this bill is that it gives rights to farmers which exceed the rights of the rest of the citizens, and all of us in our districts have 'ag' zoned property right up against residential property. This prevents the people in the residential property when someone in the 'ag' zoned property creates an obvious nuisance doing anything about it.

"I for one believe that for our neighborhoods you should be able to do something about it. You should be able to control the use of 'ag' property which is in the immediate neighborhood of suburban housing areas, and if there is a major nuisance created, then there should be some recourse.

"I think that the section of this bill that prevents that recourse would be wrong and that really has nothing to do with the right to farm. Therefore, I would vote against this measure."

Senator Cayetano also rose to speak against the measure and stated:

"Mr. President, I join Senator O'Connor in voting against this measure.

"First let me say, because of his effort in the past few days, the agricultural community should build a shrine to Senator Ajifu. This bill has to be the top of them all.

"All kidding aside, on page 3 of this bill under Section 4 where it says, 'right to farm' if you read under 4, subsection 1, 2 and 3, you get the impression from reading that is that a farming operation which qualifies under this bill is totally immune to all of our laws regarding nuisance. However, what Senator Ajifu gives the farming community in 1, 2 and 3, he appears to take away in 4, which seems to move everything back to square one again.

"It's difficult to figure this out.

"Then, to add insult to injury, he provided in Section 5 that, 'where a nuisance complaint or action has been filed against a farming operation, the farming operation may appeal to the department of the attorney general for public counsel.' Terrific, Ralph!"

Senator Carpenter then remarked:

"Mr. President, recognizing some discussion on item 5 there, I have had

some discussions with the House Judiciary Committee chairman, and we're in some agreement that that part ought not to be there at all. We'll discuss that in conference."

Senator Ajifu then said: "Mr. President, just a comment that I have no objection to that part."

The motion was put by the Chair and carried, and H.B. No. 2377-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII RIGHT TO FARM ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 7 (Anderson, Campbell, Cayetano, Holt, O'Connor, Saiki and Ushijima).

House Bill No. 3143-82, H.D. 2, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Abercrombie and carried, H.B. No. 3143-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Anderson, Cobb, George, Wong and Yee).

Standing Committee Report No. 678-82 (H.B. No. 2349-82, S.D. 2):

Senator Yamasaki moved that Stand. Com. Rep. No. 678-82 be adopted and H.B. No. 2349-82, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator O'Connor then rose to request the chairman of Human Resources Committee to yield to a question and Senator Uwayne replied that he will not.

Senator O'Connor remarked: "Then, Mr. President, I will make my question rhetorical.

"This Section 88-107 has to do with interest which is referred to in the bill and it starts out by saying, 'The board of trustees'...we're talking about our Retirement System and the use of the interest income from the Retirement System which traditionally has been used by the board of trustees.

"One of the major controversies in the Retirement System is the balance of the income which is gone with the general fund, and the question is, how does this bill affect that, if at all?"

"The statement in the beginning of the bill says, 'The board of trustees shall annually allocate the interest and other earnings on the assets of the system to the funds of the system.'

"I read that to say in rather clear, plain English that the interest income and the other income from the assets of the system are allocated to the funds of the system, in which case, Mr. President, this solves a long, burning controversy in this body that certainly is not anything that's referred to in the bill.

"If that's what the bill says, I will vote against it. If that's not what the bill says, I will vote for it. In any event, I read it to say what it says and I will vote against it."

At this time, Senator Uwayne requested the Chair for a short recess.

At 8:51 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:56 o'clock p.m.

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 678-82 was adopted and H.B. No. 2349-82, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes.

Ayes, 25. Noes, none.

House Bill No. 2150-82, S.D. 1.

By unanimous consent, H.B. No. 2150-82, S.D. 1, entitled: "A BILL FOR AN ACT AMENDING SECTION 142-12, HAWAII REVISED STATUTES, RELATING TO PENALTIES," was recommitted to the Committee on Agriculture.

At this time, Senator Ajifu explained that the recommittal was requested because of a typographical error of the effective date of the bill which should read January 1, 1983 rather than January 1, 1982.

House Bill No. 2170-82:

On motion by Senator Cayetano, seconded by Senator Carpenter and carried, H.B. No. 2170-82, entitled: "A BILL FOR AN ACT RELATING TO SMOKING IN PUBLIC PLACES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 13. Noes, 12 (Ajifu, Anderson, Campbell, Carpenter, Cobb, Holt, Machida, Mizuguchi, O'Connor, Toyofuku, Saiki and Ushijima).

House Bill No. 2318-82, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2318-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTAKE SERVICE CENTERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Abercrombie, Campbell, Holt, Machida, Mizuguchi, O'Connor, Toyofuku and Ushijima).

House Bill No. 2270-82, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2270-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Uwaine.

Senator Campbell spoke against the measure and stated:

"Mr. President, I made remarks this morning concerning this. I would like to reiterate that this measure seems to further tighten the screws on the insurance consumer.

"I am positive that this body does not want to go on record as being totally anti-consumer when it comes to auto insurance and I urge a 'no' vote on this bill."

Senator Cobb, in response, stated:

"Mr. President, in direct rebuttal, I'd like to quote the testimony of the Department of Regulatory Agencies' Insurance Commissioner on this particular bill.

"The purpose of the bill is to clarify statutory provisions relating to the cancellation of nonrenewable no-fault policies. The insurance industry is concerned that recent circuit court decisions have interpreted Hawaii Revised Statutes 294-9, when read in conjunction with Hawaii Revised Statutes 431-448.1, in such manner that a no-fault policy which has expired is considered to be automatically renewable on a retroactive basis even if renewal notices were previously sent by the insurer and the policyholder failed to remit appropriate premium payment prior to the expiration of the policy. In view of such court decisions there is concern within the industry that in those instances where a policyholder failed to respond

appropriately to an insurer's renewal notice by the expiration date of the policy cancellation, notices must then be sent. This, of course, would have the effect of providing 30 days free coverage to a delinquent policyholder, thereby, potentially affecting the rates of the other insured motoring public.'

"I would ask, Mr. President, parenthetically, why should we be paying for 'deadbeats' who don't pay their premiums.

"The proposed amendment attempts to correct this technical inequity by clearly providing that the requirements of Hawaii Revised Statutes 294-9 relate only to cancellation of nonrenewal of no-fault policies and not those policies which have expired.

"Thank you."

Senator Abercrombie, speaking against the measure, stated:

"Mr. President, I'd like to speak as a 'deadbeat' then. Why should we not be paying for 'deadbeats.' That's the attitude we're going to take on this. You're looking at a 'deadbeat' right here and I'm voting 'no' on the bill, and if the good Senator would like to characterize me as a 'deadbeat' to my face at some point, he can do that too."

Senator Cayetano also spoke against the bill and stated:

"Mr. President, in response to Senator Cobb's remarks quoting the insurance commissioner, I suspect the problem may rest in the way the policies are worded rather than anything in the law so I don't think this bill is necessary."

Senator O'Connor also spoke against the bill and remarked:

"Mr. President, I would suggest that most of the people who are affected in this manner in fact do renew their insurance.

"You're talking about a 30-day period to pay a bill, and in the accounts receivable of most of the businesses that are represented in this body and most of the businesses in this community, it's not unusual at all to have a 30-day accounts receivable.

"I would suggest that having that period in there saves many people who actually do regularly pay their insurance bills on an yearly basis or three-year basis or however they're being billed for a period of time when they are simply handling it as an accounts receivable. I think many businesses are in the

same boat.

"I would suggest that ordinarily those people are not as characterized by the good Senator earlier, people who don't pay. They do pay. The 30 days aren't free days, they are days that are eventually paid for by all those people who sign up and pay for their insurance later on.

"For that reason, I'm going to vote against the bill."

Senator Cobb responded as follows:

"Mr. President, briefly, to clarify the response of my good friend from the Seventh Senatorial District, it turns out that about 20% of the policies in each premium period shift from one company to another, so if it were the situation where the insured would be eventually in the 100% of the cases renewing his policy, then what he says is correct. But in effect 20% will shift from one policy period of six months to a different company. The net effect of this then is the insurers are carrying that 20% free for at least a 30-day period and in some cases much longer.

"This is the inequity of it because then those of us in the general public find ourselves in a situation of having to pay are in effect carrying the cost of these, many of which go over 30 days, and that's an insurance cost that's passed on to the consumer.

"This measure will help to remedy that."

Senator Abercrombie then added:

"Mr. President, I got one thing off my chest, now I'll get to another.

"The Senator just made the point that there are shifts. The reason there are shifts is that this no-fault insurance area is a very tricky question, and it's not the kind of thing where virtually on every other situation you deal with where you have to pay your bill, like your utilities, which I just did the other night. Often you have to make a deal with them. I've had to do this with the phone company, for example, in the past. They had cut my phone off because of particular circumstances that I had to deal with and the finances associated were such that I had to make a deal with the phone company.

"If they had said to me simply, 'Look, here's your bill; here's the end of the date; that's it; you're out; you don't

get your phone anymore; I'd have been in pretty bad shape.

"Now the reason that you have these shifts as mentioned by the previous speaker, about 20%, is that a lot of people are out trying to take advantage of the much touted open rating system and all the rest of it that we just talked about.

"People shift companies because your paying your no-fault insurance is one of the biggest single expenditure in any given month that most people in this state make who aren't rich. And a lot of rich people are upset about it besides, because it takes a terrific whack out of your budget.

"So, you do a lot of shopping. There's a lot of difficulties associated with no-fault insurance.

"Now, it's not that people aren't paying their bills. It's that they're looking and they are shifting companies, and if they're shifting companies that says something about competition which I thought we're trying to encourage. The import of the previous comments was that people shouldn't shift companies.

"They shift companies for reasons. They get offered a better deal, and they should be able to take advantage of the deal, especially when you're dealing with families where the insurance is for more than just one person and more than just one car. This is terrific expense.

"Why should these people be able to put a gun to your head. They already have you by the throat as it is, and now we're saying they can beat you on your head with a 30 days.

"The state doesn't even pay its bills on time, and the state doesn't...the University doesn't pay its employees on time.

"One of the reasons that tees me off about this is that I resent being called a 'deadbeat.' I ran into this same kind of a problem when I was teaching at the University of Hawaii, and some of my colleagues and I were not paid on time for work that we had done and we found ourselves caught in between with the no-fault insurance. I've been through this.

"Maybe some of the other people in here don't have to worry about it. Maybe somebody else even pays their insurance for them. Maybe that's part of the deal that they have where they work...I don't know. But when you have to take care of your own insurance like I

do, like thousands of other people have to do in this state, it doesn't seem to me that putting a gun to their head as this particular bill does is the kind of thing that we ought to be doing."

Senator Cobb then responded and stated:

"Mr. President, two years ago, I asked the members of my committee to go out and shop around on no-fault policies and I would agree in part with what the Senator from the Sixth Senatorial District said. It does pay to shop around.

"Taking the basic no-fault policy, \$25,000 coverage, we went out and shopped around and we found a premium difference of anywhere from \$300 to \$1100, depending on the company.

"The only point this bill is categorically addressing is there ought not to be a free period of 30 to 60 days or longer, after the expiration of a policy, when you have a significant number shifting. At least, the policy, when there's a 30-day advance notice that's given and is required, very stringently, under this bill, ought to be fulfilled."

The motion was put by the Chair and carried, and H.B. No. 2270-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MOTOR VEHICLE ACCIDENT REPARATIONS ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Abercrombie, Anderson, Campbell, Cayetano, Kawasaki, O'Connor, Saiki and Soares).

House Bill No. 2222-82, H.D. 1, S.D. 1:

Senator Ajifu moved that H.B. No. 2222-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kobayashi.

Senator Ajifu rose to speak in support of the bill and stated:

"Mr. President, there has been a lot of statements recently regarding this so-called 'eel bill,' and I would like to clarify the matter.

"Currently, all species of the eel family, anguilliformes, are prohibited from Hawaii. House Bill 2222 would keep this general prohibition in effect, with only a single exception being made.

"This idea of maintaining a general

prohibition, while permitting a single exception is similar to our laws which prohibit snakes from being imported, but then too, allows the single exception to allow the zoo to import some snakes for their display.

"In the case of eels, the exceptions would be as follows:

"First, it would apply only to the single species Anguilla Rostrata, which lives on the East Coast of the United States.

"Second, it would only allow the single species to be imported by a state agency, such as the Aquaculture Development Program in the Department of Land and Natural Resources.

"Third, it would only allow that state agency to import them for experimental or other scientific purposes.

"Fourth, the public agencies would have to request approval from the Advisory Subcommittee on Invertebrate and Aquatic Biota, as well as the Advisory Committee on Plants and Animals. These two bodies are made up primarily of scientists, who would carefully review any application to insure that allowing the importation was in the public's interest and that adequate safeguards are embodied in the importation request.

"Fifth, assuming that the above scientific committees voted favorably...they have prohibited a number of species from being imported in the past, the application would still have to be approved by the Board of Agriculture. The board of course meets in open session and is open to testimony from the general community.

"Sixth, and finally, it should be made clear that the research would occur under tight controls, with the chances of eel escape absolutely prohibited.

"The background on this bill is that there is a very real possibility that eels can be raised and harvested as a viable economic crop here. It is also unfortunately true, that there are also many questions about the viability of such operations. There are questions about the viability economically, and about the viability ecologically.

"Any research studies here with eels, should they be allowed to be imported, would help answer these questions once and for all. And so, Mr. President, I urge the passage of this bill."

Senator Kawasaki also spoke in support of the measure and stated:

"Mr. President, I recall a comment made by Senator Cayetano about the building of a monument in recognition of the number of bills emanating from the Committee on Agriculture, and because he was impressed with the content and substance of those bills. Ironically, if there is any bill that has merit emanating from the Agriculture Committee, this is the bill on 'unagi' as I like to call the animal instead of eels, because when you use the term eels people have an impression visually that this is the Moray eel that we are talking about.

"If there is anything that I have learned in being around here for fifteen years, that is the sad fact that more often than not, what appears to be a perfectly intelligent group of human beings, notwithstanding logical reasons, the reasoning that can be generated in the course of discussions in committees and in groups, notwithstanding data that can be provided, some people simply cannot be moved to acting or voting in a manner consistent with logic and what is really the fact. They can be conditioned by preposterous propaganda, in the particular case of the 'unagi' bill in controversy here.

"I think such statements as 'these animals are just going to proliferate and overrun our rivers and our streams,' such statements are just absurd, in my judgment.

"I had the occasion at one time to consult with a gentleman, who I suppose is the foremost expert, not through book learning or through attending the university, or because he has credentials in a scholastic fashion, but because he has been experienced in the fishing business, from the standpoint of owning fishing vessels, from the standpoint of owning a wholesale fishing business, a retail fishing business, and today perhaps is the largest dealer in fish at the wholesale and retail level, and he knows something about 'unagi.' As a matter of fact, he happens to be the foremost authority on the great white shark in this state, and in the course of discussing this controversy about eels, and some of the claims made by some people, he had one term to use; a vernacular, if you will in Japanese, he said, 'baka.' That is the term he used.

"That is the term he applied to people who present arguments against the importation of eels. He said that the proliferation of eels is so difficult, the culture of eels is so difficult that there will never come a time when people have to be concerned about eels

overrunning our beds and our river streams.

"With fresh eels, live, fresh eels in Japan and Europe and other places in the world where it is a very attractive item for food connoisseurs, in Belgium, many countries in Europe, in Japan, at a price of \$14 a pound, no eel would be capable of existing for long in any river bed or stream.

"In consideration of the fact that canned 'unagi,' cooked, canned 'unagi,' a four-ounce can of 'unagi' runs in excess of \$3.00 a pound, again, there is no possibility of any eel being able to live very long, in the taro patches or whatever you have.

"So, in essence, I think that this argument against this experimentation with eels, possibly because we may find that we have a very viable industry here, is simply emotional nonsense.

"Unfortunately, I don't think even what I have said here is going to make much of an impact...because of the failing in humanity, but I do think that perhaps we should have our minds open a little more, not to a point where our brains fall out, but I think we should consider this bill very seriously, and perhaps see the logic of the statements made by the chairman of the Agriculture Committee.

"I support this bill."

Senator Cayetano spoke against the measure and remarked:

"Mr. President, let me say that I think it is very important that we be guided by our brains rather than our appetites...and I'd just like to address two aspects of this issue because I think there are those who will provide more detailed testimony than I, having researched the matter a little more fully than I.

"First, the short of it, with respect to the so-called scientific information. I have never seen a more united front than by the experts...the so-called experts...in Hawaii on this matter, against this particular bill. In fact, I have yet to see these experts come in and testify or push this bill. So, in terms of the scientific community, their feelings on this matter are pretty well known.

"Second, and this really bothers me...while Senator Kawasaki was talking about an eel that was \$14 a pound, I don't think that this is the same eel. I believe he is referring to the species called the Japonica which is highly desired

and sought after in Japan. What we are getting is something called Rostrata which, as I understand, has qualities that are not as desirable. In fact, someone told me that it's like comparing filet mignon to hamburger, and the Rostrata is hamburger.

"If we are going to take this step, as far as I'm concerned, we should go first class. And, I don't know why the House did not send the Japonica... the bill with the Japonica over. I'm not about to settle for hamburger."

Senator Kawasaki responded and said: "Mr. President, in response to the good Senator from the Fourth District, unfortunately, while many of us would like to eat filet mignon, we just have to settle for hamburger more often than not."

Senator George then rose to speak in opposition to the measure and stated:

"Mr. President, I think I should start by perhaps saying that I had to bring a special license to speak against the bill at this point... poetic license:

When, late at night, anguilla steals
Across the fields in search of meals,
You'll wonder how the duckling feels
When nibbled at by ugly eels,
They say that time, in passing heals
But think before you make those deals!
Vote 'No!' on eels!

"Thank you."

Senator Ajifu then responded and stated:

"Mr. President that sounds like a slithery lobbyist. I must admit though, Senator, that was beautifully done.

"Mr. President, I now find that eels have more than just economic values, it brings poets and other rhyme schemes which will calm our senses and will help us to appreciate eels as eels.

"Mr. President, to tell you the truth, my phones have been ringing and ringing and ringing in the last 10 days and every time we lift the receiver an eel comes out of it. Some of these callers have been telling me that it's a sin to pass this eel bill, others have been threatening me by saying they will get me out of here in the next election and so, Mr. President, I've been praying to the Lord every day. I have admitted to the Lord that I have been a great sinner and that I do not deserve heaven, and so I have asked the Lord to let me stay here with the eels. Thank you."

Senator Kawasaki then remarked: "Mr. President, one final comment that I would like to make. Whatever the outcome of the voting here on this controversial issue, I would just hope that the people opposed to 'unagi,' who do not recognize that there is sound reasoning for an item 'unagi' on the menu of a Japanese restaurant in Japan or in Belgium, this item 'unagi' being the highest priced item on that menu, in most of these restaurants, would realize that there is good reason for it.

"Aside from that, I would hope that people who are opposed to 'unagi,' who have never eaten 'unagi,' will never eat 'unagi' because those of us who love to eat 'unagi' can't afford to eat it as it is. If these people develop a taste for 'unagi,' the price would even be higher, even prohibitively higher for those of us who on rare occasions would like to enjoy this delicacy."

Senator Cobb then spoke against the measure and stated:

"Mr. President, we have been hearing a lot of discussion about 'unagi,' we've had a real education in the caucus that we have different kinds of critters... Japonica is the first string and the Rostrata is the second string...and, Mr. President, hell's belles, we're being asked to vote for the second string in this bill and not the first string, not the Japonica, that would bring in the big money and would be easier to raise, and is a delicacy on the menu items of Japan. The Rostrata is a low-quality, second string, cheap hamburger, that's what we've been asked to address. We're going to have to come to grips with these critters sooner or later and I'd just as soon we do it with the first string."

Senator Holt then said: "Mr. President, I rise to speak in opposition to this measure, but before I do, I wonder if the chairman of the Agriculture Committee will yield to a couple of questions?"

The question was posed by the Chair and Senator Ajifu having answered in the affirmative, Senator Holt inquired:

"Senator Ajifu, you mentioned tight controls with respect to safeguards, can you tell me what kind of tight controls you are talking about to assure us that the eels will not escape?"

Senator Ajifu answered: "Mr. President, I think in the application process, the department that is applying for the permit will have to apply through the Department of Agriculture, and I would presume at that time of application,

that they would write up their project write-up and in that write-up they would specify the kind of research and the kind of experiment that would be conducted and also in that whole process, that the design and the structure of your tanks will show that it could be almost escape-proof construction."

Senator Holt further inquired: "I assume that these specifications will require that they will prevent the tanks containing the eels from overflowing?"

Senator Ajifu answered: "Yes."

Senator Holt continued: "Mr. President, I would like to remark on a statement made by Senator Kawasaki, that if the eels do escape that they can live up to ten years and they will not die as quickly as he has stated."

"Mr. President, this is a bad bill. And, although the bill offers a simple amendment, the impact is really far-reaching."

"Mr. President, the issue of eel importation and experimentation presents wide-ranging considerations and touches upon a multiplicity of concerns."

"We, in Hawaii, enjoy the benefits of a beautiful, yet fragile, ecology. Often, the relationship between native organisms and the environment is a tenuous and delicate one, easily disrupted but not so easily repaired."

"Mr. President, the introduction of the exotic species 'Anguilla Rostrata' involves a balancing of interests not always compatible. Undoubtedly, proponents of the bill view the Rostrata largely in commercial terms. But the prospect of developing a new and, perhaps, profitable aquaculture industry must be tempered with a recognition of the American eel's potential for ecological destructivity."

"Mr. President, beyond the problems of the Rostrata's formidable predatory proclivities lies the equally troublesome factor of its susceptibility of disease which have not been discussed as yet."

"A report on the North Carolina Sea Grant Eel Culture Project indicates that, of an initial stock of 150,000 to 200,000 elvers, 500 were lost daily over a 12-week period due to bacterial and fungal pathogens. The effect of some of these toxic diseases are not confined solely to the Rostrata, for the bacteria has attacked and killed a variety of other organisms including carp, goldfish, rainbow trout and frogs."

Mr. President, identification and control of bacterial pathogens in both elvers and adult eels, though difficult, must precede importation if we are going ahead with importation before the identification and control of bacteria."

"Mr. President, furthermore, experimentation of the kind permitted by this bill might well be redundant in view of the culturing project recently initiated in Guam. The private entrepreneur who imported 3 to 4 shipments of elvers into Guam from South Carolina was forced to abandon his enterprise due to an 80-95% mortality rate on each shipment. This mortality rate has been attributed to the distance which the elvers had to travel from South Carolina via several transshipment points."

"I might point out that according to the U.S. Fish and Wildlife Service, the people who I talked to last week, the species Rostrata has been abandoned on Guam and only the species Anguilla Japonica is now grown."

"Mr. President, the 1979 annual report of the Aquatic and Wildlife Resources Division of the Guam Department of Agriculture indicates that, in culture, the Rostrata grows at a substantially lower rate than the Anguilla Japonica, which is preferred by international consumers. Market acceptance of the Rostrata was poor in Japan due to the toughness of its skin and the shortness of its body. To the connoisseur, it is clearly a substandard species or a second string species."

"Mr. President, the results of the Guam experience cast serious doubt upon the economic feasibility of culturing the Anguilla Rostrata in Hawaii. The costs of obtaining elvers and developing the technology to successfully operate intensive eel culturing appear prohibitive when assessed against the backdrop of the Rostrata's suspect marketability."

"The questionable potential of the Anguilla Rostrata to produce great monetary benefit, and I can recall a Senator saying in the committee hearing that it is not the right species, I will not vote for the bill, does not justify the considerable ecological risks attendant upon importation."

"Mr. President, the people of Hawaii can do well without eels. We've survived, economically, for many years without the eel industry, and I do not believe we will lose a sizeable amount of revenue if this bill dies. We may, in fact, waste a considerable amount of our taxpayers money if this bill passes."

"Mr. President, this bill would, in effect, legalize the destruction of our 'Aina.' For this reason alone, I will not support this measure.

"In the interest of the many residents of this state who care what happens to our land, and I'm speaking for Hawaiians and Hawaiians-at-heart, I urge all of my colleagues to vote against this bill. Thank you."

Senator Yee, in support of the measure, stated:

"Mr. President, I sit here and I'm very pleased with all the comments we've received, and I'd like to say that the opponents have done an excellent job because when we started out the session with this bill, I had sufficient votes to have it pass the Senate, and then it dwindled down to a very tight vote.

"I'd like to allay some of the fears and I think this is the time that we should put things on record. I think that we have the responsibility, number one, as many have said to protect our environment first, I don't think that that is the question. We all believe and do want to protect our environment. We are all part of the 'Aina,' whether you are Hawaiian, Chinese, Japanese, or whatever race you come from. I think we love these islands. But, we also have the responsibility of looking at different alternatives of increasing the productivity in this state.

"We've embarked on aquaculture, I think this is a well accepted program in this state. We've tried with catfish. We've tried with Malaysian prawns, our Oceanic Institute is now trying with Mexican white shrimps, the 'kuruma ebi'. Tap Pryor is working with oysters. Some are going to be successful and some are going to be failures, but we have the responsibility of trying to encourage other business interests to support our aquacultural activities.

"You saw this morning's newspaper, on the front page, the productivity and revenues of sugar have declined because of the international turmoil we are going through. Our pineapple production has decreased. They said to look at diversified agriculture, macadamia nuts, about a total of about 24 million dollars a year. Cut flowers about 8-9 million. Papayas about 5 million.

"What does this all mean? It all means that once the Mediterranean fruit fly hits California, our papaya is in trouble. Even Japan is worried about importing papayas from the

State of Hawaii. And then you get a bad rainstorm like we had recently, the papaya industry is down again because of rot.

"I think we would be derelict in our duty and responsibility as legislators if we don't look into different kinds of experiments. Almost everything we have today that crawls or that's walking on two legs or four legs are imported here, except the Hawaiians. We're all imports. Many bring different types of diseases to this beautiful state of Hawaii...and sickness.

"All I'm saying is to keep an open mind. This is a viable product and I would be the first one to say that if this product would damage our 'Aina,' I would damage our environment, I certainly would not support this bill.

"The previous speaker mentioned about the Guam experiment. I visited that Guam experiment on two separate occasions. And, believe me, I go to Guam once a year, and have been for the last 10 years, and I know what they are doing. It was a very, very shabby experiment by a private entrepreneur, the way he built his facility. You could see that it was going to be an economic flop from the beginning. This was obvious to all of us who were there on this visitation.

"Then you visit those that were done in Taiwan. They were done extremely well. In talking to those people there, they have stated that they have security around the area, that no eels ever escaped from their hatcheries. They have tremendous experience, and they raise both types of eels. Maybe I shouldn't say eels, because that's what scares everybody, just say fish, because that's what it is...a fish. And they have developed it into an excess of \$100 million export business in Taiwan. Now, we could find something of this nature, that we know there is a ready market and I think we are moving in the right direction.

"Our tourism, we're going to spend millions of dollars to bring tourists here. And we have to correct many of the problems that we have here like crime, etc. They are a blight on our society, they're a blight on tourism, they're a blight on our family. It's just a blight, period.

"Now, I really feel that those who are on the outside, are not doing justice by calling all of you on the telephone, by writing letters, threatening your office because they feel that it's going to threaten the entire environment. They make it like it was a plague and

I regret very much that the support that we had here has dwindled to nothing. I feel that a position should be made and I do hope that someday, in the future, that reasonable men, with some guts will come out and support this type of industry.

"Thank you."

Senator Kawasaki, again speaking in favor of the measure, stated:

"Mr. President, I understand that there is considerable concern about the species that we are talking about in this bill. As a matter of fact, I have been informed that perhaps five Senators, including Senator Cayetano, would vote for the bill if the species Japonica was the species that was to be named in the bill.

"In this regard, I have a question to Senator Ajifu of the Agriculture Committee: Assuming that this bill passes, providing for the importation of the species *Anguilla Rostrata*, is it possible in the course of a conference committee, because we're amending the House bill in effect, is it possible in the course of a conference committee with the House, that the species Japonica could replace the species *Rostrata* as the final compromise with the House? If this is possible, perhaps this is the route we could take, but may I pose this question to Senator Ajifu, would he commit himself as chairman of the Committee on Agriculture, and possibly the chairman of the conference committee representing the Senate, to take the position that if this bill passes in this form, this being the amendment to the House bill, would it be amenable to substituting the species Japonica as a compromise position with the House in conference committee?"

Senator Ajifu answered: "Mr. President, in response to that question, unfortunately, we would not be able to make any substitute amendments at this stage. The amendment that is in the Senate draft is just a technical amendment which just underscores two words, that's why we came in with the Senate draft. Other than that, making a substitution change is not possible at this time."

Senator Kawasaki again inquired: "Mr. President, I think he misunderstood my inquiry here. We would pass this bill as it emerged from your committee, but in the course of a conference committee with the House, could we possibly speculate that the House would be willing to substitute Japonica for the strain that's enumerated here?"

Senator Ajifu again answered: "Mr. President, I have been in touch with the House members, Senator, and that is very unlikely. If we were to make any substitutions, the bill would not pass anyway."

Senator Ushijima then rose to remark as follows:

"Mr. President, I really haven't made up my mind as to whether I am for or against this bill.

"I've been listening to all of the proponents and the opponents of the bill and I find myself as confused as ever.

"I believe from all of the statements that it seems as if this importation is for one purpose only. And this is for economic value to the state. I hear a statement made by one of the speakers stating that we are talking about hamburgers, we're talking about second-rate eels, and on the other hand I hear a speaker say that in Taiwan it's a \$100 million industry. I'm really confused as to whether we're talking about *Rostrata* or whether we're talking about the Japonica.

"Now, if the statement is true that what we're importing is of second-rate, that it has no economic value to the state, then I'm totally opposed to this bill.

"If it is of economic value to the state, then I'm for it. But I'm still not convinced as to whether we're doing it for the economic value to the state or we're just experimenting and bringing something that is second-string. I'm still confused.

"I hope somebody would unclear my mind of this. I want to be open on this. Perhaps the Senator who has been going to Guam once a year can enlighten me on this particular issue. Thank you."

Senator Yee responded and stated:

"Mr. President, I'd be delighted to discuss this further.

"There's no question that the Japonica variety is the better, you might say the better quality or the better type of eel that people prefer to eat in Japan. But so is the 'kuruma ebi' shrimp, the number one shrimp in Japan. But in Japan, they also have about a half a dozen or more different varieties of shrimp and as a result, the price varies and not everyone in Japan can afford to eat the Japonica variety because they are extremely expensive.

"Now, to buy a thousand elvers of the Japonica variety, it would cost

anywhere from 2 to 3 thousand dollars, where the Rostrata would be in the neighborhood of 2 to 3 hundred dollars per thousand. Now, as far as marketability, I've been talking with various people in Taiwan and statewide and they believe there is a market even in Japan, because then you would have two varieties of eels, and the better restaurants would probably serve the more expensive ones and the modest restaurants would probably serve the cheaper ones because they would be less expensive, because you have different strata of society, different strata of economic values with people, some are willing to pay more for better quality, some would pay less.

"Now as far as Rostrata on the mainland, there is a great market, and this is where I think, in Hawaii, the State of Hawaii, we could benefit by it because the professor at North Carolina University who is doing the experiments there stated that they had fresh Japonica from Japan sent to New York restaurants, and they had sent their fresh Rostrata from North Carolina to New York, and the quality was much better. And this was so stated in the article in the newspaper a few days ago.

"I know that and I'm positive that almost every Japanese restaurant on the mainland would be a potential market, and I'm sure the restaurants in the state would be a potential market, and I'm sure the restaurants in Japan would be a potential market because not everybody can afford the Japonica eel.

"Now, when we were in Taiwan, I've been there on three separate occasions, we had both, and I'll be honest, it is very difficult to tell the difference. Even the Taiwanese, in their Chinese restaurants, 'unagi' is one of their choice dishes. It's as you say an oriental delicacy. And I think it's sort of, you might say, becomes quite a cultural experience as far as eating is concerned in Southeast Asia.

"So, I would say that the market is there. There is a great possibility. And this why we want to give it a chance. All we're saying is let's try. And if the experiment proves that it is not workable, economically or biologically, or it's going to affect our environment, than I say to dump it. But, it is the same thing, I could go back to Malaysian prawns, if the State of Hawaii did not bring in the species, we would not have a Malaysian prawn industry today. And the biggest area of activity is out in Kahuku and the island of Kauai for Malaysian prawns.

"I hope I have answered some of your questions and I hope the people who are concerned about it on the outside have a fair shot at listening to the other side instead of being closed-minded."

Senator Saiki also rose to speak on the measure and stated:

"Mr. President, I've spent a very interesting evening and have learned a lot. Some people have been called 'deadbeats,' some people were called 'baka,'...and by the way, for those of you who don't understand Japanese...it means 'stupid,' then I was accused of being a person 'without guts,' because I don't happen to be a man, and maybe that is to my advantage. Then I've heard all this discussion about first-class eel, and second-class eel, and I want to say that I am going to vote 'no' on this bill and I wish we would take a vote on it.

"I think most of us have made up our minds. I'm voting 'no' and I don't care whether it's a first-class eel or a second-class eel. I'm voting against the bill because I feel that the risk to the environment is not worth the possible gain to our economy. I think that there are other areas of diversified agriculture, aquaculture, whatever there be, and I think we should concentrate on looking at positive ways that we can develop our economy. So, please, Mr. President, I'd like to vote 'no' now."

Senator Holt, in response to Senator Ushijima, stated:

"Mr. President, just one short comment in response to Senator Ushijima's question, if he's still undecided as to how to vote, I'd just like to clarify the difference between the Rostrata and the Japonica and Senator Yee's comment about the millions of dollars that Taiwan makes for their economy.

"The Japonica is the eel that is raised in Taiwan, and it just so happens that Taiwan gets their elvers from Guam. Guam is raising the Japonica and not the Rostrata, for your information.

"Thank you."

At 9:48 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:51 o'clock p.m.

At this time, the Chair announced that House Bill No. 2222-82, if there be no objection, is recommitted.

By unanimous consent, H.B. No. 2222-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANGUILLIFORMES," was recommitted to the Committee on Agriculture.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

House Bill No. 2742-82, H.D. 1, S.D. 1:

Senator Yamasaki moved that H.B. No. 2742-82, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Campbell rose to speak against the measure and stated:

"Mr. President, the purpose of this bill is to provide a \$25 income tax credit to resident taxpayers who purchase a new, approved child passenger restraint system. The bill certainly has merit and I support its intent, Mr. President, but I do have strong reservations about the precedent that this bill is likely to set.

"My question is, where do we draw the line? Should we give tax incentives to drivers of motorcycles who buy helmets, to motorists who purchase air bags to reduce injury, to those who pay an extra cost for seat belts? And the list goes on and on.

"I think, Mr. President, that the state treasury is certainly not inexhaustible, and I believe that while this bill has merit, I'm afraid the precedent that it would set forces me to vote against it. Thank you."

Senator Abercrombie also spoke against the measure and stated:

"Mr. President, perhaps this is a follow-up to the previous speaker's remarks, but, are we really serious in saying that we have to pay people to protect their children now, or that they won't do it? That's in effect what this bill says, and I think that it opens up... I think that I have been admonished in the past, in thinking about various bills that one should always try to be cognizant at least, of what doors are opened as a result.

"I can foresee now, I think I indicated earlier what my colleagues have said, that we now have tax credits, I suppose to have 'fleecy' seat covers to keep you from sweating in your car, or perhaps any one of a number of different features for which tax cuts will be involved.

"It stuns me that we would have to bribe parents to have a child passenger restraint system, with a tax credit, otherwise, apparently, children will just have to take their chances. It doesn't seem to me to make sense to pass this bill with this kind of credit with the kind of implications that it has."

Senator O'Connor, also in opposition of the measure, remarked:

"Mr. President, to my mind there are dozens of other safety features in our community which, if we are going to talk about tax credits for safety features, would merit such a tax credit more than this one.

"I concur with the previous speaker. Parents should protect their children, and we shouldn't have to pay them to protect their children. These restraints are available, the restraint systems are voluntary, for children, and certainly, we should encourage them, but certainly not with a tax credit.

"I would vote 'no' and I would urge all of you to vote 'no' on this measure."

Senator Carpenter then remarked: "Mr. President, I just want to say that I've been inspired by several of the issues and stands that Senator Campbell has taken this evening and I'm inspired this evening, on this issue, to vote with him."

The motion was put by the Chair and carried, and H.B. No. 2742-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDIT FOR CHILD PASSENGER RESTRAINT SYSTEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 10 (Abercrombie, Campbell, Carpenter, Cayetano, Cobb, Holt, Kawasaki, Mizuguchi, O'Connor and Ushijima).

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.

House Bill No. 2090-82, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 2090-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EXCISE TAX CREDIT," having been read throughout, failed to pass Third Reading on the following showing

of Ayes and Noes;

Ayes, 8. Noes, 17 (Abercrombie, Ajifu, Anderson, Carpenter, Cayetano, Cobb, George, Henderson, Kawasaki, Kobayashi, Kuroda, Saiki, Soares, Uwayne, Wong, Yee and Young).

At this time, Senator O'Connor remarked: "Mr. President, I didn't know that the minority had the ability to bring a bill to the floor of this body."

House Bill No. 2778-82, H.D. 2, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Abercrombie and carried, H.B. No. 2778-82, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXCEPTIONAL CHILDREN," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kobayashi).

House Bill No. 1988-82, H.D. 1, S.D. 1:

On motion by Senator Yamasaki, seconded by Senator Anderson and carried, H.B. No. 1988-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL HOUSING ACCOUNTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

RECONSIDERATION OF ACTION TAKEN

Standing Committee Report No. 674-82 (House Bill No. 329, H.D. 1, S.D. 2):

Senator Uwayne moved that the Senate reconsider its action on Stand. Com. Rep. No. 674-82 and H.B. No. 329, H.D. 1, S.D. 2, seconded by Senator Yamasaki and carried.

Senator Uwayne then moved that Stand. Com. Rep. No. 674-82 be adopted and H.B. No. 329, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Yamasaki.

Senator Kawasaki then rose to speak against the measure and stated:

"Mr. President, I will vote against this measure, primarily because this is a bill that allows the directors of the Legislative Reference Bureau, the Legislative Auditor's Office, the Ombudsman, the Ethics Commission, to set the salaries of their entire staff.

"I think if we are to be consistent with the vote that we had taken defeating a proposal for the Board of Regents of the University of Hawaii to set all salaries at the University, including the salary of President Matsuda, we ought to be consistent and say that we need to have the body that's responsible for the providing of the appropriations for these employees and their salaries, this body, the Legislature of the State of Hawaii, be responsible for the salary schedule of some of these legislative agencies that I enumerated.

"We should vote down this bill because in essence this bill permits the directors of the Ombudsman's Office, the Legislative Auditor's Office and the Legislative Reference Bureau, the directors of these three agencies to set the salaries of their entire staff. I have found some abuse in some such a situation. For example, I had the occasion, two years ago, to call the Ombudsman to my office, because I was concerned about the salary that he had designated for his deputy, \$40,000 a year. The Ombudsman made a salary of \$42,000 a year.

"While I happen to be the author of that bill back in 1967, I had never intended that position or that office to pay a deputy the salary in the range of \$40,000 a year. And this is the kind of arbitrary salary setting decisions that could be made by the directors of the agencies which I enumerated. I think we should have some measure of control as to what salaries are going to be... something reasonable, in consideration of our state finances, and this bill would take away completely from us, the right to have some control over salary setting decisions."

Senator Uwayne then rose to speak in favor of the measure and remarked:

"Mr. President, with all due respect for my colleague from the Fifth District, the Legislature hasn't given up any authority that it has already as far as discretion on salaries for these legislative offices. We have that discretion through the appropriations bill that we adopt every year at the beginning of the session.

"As far as the salaries for the deputy Ombudsman, that is set by law and by statute that it will be 95% of the Ombudsman's salary. This bill doesn't do anything more than what is already being done. The directors of each of these offices already have the discretion to set salaries and, if anything, this bill makes it more of a legislative office by taking away the discretion of these directors by individually coming up with their own salary schedules, by law.

"If we pass this bill, all three offices will have to get together and vote by majority vote that all of these offices comply with the uniform salary schedule rather than each of them going off on their own merry way. And, if anything, it takes away the discretion from these directors in complying to the other sections in the statute in conforming to the salary structure of Chapter 89, which relates to collective bargaining, which is basically an executive salary schedule.

"So, if anything, Mr. President, this bill does everything that the good Senator from the Fifth Senatorial District is concerned about, that it gives us more control over these offices through the Legislature. Thank you."

Senator Kawasaki, in brief response, stated:

"Mr. President, while the law allows for the setting of the salary of the deputy Ombudsman to 95% of the Ombudsman's salary, it allows up to a maximum of 95%. It does not automatically say that the deputy's position shall pay 95% of the director's pay. Up to that point. Anything lower than that could be at the discretion of the director. And this is one example where I found that the Ombudsman just set it at the maximum. This is the kind of decision-making powers that I think that this bill would allow.

"As for control via the appropriations process that we have because we provide the money, once the director sets the salary for his staff, as I found out through experience, rarely do we in the Legislature then say, 'We shall not abide by your salary setting schedule that you presented to us.' More often than not, we have approved that almost in toto. And this is the concern that I have."

Senator Cayetano, in opposition to the measure, stated:

"Mr. President, first, I differ with the Senator from the Sixth District as to his interpretation of what the bill does.

"The existing law at the present time requires the offices in question, whether it be the Ombudsman or the Reference Bureau, to the directors of those offices to confer with the Department of Personnel Services. The law specifically says, 'to conform as closely as possible with the recommendations of the Department of Personnel Services.'

"Now, there is a reason for that. And that reason is that in terms of setting

salaries for those offices to set parity, some kind of parity, across the state...state employees, I should say.

"What the bill proposes to do is delete that requirement of conforming with the recommendations of DPS and, instead, the three directors will get together and work it out among themselves. DPS should be closely involved in this because the different offices have different functions. They may not be deputies or secretaries or researchers at certain levels that may not have the same kinds of duties as in the Auditor's Office as they may have in the Reference Bureau or the Ombudsman.

"What we are doing now is creating a situation where there is going to have to be a lot of compromise among the three and I'll tell you, human nature being what it is, everybody is going to try and take care of his own. So, for that reason I am opposed to this bill because I think that the existing law is the proper way to go."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 674-82 was adopted and H.B. No. 329, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES EXCLUDED OR EXEMPT FROM COLLECTIVE BARGAINING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Campbell, Cayetano, Holt and Kawasaki).

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

The Senate reconvened at 10:11 o'clock p.m.

RECONSIDERATION OF ACTION TAKEN

House Bill No. 3142-82, H.D. 1:

Senator Yamasaki moved that the Senate reconsider its action taken on House Bill No. 3142-82, H.D. 1, seconded by Senator Anderson and carried.

Senator Yamasaki then moved that H.B. No. 3142-82, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Anderson.

Senator Abercrombie rose to speak against the measure and stated:

"Mr. President, I rise in probably futile endeavor. It wouldn't be the first time and I do it joyously because

I know I'm right and I intend to try and convince the rest of the members of that. The reason is that I think it's very simple, yet I think that it covers the whole territory.

"The question isn't really raising the adjusted household income limit from 125% to 150%. I'm sure if I don't bring it up, then someone else will and I'll save them the problem.

"I think that this makes the director of the housing program eligible to apply. What we're talking about here, then, is obviating the whole reason for putting in the HULA MAE, the housing loan and mortgage program, in the first place. What you're talking about, Mr. President, is a separate program.

"If it is the will of this body to do this, then by all means, put in a bill and create a fund and take care of the people at this income level, as you deem appropriate. But don't take what was supposed to be a program aimed at a certain level of income, and a certain group of people, and done for good reason and change it because of the interest rate. If you're doing it, you're just pulling them further and further away from their capacity to deal with this anyway, and in effect, piggy-backing the people who would otherwise be eligible, if the interest rates were not so high, into this program.

"Let's not take this program and make it something that it was never intended to be. Let's address this particular problem with interest rates with an appropriate bill. But this, in effect, changes the entire basis as far as I can see of what we were attempting to do when we passed the original legislation. And I don't think it's fair for the people who are

going to be left behind."

Senator Yamasaki, in response to Senator Abercrombie, stated:

"Mr. President, the concern that was expressed by members of this body was whether we should not continue to give emphasis to those who fall within the 125% median income figures and the committee report indicates that the HHA should continue to place emphasis on these people who fall within the 125% median income figures and they should continue to be given priority even though we increased the percentage to 150%."

The motion was put by the Chair and carried, and H.B. No. 3142-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

At this time, the Chair made the following observation:

"Members of the Senate, it has been a very long day and the Chair would like to take this very brief opportunity to thank all of you for being so patient. I hope that we can conclude our business and move on into the conference committees into the next two weeks. Thank you."

ADJOURNMENT

At 10:17 o'clock p.m., on motion by Senator Cobb, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, April 6, 1982.