

EIGHTEENTH DAY

Friday, February 10, 1984

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, convened at 11:40 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Sister Helene Wood, Provincial, Sacred Hearts Sisters in Hawaii, after which the Roll was called showing all Senators present.

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

At this time, the following introductions were made to the members of the Senate:

Senator Ajifu introduced 49 sixth grade students from Puohala School, who were accompanied by their teachers, Mrs. Janet Hirota, Mrs. Marilyn Chun, and a student teacher, Mr. Howard Hirata.

Senator Carpenter then introduced Chairman "Skinny" Hagiwara and Director Lawrence Capellas of the Hawaii Redevelopment Authority, from the County of Hawaii.

Senator Holt then introduced 54 students of the Honolulu and Windward District student councils, representing grades 8 through 12. They were accompanied by: Ms. Michelle Murata, tour coordinator; Mrs. Ko Miyatake, Honolulu District student council advisor; Mr. Elver Higashi, Windward District student council advisor; and Ms. Judy Saranchock, Windward District resource teacher.

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

The Senate reconvened at 12:11 o'clock p.m.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 8 to 13) were read by the Clerk and were disposed of as follows:

A concurrent resolution (S.C.R. No. 8), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING TO PURSUE ITS PROGRAM OBJECTIVES TO PRESERVE AND PROMOTE LIFE IN

THE STATE OF HAWAII," was offered by Senators Soares, Ajifu and A. Kobayashi.

By unanimous consent, S.C.R. No. 8 was referred to the Committee on Human Resources.

A concurrent resolution (S.C.R. No. 9), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE FUTURE OF THE BEEF CATTLE INDUSTRY IN HAWAII," was offered by Senators Soares, George, A. Kobayashi and Henderson.

By unanimous consent, S.C.R. No. 9 was referred to the Committee on Agriculture.

A concurrent resolution (S.C.R. No. 10), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING STATE ACQUISITION OF MAKENA BIG BEACH, MAUI," was offered by Senators Yamasaki, Machida, Solomon, Holt, Hagino, Soares, Mizuguchi, Kuroda, B. Kobayashi, Cobb, George, Carpenter, Kawasaki, A. Kobayashi, Chang, Cayetano, Young, Henderson, Fernandes Salling, Uwaine, Toguchi, Aki, Ajifu, Abercrombie and Wong.

By unanimous consent, S.C.R. No. 10 was referred to the Committee on Tourism.

A concurrent resolution (S.C.R. No. 11), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A FINANCIAL AND MANAGEMENT AUDIT OF THE STATE FOUNDATION ON CULTURE AND THE ARTS," was offered by Senators B. Kobayashi, Ajifu, Cayetano, A. Kobayashi, Chang, Cobb, Carpenter, Holt, Abercrombie, Kawasaki, Fernandes Salling, Toguchi, Aki, Kuroda, Uwaine, Machida, Solomon, Soares, Young, George, Yamasaki and Henderson.

By unanimous consent, S.C.R. No. 11 was referred to the Committee on Education.

A concurrent resolution (S.C.R. No. 12), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING ESTABLISHMENT OF A JOINT INTERIM COMMITTEE TO OVERSEE THE PROGRESS OF THE STATE OF HAWAII LAND EVALUATION AND SITE ASSESSMENT COMMISSION DURING THE 1984 INTERIM PERIOD,"

was offered by Senator Wong.

By unanimous consent, S.C.R. No. 12 was referred to the Committee on Agriculture.

A concurrent resolution (S.C.R. No. 13), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF THE NECESSITY AND FEASIBILITY OF THE CREATION OF A DEPARTMENT OF MOTOR VEHICLES," was offered by Senators Cobb, Yamasaki, Hagino, Solomon, Machida, Aki and Uwayne.

By unanimous consent, S.C.R. No. 13 was referred to the Committee on Transportation.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 10 to 19) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 10), entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING TO PURSUE ITS PROGRAM OBJECTIVES TO PRESERVE AND PROMOTE LIFE IN THE STATE OF HAWAII," was offered by Senators Soares, Ajifu and A. Kobayashi.

By unanimous consent, S.R. No. 10 was referred to the Committee on Human Resources.

A resolution (S.R. No. 11), entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE FUTURE OF THE BEEF CATTLE INDUSTRY IN HAWAII," was offered by Senators Soares, George, A. Kobayashi and Henderson.

By unanimous consent, S.R. No. 11 was referred to the Committee on Agriculture.

A resolution (S.R. No. 12), entitled: "SENATE RESOLUTION CONCERNING COMMERCIAL FISHING ACTIVITIES IN HAWAII," was offered by Senators Soares, George, Ajifu, A. Kobayashi and Henderson.

By unanimous consent, S.R. No. 12 was referred to the Committee on Economic Development.

A resolution (S.R. No. 13), entitled: "SENATE RESOLUTION REQUESTING A FEASIBILITY STUDY ON THE ESTABLISHMENT OF AN EARLY ADMISSIONS PROGRAM IN HAWAII'S PUBLIC SCHOOLS," was offered by Senators Soares and Henderson.

By unanimous consent, S.R. No. 13 was referred to the Committee on Education.

A resolution (S.R. No. 14), entitled: "SENATE RESOLUTION CALLING FOR THE IMMEDIATE STUDY OF THE ECONOMIC IMPACT OF HAWAII'S LAND USE POLICIES," was offered by Senators Soares, George, A. Kobayashi and Henderson.

By unanimous consent, S.R. No. 14 was referred to the Committee on Economic Development.

A resolution (S.R. No. 15), entitled: "SENATE RESOLUTION REQUESTING STATE ACQUISITION OF MAKENA BIG BEACH, MAUI," was offered by Senators Yamasaki, Machida, Solomon, Holt, Hagino, Kawasaki, Mizuguchi, Kuroda, B. Kobayashi, Cobb, George, Carpenter, Chang, Cayetano, Young, Henderson, Soares, Fernandes Salling, Uwayne, Toguchi, Aki, Ajifu and Wong.

By unanimous consent, S.R. No. 15 was referred to the Committee on Tourism.

A resolution (S.R. No. 16), entitled: "SENATE RESOLUTION CONCERNING THE SMALL BUSINESS INNOVATION DEVELOPMENT ACT OF 1982," was offered by Senators Henderson, Soares, George, Ajifu and A. Kobayashi.

By unanimous consent, S.R. No. 16 was referred to the Committee on Economic Development.

A resolution (S.R. No. 17), entitled: "SENATE RESOLUTION REQUESTING A FINANCIAL AND MANAGEMENT AUDIT OF THE STATE FOUNDATION ON CULTURE AND THE ARTS," was offered by Senators A. Kobayashi, Ajifu, Cayetano, B. Kobayashi, Chang, Cobb, Holt, Carpenter, Abercrombie, Solomon, Yamasaki, Toguchi, Aki, Kuroda, Uwayne, Machida, Young, Soares, George, Henderson, Kawasaki and Fernandes Salling.

By unanimous consent, S.R. No. 17 was referred to the Committee on Education, then to the Committee on Legislative Management.

A resolution (S.R. No. 18), entitled: "SENATE RESOLUTION RECOGNIZING FEBRUARY 12 TO 19 AS FREE ENTERPRISE/NATIONAL DECA WEEK," was offered by Senators Young, Abercrombie, Carpenter, Aki, Toguchi, A. Kobayashi, Ajifu, Chang and Uwayne.

By unanimous consent, action on S.R. No. 18 was deferred until Monday, February 13, 1984.

A resolution (S.R. No. 19), entitled: "SENATE RESOLUTION REQUESTING A STUDY OF THE NECESSITY AND FEASIBILITY OF THE CREATION OF A DEPARTMENT OF MOTOR VEHICLES," was offered by Senators Cobb, Yamasaki, Hagino, Machida, Aki and Uwaine.

By unanimous consent, S.R. No. 19 was referred to the Committee on Transportation, then to the Committee on Legislative Management.

INTRODUCTION OF SENATE 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 Monday, February 13, 1984:

Senate Bills

No. 1752-84 "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING."

Introduced by: Senators Uwaine and Chang.

No. 1753-84 "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND."

Introduced by: Senators Uwaine and Chang.

No. 1754-84 "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT."

Introduced by: Senators Uwaine and Chang.

No. 1755-84 "A BILL FOR AN ACT RELATING TO CONVERSION OF SALARY RANGES."

Introduced by: Senators Uwaine and Chang.

No. 1756-84 "A BILL FOR AN ACT RELATING TO LITTER."

Introduced by: Senators Kuroda, Fernandes Salling, George, Henderson, Yamasaki, Abercrombie, Soares, Cayetano, Cobb, Aki, Uwaine, Young, Ajifu, Chang, Holt, Machida, Solomon, A. Kobayashi, Hagino, Carpenter, B. Kobayashi, Kawasaki and Toguchi.

No. 1757-84 "A BILL FOR AN

ACT RELATING TO TAXATION."

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

No. 1758-84 "A BILL FOR AN ACT RELATING TO INVESTMENT TAX CREDITS."

Introduced by: Senators Kuroda, George, A. Kobayashi, Hagino, Aki, Carpenter, Fernandes Salling, Ajifu, Soares, Cobb, Henderson, Uwaine, Young, Chang, Holt, Machida, Solomon and Abercrombie.

No. 1759-84 "A BILL FOR AN ACT RELATING TO HEALTH."

Introduced by: Senators Kuroda, Machida, B. Kobayashi, Carpenter, A. Kobayashi, George, Chang, Fernandes Salling, Ajifu, Soares, Aki, Mizuguchi, Henderson, Abercrombie, Uwaine, Young, Solomon, Holt and Toguchi.

No. 1760-84 "A BILL FOR AN ACT RELATING TO BINGO."

Introduced by: Senators Kuroda, Fernandes Salling, Yamasaki, Abercrombie, Cayetano, Cobb, Aki, Chang, Holt, Machida, Solomon, Hagino, Carpenter and Kawasaki.

No. 1761-84 "A BILL FOR AN ACT RELATING TO INCOME TAXES."

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

No. 1762-84 "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT."

Introduced by: Senator Young.

No. 1763-84 "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED."

Introduced by: Senator Young.

No. 1764-84 "A BILL FOR AN ACT RELATING TO TUITION WAIVERS AT THE UNIVERSITY OF HAWAII FOR THE HAWAII NATIONAL GUARD AND MILITARY RESERVISTS."

Introduced by: Senators Holt, Chang, Cobb, Ajifu, A. Kobayashi,

Henderson, George, Fernandes Salling, Carpenter, Hagino, Solomon, Uwaine, Aki, Young, Yamasaki, Mizuguchi, Kuroda and Machida.

No. 1765-84 "A BILL FOR AN ACT RELATING TO THE BOARD OF REGENTS."

Introduced by: Senators Holt, Uwaine, Chang, George, Cobb, Yamasaki, A. Kobayashi, Machida, Henderson, Mizuguchi, Kuroda, Hagino, Ajifu, Aki and Cayetano.

No. 1766-84 "A BILL FOR AN ACT RELATING TO SCHOOL VEHICLES."

Introduced by: Senator B. Kobayashi.

No. 1767-84 "A BILL FOR AN ACT RELATING TO NEWSPAPERS."

Introduced by: Senators Kawasaki, Carpenter, Abercrombie, Toguchi, Fernandes Salling, Cayetano and Chang.

No. 1768-84 "A BILL FOR AN ACT RELATING TO THE NEWSPAPER ANTITRUST EXEMPTION."

Introduced by: Senators Kawasaki, Carpenter, Abercrombie, Toguchi, Fernandes Salling, Cayetano and Chang.

No. 1769-84 "A BILL FOR AN ACT RELATING TO NEWSPAPERS."

Introduced by: Senators Kawasaki, Carpenter, Abercrombie, Toguchi, Fernandes Salling, Cayetano and Chang.

No. 1770-84 "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX."

Introduced by: Senators Kawasaki, Abercrombie, Hagino, Uwaine, Carpenter, Toguchi, Kuroda, Solomon and Fernandes Salling.

No. 1771-84 "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 1, OF THE HAWAII CONSTITUTION, TO REQUIRE A RUNOFF ELECTION UNLESS THE GOVERNOR IS ELECTED BY A MAJORITY IN ELECTIONS INVOLVING THREE OR MORE CANDIDATES."

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

No. 1772-84 "A BILL FOR AN ACT RELATING TO CARE HOME OPERATORS."

Introduced by: Senators Fernandes Salling, Chang, Uwaine, Abercrombie, Carpenter, Cayetano, Kawasaki, Aki, Toguchi and Machida.

No. 1773-84 "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE III, SECTION 10, AND ARTICLE VI, SECTION 3, OF THE HAWAII CONSTITUTION, TO CHANGE THE PROCEDURE FOR THE APPOINTMENT OF JUSTICES AND JUDGES."

Introduced by: Senators Kawasaki, Cayetano, Young, Holt, Hagino, Fernandes Salling, B. Kobayashi, Solomon and Abercrombie.

No. 1774-84 "A BILL FOR AN ACT RELATING TO ELECTIONS."

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

No. 1775-84 "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTIONS 7 AND 8, OF THE HAWAII CONSTITUTION, TO CHANGE THE STATE BUDGET PROCESS."

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

No. 1776-84 "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAXES."

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

No. 1777-84 "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST THE PERSON."

Introduced by: Senators Chang, Aki, A. Kobayashi, Holt, Carpenter, Hagino, Abercrombie, Kawasaki, Machida and Mizuguchi.

No. 1778-84 "A BILL FOR AN ACT RELATING TO FAMILY COURTS."

Introduced by: Senators Chang, Aki, A. Kobayashi, Holt, Carpenter, Hagino, Kawasaki, Machida, Mizuguchi and Abercrombie.

No. 1779-84 "A BILL FOR AN ACT RELATING TO ANNULMENT,

DIVORCE, AND SEPARATION."

Introduced by: Senators Chang, Aki, A. Kobayashi, Holt, Carpenter, Hagino, Kawasaki, Machida, Mizuguchi and Abercrombie.

No. 1780-84 "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS."

Introduced by: Senators Cobb, Yamasaki, Kawasaki, B. Kobayashi, Solomon, Ajifu, Aki, George, Soares and Holt.

No. 1781-84 "A BILL FOR AN ACT RELATING TO UNINSURED MOTORISTS."

Introduced by: Senators Cobb, Kawasaki, B. Kobayashi, Solomon, Machida, Ajifu, Aki, George, Soares and Holt.

STANDING COMMITTEE REPORT

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 11-84) informing the Senate that Senate Bill Nos. 1693-84 to 1751-84 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.

MATTER DEFERRED
FROM FEBRUARY 9, 1984

Senate Resolution No. 9:

Senator Chang moved that S.R. No. 9 be adopted, seconded by Senator Cobb.

Senator Toguchi then moved that Floor Amendment 1 to S.R. No. 9, which was offered on Thursday, February 9, 1984, be adopted, seconded by Senator Carpenter.

Senator Toguchi rose to explain this amendment as follows:

"Mr. President, I'd just like to say that we are amending subsection 6, page 7, to read:

"Committee on Agriculture and Environmental Affairs, whose scope shall be those programs relating to agriculture, water resources for agricultural use, aquaculture and the promotion, enhancement and conservation of energy-related agricultural

resources, environmental quality control, outdoor recreation, state parks and historic sites development and protection."

Senator Abercrombie then rose and stated:

"Speaking in favor of this amendment, Mr. President. In order for me to properly inform the members of my view on this, I need to ask a couple of questions of one or two of the chairmen. May I do so in the context of making the argument. I would like to ask the chairman of the Economic Development Committee if he would yield to a question."

The Chair asked the chairman if he would yield to a question, and Senator Aki having answered in the affirmative, Senator Abercrombie asked:

"Mr. President, would you ask the chairman, please, as to what the meaning of the phrase under subsection 5 on Committee on Economic Development -- the meaning of the phrase 'the physical environment'?"

Senator Aki replied: "Mr. President, the 'physical environment' is all the things around us and the Committee on Economic Development actually encompasses the Department of Land and Natural Resources, which concerns the lands in the State of Hawaii."

Senator Abercrombie further inquired: "Would that include ...further question, Mr. President, would that include then state parks, outdoor recreational facilities and historic sites?"

Senator Aki replied: "No. This is why we are having this separated into the other committee."

Senator Abercrombie then continued: "One further question, is it not a fact that the historic sites are under the control of the Department of Land and Natural Resources?"

Senator Aki then replied: "That is true. The Department of Land and Natural Resources does cover a wide area of lands in this state. However, it's been traditional that all these different areas are separated into different committees."

Senator Abercrombie thanked the Chairman then remarked as follows:

"Mr. President, I think it's apparent from the answers of the

chairman that had we been able to perhaps discuss a bit more as to what the context of these committees might be, we might have indicated to you that Economic Development might be the more rational place to put it. I think you will find that state parks, historic sites, recreational areas are all under the control of the Department of Land and Natural Resources.

"However, with the wording of the committee's responsibilities in economic development and the amorphous, if not entirely abstract, nature of the phrase 'physical environment' (I might note, for the record, Mr. President, that the word 'environment' has been misspelled on this page, and that I apologize), we had to take a look at where the most rational place for it would be.

"Inasmuch as the chairman has indicated that land use considerations are secondary nature in his committee, the only place that it can go reasonably, then, is in Agriculture, which is the reason we have used the phrase 'agriculture and environmental affairs.'"

"One need only glance at the situation that exists with respect to pollution -- environmental quality control, if you will -- in the agricultural lands and in the water table that exists for this island and may very well exist for other islands, but in particular for the Island of Oahu, where we have no outside source to which we can refer to see that environmental quality control is of its essence within the scope of the responsibilities of the Agriculture Committee. The Agriculture Committee, as a matter of fact, cannot avoid these responsibilities.

"If, as the chairman indicates, these matters are to be divided up among many committees and that his committee is not the one to be the responsible one, the last committee, it would seem to me, that should take this kind of responsibility, especially when it comes to environmental quality, would be the Tourism Committee in the sense that the Tourism Committee will not be reporting out any bills that will directly affect the quality in terms of water pollution, in terms of land use, in terms of state parks, etc. Its orientation, obviously is derivative of these decisions.

"Obviously, the Tourism Committee will be interested in outdoor recreation and will certainly be interested as to what happens with

state parks. But if the origin of policy with respect to state parks, with respect to environmental quality, with respect to our water, with respect to our recreation, historic sites development has to be seen as derivative from the scope of the Tourism Committee's responsibility, which is to say 'programs related to tourism,' to tourism first. It seems to me apparent that where we have conservation lands, where we have preservation, where we must pay respect to the amendments added to the Constitution of 1978 with respect to preservation and conservation, where we have agricultural parks land use which by definition of the previous speaker's remarks must be sent on to other committees. Only the Agriculture Committee, under the committee structure presented to us, will be able to adequately encompass an integrated view of what would be best for policy formation and legislation with respect to the items now listed under the Committee on Tourism.

"It is not a reflection on the capabilities of the present chairman of the Tourism Committee nor any chairman that might follow him in that capacity. His duties and responsibilities with respect to the industry of tourism are separate and apart from those which may be in the best interest of our people. The fact that the tourist industry may derive a benefit, direct or indirect, from good policy decisions that are made in this Legislature with respect to land use, with respect to environmental quality control, with respect to outdoor recreation, and historic sites development, which could include everything from Iolani Palace to various cultural parks that might be put together. The fact that they may derive a secondary benefit or even a primary economic benefit from such actions should be as a result of policies made on behalf of our people with respect to land use control, separate and apart from that which may benefit the short term interest of the tourism industry, as such.

"Under those circumstances, it seems to me clear that given the committee structure as you have presented it, the more logical place for those elements is in the Agriculture Committee under the general aegis of the term 'and environmental affairs.'"

Senator Chang added his remarks and stated:

"Mr. President, the rationale for

this amendment, as I understand it, is that the proposed Rules change creates an incompatible and conflicting interest in having physical environment programs in the Economic Development Committee and recreational programs in the Tourism Committee. This rationale ignores the reality that Hawaii's natural beauty, ecological diversity and environmental quality are really the fundamental elements of our economy.

"Indeed, it is the Constitution of the State that recognizes this and urges the state government to preserve natural beauty and to provide for its environmental quality in order that the economic future of our children and our children's children could be preserved. These interests must be addressed, balanced and reconciled within common forums that the proposed Rules changes would establish.

"Also, there is no logical reason to place recreation programs under the Agriculture Committee. Stronger common interests exist with Tourism programs, and it is an erroneous presumption that interests of recreation would be automatically subsumed under the interests of tourism. I recommend a "no" vote on this amendment."

Senator Cayetano then rose and stated:

"Mr. President, in rising to speak for the amendment, I would like to ask the chairman of the Judiciary Committee if he would yield to a question."

The Chair then asked the Chairman if he would yield to a question and Senator Chang asked to hear the question.

Senator Cayetano inquired: "Mr. President, would you ask the chairman of the Judiciary Committee if he agrees that under the present law, the Department of Agriculture has the responsibility for regulating the use of pesticides."

Senator Chang responded: "That is my understanding, Mr. President."

Senator Cayetano then continued: "Then, would he explain the justification for putting environmental quality control under the Committee on Tourism."

Senator Chang answered: "May I ask for a clarification on that. I don't understand the relationship of this question to the preceding one."

Senator Cayetano replied: "Excuse me, I withdraw the question. I have nothing further to add."

At this time, Senator Abercrombie rose and stated:

"Mr. President, I'm sure the chairman of the Judiciary Committee is familiar with the phrase 'non sequitur.' For those who may not involve themselves with that practice everyday or may have done it inadvertently, it means one thing does not follow the other.

"It was interesting to listen to what the chairman had to say. Unfortunately, one thing did not follow the other. I'm not quite sure what any of it meant with respect to the remarks that were made previous to them or in response. I do find it a bit odd that the Judiciary chairman is making the defense for the Committee on Tourism. Perhaps we should have made the amendment to put it in the Judiciary Committee."

The Chair replied: "Senator Abercrombie, the Rules usually come out of the Judiciary; therefore, he has some knowledge of...."

Senator Abercrombie responded:

"I expect he does have some knowledge; I only wish that he had shared it with us. The response that I would make to it is that it seems to me that when wading through the series of statements, one which did not follow upon the other, when viewing them separately, they all seem to make an argument for putting this activity in the Agriculture Committee, precisely because the economic base of the state was used as the central defense of putting our outdoor recreation, our state parks, our historic sites development in Tourism.

"Clearly, Mr. President, if we do this, and we are doing it publicly now, we are subordinating all of these elements, including our environmental quality control, to the interest of a private industry, the tourism industry. If we want to make any clearer our subordination to a private interest at the expense of a public interest, we could not do so. Now, on the other hand, given the committee structure as presented, if we put these elements in the Agriculture Committee, at least there you have a committee whose sworn responsibility is to see to it that land is, after all you cannot deal with agriculture, and water you cannot even deal with mariculture, unless

you're dealing in aquaculture, unless you're dealing with the elements of the sea and what may be derived economically and otherwise from them. If land questions are going to be the basis upon which, and elements which affect land, such as pesticides, are going to be the basis upon which we effect policy changes, then the Agriculture Committee is the only logical place to have it.

"The only alternative might be the Economic Development Committee, but the chairman has indicated that he doesn't believe any of those responsibilities are there. So then, I presume that the only other place, from the point of the view of the Judiciary chairman, is to simply have it remain with Tourism because economically we want tourism to succeed for the interest of tourism. You are not going to refer bills on pesticides to Tourism. I hope you're not going to refer pesticides bills to the Tourism Committee. Among other things, I can just see what that all...(fine, drink the water...EDB - what's that?) I mean there can be no logical reason to be putting such bills with respect to utilization of conservation lands, etc. with the Tourism Committee because the tourism industry may be extremely narrower than the interests of the people of this state, however, which will benefit in the end the tourist industry if we preserve our land, if we preserve our environmental quality control, etc.

"But that must be in the hands of the people and policy decisions must be made by those whose interests are infinitely broader than the narrow economic interests of a few people in the tourist industry.

"Therefore I ask, once again, that everyone consider whether or not we want to make this a situation where we merely have the votes today and so we will go ahead and pass anything; or whether this, in fact, makes sense and is a good-faith offering to the body, that given the committee structure and given the responsibility that we all know exists for these committees, that the most logical, sensible, reasonable and intelligent place to put these elements -- environmental quality control, recreation, state parks and historic sites development -- is under the Agriculture Committee."

At this time, Senator Toguchi rose and stated: "Mr. President, I'd like to request a roll call vote on all of these amendments."

The Chair replied: "A roll call has been requested."

The motion to adopt Floor Amendment 1 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 8. Noes, 17 (Ajifu, Aki, Chang, Cobb, Hagino, Henderson, Holt, B. Kobayashi, Kuroda, Machida, Mizuguchi, Soares, Solomon, Uwaine, Yamasaki, Young, Wong).

At 12:30 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:32 o'clock p.m.

Senator Toguchi moved that Floor Amendment 2 to S.R. No. 9, which was offered on Thursday, February 9, 1984, be adopted, seconded by Senator Carpenter.

Senator Carpenter then rose to speak in favor of this amendment as follows:

"Mr. President, speaking for this amendment. This amendment applies to Rule 17, entitled 'Committee on Ways and Means: Special Responsibility.'

"Mr. President, I wish to put into the record, the amendment falls on page 2, and the amended language reads, in pertinent part, 'The Committee on Ways and Means shall arrange to make available to members of the Senate information, including the budget worksheets, regarding the contents of the General Appropriations Bill or the Supplemental Appropriations Bill during the final 48-hour period prior to the passage of such bills on third or final reading.'

"Mr. President, it is clear that every Senator should know, and certainly has the right to know, the breakdown of allocations and provisos within any budget program area. That is essentially what this language speaks of. Otherwise, we might be voting ultimately in the dark, certainly in an unenlightened state, and only those members of the Ways and Means Committee whose number is approximately one-half of this body would be privy to the information contained in the budget worksheets.

"Mr. President, each of us represents as constituents approximately 40,000 people. That

translates, essentially, to a policy by Ways and Means in which only one-half of our population is enlightened through the vote of their elected Representative or Senator in this case.

"Mr. President, I understand that the language on which this amendment is proposed has the language, 'to the extent practicable, the Committee on Ways and Means shall arrange to make available to the members of the Senate information, regarding the contents of the General Appropriations Bill or Supplemental Appropriations Bill' during that 48-hour period that we speak of.

"Mr. President, I guess what it says and the effect of it is that it may or may not be shared as an option of either the chairman or members of the Ways and Means Committee, as compared to the language of the amendment which we propose which essentially makes it mandatory that the Ways and Means Committee shall include the budget worksheets and shall enlighten every member of this body so that we can have through the elected representative here an enlightened total population of this state. That is the difference, Mr. President. Thank you."

Senator Toguchi then rose and inquired:

"Mr. President, will the chairman of the Judiciary Committee yield to a question?"

The Chair then asked the Chairman if he would yield to a question and Senator Chang asked to hear the question.

Senator Toguchi inquired:

"Mr. President, would you ask the chairman of the Judiciary Committee to explain further what does the 'to the extent practicable' mean. I'd like to know on what situations will budget worksheets be...first of all, will it be made available; secondly, on what conditions will it be made available; and again, if it's going to be made available, during what kind of situation. What's the timing in terms of.... The first question, by the way, is will it be made available? And, if he needs a restatement of the other questions, I'll follow with the other questions."

Senator Chang then replied: "May we take one question at a time, Mr. President."

Senator Toguchi then stated:

"The first question is, will the worksheets, the budget worksheets, be made available at any time during the session?"

Senator Chang replied:

"Mr. President, in answering that question, I'll just state my position on this particular amendment and that may clarify a few things. The worksheets are merely working papers of committee staff members and are not formal Senate documents. This amendment would give formal status to these worksheets in the Rules and I believe that is completely contrary to the Senate's position in the case before the Supreme Court.

Even more importantly, it fails to recognize the true nature of our program budgeting system which emphasizes overview rather than detail. For this reason, I think that the proposed change recognizes the operational reality that occurs in conference committee and establishes the practice of making available information, where practicable, that would permit the Senators to exercise their budgetary oversight, not budgetary detail. Whether or not these would include working papers of committee staff members remains to be seen, but having gone through a budgetary conference I don't believe that this kind of information can be generated within the time limits imposed by the legislative session. I hope that answers his question."

Senator Toguchi stated:

"I'm not really clear, Mr. President. The question is, and the answer should be yes or no. Will the budget worksheets be made available at any time during this legislative session, the 1984 legislative session, yes or no?"

At 12:40 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 Toguchi continued as follows:

"Mr. President, at this time I'd like to redirect my question to the chairman of the Ways and Means Committee, and let me restate the question. Maybe I should make a statement and then a question as to what I'm trying to get at. I think

that what I don't want to see this year is a repeat of what happened last year where we were not provided the details, especially the details that were agreed upon between the House and Senate conference committees and whether we call it worksheets or anything else, what I'm looking for is that...and I'd like to use an example again which I used last year because I know a little more about it than other committees.

"If you look at the Department of Education's budget, we have program area summaries as large as \$165 million. I'm sure that one area is teachers' salaries, but if you get to another area, EDN 107 instruction, you get like \$50-60 million. There's a lot of work that goes on in terms of details that total up to that \$50 million or \$60 million. And the question I'm raising here is that in the conference committee there's a lot of give-and-take and that a final decision as to what the details are going to be in those summaries. What I'm saying is that during this 48-hour period before I vote on a budget, can I get details, information regarding the agreement that you have with the House, and that is my question.

"Because I'm very concerned about the words 'to the extent practicable,' and it could mean anything and sometimes it could mean also how many votes you've got. And I'd like to direct that statement and maybe that inquiry to the chairman of the Ways and Means Committee."

Senator Yamasaki, as Chairman of the Ways and Means Committee, replied:

"Yes, Mr. President. The information as proposed in the Rules provide that 'to the extent practicable...information...regarding the contents of the General Appropriations Bill or the Supplemental Appropriations Bill during the final 48-hour period prior to the passage of such bills on third or final reading' will be made available to anyone."

Senator Toguchi further inquired:

"Mr. President, as far as the words 'to the extent practicable', it really means as during our discussion that you mean those things like inconvenient hours for people to come to see and things like that. So, can I conclude that in this session we will be provided with these details following the conference committee and within the 48-hour period?"

Senator Yamasaki answered:

"Mr. President, I guess I would have to make an exception to your request if you say all of the details because the details encompassing a budget item may be voluminous and because the staff would have that information. If that is what you are looking for, then it may be difficult and may not be practicable, but general information regarding appropriations will be made available."

Senator Toguchi again inquired: "So those details will be accessible to all members of the Senate, is that what you are saying?"

Senator Yamasaki replied: "What I said is that 'to the extent practicable,' information will be made available to you."

Senator Toguchi then continued and stated:

"Okay, I won't belabor the point, Mr. President. I'd like to just say thank you, Senator Yamasaki. I also want to say that, Mr. President, basically what I don't want to see is a repeat of last year when we may have been under time constraints at that point. I hope that this session we will have enough time to look at these details and I also hope that you will schedule things in such a way that the budget doesn't come down at the eleventh hour.

"Sometimes these things may be out of your control because we have to deal with the House, but I'd like to have the opportunity this year, prior to voting on the budget, to look at some of the details so that I don't have to just vote on summaries and that I know what I'm voting for. And I think all of us should be responsible in that we should know what we're voting for.

"Mr. President, I didn't say anything about the amendment. I still would like to say that I do support the amendment that we're proposing, and I will continue to support the amendment but knowing how things are done here, if my amendment doesn't go through I hope that after what the chairman of Ways and Means Committee is saying here today, he will provide us with the necessary information to make sound judgments this session."

Senator Yamasaki responded and stated:

"Mr. President, I rise to speak

against the amendment because of the words 'including budget worksheets.' Those words are the very basis on which the court decision was made in the Circuit Court, and I think that an appeal is being made right now, and I don't think that we should prejudice the case which is now before the Supreme Court."

Senator Abercrombie speaking in favor of the amendment stated:

"Mr. President, the way not to hazard the case is to say that we will get the budget worksheets. Let's just make it clear with the amendment. If we pass the amendment, then there won't be a court case. If we don't pass the amendment, the court case will continue because this body will have rejected making the budget worksheets available.

"Now just for the edification, maybe, of some of the members who's never seen a budget worksheet, and maybe don't care to, but there are those who do want to see the budget worksheets, including the public, and they should. In the past, practice has been that anybody who wanted to see them, could. When I was on the Ways and Means Committee I had my budget worksheet and anybody who wanted to come into my office and see them could see them.

"Now we're entering a new era in which the public is to be shut out, let alone the members of the Legislature, for whatever the political reason. But we're not supposed to be doing things here necessarily to suit ourselves.

"What this amendment addresses itself to is very simple. The worksheets that exist at the conference are sitting right there on the desks of the members who attend the conference committee. It's a simple matter for anybody who wants to and anybody who has been following it to simply be able to view those worksheets. If I were on the Ways and Means Committee at this time I would allow people to do it just as I did before and would be happy to do so. After all, what is the product of at least some 60 days' effort and the effects of it will be felt throughout the state in the ensuing months as the budget manifests itself with the fiscal year.

"Therefore, if the chairman -- if I understand the chairman of the Ways and Means Committee correctly in his statement -- is not going to take that simple step on the ground that it

would jeopardize the court case, which must mean that the worksheets will not be made available; which means that the phrase 'to the extent practicable' for all intents and purposes is a throwaway line. It would not be practical to provide the worksheets. That's the heart and soul of the whole situation. If you're not going to do that, simple say so, and let's avoid a lot of 'song and dance' about what information might be available or not available.

"If my understanding is correct, then I think the people who want to hide the worksheets from the rest of us who don't have them and hide them from the public ought to vote 'yes' and stand up and say that they don't want anybody to know about it. Tell the public that. And for those of you who want to inform the public and would like to have all of us have access to it, then vote for the amendment. Let's not do any 'song and dance;' we've already sent a message to the state that our recreation and our state parks and our historic sites development and everything else will be subordinated to the interest of the tourist industry. That's the policy of this place.

"So, if it is the desire of the Majority that you hide your work and hide what you have done and how you have done it from the rest of us who are not privileged to it, and if it amuses you, as it apparently does, it wouldn't be the first time in legislative or parliamentary circles that activity which is inimical to the public interest was amusing to those who were engaged in it, you can vote with a smile when you do it. And if you desire otherwise that you be open, that we practice the things we used to preach in this body, why then, vote for the amendment."

Senator Cayetano also spoke in favor of the amendment as follows:

"Mr. President, I'd like to clear up what I think is the issue. I believe the issue before this body is whether the budget worksheets should be made available to Senators who are not on the Ways and Means Committee, during the final 48-hour period prior to the passage of the bill. That, I think, is the issue and that is what we have to determine, whether we want to establish that as policy for this Senate now and hereafter.

"In reference to the lawsuit, I might add that the lawsuit was filed in desperation, and it is a very sorry

thing that members of this body had to be subjected to that lawsuit. That lawsuit is now on appeal, and if it is the desire of this body to have the Supreme Court speak on the issue, then perhaps we should not vote for the amendment. But as I see it, the language 'including the budget worksheets' really makes that appeal moot. It does not jeopardize the case, so to speak.

"If the members of this body feel it is a good idea but are worried about the lawsuit (I'm trying to connect the two together), if you agree this is a good idea, you vote for this amendment; the lawsuit is 'pau', because what will happen is that your attorney and our attorney will agree that there is no longer an issue before the court because the Senate by its own rules has resolved the issue. That's the crux of this amendment."

Senator Cobb then rose to speak against the amendment as follows:

"Mr. President, during the course of conversation, as well as questions raised on the floor, it became obvious there was a difference of opinion as to what constitutes detailed information as opposed to what constitutes a budget worksheet. I think the Senator who was raising the question to the chairman of the Ways and Means Committee had primarily as his concern the detailed information, not necessarily the worksheets themselves, which may or may not be under the control of either the staff or the House of Representatives and would not be readily available, particularly during the course of the conference.

"If it's the detailed information that's being sought, I think the chairman of the Ways and Means Committee has already indicated the willingness to share or provide those details during the interim period between the time the budget is decked and the time we vote on it. However, if the Senate were to reverse its position insofar as the worksheets are concerned, that would be reversing the position as is held in the lawsuit. I would point out that on page 2 of the amendment it does not say budget detail, it says 'budget worksheets.'"

Senator Cayetano then remarked and inquired:

"Just so we get this cleared, Mr. President, for the record. As I understand it, your attorneys have

filed a motion to dismiss, and my hunch is that they are going to use your rule as the basis for that motion to dismiss the appeal. What Senator Cobb said is that budget worksheets are not included in the definition of the word 'information.' Is that correct? Is that the position of the Majority?"

The Chair inquired: "Are you asking the Chair?"

Senator Cayetano replied:

"Yes. I suppose I should ask someone. Maybe I should ask the Judiciary chairman. May I ask the Judiciary chairman, is that the position of the Majority?"

The Chair then asked the chairman if he would yield to a question and Senator Chang answered: "Mr. President, will he restate the question, please, so I may understand the precise terms."

Senator Cayetano clarified his inquiry as follows:

"Mr. President, after listening to Senator Cobb's remarks, I came away with the understanding that the word 'information' does not include the budget worksheets. Now, am I correct? Is he correct? What is the understanding of the Majority on it?"

Senator Chang answered:

"I can't speak for the chairman of Ways and Means. My feeling is that the proposed Rules change speaks for itself -- information regarding the contents of the bill will be made available. Having been trained in accounting and economics in my undergraduate program, I might say that almost anything can be regarded as a budget worksheet; that even the proposed amendment here does not necessarily bring about the result that you may desire."

Senator Cayetano continued and stated:

"Mr. President, I think that by tradition and practice what constitutes a budget worksheet is pretty well known. I mean, after all, it is bound; it is titled; and the title refers to the budget conference. That is what I am talking about. If the Judiciary chairman is unable to answer the question, because it seems whenever we ask a question about the rule, the answer is a recitation of the rule, so let me ask if Senator Cobb would yield to a question."

Senator Cobb responded: "In doing so, Mr. President, I would like to ask Senator Toguchi to yield as to what he meant by 'details and information' in his question to the chairman of the Ways and Means because that gets to the heart of the matter."

Senator Cayetano then stated: "Mr. President, I'm asking Senator Cobb. I'm sure he can ask after I ask him. I thought...."

The Chair then interjected: "Senator Cayetano, the Chair would like to suggest that we take a short recess and the three of you get together."

At 1:00 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

At this time, Senator Cayetano rose and stated: "Mr. President, I believe I had the floor and I asked a question of Senator Cobb, and I wonder if he would answer."

Senator Cobb, in response, stated as follows:

"Yes, Mr. President. On the question that was raised by the Senator from the 22nd District to the chairman of the Ways and Means Committee relative to the budget details, I think the concern that has been expressed is because the word 'worksheets' is presently in a court suit that is on appeal. It's not just a matter of semantics. During the course of questioning from the Senator from the 22nd District to the chairman of the Ways and Means Committee the thrust of it was, would budget details be made available? And I believe the answer was in the affirmative. However, I think it is not a matter of semantics because there is a considerable difference between budget details and budget worksheets."

Senator Cayetano then stated: "Mr. President, I'm not sure he answered my question. I think he made a statement. I believe my question was, does the word 'information' include the worksheets...your understanding, Senator Cobb."

Senator Cobb replied: "Mr. President, my interpretation, not necessarily no."

Senator Cayetano inquired: "When is it necessarily yes?"

Senator Cobb then answered: "Mr. President, if the amendment includes the word 'worksheets' and is adopted by the Senate or so ruled by the Court, then it would obviously include the term 'worksheets.'"

Senator Cayetano again queried: "Would it be then your understanding that the amendment standing alone without the term 'including the budget worksheets,' the word 'information' would not include worksheets. Is that correct?"

Senator Cobb replied: "That is correct."

Senator Cayetano then thanked Senator Cobb.

At this time, Senator Kawasaki rose to speak in favor of the amendment and asked as follows:

"Mr. President, I rise on a point of inquiry addressed to whoever wishes to answer my point of inquiry. I suppose the most logical person would be the chairman of the Ways and Means Committee. Could I have the chairman of the Ways and Means Committee answer my question?"

The Chair then asked if the Chairman of Ways and Means would yield to a question and Senator Yamasaki answered: "Yes, Mr. President, what is the question?"

Senator Kawasaki queried:

"Whatever the outcome of the vote taken on this proposed amendment, I would like to feel, and this is my question addressed to you, that information that is asked by any member of the Senate here sincerely, information which is relevant and pertinent to his making an intelligent decision on the budget that involves \$3.5 billion, \$3 billion, all that information that is pertinent and relevant to his making an intelligent decision, that will be available to him upon inquiry, is that correct? I would like that to be answered."

Senator Yamasaki answered:

"Mr. President, I just want to state that, as the proposed rule says, the members of the committee shall make available to the members of the Senate information regarding the contents of the General Appropriations Bill or the Supplemental Appropriations Bill."

Senator Kawasaki then inquired:

"So that information, if it is

pertinent and relevant to our making an intelligent decision on the budget, will be made available to us, whether it's in the worksheets, the yellow sheets, memos or whatever?"

Senator Yamasaki replied: "Mr. President, I believe it is so."

Senator Kawasaki then thanked the Chairman and said: "I would hope that that answer is entered into the record."

The motion to adopt Floor Amendment 2 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 6. Noes, 19 (Ajifu, Aki, Chang, Cobb, George, Hagino, Henderson, Holt, A. Kobayashi, B. Kobayashi, Kuroda, Machida, Mizuguchi, Soares, Solomon, Uwaine, Yamasaki, Young and Wong.)

Senator Toguchi then moved that Floor Amendment 3 to S.R. No. 9 which was offered on Thursday, February 9, 1984, be adopted, seconded by Senator Carpenter.

Senator Toguchi, then stated:

"Mr. President, just for the record, I would like to read the amendment on Rule 18:

"(1) Make recommendations to the Senate on the procedures and manner in which the administrative and personnel operations of the Senate should be conducted."

"And moving on down to (3), the amendment reads, 'The Committee shall meet quarterly for the purpose of reviewing and approving the expenditures of the Senate. A quarterly report shall be distributed to the members listing an itemization of expenses for the quarter. The Committee shall make available to any Senator the financial records of the Senate upon request.'"

Senator Carpenter rose to speak in favor of the amendment as follows:

"Mr. President, the language, I think is fairly clear cut; specifically, it's good business practice. Every business does at least this.

"And, Mr. President, more particularly in the political arena where we are, each of us, entrusted with expenditures of public funds, in order to alleviate or preclude any apprehension amongst ourselves as

public servants of the public in general, this information certainly can and should be made available. Thank you."

Senator Young then rose to speak against the amendment:

"Mr. President, I rise to speak against this amendment. The President had stated earlier that he had offered to make available to any Senator the monthly report of Senate expenses. He has assured this body that any Senator who is interested in obtaining any additional specific information, that he or his staff will be willing to oblige.

"It is also my understanding that a resolution will be introduced shortly regarding the administrative procedures of the Senate."

Senator Cayetano also rose to speak in favor of the amendment:

"Mr. President, the purpose of this amendment is to spread the responsibility for the drafting and design of the administrative procedures manual to the members of the Senate.

"Mr. President, as you know, that responsibility was given solely to the President in the past, and we have not had an administrative procedures manual for the last five years. We have presented a draft, a proposal. I think that some of the recommendations made are good, but the drafting of the design of the administrative procedures manual should not be left to the officer who will be discharging the duties under that manual.

"This is common practice in business, for example. I consider (and I'd like to make an analogy) the Senate and its members as being the equivalent of the board of directors of a corporation; the public as the stockholders. We know that it would be impracticable for individual stockholders to look into the corporate books and demand detailed financial information at any time they please because that may bring corporate business to a halt. But certainly, the board of directors, and I consider all of us to be the equivalent, has a fiduciary duty and fiduciary relationship to have accessibility to this kind of information.

"All of us are entrusted with the duty of managing the people's money as it applies to the Senate. That is why we added the word 'Senate' in

lieu of the word 'President.' That is why we added the underlined part (3), which sets guidelines and the timetables for the Legislative Management Committee to meet for the purpose of reviewing and approving expenditures of the Senate, and for providing a quarterly report which will be distributed to the members of the Senate, listing and including an itemization of expenses for that quarter. All of us as fiduciaries have the right to know this information. It may be that the public does not have the right to know. I doubt that very much. I think they have the right to know also. But certainly there is no question in my mind that this information should be made available to any Senator upon request."

Senator Cobb then rose to speak against the amendment and stated:

"Mr. President, four observations in speaking against the amendment.

"(1) No other committee in the Rules of the Senate is mandated to meet at a specific time, place, or how often, as would be the case in this amendment.

"(2) In reference to a board of directors, a board sets policy and does not get involved in the day-to-day activities of a particular business in a corporate or private sector.

"(3) It is the offices of the Senate President and Vice President who by both law and rule have a fiduciary responsibility; and

"(4) As I understand it, monthly reports are being made and will probably be continued to be made and that the information has already been offered by the Chair to any Senator who requests it.

"Thank you."

Senator Cayetano responded:

"Mr. President, in response to the good Senator's remarks, first of all, let me say that by law the fiduciary duty or relationship of the Clerk and the President as to the expenditures of the Senate is not limited to the Clerk and the President. We all have the fiduciary duty. That particular section of the law merely authorizes it, and I suggest you get the HRS and read it, if you want, into the record. It merely authorizes the President and the Clerk to make expenditures on behalf of the Senate.

"As far as business practice, it is true that the board of directors does not get involved in the detailed day-to-day workings of a business, but it is also true that the board of directors is entitled to see this information when and if they request it. And in fact, as a common business practice, they do so on a regular basis. With respect to the provision setting a quarterly meeting, it is true that we do not have such a requirement for any other committee in this body, but the point here is that such a review must be made on a regular basis.

"If the good Senator wants to change it to monthly, that's perfectly okay with us; if he wants to do it weekly, that's fine too; if he wants to do it semi-annually, maybe we've got a problem -- it's a little too long. In any event, that is designed to provide a regular transmission of information as to Senate expenditures to the members -- nothing unreasonable about that."

The motion to adopt Floor Amendment 3 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 6. Noes, 19 (Ajifu, Aki, Chang, Cobb, George, Hagino, Henderson, Holt, A. Kobayashi, B. Kobayashi, Kuroda, Machida, Mizuguchi, Soares, Solomon, Uwaine, Yamasaki, Young and Wong).

Senator Carpenter then moved that Floor Amendment 4 to S.R. No. 9 which was offered on Thursday, February 9, 1984, be adopted, seconded by Senator Toguchi.

Senator Carpenter spoke in support of the amendment as follows:

"Mr. President, the pertinent language in part reads, 'A committee report for a bill may not be circulated unless a majority of committee members present at a decision-making session so recommend.' Mr. President, I believe the language is quite straightforward.

"The present Rule 19 is silent as to what number of members may report out a bill. With the exception of Rule 21, item 5, there is no reference in the Rules of the Senate relating to the reasons for and the reaction of the circulation of committee reports for subsequent action. This would clearly spell out that the majority of committee members present at a decision-making session would have

the authority to effectively recommend for or against a particular bill. Thank you."

Senator Toguchi, also in support of the amendment, stated:

"Mr. President, I just want to clarify one thing. We are not saying that the majority of the members of the committee need be present at the meeting. What we're saying here is that the majority of members who are attending the meeting may make the decision to recommend that the bill be circulated. For example, if there are only three members present at the meeting, it will take the decision of at least two of them to move the bill as far as the circulation. If only the chairman is there at the meeting, the chair can so decide to circulate the report. So, it's the majority of the number of members present at the meeting."

Senator Kawasaki also spoke for the amendment and stated:

"Mr. President, at first view, I had some apprehensions about the practicability of the new amendment, knowing full well that many times committee chairmen do not have a full quorum in their committee hearings, of necessity because of the number of committees meeting at the same time.

"But where the word 'majority' implies that if a chairman is there by himself, he happens to be the majority, then he in effect can, by our rules, circulate the committee report for signatures or against the proposition. I think it is entirely reasonable; it does not pose any kind of impediment toward the reasonable operation of the committee structure."

Senator Cobb then asked: "Mr. President, would the movant yield to a question?" Senator Carpenter having answered in the affirmative, Senator Cobb inquired as follows:

"If two members of the committee are present, one is in favor, one is opposed, may a report be circulated?"

Senator Carpenter answered: "Mr. President, the issue would be a standoff, therefore the bill could not move...and, Mr. President, if I may follow up...however, defer decision-making until such time as the majority who might be receptive could be present."

Senator Cobb then thanked Senator Carpenter.

Senator Chang spoke against the amendment and remarked as follows:

"Mr. President, as the proponents of the amendment well know, committee meetings are not attended by all of the committee members during the same period of time. This amendment would foster the tyranny of the minority. The only alternative which permits the widest, responsible, public, legislative decision-making is the circulation of the committee report. The committee report is a public document and is the ultimate decision of the committee. I recommend a 'no' vote."

Senator Carpenter, in response to the previous speaker, then stated:

"Mr. President, this amendment in no way precludes a majority action in contra to the first statement just made by the previous speaker."

Senator Abercrombie added his response as follows:

"Mr. President, in response to the remarks about the tyranny of the minority, that seems to me more a commentary on the capabilities of the chair of a committee than it is a comment on what a member or members of a committee would like to see happen. Before you toss phrases around like that, it seems to me we ought to take a look at just exactly what is being proposed.

"Some committees have various kinds of committee rules, some of which are universal, more or less universal, and some of which are peculiar and unique to the committee itself. All we're stating here is that if the committee is going to have its decision-making session it doesn't make much sense to have such a committee hearing and not have a majority of the members ready to move the bill. Otherwise, you have a genuine tyranny of the minority, which is to say that the chair can move the bill regardless of how the vote goes.

"So, it seems to me that the Judiciary chairman was engaged in a bit of a contradiction in terms.

"If the desire is merely to have the committee reports circulated for signatures, fine and dandy. What this amendment addresses itself to is that there is a desire, by virtue of the language of it, that a committee meeting be held and that at such a meeting a majority of those present

declare for the circulation before it takes place. If the desire is merely to do it otherwise than to circulate it, you can do so.

"Probably, one of the advantages of doing it in the manner suggested in the amendment is that there are many people who participate by virtue of giving testimony, observing committee hearings and so on, and who might be desirous of seeing what is happening and what the votes might be. They might want to find out whether or not there are Senators who need to be talked to or they would be desirous of speaking with, with respect to the bill, because they may be able to change some Senator's mind and they may be desirous of doing so. There may be Senators who may find out for the first time what their colleagues feel about a particular bill and may wish to try and change their minds before the bill is circulated.

"Let's not put too much into this. After all, the committee report has to be circulated and must receive the majority of the signatures before it can get on to the floor. This merely is the mechanism of putting that committee report circulation into effect."

The motion to adopt Floor Amendment 4 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 6. Noes, 19 (Ajifu, Aki, Chang, Cobb, George, Hagino, Henderson, Holt, A. Kobayashi, B. Kobayashi, Kuroda, Machida, Mizuguchi, Soares, Solomon, Uwaine, Yamasaki, Young and Wong).

Senator Toguchi then moved that Floor Amendment 5 to S.R. No. 9 which was offered on Thursday, February 9, 1984, be adopted, seconded by Senator Carpenter.

Senator Toguchi then rose to speak in support of the amendment and stated:

"Mr. President, I think the amendment speaks for itself.

"Basically, when we address issues here at the Legislature, when we propose bills, there usually is a problem, and we seek a solution. The amendments here that we are proposing clearly indicate what the solution is, that is, this amendment and what we are proposing here is that it includes the reasons for each

amendment or what is the problem."

Senator Chang spoke against the amendment and responded:

"Mr. President, I don't believe it is the proper role of the Senate Clerk to decide whether the contents of a committee report are satisfactory. I believe that that decision should continue to rest with the Senate itself. I recommend a 'no' vote."

Senator Cayetano, in support of the amendment, stated:

"Mr. President, perhaps this rule will not be necessary if this Senate provided some training to committee clerks and staff as to how to write committee reports. One thing that I have noticed over the years, especially in my years here in the Senate, is that it's very difficult at times to glean the legislative intent of bills or amendments, and maybe if we address the problem in that fashion efforts like this would not be necessary."

Senator Kawasaki also rose to speak in support of the amendment and stated:

"Mr. President, I think the adoption of the amendment, in effect, makes it easier for members who are not members of a committee from which the report emanated...makes it easier for these people to understand any changes made to a basic bill which was sent to the committee, when it comes out in an amended form. It assures that the committee report, hopefully, very succinctly outlines the reasons for the changes and helps every member of the Senate to understand the amended bill better.

"Mr. President, it seems to me that this is an improvement on what has been the practice in the past, and I speak in favor of it."

The motion to adopt Floor Amendment 5 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 6. Noes, 19 (Ajifu, Aki, Chang, Cobb, George, Hagino, Henderson, Holt, A. Kobayashi, B. Kobayashi, Kuroda, Machida, Mizuguchi, Soares, Solomon, Uwaine, Yamasaki, Young and Wong).

Senator Toguchi then moved that Floor Amendment 6 to S.R. No. 9 which was offered on Thursday,

February 9, 1984, be adopted, seconded by Senator Carpenter.

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

"Mr. President, of all the amendments before us today, this, in my judgment, is the one that is most far-reaching and most important. We can survive, maybe not as well as we should, but nonetheless survive judgments that are made well or made badly with respect to various and sundry procedures as enunciated in these various amendments to the Rules.

"Mr. President, this particular amendment, and this is the amendment for 'Rule 62. Motion for Previous Question,' where you seek to change the requirement of a two-thirds majority to a three-fifths vote in order to move the previous question. It is one that is the most profound from a democratic point of view among all that are before us today.

"There has been mention made on this floor, not just today but in previous days, as to whether or not votes are capable of being garnered, and all that really counts is whether one gets the votes. Let's take that as the basis for our discussion. If all that really counts is the votes, then this is one area where the votes really should count in terms of having the maximum rather than a minimal number. By practice and historical reference, this is nothing more than the procedure to limit debate.

"Historically, Mr. President, and I refer to Cushing's Manual of Parliamentary Practice...historically, the original and proper parliamentary use of the previous question was the suppression of the main question. It's improper to consider it as one of the subsidiary motions for that purpose, although in this country it has been perverted into a wholly different use, namely, the suppression of debate. So, this is not new, this move from two-thirds to three-fifths.

"It's a sad day for me, and I will comment in a few moments that the Senate of the United States has moved to a three-fifths vote, much to the chagrin, I might add, to some members who had thought it was going to be to their advantage. Many of the people who supported it were 'reformers,' were 'liberals,' and as with many of these reforms and many of these so-called liberal appellations -- self-designated, I might add in many instances -- it turns out that

the results were quite different from what was expected.

"In any event, let me proceed with a bit of the history so that the members of this body understand that I am not speaking, nor is this amendment seeking, to preserve the two-thirds majority to move the question -- one that is frivolous or capricious or meant simply to take up your time.

"This motion, and I'm quoting again from Cushing's history, 'This motion was introduced in the House of Commons in England more than two centuries ago for the purpose of suppressing subjects of a delicate nature relating to high personages, or the discussion of which might call forth observations of injurious tendency.' We all know what that meant, that the people who did not want to have certain things discussed were utilizing this as a way of suppressing debate.

"The operation of this motion in suppressing the question to which it is applied results from the principle that no further consideration or discussion can regularly be had of a subject, which it has been decided shall not be put to the question; and, therefore, when on the motion of the previous question it has been decided that the principal question shall not now be put, that question is disposed of for the day, and cannot be renewed until the next or some succeeding day.'

"That is the subject, Mr. President, of a considerably enlightening article in the Congressional Quarterly on Senate filibuster and Senate limits on post cloture filibusters, which I recommend for those who are interested further in this question. I'll be happy to share it with them. My point being that it is not a question of whether or not debate shall be limited, but under what circumstances it shall be. I think I shall quote to advantage none other than Thomas Jefferson on that.

"In quoting again from Cushing's, 'This is the purpose for which the previous question was originally invented.' Parenthetically, I might add, in the debate on post cloture filibuster -- cloture being the capacity to close off debate in the Senate -- a debate took place as to how many hours of debate would follow the cloture.

"The idea was that the previous question would revolve around those

items before the body with respect to that day's discussion, and the difference and the movement of the previous question had to do with whether or not there was an adjournment for that day or whether there was a recess for that day so that the matter might still be discussed on a following day. Inasmuch as adjournment had not actually taken place, so for parliamentary purposes or legislative purposes the day was still in existence, vis-a-vis the question. This is what it's for. This is why it operated. This is why it came into existence historically.

"The fact that it has been taken advantage of by those at various times who want to limit debate and that those numbers with respect to the limiting of debate have been lowered in some bodies is, as indicated here in Cushing's idea, a perversion of what's moving the previous question is supposed to do.

"With respect to this, Jefferson's Manual of Parliamentary Practice states, 'So far the maxim is certainly true,' that is to say, that form of proceeding, quoting Jefferson, 'instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were in many instances, a shelter and protection to the minority against the attempts of power...is founded in good sense; that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check and which the wantonness of power is but too often apt to suggest to large and successful majorities.' The idea being the protection and liberty of the minority.

"That is why, for instance, parliamentary law provides that 'every member shall have the right to debate main motions and debate cannot be shut off except by two-thirds vote of the body, thus affording the minority freedom of speech and liberty from constraint.' This is taken from Demeter's Manual of Parliamentary Law.

"In other words, historically, it has always been a two-thirds vote, and it has always been recognized that majority rule should prevail in a democratic setting. The fact that the minority may wish to pursue its cause has to be protected, and it has been felt that two-thirds was the proper number to get.

"Among other things, Mr. President, because this often requires a bipartisan, tripartisan, or whatever the number happens to be, in order to achieve such a majority.

"The book 'The Ralph Nader Congress Project, Ruling Congress, A Study of How the House and Senate Rules Govern the Legislative Process' is very interesting in this respect and, again, I recommend it to your attention and to the other members. It discusses the filibuster and it discusses how, for example, the Senate of the United States came to move to the three-fifths. It is also interesting to note that two candidates for the presidency of the United States at the present time, Senator Ernest Hollings and Senator Alan Cranston, have come to regret the three-fifths motion which they supported at one time...(I beg your pardon, Senator Cranston supported the movement to three-fifths) and found themselves...(I'm now quoting from Senator James Allen, Democrat of Alabama, who some of you may know was a past master of parliamentary debate, and particularly on filibusters and cloture), 'It is interesting to note that in the closing days of the Ninety-First Congress that those who were resorting to the use of extended debate or filibuster were Senators who favor making it easier to cut off debate. I refer to the distinguished Senator from Wisconsin, Mr. Proxmire, who by engaging in an extended debate on the SST conference report was able to defeat the full funding of the SST project.'

"And he goes on to cite the then Senator from New York, Mr. Javits, 'and I believe the distinguished Senator from Minnesota, Mr. Mondale, was threatening use of extended debate with respect to the import quota legislation. The import quota legislation was not passed by Congress. The full funding of the SST was not authorized.'

"And in a footnote, 'After the SST filibuster, Senator Alan Cranston (D., Calif.), Frank Church (D., Idaho), and Charles Mathias (R., Md.) announced their support of the two-thirds cloture rule to cut off

debate and stop a filibuster instead of a reform measure calling, 'at that time, 'for a simple majority vote,' as we all know that became three-fifths, 'which would have been easier to achieve. These and other senators who formerly opposed the filibuster realized that there might come other times when they would need the filibuster and benefit from the stricter rule,' two-thirds cloture, 'before debate could be limited.'

"My point, Mr. President and members of the Senate, is that what one does today for convenience sake of the numbers or for the issues may turn around on you tomorrow and become an albatross around your neck when you have an issue that you feel, or you have a view that you feel, needs to be protected.

"The important thing to remember here, it seems to me, Mr. President, is that the majority, in terms of two-thirds, will always be able to limit debate. This amendment does not provide for a filibuster. What it provides for is an opportunity to stay true to the historic contentions that were made and for good reason, with respect to why we can differentiate ourselves from a dictatorship.

"I can read at length and I would refer you again to remarks made last year by Walter Lippman and Alexis de Tocqueville with respect to a phrase utilized by the chairman of the Judiciary, that is to say that the amendment would foster the so-called tyranny of the minority, and refer you to remarks about the tyranny of the majority.

"The question here, then, is not whether debate shall be limited or whether we should hold true to a vote, the two-thirds vote that historically has undergirded the democratic process in this nation, and refuse to lower numbers for the convenience of the moment and undermine, thereby, those values which we should be upholding in this body regardless of our political affiliations, regardless of our organizations of the moment, regardless of the passions of the moment, regardless of the issues of the moment.

"This principle, the two-thirds vote to move the question and end debate and suppress debate, is one so fundamental to the democratic process that we seek to change it only at the peril of that which has, throughout our history, been the safeguard for the democratic process.

"In conclusion, I remind the members that candidates for the presidency of the United State have served in bodies such as this, including the national body, the national senate, and have had to come to grips with the same thing, and that the leading candidates for the presidency recognize that when they were on the other side of the debate that they too desired to have that two-thirds majority vote; that they too recognized the wisdom in the establishment of two-thirds as the point at which debate should be cut off.

"So, I ask you now, regardless of what the organizational situation is here in the Senate, there is no score to be kept -- seven out of eight, six out of seven, whatever it is -- I ask you to regard this amendment in its own context. I ask you to look into your own view of what we should be doing as a democratic body, as a body of debate, as a body concerned with issues. And all I'm asking is that we retain that which presently exists -- a two-thirds vote.

"We will all be the beneficiaries; those who come after us will be the beneficiaries. We will have upheld the values that I think we want to be associated with not only in this body, but in this state and in this nation.

"Thank you."

At this time, Senator Kawasaki rose to speak in favor of the amendment and stated:

"Mr. President, I am fully aware that there is nobody in this body I venture to say, that could make a more eloquent plea that's rational, that's logical, that's in keeping with good democratic practices than the plea, if you will, made by Senator Abercrombie just now. Mr. President, what is happening today deeply saddens me. I have always been very proud of having been in this body for the past 17 years. It seems to me that there were some amendments proposed today that were logical, that would help improve the operation of the Senate.

"During the previous several months of disagreements and discussions and caucuses and meetings between individuals and groups of individuals, we have discussed some changes to the Rules that seemed logical, and I was quite encouraged that people from both sides of this group were in agreement

that some changes are acceptable, perhaps for the betterment of the operation of the Senate. But, what I've seen today saddens me, primarily because notwithstanding the fact there must have been one or two amendments that were acceptable and good and logical, the vote seems to indicate to me that this Senate of which I have been so proud of for these many years has deteriorated into a body that can't get away from this 'you guys and us guys' syndrome. This deeply saddens me.

"If this continues, Mr. President, then I would say this is indeed a sad day for the people of this state, and I can no longer say that I am proud of this Senate because, really, we are not here sitting as individuals thinking out an issue on the basis of facts presented, on the basis of arguments which seems to me, at least, quite logical. I would hope that we can get away from this 'you guys and us guys' syndrome. This does not reflect credit upon this body.

"And, I sit down with the final plea that above any other rule and amendment proposed, this is the one that's most important because this amendment not being accepted, to me, just violates what is so logical in the way of a democratic process."

Senator Cobb then rose and stated:

"Mr. President, I rise to speak in favor of the rule and against the amendment to go back to two-thirds. The original proposal that I saw contained in a memorandum to you was to abolish all limits on debate. Now we have before us a proposal to retain the present two-thirds. I would agree that this is perhaps one of the most important issues that we face today in the consideration of the Rules, but I think a fuller review of the history is in order, considering the history of the Senate of the United States, as well as our own legislative history here in Hawaii.

"And I will direct my remarks in speaking against the amendment to a recital and in part a rebuttal of some of the history that has already been alluded to. In the Senate of the United States, Rule XXII is the rule dealing with cloture. In the Senate of Hawaii, it is Rule 62.

"Rule XXII of the Senate Standing Rules of the United States, as enacted in 1917, provided that debate could be brought to a close upon two-thirds vote of those Senators present and voting.

"In 1975 the proposal to amend this rule, after 15 unsuccessful attempts in the last 30 years, was to reduce the vote required from two-thirds of those present and voting to three-fifths of those present and voting. The opposition insisted that this was the first step down the road to so-called 'majority cloture' where just a bare majority would be able to bring debate to an end.

"Discussion, Mr. President, centered around the right to debate versus the obligation to act. Arguments emphasized the responsibility of the Senate to enact public measures when a majority of Senators supported a measure versus the right of the minority to stand in the way of the majority's action when it was felt that the action was ill-advised or a cavalier attempt at trampling minority rights. The final compromise, Mr. President, was to reduce the percentage from two-thirds to three-fifths, however, this percentage was applied to the Senators duly chosen and sworn, not merely those Senators present and voting.

"The proposed change in the Rules that will be before this body for final adoption is precisely the same formula -- three-fifths, meaning of those duly sworn and elected, not merely present, Mr. President. After having read over 5,000 pages of Senate history covering the cloture rule and attempts to amend it over a period of 140 years, there evolved basically 13 arguments against filibustering before cloture. I would like to share those arguments with members of this body today.

"1. Under the practice of filibustering, the basic American principle of majority rule is set at naught. Not only is the majority thwarted in its purpose to enact public measure, it is also coerced into acceptance of measures for which it has no desire or approval.

"2. The Senate should legislate efficiently, with responsibility only to the people. If the Senate is to be efficient, time should not be wasted in unnecessary delay merely for the sake of obstruction. Filibusters sometimes make special sessions of the legislature imperative, with resulting unnecessary expense to the people and business uncertainty in the state. They also destroy responsibility of the majority party to the people.

"3. Experience abroad and in the other state legislatures indicates that debate can be limited without undemocratic results.

"4. Filibustering gives one Senator or a small group of Senators a veto power. It enables a handful of people in the Senate to prevent the passage of legislation desired by the overwhelming majority of the members of the Legislature and the people of the state. It even permits one Senator to hold up needed appropriations until he extorts the favor that he demands either for his district or his position. That was even alluded to.

"5. A filibuster arouses popular resentment and brings the Senate into disrepute here and elsewhere.

"6. A filibuster imposes upon the Senate an indignity which would not be tolerated in any other legislative chamber in the world.

"7. An effective anti-filibuster rule ought to exist because: a) It is the imperative duty of a legislature not merely to debate but to legislate and, therefore, to tolerate no course of action by any of its members which will absolutely prevent legislation; b) The majority is and must be held responsible for the conduct of affairs and is, therefore, entitled to use all means proper and necessary for the conduct of affairs; and c) The large volume of business thrust upon the legislature renders it essential that time not be consumed uselessly.

"8. In a parliamentary democracy the minority should have their say and the majority should have their way.

"9. Filibuster has delayed for decades the enactment of social legislation passed by the House of Representatives and desired by the majority of the American people. Many people were losing faith in American democracy because of its repeated and prolonged failures to perform its implicit promises. Responsibility for those failures lies in large part at the door of Senate filibusters.

"10. Filibusters cost the taxpayers thousands of dollars, consuming days and weeks of valuable time and many pages of the Congressional Record to the tune of \$90 a page.

"11. The present cloture rule (Rule No. 22) is so cumbersome as to be unworkable. It has been successfully invoked only 5 out of 27 times in 45 years. Finally, Mr. President, filibusters are undemocratic in that they permit one-third of the Senators present, plus one, to obstruct the

majority. This group of Senators may be from only one section of the country or state, they may be from only one political party, and none of them may have been recently elected. It is a dubious argument to defend the filibuster on the ground that it protects the minority when actually its principal use, actual or potential, is to deny fundamental democratic rights to certain minorities. Most of the really undemocratic conditions in our country today exist because of the threat or use of the filibuster.

"Mr. President, there are a number of Senators, some of which were alluded to, who spoke very eloquently on this subject of filibuster in the journals of the Senate of the United States. I would like to quote from four, two Republicans and two Democrats, on precisely this matter.

"Quoting Senator James B. Pearson, Republican of Kansas, who served from 1962 to 1979 in the Senate of the United States, and I quote:

"'With adoption of this resolution, I believe we can achieve a fundamental and needed reform in the Senate by bringing into closer balance two of its most cherished rights -- the right to debate and the right to vote.' Two relevant points, Mr. President, continuing to quote: 'First, there is nothing new, unprecedented, or revolutionary in our attempts to balance the rights of each Senator to debate and to vote. Striking a proper balance is a problem which has vexed legislative bodies for four centuries. Second, there is no magic in the two-thirds formula adopted by the Senate in 1917, as evidenced by the manner in which Rule 22 was initially adopted.'

"Pearson then quoted Senator Henry Cabot Lodge of Massachusetts from the late 1890's in his debate during one of the earlier attempts when cloture was attempted to be adopted by the Senate of the United States, and I quote Senator Lodge: 'If the courtesy of unlimited debate is granted, it must carry with it the reciprocal courtesy of permitting a vote after due discussion. If this is not the case, the system is impossible. Of the two rights, moreover, that of voting is the higher and more important. We ought to have both, and debate certainly in ample measure, but if we are forced to choose between them, the right of action must prevail over the right of discussion. To vote without debating is perilous, but to debate and never vote is imbecile.'

"Continuing with Senator Pearson: 'Extended debate can prevent hasty or ill-conceived action which could wrought much mischief in our state, but to argue that the modification of Rule 22 we seek will end full discussion of every issue that comes before us is to greatly misread both our intent and the thrust of our proposal.

"A shift from 66 to 60 percent will not eliminate the precious right of full debate. But it will make it somewhat easier to more efficiently conduct public business by striking a better balance between the right of debate and the right to vote at some time.

"The two-thirds rule is the result of well-intentioned men constructing what they hoped would be an effective compromise between the extreme of majority cloture, on the one hand, and unlimited debate, on the other.

"Yet, as the evidence of the past 58 years indicates, this worthwhile effort has failed by making the majority necessary for cloture so substantial that it is nearly impossible to obtain.'

"We believe that three-fifths of the Senate present and voting constitutes an ample majority, on which should have the right to act. But we also believe that three-fifths is not a majority so substantial as to be impractical of attainment, the equivalent, in fact, of having no debate limitation at all.'

"Mr. President, Senator Mathias was alluded to and I'd like to expand on some of his remarks that were made as a Republican Senator from Maryland, and I quote: 'When we insist on two-thirds, we are saying that it takes a supermajority of the size that is required to amend the Constitution of the United States, or the super-majority which is required to ratify a treaty. A treaty, once ratified and confirmed, becomes the law of the land. So Rule 22 says we need majorities of that size for the simple process of ending debate. I think there is a substantial, critical difference between ending a debate in the Senate and amending the Constitution or ratifying a treaty.

"There are two fundamentals in any parliamentary institution. One of them is that there be time and opportunity and freedom for debate. Members can rise and discuss issues fully, and they can examine them without any fear of retribution. But, second and equally important, there

comes a time for decision. Debate can be exciting, or it can be dull. It can be edifying or it can be foolish. But whatever the character of the debate, ultimately there comes a time when we must decide the issue. That is one of the two fundamentals of any parliamentary institution.

"Senators, sometimes for very valid reason, delay action -- to get more time, to provide opportunities to compromise. But there are also occasions when Senators who lack the votes to defeat legislation try to accomplish their purpose by words instead of votes. I think that those occasions are the kind to which we want to direct our efforts. Those are the tactics that must eventually be overcome, as has been long recognized.'

"Next, Mr. President, the junior Senator for many years from the State of Massachusetts, Edward M. Kennedy, is quoted and I should like to share a few of his thoughts with the Senate today. Quoting, 'In the past, the filibuster rule has often made a mockery of the view that the Senate is the "world's greatest deliberative body." On many occasions, because of the filibuster rule, the world's greatest deliberative body has become the world's least decisive body.

"The filibuster kills three ways, (1) it can block any action at all; (2) it can emasculate a bill as the price of further action; and (3) it can prevent a bill from even seeing the light of day. Too often, it has enabled a small minority of the Senate to prevent a strong majority from working its will and serving the public interest.

"The filibuster rule is a rule that was made by the Senate, and it is a rule that can be unmade by the Senate.

"By reducing the cloture majority from two-thirds to three-fifths, we can achieve a better balance of the four most important factors involved in our own deliberations: (1) the needs of the modern legislative process; (2) the need for full debate; (3) the rights of the majority; and (4) the rights of the minority. Frequently in past debates, the balance has been obscured. The principle of full debate has been especially misunderstood. No one objects to full debate. No legislation should be rushed through the Senate without ample opportunity for any Senator to discuss the measure,

express his views, and persuade his colleagues. But too often, extended debate has been an euphemism for obstruction; frequently opponents of a measure use the shelter of Rule 22 to block Senate action, long after all relevant arguments have been made, long after all meaningful discussion has taken place, long after any reasonable debate should have been brought to a close.

"I yield to none in my view that the Senate has an obligation to guarantee full debate. But the Senate has no obligation to guarantee that debate will never end. Yet the latter position is the position in which the Senate often finds itself today, under the restrictive operation of Rule 22.

"The crucial question in any filibuster reform proposal is, should a minority of the Senate ever be entitled to obstruct the majority? As a matter of logic, I would answer that question in the negative. I believe that the Senate should operate under the principle of majority rule, except as the Constitution otherwise provides. Majority rule is the heart of our democratic system of government, and it must necessarily be the backbone of our parliamentary procedure in the Senate.

"Although some would argue we should adopt "majority" cloture now, I do not support that position. In the experience of the Senate, generous respect has always been given to the rights of the minority.

"Today, at a time when the two-thirds cloture rule is proving too restrictive for modern Senate business, the most proper step in line with the precedents of the past, is a modest reduction from two-thirds to three-fifths in the majority required to end debate.'

"Finally, Mr. President, a few passages are in order as quotations from the senior Democratic Senator formerly of Minnesota, Walter Mondale, and I quote: 'We must debate, for full discussion is the hallmark of rational consideration. Similarly, and in an equal sense, we must decide, or deliberation is an empty gesture without decision.

"Rule 22, in its present form, has protected the right of debate at the expense of the right to decide. Rule 22 has significantly impaired the ability of this body to function.

"The spectacle of permitting this nation to be paralyzed by a small

group of Senators, who will not accede to the right of the Senate to decide -- as they can properly do under Rule 22 -- will haunt this Senate and this country in the coming Congress unless we are able to amend this rule to permit the Senate to eventually come to decision on great issues that confront our country.'

"Mondale quoted Alexander Hamilton to the effect, 'In those emergencies of a nation, in which the goodness or badness, the weakness or strength of its government, is of the greatest importance, there is commonly a necessity for action. The public business must, in some way or other, go forward.

"The sponsors of this resolution propose, what they sincerely believe to be, a reasonable accommodation of the right to debate and the right to decide.'

"We believe an amendment to Rule 22 providing for cloture upon the vote of three-fifths of those Senators present and voting will sufficiently protect the important rights which Rule 22 was originally intended to protect without paralyzing the U.S. Senate.

"Opponents of change claim, first, to be protecting extended, thorough debate. Few would dispute the importance of debate to the thoughtful execution of the legislative mission. But, as I have pointed out, the right to debate must be harmonized with the right to vote. And even the staunchest opponents of change in the filibuster procedure would not advocate unlimited debate.

"The device (of filibuster) has been used repeatedly by a small group of Senators as a method for stopping action and avoiding compromise on measures which have been carefully considered and which were favored by a vast majority of the members of this body -- from all sections of the country and of all political philosophies -- and by an overwhelming majority of the people of this nation.

"We believe the proposed change adequately protects minority rights within this body, while also preserving the unquestioned right of the majority to take action.'

"Finally, Mr. President, 'It is important to emphasize what the supporters of this change in Rule 22 are not doing. We are not seeking to establish -- nor move toward -- the principle of majority cloture in the

Senate. I believe I can safely say that most of the sponsors of this resolution oppose majority cloture. We value extended debate and minority rights sufficiently to retain a greater-than-majority cloture rule.'

"But, Mr. President, 'Legislation has been defeated, legislation has been delayed, time has been lost, expense has been incurred, and public confidence in and respect for this body has been diminished because of the rule we seek to change today.'

"In closing, Mr. President, I would like to point out a practical consideration in terms of the world of both legislative bodies of this Legislature. If 19 Senators and 51 House members desire to conclude business and go home on time, that is 70 of 76 members of the two houses of this Legislature, and I think there ought to be a device after the extended debate to permit us to do so. Thank you."

Senator Cayetano then rose to speak in favor of the amendment as follows:

"Mr. President, speaking for the amendment and in rebuttal to the previous speaker. Senator Kawasaki, I think, expressed my initial sentiments about the attempt in Senate Resolution No. 9 to reduce the vote required from two-thirds to three-fifths, but after listening to that very long narration of history by the previous speaker, I find myself somewhat amused. I don't think there's anyone here who disagrees with the proposition that we should not have unlimited debate. And I think that most of the history recited by the previous speaker speaks to that point.

"The key, it seems to me, is the question raised by someone the previous speaker quoted. What is magic about two-thirds? Let me turn the question around. What is magic about three-fifths? Apparently, Mr. President, despite all of the eloquent statements made by those great liberals who all of a sudden decided that they would reduce the percentage of the vote needed to close debate, I have a sneaking suspicion, Mr. President, that no amount of history can cover the fact that three-fifths was probably how the votes were divided in the U.S. Senate.

"So, please, let's not clothe your attempts in all of this history and

this eloquence that I'm sure you've practiced long and well last night, my good Senator Cobb. Let's get down to the nitty-gritty of the matter -- three-fifths equals 15. As Senator Carpenter said, it was 14 plus somebody.

"Mr. President, if that is going to be the standard or the measure, then perhaps you should consider 14 of 25, whatever that may come up to. I ask my good friend, Senator Henderson, to figure it out because he is a CPA and I'm not very good at math. It may not come out to a round number like three-fifths, but that may be what you require because of extenuating circumstances. All of this really is unnecessary. It seems to me just totally, totally unnecessary.

"Last year for example, you had the votes to limit debate. You could do it any time...only 13 votes to require to pull that, as I recall, or was it more, I don't remember. But that wasn't done last year; you had the votes. So, if you want to make it three-fifths, terrific. Maybe we should consider going lower -- maybe to majority -- because really the whole principle of limiting debate, I think, has been watered down in all of this unnecessary recitation of history. We thought it'd be a good idea. We ourselves don't believe that two-thirds is really a magic number; but since it was there -- it's been there for the last I don't know how many years, we thought it'd be nice to have it continue."

Senator Toguchi then stated: "Mr. President, I just want to respond to Senator Cayetano's statement and maybe this information might be helpful to you too. Fourteen comes out to exactly 56 percent."

Senator Ajifu rose to a point of personal privilege as follows:

"Mr. President, I'd like to inform the body that 14 plus somebody is me. Mr. President, as you know my name has been mentioned in yesterday's papers as the close ally to you and that I can be counted to vote with you and your Democrat colleagues.

"Mr. President, I would like to inform you and your Democrat colleagues that last night was the Republican Party of Hawaii 'Lincoln Day' dinner. There was a tremendous gathering. We had so many full-fledged Republicans who paid \$150 for their dinner. It was very

enlightening for me; more so, because there were many enlightened Democrats who also paid \$150 for their dinner.

"Mr. President, I guess I was one of the few one-fifth Republicans because I was assessed only one-fifth the price. In any case, Mr. President, I made my reaffirmation to the Republicans that I am still a full-fledged Republican.

"Mr. President, I assume you have 14 votes and in order to impose cloture you will need 15 votes. Mr. President, if that time comes and if I feel that rule should be put into effect for the good of this Senate so that this body can proceed with the business of the people of Hawaii, you can count on me, the 15th vote.

"Mr. President, I'd like to ask you if I have a conflict of interest ... conflict, really. I was informed by Senator Cayetano that he's offering me a T-shirt with number 15 on it."

Senator Carpenter then rose and responded:

"Mr. President, rising in response to the previous speaker. I appreciate his comments because I think around this body, at least over the last five years, when we signified on a committee report 'WR' that meant 'with reservation.' We also, over the past five years, have made that somewhat synonymous with 'with Ralph,' and I think that's appropriate at this time. Thank you."

At this time, the President made the following observation: "The Chair would like to inquire of this body if there are any other people who would like to speak on the amendment."

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

"Mr. President, the Senator (I don't know what district he comes from, Hawaii Kai side...the number kind of eludes me at the moment) apparently recited possibly the detriment that has been part of the operation of the Senate in the past with the existing two-thirds cloture rule. I'd like perhaps...my memory in my old age is beginning to slip...I would like him to recite to me several instances where in this body the two-thirds cloture rule had allowed a filibuster that prevented progressive legislation from being passed or votes being taken on something pretty important on this floor here."

Senator Cobb responded:

"Yes, Mr. President, as recently as last year when the budget came up for third reading, we were unable to vote for it on a timely basis. It went past the deadline because a two-thirds vote could not have been attained. On further research, the last time I recalled a specific instance was in pre-statehood days when a two-thirds vote fell short, but I can recall very clearly last year the state budget on third reading, not final reading, could not be voted upon by the deadline that had been agreed to between the two houses because of extended debate."

Senator Kawasaki then stated:

"Thank you. It just seems to me, Mr. President, that one instance doesn't seem to justify our changing what has been the cloture rule requiring two-thirds vote for all these many years by many predecessor Senate bodies before us. Mr. President, not adopting this amendment seems to me is showing a lack of confidence in each and everyone of us here in this body. It shows a lack of confidence to say that when 8 Senators, in addition to whoever is speaking on the floor at the moment, decide to let that person speak longer, then the 8 Senators are wrong in judgment. I'd like to show some degree of confidence in the judgment of 8 Senators who decide to let that person speak -- their judgment that he is speaking to the point; he is not unnecessarily delaying on taking a vote with irrelevant rhetoric.

"Put it another way, I have confidence enough to think that at least 17 out of the 25 Senators sitting here can decide very intelligently when they will stop the debate or discussion from going on further.

"It seems to me asking for a three-fifths cloture rule is an expression of a lack of confidence in each and every one of us here to make sound judgments. For that reason, I speak again in favor of retention of the two-thirds vote and vote in favor of this amendment."

Senator Abercrombie also rose on a point of inquiry and remarked:

"Point of inquiry first, Mr. President, before I speak. I'd like to know what Senator Cobb is talking about. In his own talk, he mentioned that 19 votes to fix the order of the time of debate. There was no

question about that; there was an argument as to whether that was completed or not, or whether it was understood what took place between the Chair, Senator Toguchi and the rest of us, but that...I want to know...the question Senator Kawasaki put was...is when was there a failure to get two-thirds majority under the previous question or in the instance of a special order...a request for a special order to set a time of limit on debate? Now as I recall, the vote was 19."

Senator Cobb then replied: "Mr. President, to respond to that question, the vote was 19 on final reading of the budget. There was insufficient number for a two-thirds on third reading of the budget."

Senator Abercrombie then continued and stated:

"Thank you, Mr. President. Then, I'll speak in rebuttal. Then what that does is speak of the necessity of keeping the number at two-thirds. I'll refer to the bipartisan necessities that are involved here too. These numbers will change back and forth. Precisely because of circumstances that were so under strain at that time, is a reason why you want to be prudent before you start trying to run things by what constitutes a bare majority or barely a majority of any house. That is precisely why the two-thirds rule is there, so that you take the most sober and considered view before you move on.

"The filibuster is not an issue here. Virtually, the entire commentary by Senator Cobb which followed mine focussed on the filibuster. It is not an issue here. Here, is the issue of cloture, of the two-thirds vote. This amendment does not, I read it right here. It says 'It shall require,' move the previous question... 'It shall require a two-thirds vote to carry it.' It does not say that there shall not be unlimited debate. It does not say that there shall be required of the Senate that it allow a filibuster.

"Virtually, all the discussion by the Senator amounts to a Sophist argument. It has nothing to do with the amendment. The amendment is not to guarantee a filibuster. The amendment is to guarantee that debate will be limited, and that is what the two-thirds vote is all about. In his own remarks, I believe it was his fourth remark, he speaks about words to the effect that the overwhelming majority of Senators, not scarcely a

majority, which is what three-fifths is in this body. And I would point out, I have all the cloture votes here, going back to the year 1919. I know precisely what they are -- 41 of them succeeded. We're talking about a body of 100 people, not 25 people.

"When we talk about two-thirds in here, let's try to keep some perspective about what we're dealing with here. We're dealing in this body, and we must also keep in historical perspective in this state where, in effect there's been one party rule. There has been differences among party, yes. But when you have that kind of majority, you have to protect the capacity for people who have a different point of view to be able to express it. And in expressing it, express it in terms and circumstances that still allow the majority to proceed. If we're to pay attention to the thrust of the remarks of Senator Cobb, you would think that legislation...."

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

"Mr. President, I think it is time we called a stop to the referring of names. If he wants to refer to me, I'm the Senator from the 7th District."

Senator Abercrombie replied: "I'll refer to the Senator from the 7th District."

The Chair then remarked: "That will be the proper address."

Senator Abercrombie continued:

"All right, fine. This is a very good example of what I'm talking about. All of us on this floor, at one time or another, in fact, just prior to my remark, were calling each other by first names, calling each other by name, but now you see, we're going to pay strict adherence to the rules. I beg the Senator's pardon. I'm sorry I called him by name. I'll refer to you in the abstract from now on.

"The good Senator knows that I meant nothing personal in using his given name. Because we have had discussions back and forth, including by the way, a statement of personal privilege in the middle of the debate, I utilized his name to distinguish my reference to those particular remarks. I should have used the number of the district. I don't argue that. But that was well known to the Senator. This is why we have to stick with the kinds of rules that protect ourselves

from exactly these kinds of ideas, exactly this kind of an approach.

"I believe it was the fourth, as I said, the fourth point, overwhelming majority of Senators...overwhelming majority of Senators have never been prevented in this body from conducting their business, or from succeeding in having a vote. They may have been inconvenienced sometimes, so what? What else do we have to do? Is there something more pressing? If you don't want to be inconvenienced, the most convenient way, of course, is you don't even bother to have hearings. You don't even bother to meet. We can do it the way they do it in Iran or in the Soviet Union where they wait around for someone to tell them what is to take place.

"Social legislation, I believe, was the ninth one. It depends on what your version of it is. It depends on what you consider to be an advancement. I quoted Senators in the national body where there was 100 to get the two-thirds, not where you are to get 25, to say they now regret that they took that kind of a stand because they now find that issues in which they have an interest are now subject to the three-fifths cloture, and they regret that.

"The Senator from the 7th District quoted Senator Charles Mathias. Well, maybe he wasn't listening to me quite as closely as I was listening to him. Maybe he forgot and I'll read it again for his edification: 'After the SST filibuster, Senators Alan Cranston (D., Calif.), Frank Church (D., Idaho), and Charles Mathias (R., Md.) announced their support for the two-thirds rule to cut off debate and stop a filibuster instead of the reform measure calling for a simple majority vote which would have been easier to achieve. These and other Senators who formerly opposed the filibuster realized there might come other times when they would need the filibuster and benefit from the stricter rule (two-thirds cloture) before debate could be limited.'

"The very Senator from Maryland that was quoted in support of the Senator from the 7th District's position in favor of lowering the vote to three-fifths recanted his view that it should go to three-fifths and has returned to the fold and now desires that there be a two-thirds vote, and for good reasons. I don't sit, I don't stand, rather, and say, 'Ah ha, Senator Mathias said three-fifths at one time and now he says two-thirds,

in terms of being inconsistent,' but rather his experience showed him that even though he thought that was going to be a reform, that it wasn't working the way it was supposed to and that two-thirds, the historical two-thirds, was all in all the best way to proceed.

"What I'd like to say, finally, has to do with public confidence. There was an allusion in the Senator from the 7th District's remarks to public confidence being diminished. I would maintain that public confidence, yes, might be diminished if we come down to 15 -- that's two more than a majority. In his remarks he indicated that you were not trying to move toward majority cloture. But if you move from two-thirds down to three-fifths, that's exactly what you're doing. You're moving toward majority cloture -- two more than a majority. That doesn't even remotely cover the sense of what a cloture vote is supposed to do with respect to debate.

"So, Mr. President, I will reiterate my plea to this body that you set aside, at least on something as fundamental as the limitation of debate, partisan considerations or personal considerations and that we consider what the good of the body and the context of the values that we've espoused in this nation and in this state are, and vote to retain what we presently have and which has always worked in this body, to my knowledge in the Territorial Legislature, that we retain the two-thirds rule and that we work diligently to abide by that rule so that when the majority has decided it can prevail, provided that it take full recognition by virtue of the two-thirds vote, that any other view will have the opportunity to be fully expressed.

"If you cannot get a two-thirds majority to cut off debate, in other words, Mr. President, I believe debate should continue. And if that requires an extra day, or two days, or whatever it might have to be, then I think that's good because far from diminishing the confidence of the people in our state on what we are doing and what we want to accomplish, it will show that rather than be tied to any arbitrary time, when something is so important that you cannot muster two-thirds, not to pass legislation. That's a majority.

"What cannot muster two-thirds in order that other people might be hurt, that means that something

very, very fundamental and serious is taking place. That's a triumph of democracy. That's not an obstacle to democracy. That's a tribute and a commentary on the vigorosity of the democratic process, not an impediment to the accomplishment of its purpose.

"Thank you."

The motion to adopt Floor Amendment 6 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 8. Noes, 17 (Ajifu, Aki, Chang, Cobb, George, Hagino, Holt, A. Kobayashi, B. Kobayashi, Kuroda, Machida, Mizuguchi, Solomon, Uwayne, Yamasaki, Young and Wong).

Senator Carpenter then moved that Floor Amendment 7 to S.R. No. 9 which was offered on Thursday, February 9, 1984, be adopted, seconded by Senator Toguchi.

At this time, Senator Carpenter rose to explain the amendment and speak in favor of it, as follows:

"Mr. President, very briefly, this amendment proposes a new rule to be added to the promulgated rules before us today. The language is quite succinct. It says, 'The Majority Leader and the Minority Leader shall be responsible for scheduling caucuses for their respective parties on all Third Reading Bills, and on nominations needing the advice and consent of the Senate.'

"Mr. President, this language essentially goes to formalize that which has been tradition here on an intermittent basis. In those years when there have been both minority party and majority party caucuses, sometimes in combination, it has certainly served a very useful purpose. It has improved communications. It certainly improved the understanding of the ultimate impact to the people by every member of this body on such measure, certainly that on final reading, would ultimately pass into law with the signature of the Governor and become the law of the land, which impact would be felt many, many years thereafter.

"And, Mr. President, I note that there is no reference at all in the Senate Rules of an individual called a Minority Leader, so this would be a first insertion. There is only one reference to an individual called a Majority Leader and that is under

Rule 71, section relating to proper addressing of individuals and gives an example of if you were to address an individual by calling that individual the Majority Leader. That is the only reference to either one of these titles, and Mr. President, since it is so important that we not only recognize that we have both minority and majority parties in operation in this Senate, and that since it is quite important that we acknowledge that they are led by certain individuals with certain titles who have great responsibility toward their constituencies, as well as their parties, this language is very clear, very succinct, and I believe certainly ought to be included in our Senate Rules.

"I hope, Mr. President, that our discussions in prior weeks towards the idea of improving communications, of conducting caucuses, I hope on an open basis, can be accommodated not merely by words, but by succinct language in the Senate Rules. Thank you."

Senator Soares rose to speak against the amendment and stated:

"Mr. President, I might surprise this floor by making a few remarks against this rule change and I do with real pride that the Republicans, the Minority in this case on the floor of the Senate, have made it a policy for years to always have Minority caucuses prior to all third reading bills, and I think records will show we even have the opportunity to share our brilliant knowledge of our digests with the Majority, that still will be available. However, I feel that since we are and have been practicing these Minority caucuses, we need not vote for this amendment."

Senator Chang then spoke against the amendment as follows:

"Mr. President, I concur with the previous speaker. The scheduling of party caucuses on any matter should be something that is decided on by the respective parties. For example, Libertarians should not instruct Republicans as to when they should caucus. I recommend a 'no' vote."

Senator Carpenter responded and stated:

"Mr. President, just in brief rebuttal. I do agree with the Minority Floor Leader who is also not mentioned by title in the Senate Rules and do agree that they should not

vote on this measure so they shall forever be nameless, both the Minority Floor Leader as well as the Minority Leader, in the Rules of the Senate. Thank you."

Senator Soares rose in response to the previous speaker and stated:

"Mr. President, I would be remiss not to say that if we remain nameless then how in the world would he come to us and ask for the digest if he needs it."

Senator Carpenter answered: "Very simple, Mr. President, I'd just go to certain nameless folks of this body."

Senator Cobb then stated: "Mr. President, I'll be guilty to remain nameless."

The motion to adopt Floor Amendment 7 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 7. Noes, 18 (Ajifu, Aki, Chang, Cobb, George, Hagino, Holt, A. Kobayashi, B. Kobayashi, Kuroda, Machida, Mizuguchi, Soares, Solomon, Uwaine, Yamasaki, Young and Wong).

Senator Abercrombie then moved that Floor Amendment 8 to S.R. No. 9 which was offered on Thursday, February 9, 1984, be adopted, seconded by Senator Carpenter.

Senator Carpenter rose to explain and speak in favor of this amendment as follows:

"Mr. President, I believe the language is quite succinct. However, to enter the language into the Journal, I'll read it: 'Mediation and Appeal Council,' referring to Section 1, 'There is established a Mediation and Appeal Council whose membership shall consist of the Senate President, Vice-President, Majority Leader, Majority Floor Leader and Majority Policy Leader.'

"When committees of the Senate fail to resolve their differences over a bill for which each committee has been referred to by the President, any committee, through its chairman, may make application to the Council to resolve and decide any differences on the bill. On the General Appropriations Bill and the Supplemental Appropriations Bill, any Standing Committee, through its chairman, may make application to the Council to resolve and decide any differences with the Ways and Means

Committee to budget recommendations that the Standing Committee has made for programs under their jurisdiction.'

"Mr. President, I believe the language is self-explanatory. We could perhaps argue structure of the language, but in essence, Mr. President, a consensus of the Democratic caucus, I believe, agreed to the idea and basically what this does, Mr. President, is to convert that idea into an action format to assure all members of this body that there is an appeal mechanism within the structure of the Rules of the Senate. Thank you."

Senator Chang spoke against the amendment, as follows:

"Mr. President, my understanding is that you and the leadership of the Senate at this time are planning to establish a mediation and appeal procedure under Rule 3 (17) which will involve leadership participation, very similar to that proposed by this amendment. I believe that the leadership should be provided with the opportunity to experiment with the procedure and determine the most appropriate procedure for this Senate. This proposed amendment would establish a procedure which may turn out to be inadequate or inappropriate, and for this reason I recommend a 'no' vote."

Senator Carpenter then responded and stated:

"Mr. President, recognizing that the previous speaker has addressed certain language that is proposed in the main motion to promulgate, mediate and appeal procedures to resolve differences between two or more standing committees on the same bill, but of general, Mr. President, as I said before, our language is more succinct, again puts in the structure of the Senate Rules such names that are presently absent in terms of leadership construction, such as majority leader, majority floor leader, and majority policy leader, who are also presently unnamed, except in use as an example for addressing purposes.

"Mr. President, the leadership of the majority party has always had the burden of the ultimate appeal. And the leadership has always had the responsibility to sort out differences within that party. Mr. President, all this does is to identify those leaders and attach the responsibility that goes with the authority they possess

in other than ambiguous language, as is proposed in the main motion. Thank you."

Senator Cobb then rose and stated:

"Very briefly, Mr. President. The naming of the majority leader or minority or anyone holding a titled leadership within the respective party is more a matter of caucus rule than it would be a Senate rule. I think the idea of a mediation council is a good one, but when we get down to the enumeration of all of these various types of party leaders, that is more properly a matter of caucus rule."

The motion to adopt Floor Amendment 8 was put by the Chair and, Roll Call vote having been requested, failed to pass on the following showing of Ayes and Noes:

Ayes, 6. Noes, 19 (Ajifu, Aki, Chang, Cobb, George, Hagino, Henderson, Holt, A. Kobayashi, B. Kobayashi, Kuroda, Machida, Mizuguchi, Soares, Solomon, Uwaine, Yamasaki, Young and Wong).

At this time, the Chair stated:

"Before proceeding to the main amendment for the adoption of rules, are there any floor amendments any Senator has to offer? If there are none, Mr. Clerk, would you call the roll. This is for the adoption of...."

Senator Carpenter inquired:

"Mr. President, on Rule No. 15 on the main motion, the language reads...excuse me, I guess that would be Rule 3, item 17...the language reads as I see it, 'To promulgate mediation and appeal procedures to resolve differences between two or more standing committees on the same bill.' Is that the language that would be inserted?"

The Chair replied: "I believe that's correct, Senator."

Senator Carpenter further inquired:

"The Senator from the 7th District alluded to something called 'caucus rules.' Maybe I've been missing something over the last five years in this body. Is there such a thing as a promulgated set of caucus rules?"

The Chair answered: "Senator Carpenter, that's an inquiry. The Chair would allow it but the vote has already been taken on the issue, but if the Senate...."

Senator Carpenter interjected and stated: "I understand, Mr. President, but there's the main motion in the language as presented."

Senator Cobb then responded and stated: "Mr. President, we've had caucus rules in the past either in writing or by verbal agreement of all the caucus members present. I'm hopeful we'll have some again this year, and given the opportunity to participate in the development of such rules, I'd very much like to do so."

Senator Carpenter remarked: "Thank you for indulging me. You're essentially saying that we do not have a set of promulgated, written caucus rules."

Senator Cobb further stated: "Mr. President, there is not any caucus rules in writing for the 1984 session; however, I am hopeful that given an opportunity, we will. In past sessions we have, either in writing or by verbal agreement of all Senators present."

Senator Carpenter inquired: "Since 1979?"

Senator Cobb then replied: "I believe we had an agreement made in caucus relative to the conduct of operations of the Senate that would constitute a rule of the caucus. I don't believe it's been in writing since 1979, and I've always been an advocate of written caucus rules."

Senator Carpenter answered: "Thank you. I know you have been an advocate, and I agree with you that we have not had it in writing in the last five years."

Senator Cayetano then stated and asked: "Mr. President, as you know we are totally surprised that our amendments have been defeated. Before we vote on the main motion, may we have a short recess?"

At 3:00 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:05 o'clock p.m.

Senator Cayetano then inquired: "Mr. President, are we having discussion on the motion now?"

The Chair answered: "We're at the main motion where we're prepared to take a vote."

Senator Cayetano stated and further

inquired: "All right. Is discussion appropriate?"

The Chair replied: "Certainly."

Senator Cayetano continued and stated:

"Mr. President, I'm going to vote against the motion, but in doing so I want to express appreciation for the Majority's incorporating many of the reforms that we have proposed. Not all of them are in the language that we have asked for, but I think in context and in principle most of them are in there, and I think that in the long run all of us will find that they would be good for the Senate. I am going to vote 'no' however, because of the three-fifths cloture rule. That is my main objection to the main motion.

"In closing, I'd like to say you informed me this morning, at the beginning of the session, that a communication was made to my office by your staff yesterday to inform us of the 11:00 a.m. caucus this morning. I believe that some of your members showed up at the caucus and none of us showed up. Let me state at the very outset that I checked with my office and apparently there was some miscommunication. Our lack of presence at the caucus was not to insult anyone or indicate an unwillingness to discuss the amendments proposed, but rather the result of that miscommunication. I thought that I would express that to you now, rather than at the beginning of the proposed amendments so that there would be no misunderstanding."

The Chair then finally asked and stated: "Is there any further discussion?"

"Members of the Senate, the motion is to adopt the Rules as proposed."

The motion was put by the Chair and, Roll Call vote having been requested, S.R. No. 9, entitled: "AMENDING THE RULES OF THE SENATE OF THE TWELFTH LEGISLATURE OF THE STATE OF HAWAII." was adopted on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Abercrombie, Carpenter, Cayetano, Fernandes Salling, Henderson, Kawasaki, Soares and 'oguchi).

ORDER OF THE DAY

REFERRAL OF SENATE BILLS

Senate Bills	Referred to:
No. 1693-84	Committee on Transportation
No. 1694-84	Committee on Consumer Protection and Commerce
No. 1695-84	Committee on Consumer Protection and Commerce
No. 1696-84	Committee on Economic Development, then to the Committee on Ways and Means
No. 1697-84	Committee on Human Resources, then to the Committee on Ways and Means
No. 1698-84	Committee on Judiciary
No. 1699-84	Committee on Human Resources, then to the Committee on Ways and Means
No. 1700-84	Committee on Tourism
No. 1701-84	Committee on Judiciary
No. 1702-84	Committee on Consumer Protection and Commerce
No. 1703-84	Committee on Legislative Management
No. 1704-84	Committee on Housing and Urban Development
No. 1705-84	Committee on Housing and Urban Development
No. 1706-84	Committee on Transportation, then to the Committee on Ways and Means
No. 1707-84	Committee on Housing and Urban Development
No. 1708-84	Committee on Government Operations and County Relations
No. 1709-84	Committee on Judiciary, then to the Committee on Ways and Means
No. 1710-84	Committee on Housing and Urban Development
No. 1711-84	Committee on Housing and Urban Development
No. 1712-84	Committee on Housing and Urban Development
No. 1713-84	Committee on Housing and Urban Development

No. 1714-84	Committee on Tourism	No. 1736-84	Committee on Judiciary, then to the Committee on Ways and Means
No. 1715-84	Committee on Judiciary	No. 1737-84	Committee on Judiciary
No. 1716-84	Committee on Consumer Protection and Commerce	No. 1738-84	Committee on Judiciary
No. 1717-84	Committee on Consumer Protection and Commerce	No. 1739-84	Committee on Judiciary, then to the Committee on Ways and Means
No. 1718-84	Committee on Housing and Urban Development, then to the Committee on Ways and Means	No. 1740-84	Committee on Consumer Protection and Commerce
No. 1719-84	Committee on Ways and Means	No. 1741-84	Committee on Consumer Protection and Commerce
No. 1720-84	Committee on Transportation, then to the Committee on Ways and Means	No. 1742-84	Committee on Consumer Protection and Commerce, then to the Committee on Ways and Means
No. 1721-84	Committee on Transportation	No. 1743-84	Committee on Consumer Protection and Commerce, then to the Committee on Ways and Means
No. 1722-84	Committee on Human Resources, then to the Committee on Ways and Means	No. 1744-84	Committee on Consumer Protection and Commerce
No. 1723-84	Committee on Human Resources	No. 1745-84	Committee on Consumer Protection and Commerce
No. 1724-84	Committee on Judiciary	No. 1746-84	Committee on Consumer Protection and Commerce
No. 1725-84	Committee on Judiciary	No. 1747-84	Committee on Consumer Protection and Commerce
No. 1726-84	Committee on Judiciary	No. 1748-84	Committee on Consumer Protection and Commerce
No. 1727-84	Committee on Human Resources, then to the Committee on Ways and Means	No. 1749-84	Committee on Judiciary
No. 1728-84	Committee on Judiciary, then to the Committee on Ways and Means	No. 1750-84	Committee on Transportation, then to the Committee on Ways and Means
No. 1729-84	Committee on Judiciary	No. 1751-84	Committee on Human Resources, then to the Committee on Ways and Means
No. 1730-84	Committee on Judiciary, then to the Committee on Ways and Means	RE-REFERRAL OF GOVERNOR'S MESSAGES	
No. 1731-84	Committee on Consumer Protection and Commerce, then to the Committee on Ways and Means	The President made the following re-referral of Governor's Messages that were received in the Regular Session of 1984:	
No. 1732-84	Committee on Judiciary	Governor's Message	Referred to:
No. 1733-84	Committee on Judiciary	No. 5	Committee on Housing and Urban Development
No. 1734-84	Committee on Judiciary	No. 39	State Conservation Lands Plan to the Committee on
No. 1735-84	Committee on Judiciary		

Economic Development;		No. 135	Committee on Economic Development
State Historic Preservation Plan to the Committee on Tourism; and		No. 136	Committee on Economic Development
State Recreation Plan to the Committee on Tourism		No. 142	Committee on Economic Development
No. 46	Committee on Human Resources	No. 249	Committee on Economic Development
No. 51	Committee on Education	No. 311	Committee on Economic Development
No. 54	Committee on Housing and Urban Development	No. 424	Committee on Tourism, then to the Committee on Ways and Means
No. 80	Committee on Health	No. 426	Committee on Human Resources
No. 82	Committee on Human Resources	No. 430	Committee on Education
No. 85	Committee on Government Operations and County Relations	No. 503	Committee on Housing and Urban Development
No. 96	Committee on Education	No. 606	Committee on Tourism
No. 97	Committee on Health	No. 615	Jointly to the Committee on Tourism and the Committee on Housing and Urban Development
No. 102	Committee on Human Resources		

RE-REFERRAL OF
SENATE CONCURRENT RESOLUTIONS

The President made the following re-referral of Senate Concurrent Resolutions that were offered on Thursday, February 2, 1984, and on Tuesday, February 7, 1984, respectively:

Senate Concurrent Resolutions	Referred to:
No. 4	Committee on Tourism
No. 7	Committee on Government Operations and County Relations

RE-REFERRAL OF
SENATE BILLS

The President made the following re-referral of bills that were introduced in the Regular Session of 1983:

Senate Bills	Referred to:
No. 118	Committee on Housing and Urban Development
No. 120	Committee on Housing and Urban Development

No. 135	Committee on Economic Development
No. 136	Committee on Economic Development
No. 142	Committee on Economic Development
No. 249	Committee on Economic Development
No. 311	Committee on Economic Development
No. 424	Committee on Tourism, then to the Committee on Ways and Means
No. 426	Committee on Human Resources
No. 430	Committee on Education
No. 503	Committee on Housing and Urban Development
No. 606	Committee on Tourism
No. 615	Jointly to the Committee on Tourism and the Committee on Housing and Urban Development
No. 654	Committee on Housing and Urban Development
No. 662	Committee on Tourism
No. 692	Committee on Health, then to the Committee on Ways and Means
No. 710	Committee on Health, then to the Committee on Ways and Means
No. 728	Committee on Health, then to the Committee on Ways and Means
No. 754	Committee on Economic Development, then to the Committee on Ways and Means
No. 759	Committee on Tourism, then to the Committee on Ways and Means
No. 766	Committee on Economic Development
No. 802	Committee on Tourism
No. 847	Jointly to the Committee on Tourism and the

	Committee on Housing and Urban Development, then to the Committee on Ways and Means		Committee on Ways and Means
No. 860	Committee on Human Resources	No. 1307	Committee on Government Operations and County Relations
No. 909	Committee on Economic Development	No. 1309	Committee on Housing and Urban Development
No. 913, S.D. 1	Committee on Tourism	No. 1318	Committee on Human Resources
No. 928	Committee on Tourism, then to the Committee on Ways and Means	No. 1343	Committee on Education
No. 946	Committee on Health	No. 1344	Committee on Education
No. 951	Committee on Education	No. 1345	Committee on Education
No. 964	Committee on Economic Development	No. 1346	Committee on Education
No. 986	Committee on Housing and Urban Development	No. 1347	Committee on Economic Development
No. 1017	Committee on Health, then to the Committee on ways and Means	No. 1348	Committee on Economic Development
No. 1023	Committee on Economic Development	No. 1349	Committee on Tourism
No. 1103	Committee on Tourism	No. 1350	Committee on Health
No. 1176	Committee on Health, then to the Committee on Ways and Means	No. 1352	Committee on Tourism
No. 1232	Committee on Human Resources	No. 1398	Committee on Government Operations and County Relations
No. 1260	Committee on Housing and Urban Development	No. 1399	Committee on Government Operations and County Relations
No. 1262	Committee on Economic Development	No. 1400	Committee on Housing and Urban Development
No. 1263	Committee on Housing and Urban Development	No. 1401	Committee on Housing and Urban Development
No. 1278	Committee on Housing and Urban Development	No. 1402	Committee on Housing and Urban Development
No. 1280	Committee on Economic Development	No. 1403	Committee on Housing and Urban Development
No. 1281	Committee on Economic Development, then to the Committee on Consumer Protection and Commerce	No. 1404	Committee on Housing and Urban Development
No. 1296	Committee on Education	No. 1487	Committee on Human Resources
No. 1304	Committee on Economic Development, then to the	No. 1488	Committee on Human Resources
		No. 1489	Committee on Human Resources
		No. 1490	Committee on Human

Resources
No. 1491 Committee on Human Resources

The President then made the following re-referral of bills that were introduced on Wednesday, February 1, 1984:

Senate Bills Referred to:
No. 1495-84 Committee on Education
No. 1510-84 Committee on Government Operations and County Relations
No. 1511-84 Committee on Government Operations and County Relations
No. 1575-84 Committee on Human Resources
No. 1576-84 Committee on Human Resources
No. 1600-84 Committee on Tourism, then to the Committee on Ways and Means
No. 1604-84 Committee on Health, then to the Committee on Ways and Means
No. 1605-84 Committee on Education
No. 1609-84 Committee on Human Resources
No. 1619-84 Committee on Economic Development

The President then made the following re-referral of a bill that was introduced on Monday, February 6, 1984:

Senate Bill Referred to:
No. 1662-84 Committee on Health, then to the Committee on Ways and Means

The President then made the following re-referral of bills that were introduced on Tuesday, February 7, 1984:

Senate Bills Referred to:
No. 1682-84 Committee on Housing and Urban Development
No. 1686-84 Committee on Government Operations and County Relations

RE-REFERRAL OF HOUSE BILLS

The President made the following re-referral of House Bills that were received in the Regular Session of 1983:

House Bills Referred to:

No. 73,
H.D. 1 Jointly to the Committee on Health and the Committee on Education
No. 179,
H.D. 2 Committee on Economic Development
No. 233 Committee on Government Operations and County Relations
No. 249,
H.D. 1 Committee on Economic Development
No. 549 Committee on Economic Development
No. 871,
H.D. 1 Committee on Economic Development
No. 887,
H.D. 2 Committee on Health
No. 1120,
H.D. 1 Committee on Housing and Urban Development
No. 1571,
H.D. 2 Committee on Housing and Urban Development

Senator Abercrombie rose and stated:

"Mr. President, a request to the Chair. I take it that Rule 71 is still in force on decorum and address. Inasmuch as the Reapportionment Commission has changed all these numbers and districts around and apparently is going to do it again, and you put forward what your committees are, in order to avoid a situation that just took place in remarks I was making when one of the Senators apparently found cause to rise and interrupt me, I'd like to have on my desk, instead of a vote tally, I would like to have everyone's name, district with their number, and whether or not they are the committee chairmen, and whether or not they are an officer of the body, so that any time any of us are speaking on the floor we will be able to make the correct designation."

The Chair replied: "The Chair will consider your request."

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

"Mr. President, in the interest of keeping facts straight involving any issue on the Senate of the State of Hawaii and in fairness to you and the other good friends of mine in this body who happen to be on the other side of this controversy, I'd like to state for the record that there was an erroneous impression given by the evening paper, inadvertently.

"The impression given in the article was that after our failure to reconcile the two groups in the Democrat Majority that there was a complaint registered where the prevailing side under your leadership had not given anyone on our side a chance to serve on the leadership. That was not quite the truth. People didn't quite have all the facts on that point.

"I want to say for the record and to everyone concerned that I appreciated the fact that you, as president, my friend on the right of me, Senator Uwayne, and Senator Kuroda had approached me many times during our long protracted disagreement period, asking me to serve as vice-president of the Senate. I declined the offer for my own reasons, but I did want to correct the record so that erroneous impressions would not prevail."

Senator Abercrombie then stated: "A question for the chairman of the Ways and Means Committee, Mr. President, if he would yield. It has to do with..." "

The Chair interjected: "I'll yield, if the question is addressed to me."

Senator Abercrombie then inquired: "Well, okay. I'll address it to the Ways and Means chairman or perhaps you can indicate. Is there a date upon which recommendations by subject matter committees, vis-a-vis the budget, must be before the Ways and Means Committee? Has that been arrived at now that you have your committees set up?"

The Chair answered: "Yes, I believe there's a timetable that we're still adhering to."

Senator Abercrombie further asked: "We have a timetable, and that is still the one that's operating?"

The Chair then replied: "That's the one that has been signed by the House and the Senate in terms of operation, as well as the Senate's own internal timetable."

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

"Mr. President, I'd like to ask if the chairman of Ways and Means would yield to a question, and maybe I can ask the question before he yields. Basically, we want to know if there has been established a deadline for committee chairs to submit their budget to Ways and Means, and what is that deadline? By when do the subject matter chairs have to submit their budget worksheets to the Ways and Means Committee?"

The Chair asked the Chairman of Ways and Means if he would yield to a question and Senator Yamasaki answered in the affirmative then said: "Mr. President, I'm not too sure that we have established that deadline yet because of the problem we had on the rules."

Senator Toguchi further inquired of the Chair: "Mr. President, can I now interpret that as no deadlines have been set yet as far as...."

The Chair interjected: "The Senate's timetable...."

Senator Toguchi continued: "I'm referring to, as far as when the subject matter committee chair would have to submit...."

The Chair again interjected: "I think the answer is if the Chair gave you that impression, I stand corrected because the Senate timetable, because of the Rules, have not been established yet. It will be by, let's say, Tuesday of next week."

Senator Toguchi responded: "Okay, since there is no deadline as far as we know."

The Chair remarked: "Not that I know of."

At this time, Senator Abercrombie rose on a point of inquiry and stated:

"Mr. President, there's been various announcements for committee hearings and so on. You asked for announcements and I'm at a little bit of a loss because I assume then you're through unless you have an announcement about committees. I would like to know whether that has

been concluded."

The Chair answered: "Yes, the Chair will make the announcement following all the announcements, discussions, points of personal privilege."

Senator Soares also rose on a point of inquiry and stated:

"Mr. President, yesterday afternoon I asked you a question regarding the resolution you had referred to the Human Resources Committee and you told me to ask it today as to when a hearing might be held on the resolution."

The Chair then replied: "Senator Soares, I have referred your question to the chairman of the Human Resources Committee. Perhaps he can answer it better than I can."

Senator Mizuguchi rose and stated:

"Mr. President, I will be more than glad to answer the Minority Floor Leader's question. The resolutions that he referred to, for the information of all Senators, is a resolution urging the State Office of Collective Bargaining and the five public employee unions to return to the bargaining table.

"Let me preface my answer by saying that I believe that all Senators who are in the chamber are very concerned about the strike that seems to be imminent, and we're all concerned about the negative ramifications and effects that a strike may have on the citizens of this state. And I think that all of us here hope that management and labor will return to formal negotiations and be able to reach a settlement.

"However, as chairman of the Human Resources Committee I am not considering placing these two resolutions on the agenda for a hearing. I do this because I have it from good authority that management and the respective public employee unions are now conducting informal discussions pertaining to the negotiations, and they are very close in coming together to assume formal negotiations and continue negotiations to try to avoid a strike. For this reason I believe that any legislative expression at this time is inappropriate and would not be productive.

"Thank you, Mr. President."

Senator Soares then stated:

"Mr. President, responding to the

previous speaker's statement, I do want to make it very clear that it is not a move on my part or the Minority here, to embarrass or to put the chairman in a situation that will be very unfair. I think the main point that we want to make is that in the body of the resolution we were very, very careful to avoid any implication that we wanted to intervene or become involved in the overall process. We do believe that the hope that we build and the basic thrust of the resolution expresses concern on our part that things do happen, that they are rolling along, and I think it's a matter of watching and seeing what happens."

At this time, the Chair made the following announcements:

"The Chair would like to make several announcements. First of all, the Chair would like to remind all Senators that next week Tuesday is the cut-off date for bill introduction. If you have any bills that are ready for introduction, please turn them in sometime this afternoon before you leave the building. We would like to be able to have them numbered and printed over the weekend so as to minimize the last minute rush and logjam on Tuesday.

"With reference to committee assignments and re-referrals, distribution will be made to all of the Senators following the adjournment of this session, and assignment for various committees have been made and will be in your offices probably in about 15 or 20 minutes after the adjournment.

"I think it is appropriate at this time for the Chair to thank all of the Senators for their patience today. It's been a long day. I thought the debate went well. The results may not have been to the satisfaction of the people proposing amendments but they had the chance to say what they wanted. I thought the debate was very properly carried out, and I hope that this sets the tone for all our future discussions on measures of importance to our state."

Senator Kawasaki rose on a point of inquiry: "Mr. President, by your comments just now, are you saying that perhaps we didn't need the change of the cloture rule at all?"

The Chair replied: "I can address that at another time.

"Again, the Chair appreciates the patience and the way in which the Rules debate was carried out."

ADJOURNMENT

At 3:20 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, February 13, 1984.