

## FORTY-NINTH DAY

Wednesday, April 7, 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 Father Fred Nies, Associate Pastor of Our Lady of Peace Cathedral, after which the Roll was called showing all Senators present with the exception of Senator Ushijima who was excused.

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

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

Senator O'Connor introduced the St. Andrews Priory School Drill Team consisting of three teams: the Big Team, the Junior Team, and the Mini Team; their director Mrs. Penny Young, and the school Headmaster Rev. David K. Kennedy.

Senator O'Connor, in introducing the group, stated: "Mr. President, I have the distinct honor and privilege today to report to this body that on Saturday, March 6, 1982, in Dallas, Texas, Hawaii was represented in the National School Drill Team competition by several teams from Hawaii. They consist primarily of girls from St. Andrews Priory School. At this competition these teams brought home major honors for the State of Hawaii in that they won top honors in three different areas and won a fourth trophy, the Judges' Trophy, for having perfect scores in everything they entered. This performance by these teams for St. Andrews and the State of Hawaii merits a tremendous amount of praise and in recognition of this we have prepared and will present to the teams a Senate Certificate honoring them for this accomplishment."

Senator Toyofuku then introduced 43 JPO's from Wilcox Elementary School on Kauai, accompanied by their advisors: Mr. Leslie Hashimoto, Mrs. Hazel Hashimoto, Mr. Arnold Fujii, Mrs. Ellen Blas, Mrs. Helen Bartolome and Mr. David Kawakami.

Senator Carpenter introduced 50 fifth grade students from Punahou School and their teachers, Miss Clare Lockhart and Mr. Dibrell.

Senator Anderson introduced 40 members of the Kahuku Senior Citizens Club.

Senator Saiki introduced Mr. John (Jack) Baxter, a very good friend and returning visitor to Hawaii. Senator Saiki added: "John Baxter served as a majority leader of the Maine House of Representatives and has been recently retired as senior executive vice-president of Amfac, Inc. He is now independently in business and is president of Zebron Corporation."

Senator Yee, on behalf of the Senators from the Sixth and Seventh Senatorial Districts, introduced 26 fifth grade students from Jefferson Elementary School and their teacher Haroldeen Wakida.

Senator Abercrombie then rose to remark: "Mr. President I am glad to see Haroldeen Wakida here today. For those who don't know, she has just been elected president of the Hawaii State Teachers Association."

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 414 to 419) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 414), returning Senate Bill No. 505, S.D. 1, which passed Third Reading in the House of Representatives on April 6, 1982, was placed on file.

A communication from the House (Hse. Com. No. 415), returning Senate Bill No. 2213-82, S.D. 2, which passed Third Reading in the House of Representatives on April 6, 1981, was placed on file.

A communication from the House (Hse. Com. No. 416), returning Senate Bill No. 2257-82, S.D. 1, which passed Third Reading in the House of Representatives on April 6, 1982, was placed on file.

A communication from the House (Hse. Com. No. 417), returning Senate Bill No. 2377-82 which passed Third Reading in the House of Representatives on April 6, 1982, was placed on file.

A communication from the House (Hse. Com. No. 418), returning Senate Bill No. 2530-82 which passed Third Reading in the House of Representatives on April 6, 1982, was placed on file.

A communication from the House (Hse. Com. No. 419), returning Senate Bill No. 2674-82, S.D. 1, which passed Third Reading in the House of Representatives on April 6, 1982, was placed on file.

At 11:47 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:59 o'clock a.m.

#### SENATE RESOLUTION

A resolution (S.R. No. 85), entitled: "SENATE RESOLUTION EXPANDING THE SPECIAL COMMITTEE APPOINTED TO INVESTIGATE THE PROBLEM OF THE PESTICIDE HEPTACHLOR IN LOCALLY PRODUCED MILK," was offered by Senator Wong and was read by the Clerk.

On motion by Senator Cobb, seconded by Senator Anderson and carried, S.R. No. 85 was adopted on the following showing of Ayes and Noes:

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

At this time, the Chair appointed Senator Kawasaki as an additional member to serve on the Special Committee to Investigate the Problem of the Pesticide Heptachlor in Locally Produced Milk.

#### STANDING COMMITTEE REPORTS

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 795-82), informing the Senate that Standing Committee Report Nos. 796-82 to 807-82 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.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 796-82), recommending that Senate Concurrent Resolution No. 3, S.D. 1, as amended in S.D. 2, be adopted.

Senator Henderson moved that the report of the Committee and S.C.R. No. 3, S.D. 2, be adopted, seconded by Senator Yee.

At this time, Senator Kuroda rose to speak for the resolution and stated:

"Mr. President, I will vote for the adoption of the senate concurrent resolutions on the state functional plans that are before us, with reservations, as I've indicated with my signature on each committee report.

"I cannot agree with the chairman's insistence that Senate Bill 2720 which amends Chapter 226 of the State Plan

must be enacted, as the committee report makes reference to. There was sufficient discussion at the public hearing last night to indicate that the Legislature is not bound by the functional plans as the functional plans go forward with proposals and themes, goals and objectives, and the Attorney General's Opinion that was cited many times last night makes reference to the agencies that are mandated to follow.

"For that reason, I want to express my reservations, that is, because of the reference in the committee reports linking the functional plans with Senate Bill 2720."

Senator Machida also spoke for the measure with reservations and stated:

"Mr. President, I'd like to echo the remarks made by the previous speaker and add that I think it's poor legislative procedure to tie one bill to another, as evidenced a couple of days ago with two agriculture bills.

"Mr. President, in the public hearing that was held last night, we received three and a half hours of testimonies. Primarily, those who testified indicated that these two should not be tied together, Senate Bill 2720 and the functional plans. This was evidenced at the hearing last night, and apparently the chairman of the committee has disregarded these testimonies.

"The other thing I'd like to indicate is that the chairman of the subject matter committee of the House testified at our hearing last night and indicated that 2720 is dead in his committee. So, to tie these functional plans to that Senate bill is a ridiculous procedure.

"In spite of these reasons, I would still like to urge that these functional plans be adopted."

Senator Henderson then rose to speak in favor of the resolutions and stated:

"Mr. President, I rise to speak in favor of the standing committee reports on Senate Concurrent Resolutions 3 to 14 which are for the adoption of the 12 state functional plans.

"Before I speak on the plans now before this body, I think a little historic perspective might add something to the subject matter.

"You will recall, the Legislature in 1975, some eight years ago, began drafting legislation for the Hawaii State Planning Act. In 1978 the final form of the Hawaii State Plan which now appears in our Hawaii Revised Statutes as Chapter 226

was passed by both the Senate and the House. It so happens that seven members of the conference committee are here in the Senate today, Senators Yamasaki, Saiki and I represented the Senate, and Senators Cayetano, Abercrombie, Machida and Mizuguchi were part of the House conferees.

"At that time, the conferees will recall, and I think this body will recall, there was a large question as to how the State Plan and how the functional plans should be adopted. There was a question as to whether it should be by statute or by resolution. The problem of course being that if you adopt the plan by statute it is the law, and if you adopt it by resolution it is not a law. The question is still before us today.

"The resolution in 1978 was to adopt the Hawaii State Planning Act by statute and to provide for the adoption of the resolution, the twelve functional plans... to adopt them by resolution, and in that way implement the Hawaii State Planning Act.

"Since that time, we have had four plans introduced in this body in 1979. There were eight that were introduced in 1980. In all the years since '79, '80, '81 until this year the functional plans have failed to be adopted by resolution. One of the problems, involved, I think, is that the functional plans are far more complex than the State Plan.

"The State Plan addresses mainly goals and guidelines and generalities; whereas, the functional plans got down right to the nitty-gritty of the twelve functional areas of this state.

"Also, there has been this question that's been hanging over the Legislature and interested people as to what effect the functional plans will have.

"It's true that the other day, Senator Kuroda, Monday afternoon as a matter of fact, I did receive a copy of the Attorney General's Opinion from the director of the Department of Economic Development. In that opinion, it states fairly well that the counties are not bound by the functional plans; however, the counties are bound by the State Plan. But, also, in the opinion, it talks about state agencies, but in the area of the Hawaii State Plan which is in particular Chapter 226, B, 2, (a) and (b) which deals with the legislative appropriations, both for the operating budget and the biennial and supplemental budget appropriations and also for the capital projects budget, that particular

area of the Hawaii State Planning Act states that the budgetary and land use decision-making process shall consist of (a) the appropriation of funds for major programs under the biennial and supplemental budgets. The language says, '...shall be in conformance with the state functional plans adopted pursuant to this chapter.'

"In (b) it talks about capital improvements. Capital improvements, it says, '...the appropriation of funds for major plans and projects under the capital improvement program shall be in conformance with the state functional plans adopted pursuant to this chapter.' It talks about decision-making processes in the state as far as the Land Use Commission is concerned, the same language appears, '...shall be in conformance with the state functional plans as adopted pursuant to this chapter.' This language also appears in the decision-making process as it applies to the Board of Land and Natural Resources... 'the decisions made by the Board of Land and Natural Resources shall be in conformance with the functional plans adopted pursuant to this chapter.'

"The Attorney General's Opinion, Mr. President, further goes on to state that, '...therefore the plain language of the statutory provisions indicates the necessity of having budgetary and land use decision-making processes comply with the functional plans.'

"Mr. President, in the adoption of these twelve resolutions we have linked the adoption of the resolutions to the passage of Senate Bill 2720. Senate Bill 2720 would amend this particular part of the Hawaii State Planning Act, among some other minor amendments, and will make it very clear that any legislative decision-making such as that required in (a) and (b) of this particular section of the Planning Act would not be mandated to conform to the functional plans that are to be adopted by this legislative body.

"Therefore, Mr. President, I urge that this body adopt the resolutions in the forms that they have been submitted and that we transmit them to the House for further discussion.

"Thank you."

Senator Kuroda responded to the remarks by the previous speaker and stated:

"Mr. President, I think that what we need to remember, members of the Senate, is that the Attorney General's Opinion makes reference to the requests made for appropriations for projects

that the agencies request. They must be in conformance with the functional plan as shown; that it is not the Legislature that is bound by these requirements.

"I stand to stress this concern because the arguments have been brought forward by the chairman that he is concerned that the Legislature will be bound by the functional plans, and this is not what the Attorney General's Opinion rules. It states clearly that it is the agencies that submit the request that must be in conformance with the functional plans."

Senator Henderson, in reply, stated:

"Mr. President, the question that was asked the Attorney General was whether the state agencies must conform to the state functional plans. There is nothing in the particular Chapter 226, B, 2, (a) and (b) that says it's solely restricted to agencies. In my opinion, Mr. President, it applies to this body as well."

Senator Campbell then rose on a point of parliamentary inquiry as follows:

"Mr. President, are we operating under a legislative deadline in getting these plans over to the House? And, if so, what is the deadline?"

The Chair answered: "No, Senator Campbell, there is no legislative deadline, whatsoever."

Senator Campbell then rose to speak on the measure and stated:

"Mr. President, I rise to speak with reservation on the adoption of the plans and my remarks may not relate to the issue which is now before the body but it does relate to the fact the hearing by your Committee on Economic Development of the plans held just last night presents these plans before us today for adoption and, in my judgment, this body should have at least one day to digest the findings of the committee.

"As a matter of fact, I haven't had a chance to read all of the committee reports of all the plans that are before us.

"Mr. President, that is basically my reservation for voting at this time. At least we ought to have a day to look at these committee reports which will give us a chance to look at the deliberations of the committee. Thank you."

Senator Kuroda responded to the previous speaker's remarks and stated:

"Mr. President, I hope that we have these plans move forward even though I vote with reservations. I feel that these plans should go forward to the House as soon as possible so that deliberations can be continued. We all know that the House will not agree with certain elements of the provisions in the functional plans.

"We know that the position of the House, especially when we had the committee chairman come to testify, of which Senator Machida made reference to, and I am hopeful that the so-called 'opihi' who left the position of Speaker of the House and became a judge, and the 'opihi' that's our vice-president here who sometimes relinquishes his hold, I hope that our good chairman will not be another 'opihi' and would be very accommodating to the discussions that take place when our functional plans go to the House."

Senator Cayetano added: "Mr. President, may I say that I hope if our 'opihi' feels he's right, he'll hang on for dear life."

Senator Cobb then expressed his reservations and stated:

"Mr. President, I guess it's appropriate to say an 'opihi' is an 'opihi' is an 'opihi' like an eel is an eel is an eel, regardless of how you call it.

"I'd like to express one reservation and request that a 'no' vote be recorded for me on the Tourism Plan, particularly with reference to Queen's Beach.

"The community in Hawaii Kai is bitterly divided on the issue and the State Plan on first reading indicates that Queen's Beach is to be one of the priority areas, if not the priority off the Waikiki resort area. I feel that's a designation that belongs more properly in either West Beach or some other area where the Neighborhood Board and the community have gone on record in favor and in support of a resort area in that particular community, as opposed to Hawaii Kai where the residents and the Neighborhood Board are bitterly divided on the subject.

"Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 796-82 was adopted and S.C.R. No. 3, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE AGRICULTURE FUNCTIONAL PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented

a report (Stand. Com. Rep. No. 797-82) recommending that Senate Concurrent Resolution No. 4, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 4, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE EDUCATION PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 798-82) recommending that Senate Concurrent Resolution No. 5, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 5, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE HEALTH PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 799-82) recommending that Senate Concurrent Resolution No. 6, as amended in S.D. 1, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 6, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE WATER RESOURCES DEVELOPMENT PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 800-82) recommending that Senate Concurrent Resolution No. 7, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 7, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE RECREATION PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 801-82) recommending that Senate Concurrent Resolution No. 8, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 8, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION

RELATING TO THE STATE CONSERVATION LANDS PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 802-82) recommending that Senate Concurrent Resolution No. 9, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 9, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE HISTORIC PRESERVATION PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 803-82) recommending that Senate Concurrent Resolution No. 10, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 10, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE TOURISM PLAN," was adopted on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Cobb). Excused, 1 (Ushijima).

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 804-82) recommending that Senate Concurrent Resolution No. 11, as amended in S.D. 1, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 11, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE ENERGY PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 805-82) recommending that Senate Concurrent Resolution No. 12, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 12, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE HOUSING PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 806-

82) recommending that Senate Concurrent Resolution No. 13, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 13, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE TRANSPORTATION PLAN," was adopted.

Senator Henderson, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 807-82) recommending that Senate Concurrent Resolution No. 14, S.D. 1, as amended in S.D. 2, be adopted.

On motion by Senator Henderson, seconded by Senator Yee and carried, the report of the Committee was adopted and S.C.R. No. 14, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE HIGHER EDUCATION PLAN," was adopted.

#### ORDER OF THE DAY

#### MATTERS DEFERRED FROM APRIL 6, 1982

Senate Bill No. 103, H.D. 1:

By unanimous consent, action on S.B. No. 103, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," was deferred until Thursday, April 8, 1982.

Senate Bill No. 262, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 262, S.D. 1, H.D. 2, entitled: "A BILL FOR ACT RELATING TO DELINQUENT PENALTIES FOR LATE RENEWAL OF MOTOR VEHICLE REGISTRATIONS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 365, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 365, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FARM LOANS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 486, H.D. 1:

By unanimous consent, action on S.B. No. 486, H.D. 1, entitled: "A BILL FOR AN ACT RELATING THE DEPARTMENT OF HEALTH," was deferred until Thursday, April 8, 1982.

Senate Bill No. 536, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 536, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," was deferred until Thursday, April 8, 1982.

Senate Bill No. 553, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 553, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 561, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 561, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REMOVAL OF SAND," was deferred until Thursday, April 8, 1982.

Senate Bill No. 594, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 594, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CEMETERIES AND MORTUARIES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 1287, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 1287, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," was deferred to until Thursday, April 8, 1982.

Senate Bill No. 1308, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 1308, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL PROTECTION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 1447, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 1447, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES' RETIREMENT SYSTEM," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2269-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2269-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF A CRIMINAL JUSTICE TRAINING FUND," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2304-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2304-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LOBBYING," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2334-82, H.D. 1:

By unanimous consent, action on S.B. No. 2334-82, H.D. 1, entitled: "A BILL FOR AN ACT PROVIDING PENALTIES FOR VIOLATIONS OF CHAPTER 290 RELATING TO ABANDONED VEHICLES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2353-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2353-82, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JOB SHARING PILOT PROJECT IN THE PUBLIC LIBRARY SYSTEM," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2389-82, H.D. 1:

By unanimous consent, action on S.B. No. 2389-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2399-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2399-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF REGULATORY AGENCIES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 1697, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 1697, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO JOB-SHARING IN THE DEPARTMENT OF EDUCATION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2144-82, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 2144-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUGS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2189-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2189-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF THE ATTORNEY

GENERAL," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2245-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2245-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RECIPROCAL ENFORCEMENT OF SUPPORT," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2350-82, H.D. 2:

By unanimous consent, action on S.B. No. 2350-82, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOLS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2379-82, H.D. 1:

By unanimous consent, action on S.B. No. 2379-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2382-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2382-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2386-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2386-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SECURITIES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2401-82, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 2401-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE AND NEGLECT," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2467-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2467-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS AND AMMUNITION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2470-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2470-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HEALTH," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2471-82, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 2471-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE SAFETY RESPONSIBILITY ACT," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2496-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2496-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2513-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2513-82, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES: FRANCHISE TAX," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2531-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2531-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYER-EMPLOYEE RELATIONSHIPS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2636-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2636-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMED CONSENT," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2646-82, H.D. 1:

By unanimous consent, action on S.B. No. 2646-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PATIENTS' COMPENSATION FUND," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2682-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2682-82, S.D. 1, H.D. 2,

entitled: "A BILL FOR ACT RELATING TO MENTAL HEALTH," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2696-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2696-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER COOPERATIVE ASSOCIATIONS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2709-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2709-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENCOURAGEMENT OF FEDERALLY CERTIFIED DEVELOPMENT COMPANIES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2765-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2765-82, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2759-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2759-82, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF PUBLIC OFFICERS AND EMPLOYEES AND MAKING AN APPROPRIATION THEREFOR," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2814-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2814-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2816-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2816-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GRANTS, SUBSIDIES, AND PURCHASES OF SERVICE," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2904-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2904-82, S.D. 1, H.D. 2,

entitled: "A BILL FOR AN ACT RELATING TO A WATER COMMISSION AND FORMULATION OF A STATE WATER CODE," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2868-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2868-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAXATION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2915-82, H.D. 2:

By unanimous consent, action on S.B. No. 2915-82, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MARINE AFFAIRS COORDINATOR," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2926-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2926-82, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RELEASE OF MATCHING STATE FUNDS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2947-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2947-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE FILIPINO 75TH ANNIVERSARY COMMISSION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2955-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2955-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2978-82, S.D. 1, H.D. 2:

By unanimous consent, action on S.B. No. 2978-82, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CANCER COMMISSION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 65, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 65, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND TRUSTS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 397, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 397, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 400, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 400, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTEREST," was deferred until Thursday, April 8, 1982.

Senate Bill No. 544, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 544, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 732, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 732, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 1859, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 1859, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MERGERS OR CONSOLIDATIONS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 1925, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 1925, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYER-EMPLOYEE RELATIONSHIPS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2145-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2145-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RIDESHARING," was deferred until Thursday, April 8, 1982.

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

By unanimous consent, action on S.B. No. 2147-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS," was deferred until Thursday, April 8, 1982.

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

By unanimous consent, action on S.B. No. 2183-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE FACILITIES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2224-82, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 2224-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2228-82, H.D. 1:

By unanimous consent, action on S.B. No. 2228-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2288-82, H.D. 1:

By unanimous consent, action on S.B. No. 2288-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF AGRICULTURE," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2309-82, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 2309-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2343-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2343-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE DISPOSAL," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2346-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2346-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATIONAL FEES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2366-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2366-82, S.D. 1, H.D. 1,

entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING REPORT," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2388-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2388-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2434-82, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2434-82, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2454-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2454-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY TRANSACTIONS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2477-82, H.D. 1:

By unanimous consent, action on S.B. No. 2477-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REPAIRS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2517-82, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 2517-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2524-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2524-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2550-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2550-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," was deferred until Thursday, April 8, 1982.

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

By unanimous consent, action on S.B. No. 2561-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2566-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2566-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPEALS BY THE STATE IN CRIMINAL CASES," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2615-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2615-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THEFT OF UTILITY SERVICES," was deferred until Thursday, April 8, 1982.

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

By unanimous consent, action on S.B. No. 2624-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GRAND JURY COUNSEL," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2638-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2638-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SALES AND TRANSFER OF REAL PROPERTY SITUATED IN HAZARDOUS AREAS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2642-82, H.D. 1:

By unanimous consent, action on S.B. No. 2642-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO JUVENILE JUSTICE INTERAGENCY BOARD," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2760-82, S.D. 2, H.D. 1:

By unanimous consent, action on S.B. No. 2760-82, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2829-82, H.D. 1:

By unanimous consent, action on S.B. No. 2829-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," was deferred until Thursday, April 8, 1982.

Senate Bill No. 2913-82, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2913-82, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," was deferred until Thursday, April 8, 1982.

At 12:15 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:17 o'clock p.m.

MATTER DEFERRED  
FROM APRIL 6, 1982

THIRD READING

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

Senator Carpenter moved that H.B. No. 2629-82, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

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

"Mr. President, this measure would incorporate in the section of our Penal Code an addition to a section enacted a couple of years ago to protect spouses and children in domestic situations. That section allowed for injunctive and civil relief in Family Court to stop the hassles and fights and problems that always are generated in domestic strife where a marriage is breaking up or children are causing trouble or situations of that nature.

"This bill seeks, by simple reference to that entire chapter, to make a Class C felony out of every domestic fight which occurs in this state for which a Family Court order is sought to prevent the domestic problem. I find that unusually devastating. It's something that's beyond belief.

"Where we can enact a statute for the good of a domestic situation where in the quiet and semi-privacy of a Family Court an order can be sought to preclude further domestic difficulties and a Family Court judge or referee

can interject an order to insure that domestic problems don't go on, to take that and turn it into a Class C felony, to my mind, destroys the entire concept of Family Court and the entire concept of domestic tranquility which it attempts to put together.

"Further and worse, if you want to look at it from that standpoint, just the other night we amended that whole chapter, the entire Chapter 525 out of the same committee. And in the amendment we made it even more a civil situation, even more a private and family court, and took care more of the feelings of the spouses and the children which is the present tenor in this sort of situation, and yet we still have this bill before us making a violation of those orders of the Family Court, a Class C felony.

"Mr. President, I would urge everybody in this body to vote against this bill as being a bad measure."

Senator Kawasaki then asked if the previous speaker would yield to a question and Senator O'Connor replied in the affirmative.

Senator Kawasaki asked: "Were your concerns discussed in the deliberations of the Senate Committee on Judiciary on this particular bill?"

Senator O'Connor answered: "Mr. President, we did not have deliberations as such on this bill from the standpoint of decision-making in which I was present in any event."

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

"Mr. President, I join Senator O'Connor in opposing this bill.

"Actually, the bill really adds another provision to what is the existing law. I voted against this law when it was first proposed to this body.

"Just to add to Senator O'Connor's remarks, a law like this was enacted in response to a few cases, really, where children were kidnapped, so to speak, against their will by parents. But it seems to me that we're going far afield and the penalty really is not justified in these circumstances.

"Those who have had experience in the Family Court, and I have had eleven years of practice dealing with domestic affairs, know that very often the court will award custody of a child to one parent when the child really wants to be with the other parent. That

happens often. And in such cases, it is not unusual to see the development of such an emotional situation that a non-custodial parent very often thinking and believing that he is acting in the best interest of the child, because the child does not want to be with the custodial parent, will take actions which may be a violation of the law that is spoken of in this bill. For that kind of parent to have imposed upon him a Class C felony, a penalty which is so harsh, that it may deprive a person of work, for example, with the Federal Government, I think, is much too harsh.

"I voted against this a couple of years ago, maybe it was last year, and I'm going to vote against it again for the very same reasons."

Senator Carpenter then rose to speak for the measure and stated:

"Mr. President, this bill was essentially introduced by the victim witness kokua group of the City and County of Honolulu and is strongly supported by the Family Court.

"Mr. President, the bill goes to adding another dimension to custodial interference in the first degree which was in fact changed from a misdemeanor last year to a Class C felony, and essentially adds now the language '...or knowingly violates a court order issued pursuant to chapter 585...' the section relating to ex parte temporary restraining orders.

"Mr. President, what it does is to conform the language relating to the theft of a child and in fact this language says, '...or knowingly violates...' that is the individual must knowingly violate, and must be under an ex parte restraining order. So, it is in conformance with the action taken last year; it does not violate any precepts of Family Court, and in fact they support it wholeheartedly.

"Thank you."

Senator O'Connor responded and stated:

"Mr. President, I just have to take major issue with the good chairman.

"What he has just said is absolutely incorrect. Chapter 585, and I have it before me, which was enacted in 1979 and which I drafted, has to do with ex parte temporary restraining orders in Family Court. The orders which are included in chapter 585 include orders preventing either party or both parties, and these are parties to a divorce action, from contacting

each other, threatening each other, physically abusing each other, notwithstanding that a complaint for a normal divorce or separation has not been filed; further they can go to such situations as order may require, either or both parties involved, to leave the premises during the period of the order, and also may restrain the party to whom it is directed from contacting, threatening, or physically abusing the children or other relatives of the applicant, residing with the applicant at the time of the order.

"The order shall not only be binding upon the parties to the action but also upon their officers, agents, servants, employees, attorneys, or any other person in active consort or participation with them.

"Chapter 585 is the most far-reaching injunctive relief section that we have ever passed in this body for the Family Court and allows orders for such a wide variety of things, Mr. President, that it covers every possible situation that can arise in a divorce action.

"Now, to take a part of the Penal Code and say that it's a Class C felony for the violation of all of those standard injunctive orders that you get out of the Family Court in a divorce action is twisting the whole concept of the Penal Code and the whole concept of utilizing Class C felonies for serious crime to a degree that we may as well not even think about it any more.

"This chapter 585 is there for domestic relief and to preserve the family. What we're doing with this bill that's before us is destroying it.

"I urge we all vote against it."

Senator Carpenter, in response, stated:

"Mr. President, 'the knowingly violates' section relating to a court order issued pursuant to chapter 585 I recognize is fairly broad, but it is coupled with the words 'and removes himself and the person less than 18 years old from the state' which goes to the theft of the child.

"I believe the good Senator from the Seventh District, who was the author of chapter 585, really ought to take his complaint to the Family Court who is in full support of this and who is in full responsible charge of the carrying out of chapter 585."

Senator O'Connor further remarked:

"Mr. President, the thing that bothers me is that there are many situations where a parent loses with the child. What

I'm concerned about is that in the same domestic situations, almost as a matter of course, one of these other orders is usually sought and obtained in a divorce action... some sort of order for injunctive relief where that order is in existence.

"The trouble with this bill is that it doesn't relate the order to the child, or to removing the child from the court. It just says 'or knowingly violates the court order pursuant to chapter 585.' The order is not related to the removal. And a bill which served a distinct purpose and was in fact something based upon reality and need, today, becomes warped because if there is a court order existent for the parent, for example, not to do something and he violates that order and simultaneously removes the child, he has committed a Class C felony.

"I urge voting against it."

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

"Mr. President, the opinions held on both sides are strong. I speak in favor of this bill because I think the bottom line here is exemplified by the commentary made by the previous speaker with respect to preserving the possibility at least of uniting a family or working something out on a civilized basis with respect to the family.

"What the chairman of the Judiciary Committee has pointed out is that this goes to where a child is kidnapped. There's no other word for it. The child was kidnapped and removed from the state.

"How is it possible for the various and sundry activities associated with either reconciliations or coming to a civilized conclusion with respect to custody to take place if the child is removed from the state?

"I don't have the experience in the Family Court from the point of view of an attorney but I've had the experience of dealing with people who have suffered from this situation where the children had been kidnapped from the state, not only kidnapped but taken from the state under such circumstances that people are left without recourse. One of the only possible ways of dealing with the situation is to have a harsh penalty for that particular action.

"It's not possible even to conduct the affairs of the Family Court with respect to any of the possible alternatives if the person has left the state with the

child."

At this time, Senator Kuroda asked if the chairman of the Judiciary Committee would yield to a question and Senator Carpenter replied in the affirmative.

Senator Kuroda asked: "Mr. Chairman, in the testimony when the bill was before the committee, did not the police also speak in support of the bill?"

Senator Carpenter answered that they did.

Senator Kuroda continued and stated:

"Mr. President, I was also at the hearing, being a member of the Judiciary Committee and, as it has been mentioned, the Family Court and the police came to testify in favor of the bill because of a problem. The problem, as Senator Abercrombie mentioned, is illegal removal of the person, kidnapping.

"And speaking in support of it, I would like to make reference to the very refreshing situation where we have a non-attorney, a very effective non-attorney as chairman of the Judiciary Committee...very refreshing.

"I urge all members to vote for the bill."

Senator Cayetano, speaking against the measure, added as follows:

"Mr. President, what is not refreshing is the stale argument used by Senator Kuroda.

"Kidnapping is misused when this bill is discussed. Kidnapping or the crime of kidnapping requires as an element that the person kidnapped does not give his or her permission. There is no such requirement in this bill. What this bill does is make it a crime if the person violates the court order, and a Class C felony at that. So, I don't think you can really make an analogy to kidnapping. It's a totally different kind of situation.

"The police, the last time I recall, also came in and testified against the lottery bill. We all remember how receptive the members of this body were to the police testimony on that bill. It just shows you that occasionally they can be wrong. I'm sure the chairman of the Judiciary Committee, who is now laughing, will agree with me on that.

"The bottom line of this whole bill is that it really is going to destroy, or serve more to destroy, family relationships than it is to deal with or cure problems which are really isolated in number when

viewed in the context of the domestic problems we have in this state. It's much, much too harsh.

"You're going to have a situation, as I said, where a child is going to be very willing to go with the parent because he loves that parent and he wants to be with that parent. You're going to have the parent who is law-abiding otherwise, but is going to do this because he feels his child is being handled in a way that is not in the best interest of the child. And I ask everyone here how they would act if they were faced with obeying the law which they believe in their heart was wrong and detrimental to the best interest of their child.

"As an attorney, I can tell you how I would act. I would act in the best interest of my child, notwithstanding the consequences and maybe after exhausting all legal remedy. So, that's the issue before us in this bill and, again, I ask the members to vote 'no.'"

Senator O'Connor further remarked against the measure and stated:

"Mr. President, I would just like to give the body an example of how far this bill would go in a domestic situation, as presently drafted.

"If one of us were divorcing our spouse and that person got custody of the children and simultaneously was ordered by the court not to threaten his or her spouse in the future, and that person with custody of the children walked up to his or her spouse and said, 'If you come near me again, I'm going to punch you in the nose.' and then took the child which he had custody of and got on the plane and went to California, that person is guilty of this crime. Now, that is ridiculous.

"That's the extent that this amendment does to an otherwise well-intentioned piece of law. And that same order, court order under 585, can have to do with going on to the premises, can have to do with relatives not getting involved, can be directed at relatives, and a relative can be the person who gets on the plane with the person less than 18 years of age.

"What this bill does, in its proposed form, is that it does not connect in any way the court order under chapter 585 with the removal of the youth under 18 from the state, and that's the vice in the bill, and no matter how much people talk, or how much they try to explain it away, that vice is still there and this measure should not be enacted into law."

Senator Abercrombie, in support of the measure, further remarked:

"Mr. President, the problem here is in the absence of it, that kind of thing can go on with impunity because people believe that there is nothing that can really be done with it. That's exactly the point.

"I can give you, if we're going to give examples, I can give you an example of the situation where the people... what about the parent who has legal custody of the child and want the child to remain here, and what about the court that thinks that that's a good idea pending some final resolution or a final resolution has been made. I know of a situation where it was dealt with quite handily. People came to a door, broke down the door, beat the people up in the house, took the children and not only took the children out of the state but out of the country. And what kind of relief does the person have who's left back here, who's depending on the law to protect her, in this instance, from precisely that kind of... I don't know, maybe kidnapping is not the precise term, but I certainly know that that child was taken without permission. Didn't have the child's permission or the permission possibly was gained... if you're going to call somebody breaking down the door, beating up everybody in the house in the middle of the night and then asking the children whether they'd like to go along with daddy... if that constitutes permission, I suppose it could be construed as such, but I don't construe it as such. I construe it as crime has been committed and at present, the way I understood it from the Prosecutor's Office, there wasn't any essential relief that could be given, nor would there be any essential penalty as such other than perhaps some civil action with respect to violation of in terms of custody and control.

"That's the reason that the penalty is attached here and with the kind of severity that is entailed."

Senator Cayetano responded and stated:

"Mr. President, the laws that we have today are adequate to deal with those situations. If I'm not mistaken, kidnapping is a federal crime. It also is a state crime. Again, I go to the issue of permission.

"As far as the wife getting beat up, we have laws which would take care of the situation also. So, you know, let's not confuse the issue.

"Maybe it's not refreshing not to have an attorney as the chairman of the Judiciary Committee. It is not refreshing to not know the law."

The motion was put by the Chair and carried and H.B. No. 2629-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CUSTODIAL INTERFERENCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 13. Noes, 7 (Campbell, Cayetano, Machida, Mizuguchi, O'Connor, Saiki and Toyofuku). Excused, 5 (Holt, Soares, Ushijima, Yee and Young).

At this time, Senator Cayetano rose to speak on a point of personal privilege and stated:

"Mr. President, at the beginning of this session, there was much discussion about Senator Anderson's non-candidacy for governor and I, personally, have staked out where I am... I am going to support the Democratic nominee.

"Of course, Senator Anderson has denied his candidacy, but we keep on seeing little evidences of that candidacy.

"I recall watching the evening news one evening, Channel 9, I believe it was, was televising the project that was being held out at Laie to collect items and goods to provide relief for the Tongans. And I recall as they were collecting these boxes of goods; it was held in a certain headquarters, and on those walls I thought I saw the words 'Anderson for' something. I didn't see the last word because all the boxes that were being brought to the place had covered the last word, and as the television camera was zooming in on the name, I could see one of the workers there, frantically trying to cover up the big 'A' that the name Anderson begins with.

"Then, of course, we've come across other indications that Senator Anderson's non-candidacy may not in fact be that, but the latest is the most clever.

"Mr. President, I have here a copy of today's Honolulu Star-Bulletin, and there's a big ad in there, and it says, 'Nikon Easter Sale, 3 days - Thur-Fri-Sat' and it cites the prices, and on the bottom there it says, 'Anderson's Camera & Hi-Fi.' I believe we all know that Senator Anderson owns a camera shop. The layout of the ad has pictures of animals. There's a picture of a bunny and that bunny is named 'Lanny Gordon.' Further down, a picture of another bunny

and that bunny is named 'Glenn,' and then even further down, there's another picture of a bunny and the bunny has the word 'E' and I guess that's a name. But, strangely, in the middle of the page on the left hand side there's a picture of a turtle or a tortoise and the name is 'George.'"

Senator Anderson interjected on a point of information and asked: "Mr. President, does that turtle appear to be alive or dead?"

Senator Cayetano replied: "That's a tortoise, Senator Anderson."

Senator Anderson said: "It appears to be alive and therefore it would not reflect on the person you're thinking of."

Senator Cayetano answered: "I just want to remind the good Senator, however, we all know the parable of the tortoise and the hare, and I ask you, who won the race?"

Senator Kuroda also rose on a point of personal privilege and stated:

"Mr. President, I am not making any reference to any newspaper, but I was aggrieved by the defeat of a particular bill two evenings ago, and our side did not have a chance to respond with poetry. The debate two evenings ago on this eel bill was quite notable because the female Senator from the Windward District recited a poem in opposition to the bill. Well, we all know that our colleague, the male

colleague from the Third District, the able chairman of the Senate Agriculture Committee led an adequate but unconvincing fight for the measure. However, I did note that his argument did not include a poetic reply. Perhaps it was the lateness of the hour, or the heat of the moment, but whatever the case may be, I feel he could have responded by at least 'cockroaching' some words from the song that was made popular by our local comedian Rap Reiplinger and he could have sang out 'Faith Unagi, I love you.'

"Anyway, that's all behind us now but I just wanted to commend our colleague for his attempt and present him with a gift."

Senator Ajifu responded and stated: "Mr. President, I'd just like to change the title 'Faith Unagi' to 'Fate Unagi.'"

"Mr. President, this really doesn't describe the unagi as it was more properly described by Senator Henderson the other night when he sent me a note which said, 'You and I and the Rostrata have two things in common, that is, thick skin and short bodies.' In fact, yesterday morning we just amended that statement when Senator Soares said, 'Also, high fat content.'"

#### ADJOURNMENT

At 12:49 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 13, 1982.