

FIFTY-FIFTH DAY

Friday, April 15, 1983

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1983, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend John Ward, Associate Director of Vocations, Catholic Diocese of Honolulu, after which the Roll was called showing all Senators present.

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

At 11:45 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:46 o'clock a.m.

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

Senator Carpenter introduced the following and stated:

"Mr. President, it gives me great pleasure this morning to offer a certificate of appreciation to Mrs. Anita Kong Moepono. The certificate essentially extends congratulations to Mrs. Moepono on the occasion of her selection as 'Mother of the Year for Hawaii in 1983'; obviously, a very active young lady in teaching, as a church leader, social worker, probation counselor, and executive director of the Alumni Association of the University of Hawaii.

"We want to, by way of this certificate, extend our best wishes and support to her as she goes to New York to the Annual Mothers State and National Conference where she will vie for the honor of National Mother of the Year for 1983.

"At this time, I'd like to introduce Mrs. Anita Kong Moepono who is seated next to the rostrum, accompanied by her husband, Mr. Moses Moki Moepono, and Mrs. Lucy Abreu who was the 1981 Mother of the Year and who is presently the chairman of the Mother of the Year Committee.

"Mr. President, in addition to Mrs. Moepono receiving this honor today and certainly for the year 1983, I must recognize that she is one of

your constituents, and I'd also like to point out to members of the staff that Mrs. Moepono's daughter Sesnita Brundage has been with the Senate Majority for quite a number of years, assigned to my office as researcher, analyst, administrative assistant and as an attorney without portfolio."

Senator Carpenter requested for a short recess at which time Senator Young will present a lei to Mrs. Moepono and Senator Carpenter the Senate Certificate of Recognition.

Senator Kawasaki added his remarks as follows:

"Mr. President, it's been my pleasure, years ago, to have served, believe it or not, as a director of HGEA along with Mrs. Moepono. These were the years when the HGEA was very progressive, with a very competent and able executive director, Charles Kendall, after whom the building is named. It's been my pleasure to have served with Mrs. Moepono, knowing how she serves the public very competently.

"It is my pleasure to add my good wishes to Mrs. Moepono."

Senator Kawasaki then introduced 27 sixth grade students of Punahou School and their teacher Mrs. Ruth Ann Cossarak.

Senator Kawasaki added: "Mr. President, by way of information, since the subject of the utilization of computers in our public school system is being discussed both in the conference committee and the Ways and Means as well, it just might be of interest to know that these sixth graders, upon inquiry this morning on my part, are familiar with the use of computers. As a matter of fact, I asked them whether they were able to program with the use of computers and they said that they could, which is to say Punahou School, which is not my alumni school incidentally, is quite progressive in the use of computers. Perhaps the public school system, finances permitting, would emulate Punahou School in this direction."

Senator Abercrombie then made the following introduction:

"Mr. President, because the University of Hawaii will have an alumnus after this year who will be

leaving these shores for a short while, I want to introduce him to the body.

"Most of you know him already but you may not know that my aide, John Swissler, has just received a \$5500 fellowship from the University of Virginia to the Corcoran Department of History to study U.S.-Soviet Relations. I would like this young man to stand up and take a bow.

"John is somebody who has really made a fine accomplishment, coming from the University of Hawaii. I think that's a real credit to our people up at the History Department, especially in the area of Russian language and Soviet history at the University of Hawaii.

"Often, we don't recognize how important these particular kinds of studies are and I'm very, very proud of John and I think this chamber and, of course, those who have worked with him and the whole state can be happy that we have the kind of scholarship going on here as represented by his accomplishment."

Senator Holt then introduced a group of members of the Lanakila Ward Relief Society, which is a women's organization of the Church of Jesus Christ of Latter Day Saints, and their activity leader, Helen Davis.

At 11:54 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.

At this time, Senator B. Kobayashi introduced the following:

"Mr. President, on behalf of this honorable body, I'd like to introduce some individuals who are related to the March of Dimes Birth Defects Foundation.

"The March of Dimes Birth Defects Foundation is, of course, dedicated to the notion that every child deserves a healthy start in life, and to accomplish this goal it conducts a number of events yearly, one of which is 'Walk America.'

"Walk America is this year, Saturday, April 23, hopefully, one day after we adjourn.

"Today, in our gallery, we have several individuals connected with this event. First of all, I'd like to

introduce the honorary chairmen of Walk America 1983, a top entertainment group in the State of Hawaii, 'The Fabulous Krush.' For those of you who want to see their show, they are starting a new show at the Outrigger Hotel on Monday night with a guy named Andy Bumatai. It might be a good fun event.

"Also in the gallery is the representative of Mr. Joe Peletier, president of Pacific Resources. Mr. Peletier is the chairman of the Team Walk for Walk America 1983 and is represented today by Andrea Simpson.

"Another individual, very long connected with the March of Dimes and sitting on the National Board of the March of Dimes Birth Defects Foundation, is Mr. John Henry Felix, chairman of the Golden Kilometer. The Golden Kilometer is a sub-event under Walk America where people have the privilege of paying more but walking less.

"Also, to be with us but, I believe, not around, is the March of Dimes Poster Child for 1983, Andrew Mizumoto. He is not with us today but, hopefully, he will be around next time."

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 561 to 571)

A communication from the House (Hse. Com. No. 561) transmitting House Concurrent Resolution No. 57, which was adopted by the House of Representatives on April 14, 1983, was read by the Clerk and was placed on file.

By unanimous consent, H.C.R. No. 57, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE COMMERCIAL AND CABLE NETWORKS TO INCLUDE HAWAII IN THEIR DAILY NATIONAL WEATHER REPORTS," was referred to the Committee on Tourism.

A communication from the House (Hse. Com. No. 562) transmitting House Concurrent Resolution No. 200, which was adopted by the House of Representatives on April 14, 1983, was read by the Clerk and was placed on file.

Senator Cobb moved that H.C.R. No. 200 be adopted, seconded by Senator Soares.

Senator Kawasaki, in support of the resolution, stated:

"Mr. President, I'm urging the unanimous approval of this particular resolution.

"I've had the pleasure of knowing Phil Burton for many years as a very progressive liberal from California, and it's just sad that we have lost the services of this man to this country."

The motion was put by the Chair and carried, and H.C.R. No. 200, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF UNITED STATES CONGRESSMAN PHILLIP BURTON AND EXTENDING CONDOLENCES TO HIS FAMILY," was adopted.

A communication from the House (Hse. Com. No. 563), informing the Senate that the House on April 14, 1983 has reconsidered its action taken on April 7, 1983 in disagreeing to the amendments made by the Senate to House Bill No. 1304, H.D. 2, was placed on file.

A communication from the House (Hse. Com. No. 564), informing the Senate that the House on April 14, 1983 has reconsidered its action taken on April 7, 1983 in disagreeing to the amendments made by the Senate to House Bill No. 1580, H.D. 1, was placed on file.

A communication from the House (Hse. Com. No. 565), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 362, S.D. 1, and the request for a conference on the subject matter of said amendments, on April 14, 1983, the Speaker appointed Representatives Say and Stanley, Co-Chairman, Andrews, Kawakami, Kiyabu-Saballa, Matsuura and Medeiros as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 566), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 418, S.D. 1, and the request for a conference on the subject matter of said amendments, on April 14, 1983, the Speaker appointed Representatives Taniguchi and Kiyabu, Co-Chairman, Hayes, Kawakami, Yoshimura and Anderson as Managers on the part of the House for the consideration of said

amendments, was placed on file.

A communication from the House (Hse. Com. No. 567), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 656, S.D. 1, and the request for a conference on the subject matter of said amendments, on April 14, 1983, the Speaker appointed Representatives Say and Matsuura, Co-Chairman, Hashimoto, Kawakami, Souki and Dang as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 568), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 756, and the request for a conference on the subject matter of said amendments, on April 14, 1983, the Speaker appointed Representatives Say, Chairman, Hashimoto, Kiyabu-Saballa, Okamura, Takamine and Dang as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 569), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 907, and the request for a conference on the subject matter of said amendments, on April 14, 1983, the Speaker appointed Representatives Say and Andrews, Co-Chairman, Hee, Kawakami, Morgado, Souki and Isbell as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 570), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 1105, and the request for a conference on the subject matter of said amendments, on April 14, 1983, the Speaker appointed Representatives Taniguchi, Chairman, Albano, Hayes, Lardizabal and Anderson as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 571), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 1247, S.D. 1, and the

request for a conference on the subject matter of said amendments, on April 14, 1983, the Speaker appointed Representatives Taniguchi and Shito, Co-Chairman, Honda, Kim and Medeiros as Managers on the part of the House for the consideration of said amendments, was placed on file.

STANDING COMMITTEE REPORTS

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 897) informing the Senate that Standing Committee Report Nos. 898 to 922 have been printed and have been distributed to the members of the Senate.

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

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 898) recommending that House Bill No. 166, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 166, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL INSURANCE," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 899) recommending that House Bill No. 277, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 277, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 900) recommending that House Bill No. 288, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb,

seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 288, entitled: "A BILL FOR AN ACT RELATING TO CHIROPRACTIC," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 901) recommending that House Bill No. 1201, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 1201, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Uwayne, for the majority of the Committee on Transportation, presented a report (Stand. Com. Rep. No. 902) recommending that House Bill No. 601, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 902 and H.B. No. 601, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE EQUIPMENT," was deferred until Monday, April 18, 1983.

Senator Uwayne, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 903) recommending that House Bill No. 334, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 903 and H.B. No. 334, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOATING," was deferred until Monday, April 18, 1983.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 904), recommending that Senate Concurrent Resolution No. 17, as amended in S.D. 1, be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.C.R. No. 17, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION ENCOURAGING THE CONTINUED GROWTH OF THE BEE INDUSTRY IN HAWAII AND REQUESTING THE LEASING OF PUBLIC LAND FOR BEEKEEPING

PURPOSES," was adopted.

Senator Hagino the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 905) recommending that House Bill No. 44, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 44, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL PLANNING AND DEVELOPMENT," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 906) recommending that the Senate advise and consent to the nomination of Jensen S.L. Hee as Director of Finance, in accordance with Governor's Message No. 250.

By unanimous consent, action on Stand. Com. Rep. No. 906 and Gov. Msg. No. 250 was deferred until Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 907) recommending that the Senate advise and consent to the nomination of George Freitas as Director of Taxation, in accordance with Governor's Message No. 251.

By unanimous consent, action on Stand. Com. Rep. No. 907 and Gov. Msg. No. 251 was deferred until Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 908) recommending that the Senate advise and consent to the nomination of Hideo Murakami as Comptroller, in accordance with Governor's Message No. 252.

By unanimous consent, action on Stand. Com. Rep. No. 908 and Gov. Msg. No. 252 was deferred until Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 909) recommending that House Bill No. 328, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 328, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 910) recommending that House Bill No. 546, H.D. 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 546, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT OF PATIENTS AT FACILITIES FOR THE TREATMENT OF PERSONS SUFFERING FROM HANSEN'S DISEASE," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 911) recommending that House Bill No. 594, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 911 and H.B. No. 594, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES RETIREMENT SYSTEM," was deferred until Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 912) recommending that House Bill No. 330, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 912 and H.B. No. 330, entitled: "A BILL FOR AN ACT RELATING TO AERONAUTICS," was deferred until Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 913) recommending that House Bill No. 242, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 242, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO USE OF CREDIT

CARDS FOR HOSPITAL CHARGES," passed Second Reading and was placed on the calendar for Third Reading Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 914) recommending that House Bill No. 1285, H.D. 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 1285, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE PLACEMENT OF A SCULPTURE AT THE KAUAI STATE OFFICE BUILDING," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 915) recommending that House Bill No. 882, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 882, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 916) recommending that House Bill No. 244, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 244, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 1983.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 917) recommending that House Bill No. 1262, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 917 and H.B. No. 1262, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL

PURPOSE REVENUE BONDS FOR CONSTRUCTION OF AN ETHANOL PLANT," was deferred until Monday, April 18, 1983.

Senator Young, for the Committee on Hawaiian Programs, presented a report (Stand. Com. Rep. No. 918) recommending that the Senate advise and consent to the nomination of Georgiana Padeken as Chairperson, Hawaiian Homes Commission, in accordance with Governor's Message No. 231.

By unanimous consent, action on Stand. Com. Rep. No. 918 and Gov. Msg. No. 231 was deferred until Monday, April 18, 1983.

Senator Chang, for the Committee on Ecology, Environment and Recreation, presented a report (Stand. Com. Rep. No. 919) recommending that House Bill No. 251, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 251, H.D.1, entitled: "A BILL FOR AN ACT RELATING TO WILD BIRD, GAME BIRD, AND GAME MAMMAL PERMITS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Chang, for the Committee on Ecology, Environment and Recreation, presented a report (Stand. Com. Rep. No. 920) recommending that House Bill No. 837, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.B. No. 837, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC LIFE," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 18, 1983.

Senator Chang for the Committee on Ecology, Environment and Recreation, presented a report (Stand. Com. Rep. No. 921) recommending that S.R. No. 42, S.D. 1, be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 42, S.D. 1, entitled: "SENATE RESOLUTION

RELATING TO THE ESTABLISHMENT OF ENVIRONMENTAL AND RECREATIONAL SAFEGUARDS REGULATING STATE-LICENSED MARICULTURAL OPERATIONS AND OCEAN LEASING IN THE SEA WATERS OF THE STATE," was adopted.

Senator Chang, for the Committee on Ecology, Environment and Recreation, presented a report (Stand. Com. Rep. No. 922) recommending that S.C.R. No. 36, S.D. 1, be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and S.C.R. No. 36, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION CONCURRING WITH THE AMENDMENT OF EXECUTIVE ORDER NO. 1446 COVERING THE WAIKIKI WAR MEMORIAL PARK AND NATATORIUM," was adopted.

At 12:05 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 o'clock p.m.

ORDER OF THE DAY

THIRD READING

MATTER DEFERRED
FROM APRIL 8, 1983

House Bill No. 1531, H.D. 1:

By unanimous consent, action on H.B. No. 1531, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION INSURANCE," was deferred until Wednesday, April 20, 1983.

At this time, Senator Toguchi, inquired as follows:

"Mr. President, with regard to the deferral, would the chairman of the Consumer Protection Committee yield to a question? I'd like to ask what is the status of the resolution?"

The President asked the chairman if he would yield to the inquiry and Senator Cobb answered in the affirmative and stated: "Mr. President, there are two resolutions involved, one from the House coming over as a concurrent resolution and one from the Senate as a concurrent resolution going over.

"The Senate concurrent resolution

is in the Majority Attorneys' office for final legal check prior to circulation. The House resolution, as I understand, was referred to the House Finance Committee. The chairman of the House committee has asked for expeditious movement of that resolution over so that we can do an exchange and adopt each other's resolution, concurrent with the passage of the bill."

Senator Toguchi acknowledged the reply with thanks.

Senator Carpenter then asked: "Mr. President, a follow-up question. What resolution? We had a number of resolutions to that subject matter. Which ones would that be?"

Senator Cobb answered: "Mr. President, the resolutions that we agreed upon and recommended by the committee were the two introduced by yourself. One a concurrent and one a Senate resolution on the subject of workmen's compensation. I don't happen to have the numbers with me; however we can get that information, if it's needed."

FINAL READING

MATTER DEFERRED
FROM APRIL 13, 1983

Senate Bill No. 42, S.D. 1, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 42, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELEVATOR MECHANICS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (George and Uwaine).

MATTER DEFERRED
FROM APRIL 14, 1983

Senate Bill No. 640, S.D. 1, H.D. 1:

Senator Cobb moved that S.B. No. 640, S.D. 1, having been read throughout, pass Final Reading, seconded by Senator Soares.

Senator Cayetano then rose to inquire and stated: "Mr. President, this bill was deferred from a previous day and at that time, I believe the chairman of the Committee on Consumer Protection was going to check on some concerns that I had raised. I wonder if he has checked on them and if he has the answers to

the questions that I raised at that time?"

Senator Cobb answered: "Yes, Mr. President, the question was relating to the word 'suretyship' that appeared in the bill and I did some checking with both the Majority Attorneys as well as the House.

"A correction to the earlier statement was that the change involving the word 'suretyship' was not made in the House. It came out of the Senate bill in its form that it passed from the Senate to the House.

"The inclusion of the word 'suretyship' is intended to have the ten-year statute of limitations proposed by this bill apply to any surety who may have entered into a surety contract with persons covered by the statute of limitations.

"For example, a contractor normally has a performance bond to insure proper performance of a construction contract. Under this bill the contractor would be immune from suit after a period of ten years from the date of completion of the improvement. The inclusion of the word 'suretyship' is intended to make it clear that the limitation of the surety under the performance bond is co-extensive with the liability of the contractor and does not extend beyond the ten-year period. In short, a person would be precluded from suing the surety as well as the contractor.

"Specific mention of the word 'suretyship' is necessary because in a California case which construed a statute similar to Hawaii's except that the sureties were not specifically mentioned as covered by the statute of limitations, the court held that the surety could be sued even though the contractor could not be sued because of the running of the statute of limitations.

"The intent, as stated above, is to prevent the suing of a surety if the principal is protected by the statute to insure the surety to have a coterminous time limit. In addition, Mr. President, there was a 1980 amendment to the law which included sureties within the protection of the statute of limitations.

"I would like to quote from the Judiciary Committee's standing committee report of 1980 which was adopted in the form of House Bill 2674-80: 'Your Committee received testimony that the assumption that

sureties are protected along with other parties having an interest to the improvement of real property is incorrect. In a recent case involving a similarly worded statute, the California Supreme Court in the Regents of University of California v. Hartford Accident and Indemnity Company, citation: 21 Cal 3rd 624 of 1978, ruled that sureties were not protected under the provisions of such law. Your Committee finds that it is therefore essential that protection against liability afforded to sureties under the statute of limitations be made clear and specific.'

"Quoting further, Mr. President, from a subsequent committee report on the same bill is a statement: 'The purpose of this bill is to include the surety of both landowner and contractor as one of the parties with respect to which the statute of limitations set out in Section 657-8, Hawaii Revised Statutes, apply.'

"Section 657-8 presently forecloses actions against owners, contractors and others involved in the construction of an improvement for damage to personal property filed more than six years after completion of the improvement. This bill closes a possible back-door action against the surety for any such person."

Senator Cayetano then responded as follows:

"Thank you.

"Mr. President, if that is the purpose of the inclusion of the word 'suretyship' in the bill, then let me direct the attention of my colleagues to page 2, line 3 and let me read what the bill says because if that is the purpose, unfortunately the placement of the word 'suretyship' on that particular line does not accomplish it. Let me illustrate what I mean.

"It says, 'No action to recover damages for any injury to property, real or personal, arising out of any deficiency or neglect in the planning, design, suretyship, manufacturing and supplying of materials, construction, supervision and administering of construction, and observation of construction relating to an improvement to real property shall be commenced more than two years ...'

"If the members will look at the word 'planning,' the word 'design,' the word 'manufacturing,' the words

'supplying of materials,' the word 'construction,' the words 'supervision and administering of construction, and observation of construction,' all of those words relate to the building of a project. The word 'suretyship,' Mr. President, is misplaced.

"As I read the bill, it says that if there is a deficiency in the suretyship or there is negligence in the suretyship -- not in the building, not in the construction -- in the suretyship, then the ten years statute of limitation does not apply. You're really talking about apples and oranges. The English construction of this amendment is defective.

"If it was the purpose of this bill to give the surety some immunity from suit as the bill proposes to give to the architects, the designers, and the contractors, then there should have been a separate line. The word 'suretyship' is really out of place.

"I would like to ask the chairman to respond to see whether he agrees with me that it is misplaced."

Senator Cobb answered: "Mr. President, I do not agree that it is misplaced. I would agree that the bill is somewhat 'inartfully' worded because of the prior interpretation, but I think the debate and remarks on the floor of the Senate today would make the legislative intent very clear for any court that would care to look at the record."

Senator Cayetano continued: "Mr. President, as a matter of construction, the court looks to the bill on its face and clearly the words 'deficiency or neglect' in the suretyship ... what is the suretyship?"

"It is the bonding, not the building, not the construction, not the supplying of materials. It is the bonding. The preparation of the bond. Is there a deficiency in the bond? Then it's covered here. Is there negligence in preparing the bond? The it's covered here. This is totally misplaced. That's the point I'm trying to make.

"Now, apparently, there is a difference in opinion. My prediction is that the bill will be struck down because of that defect. I think it's pretty clear. But, even then, I think we should then ask ourselves this other question. As a matter of policy, should such immunity be given to the surety? The architect, when he accepts a fee, is to build the

building or to build the project. The surety or the suretyship, when he accepts a fee, it is to provide the bond or to guarantee that the work is done correctly. The word 'suretyship' was included simply because the California Supreme Court ruled in the case that sureties were not included in the California law. And, clearly, the California legislature did not include sureties because my feeling is that they understood that bonding companies or insurance companies are there to guarantee losses. Suretyship should not be here for those two reasons.

"Now, I'm hopeful that the chair would maybe defer this bill one more day to take a look at it. Okay, he's shaking his head, he won't.

"Is it the chairman's contention that the words 'deficiency or neglect in suretyship' goes to the construction of the project? Is that the chairman's contention? Because then, perhaps, I don't understand the English language."

Senator Cobb, in response, stated: "Mr. President, referring back to the bill that was in question that was amended to address the initial suretyship problem, H.B. 2674-80, which originally flagged out this particular issue of suretyship, the previous speaker in 1980 voted for that bill.

"The interpretation of the word 'suretyship' in this connection here goes to the deficiency of any surety that would take place not necessarily to the construction. I think the amendment in 1980 flagged this out and all we're doing is including the suretyship in the extended ten-year statute of limitations as proposed by the House, contrasted with the present six-year statute of limitations."

Senator Cayetano then added: "Mr. President, a lot has transpired since the 1980 amendment. First of all, I'm not certain that this was the construction of the law. I think it was probably worded in a way that clearly set out the suretyship aspect.

"This law has been declared unconstitutional two times by the Hawaii Supreme Court. Let me quote from the Supreme Court's opinion which recently came down, June 29, 1982, and this is the Shibuya case.

"The court says: 'We are troubled hereto, especially by the wider immunity legislated as a consequence

of our initial visitation of the statute.'

"The court, then referring to a previous case in which they declared this law unconstitutional, '...and by the injustice of barring a suit before the plaintiff "could reasonably have been aware that he had a claim." That has been the court's contention.

"Now, all we're doing here is just expanding the scope of people involved and we still have not addressed the court's concern. But if I heard correctly, if the chairman is saying that the words 'deficiency or neglect' go to the suretyship itself, then suretyship does not include construction; it's bonding. Construction is the planning, the design, the supplying of materials.

"The word 'suretyship' in this amendment, as worded here, in my view, Mr. President, is defective. I don't know how else I can make the point except in that manner."

Senator Cobb further remarked: "Mr. President, earlier, the previous speaker alluded to the court's looking at the face of the bill. I've had occasion to compare the Hawaii courts with courts in other states relative to what they look at in terms of interpreting legislative actions.

"The State of Nevada has a strange law called 'The Four Corners Law' which limits their courts to looking only at the four corners of the pages of the bill and nothing else, and they are barred from looking at the committee reports; they are barred from looking at the committee hearings, the testimony, or the debate, and expression of legislative intent when the matter passes final reading of the legislature.

"Hawaii is quite the opposite in that, and the courts have shown a tendency to look at committee reports, floor discussions, and other elements relating to the bill to make a determination of legislative intent. I think that's a good practice on the part of the Hawaii courts and I think it would be applicable here, if this matter ever did go to litigation.

"As to the point of an individual not being notified, I think that with the amount of debate that has taken place on this bill, many more people are aware of the pending change to a ten-year period and I would add that the ten-year period, recommended by the House, which I am recommending the Senate agree to, will make it

easier in terms of calculating the time period."

Senator Cayetano then responded: "Mr. President, the chairman, I think, misinterprets my remarks.

"First of all, the Hawaii courts do follow the legislative intent, and in the Shibuya case the standing committee reports are extensively quoted by the court to determine what the legislative intent is. But, if the chairman says or admits or concedes here today that 'deficiency and neglect' is in the suretyship, then I think that shows that this law is defective, because if you have a deficiency in a suretyship that would probably be an action which sounds in contract.

"What you're looking for here, Mr. President, is a tort action sounding in negligence. I think there are problems with this bill, in my view. I wish you'd hold it back. I don't think anybody's going to die if this bill doesn't pass. Address it next year."

Senator Carpenter added his comments as follows:

"Mr. President, I must agree with Senator Cayetano that the word 'suretyship' is indeed misplaced because it really goes to suretyship coming forth to take up an action to guarantee the consumer of the product in the event of a default on the part of either the manufacturer, supplier of materials, etc.

"I'm wondering if there have not been cases in the past, state projects even, where default by any one of the individuals, either in the architects' planning, design, or construction, that have approached this ten-year period that we now speak to as being the statute of limitations for an action on behalf of the plaintiff or the consumer.

"Even if, as the chairman of the committee pointed out, under the statute passed in 1980, even if that is not covered by the Supreme Court's denunciation in 1982, on the assumption that this language really does go to a good suretyship, what it essentially says is at the end of the ten-year period that if a project is not complete, that if there has been some default prior to that, there will be no chance for the individual or the plaintiff, who either owns a house that has maybe not been resolved in terms of the guarantees that were supposed to be in place by the

surety, in this case, they are essentially excused and the individual or group that might have put together a project will essentially have no recourse but to absorb the loss and the cost themselves.

"In this case, I would think that this would not be beneficial to the consumer, and I would guess from what I have seen in some projects, particularly Hawaiian Homes projects on the Big Island of Hawaii, that there have been continuing disputes on default of contracts, either initiated by the individuals or by Hawaiian Homes themselves where many questions have arisen and the defaulting and the bonding of the surety has not been carried out to the full satisfaction of the consumer. In this case, the consumer would be denied completely any recourse but to absorb whatever losses or costs of a particular project that was unsatisfactory at that tenth year.

"Thank you."

At 12:26 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:33 o'clock p.m.

At this time, Senator Abercrombie then inquired: "Mr. President, after the recess and discussion, are we going to go on with the vote?"

The Chair answered: "Yes, that is my understanding."

Senator Cobb then added: "Mr. President, I recognize that there's a difference in opinion and interpretation on the matter. I think, however, it is of sufficient importance to address it for consideration by the Governor and there is obviously going to be a further legal check on it by the Attorney General's office prior to making a recommendation to the Governor whether or not the matter should be passed or vetoed.

"Unfortunately, since we are past the time by more than one week when we could disagree or put further amendments on the matter, it would be either having the Attorney General take a look at it before making a recommendation to the Governor or taking it up next year."

Senator Cayetano responded: "Mr. President, I find that very unfortunate because attorneys don't have a corner on logic but all the

ones that I spoke to here on the floor today seem to indicate to me (your Judiciary chairman is smiling) that there is a major defect in this bill. I raise these questions in good faith. I didn't raise them because I wanted to line votes up 14 - 11 or whatever it is.

"When are we going to do things on merit and on concerns like these that are raised. Should this bill pass, it may affect people out there; I'm talking about consumers. When are we going to do things on the merits, Senator Cobb?"

Senator Abercrombie rose to speak against the measure and stated:

"Mr. President, speaking against the bill, the other day I was talking to somebody about the possibility that maybe the remote possibility but nonetheless the possibility, that I may be able to buy a home ... getting together with a group of people who all live in a pile or something like that and try to get a place.

"Well, look, we already have one argument about merits and you know, do you have the votes and so on. Mr. President, I don't doubt for a minute that if you want to go with this and I tell this to the Consumer Protection chairman too ... if you've got the votes, I'm sure you can go get the votes, but that shouldn't be the object, it really shouldn't, I don't care what kind of arguments we're having in here ... and we haven't done this kind of thing. We really tried to work these things out with one another, even right here on the floor right now we've been trying to do it.

"Everybody knows in here that this is defective, and everybody knows that the whole idea of bonding is to guarantee the rest of it, that's the idea. And if the thing is in there these guys are going to be able to take a run and the consumer's going to get the short end. We don't have to pass it and we certainly don't have to go in a situation and hope the AG will get us off the hook, after we pass it we hope the Governor will get us off the hook. That's no way to do it.

"There's no shame in this. How many times, maybe more times coming, that I've had to get the crow down my throat or say that I wish I hadn't done it. How many times have I stood up and said I didn't know what the vote was, could you please repeat it because I know 'A' comes up first

on a roll call and I won't have time to try and figure it out before I say 'yes' or 'no.' I've done these things, it's in the record. That's the way this record's going to be again, if the courts look at it. They're going to take a look at this too. So, all I'm saying is that there's no big deal about recommitting a bill or putting it back for action and try and get the thing back in. It shows good sense.

"Nobody can get mad at you for trying to do the right thing and none of us are so infallible, as I'm sure recent events have proved, that we always know what we're doing every second; that we're always making the right decision; that we're always attuned to how it all works.

"What I'm saying here is that I'm sure that no one here, at least after the discussion, informal and formal, on this floor, no one here really believes that this thing is the way it should be so let's not pass it and do something credible as a result. The sun will come up tomorrow and then we'll be able to take care of it and deal with it the right way and do it. Just to vote for it because we all want to vote for it is not going to work, and we've had examples, Mr. President, in conclusion, just on bills that have come through here.

"There are members of the current majority that have voted 'no' on bills that went through yes and there are members of the minority Democrats and in the minority among the Republicans that have had different votes on issues so there's no lockstep here, and there's nothing in the rules that says anything about a lockstep and everybody, at least in my experience here, Mr. President, has always been able at the end when they think that they have to go another way on a bill have been able to do so. Nobody's held them to bad account for it. So, I really implore the chairman again to consider what I'm saying and let's go back and work this bill over and see if we can't come out with it the way it should be."

Senator Chang, on a point of personal privilege, stated: "Mr. President, point of personal privilege. I just want to make it clear that my smile is not a rendition of legal opinion. Thank you."

Senator Cayetano then inquired: "Mr. President, then I'd like to ask the Judiciary chairman, if he would yield to a question?"

The Chair inquired of the Judiciary

chairman and Senator Chang answered: "Mr. President, I'd like to hear the question first."

Senator Cayetano asked: "Mr. President, I would like his opinion as an attorney as to whether this bill is defective or not?"

The Chair advised Senator Chang that he need not answer the question and Senator Chang responded: "Mr. President, I realize that, and I'd just like to say that my function as the chairman of the Judiciary Committee does not involve rendering legal opinion on the chamber floor; I leave that post and role to the Senate attorney. Thank you."

Senator Cayetano continued: "Mr. President, then I'd just like an opinion from him, based on common sense."

Senator Abercrombie added: "Mr. President, I would like to have you direct the question that was previously posed to the Senate attorney."

The Chair responded: "I think the matter should remain a matter of discussion here among Senators. We are in debate and have been in debate for quite a while now. It's not my style to cut off any kind of questioning but there obviously is an honest difference in interpretation on this particular measure which cannot be resolved by debate. I think the full body has heard the arguments which should be kept limited on the Senate floor just to the members.

"What other people believe, as far as opinion is concerned, does not constitute part of the voting procedure here in the Senate. You are elected as Senators to vote; staff or other individuals should not enter into the debate."

Senator Abercrombie then remarked: "Mr. President, I have been given credit, myself, on occasion for being able to use the English language in a somewhat convoluted manner in order to accomplish of what in some people's mind is a nefarious purpose and I want to say that you're right up there with me."

The Chair answered: "Not with those words."

Senator Abercrombie continued: "Mr. President, this Senate attorney is available to all of us and is hired for that purpose, to render advice. I don't think the question is out of

line as to whether or not he has an opinion with respect to the question as posed by Senator Cayetano that would enlighten us and enable us, help us make a vote which we in good conscience can give, based on his competent advice, wouldn't you agree?"

The Chair answered: "Yes, providing it is understood that we are here for final voting on a measure. An individual Senator, when he is on this floor, if he wants a recess to seek the opinion of the Senate attorney and then relay that information back to the Senate floor, that's totally proper as far as I'm concerned."

Senator Abercrombie responded: "Mr. President, I appreciate that and would make that request."

At 12:42 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:48 o'clock p.m.

Senator Abercrombie then continued and said: "Mr. President, thank you. I appreciate the opportunity to speak with our well versed and articulate attorney who assures me that in fact the bill is 'inartful.' I'm not sure that that's a word but I know what he means ... that it is vague; that it could be interpreted in the adverse sense that I have alluded to and others have; that it is basically then a policy question for this body.

"As a result of that, do we want to pass legislation which is vague in its interpretation, regardless of what we say here, so they could go to a court, for example, and the court would say, well, hell, they discussed exactly these problems, why didn't they do it right? I assume that's what the court will do. They'll say, obviously they were aware of the possibility of the defect and they passed it anyway.

"So, in fact, I think the advice from the attorney was good. If you want to pass a bill which is likely to be defective, go ahead, if that's your policy. And if it's your policy not to pass bills which have a likelihood or possibility of being defective, then don't.

"So, what we're going to do with this vote is decide who's for defective bills and who's against defective bills; who's for taking a chance that the consumer would get the short end and

who's for taking a chance that the courts would do maybe what we hope they will; who's for passing legislation because we know what it's going to do and can state it clearly and stand on it with confidence, and who wants to pass legislation where we have the proverbial 'wing and a prayer.'

"I just don't think the Senate should do things like that. I think that we ought to have a little more confidence, other than that which comes about by peripheral attitude."

Senator Carpenter then said: "Mr. President, I just wanted to apologize to this body for reintroducing this bill in the first place. I had not realized at that time that it was going to generate so much discussion and that perhaps had we stayed with the original form we would not be having this discussion at this time."

Senator Cobb responded: "Mr. President, if we had stayed with the original form, the bill would have been long since dead. The House made the major amendments to it.

"I'd like to point out also, Mr. President, the attorney that was spoken to indicated that there was a possibility of disagreement or vagueness. Any such bill, when we look closely enough and want to nitpick it apart, would have that kind of possibility and very often after we pass bills with a unanimous vote, they are vetoed by the Governor for some technical reason that we didn't even consider, and that comes from the Attorney General's and other departments' review of legislation, and the first week of June is usually spent reviewing and reading veto messages from the Governor on that very point.

"I would also add, in deference to my friends in the legal profession, it's been my experience over the years and it's certainly been reinforced this year, that if you have three attorneys you're going to have anywhere from five to six opinions, depending on interpretation and case review.

"I think that the ultimate safeguard in this bill, despite the disagreement, is the Attorney General's review. Thank you."

Senator Abercrombie then said: "Mr. President, taking your admonition into account, I appreciate the fact that I have been able to speak more than twice on this issue, but as you've indicated, it's important

to have a full debate, sometimes that requires rejoinders.

"Mr. President, your own admonition to me, and I'm sure it's to others as well, was that we have to decide here and make our votes here, and while I appreciate the previous speaker's remarks with respect to the competency of the Attorney General to make up for our mistakes and let the Governor know about it, I think that we should try to ... I would assume that the object of our deliberations here and in the passing of legislation is to limit, as much as possible, the necessity for the Attorney General to have to come in and pick up after us.

"The conclusion ultimately then, it seems to me quite clearly, is that the bill will likely not stand, at the very least has raised serious questions and on that basis should not be passed. Otherwise, we are taking a chance with the consumer.

"I ask, finally then that we try to think beyond the boundaries of this floor and beyond the boundaries of the Attorney General's office on the fourth floor and even the boundaries of the Governor's office on the fifth floor and think about all the people who will be living on various floors of buildings that might be affected adversely, if we pass this legislation. I know it may sound strange sometimes during these 60 days but we are supposed to be representing them."

Senator Cobb added: "Mr. President, during the discussion with the attorney, he indicated very clearly that if suretyship were not found to be enforceable, there will be no limit on suits by any consumer at any time on any element of suretyship.

"As far as talking about merits on this thing and sincerity, if the questioner who initially risen to question me had really been sincere in asking those kinds of questions, he would have come to me and asked those kind of questions, I would have gotten the answers for him. Instead, it was done on the floor and then we had to defer the matter; then I had to go get the answers and then get back. So, I question also the sincerity of it when it's said on merit."

Senator Cayetano then responded: "Mr. President, okay, let's take the wraps off this bill. Let's take the wraps off this bill and let's tell the public exactly where this bill is coming from.

"When the Senate version of this appeared in the Consumer Protection Committee, of which I was a member, even the chairman signed 'with reservation' and there were four 'I do not concurs.' The bill would never have made it out of committee but for some arm-twisting.

"You want the truth? This bill is for special interest, for the architects. They got a lot of play here and that's a fact. So don't give me this 'BS' about merits and all of that."

Senator Cobb answered: "Mr. President, in direct response, the reason I put 'WR' was to flag out the matter for the Judiciary Committee review. After the bill did not pass by the deadline date to move bills to the final committee another committee report was circulated to get the matter over to the House for further consideration. That was done. I anticipated amendments to be made by the House. I even spoke to several members of the House Judiciary Committee in favor of such an amendment, and I'm glad they did amend it."

Senator Cayetano then continued: "Mr. President, the chairman's statement that he anticipated the amendments, so why didn't he anticipate the amendments here? The fact of the matter is, the only reason that the bill was amended is because panels started falling in this building. We began to think about some of the children that we invite here who could get hurt. House members began to think of that, that's why amendments to the bill were made, otherwise, this bill would come out or would have flown out from the House exactly as it was in the Senate."

Senator Cobb responded: "Mr. President, at the time I was speaking to the House members it was before there were any such problems with panels and, in fact, I suggested some of the various amendments that were proposed by the previous speaker with relation to insurance being included in the bill. Unfortunately, the House didn't agree with that but I think that's a very live issue for future consideration."

At 12:56 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:57 o'clock p.m.

Senator Abercrombie then rose on a point of inquiry and stated:

"Mr. President, I have a point of inquiry.

"When the remarks were made by the chairman of the Consumer Protection Committee about the sincerity, let alone the propriety, of questions or remarks on the floor, I believe he referred to a speaker in the singular. I assume he was not referring to me, is that correct?"

Senator Cobb answered: "That is correct, Mr. President."

Senator Abercrombie thanked Senator Cobb.

The Chair then remarked: "Members of the Senate, before we go on roll call vote, we've had a very lively discussion this morning and, obviously, there are very great differences in interpretation. The Senate is now prepared to vote on the measure and I hope we will do so. Please try to get back into the stream of discussion of forthcoming bills, on the bill subject matter rather than diverting attention to other kinds of subject. If that be the understanding, the Clerk will now call the roll."

The motion was put by the Chair and, Roll Call vote having been requested, S.B. No. 640, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Abercrombie, Carpenter, Cayetano, Fernandes Salling, Kawasaki and Toguchi). Excused, 1 (George).

THIRD READING

House Bill No. 237:

By unanimous consent, action on H.B. No. 237, entitled: "A BILL FOR AN ACT RELATING TO THE CONTROL OF TUBERCULOSIS," was deferred until Monday, April 18, 1983.

House Bill No. 240:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 240, entitled: "A BILL FOR AN ACT RELATING TO THE REQUIRED BLOOD SAMPLES OF PREGNANT WOMEN," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

ADVISE AND CONSENT

Standing Committee Report No. 886 (Gov. Msg. No. 239):

Senator Cobb moved that Stand. Com. Rep. No. 886 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nominations to the Board of Regents, University of Hawaii, of the following:

Daniel M. Ishii, term to expire December 31, 1984; and

Gladys Ainoa Brandt, term to expire December 31, 1986,

seconded by Senator Soares.

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

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

Standing Committee Report No. 887 (Gov. Msg. No. 197):

Senator Cobb moved that Stand. Com. Rep. No. 887 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nomination of Dennis G. Aguiar, to the Civil Service Commission, term to expire December 31, 1986, seconded by Senator Soares.

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

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

Standing Committee Report No. 888 (Gov. Msg. No. 198):

Senator Cobb moved that Stand. Com. Rep. No. 888 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nominations to the Advisory Commission on Manpower and Full Employment, of the following:

Tom Foye, term to expire June 30,

1984;

Joseph Jay Furfaro, term to expire June 30, 1985; and

William Y. Yamada, William F. Murray, Ed.D., Betty S.J. Chung and Rowena L. Blaisdell, terms to expire June 30, 1986,

seconded by Senator Soares.

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

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

Standing Committee Report No. 889 (Gov. Msg. No. 200):

Senator Cobb moved that Stand. Com. Rep. No. 889 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nominations to the Board of Vocational Rehabilitation, of the following:

Sally Ann Price, term to expire December 31, 1985; and

Richard Y. Suehiro and Bobby G. Smith, terms to expire December 31, 1986,

seconded by Senator Soares.

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

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

Standing Committee Report No. 890 (Gov. Msg. No. 241):

By unanimous consent, action on Stand. Com. Rep. No. 890 and Gov. Msg. No. 241 was deferred until Monday, April 18, 1983.

Standing Committee Report No. 891 (Gov. Msg. No. 242):

Senator Cobb moved that Stand. Com. Rep. No. 891 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nomination of Franklin Y.K. Sunn as Director of Social Services, term to expire December 1, 1986, seconded by Senator Soares.

At this time, Senator Carpenter

spoke in support of the nomination and stated:

"Mr. President, very briefly, I think Mr. Franklin Sunn has done a really creditable job as the Director of Social Services and Housing. It has been a pleasure to work with him for several years as Judiciary Committee chairman on some very difficult subject matter relating to corrections.

"I believe he is deserving of another term and I think he will do a commendably, good job. Hopefully, some of his staff people will improve a little bit more under his guidance in the future so that, in fact, he can do a better job. Thank you."

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

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

Standing Committee Report No. 892 (Gov. Msg. No. 243):

Senator Cobb moved that Stand. Com. Rep. No. 892 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nomination of Peter T. Suemori, to the Board of Trustees, Employees' Retirement System, term to expire January 1, 1989, seconded by Senator Soares.

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

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

Standing Committee Report No. 893 (Gov. Msg. No. 244):

Senator Cobb moved that Stand. Com. Rep. No. 893 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nominations of Justin Wong and J.N. Musto, to the Board of Trustees, Hawaii Public Employees Health Fund, term to expire December 31, 1986, seconded by Senator Soares.

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

Ayes, 24. Noes, none. Excused,

1 (George).

Standing Committee Report No. 894
(Gov. Msg. No. 268):

Senator Cobb moved that Stand. Com. Rep. No. 894 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nominations to the Board of Trustees for Deferred Compensation Plan, of the following:

Robert E. Cooling, term to expire December 31, 1986; and

Valri Lei Kunimoto, term to expire December 31, 1985,

seconded by Senator Soares.

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

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

Standing Committee Report No. 896
(Gov. Msg. No. 219):

Senator Cobb moved that Stand. Com. Rep. No. 896 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nomination of Jack K. Suwa as Chairman, Board of Agriculture, term to expire December 31, 1986, seconded by Senator Soares.

Senator Toguchi, in support of the nomination, stated:

"Mr. President, it is my honor and pleasure to speak in support of Mr. Jack Suwa's reappointment as chairman of the Board of Agriculture.

"Jack has had an outstanding record, both in the private 'ag' community as well as with the State of Hawaii. He has spent over 35 years in the agricultural community with the sugar companies, as well as with AmFac.

"I first got to know Jack in the House where he served for 20 years and, as most of you know, he was the chairman of the Finance Committee for 10 years and did an outstanding job. I think there's nobody, presently, who has that kind of experience, legislative as well as agricultural.

"In the past few months that I have worked with him, I've not had anybody say one thing bad about Mr. Suwa. You would think that after being in service for that long that people in the 'ag' community would say something bad about somebody. There is overwhelming testimony in support of his reappointment and it is with pleasure that I recommend him to the body here and support his reappointment. Thank you."

Senator Kawasaki also spoke in support of the nomination and stated:

"Mr. President, I do also want to urge the unanimous confirmation of Mr. Suwa.

"Perhaps Mr. Suwa sets an example that a former legislator serving in the departments as a department head might not be such a bad idea, as some of the media people had assumed sometime ago.

"Jack, with his intensive background as a legislator and certainly the experience that he has gained as the finance committee chairman in the House which gave him an overall understanding of our legislative process, overall understanding of the budgeting process, and all of this added to his ability to serve as, perhaps, one of the good department heads we've had in that department, gives us proof that just because a man has served in the Legislature that is no reason for media people to have reservations about his ability to serve the public adequately in an appointed position.

"I urge unanimous confirmation of Mr. Suwa."

Senator Carpenter also spoke in support of the nomination as follows:

"Mr. President, just briefly, it has been my pleasure to know Mr. Suwa since 1969. I've known him as a private citizen, as a councilman, and certainly as a Senator serving in the same halls as he as a very respected legislator.

"I think that he's probably one of the few conscientious, dedicated public servants that has come from the private sector and into the Legislature and now serving as a member of the administration who has done a truly creditable job and is indeed deeply respected by almost every individual who comes in contact with him because of his dedication to his tasks and the seriousness to which he attaches his work.

"I hope all of my colleagues will support his confirmation. Thank you."

Senator Kawasaki then added: "Mr. President, I want to add some comments before some of the remarks made by Senator Toguchi are misinterpreted."

"Apparently, Senator Toguchi wants to confirm Jack Suwa because there were no complaints received from anybody about this gentleman."

"Sometimes this is not the best standard by which to judge individuals; we just have to sometimes confirm people who are complained about and we just have to look at the sources of the complaints and judge it on that basis."

At this time, Senator Cobb rose on a point of order and stated:

"Mr. President, reluctantly, I rise on a point of order."

"I have not as yet called this to the members' attention but I think it's timely to do so in a happy moment, to quote Rule 71 of the Senate that 'When any member is about to speak, such member shall rise from the member's seat and address all remarks to the President. While speaking, the member shall confine all remarks to the question under debate, shall refer to other Senators by title only (e.g., "Senator from the _____ District"; "The Chairman of the _____ Committee on _____"; "The Majority Leader,") and not by name and shall avoid personalities.'

"Thank you."

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

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

MISCELLANEOUS COMMUNICATION

A communication from Senators Abercrombie, Carpenter, Cayetano, Fernandes Salling, Kawasaki and Toguchi (Misc. Com. No. 7), dated April 14, 1983, relating to a proposed amendment to Rule 3 (6) of the Senate Rules, was read by the Clerk and was placed on file.

At this time, Senator Cayetano rose to speak on Misc. Com. No. 7 and stated as follows:

"Mr. President, I would like to

make some remarks on this Miscellaneous Communication No. 7.

"Mr. President, on April 14, 1983, we sent to you, by me, I'm speaking of Senators Abercrombie, Carpenter, Fernandes Salling, Kawasaki, Toguchi and myself, a proposed amendment to Rule 3 (6) of the Senate Rules and I assume that all the members of the Senate have received a copy of the communication. Have they received it, Mr. President?"

The Chair replied: "Yes, Senator Cayetano."

Senator Cayetano continued: "Okay. That very afternoon, we received a response from you, dated April 14, 1983, which I would like to read. It's to Senators Abercrombie, Carpenter, Cayetano, Fernandes Salling, Kawasaki and Toguchi from Richard S.H. Wong, Senate President, subject: Rule Change, and I quote:

'I am in receipt of your memorandum of April 14 proposing amendment to Rule 3(6) of the Senate Rules.'

'For your information, it is my intent to review the entire Senate Rules during the coming interim and to develop a revised set of Rules for adoption next year. Your proposal can most appropriately be considered as part of that total review.'

'I am not in favor of any piecemeal amendment to the Senate Rules at this time. Moreover, because of the various conferences and end-of-session activities now taking place, I do not feel it would be appropriate for the Senate to divert its attention to the Rules at this time. I should note that there is no urgency to your proposal since all governor's messages relating to nominations which have been received this session have already been referred to committee. The governor's office does not plan to submit any additional nominations before we adjourn sine die.'

'Therefore, it is my recommendation to the Senate that any consideration to amending the Senate Rules be deferred until a comprehensive review is made this interim.'

"Mr. President, your quick response to provide for a comprehensive review of the rules is welcomed by those of us who have sought reforms in the Senate. If the

efforts during the interim result in meaningful reform to our procedures for governance in 1984, it will be a significant step forward. We know, Mr. President, that if this occurs, it will be especially meaningful for you for it will be the 10th anniversary since you played a pivotal role in bringing such reform to the rules of the House of Representatives. And it is our hope that the work during the interim can be carried out in the spirit that led to the reforms you brought about 10 years ago. If such reforms are realized, it would be our honor to speak on behalf of the rules as you did when they were adopted ten years ago.

"As a result of your action, we will defer the motion that was submitted yesterday.

"At this time, however, we believe that the public deserves an explanation as to why the proposed rule change was made. The proposed amendment to Rule 3(6) would have required that all governor's communications nominating individuals to government posts would be referred to committee within 72 hours upon receipt of such communication. Currently, such nominations are referred at the discretion of the President. And you have indicated recently that such communications will be referred within a 'reasonable time.' If we recall correctly, a 'reasonable time period' was defined by you as one or two weeks.

"As you know, Mr. President, the necessity to review gubernatorial nominations is the result of our constitutional responsibility for 'advise and consent.' This is a special responsibility exclusive to the Senate. We alone are honored with the duty to serve as a legislative check on the executive branch and to assure that those appointed faithfully comply with the policies established by the Legislature.

"In the Senate, it is the standing committee that has the duty to the fulfillment of this responsibility. It is their assessment of the abilities and character of a nominee that determines whether he or she is fit to serve. In this regard, Mr. President, all rules and procedures of this body should assist and facilitate a standing committee's review of such individuals. Such communications from the Governor should be accorded the same treatment as a bill and resolution. In most cases, this is done. Our rules require hearings on such communications and specify the

manner for their adoption. It is, however, silent on one critical point. There is no reference in the rules as to when such nominations should be referred to the standing committee.

"Our concern about this matter stems from your remarks that such communications are routinely referred within a one or two week period. Our review of the past three sessions reveal some curious practices that may be viewed as lacking in consistency and impeding a committee's full consideration of a nomination. For example, in 1983, 178 messages that contained a nomination were submitted by the Governor to the Senate. Many were referred to committee within a week or two from the date of the governor's correspondence. In one case, where the nomination involved the nomination of a new state supreme court justice, only two days elapsed before the nomination was referred by you to the Judiciary Committee. But in another case, 29 days elapsed before it was referred.

"The nomination of Riki Higashionna to be reappointed to his post as Director of the Department of Transportation was submitted on March 15, along with the nominations of cabinet members Jack Suwa and Mary Bitterman. The nominations of Jack Suwa and Mary Bitterman were sent to committee by you on March 24, 10 days later. Mr. Higashionna, however, was the last nomination referred on April 12th, 29 days later. A reasonable person could not help but wonder about why this occurred. And it certainly would raise questions about whether the Committee on Transportation might have had more time to amply consider the nomination of Mr. Higashionna by simply having his nomination before the committee without delay. You might recall, Mr. President, that your Majority Leader, Senator Uwayne, publicly expressed the view that his new duties as majority leader may interfere with Mr. Higashionna's confirmation hearing. Fortunately, that did not turn out to be the case.

"This, Mr. President, however, is not an isolated incident. Our examination of both the 1981 and 1982 Journals reveal information that support the need for the proposed amendment. For instance, in 1981, one message was not referred to committee for 75 calendar days. This governor's message, No. 313, nominating Robert Lee to the Boxing Commission, was dated February 5 and was not sent to committee until

April 20, the 56th day of the session. There is no explanation on the record for this unusually long delay.

"In addition, the Senate Journals reveal the average number of days for each message is beyond the reasonable time limit you mentioned, for example, the average in 1981 was 13 days. This year, it is 16 days. But last year it was 24 days.

"Further, in the last two years, more than 50 percent of all messages submitted required more than two weeks.

"Mr. President, what our proposed amendment would do would be to give the same consideration about referrals currently given to bills and resolutions to messages received by you on behalf of the Senate from the Governor relating to nominations. It would make perfunctory, the function of referrals so that the standing committee would receive immediately the name of a prospective nominee. We would then give the same consideration to all nominees and remove any appearance of impropriety or political gamesmanship.

"We know, Mr. President, you have often withheld a name to help the committee chairman, to reduce the pressure on a chairman. That is considerate of you. However, the President of the Senate should not operate as an omnibus chairman. Any Senator who is a standing committee chairman should be able to carry out the responsibilities of that position no matter how demanding, and no matter what the pressure is.

"We do not need to remind you that the subject of referrals has been a long standing concern within both chambers of the Legislature. Nearly 10 years ago, a fellow Senator, then a Representative, raised a future concern about the power of referrals. He spoke then of the referral of bills. However, his remarks are equally applicable to the referral of nominations. I quote from that now senator's remarks as stated in the 1974 House Journal:

'What disturbs me today is the silence of the proposed rules on the problems of referral of bills, for, at the present time, only three states have no control over the referral of their presiding officer and Hawaii is one of them.'

That Representative, now Senator, goes on to say:

'In short, to implement the idea

of reform in the referral of bills, we must have a change in the past practices of referral.'

"And you, Mr. President, ten years ago, recognized the need for reform to the rules and the lasting impact such reforms would have on the governance of the Legislature. At that time, you were a dissident Democrat, the leader of the dissidents and you stated that such reforms to the rules would, and I quote:

'Make us capable of bold action, responsive to the people's needs and desires, and utilizing all the talent and abilities of our members.'

"We would hope, Mr. President, that you do not look upon the amendment proposed by the six of us as an attempt to diminish your power as president but rather as an attempt to bring some stability to the governance of the Senate.

"We also take your proposal to study the rules in the interim, as a sign that you too recognize that perhaps some of the problems we experienced in the past weeks may have been abated or prevented by a more clear delineation and enforcement of the Senate rules defining the relationship between the subject matter committees and the Ways and Means Committee.

"Mr. President, in closing, let me, however, put the members of the Senate on notice that under the existing Senate rules, a one-day notice is required before moving to amend the rules and that we are hereby giving such notice. Should our concerns not be addressed satisfactorily in the interim, and we hope you will give us the right to participate in the review of those rules, then we reserve the right to move for the adoption of the proposed amendment at anytime next session, including, Mr. President, on opening day, a practice which, as you well know, you began ten years ago.

"Thank you."

Senator Kawasaki then rose to speak on a point of personal privilege and stated:

"Mr. President, I rise on a point of personal privilege. I would like to add a comment inasmuch as the subject that's on hand right now is a possible changing of the Senate rules. Perhaps this is in order ... might I suggest also that the body, if you are to do that or a committee, a subcommittee of the Senate that is

going to look into the possibility of amending some of our Senate rules that, perhaps, they create a position of parliamentary emeritus. I'm sure that there are certain senators who would be delighted in being appointed to that position, in addition to having the other titles."

Senator Carpenter then rose on a point of inquiry and asked:

"Mr. President, just a point of inquiry to the Chair.

"On receipt of the communication relative to the discussion on the memo (Misc. Com. No. 7) which Senator Cayetano just articulated to, my assumption is that at least for the balance of this session there would be no changes in the rules, is that correct?"

The Chair replied in the affirmative and Senator Carpenter continued: "That the interim study will take a broad look at the entire set of rules within the Senate?"

The Chair, again, replied in the affirmative and Senator Carpenter thanked the Chair.

Senator Cobb then rose on a point of personal privilege and stated: "Mr. President, on a point of personal privilege, I'd just like to remark that I think the House referral system is still in need of reform, if I look at the number of bills that have double referrals, although I realize we're not in a position anymore to instruct the House on how to run its own leadership. Thank you."

Senator Kawasaki, on a point of inquiry, asked:

"Mr. President, I rise on a point of inquiry.

"I read in this morning's newspaper, not that I read the morning newspaper regularly, something rather disturbing. I read where the chairman of the Committee on Economic Development is not holding a hearing on one of the governor's messages, a desire on his part for us to confirm one of his nominations, and I read where there will be no hearing held. My point of inquiry is, does that mean that the Governor's appointment will not be confirmed to that position? I address it to whoever can give me the answer."

The Chair then asked the chairman

of Economic Development if he would yield to the question and Senator Aki replied in the affirmative and answered the inquiry: "Yes, Mr. President, that is correct."

Senator Kawasaki then continued: "Thank you, Mr. President. That being the answer, I'm a little disturbed that we are not going to hold a hearing on one of the governor's messages. It just seems to me, and in my experience here, that there was no case that I could remember where a possible nominee to a position ..."

Senator Cayetano interjected: "Mr. President, on a point of inquiry, I wonder if Senator Kawasaki would identify who he's talking about, for the record?"

Senator Kawasaki answered: "Mr. President, the Governor's nominee, as I recall, is Mr. Roland Higashi, and it seems to me ..."

Senator Abercrombie interjected: "Mr. President, would the speaker yield to me?"

Senator Kawasaki answered: "Mr. President, I would."

Senator Abercrombie, at this time, asked the Chair for a recess and the Chair answered: "The Chair would rather finish the discussion since it's the last order of business, and I'm prepared to stay here for another few hours. I think this is a very good debate and it's a lively debate, I just want the Chair to have an opportunity to respond at some point. Would you yield to me?"

Senator Abercrombie responded: "I think so, Mr. President. If you would grant me a short recess I think it might expedite the debate."

At 1:24 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:25 o'clock p.m.

Senator Abercrombie then continued: "Thank you, Mr. President, I think the situation will be expedited and I will yield the floor back to the previous speaker."

Senator Kawasaki then proceeded and said: "Mr. President, I read, if I did read accurately, that the reason why the hearing was not going to be held on the Governor's nominee was because it was believed that the

nominee had campaigned against one of the Senators elected in the last election and here on this floor, and I really can't believe that this is the primary reason for a hearing not being held.

"I'd like to inquire of the chairman, perhaps he had some other compelling reasons why the hearings should not be held on this nominee, who, in my judgment, has served the people of this state very competently over the years."

Senator Aki then answered: "Mr. President, I would like to respond.

"The reason why the chair decided not to hold the hearing is because serious concerns were raised by members of this Senate. It was not as stated in the paper, a political reason, but more a philosophical difference that was raised, and I would like to just mention that this particular individual served on the very important body, the Board of Land and Natural Resources, and some critical decisions were made just recently concerning very important issues in our state. And these reasons ..."

The Chair interjected: "Senator Aki, I'm going to interrupt further discussion of the matter because I believe the person to whom all these remarks are referred to is really not here to defend himself. So, unless an arrangement can be made off the floor to satisfy the question raised by Senator Kawasaki, I would not like to pursue any further discussion on Mr. Higashi or his qualifications."

Senator Aki responded: "I agree, Mr. President, it's not proper to discuss this matter here."

Senator Carpenter, on a point of personal privilege, then said:

"Mr. President, to the point originally spoken to, I rise on a point of personal privilege in relation to the subject under discussion.

"Mr. President, the individual as pointed out by a previous speaker, Senator Kawasaki, has served for a number of years as a member of the Board of Land and Natural Resources. Mr. President, it has always been the practice of this body to acquiesce, if you will, to the desires of the Representatives or Senators from the various districts from which the members are appointed, either as board members or commissioners. Since this individual under discussion

at the present time is a Big Island representative, I'd like to ask that this body strongly consider the desire of members from the Big Island and hold a hearing on this nomination. And, if indeed philosophical or other kinds of discussion come to the fore then so be it.

"If that discussion determines the membership of the committee to disapprove the nomination prior to coming to this body, then so be it. But, I think, the individual, having served in that capacity, very formal capacity with the state, ought to be at least afforded that opportunity to defend himself, as you earlier indicated he is here not to.

"So, I would ask the chairman of the committee, in deference to the neighbor island contingent, that that individual be given an opportunity and his day in court prior to taking an overt action such as is contemplated here. Thank you."

Senator Kawasaki then added: "Mr. President, the suggestion made by the Senator from the Big Island is excellent. I too was going to suggest that a hearing be held to clarify some of these points of disagreement, some of the rumors, some of these objections to the individual nominee. I certainly sympathize with the chairman of the Economic Development Committee, if he was quoted inaccurately. This is par for the course for the morning paper."

Senator Carpenter inquired: "Mr. President, may I ask the chairman of the committee if he would reconsider his earlier decision?"

Senator Aki answered: "Mr. President, I appreciate the remarks of the Senator from the Big Island and will take that into consideration."

At this time, Senator Young, Chairman of the Committee on Housing and Urban Development and the Committee on Hawaiian Programs, requested a waiver of the 48-hour notice of a Public Hearing on the following measures:

H.B. No. 234, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," and

S.R. No. 135, entitled: "SENATE RESOLUTION REQUESTING THE CONTINUATION OF THE LEGISLATIVE AUDITOR'S INVENTORY OF LANDS IN THE PUBLIC TRUST AND THE POSSIBLE

CONFLICTING CLAIMS MADE ON REVENUES DERIVED THEREFROM,"

and the President granted the waiver.

The Chair then made the following comment:

"Members of the Senate, just a brief comment as to what has occurred today.

"With reference particularly to the rules, I think it is common practice here in the Capitol that 'when the shoe is on the other foot' and it pinches, you try to replace it with another shoe. I understand that as part of the political process. But I also understand as part of the process that the rules themselves are subject to change. I welcome those changes. Whether you do it here on the floor by trying to convince members of the Senate to change the rules as we go along ... that is okay with the Chair too.

"I've always welcomed these kinds of changes. I want to say that I thought this was a very open and very sunshiny morning because there's a ray of light. If I interpret correctly the statements made by Senator Cayetano with reference to the group of individuals who proposed the rule changes, they are prepared to step back to full participation in Senate activities. I appreciate that.

"Perhaps, during the interim, feelings will change and we will have fuller participation in accepting responsibilities for committee assignments and for the work as committee chairman as part of the entire Senate. The Chair welcomes that kind of cooperation. Perhaps, maybe, Senator Cayetano, I will go back and read what I did ten years ago, just as a refresher."

Senator Cayetano remarked: "Mr. President, that journal is good reading. I suggest you go back and read it. There are some interesting comments by you, by Senator Cobb, which I think may give you cause to reflect on what has happened here in the past few weeks.

"As far as my remarks, I hope, Mr. President, that you will take that in its proper perspective. If a review of the rules and changes in the rules can be made to address the problems which brought us to what we are here today, I don't think any Senator with whom I am associated would have a problem with that. But just keep it in its proper perspective.

"As we have stated earlier, unless the rules to the ball game we're playing here change, I, personally, would rather stay on the team that I am on.

The Chair interjected: "Some of the players have changed."

Senator Carpenter then added: "Mr. President, to your remarks about a step back or go back as it were, I prefer to think of it as stepping forward together."

The Chair answered: "That would be another approach. If the approach was very sincere, which I know it is, I look forward to input from the six individuals who requested change. But, also, along with those changes comes participation and I'm looking forward to that also. And if we're going to change the rules of the game I want the people to also play within the rules and have a part in the game. That's all I'm saying. I'm really looking forward to it."

Senator Abercrombie asked: "Mr. President, may I apply for a lead role?"

The Chair replied: "You are welcome."

Senator Toguchi then said: "Mr. President, I just want to note that I'm willing to participate in anything that will improve the running of the Senate."

The Chair answered: "And that's good enough for me."

Senator Uwaine then added: "Mr. President, I would be remiss to also mention that as well as the six individual Senators who have proposed rules change all the other Senators as well as myself will be proposing some improvements to the Senate rules as well."

Senator Toguchi then said: "Mr. President, I'd just like to add an addendum to what Senator Cayetano said earlier. I would also like to suggest that the last speaker also look at the House Journal, especially 1979. Thank you."

Senator Uwaine answered: "Mr. President, after the Senator from Kaneohe read my last speech, I am reading the journal."

Senator Kawasaki then said: "Mr. President, I guess the moral to all of this is, be very careful about what

you enter into the Senate Journals because it might just come back to haunt you someday."

Senator Cobb added: "Mr. President, speaking to that very point as raised by the Senator from Pacific Heights, I can recall occasions when we had informed the Governor that a name did not have sufficient support and the person on the fifth floor did not believe that and so a number of names were brought out and the lack of such support was demonstrated very graphically on the floor of the Senate. Hopefully, the dialogue and communication have improved since that time with the fifth floor office so that when an indication of lack of support is given it's more credible.

"But I would agree, particularly with the remark just made, reading one's remarks ten years ago and considering where you're coming from can be very fascinating, personally."

Senator Ajifu then remarked: "Mr. President, just a short note. I just thought, after hearing some of the comments, that I'd like to make one short comment and say that 'to err is human' and that 'silence is golden.'"

APPOINTMENT OF CONFERE

Senate Bill No. 1075, S.D. 1 (H.D. 2):

The President appointed Senator Hagino as an additional Manager on the part of the Senate at the conference to be held for the consideration of amendments made by the House to S.B. No. 1075, S.D. 1.

ADJOURNMENT

At 1:41 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, April 18, 1983.