

## SEVENTEENTH DAY

Thursday, February 9, 1984

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Pastor Joseph Sanders of Nuuanu Baptist Church, after which the Roll was called showing all Senators present.

The Chair announced that he had read and approved the Journal of the Sixteenth Day.

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

Senator A. Kobayashi introduced a kindergarten class from St. Clement's School and their teachers: Mrs. Diane Giacometti and Mrs. Nancy Tanabe, accompanied by parents: Mrs. Elaine Tanaka, Mrs. Sally Lyles and Mrs. Donna Hoshide.

Senator Mizuguchi then introduced Mr. Matt Blair, a celebrated, professional football player, who wears No. 59 and is a linebacker on the Minnesota Vikings football team of the National Football League. Mr. Blair was presented with a lei by Senator Young.

Senator Solomon introduced the following gentleman and stated:

"Mr. President, it gives me great honor, on behalf of Senator Young and myself, to introduce Mr. Hideo Adachi from Japan. He is the general manager of Meiho Tourist International, Inc., and his family founded the Japan Associates of Travel Agents. Mr. Meiho is also the auditor for the Japan-Australia-New Zealand Society of Nagoya and, at the present time, he is the journalist-newscaster of Nagoya Television Station."

Senator Kuroda resumed further introduction of Mr. Adachi as follows:

"Mr. President, as chairman of the Tourism Committee I had the pleasure of meeting this gentleman who is associated with the Meiho Tourist International, Inc. I would like to further introduce him as someone in the area of academia.

"Mr. Adachi is the author of a book, written four years ago, on the

Solomon Islands. It is a cultural, anthropological study which is now in its second printing. He has brought two copies of his book with him, one of which he will present to Senator Holt as chairman of the Higher Education Committee to be donated to the University of Hawaii Library; the other to Senator Solomon as chairman of the Education Committee for the Hawaii State Library."

At 11:48 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:55 o'clock a.m.

Senator Ajifu then introduced Councilman Tony Narvaes who was sitting in the Senate gallery.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 117 to 121) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 117), transmitting a report entitled, "Status Report of the Comprehensive Master Plan for the Elderly," January 1984, prepared by the Executive Office on Aging, in response to Act 225, SLH 1974, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 118), transmitting copies of additional tables (Supplement 9/83) to "The Elderly in Hawaii: A Data Digest of Persons 60 and Over," a publication from the Executive Office on Aging, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 119), transmitting the Annual Report of the Department of Agriculture for Fiscal Year 1983, was referred to the Committee on Agriculture.

A message from the Governor (Gov. Msg. No. 120), transmitting a report prepared by the State Law Enforcement Planning Agency, Office of the Attorney General, for the Juvenile Justice Interagency Board, dated January 1984, in response to House Concurrent Resolution No. 110 (1983), requesting the Juvenile Justice Interagency Board to report on its progress in implementing the

Juvenile Justice System Master Plan, was referred to the Committee on Judiciary.

A message from the Governor (Gov. Msg. No. 121), transmitting the Annual Report (1982-1983) of the School Health Services Branch, prepared by the Department of Health, Family Health Services Division, was referred to the Committee on Health.

#### INTRODUCTION OF BILLS

On motion by Senator Cobb, seconded by Senator Soares and carried, the following bills passed First Reading by title, were referred to print and were placed on the calendar for further consideration on Friday, February 10, 1984:

#### Senate Bills

No. 1693-84 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES."

Introduced by: Senators Cobb, Uwayne, Ajifu, A. Kobayashi, George, Toguchi, Kuroda and Kawasaki.

No. 1694-84 "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION."

Introduced by: Senators Cobb, Yamasaki, Uwayne, Ajifu, A. Kobayashi, George, Toguchi, Kuroda and Kawasaki.

No. 1695-84 "A BILL FOR AN ACT RELATING TO THE REGULATION OF MOTOR VEHICLE REPAIRS."

Introduced by: Senators Cobb, Yamasaki, Uwayne, Ajifu, A. Kobayashi, George, Toguchi, Kuroda and Kawasaki.

No. 1696-84 "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR INDUSTRIAL ENTERPRISES."

Introduced by: Senators Soares, George, A. Kobayashi and Henderson.

No. 1697-84 "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY."

Introduced by: Senators Soares, George, Ajifu, A. Kobayashi and Henderson.

No. 1698-84 "A BILL FOR AN

ACT RELATING TO LANDOWNER'S LIABILITY."

Introduced by: Senators A. Kobayashi, Fernandes Salling, Kawasaki, Aki, George, Ajifu, Uwayne, Carpenter, Yamasaki, Abercrombie, Henderson, Kuroda, Machida, Toguchi, Solomon, Holt and Soares.

No. 1699-84 "A BILL FOR AN ACT RELATING TO HAZARDOUS SUBSTANCES."

Introduced by: Senators A. Kobayashi, Yamasaki, Young, Fernandes Salling, Chang, Soares, Solomon, Uwayne, Kawasaki, Holt, Abercrombie, Carpenter, Toguchi, George and Henderson.

No. 1700-84 "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS."

Introduced by: Senator Uwayne.

No. 1701-84 "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS."

Introduced by: Senators Carpenter, Cayetano, A. Kobayashi, Fernandes Salling, Young, Aki, George, Uwayne, Kawasaki, Holt, Soares, Solomon and Chang.

No. 1702-84 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE."

Introduced by: Senators Carpenter, A. Kobayashi, Fernandes Salling, Cobb, Kuroda, Aki, George, Uwayne, Kawasaki, Solomon, Hagino, Holt, Soares and Chang.

No. 1703-84 "A BILL FOR AN ACT RELATING TO LEGISLATIVE INFORMATION."

Introduced by: Senators Carpenter, Cayetano, A. Kobayashi, Fernandes Salling, Aki, George, Uwayne, Kawasaki, Solomon, Holt, Soares and Chang.

No. 1704-84 "A BILL FOR AN ACT RELATING TO REAL PROPERTY LEASES."

Introduced by: Senator Young.

No. 1705-84 "A BILL FOR AN ACT RELATING TO SALES OF REAL PROPERTY."

Introduced by: Senator Young, by request.

No. 1706-84 "A BILL FOR AN

- ACT RELATING TO HARBORS." Introduced by: Senator Wong, by request.
- Introduced by: Senator Young.
- No. 1707-84 "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY." Introduced by: Senator Young.
- No. 1708-84 "A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS." Introduced by: Senator Wong, by request.
- No. 1709-84 "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR." Introduced by: Senator Wong, by request.
- No. 1710-84 "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED." Introduced by: Senator Wong, by request.
- No. 1711-84 "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED." Introduced by: Senator Wong, by request.
- No. 1712-84 "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED." Introduced by: Senator Wong, by request.
- No. 1713-84 "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED." Introduced by: Senator Wong, by request.
- No. 1714-84 "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION." Introduced by: Senator Wong, by request.
- No. 1715-84 "A BILL FOR AN ACT RELATING TO SERVICE OF PROCESS." Introduced by: Senator Wong, by request.
- No. 1716-84 "A BILL FOR AN ACT RELATING TO FINANCIAL INSTITUTIONS." Introduced by: Senator Wong, by request.
- No. 1717-84 "A BILL FOR AN ACT RELATING TO INTERNATIONAL BANKING FACILITIES." Introduced by: Senator Wong, by request.
- No. 1718-84 "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY." Introduced by: Senator Wong, by request.
- No. 1719-84 "A BILL FOR AN ACT RELATING TO TAXATION." Introduced by: Senator Wong, by request.
- No. 1720-84 "A BILL FOR AN ACT RELATING TO THE STATE HIGHWAY FUND." Introduced by: Senator Wong, by request.
- No. 1721-84 "A BILL FOR AN ACT RELATING TO THE COMMISSION ON TRANSPORTATION." Introduced by: Senator Wong, by request.
- No. 1722-84 "A BILL FOR AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES NOT COVERED BY CHAPTER 89." Introduced by: Senator Wong, by request.
- No. 1723-84 "A BILL FOR AN ACT RELATING TO THE CIVIL SERVICE LAW ON SUSPENSIONS, DISMISSALS, DEMOTIONS, AND EMPLOYEE STATUS PENDING AN INVESTIGATION OF CHARGES." Introduced by: Senator Wong, by request.
- No. 1724-84 "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES FOR THE PURPOSE OF CORRECTING ERRORS, CLARIFYING LANGUAGE, CORRECTING REFERENCES, AND

DELETING OBSOLETE OR  
UNNECESSARY PROVISIONS."

Introduced by: Senator Wong.

No. 1725-84 "A BILL FOR AN  
ACT RELATING TO BOARDS AND  
COMMISSIONS."

Introduced by: Senator Wong, by  
request.

No. 1726-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1727-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1728-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1729-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1730-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1731-84 "A BILL FOR AN  
ACT RELATING TO DRIVERS  
EDUCATION FUND UNDERWRITERS'  
FEES."

Introduced by: Senator Wong, by  
request.

No. 1732-84 "A BILL FOR AN  
ACT RELATING TO THE FAMILY  
COURT."

Introduced by: Senator Wong, by  
request.

No. 1733-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1734-84 "A BILL FOR AN  
ACT RELATING TO COSTS AND

FEES FOR SERVICE OF PROCESS."

Introduced by: Senator Wong, by  
request.

No. 1735-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1736-84 "A BILL FOR AN  
ACT RELATING TO THE JUDICIAL  
SALARY COMMISSION."

Introduced by: Senator Wong, by  
request.

No. 1737-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1738-84 "A BILL FOR AN  
ACT RELATING TO TORTS."

Introduced by: Senator Wong.

No. 1739-84 "A BILL FOR AN  
ACT RELATING TO THE JUDI-  
CIARY."

Introduced by: Senator Wong, by  
request.

No. 1740-84 "A BILL FOR AN  
ACT RELATING TO NURSING."

Introduced by: Senators Cobb,  
Chang, Henderson and Carpenter.

No. 1741-84 "A BILL FOR AN  
ACT RELATING TO CHIRO-  
PRACTORS."

Introduced by: Senators Cobb,  
Chang, Henderson and Carpenter.

No. 1742-84 "A BILL FOR AN  
ACT RELATING TO THE PRACTICE  
OF DENTAL HYGIENE."

Introduced by: Senators Cobb,  
Chang, Henderson and Carpenter.

No. 1743-84 "A BILL FOR AN  
ACT RELATING TO DENTISTRY."

Introduced by: Senators Cobb,  
Chang, Henderson and Carpenter.

No. 1744-84 "A BILL FOR AN  
ACT RELATING TO MEDICINE."

Introduced by: Senators Cobb,  
Chang, Henderson and Carpenter.

No. 1745-84 "A BILL FOR AN

**ACT RELATING TO ACUPUNCTURE."**

Introduced by: Senators Cobb, Chang, Henderson and Carpenter.

**No. 1746-84 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE RATES."**

Introduced by: Senators Fernandes Salling, Young, Cayetano, Chang, Solomon, Soares, Abercrombie, Holt, Kawasaki, Toguchi, Carpenter and Hagino.

**No. 1747-84 "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES."**

Introduced by: Senators Cobb, Chang, Yamasaki, Solomon, Machida, Aki and Uwayne.

**No. 1748-84 "A BILL FOR AN ACT RELATING TO REAL PROPERTY IN DESIGNATED AREAS."**

Introduced by: Senators Cobb, George, Yamasaki, Soares, Hagino, Solomon, Machida, Aki and Uwayne.

**No. 1749-84 "A BILL FOR AN ACT RELATING TO THE JUDICIARY."**

Introduced by: Senator Wong, by request.

**No. 1750-84 "A BILL FOR AN ACT RELATING TO THE JUDICIARY."**

Introduced by: Senator Wong, by request.

**No. 1751-84 "A BILL FOR AN ACT RELATING TO VOLUNTEERS."**

Introduced by: Senator Wong, by request.

At 11:59 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:05 o'clock p.m.

**STANDING COMMITTEE REPORTS**

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 10-84) informing the Senate that Senate Bill Nos. 1690-84 to 1692-84 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.

**ORDER OF THE DAY****MATTER DEFERRED  
FROM FEBRUARY 8, 1984****Senate Resolution No. 9:**

By unanimous consent, action on S.R. No. 9 was deferred to the end of the calendar.

**ADVISE AND CONSENT**

Standing Committee Report No. 9-84 (Gov. Msg. No. 3):

Senator Chang moved that Stand. Com. Rep. No. 9-84 be received and placed on file, seconded by Senator Cayetano and carried.

Senator Chang then moved that the Senate advise and consent to the nomination of Patrick K.S.L. Yim, as Judge, to the First Circuit Court, for a term of ten years, seconded by Senator Cayetano.

Senator Chang rose to speak in support of the nomination as follows:

"Mr. President, your Committee on Judiciary respectfully recommends that the members of the Senate confirm the appointment of Judge Patrick K.S.L. Yim to the Circuit Court of the First Circuit.

"Judge Yim was admitted to the Hawaii Bar in 1967. During his legal career, he has acquired a wealth of experience as both a practicing attorney and as a District Court judge.

"Patrick Yim began his legal career in Hawaii as a prosecuting attorney, then served as a referee in our family court system. In 1974 he was elevated to the position of District Family Judge for the First Circuit Court. Beyond his accomplishments as attorney and judge, Patrick Yim remains active in community service and currently serves on the board of directors of Palama Settlement.

"The impressive testimonies which your committee received in support of Judge Yim's appointment consistently highlighted his ability to balance fairness in decision-making with the efficient operation of his court.

"As his colleague so eloquently

stated, 'Judge Yim possesses, quite clearly, all the attributes of an outstanding judge -- integrity, sensitivity, a willingness to educate and be educated, and a willingness to see that justice and equity are not absolute terms defined by a cold statute that are not subject to interpretation. Judge Yim is a rare individual who can communicate unpretentiously but effectively, combining a wealth of tradition and sound education in the law with a touch of true 'keiki o ka 'aina' and native son.'

"Thank you."

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

"Mr. President, I have known Judge Yim for many years. Our families were neighbors on Palama Street.

"From a playful and rascal youngster, Judge Yim has grown to be an outstanding, highly-respected member of our state judiciary. His friends and neighbors from Palama Street and Iao Lane are proud of his many accomplishments.

"Judge Yim is a positive addition to the Circuit Court and I urge my fellow Senators to consent to his nomination."

Senator Kawasaki then added his support of the nomination and stated:

"Mr. President, I too rise to speak in favor of the confirmation, but I also would like to have this body reflect very seriously on what has bothered me for all the years that I've been here.

"It just seems to me that, perhaps, the leadership of the Senate or some committee that you might appoint should look into the issue of a possible conflict of the Judiciary Committee chairman ... this does not reflect negatively on the present Judiciary Committee chairman ... this is a question that has bothered me for many years ... that when a lawyer who's the chairman of the Judiciary Committee has to act as the chairman of the committee on reporting out the confirmation of a judge before whom, in the future, he has to appear, it just seems to me there's an inherent conflict and, perhaps, we should think about ways of resolving this.

"I can't think of a bigger conflict than a lawyer who is a chairman of

the Judiciary Committee having to recommend confirmation on the appointment of a judge. Certainly, in his career, sometime in the future, if he hasn't in the past, he's going to appear before that judge and the judge being human would be hard put not to consider the fact that this man who's appearing before him as a lawyer helped him get his appointment as well as his confirmation.

"That question has bothered me and I don't know what the answer is, perhaps, we should think about it very seriously and try to do something about it."

Senator Cayetano then asked the Chair for a conflict of interest ruling, stating as follows:

"Mr. President, as a lawyer who has practiced before Judge Yim and who happens to be the vice-chairman of the Judiciary Committee, I ask for a conflict ruling."

The Chair ruled that Senator Cayetano was not in conflict.

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

Ayes, 25. Noes, none.

#### REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills that were introduced on Wednesday, February 8, 1984:

Senate Bills	Referred to:
No. 1690-84	Committee on Government Operations and County Relations
No. 1691-84	Committee on Human Resources, then to the Committee on Ways and Means
No. 1692-84	Committee on Consumer Protection and Commerce

At 12:11 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:19 o'clock p.m.

#### MATTER DEFERRED FROM EARLIER ON THE CALENDAR

Senate Resolution No. 9:

Senator Chang offered S.R. No. 9, entitled: "SENATE RESOLUTION

AMENDING THE RULES OF THE SENATE OF THE TWELFTH LEGISLATURE OF THE STATE OF HAWAII," for adoption.

The following floor amendments (1 to 8) were then offered:

Senators Toguchi and Carpenter offered Floor Amendment 1, to amend Rule 15, subsection (5), (6), and (7).

By unanimous consent, consideration of Floor Amendment 1 to S.R. No. 9 was deferred until Friday, February 10, 1984.

Senators Carpenter and Toguchi then offered Floor Amendment 2, to amend Rule 17.

By unanimous consent, consideration of Floor Amendment 2 to S.R. No. 9 was deferred until Friday, February 10, 1984.

Senators Toguchi and Carpenter then offered Floor Amendment 3, to amend Rule 18.

By unanimous consent, consideration of Floor Amendment 3 to S.R. No. 9 was deferred until Friday, February 10, 1984.

Senators Carpenter and Toguchi then offered Floor Amendment 4, to amend Rule 19.

By unanimous consent, consideration of Floor Amendment 4 to S.R. No. 9 was deferred until Friday, February 10, 1984.

Senators Toguchi and Carpenter then offered Floor Amendment 5, to amend Rule 21(3).

By unanimous consent, consideration of Floor Amendment 5 to S.R. No. 9 was deferred until Friday, February 10, 1984.

Senators Abercrombie and Toguchi then offered Floor Amendment 6, to amend Rule 62.

By unanimous consent, consideration of Floor Amendment 6 to S.R. No. 9 was deferred until Friday, February 10, 1984.

Senators Carpenter and Toguchi then offered Floor Amendment 7, to add a new rule pertaining to scheduling of caucuses.

By unanimous consent, consideration of Floor Amendment 7 to S.R. No. 9 was deferred until

Friday, February 10, 1984.

Senators Toguchi and Carpenter then offered Floor Amendment 8, to add a new rule pertaining to establishing a mediation and appeal council.

By unanimous consent, consideration of Floor Amendment 8 to S.R. No. 9 was deferred until Friday, February 10, 1984.

At this time, the Chair made the following observation:

"I believe all Senators have received copies of the amendments to the Rules of the Senate. These amendments have been offered to meet the requirement for the 24-hour notice. There are eight amendments offered and each member should have a set."

Senator Abercrombie then rose to state as follows:

"Mr. President, for the purposes of clarification, there are in fact eight amendments to the Rules but one of those amendments consists of an amendment to a proposed amendment. The others are amendments in and of themselves."

The Chair answered: "The record will so note."

The Chair then announced that action on S.R. No. 9, was deferred until Friday, February 10, 1984.

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

"Mr. President, I wish the entire context of my comments offered on the floor of this body on January 30th (this session) to be included with my remarks today.

"Mr. President, a week ago, Monday, I said, 'Our differences are irreconcilable at this time,' and after an extension of nine days our differences are still irreconcilable.

"Mr. President, Webster's definitions of the word 'reconcile' are: (1) to restore to friendship or harmony; settle or resolve differences; (2) to make consistent or congruous; (3) to cause to submit or accept. Perhaps the one that caused the greatest consternation in the Majority group was the latter definition.

"We, independent Senators, as you

well know, have spent a great deal of time earnestly seeking reconciliation to the first three. It has to be realized it had to be concurred with by all 20 Democrats in this body. As of yesterday, 19 Democrats have moved in some way towards restoration of harmony, towards resolving differences, towards making this body consistent or congruous, which we again, Mr. President, fully acknowledge and appreciate. We have come close, extremely close, but not close enough.

"During this period, our proposals in response to your offers were modified to accommodate the issues before this body and this state, given the passing of nearly 25 percent of this session's life.

"Our objectives have been and continue to be a better-managed Senate, more assertive leadership, improved communications, and clear lines of responsibility and authority. In short, Mr. President, full accountability to the citizens of this state who elected us to serve them.

"We have not sought a political solution. We have never asked for power or position or sought to bargain or negotiate. Positioning or slotting has always been the Chair's prerogative. Ironically, the six-member Democratic caucus can best serve the people of this state and this Senate by refusing your compromise offer.

"Another irony, Mr. President, is that the consolidation and structure of committees, the role of leadership, definition of authority and responsibility of committee chairmen and leadership, and improved communication through caucus and rule changes can only be assured by this action.

"We hope that the proceedings from this day on are not merely somehow to get through the next 43 days, to adjourn by midnight on April 19th. If that be the case, we will have accomplished nothing.

"In the last several weeks, Mr. President, we have talked and agonized about such words as peace, war, numbers, and games; but we independents have not played the game. We've made serious proposals and sought a serious reconciliation. However, Mr. President, perhaps the language of 'a game' may be better understood by all, so let's use an analogy of the game of volleyball.

"The lineup for the game is 14 on one side and six on the other with five substitutes warming up, but who can play on either side. The basic rule is only the service team can score. The 14-member offensive team continues to serve, while the six-member team is in a defensive posture. The objectives of the defensive team are to protect against the slam, the dink, and win the opportunity to serve.

"Our options are to dig, to bump, to pass, to block, and stuff block, and when the occasion presents itself, a short set kill to bring about a side out and the chance to serve.

"We'll participate by volleying, by keeping the ball moving, as it were, hoping the taxpayers of Hawaii who are paying for the game get their money's worth. Time is running out! We must end this set and get on to the next.

"Mr. President, in Hawaii the team with the score of 14 continues serving what is commonly called the 'aloha ball' until the game is won. It's more difficult but it isn't unusual for a team to come from behind. So, for the good of the state, serve, Mr. President.

"Thank you very much."

The Chair, in response, stated as follows:

"Very briefly, in response, Senator, I hope that the game we play is going to be done under rules that everyone can live by. And if everyone accepts the rules of the game, it's very easy to play the game. But, one side cannot unilaterally dictate the rules of the game, and certainly not a team that's not fully equipped to play the game in terms of numbers or in experience.

"I hope that your offer to keep the issues at the highest level is maintained throughout the rest of the session. In spite of our differences, we were close to a resolution. However, you had to accept the response that was given by our side to your proposals, which were, very simply, of the five suggested items on your part, four were agreed to.

"I'm not saying that the fifth could not have been accomplished. However, I thought the approach by our team was a reasonable one. We have diverted our attention too much to the organizational struggle and I



agree with you that it's time to get on to the next step, which will begin tomorrow where all of the positions and responsibilities of the Majority Senators will be assigned. Hopefully, I look forward to the cooperation of all 25 members when we begin the process of getting on with the people's business.

"While our diversion in this organizational struggle has been too long and I would like to say, for the record, that I appreciate the high-level manner in which the negotiations have been carried out. I'm saddened, however, that the result is not what I had expected.

"I wish to thank all of the dissidents who were in negotiations with us in seeking to arrive at a fair and equitable solution. Again, it is truly a very sad day for me because I felt we were so close to a solution.

"Tomorrow, we will debate the Rules of the Senate and the structure in which the Senate will take form. I hope there will be some give-and-take. We will study the amendments that were offered and will consider them in the light of full discussion."

Senator Carpenter, in response, stated:

"Mr. President, while we certainly have an agreement to disagree, we have agreed that we will keep the lines of communication open and we hope to continue that throughout the entire session so that at least on those items that we can agree on we shall make those positions known, and we shall also make our positions known on those items with which we disagree. Thank you for that, for at least keeping the door open to that kind of discussion.

"I think that the one aspect of the discussions up to now is that tempers have been, I think, kept at a reasonably good level, and we hope to proceed with the business of the people of this state in a similar manner throughout the rest of the session. Thank you."

Senator Kawasaki then rose on a point of inquiry as follows:

"Mr. President, I note that one of the recommendations made by proponents of amendments to the Rules of the Senate is that caucuses be practically mandated. My point of inquiry is addressed to you ... I can't think of anything that should require a caucus prior to discussion

on the floor in the interest of saving time on the floor as consideration of changes in the Senate Rules. Is there a caucus contemplated for the discussion of the Rules by the Democrat majority, tomorrow?"

The Chair responded: "Senator Kawasaki, I was approached with that. We haven't really had much time to talk to the other members involved. I believe that the six Senators are in agreement that some kind of arrangement should be made to discuss the Rules in caucus. That's a proposal, as I understand it."

Senator Kawasaki further inquired: "And this might be convened after the session?"

The Chair replied: "No, probably, tomorrow morning, if any caucus is to be held."

Senator Kawasaki thanked the Chair and remarked: "That might save a lot of time on floor debates."

Senator Cobb then responded as follows:

"Mr. President, in the interest of not saving floor debate, I know we discussed a number of those rules in our first caucus of 20 Democrats together and I have no hesitation at all to discussing them again, either in caucus or on the floor. I'm hopeful that we will have, if it's deemed necessary, another such caucus or at least a discussion with each of the proposed changes.

"But I would like to respond, in part in agreement with the Senator from the Big Island who spoke on the subject of reconciliation, and that is that reconciliation also requires the element of compromise, and a compromise or accommodation or agreement had been reached on three of the four major subject areas, namely, on the accommodation of the Rules, the powers of the president, and the consolidation of committees, and the area of slotting was the one disagreement that did take place. There was agreement on four of five committees.

"I'm personally saddened also that the one disagreement has held up reconciliation. I, for one, also want to keep the door open for further discussions at any time as we proceed with the business of the people. Thank you."

Senator Kawasaki, on a point of personal privilege, then stated:

"Mr. President, adding some comments to a suggestion I made to you either to appoint a committee ... that some committee be formed to look into the inherent conflict situation where a lawyer acting as Judiciary Committee chairman reports out a confirmation of a judge before whom he has to appear in the future ... perhaps, and I'm not one of those that felt that lawyers enjoy the cartel on wisdom, judicial or otherwise ... perhaps, the answer is to appoint a non-lawyer as chairman of the Judiciary Committee. I'm sure Senator Carpenter agrees that that might be wise, and I notice, in the House, there is a non-lawyer who is chairman of the Judiciary Committee.

"Short of this, perhaps, I think what we should do is to enact statutes to require the judicial system to make sure that when an attorney appearing before a judge happens to be a past Judiciary Committee chairman in the Senate, automatically, the judicial system appoints a different judge so that the subject of conflict will be completely avoided ... require this in statute, otherwise, appoint a non-lawyer as chairman of the Judiciary Committee."

Senator Ajifu, also on a point of personal privilege, stated:

"Mr. President, I'd like to state for the record that I'm not a dissident but I'm just as independent as the six dissidents. I always thought that I was the thirteenth vote but this morning I find that I was the fifteenth vote. Thank you."

Senator Carpenter then remarked:

"Mr. President, I must rise to that. I think everyone of us here in this body has at one time or another held the thought that we were indeed the thirteenth vote on any issue, and you've seen to that, and eloquently so."

Senator Chang in response to a previous speaker's remarks then stated: "Mr. President, just to correct what may be a misimpression, I'm more a businessman than an attorney."

Senator Abercrombie responded: "Mr. President, with reference to the previous remarks, I hope that's not to the regret of Senator Chang's clients."

Senator Soares, on a point of inquiry, asked: "Mr. President, last week you referred to the Committee on Human Resources two resolutions submitted by the Senate Republicans, and after this morning's news about the strike schedule, I'd like to ask you to ask the committee chairman, when does he plan to have a hearing on our resolutions?"

The Chair responded: "Senator Soares, I would like to discuss it with him first then I will give you a response."

#### ADJOURNMENT

At 12:35 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., Friday, February 10, 1984.