

## FORTY-SEVENTH DAY

Monday, April 2, 1984

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, convened at 10:20 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Mr. L. Graeme McIntosh of the Christian Science Society of Hawaii, after which the Roll was called showing all Senators present.

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

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 272 to 275) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 272), transmitting the Annual Report of the Public Utilities Commission for Fiscal Year 1982-1983, pursuant to Act 165, SLH 1976, was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 273), informing the Senate of the withdrawal of the nominations of Donald D. Chapman and Cesar Portugal to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, terms to expire December 31, 1987, under Gov. Msg. No. 129, was placed on file.

In compliance with Gov. Msg. No. 273, the nomination listed under Gov. Msg. No. 129 was returned.

A message from the Governor (Gov. Msg. No. 274), submitting for consideration and confirmation to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, the nomination of Donald D. Chapman, term to expire December 31, 1987, was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 275), submitting for consideration and confirmation to the Kauai County Subarea Health Planning Council, the nomination of Charles K. Fu, term to expire December 31, 1984, was referred to the Committee on Health.

The following communications from the House (Hse. Com. Nos. 334 to 342) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 334), returning Senate Bill No. 1503-84, which passed Third Reading in the House of Representatives on March 30, 1984, was placed on file.

A communication from the House (Hse. Com. No. 335), returning Senate Bill No. 1520-84, S.D. 2, which passed Third Reading in the House of Representatives on March 30, 1984, was placed on file.

A communication from the House (Hse. Com. No. 336), returning Senate Bill No. 1525-84, S.D. 1, which passed Third Reading in the House of Representatives on March 30, 1984, was placed on file.

A communication from the House (Hse. Com. No. 337), returning Senate Bill No. 1546-84, S.D. 1, which passed Third Reading in the House of Representatives on March 30, 1984, was placed on file.

A communication from the House (Hse. Com. No. 338), returning Senate Bill No. 1675-84, which passed Third Reading in the House of Representatives on March 30, 1984, was placed on file.

A communication from the House (Hse. Com. No. 339), returning Senate Bill No. 2183-84, S.D. 2, which passed Third Reading in the House of Representatives on March 30, 1984, was placed on file.

A communication from the House (Hse. Com. No. 340), returning Senate Bill No. 1509-84, S.D. 1, which passed Third Reading in the House of Representatives on March 30, 1984, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 1509-84, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF CERTAIN PERSONS UNDER THE CRIMINAL INJURIES COMPENSATION ACT AND PROVIDING APPROPRIATIONS THEREFOR," was deferred until Tuesday, April 3, 1984.

## HOUSE COMMUNICATIONS

A communication from the House

(Hse. Com. No. 341), returning Senate Bill No. 1718-84, S.D. 1, which passed Third Reading in the House of Representatives on March 30, 1984, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 1718-84, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY," was deferred until Tuesday, April 3, 1984.

A communication from the House (Hse. Com. No. 342), returning Senate Bill No. 2213-84, which passed Third Reading in the House of Representatives on March 30, 1984, in an amended form, was placed on file.

By unanimous consent, action on S.B. No. 2213-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," was deferred until Tuesday, April 3, 1984.

#### SENATE RESOLUTION

A resolution (S.R. No. 86), entitled: "SENATE RESOLUTION REQUESTING A MORATORIUM ON LEASE RENT INCREASES FOR RESIDENTIAL HOUSELOTS AND AN INTERIM STUDY," was offered by Senator Young.

By unanimous consent, S.R. No. 86 was referred to the Committee on Housing and Urban Development, then to the Committee on Legislative Management.

#### STANDING COMMITTEE REPORT

Senator B. Kobayashi, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 628-84) recommending that the Senate advise and consent to the nomination of Herbert S. Tsuda to the State Highway Safety Council, in accordance with Governor's Message No. 223.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 628-84 and Gov. Msg. No. 223 was deferred until Tuesday, April 3, 1984.

At 10.26 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:43 o'clock a.m.

#### ORDER OF THE DAY

#### THIRD READING

House Bill No. 1632-84:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1632-84, entitled: "A BILL FOR AN ACT RELATING TO INTEREST," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2020-84, S.D. 1:

By unanimous consent, action on H.B. No. 2020-84, S.D. 1, was deferred to the end of the calendar.

House Bill No. 267, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 267, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONTROL OF PETROLEUM PRODUCTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2110-84, H.D. 2:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2110-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FILMMAKING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2261-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2261-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1747-94, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1747-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1753-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1753-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MEMBERSHIP OF THE HAWAII FISHERIES COORDINATING COUNCIL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1757-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1757-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MARINE AFFAIRS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2139-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2139-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOORING OF COMMERCIAL CATAMARANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1432, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1432, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FACTORY-BUILT HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1571, H.D. 2, S.D. 1:

Senator Cobb moved that H.B. No. 1571, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Fernandes Salling then rose to inquire if the chairman of the Housing and Urban Development Committee would yield to a question.

The Chair posed the question and Senator Young having answered in

the affirmative, Senator Fernandes Salling asked: "Mr. President, do we know how many people will be affected by this bill?"

Senator Young answered: "Mr. President, presently, there are about 41 positions affected. They are on temporary basis. The 41 positions, throughout the various programs such as developing, implementing and managing programs and projects, housing and agricultural development, financing and real estate planning, are positions under contractual basis for a period of six years. These people won't be able to continue this employment at the seventh year."

Senator Fernandes Salling continued: "Mr. President, I will support this bill with some reservations.

"I feel that it is important for us to know, as the chairman has advised us today, how many people will be affected by this bill. I'm quite alarmed at the number of people that are under contract with the department, but because no one can be allowed to extend the contract without the approval of the Governor, I will support this measure."

Senator Kawasaki then rose to speak against the measure as follows:

"Mr. President, I speak against passage of this bill, primarily, because I think the six-year contractual limitation is a reasonable limitation.

"Certainly, if an employee in the Hawaiian Homes Commission program has proven his ability and what not, there's nothing to prevent, with the Governor's approval, an extension of that contractual period.

"However, if you happen to find someone who is not quite up to standard, not quite up to snuff, sometimes a prolongation of the six-year term just might hamper the director from having the flexibility to replace that person after six years.

"Let's assume that the contractual period runs beyond that, then at the end of six years the director or the administrator has no opportunity to replace that person, short of a gross neglect of his duties.

"So, I would support the status quo, which is to say, a six-year limitation. And, if the employee is good, then the director certainly can ask the Governor for approval for an

extension of that six-year period."

Senator Young then responded: "Mr. President, this is what the bill does.

"Any time after the fifth year, many of these temporary employees, because they know that they cannot continue on after the sixth year, and they leave after the fifth year and seek other more permanent positions, which leaves many programs in jeopardy.

"All this bill is saying is that after the sixth year, the director has the discretion to extend the contract. Without this bill, many people are leaving at the fifth year and, usually, at the sixth year, for greener fields and more secure positions."

The motion was put by the Chair and carried, and H.B. No. 1571, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

House Bill No. 2192-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2192-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2193-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2193-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2194-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and

carried, H.B. No. 2194-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2195-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2195-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2597-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2597-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2108-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2108-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING REGULATIONS," was deferred to the end of the calendar.

House Bill No. 1892-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1892-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMES AGAINST PUBLIC ADMINISTRATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1848-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1848-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SEPARATE

PROPERTY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1842-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1842-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SEPARATE MAINTENANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1989-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1989-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PATERNITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1816-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1816-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL HYGIENISTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1777-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1777-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 26H, HAWAII REGULATORY LICENSING REFORM ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1815-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1815-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," having been read throughout, passed Third Reading on the following showing of

Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1878-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1878-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND SALES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1788-84:

By unanimous consent, action on H.B. No. 1788-84, entitled: "A BILL FOR AN ACT RELATING TO ITINERANT VENDORS," was deferred to the end of the calendar.

House Bill No. 2396-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2396-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 500-84 (H.B. No. 537, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 500-84 was adopted and H.B. No. 537, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL INSTITUTION RECORDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 501-84 (H.B. No. 654, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 501-84 was adopted and H.B. No. 654, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ACQUISITION OF VOTING STOCK BY FOREIGN INVESTORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2028-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2028-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PSYCHOLOGISTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Soares).

Standing Committee Report No. 503-84 (H.B. No. 1906-84, H.D. 1, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 503-84 and H.B. No. 1906-84, H.D. 1, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 504-84 (H.B. No. 1727-84, H.D. 1, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 504-84 was adopted and H.B. No. 1727-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FEED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 505-84 (H.B. No. 271, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 505-84 was adopted and H.B. No. 271, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PLANNING ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 506-84 (H.B. No. 1905-84, H.D. 1, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 506-84 and H.B. No. 1905-84, H.D. 1, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 507-84 (H.B. No. 2402-84, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 507-84 was adopted and H.B. No. 2402-84,

S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST UTILITIES SERVING THE GENERAL PUBLIC," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 508-84 (H.B. No. 1921-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 508-84 was adopted and H.B. No. 1921-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL PRIORITY FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 11:01 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:05 o'clock a.m.

House Bill No. 2527-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2527-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki rose to speak against the measure as follows:

"Mr. President, I'm voting 'no' on this bill because I think this is too much of a concession to the local banks, who unlike banks in the other states and, particularly the State of New York, are doing fine from the standpoint of assets growth...growth of deposits and bottom line net profits.

"I am not so idealistic to think that my discussion here is going to change the votes here. I know this bill is going to pass, but I trust that the banks, because they are going to save quite a bit of money with this bill passing, that some of that savings and some of the earnings that they can derive out of the language of the bill will be passed on to the bank consumers.

"I notice a trend, particularly with all the banks here, of charging you for practically everything that was

formerly free. As a matter of fact, if you overdraw on your checking account, there is a charge of \$10 on every check that you overdraw.

"So, I think that savings that come about as a result of statute that we pass here should be, at least a portion of that, should be passed on to the people who are the clients of the banks. I am curious to see what happens with the additional earnings that the banks are going to enjoy. I hope that some of that will dribble down to the ordinary clients of the banks."

Senator Carpenter also rose to speak against the measure as follows:

"Mr. President, in the second paragraph of the committee report, the last sentence, 'Under this provision, banks will be able to take assets already on their books and put them to more productive use.'

"I believe that on the one hand the banks certainly are being relieved of some of the pressures required by our security deposits; on the other hand, they will indeed gain from the assets and put them to more productive use.

"But, Mr. President, nowhere in this bill does it speak to a greater return on the investment for one of the largest depositors in this state, if not the single largest, with three-quarters of a billion dollars at any point in time as gains to either depositors or, in this particular case, to the taxpayers of the State of Hawaii through whose means these revenues come about.

"Mr. President, I believe that there should be some language, at least in the committee report, attesting to whatever gains should certainly be passed on to the taxpayers of the State of Hawaii. I would hope that that can be discussed at a future date, should there be a conference committee on this particular bill.

"Thank you very much."

Senator Kawasaki then rose to ask: "Mr. President, could I ask the chairman of the committee from which this bill emanated, what is the average going rate of interest paid to the state on these tremendous deposits that are in the large banks?"

The Chair posed the question to the chairman of the Ways and Means Committee, to which he replied: "Mr. President, I don't have those figures at the moment."

The motion was put by the Chair and carried, and H.B. No. 2527-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEPOSITS OF PUBLIC FUNDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Abercrombie, Carpenter, Fernandes Salling and Kawasaki).

Standing Committee Report No. 510-84 (H.B. No. 1956-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 510-84 was adopted and H.B. No. 1956-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 511-84 (H.B. No. 1976-84, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 511-84 was adopted and H.B. No. 1976-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PATIENT EMPLOYMENT PROGRAM AT FACILITIES FOR THE TREATMENT OF PERSONS SUFFERING FROM HANSEN'S DISEASE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 512-84 (H.B. No. 2294-84, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 512-84 and H.B. No. 2294-84, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 513-84 (H.B. No. 2612-84, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 513-84 and H.B. No. 2612-84, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 514-84 (H.B. No. 1811-84, H.D. 1, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 514-84 be adopted and H.B. No. 1811-84, H.D. 1, S.D. 1,

having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie then rose to speak in support of the measure as follows:

"Mr. President, I will vote for this bill but I want to register my view with respect to some of the elements in it and what it represents from a philosophical point of view. And, I hope that the Board of Regents will take the views into account and that we might address this issue again after some experience over the next year.

"If the members would look at page 3, we see, 'East-West Center student grantees pursuing baccalaureate or advanced degrees....'

"Some members may recall from days past when the East-West Center was only too anxious to get out of the University of Hawaii, take full advantage of whatever was available at the University of Hawaii, but separate itself out from the activities to the University, other than in such a manner as in their minds that the East-West Center strictly benefited them, and has pursued this separate course, and now we find ourselves having to make this exception for them because, otherwise, students from our own country would be discriminated against.

"I find this...well, in other circumstances, quite frankly, would be extortion. But this is from my point of view, not untypical of the way the East-West Center operates.

"As far as the Board of Regents is concerned, I think the cooperation with the East-West Center is primarily a one-way street. And I wish that with respect to...I hope this flags out for the Board of Regents that they should pay a great deal more attention to the relationship with the East-West Center in making sure that it's more equitable.

"I want to add to that that any arguments that's made with respect to expenditure of federal dollars is all taxpayers dollars and that if the East-West Center was under the control and direction of the University, I think we'll be accomplishing far more than is now the case.

"And that takes me to the next step which is, 'The board may waive the nonresident tuition differential for

selected students from Pacific and Asian jurisdictions when their presence would be beneficial to the university or the State.'

"I think the last part of the phrase is too vague. I think it is always beneficial to the University of Hawaii to have foreign students matriculating here in the State of Hawaii.

"Some of us here, perhaps, get to travel more than others; some of us used to be able to travel more than we do now but those things are amorphous in nature. Nonetheless, the fact of the matter is that for those who have, shall we say, a more sophisticated attitude as a result of their good fortune to be able to have visited lands and places, regions other than the State of Hawaii, they recognize the importance of broadening one's perspective.

"In this particular instance, Mr. President, many of our students, if not the overwhelming majority of our students, have not had the opportunity to travel very extensively outside the state itself. This, obviously, is not true on the mainland of the United States, including the capacity and the possibility of travelling to foreign countries on the North American continent; also, the capacity because of airline and bus connections to travel to offshore countries and regions and to be able to travel within them at a reasonable rate. We can't do that very easily here.

"So, if we are to give our students the maximum opportunity for exposure, we should be welcoming students from all over the world.

"It has been stated in hearings and elsewhere that, for example, this discounts Africa. Why we would want to do that, I don't know, in particular. I myself have had the experience of meeting people in other countries and other continents, including the Continent of Africa, where chiefs of ministries in their governments who have enjoyed an education in the United States and as a result of that experience have very fond memories about their education and were inclined to want to take the United States into consideration when formulating their views or offering their views in their countries.

"Inasmuch as we purport to be a Pacific power in the United States, and inasmuch as the cutting edge, if you will, of the university education is located at the University of Hawaii,



it would seem to me not only to our advantage but simple common sense that if we have those pretensions with respect to the University, that we not only welcome but encourage foreign students from all over the world to come here.

"It's not as if they would not be paying any tuition at all; it's merely the resident versus the nonresident tuition. That could make a difference for some student who does not have the advantage of perhaps being sponsored by the government or having an education in their own country, or the possibility of an education in their own country or elsewhere, as a result of their families not being well off.

"So if this bill passes, I would like the record to reflect that I would ask the Board of Regents to take into consideration that they establish some criteria with respect to foreign students; to either offer them scholarships or to offer them tuition waivers, especially if they are not able to be sponsored by their governments or they do not have families that are materially well off.

"I want to point out, in conclusion, Mr. President, that to make a residential tuition available to a foreign student does not guarantee that student a place at the University of Hawaii. No local students are left out of their opportunity or forbidden their opportunity to attend the University of Hawaii as a result of any kind of arrangements that are made with respect to foreign students. Local students are always given first preference and the various exceptions and exemptions and additional student entries that are made with respect to foreign students always come after that item is taken care of. So, no one is in any danger from this.

"What this speaks to, essentially, is provincialism in the thinking of the University that is not warranted. So, my hope is that we do not look upon passage of this kind of legislation is in some ways protecting us from outsiders.

"The world of knowledge, I think, is universal in context and not parochial. Thank you."

Senator Kawasaki spoke against the measure and stated:

"Mr. President, I am voting against this bill because I think, first of all, that it's rather inappropriate at this

time that we grant these tuition waivers to foreign students at a time when we're increasing tuition to our own local students, students from our own country, particularly, deserving students who are not financially able to have the benefit of this kind of tuition waivers.

"Secondly, I think, most of these foreign students who come here, as a general rule, come from rather affluent families. And to grant tuition waivers, again, to the third category of people, those looking for advanced degrees, at a time when our own kids don't have this kind of privilege, I think, perhaps, is inappropriate.

"For those reasons, I speak against passage of this bill."

Senator Abercrombie, in rebuttal, stated:

"Mr. President, I would like to rebut the previous remarks.

"No one on this floor is more vociferously against the raising of tuition than myself. I have spoken out against it privately, publicly, testified at the hearings held by the Board of Regents for tuition increase.

"I indicated then, and I'll say it again now, that this is in fact a tax increase. Regardless of what anybody says, it's a way to get a tax increase because those revenues go right into the general fund from the tuition increase without having to pass a bill.

"It is, in fact, taxation without representation in terms of being able to make an appeal to the legislative body which presumably has taxing powers; that was, nonetheless, passed.

"That money disappeared into the general fund to be spread, God knows where, and the University has not derived the benefit. The argument is made that the University tuition does not cover the cost of the University.

"I daresay that anybody on this floor who has a university education did not pay for their education either, regardless of what they...and I'm sure no one will rise to rebut that because all of us attended school, whether public or private, in which the tuition did not even begin to cover the cost of the education and it is never intended, especially in a public university for tuition to cover

the cost of education. That's because it is a public investment upon which we may expect a return not only in individual earning capacity but in the betterment of our society.

"In this particular instance, I would have to then say that because a wrong was committed with respect to raising tuition, it does not, therefore, make sense to continue to commit other wrongs in other contexts, based on that original wrong. I think the argument, essentially, then, becomes non sequitur -- one does not have anything to do with the other. Either it is important to have foreign students come here or it is not.

"I have indicated in my remarks that I'm certainly aware of the fact that more well-to-do people are more likely to have the opportunity to have the education. If they can, in fact, be attracted to the University of Hawaii, I believe it is to our advantage to have them come here and it's a recognition that we have an offering at the University of Hawaii, especially if they have means to go elsewhere, that it's attractive enough to them, to the students, and to their ambition that it reflects well on the faculty of the University of Hawaii and what it can offer.

"So, I take into consideration what the previous speaker said but I do not believe that it obviates the remarks that I made -- quite the opposite. I think it helps to make my point."

Senator Cayetano also spoke in support of the bill as follows:

"Mr. President, I rise to speak in favor of this bill, with reservations.

"Mr. President, I find myself in somewhat of a quandry. I certainly share the reservations of the previous speaker, but I also believe that for one to argue that public education is a public investment, which I think we all agree with, then to argue that tuition should not go into the general fund, that, in my opinion, is a non sequitur.

"If the University, Mr. President, was funded on a special fund basis, it could never exist."

Senator Abercrombie, on a point of clarification, stated:

"Mr. President, I did not make myself clear enough. I did not mean to indicate, if that was the

interpretation of the previous speaker, that the tuition increase should not go into the general fund. I have no argument with that, that the tuition increase, if it was granted, go into the general fund.

"My argument is, is that at the time of the tuition increase it was presented to the students that there would be an increase in the quality of the University, as a result. That, of course, really is a non sequitur."

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

"Mr. President, I would like to add something, speaking in favor of the measure, and that is a caveat that I hope the Board of Regents looks at closely at the question of need of the foreign students in this bill as they do the same question involving local students, exempting tuition both for foreign students as well as local students. Need ought to be one of the governing criteria. Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 514-84 was adopted and H.B. No. 1811-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE WAIVER OF NONRESIDENT TUITION DIFFERENTIAL AS IT APPLIES TO PACIFIC ISLAND AND FOREIGN STUDENTS AT THE UNIVERSITY OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 515-84 (H.B. No. 1940-84, H.D. 2, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 515-84 be adopted and H.B. No. 1940-84, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie then spoke in support of the measure as follows:

"Mr. President, this bill represents the culmination of a great deal of work. I am very grateful to the chairman for taking the time and effort to not only understand the implications of this but to try to carry through in a responsible way with respect to the wording of it.

"I had, when I entered the Legislature ten years ago, a goal with respect to higher education of raising the overhead research training and

revolving fund, the overhead recovery, if you will, at the University to 50 percent. You'll notice in this bill that it is now at 30 percent, which would, at the present time, be approximately \$2 million.

"Mr. President, when I came into the Legislature, that figure was \$200,000. So, over time, in discussion with many, many Representatives and Senators, I think that an awareness has taken place and is current now that the research and training revolving fund is one of the most important, if not the most important, revolving fund in the state.

"It is in this fund that the entire research apparatus of the University of Hawaii exists. Without it, without its expansion, the capacity for the University to extend itself both on an individual faculty level and as an overall research program is impossible.

"You may, Mr. President, have had the opportunity this morning to glance at the Honolulu Advertiser and you will see in the first section, a story involving the contest, and it is that. It is a competition for a new telescope at Mauna Kea. The competition taking place with the facilities presently existing in Arizona.

"Mr. President, we're talking here probably a figure of \$100 million in expenditure. We're talking dozens, if not hundreds, of jobs in this state. We're talking true high-tech, and not just talking about it but showing an actual implementation of it just in this one area. And it is an example of the kind of things that is possible with active support on behalf of research and training inside the University.

"So, it's very important that this bill pass and I would hope that if the record, as a result of its passage, continues to be as good as the record has been in the past, since we have been moving the figure up from the \$200,000 figure, that this Legislature would consider what I believe to be is not only supportable but mandatory, if we want to maintain, let alone provide advanced leadership in research, that we move to the 50 percent figure.

"This is one of the best investments that this Legislature can make in our state university."

The motion was put by the Chair

and carried, and Stand. Com. Rep. No. 515-84 was adopted and H.B. No. 1940-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNIVERSITY OF HAWAII RESEARCH AND TRAINING REVOLVING FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 516-84 (H.B. No. 2169-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 516-84 was adopted and H.B. No. 2169-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 517-84 (H.B. No. 183, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 517-84 was adopted and H.B. No. 183, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL HOUSING ACCOUNTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 518-84 (H.B. No. 1120, H.D. 1, S.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 518-84 and H.B. No. 1120, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1431, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1431, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX INCREMENT FINANCING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 520-84 (H.B. No. 1749-84, H.D. 1, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and

carried, Stand. Com. Rep. No. 520-84 was adopted and H.B. No. 1749-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MANDATORY RETIREMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 521-84 (H.B. No. 1751-84, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 521-84 was adopted and H.B. No. 1751-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SHARING OCCUPATIONAL AND CAREER INFORMATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 522-84 (H.B. No. 2406-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 522-84 was adopted and H.B. No. 2406-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JOB-SHARING PROJECT IN THE DEPARTMENT OF EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 523-84 (H.B. No. 2407-84, H.D. 1, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 523-84 was adopted and H.B. No. 2407-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JOB-SHARING PILOT PROJECT IN THE PUBLIC LIBRARY SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 524-84 (H.B. No. 791, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 524-84 was adopted and H.B. No. 791, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY,"

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

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 525-84 (H.B. No. 847, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 525-84 was adopted and H.B. No. 847, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVER EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 526-84 (H.B. No. 1950-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 526-84 was adopted and H.B. No. 1950-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 527-84 (H.B. No. 2002-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 527-84 was adopted and H.B. No. 2002-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Soares).

Standing Committee Report No. 528-84 (H.B. No. 2320-84, H.D. 2, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 528-84 be adopted and H.B. No. 2320-84, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Carpenter rose to speak in support of the measure as follows:

"Mr. President, I speak in favor of this bill, with reservations.

"Mr. President, besides saving

\$150,000, approximately, I'm not exactly sure that this bill will accomplish what it's intended to accomplish.

"The committee report is less than emphatic. In paragraph 3, the proposed changes would allow the Commission to focus on certain concerns and misconceptions and contribute to the improvement and understanding of our system of criminal justice. I'm not sure that it's going to do that.

"Mr. President, the commission, besides having its name changed, also is charged with a directional change in that it will act as an agency, initially created by the Legislature, now under the Lieutenant Governor's office for administrative purposes only, and basically charged with only two functions on page 7, item '(1) Research, evaluate, and make recommendations regarding the criminal justice system; and (2) Develop, recommend, and implement public education programs relating to the criminal justice system.'

"Mr. President, we already have an indication from the prosecutor of the City and County of Honolulu who has refused to participate with this functional group, on a personal bias and personal disagreement with the present director of the Hawaii Crime Commission. And I think we have to acknowledge that, at least he has outspokenly said that he would not continue to participate with this group.

"We have not heard from those who have not spoken, who are part of the criminal justice system and who will, because the language here is very vague, as it suits them participate and as it doesn't suit them not participate in the mission of this organization.

"I believe that one of the major functions that this newly-charged commission can serve is to have as a part of its responsibility a critique of any of the agencies within the criminal justice system including the Judiciary, the police departments of various counties, the prosecuting attorney's offices, and the correctional system.

"So, in effect, Mr. President, if this commission is really to serve the purpose for which it is intended, I think in the future, the language is going to have to be strengthened and this commission is going to have to be charged with carrying out a program

that has some merit and some meat. Otherwise, we would just be spending more and more money and not accomplishing any more than it's already accomplished by way of a public education program in every one of the existing criminal justice systems. That is already a duplication, as I read the language here.

"So, unless the language, Mr. President, in the future is changed to charge this commission with a program management-audit type function so they can critique and use that critique towards recommendations for improving the coordination within our criminal justice system, then we will not have the full use of the \$302,000 nor the cooperation of all the agencies that need, in fact, to cooperate to do a better job.

"Thank you."

Senator Soares rose to speak against the bill and stated:

"Mr. President, I share some of the comments that have been articulated by the previous speaker.

"This bill has no teeth; it has no investigative powers. The research and evaluation, recommendations, and developing an education system is quite expensive for \$302,000.

"I had hoped that we would have a stronger role for the commission to play, but as I see it now, it's just something that could be done by either the Judiciary or the Attorney General's office.

"I just can't see us spending the amount of money here in this appropriation for this research and development. I will vote against the bill."

Senator Kawasaki also spoke against the measure and stated:

"Mr. President, I am voting 'no' on this bill and it kind of saddens me because, as you well recall, you and I were the principal proponents of an effective crime commission. Probably, that body has been emasculated to a degree where it's absolutely meaningless to me now.

"Really, that concept that we had has deteriorated into a 'paper tiger' kind of organization and I can't see, for what is intended here, the expense of \$300,000 or in excess of that. For that reason, I vote against it."

Senator Abercrombie also spoke against the bill and stated:

"Mr. President, I speak against the bill because I feel that, as has been stated by others, what this does in effect is give the idea to the public that there is some capacity, let alone desire, to comment on the judicial system in terms of how it operates, etc., and I don't see, given the language here, what possibly can be accomplished that cannot already be accomplished, say, by a graduate student or even someone working on a thesis paper at the University in the Sociology Department.

"It's not a comment on the members of the commission nor on its director, in terms of their sincerity, but it's just a question of whether it really can do anything other than provide rather an illusion, and not much of an illusion at that, as to whether or not there will be anything genuine in the way of research or evaluation.

"It would seem that it would be far better for the Chief Justice, for example, simply to, as he has in the past, contract with competent professionals in the University system and elsewhere for this kind of information and, in turn, the probation department, for example, could probably do more in the way of public education programs than about anybody else as regards the criminal justice system or this much touted and little utilized Intake Service Center and all the other elements that we put into the corrections system that's supposed to be providing statistical and informational background and recommendations and analysis.

"So what does it accomplish? It accomplishes nothing.

"I suppose somebody can stand up and say that we have a crime commission, but the only crime I can see being committed is to keep the commission going."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 528-84 was adopted and, Roll Call having been requested, H.B. No. 2320-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CRIME COMMISSION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Abercrombie, George, Henderson, Kawasaki, Soares and Wong).

Standing Committee Report No. 529-84 (H.B. No. 1828-84, H.D. 1, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 529-84 was adopted and H.B. No. 1828-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 530-84 (H.B. No. 2486-84, H.D. 2, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 530-84 was adopted and H.B. No. 2486-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1807-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1807-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1873-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1873-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL FUND EXPENDITURE CEILING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1874-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1874-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1640-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1640-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1697-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1697-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Carpenter).

House Bill No. 2036-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2036-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1362, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 1362, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, SECTIONS 2 AND 3, AND ARTICLE IV, SECTION 4, OF THE HAWAII CONSTITUTION, TO MAKE VARIABLE THE NUMBER OF SENATORS AND REPRESENTATIVES TO BE ELECTED FROM RESPECTIVE SENATORIAL AND REPRESENTATIVE DISTRICTS," was recommitted to the Committee on Judiciary.

House Bill No. 162, H.D. 2, S.D. 1:

Senator Cobb moved that H.B. No. 162, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki the rose to inquire as follows:

"Mr. President, I'd like to direct a question, a point of inquiry, to the chairman of the Judiciary Committee?"

The Chair posed the question to the chairman and the chairman asked to

hear the question.

Senator Kawasaki asked: "Mr. President, what does the federal government provide in the way of immunity from suits to someone who served on a federal board or commission that is not compensated?"

Senator Chang answered: "Mr. President, in answer to that question, I do not know.

"If the inquirer would prefer to move this bill to the end of the calendar, I can ask the staff to check on that."

Senator Kawasaki responded: "That will not be necessary. I'll vote against this bill, anyway."

By unanimous consent, action on H.B. No. 162, H.D. 2, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1740-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1740-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMMISSION ON THE HANDICAPPED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1742-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1742-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DETERMINATION OF DEATH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2075-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2075-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2308-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2308-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie spoke against the measure as follows:

"Mr. President, I will vote against this bill on the grounds that there is probably not anybody on the floor that can define formally or tell me what any of these drugs do, let alone pronounce them."

The motion was put by the Chair and carried, and H.B. No. 2308-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

House Bill No. 2523-84, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2523-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SAFE DRINKING WATER," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1758-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1758-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE CLEARINGHOUSE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2143-84, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2143-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1637-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1637-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 547-84 (H.B. No. 1725-84, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 547-84 was adopted and H.B. No. 1725-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTOR'S BOND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 548-84 (H.B. No. 1933-84, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 548-84 and H.B. No. 1933-84, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 549-84 (H.B. No. 2257-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 549-84 was adopted and H.B. No. 2257-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE AND NEGLECT PREVENTION SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 550-84 (H.B. No. 1746-84, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 550-84 and H.B. No. 1746-84, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 551-84 (H.B. No. 1319-84, H.D. 2, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 551-84 be adopted and S.B. No. 1319-84, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator



Soares.

Senator Kawasaki rose to speak against the measure as follows:

"Mr. President, this concept, of course, originated with those people who were in the category of squatters on Sand Island a number of years back.

"It just seems to me that this opens the door to people wanting to set off other areas throughout the state as live-in parks and perhaps be used as an excuse for those who do not want to assume the responsibility of either owning their own properties to live in or to rent or lease properties, and I'm afraid this is going to open a Pandora's box for requests of this sort and eventually provide some incursion on the general public's right to have most of these attractive parks set aside by the Land and Natural Resources Department for the public use.

"It just seems to me that they are going to develop squabbles, controversies between the live-in tenants of these state lands and the general public who may want to use these areas. For that reason, I speak against passage of this bill."

Senator George also spoke against the measure and stated:

"Mr. President, not necessarily any new project that they have in mind, but I think we ought to bear in mind that Kahana Valley was acquired 17 years ago, designated as a live-in park shortly thereafter, and in all this time we have not been able to decide exactly what a live-in park is or a living park. What we should do with it. What the public's rights and privileges are. What the residents should do in exchange for their residency within the park.

"I think we already have one 'can of worms' and I'm not really anxious to have any more of them. Thank you, Mr. President."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 551-84 was adopted and H.B. No. 1319-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS AND RECREATION AREAS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Ajifu, Cobb, George, Henderson, Kawasaki, and

Soares).

Standing Committee Report No. 552-84 (H.B. No. 1726-84, H.D. 1, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 552-84 was adopted and H.B. No. 1726-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEPOSITS TO ACCOMPANY BIDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 553-84 (H.B. No. 1946-84, S.D. 2):

Senator Cobb moved that Stand. Com. Rep. No. 553-84 be adopted and H.B. No. 1946-84, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Cobb then rose on a point of information as follows:

"Mr. President, does this measure have to pass before or after the budget?"

The Chair answered: "No, it is not necessary to pass the budget bill first.

This bill is not for final reading."

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

"Mr. President, I would like to vote for this bill, but I do have just one question.

"There has been quite a big reduction in the amounts that were asked for. Would I be correct, perhaps the chairman could answer, would I be correct in assuming that's because the necessary services are absorbed in already existing budgetary allocations?"

Senator Yamasaki answered: "Yes, Mr. President, there are some allocations in the existing budget and, also, we'll take this into conference."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 553-84 was adopted and H.B. No. 1946-84, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PERSONAL CARE SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 554-84  
(H.B. No. 2092-84, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 554-84 was adopted and H.B. No. 2092-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 11:56 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:58 o'clock a.m.

Standing Committee Report No. 555-84  
(H.B. No. 1549-84, H.D. 1, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 555-84 be adopted and H.B. No. 1549-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose to speak in support of the measure as follows:

"Mr. President, I am happy to be able to vote for this bill.

"I think that some of the language might need some further expansion, perhaps in a conference meeting, that will more specifically indicate the role of the University of Hawaii athletic department and physical education department, more adequately indicate what its role would be. But I am pleased to see this although it is coming in a slightly different form than I had originally intended.

"I have entered in the past, bills with respect to establishing a physical fitness testing center at the University of Hawaii with the Department of Health, physical education and recreation at the University of Hawaii being in charge.

"I think for all intents and purposes when the Director of Planning and Economic Development seeks, as is indicated in this legislation, to promote Hawaii as an Olympic training center the practical effect will be to incorporate the ideas that I have put forward in the past with respect to building up a physical fitness testing center.

"There are facilities now available at the University of Hawaii not in use for this and I expect that while the bill talks about dealing with a training center for athletes who have the potential for competing in the Summer games of the World Olympic games, I do not mean this summer, I am sure they will be talking about future Olympic games. So I am pleased to see that the idea that I put forward is now being incorporated into a training center whether it's for the Olympics or not.

"It seems to me that the University of Hawaii could quite reasonably be expected to expand its athletic capacity not only locally but for attracting some of the students, and they might even be from Africa, who might want to take advantage of such a training center and we might even be able to find a way to deal with their tuition, as a result.

"So I expect, Mr. President, that if we vote for this bill and I hope that we will, that those who are enthusiastic in their approbation for this bill by voting 'yes' will be just as enthusiastic when the CIP and operating requirements come in next year. Thank you."

Senator Kawasaki, not in support of the measure, stated: "Mr. President, in the interest of time that we are consuming here, my whole feeling about this bill is described by one word and I shall vote accordingly. This is a 'silly' bill."

Senator Kuroda rose to speak in support of the bill and stated:

"Mr. President, I rise to speak in favor of this 'silly' bill.

"This House bill came through the Tourism Committee and we had an interesting and enlightening public hearing and we sent the bill on to the Ways and Means Committee for further consideration. The idea expressed here is not only good with regards to a place to prepare for athletics such as for the Olympics and other games, but also the idea which, in addition to another idea which has been proposed, Hawaii as 'the healing islands'.

"I think it's important for people abroad to know more about Hawaii, not just as a place of waving palms and sunshine, but as also a place where these things can take place, such as preparation of athletes, and a place where people can look forward to coming as far as utilizing the

islands as a place to be healed emotionally, physically, and in other aspects. Thank you."

Senator Abercrombie in response to a previous speaker's remarks stated as follows:

"Mr. President, I will try to be as succinct and brief as Senator Kawasaki with respect to rebutting what he had to say. He has indicated that the bill is 'silly'. In response, I would like to say that I can understand how, when you start out relating to sports and end up the Olympic training center, okay, maybe that satisfies some.

"The reason that I am voting for the bill is, and I thought I had indicated enough, is not that because I think it is going to necessarily be an Olympic training center. I am sure that the Director of Planning and Economic Development when he gets through will come up with some other orientation, shall we say. There's nothing in the bill actually that requires it merely be for the Olympics.

"The reason I favor it is, is that the capacity that now exists at the University in terms of personnel to be utilized for a physical fitness testing center already exists. That capacity already exists among the faculty.

"The idea is not new; we are talking about sports medicine here. I am sure the members are aware that we have in the Islands right now one of the most far-flung recreational athletic activity programs of various kinds, organized and unorganized, probably anywhere in the world. It only makes sense inasmuch as we are already spending such a great deal of money on the medical school and other areas in (this is a little bow toward Senator Soares on that) that we get something useful.

"In fact, as you know, Senator Soares is certainly ready to enter the master league in jogging right now, and Senator Cayetano and Senator Toguchi can attest to that. He has left them in the dust, so to speak, on several occasions recently which indicates that jogging is not always a question of how you look but what you can do. And I am sure that even Senator Soares despite his reservations about the medical school would be happy to test himself against other Senators here at such a testing center. This is a practical result of what would come about.

"If it happens to be that the Olympics have fired the imagination of the Senators and Representatives here in terms of getting their enthusiasm generated for such a facility at the University then I say all well and good. That it just goes to show that even good things can come from something that might otherwise be thought of as silly.

"The idea behind this is fundamentally sound. We have the personnel actually all ready here in the state if we would utilize them. The investment, from my point of view, in the end will be relatively modest in terms of capital and operating budgets and the benefits to be derived for our state, as a result of the establishment of such a facility, will more than justify the expenditure."

Senator Toguchi, in response to the previous speaker's remarks, stated: "I just want to clarify something. I might have been behind Senator Soares but I just want you to know that I was ahead of Senator Cayetano when we were jogging."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 555-84 was adopted and H.B. No. 1549-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPORTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

House Bill No. 2078-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2078-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMMISSION ON TRANSPORTATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2161-84, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2161-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AMENDMENTS TO THE BICYCLE LAWS," having been read throughout, passed Third Reading on the following showing of

Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2275-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2275-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2337-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2337-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAIL LIGHTS ON VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1799-84, S.D. 1:

Senator Cobb moved that H.B. No. 1799-84, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki rose to speak against the bill as follows:

"Mr. President, while I have signed the committee report in concurrence, in further reading the bill I find that I am at cross-purposes here.

"For one thing, I support the moratorium on the establishment of the leasehold rents for these lessees who are about to have their rents renegotiated. The first part of the bill, however, provides that all information relative to the preliminary negotiations between lessees and landlords, all information generated at that preliminary discussion, including information such as appraisals involving a property are not subject to discovery.

"It seems to me, we want an open and free discussion as the first page of the committee report suggests, in the course of litigation, in the course of trying to determine what is a fair rent that could be enjoyed by the owner of a property, leasing his lands out or leasing his property out and what would be a fair rent that perhaps could be established for the lessees. The fact that we preclude appraisals of the property, the market price, the values, this kind of information which may have been discussed in a part of the preliminary

negotiations are not subject to discovery, I think is not what we want.

"If we really want to be fair to both the landlord and lessees, information, appraisals, etc., should be allowed to be used in the course of subsequent litigations. For that reason, I vote against this bill."

Senator Young spoke in support of the measure as follows:

"Mr. President, this amendment was agreed to by both the lessees as well as the lessors, mostly the lessees."

The motion was put by the Chair and carried, and H.B. No. 1799-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL LEASEHOLDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

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

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

House Bill No. 1985-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1985-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1796-84, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1796-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1926-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and

carried, H.B. No. 1926-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

House Bill No. 2429-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2429-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2044-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2044-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2268-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2268-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE FAMILY COURTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1845-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1845-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SEPARATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1863-84, H.D. 1, S.D. 1:

On motion by Senator Cobb,

seconded by Senator Soares and carried, H.B. No. 1863-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY RESTRAINING ORDERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1838-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1838-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENTERING THE MARRIAGE STATE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2203-84, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2203-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1711-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1711-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2107-84, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 2107-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENFORCEMENT PROGRAM OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES," was recommitted to the Committee on Economic Development.

House Bill No. 177, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and

carried, H.B. No. 177, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PLANNING ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

House Bill No. 1748-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1748-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2179-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2179-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FENCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2540-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2540-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 578-84 (H.B. No. 2151-84, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 578-84 and H.B. No. 2151-84, H.D. 2, S.D. 2, was deferred to the end of the calendar.

House Bill No. 556, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 556, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SELF-SERVICE STORAGE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1779-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1779-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1817-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1817-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ACUPUNCTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1818-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1818-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NURSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1819-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1819-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICINE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1880-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1880-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1895-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1895-84, H.D. 1, entitled: "A BILL FOR AN ACT

RELATING TO DISPENSING OF DRUGS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Ajifu, Henderson and A. Kobayashi).

House Bill No. 1784-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1784-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE REPAIR INDUSTRY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1790-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1790-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS NAMES AND MARKS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1821-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1821-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2224-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2224-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE RATES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1882-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1882-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN

ACT RELATING TO AGREEMENTS OF SALE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2196-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2196-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL INSTITUTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1912-84, H.D. 2, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1912-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CLUBS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2012-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2012-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2026-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2026-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2181-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2181-84, S.D. 1,

entitled: "A BILL FOR AN ACT RELATING TO LANDLORD AND TENANT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2281-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2281-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2477-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2477-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2484-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2484-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT REGARDING CHAPTER 421C, HAWAII REVISED STATUTES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 538, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 538, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IMITATION OF CONTROLLED SUBSTANCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 787, H.D. 1, S.D. 1:

On motion by Senator Cobb,

seconded by Senator Soares and carried, H.B. No. 787, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 788, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 788, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NOTARIES PUBLIC," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1721-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1721-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NAMES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1852-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1852-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2006-84, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2006-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2077-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2077-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICE OF PROCESS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:



Ayes, 25. Noes, none.

House Bill No. 2333-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2333-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTIONS UNDER THE FIREARMS LAWS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Cobb, George, Henderson and Soares).

House Bill No. 2604-84, S.D. 1:

By unanimous consent, action on H.B. No. 2604-84, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 608-84 (H.B. No. 1932-84, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 608-84 was adopted and H.B. No. 1932-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 609-84 (H.B. No. 2340-84, H.D. 1, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 609-84 was adopted and H.B. No. 2340-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REFUSAL TO PROVIDE IDENTIFICATION UNDER THE STATEWIDE TRAFFIC CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2163-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2163-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1785-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1785-84, H.D. 1,

S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISPENSING OPTICIANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1925-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1925-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TORT LIABILITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2016-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2016-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PATIENTS' COMPENSATION FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

House Bill No. 2029-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2029-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL HYGIENISTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2054-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2054-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PAWNBROKERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2418-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2418-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie, speaking in favor of the bill, stated:

"Mr. President, I want to indicate that I'm voting in favor of this bill, and I do not think that it has any implications with respect to taking one side or another in any controversies that might exist."

Senator Cobb responded: "Mr. President, the previous speaker is correct, there is another bill also I'm sure will be subject to discussion on the same issue of chiropractors."

The motion was put by the Chair and carried, and H.B. No. 2418-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHIROPRACTORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2201-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2201-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2451-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2451-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PENAL CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 619-84 (H.B. No. 2142-84, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 619-84 was adopted and H.B. No. 2142-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR," having been read throughout, passed Third Reading, on the following showing of Ayes and Noes:.

Ayes, 25. Noes, none.

House Bill No. 1983-84, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1983-84, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1794-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1794-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR SUPPORT ENFORCEMENT SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 622-84 (H.B. No. 1729-84, H.,D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 622-84 was adopted and H.B. No. 1729-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INVOLUNTARY CIVIL COMMITMENT UNDER MENTAL HEALTH LAW," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1681-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1681-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Ajifu and George).

Standing Committee Report No. 624-84 (H.B. No. 1629-84, H.D. 1, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 624-84 and H.B. No. 1619-84, H.D. 1, S.D. 2, was deferred to the end of the calendar.

House Bill No. 1220, H.D. 1, S.D. 1:

On motion by Senator Cobb,

seconded by Senator Soares and carried, H.B. No. 1220, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COSTS OF COURT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2032-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2032-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 627-84 (H.B. No. 1148, H.D. 1, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 627-84 and H.B. No. 1148, H.D. 1, S.D. 2, was deferred to the end of the calendar.

MATTER DEFERRED  
FROM MARCH 30, 1984

Senate Bill No. 26, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 26, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," was deferred until Tuesday, April 3, 1984.

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

AFTERNOON SESSION

The Senate reconvened at 1:30 o'clock p.m.

MATTERS DEFERRED FROM  
EARLIER ON THE CALENDAR

House Bill No. 2020-84, S.D. 1:

Senator Cobb moved that H.B. No. 2020-84, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

At 1:31 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:32 o'clock p.m.

Senator Kawasaki, against the measure, stated: "Mr. President, I don't know about this land of the healing. It hasn't done very much for my bad cold but in order to save this body some time, I will just vote against this bill."

The motion was put by the Chair and carried, and H.B. No. 2020-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Kawasaki). Excused, 4 (Abercrombie, Ajifu, Chang and Kuroda).

House Bill No. 1747-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 1747-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Mizuguchi, in support of the measure, stated as follows:

"Mr. President, may we insert in the Journal a memorandum to Senator Abercrombie from Mr. Gilkey that redefines reasonable assurance that is mentioned in this bill, for further clarification. Thank you."

The memorandum to Senator Abercrombie from Robert C. Gilkey, Deputy Director, Department of Labor and Industrial Relations, dated March 29, 1984, subject: "H.B. 1747, H.D. 1," reads as follows:

"As a follow up to our phone conversation yesterday afternoon, the following is our interpretation of the term 'reasonable assurance' as contained in H.B. 1747, H.D. 1. This interpretation is taken from our UI training manual.

"In determining the application of reasonable assurance, our claims examiners are instructed to 'obtain evidence of notification from the educational institution to the individual for re-employment on essentially the same or better terms, provided there are specific facts to establish that the reasonable assurance is bona fide. The specifics that should be considered are: availability of job opening at the time of the notification; no conditional factors such as future enrollment, availability of funds or position vacancies; individual's history of

past employment; hiring practices.'

"Under H.B. 1747, H.D. 1, these same criteria would be applied to non-professional educational employees, similar to those presently applied to professionals."

Senator Abercrombie then added as follows:

"Mr. President, I just want to express my appreciation to the chairman and to the Department of Labor for seeing to it that a group of employees who might otherwise find themselves in that circumstances, through no fault of their own, have been accommodated and taken care of. It shows a sensitivity, I think, that sometimes people feel is lacking and I appreciate it."

The motion was put by the Chair and carried, and H.B. No. 1747-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Machida). Excused, 2 (Ajifu and Kuroda).

House Bill No. 2108-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2108-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Holt spoke in support of the measure as follows:

"Mr. President, I am going to vote for this bill, with reservations.

"My reservations relate to the amendments made by the committee to the bill with respect to the bullpen section. I have conveyed my observations to the chairman of the committee and he has agreed to take those suggestions into conference and they will be addressed later. Thank you."

The motion was put by the Chair and carried, and H.B. No. 2108-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING REGULATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie

and Carpenter). Excused, 1 (Ajifu).

House Bill No. 1788-84:

On motion by Senator Cobb, seconded by Senator Soares and carried, was adopted and H.B. No. 1788-84, entitled: "A BILL FOR AN ACT RELATING TO ITINERANT VENDORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 503-84 (H.B. No. 1906-84, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 503-84 was adopted and H.B. No. 1906-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR AGRICULTURAL ACTIVITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 506-84 (H.B. No. 1905-84, H.D. 1, S.D. 2):

Senator Cobb moved that Stand. Com. Rep. No. 506-84 be adopted and H.B. No. 1905-84, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki rose to speak against the measure as follows:

"Mr. President, you know, for many years, for decades in fact, we have been providing state funds for research activities for our major agricultural industry which is the sugar industry.

"It just seems to me, research for the sugar industry should be pretty well developed by now and, certainly, the industry should have set aside research funds in those good years that they have had back in 1980, 1975, and I understand from reading some of the commodity reports, while sugar prices are low now, that they anticipate within the next two or three years a good rise in the price of sugar.

"That being the case, it just seems to me, perhaps it's about time we stopped subsidizing the research activities of the sugar industry which have been in existence for over a

century now. This allocation of several million dollars of our taxpayers' funds, I think, should be stopped, if not in this session, in the very short future.

"We have been subsidizing an industry that, basically, I think have already developed their research program to a point where they don't require this kind of millions of dollars of subsidization.

"I think it's about time we stopped this and, because of this feeling, I urge 'no' votes for this bill."

Senator Carpenter then rose to ask the Chair for a conflict of interest ruling because he is an employee of C. Brewer & Company.

The Chair ruled that Senator Carpenter was not in conflict.

Senator Carpenter then rose to speak in support of the measure and in response to the remarks of the previous speaker as follows:

"Mr. President, in response to the preceding speaker, I would like to say that the research projects carried on by HSPA is shared with the University of Hawaii. Probably, HSPA has the best entomological laboratory in the entire State of Hawaii and, as such, serves the entire agriculture industry, irrespective of commodities grown, including the beef industry.

"So the information gleaned from the research not only bears on sugar but every conceivable agricultural product and commodity grown and raised in the State of Hawaii. Thank you."

Senator Abercrombie then stated: "Mr. President, with reference to the previous speaker's remarks, I am happy to learn at last as to the location of 'where's the beef.'"

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 506-84 was adopted and H.B. No. 1905-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SUGAR RESEARCH AND DEVELOPMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 512-84 (H.B. No. 2294-84, H.D. 2, S.D. 2):

Senator Cobb moved that Stand.

Com. Rep. No. 512-84 be adopted and H.B. No. 2294-84, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki, against the measure, stated: "Mr. President, with the desire of saving some time for a bill coming at the bottom of the calendar, I will just vote 'no' for this bill."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 512-84 was adopted and H.B. No. 2294-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 513-84 (H.B. No. 2612-84, H.D. 2, S.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 513-84 was adopted and H.B. No. 2612-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL QUALITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Abercrombie, Carpenter, Cayetano and Kawasaki).

Standing Committee Report No. 518-84 (H.B. No. 1120, H.D. 1, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 518-84 be adopted and H.B. No. 1120, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Fernandes Salling then inquired: "Mr. President, will the chairman of the Hawaiian Homes and Housing Committee yield to a question?"

The Chair posed the question to the chairman, and the chairman having answered in the affirmative, Senator Fernandes Salling inquired as follows:

"Is the chairman in favor of placing a cap of some sort on this administration account that we are creating in the statute?"

Senator Young replied as follows:

"Mr. President, the department has

requested for a sum of \$489,000 to go into the administration account for its loans program.

"In the last, I would say, about eight years, I think we have had more residents on Hawaiian Home lands than in the past fifty years.

"The Department has really accelerated its program to put more residents on homestead lands and they have never increased their staffing. I feel, at this time, that it's very unfair...if you want to put more native Hawaiians on Hawaiian Home lands and if we are going to 'beef up' that program, then we need personnel to administer the program.

"Presently, there is only one permanent position and ten temporary positions. I feel that they need this program. It's a good program and they are asking for this \$489,000 to administer this program, and six other programs.

"It's not fair to say 'place a cap' because in the future if they do open more homestead lands, and with the workload, it's very difficult to say that this is all that they are going to utilize; and that they can have only eleven positions. So, at this time, I don't think I will concur with placing 'a cap.'"

Senator Fernandes Salling further inquired: "Madam Chairman, the chairman of the Department of the Hawaiian Homes is requesting \$489,000 to fund how many positions?"

Senator Young answered: "This money comes from programs that accrue interest and this interest is just lying idle in the funds, so all the administration is asking for is that these interests be put into the administration loan which would administer the home loan program and other programs."

At 1:43 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:46 o'clock p.m.

Senator Fernandes Salling then spoke in support of the measure as follows:

"Mr. President, I will rise to reluctantly speak in favor of this bill and express my concerns about this new amendment to the bill.

"As I understand it, annually, what

we generate from the interest account in the Department of Hawaiian Home Lands is about \$2 million and that money is used to go into the home loan funds to make loans for the Hawaiians who want to build new homes, to go into their operating fund, and their development fund.

"This new amendment is asking that these interest monies also be used to go into the administration account which shall be used to fund the salaries and other administrative expenses related to loan services and delinquent collection activities.

"Now, as I understand it, the department is asking for approximately \$498,000 or one-fourth of those interest monies.

"My concern is that, in the future, we really take a good look at how these monies are being allocated from the interest account into these revolving loan funds because I would hate to see any of the other revolving funds that would directly benefit the native Hawaiians, such as money to be made available to provide loans to build homes, to see these monies being diluted because it is then being turned into this administration account which is to be used to pay for salaries to administer the loan services and the collection of delinquent accounts.

"For those reasons, and I hope the concerns will be addressed at some future point in time, I will reluctantly vote in favor of this measure."

At 1:49 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:51 o'clock p.m.

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 518-84 was adopted and H.B. No. 1120, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

House Bill No. 1640-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1640-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN

ACT MAKING APPROPRIATIONS FOR THE FISCAL BIENNIUM JULY 1, 1983 TO JUNE 30, 1985," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 162, H.D. 2, S.D. 1:

Senator Cobb moved that H.B. No. 162, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie then rose to inquire as follows:

"Mr. President, I believe there were some questions raised before with respect to the boards and commissions and, I believe, federal standards. I wonder if the chairman of the Judiciary Committee would elucidate for us as to what the civil liabilities, etc. are with respect to this bill and similar legislation at the federal or other state level?"

The Chair posed the question to the chairman and Senator Chang answered:

"Mr. President, I have discussed this matter in the interim, between the asking of the question and the present time, and persons who have conducted research into this area have told me that it is well nigh impossible to provide a succinct summary of the various positions held by courts and authorities on this matter. But, I may summarize by reading from the leading case in the Hawaii Judiciary that discusses such matters.

"Reading from Medeiros v. Kondo (I don't have the citation at the present time), on page 501, the court says, 'In the balancing process the scales need not tip in favor of one interest or the other. It is sometimes possible to fashion a remedy that provides relief to both interests. Although the federal courts have opted for tipping the scale in favor of absolute immunity for federal officers, a majority of state courts have attempted to find a middle ground, at least in regard to inferior state officers. California is one state that has adopted the absolute immunity rule which appellee urges upon us.'

"So, in answer to the question, at least in regard to federal officers, it appears that the federal courts have determined that absolute immunity is to be the rule.

"I should note that this particular bill conforms with the spirit that is enunciated by the court in Medeiros v. Kondo in that we seek a middle ground, at least in regard to members of boards and commissions.

"Thank you."

The motion was put by the Chair and carried, and H.B. No. 162, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Abercrombie, Carpenter, George, Kawasaki and Soares).

Standing Committee Report No. 548-84 (H.B. No. 1933-84, H.D. 2, S.D. 2):

Senator Cobb moved that Stand. Com. Rep. No. 548-84 be adopted and H.B. No. 1933-84, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Cayetano spoke against the measure as follows:

"Mr. President, this bill, as I read it, proposes to clear up the functions of the State Health Planning and Development Agency, the organization better know as SHPDA.

"Mr. President, a few years ago I introduced a bill to do away with this organization. I don't dispute the good intentions which were the basis of the creation of this organization; however, I think experience has shown that the organization has not been effective in terms of carrying out the functions that it was designed to carry out, and achieving some of the goals that it was designed to achieve.

"Certainly, with respect to health care costs, in my view, this organization has been particularly ineffective. Now that may have been because of leadership, although I doubt it because I think, nationwide, the experience has been the same.

"With the advent of the Reagan Administration, Mr. President, I think that the philosophy of the Reagan Administration has also been to rely less and less on this organization and, in fact, it is my understanding and recollection that there has been serious talk in the Administration of doing away with this body altogether.

Of course, that has not happened. But, clearly the de-emphasis in terms of relying on this organization to achieve changes in health care costs has been less and less.

"For example, looking at the budget, there will be approximately a half-a-million dollars in federal money provided, and that will be matched by \$190,000 in state general funds. This is, the federal portion, if I recall correctly, is a drastic reduction in the amount of federal money that was provided in prior years. And I think as we go further along the road, we will see that the federal money will become less and less.

"Quite frankly, I am of the impression that one of the reasons the state got into this was because of the so-called 'federal carrot.' The federal government, in trying to get states to take part or participate in certain programs it deems necessary, always holds out the federal money as a carrot, and some years ago this state gobbled up that carrot 'hook, line, and sinker.'

"Unfortunately, that carrot is becoming smaller and smaller and, one day, I think that if this bill becomes law, we will find ourselves and the state stuck with an increasing share of the cost of keeping this body going.

"I may have considered voting for this bill, if it went one step further.

"The bill, I think, is well drafted. Certainly, it quite succinctly sets out some of the functions and responsibilities that the Committee on Health wanted this organization to have and, in that sense, it clears up some confusion, mostly on the part of the Department of Health, as to what this organization was supposed to do.

"There are some good aspects to this bill. One of them being that the membership of the State Advisory Commission, I think it is, has been drastically reduced and adjusted where the input of health care providers to this body has been brought in better balance.

"The problem, as far as I am concerned, with this bill is that it does not go far enough. It proposes all kinds of planning and all kinds of responsibilities which certainly will require more expenses on the part of the state, but there is no authority for implementation, except with respect to the function of certificate

of need.

"This bill, in my view, will establish SHPDA further in our laws; certainly, clearly enunciate certain kinds of activities, all of which will cost money, but will do very little, I think, to bring health care costs under control."

Senator Machida, in response, and in support of the measure stated as follows:

"Mr. President, in rebuttal to some of the statements made by the previous speaker.

"Mr. President, I think the process of health planning is a very important function, and as enumerated by the previous speaker, maybe SHPDA did not carry out its programs to its fullest; however, the Health Committees of both the House and Senate, during the interim, focussed on the area of cost containment and are, by this measure, assigning this responsibility to SHPDA with the hope that this additional responsibility of health care cost control will help to process the certificate of need requests in a more adequate manner.

"This measure is partly due to the controversial decision made by SHPDA, concerning the two hospitals in the Leeward area.

"So, with health care cost control as a primary function of SHPDA, hopefully, their decisions in the future will more adequately reflect health care cost containment for the good of the citizens of our state.

"I agree that this bill does not do all that we had hoped it would do. We had another measure before us creating a cost control commission and regulating the hospital rate-setting process. However, if this bill goes through and the responsibility of health care cost control is absorbed by SHPDA and becomes a successful function for the state, we might eventually consider the rate control commission measure in the future.

"Thank you."

Senator Kawasaki spoke against the measure as follows:

"Mr. President, just a comment.

"I know that there are enough votes on this floor to pass this bill, but I think, perhaps, along with voting for this bill, we should consider very seriously the



responsibility that we have as Senators, confirming the man who is going to be appointed to that position. I understand that the present incumbent is not quite the person that we wanted; neither was his predecessor. As a consequence, we never confirmed his predecessor.

"I think it's incumbent upon this body to make sure, in the course of hearings, that whoever assumes the job of being the director of that agency be a very competent person because with all the staffing that we provide, if the organization is not led by a competent person capable of holding that job, then I think all this money we pour into it, all the additional staff we give to it, is going to waste. So, this, I think we should keep in mind the confirmation of the person who goes into that position should be one that is qualified."

Senator Cayetano then added:

"Mr. President, just in brief response to the chairman of the committee and his remarks.

"It is my understanding that the House version of this bill contained a cost containment section, and I am of the opinion that the question of cost containment in this state has been studied and studied. And, the one conclusion I keep coming to is that there has to be some governmental agency, and I think I'm the last one in this body who wants to see government have any control over cost. But, I think what it boils down to in this particular area is that government will have to get into this area to bring health care costs to a level where our people can receive health care and not have to mortgage their lives."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 548-84 was adopted and H.B. No. 1933-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Abercrombie, Carpenter, Cayetano, Henderson, Kawasaki and Soares).

Standing Committee Report No. 550-84 (H.B. No. 1746-84, H.D. 2, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 550-84 be adopted and H.B. No. 1746-84, H.D. 2, S.D. 1,

having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki rose to speak against the measure as follows:

"Mr. President, I speak against passage of this bill in its present form, and while voting 'no' for this bill, I must give due credit to the chairman of the Human Resources Committee who sincerely tried to take a step in the right direction. My only disagreement with the committee's decision is that the step is a little too small a step, considering that certain categories of our employers in this state of ours, specifically the small businessman category, have been paying more than their share of the burden of keeping this program going.

"Two years ago, Mr. President, the Legislature decided to spend \$73,000 for the Legislative Auditor's study of, first of all, the adequacy of the fund because businessmen in certain sectors of our business world were saying that perhaps \$100 million in that fund was too much to have in reserve. The study, as a consequence, went to examine the adequacy of the fund, the over-adequacy of the fund. The report comes out with the finding that it is not excessive; that it's not out of line.

"The other aspect was to find out whether the cost of keeping this program going on to provide benefits for the unemployed employee was allocated fairly.

"The findings showed that for 18 years the small business segment of employers were paying more than their share of taxes into this fund. And, passage of this bill providing for the increase of that unemployment fund from 4.5 to 5.4 percent in conformity with what is going to be the requirement of the federal government next year is not quite enough.

"The Legislative Auditor very emphatically said that because of the inequity in the program as it exists today, the small business sector paying more than their share of taxes, in effect, subsidizes two categories -- the agricultural employers and construction employers; that we should increase that rate to 7.5 percent. This bill does not do that. It increases to 5.4 percent.

"We are continuing the inequity

imposed upon these small businessmen, which they have assumed for 18 years. And for that reason I will vote 'no' for this."

Senator Cayetano spoke in support of the measure as follows:

"Mr. President, I'm going to vote for this bill, but with reservations which I'd like to state for the record.

"I agree with Senator Kawasaki as to his remarks about the auditor's report and about the inequity that presently exists under the present law; for example, those who are in the services industry, employee benefits paid out were only \$42 million. This is over 1972-78. But, the employer contributions for the same period was \$72 million. Clearly, there is an inequity there.

"I am a small businessman and I happen to be in the service industry, in that particular area that's being affected right now. However, I recognize and sympathize with the chairman that there is a political problem, and the chairman has indicated to me that, as far as he is concerned, this is a step toward achieving the recommendations stated in the auditor's report. It may not be as big a step that I would like, but I think it's a step in the right direction. And as I read the chairman's remarks to me, personally, and to some of the other committee members, there will be a commitment next year to moving further in this direction."

Senator Abercrombie also spoke in support of the bill and stated:

"Mr. President, I speak in favor of this bill, making reference as I do to the remarks of the previous two speakers as they reflect views of my own. I wish to add that I have sought an experience rating, have been in favor of the experience rating now for the entire portion of my legislative service here, and we're now seeing a movement toward accomplishing that.

"I want to add for emphasis, especially to the remarks just made, that the path is now clearly being trod. There will be no going back from this and, I think, on the part of those industries who have failed to recognize that the other businesses in the state which have been adversely affected should receive recognition and receive relief from the conditions that are imposed. Failure to do that on the part of especially the large

businesses is a measure of their lack of commitment to small business in this state.

"One gets a little bit tired, Mr. President, of hearing about bad business climate and all the rest of it, especially from some of the major businesses in the state, criticism coming our way, and then find these same people coming here to the Legislature, trying to get us and I'm afraid succeeding, in some respect, in preventing necessary and legitimate relief coming to those people also in the business world who do not enjoy the same kind of clout, shall we say, monetarily in terms of the sheer power of capital that is arraigned against them. In this instance, the small businesspeople of the state are at last and at least receiving recognition that they are, in fact, being discriminated against.

"And I think that if you look at the bill itself, you will see that we have in place in this bill a mechanism for raising the percentage rate on a steady basis. It will take some time; however, it will be accomplished. It could be accomplished a lot faster if some of the big interests in the state would start backing up some of their rhetoric with solid action on behalf of supporting small business."

Senator Mizuguchi then added his remarks as follows:

"Mr. President, as chairman of the Human Resources Committee, I appreciate those comments made by previous speakers.

"It's correct that this bill is the first step in building an experience rating system for unemployment insurance. Your Senate committee fully understands the plight of small business. This is why we combined the extended six-month period for the workmen's compensation moratorium along with this bill to assist in their efforts in 1985. Thank you."

Senator Fernandes Salling also rose to support the measure as follows:

"Mr. President, I rise to speak in favor of this measure with the same reservations expressed by Senator Cayetano and Senator Abercrombie.

"I just hope that in the third year, when looking at another increase in this rate, that it will be what the Auditor's report has recommended, 7.5, rather than something less which is something that the committee, I understand, is considering. Thank

you."

Senator Cobb also spoke in support of the measure as follows:

"Mr. President, incorporating the remarks of the previous speakers, in general agreement, I would like to say that this bill constitutes both a prophecy and a warning -- a prophecy of more equity to come, and a warning that I don't think the Senate is going to be holding back in terms of moving towards a more equitable rate, up to and including 7.5.

"This is only the first step in the direction, I think, that needs to be fully implemented of going to a 7.5 percent rate to reflect the actual experience of categories of employers. Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 550-84 was adopted and H.B. No. 1746-84, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Ajifu, George, Kawasaki and Soares).

House Bill No. 2275-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2275-84, H.D. 1, S.D.1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Cayetano rose to speak against the measure as follows:

"Mr. President, according to the committee report, the purpose of this bill is to regulate the height of bumpers on motor vehicles with a gross vehicle weight rating of 10,000 pounds or less. Discussions on this bill have led me to believe that the bill is designed to correct a problem, and a problem which is viewed primarily in terms of safety of vehicles which have been reconstructed and have been elevated. We see a lot of these vehicles around town, primarily pickup trucks Toyotas, Datsuns, those kind of trucks.

"The problem that I have with this bill is that those vehicle owners who have elevated their vehicles have done so in compliance with existing City rules and regulations or ordinances; at least that is my

understanding. And, in that sense, this bill, I think is unfair in these terms.

"Vehicle owners having complied with the ordinance of one level of government, namely, the City, we on the state level are now passing this bill which would make compliance with the City ordinance now a criminal action. I have serious questions about the constitutionality of this bill.

"For example, it seems to me, certainly, an argument can be made that on the effective date of this bill, this bill would be considered an ex post facto law with respect to owners of vehicles who had bumpers on their vehicles raised in accordance with the City ordinances.

"During the discussion on this bill I was surprised to learn that the City and County came in and testified for the bill and did not have any objection.

"Quite frankly, when this bill goes to conference, I would like the conferees to consider this one aspect, that those who are forced to comply with the requirements of this bill be allowed to be reimbursed from the City. After all, it was the City which allowed them to do it, and now to have the City come in and testify and say that this bill is okay, it seems to me, a bit contradictory.

"I am also informed by the chairman that, to take into consideration the hardship that may be imposed on those who have elevated their vehicles, the effective date of this bill will be shifted to a date effective sometime in December of 1984 or thereabout. I think that's a good move.

"However, in terms of the cost, I just don't think it's fair that if you obey one level of government, I don't think it's fair that you be put in a position where you have to spend more money to take corrective action because of the actions of another level."

Senator B. Kobayashi then responded as follows:

"Mr. President, in regard to this bill, I should point out that the chairman on the House side has agreed that this bill will go to conference and, as previously stated, he is in favor of a change in the effective date from 'upon approval' to 'December 1984.' He recognizes that there should be some time allowed for

the conversion of these vehicles that are presently on the road.

"It should be pointed out that the City and County of Honolulu presently attempts to regulate the heights of vehicles on different grounds than bumper height. Lacking a clear bumper height rule, they are attempting to regulate the heights of vehicles on the basis of headlight height and taillight height. This is inadequate and they have met a great deal of frustration in trying to regulate what they call 'the safety of the vehicle' itself because of its high center of gravity, as well as the safety of people who might be hit by those vehicles, who have a tendency to, shall we say, override the vehicle they might hit, causing damage to the cabin or cab area of the vehicle where the passengers are, of course, and not necessarily on the bumper area.

"Given these difficulties, the City and County does see merit in the bill and so do all of the counties, in fact, as well as the State Department of Transportation.

"Thank you."

The motion was put by the Chair and carried, and H.B. No. 2275-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE SAFETY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Abercrombie, Cayetano, Holt and Kawasaki).

House Bill No. 1748-84, H.D. 1, S.D. 1

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1748-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 578-84 (H.B. No. 2151-84, H.D. 2, S.D. 2):

Senator Cobb moved that Stand. Com. Rep. No. 578-84 be adopted and H.B. No. 2151-84, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose to inquire

as follows:

"Mr. President, would the chairman indicate as to what will happen should this bill pass and be substantially left whole in any conference that takes place with respect to the 4 percent excise tax."

Senator B. Kobayashi answered: "Mr. President, the present House position is to continue the 4 percent excise tax transfer from the general fund to the special fund for one year only. It is our intention that this practice should continue, at least as long as the House version, if not longer.

"The problem here is that the 4 percent excise tax is an integral part of the present highway fund, without which the highway fund would be bankrupt shortly. Further, in order that the highway division put together an adequate budget for the next biennium they have to do so in relationship to available revenues. If the 4 percent transfer were not available, their budgets would have to be greatly altered and slashed."

Senator Abercrombie then rose to speak against the bill as follows:

"Mr. President, then, I rise to speak against this bill.

"Mr. President, the circumstances as outlined by the chairman of the Transportation Committee about the highway fund serve to point out that this area of the Department of Transportation is apparently exempt from the kind of restrictions, the kind of cuts that come to every other department in our state government.

"I have a particular interest in referring, as an example, to the area of education. Doesn't it seem odd, at the very least, that we're worried about whether there has to be slashes taken place in the highway fund when we don't have the same kind of concern when it comes to reducing programs, reducing the instructional capacity in our educational system?

"It seems to me that concrete is taking the place of kids in terms of priorities.

"I do not believe that there has been any serious attempt on the part of the department with respect to this matter because they knew perfectly well that the excise tax deferral or, direct excess I think is more appropriate, direct excess to the 4 percent excise tax was available to them. They knew perfectly well that

that was going to end, and they have not budgeted accordingly.

"If it is the will of the Legislature that highways simply be funded regardless of merit, regardless of whether or not there are any alternatives available to us, regardless of whether there is any examination, for example, as to what's being utilized by the various companies that do resurfacing.

"I always find it strange that our highways seem to crumble so quickly when we have the experience in other areas of far more severe weather with far more wear and tear taking place, and the highways being able to exist a lot longer. It seems to me that perhaps there's some ... there is some question in my mind as to whether we're really getting the quality that we should be getting.

"In any event, there doesn't seem to be much in the way of an examination as to whether that kind of quality is available to us. The end result is that there seems to be inordinate concern about whether there are some potholes on the highway, and we seem to always have arguments about accident rates in automobiles, and we talk about alcohol. Well, maybe if there are a few more potholes, people would drive a little slower too; maybe there'll be less accidents.

"I just cannot work up any kind of enthusiasm for making sure that our highways are capable of allowing cars to go even faster than they do, as opposed to the kind of concern that I think is necessary to see that our kids advance as fast as they could with respect to their school work. Now, it may be that some will say that I'm drawing an unfair analogy, if not an analogy, at least an unfair parallel. I don't think so, because for myself as someone who has served in that particular committee ... I could cite other committees, as well ... I'm just using education as a primary example because it has the same kind of mass effect in the state ... it seems quite clear that this same kind of concern has not been manifest.

"We're struggling right now, trying to figure out how to deal with cuts that have already taken place in the millions and millions of dollars. If I'm not mistaken, in the past two years or so, we have experienced in the Department of Education alone a \$30 million-plus cut, perhaps between \$30 million and \$35 million. Now, this is roughly equivalent to the kind of cut,

approximately \$18 million a year, \$15 million to \$18 million a year is the way it's averaged out, which is again approximately what we're talking about with the highway fund.

"And, while there may be weeping and wailing and gnashing of teeth as to that cut in education, nonetheless, it has taken place and the department has had to accommodate itself to that cut.

"Now, why shouldn't the Department of Transportation have to do the same thing with highways, especially if we're in a time, as has been cited in various instances upon the passage of various bills on this floor, that we are in a time of fiscal constraints of one form or another. Why shouldn't the highway fund have to do the exact same thing? Why shouldn't it have to retrench? Why don't we make an examination of what we really need in the way of expenditures?

"I see various bumper stickers around town concerning H3, for example, 'We need H3.' Laying aside arguments about H3, as to its desirability or its efficacy in terms of relieving highway congestion or whatever you want to refer to or increasing development for that matter in a different area on the island ... setting aside those arguments, you really don't need it. You may want it; you may desire it; or you may be against it; but you don't really need it.

"What you really need is an education for our children. And if it comes to a contest for funds, it seems to me that I can much more ably make an argument in that area.

"You don't need this! So, if it comes to a compelling interest, if it comes to making a choice, it seems to me that bailing out the highways at this particular stage without concomitant commitment to education and other areas ... I could cite health; I could go on at some length in other areas ... the problems for our aged citizens, with respect to funding ... some of the arguments ... even that could be entertained in the budget that we have just passed over for consideration, page after page in this budget document of grant-in-aids and appropriations of various kinds for private agencies, many of which I daresay could stand some increase in terms of the public benefit.

"All of these items we struggle over, all of these things become

virtually traumatic in their impact and have caused arguments to take place between Senators and on this floor, arguments of great emotion, and arguments which are heartfelt, and in that respect, to then turn around and go to the state highway fund and say, oh yes, this is absolutely vital and must be done with our tax monies, it seems to me to obscure be the issue entirely.

"Reference was made earlier on this floor today to where tuition increase money went -- into the general fund. There's no stipulation that that increase is going to result in a better quality university as a result of guaranteed funding for an agreed upon agenda with respect to higher education.

"So, in this instance, there is no appeal to my logic or reason that succeeds by virtue of an argument with respect to the excise tax being mandated to go to the department. Now, if our highway fund is not sufficiently endowed, you can talk about increasing taxation and all the rest of it aside from the excise tax, going into it, and perhaps then some realism that is necessary for our citizens to be faced with as to what is being done with highways and what the actual costs are will become more manifest. And in those circumstances maybe we can get a discussion of a policy going, a public policy, and what that policy should be with respect to highway construction.

"I don't think this is the way to do it. I think we're selling out our responsibilities with respect to those other areas of government which have had to bear an increased burden over the past couple of years of cuts and the kind of slashing that the highway fund apparently is immune from at this stage."

At 2:31 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:32 o'clock p.m.

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

"Mr. President, first of all, I'd like to say that I sympathize with the chairman who has stepped into a very difficult situation. I also share the same feelings with respect to the new director of the Department of Transportation who, incidentally, I think had some very encouraging

things to say about his perspective as to where the department would be heading under his directorship. However, I'm voting against this bill because I think I paid my dues on this issue.

"Mr. President, during the four years I was a member of the House I served as chairman of the Energy and Transportation Committee. After two or three sessions, it became evident to me, and I don't think one had to have any special degree of insight or intelligence, quite frankly, it became evident to me that the highway fund would be in trouble. And, accordingly, throughout the years, as a matter of record both on the floor of the House and the Senate and publicly and at committee hearings, I have stated that this would happen.

"I take no pleasure in stating that my forecast came true, and I don't want to take the position of saying that I told you so; that's not the point that I'm trying to raise.

"In 1973, when this state along with the rest of the nation went through the gas crunch, at that particular time it should have become evident to the legislators as well as to the administration that the something had to be done about the highway fund. Something had to be done about the funding -- the manner in which it was being funded.

"Looking at the committee report, I just want to quote one statement. It says, 'Because of the decrease in gasoline used per vehicle due to better fuel efficiency and decreased automobile usage, revenues derived from the state fuel tax have diminished while at the same time, the costs of building and maintaining highways and related facilities and equipment have increased dramatically.'

"Mr. President, that sounds like an echo of committee reports that have been issued by the Transportation Committee throughout the years.

"In 1978 or '77, I believe it was, we pushed for a study on project-funded employees. The question that we hoped to raise in that study was, what would the department do with these employees after the project had been finished? We got a response from the department which, in my view, I was not satisfied with. Which really, if you want to be blunt about it, was a 'whitewash' of this particular problem. There was no reorientation of the way

that the projects were planned or the projects that were chosen; there was certainly no reorientation with respect to the way some of the projects were funded.

"In 1980, 1981, for example, the Senate Ways and Means Committee ... excuse me, 1979, 1980, the Senate Ways and Means Committee attempted to take the position that those highway projects or road projects which were not on the department's list of priorities, and which had come over from the House with 100 percent state highway fund appropriations, should have been deleted. We lost.

"Every attempt that we made in the Legislature to deal with this problem met with defeat because of shortsightedness of the past leadership of the Department of Transportation and, unfortunately, because, I think, of the same here at the Legislature.

"So we now find ourselves in this position, and it's a tough situation. But I think some of us have to vote 'no' so that maybe in the future, when warnings are made, we will take such warnings with more serious consideration."

Senator Abercrombie further remarked as follows:

"Mr. President, may I add something.

"The chairman of the Ways and Means Committee pointed something out to me during the recess which I thought I had made sufficiently clear in my remarks but perhaps I did not.

"Mr. President, when I was referring to repairs, for example, as part of my discussion, part of the example being given, obviously, or it should have been obvious, if it wasn't, I intend to correct that now, that I certainly do not favor the deterioration of roads in the state.

"However, and I thought I had pointed it out clearly enough that if that is, in fact, a problem anywhere in the state that it should be addressed, but in terms of financially how it is addressed, I do not think the automatic transfer of the 4 percent excise tax is the way to handle it. I think that encourages a cavalier attitude towards such projects as repairs and does not force the department into the same kind of budgetary activity that other departments have to involve themselves in in terms of setting

priorities, in terms of making sure that there is quality control, etc. etc.

"And I thought I had indicated, and if I did not clearly enough I will do so now, that I'm perfectly willing to discuss other methods of financing including taxation, various alternative taxation.

"It is the automatic transfer of the 4 percent excise tax under the current circumstances that I outlined at length in my remarks that I oppose. If we could approach it from other points of view and if we required the same thing of the department as other departments have to face, then I would be far more amenable to listening to various and sundry solutions that might be forthcoming."

Senator B. Kobayashi then rose to speak in support of the measure and stated as follows:

"Mr. President, in my heartfelt set of priorities, I would agree with the previous speaker that education is very close to us. But this is not to say that land transportation of the highway division is unimportant.

"Land transportation highways are very important to us and we need to find some sort of balancing between our various priorities. We cannot let a vital link in our transportation system crumble.

"We presently have an awkward situation where the highway is underfunded. The department may have been very unwise in its long-term planning, but it is not a division that can be turned around instantaneously. Let me give you some illustrations of what I mean.

"This current fiscal year, FY 1984, we have approximately \$2.3 million involved in special maintenance. This is for the resurfacing of roads. This is approximately one-third of what was spent last year, that is \$6.9 million. The department would like in its ideal state of state to spend approximately \$10.5 million to \$12.5 million. This would mean that under this \$10.5 million to \$12.5 million, that you would have major road resurfacing once every 15 to 18 years. This is approximately what we need to keep our roads in good repair, while not going through the much, much more expensive process of digging them up and then putting a whole new road bed.

"Also, in areas, for instance, such as cash CIP, this fiscal year 1984, we're spending approximately half-a-million dollars in this cash CIP area. Last year we spent approximately \$6 million. In this cash CIP area of half-a-million dollars, almost all of this money goes for highway planning and research.

"Now, in addition to highway planning and research, we have regularly undertaken programs in this cash CIP area having to do with guardrail safety, and road shoulder protection and improvement. These are vital because these various functions are short-term functions which need continual attention and, again, if not attended to become worse over time. But, this year we have absolutely no monies for those various upkeep maintenance efforts.

"These are the illustrations that lead to support some sort of attempt to turn the highway fund around. It cannot be done overnight.

"What the House has proposed is that we go into a spending program that will cause a \$125 million deficit in the highway fund by FY '89. If this is the policy of the Legislature, we have accepted that we will have in this area of highways an unbalanced budget.

"I think it should be the position of the Senate that we should go toward a balanced budget. The critical question here is on what timeframe do we balance the budget. Do we balance the budget on a one-year timeframe, a biennial timeframe, or a six-year timeframe? Whatever timeframe is chosen is critical.

"If we deny the highway fund money this coming fiscal year, we essentially say to ourselves that next fiscal year or years we will have to have double and triple doses of tax increases in order to turn this department around, a department which I would say we cannot deny has some importance to the State of Hawaii.

"Given these circumstances, I think we're trying to adopt a flexible position to confront the House position which I believe is irresponsible, given the fact that it is a grossly unbalanced budget, with a variety of solutions that would enable the department in the long term to not only balance the budget, but to provide for adequate and regular levels of highway expenditures that will serve all of us.

"Thank you."

Senator Cayetano then added to his remarks as follows:

"Mr. President, first, I'd just like to correct a remark that I made earlier. It occurred to me after I sat down that I said the wrong thing.

"With respect to the 100 percent state-funded projects, I meant to say highway fund, not general fund.

"I think the previous speaker, the chairman's remarks are to be well taken. However, if one really wants to be consistent and live up to the principles of the special fund, then all of this increase that's necessary to make the highway fund solvent should have come within those areas of taxation which the fund can address itself to. I'm talking about the fuel tax and weight tax, etc.

"This diversion of 16, 17, or 18 million dollars from the general fund, in my view, is totally uncalled for. If the fuel tax was increased to bring in an amount that's equivalent to the amount that's needed, instead of diverting the money from the general fund, then perhaps the message will get to the driver or the user of the roads and highways that a reassessment of the department's priorities and the department's operating expenses may be in order."

Senator Abercrombie further remarked as follows:

"Mr. President, I realize that this is at length and I'm getting an opportunity to speak again, but I think the reason that I feel I must stand is with respect to the chairman of Transportation's remark about, and I may not be quoting him exactly but I think I'm quoting him accurately in terms of the thrust of his comments, that in the absence of doing something or in taking the House position that we will find ourselves facing an enormous tax increase or greatly increased tax necessity and I think that, including the remarks of the previous speaker, is my point.

"Mr. President, it's simply unfair to take from the general fund, that which otherwise in every other instance where excise taxes are concerned, no matter what the business proposition, no matter what the purchase circumstances are, would go into the general fund.

"The people have the right to expect to be sponged on; they could



turn around then and take that money and put it in what is otherwise, in virtually every other instance and in the context we're talking about, a special fund privilege. I suppose it's the best way to put it, if that's in fact what it is, dedicated, if you will, the funds are dedicated to specific uses.

"What we're doing is, is taking the department and the drivers, for that matter, off the hook, and everybody else in the state who might otherwise derive some benefit from 15 to 18, or whatever the figure is, million dollars loses thereby.

"So I just want it clear when this vote is made, and I want it clear as to why the negative votes are being made.

"It's not arguing the good Senator's proposition that there is a distinct fiscal problem to be dealt with here, and it is not arguing the Senator's proposition that the position of the House that I think he characterizes as an irresponsible one most certainly is one that is ignoring, if at the least ignoring, the realities that have to be dealt with.

"The argument here is that if you want the special fund to get well, if you are looking for a cure, is the general fund medicine the kind of medicine that you want given to the patient? And that's a policy question here because you are depriving, then, every other potential user of that medicine from being able to get well, as well.

"You are not allowing the other taxpayers who have the right to expect that general fund expenditure to be made on their behalf under the general well-being of the state. You are not allowing them to derive the benefit from it. So, I think it is a policy question, this excise tax element, in the sense that a permanent transfer must be fought, and perhaps if this passes, then in any conference which takes place, that proposition can be addressed.

"I certainly hope that if it comes back to this floor at some point later in the session that that idea will be permanently excised from whatever bill emerges."

Senator Chang, in support of the measure, stated:

"Mr. President, I just wish to state that I concur with the previous speaker that this particular measure

relates to a complex and long-term problem that presents a tremendous challenge to the chairman of the Transportation Committee.

"I also concur with the sentiments and anxieties of a previous speaker that elements of this measure may permit the department to make undesirable, unnecessary, and excessive expenditures that will divert resources from other programs of the state.

"I will vote for the measure to see it further considered in conference and I will await the product of that committee. Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 578-84 was adopted and H.B. No. 2151-84, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE HIGHWAY FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Abercrombie, Cayetano, Fernandes Salling and Kawasaki).

House Bill No. 1821-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 1821-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose to speak against the measure as follows:

"Mr. President, I will vote 'no' on this bill because I believe that regardless of the motivation or intent with respect to the bill, it will involve us in choosing sides, if you will, philosophically speaking with respect to chiropractic, and it will have an economic effect favoring one side over another.

"I believe the motivations of the people who are bringing this forward from the profession itself are at the very best ... I'm trying to think of the right word because a word that won't ... maybe I should say what I really mean ... I think what it is, is I'll change my way of doing business and tell you what I really think.

"I believe that the people who are pushing this bill are doing so because they think they are going to derive a direct economic benefit from eliminating competition.

"I particularly resent it because I don't know how many others on this floor are patients of chiropractors, but I have been for 33 years.

"If it was not for chiropractic, I do not believe that I could be physically...I would be in a position where I would be unable to walk, possibly. I suffered a condition when I was very young with my spine that, had it not been for chiropractic, would have probably permanently disabled me.

"And I have utilized chiropractors. I have no particular individual in mind. I have utilized the services of several chiropractors over the years in the Islands as well as on the Mainland who represent different schools. So I have no ax to grind on one school versus another or one particular philosophy versus another, anymore than I do with other physicians who have different approaches, say to nutrition, for that matter, and its relationship to disease. That, I think, is up to the individual, and some things work for some people and not for others.

"In this particular instance, I would hope that if the bill passes that the chairman will further review the situation and in consultation with people in the House, perhaps be able to come up with something that would address my concerns. I know he shares these concerns with me and perhaps the language of the bill will be able to, in its final result, take into account what is in fact the public interest with respect to chiropractic, and will minimize or delete entirely any of the perhaps unintended effects of the bill as it may now exist that could result in what might be economic warfare or undue advantage of one side over another.

"Thank you."

Senator Cobb then rose to support the measure and stated as follows:

"Very briefly, Mr. President, the policy that we've discussed at some point, both this session and last, in committee with respect to the extension of the board is that when we have clear evidence of a factional dispute going on in the board, the committee members in general and the chair in particular have been less than inclined to give the board the full six-year term. And the more evidence of factionalism that exist, it's usually the shorter the term of the extension.

"The House, in this particular case,

provided for a two-year extension of the board. We lengthened that to four for conference purposes and utilized the content of House Bill 2025, a separate bill on chiropractic, to put it all in one vehicle, since we found it a more efficient practice to address not only the sunset provisions of the bill, but also the substantive recommendations of the Legislative Auditor in one bill, rather than several.

"We deleted any references to CCE (Council on Chiropractic Education) and SCASA (Straight Chiropractic Academic Standards Association) in the bill and then placed in an appropriate place the language from the board's position on qualifications, namely, that each applicant for chiropractic license will present 'Evidence of having attended and graduated from a chiropractic college, accredited by, or recognized as a candidate for accreditation by, any chiropractic accrediting agency recognized by the U.S. Office of Education.'

"Any students who have matriculated in any chiropractic college prior to the approval of this act shall be exempted from this provision.

"In attempting to do so, Mr. President, the sense of the committee was to avoid taking sides, but at the same time, address squarely the Legislative Auditor's recommendation to deal with the question of accreditation.

"I would note that one of the colleges involved that has been alluded to in the caucus, and then directly on the floor, is in the process of applying for candidacy to accreditation, and that there are a number of other 'straight' colleges, so-called, that are recognized and accredited by a federally approved accrediting agency.

"I think we faced this similar problem in a bill on psychologists where we had to give full faith and credit to recognized accrediting agencies attempting to walk through the mine field of economic interests that exists, without taking sides in any particular case.

"I'm fully open to further discussion on the issue, but I do have the continuing concern of the auditor's recommendation on accreditation and, I think, we here in Hawaii have to be cognizant of the role that accrediting agencies play and the importance of having

graduates of accredited schools whenever possible.

"Thank you."

The motion was put by the Chair and carried, and H.B. No. 1821-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHIROPRACTORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Cayetano). Excused, 1 (Kawasaki).

House Bill No. 1852-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1852-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM DESERTION AND NONSUPPORT ACT (MODIFIED)," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2604-84, S.D. 1:

Senator Cobb moved that H.B. No. 2604-84, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose to speak against the bill as follows:

"Mr. President, I will vote against this bill because I believe that it is in the interest of participation in elections to increase as much as possible methodology for enabling people to cast ballots.

"The general bill title is 'Relating to Absentee Voting,' but the central fact involved here is what I would call the mail-in ballot. I think that that is the principal function that's associated with this bill.

"I expect that the argument will be made that, historically, there has been in this country in particular, and other areas, the actual physical movement to a voting booth as being the preferred or desired method for casting a ballot.

"The reason I oppose this bill is that there is no attempt on anyone's part to decrease the availability of voting place or polling places, or to prevent anyone from going and

casting a ballot in person. On the contrary, that is entirely intact. The idea would be to increase, that is to say, make in addition to those people who find it instructive and find that it suits them to go to the polling places ... increase the possibility for those who would like to cast a mail-in ballot to participate to do so.

"Mr. President, in those times in our history where balloting for the most part took place in very small towns, took place under circumstances where people generally had the town meeting idea to go to where decisions were made, in fact for municipal purposes in town meetings. That is the basis for it.

"There's a somewhat nostalgic methodology that operates about that which is on the whole beneficial to us in encouraging people to vote. But, by the same token, Mr. President, you currently represent an area, as do I, which in some great degree ... Mr. President, would you like to take a recess? And maybe straighten out the floor leader."

At 3:01 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:08 o'clock p.m.

Senator Abercrombie continued: "Mr. President, I realize that my own, as well as everybody else's blood sugar is not at the level it might be, so we may all be a bit tired, we may find that our attention wanders a bit, but I think that we are passing legislation that affects everybody in the state; I think the least we can do is to pay some close attention to the issues that are involved regardless of the way we feel in the end, in terms of the way we vote.

"Now, as a result, Mr. President, I was indicating that I felt this was a measure which would work against increasing voting, and I want to commend this to the attention of the members because it's easy to see this, if you wish, on a partisan basis.

"My own personal belief is, this bill is here because Democratic members fear Republicans will make use of it. I don't think it has much to do with referendums on the neighbor islands as took place on Kauai or anything else, other than that gave a good example of what you can do if you organize well, and make use of mail-in ballots.

"If there is something to make sure that mail-in ballots are not tampered with in some way, then I could see revisions, but very frankly, Mr. President, I do not think this is a partisan issue anymore than I think the Republicans should make an argument against, if they were so inclined, make an argument that in some apartment areas, for example, I was indicating you and I both represent at least a portion of our districts in apartment areas, that those people might be more inclined to vote Democratic if they had a mail-in ballot. I don't think that that is the point which should be at issue.

"I think that arguments can be made in any given jurisdiction on both sides of the ledgers as to which party or which candidate might benefit from mail-in ballots. I feel that my opposition to this is consistent with my views that we should have increased ability to be able to register to vote. It goes beyond that.

"There is postcard registration. There are other methodologies that are utilized in other democratic countries -- in Great Britain, in Australia, for example. The time doesn't permit today but I could cite you some of the methods that are used there in terms of equivalent of social security card numbers, etc., and for registering voters.

"So, whether it's registering votes or whether it's casting votes, we should do nothing which should be construed as anti-voter in nature. And, I feel that when we restrict those who may utilize what is termed the absentee ballot, we are actually decreasing voter participation at a time in our country when it is difficult enough to get anyone to believe that the political forces want to pay any attention to people; when it's more and more difficult to alleviate, either as an individual member of the Legislature or as a party's philosophical position, the demoralization of the voters of the feeling that their participation is not desired or wanted by us. And I think that a bill, such as this contributes to that feeling. What the politicians want to do is find as many ways as possible to decrease participation in the voting process for their own benefit.

"So, I wish that the members will take this into consideration and defeat this bill so that the present law as it exists can continue, and should there be a desire on the part of members, including the chairman of the

Judiciary Committee, to rectify any part of the present law's language which might contribute to criminality or trying to defraud the voting electorate by virtue of tampering with ballots or something of that nature, why, offer a bill to that effect. But to do otherwise, to do what this bill asks us to do is in effect to decrease voter participation and to inhibit those who might otherwise vote from doing so, and as an indication on our part that we do not want to extend the voting franchise in a manner and method which reflect contemporary situation."

Senator George also rose to speak against the measure as follows:

"Mr. President, I think this is the first time I've heard, by the remarks of the Senator from the 11th District, that this might be construed as a partisan measure. It hadn't appealed to me in that way.

"I authored the present law which provides for the broadest possible participation in the voting process, and I hate to see it disturbed. I didn't introduce that measure as a Republican, but as someone ... maybe, I should say as an emeritus or graduate member of the League of Women Voters, the purpose of which is to increase citizen participation in government. And that is sort of where I was coming from.

"Since we heard this measure in committee, Mr. President, it was made clear to me that there is an interesting new precedent which we ought to follow, and that is the federal voting right in the presidential election on the part of the members of the military establishment who can both register and vote, either in this state or in a home state, by mail, and nobody asks them why they want to vote in which state...they are not required to give any reason at all.

"Increasingly in other jurisdictions, voters are able to register by mail. I think this is a demonstration of an intense desire on all of our parts to increase democracy in this country. And I would hate to see us taking a step backward and reducing the availability of the ballot to any of our voters.

"Thank you."

Senator Carpenter also spoke against the measure as follows:

"Mr. President, just to add to the previous speaker's remarks, speaking

against this bill.

"I think that what we have here is, we have had some earlier discussion in caucus on affirmative defense and now what we're saying is that in order to defend your right to vote in an absentee manner you must show that you are going to be absent, confined to a hospital, etc., etc. etc., and the chief elections officer can by promulgating rules which are said to be good and sufficient will add to this list of seven affirmative defenses which will allow people to go ahead and vote by an absentee ballot.

"Eventually, we will come full circle, Mr. President, and we will come back to the very statute that exists in the books today which allows the maximum participation by the maximum number of people, irrespective of party, to participate in any election in the State of Hawaii, as it very well should be.

"We deliberated long and hard and cleaned out the statute in 1981. Here we are a couple of years later reacting to a set of circumstances which may never occur again and, even if they did, certainly would not preclude the maximum participation that is presently allowed in our statute.

"So, for those reasons, Mr. President, I vote 'no on this measure."

The motion was put by the Chair and carried, and Roll Call vote having been requested, H.B. No. 2604-84, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ABSENTEE VOTING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Abercrombie, Ajifu, Carpenter, George, Henderson, Kawasaki, A. Kobayashi and Soares).

House Bill No. 2163-84, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 2163-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PENAL CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2201-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2201-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Cayetano rose to speak in support of the measure as follows:

"Mr. President, I'm going to support this measure because I believe this measure is a result of a compromise between differing viewpoints on the objective of this bill. However, I'd like to state for the record my strong objection to the committee report which appears that it could not have been written better than if it was written by the utility company.

"Let me quote it. This is the third paragraph on page 1: 'Any delay of a rate decision is costly to the utility company, the State and County, and in the long run to the customers. While the utility gets to use about one-half of the increase, the other half goes to County, State, and Federal governments in the form of fees and taxes. Ratepayers can be adversely affected because the utilities' investors judge the utility company, in part, by its earnings record and demand higher interest on bonds and higher dividends for investing in utilities that do not have what they consider good earning records which results in higher operating costs. Thus, unanticipated and unreasonable delays deprive the utility company of a fair return, the government of taxes, and customers of the lowest rate in the future.'

"Mr. President, with respect to that sentence which says, 'While the utility gets to use about one-half of the increase, the other half goes to County, State, and Federal governments in the form of fees and taxes.', that seems to be arguing that the way to raise taxes and fees is to raise our utility rates. Okay, that may benefit the county, the state, and the federal governments and certainly the utility at the expense of the consumer. The logic in that statement it seems to me, is a bit absurd.

"Then the sentence, 'Ratepayers can be adversely affected because the utilities' investors judge the utility company, in part, by its earning record and demand higher interest on bonds and higher dividends for investing in utilities...' etc., etc. All this talk about the company' not receiving a fair return and that affecting investors, Mr. President, is not substantiated by the history of the returns that have been received by the utility companies."

Senator Kawasaki then stated and inquired as follows:

"Mr. President, I signed the committee report emanating from this committee 'with reservations.' It was one of the rare instances when I wasn't quite sure voting 'aye' on this was the right thing to do, and relevant to this lack of decision on my part, may I direct a question to the chairman of the committee from which this committee report emanated?"

The Chair posed the question and Senator Aki asked to hear the question.

Senator Kawasaki then asked: "Mr. President, were we able to elicit any response from the two agencies that we had created regarding the final language of this bill, the compromise language that Senator Cayetano refers to?"

Senator Aki answered: "Mr. President, the answer to that question is, yes, we did receive responses from the Consumer Advocate and the Public Utilities Commission."

Senator Kawasaki further inquired: "What was their response to the bill?"

Senator Aki answered: "Mr. President, the response to the bill was that they were not in favor of the bill."

Senator Kawasaki, in opposition to the measure, continued as follows:

"Mr. President, I pay particular deference to the response of these two agencies that we in the Legislature created.

"The Consumer Advocate Agency was created primarily to have somebody from the Attorney General's office look after the interests of the consumers of this state.

"We also created years ago the Public Utilities Commission, again generally to protect the interests of the consumers of this state and, also, to make sure that rate increase requests that go before this body is adjudicated in a fair and objective manner after due consideration is given to all the information or all the data that come before them.

"Because of the answer I received from the chairman of the Economic Development Committee I will have to vote 'no' on this.

"As I said, I pay deference to these two agencies, particularly, because we mandated upon their shoulders, the responsibility of taking all the information that come before them, advanced to them by utility companies making a request for rate increases, spending the time and their expertise in examining rate requests. Generally, I know that the Public Utilities Commission has given an answer either to approve a rate increase requested by utility companies or not, one way or the other, within the time-frame that apparently is comfortable to the public utility company.

"But there have been some rare instances where, because of the complexity of all the information that is required in order that the Public Utilities Commission make a decision, because of that complexity, and sometimes because of the failure on the part of the private utilities to provide the information that is requested by the Public Utilities Commission for reasons only known to the private utilities, sometimes delay becomes necessary.

"And when the two agencies that we created to protect the public interest delay their answers in the way of a rate approval, one way or the other, there must be good reasons for the delay; and for us to enact legislation here even in this so-called compromised language, that would impede the ability of the Public Utilities Commission to make an objective decision, simply because they didn't have the time, I think, perhaps, it is not the right thing to do.

"God only knows they have been requesting of the Legislature in the past appropriations for additional staffing. Their complaints were generally that 'we don't have the staff capability; we don't pay the kind of salaries the private utilities pay to their analysts, to their attorneys to present their side of the case; we don't have a position that's comparable to the private utilities.' We have turned down these requests, probably, because of the financial constraints that we have.

"Even under these limited circumstances, when these people try their best -- the Public Utilities Commission as well as the Consumer Advocate -- to protect the public interest, and we find that their response to the language of this bill is a negative one in their attempt to protect the public interest, then I

think it behooves us to really give deep concern to the response elicited from both the Consumer Advocate's office and the Public Utilities Commission.

"In view of the fact that they say this bill will work a hardship on them, it's not good for them, it's not good for the taxpayers, more importantly, then I will have to vote against this bill and I urge others in this body to vote against this bill."

Senator Abercrombie then rose to speak in support of the measure as follows:

"Mr. President, I speak in favor of this bill on the grounds that Senator Cayetano has indicated very clearly that this was a compromise.

"I do not think that the amount of time indicated in the present bill which would be 30 days upon 30 days after the nine-month period, if necessary, would be there if it was not for the discussion that resulted in this compromise. This, at least, takes into account the historical record, but I also am in agreement with what Senator Kawasaki had to say in great measure, most particularly, with the idea of staffing.

"Mr. President, I do not sit on the committee and before I had an opportunity to go into this in detail, I did not adequately understand the elements involved in evidentiary hearing. I've had a good education in that respect as a result of this bill coming forward. So, Mr. President, I'm going to vote for the bill as an act of good faith, but I will have in mind then next year what we are requiring of the Public Utilities Commission and the Consumer Advocate.

"Making reference then to Senator Kawasaki's remarks, I will support any recommendation that comes from the Consumer Advocate and the Public Utilities Commission which makes a representation as to staffing and expenditures that they will need in order to comply with the language of this law, should they feel that an increase is necessary in order to do so. And I would hope that others who find themselves voting for this bill will have that in mind next year, and that it will be very clearly on the record as an admonition to the Public Utilities Commission and to the Consumer Advocate that while we expect a decision-making process to take place as expeditiously as

possible, we do not expect of them that they perform miracles in the absence of the knowledge that is necessary for them to make a proper decision and to the degree and extent that they need assistance in arriving at those decisions as a result of the legislation we pass. And I think it's up to us to provide it."

Senator Cayetano added to his remarks as follows:

"Mr. President, I just want to again register objection to the language in the committee report. On the first page, the second full paragraph, it states in part: 'Based on the National Association of Regulatory Commissioners' Annual Report for 1981, the national average for telephone rate cases decided in that year was slightly less than seven months from the date of application until the final order. In 1982 the average was 7.12 months. According to the Regulatory Research Associate's report covering all state telephone and electric rate case decisions for the four-year period of 1980 through 1983, only 25 of over 900 decisions exceed 17 months, the time required in Hawaiian Telephone's last rate case.'

"Again, Mr. President, this is language that I think is one-sided and misleading. The fact of the matter is that the testimony we received at the hearing indicated that most of the jurisdictions, many of the jurisdictions cited by the utility companies and which are cited in these annual reports, follow a different method than that followed by our PUC.

"In most of these jurisdictions, they follow the historical data method; in other words, you look through the history of the utilities and their expenses and go from there. In our case in this state, the PUC follows the future forecasting method which is much more difficult and which accounts in many cases for the increased length of time.

"The commission, Mr. President, at one of the hearings, offered to go to the historical method but the utilities declined, and the point that the commission was trying to make was that if the commission was to use the historical method it indeed could probably come up with decisions in the average time set forth in these reports."

Senator Aki then rose to speak in support of the measure as follows:

"Mr. President, speaking just briefly in support of this bill, I just wanted to point out that they are not trying to make it such that the Public Utilities Commission will render a fast decision just for the sake of making a decision.

"The purpose of this bill is to set clear guidelines for the Public Utilities Commission to render a decision. This provision is already in the statute whereby the Public Utilities Commission is asked to render a decision, to make a decision within the nine-month period. This bill merely asks that the Public Utilities Commission do make a decision after the tenth month.

"If necessary, the amendment will allow the commission an extra 30 days to give them a little more time to get the information so that they can make a decision.

"But the point I'd like to make, Mr. President, is that the decision that the PUC will be making would be based on the record before it and, at that nine-month period, I believe, that there is sufficient information for the PUC to at least make an interim decision and if the decision that the PUC will be making, if they do not have enough information before them, they can always request additional information from the utility company, or the PUC can render a decision that no rate increases will be sufficient.

"I wanted to point that out to the members of this body. I think it's a fair bill, one that will move us in the first step towards improvement in this area. And I agree wholeheartedly with the comments made by Senator Abercrombie that should we require additional support in the Consumer Advocate and the PUC offices next year, then we should take the next step during the next session. Thank you."

Senator Cayetano then added to his remarks as follows:

"Mr. President, as I stated earlier, I will support the bill although after listening to the last speaker's remarks I'm kind of waivering.

"I won't prolong this debate any longer, Mr. President. We had extended discussion on this matter in caucus and also in committee. I do want to point out, however, that there has been much confusion about what constitutes an evidentiary hearing, about what kind of evidence constitutes the record for the

commission, etc. I'm sad to say that the chairman's last remarks only supports that observation."

Senator Kawasaki then responded as follows:

"Mr. President, I think the longer Senator Cayetano speaks on this measure, the more he's inclined to vote with me.

"Mr. President, I forgot to mention that however inconvenient it may be and however troublesome it may be to the private utility company going before the Public Utilities Commission, all of this time delay that's apparently necessary, imposed upon them by the Utilities Commission, is all part and parcel of the conditions by which this private utility got this very special privilege of being in an exclusive franchise given to no other telephone company. This is something we have to consider very strongly.

"The Telephone Company and the Hawaiian Electric Company are given a very special privilege, a special franchise that says to anyone else who want to compete with them, you will not enter into this business; the state allows only Hawaiian Telephone Company and Hawaiian Electric Company to operate. This is a very special privilege and if delays become necessary during the course of the Public Utilities Commission trying to ascertain whether the requested rate increase is justified or not, that's all part of the conditions by which the state granted this very exclusive franchise to these companies, so they have got to live with any delay...that we can see is not one that's frivolous. It's not a delay imposed upon these people by the Public Utilities Commission for no valid reason.

"I must give credit to the Public Utilities Commission; I must give credit to the Consumer Advocate's office for their diligence in trying to protect the public interest even if it means in the end a delay of several months in rendering a decision."

Senator Cobb then rose to support the measure and stated as follows:

"Mr. President, I rise to speak in favor of the measure. In doing so, I'd like to reflect for the record, as well as an expression of legislative intent, in terms of my support of the bill, the position I enunciated in caucus and which is inherent in my understanding of this measure and my support thereof, and that is, that if



at the end of nine months, including the evidentiary phrase phase of the hearing, that the Consumer Advocate has not been heard from in terms of presenting their side of the testimony and their expert witnesses and evidence, an additional 30 days may be taken for the purpose, and that no interim decision should be taken until at least both sides are heard from at least once. While that's not spelled out in the bill, at least that is one of the purposes for which I understood the additional 30 days to be provided for.

"And I would be hopeful that before any interim rate measure is decided upon that not only the utility, but the Consumer Advocate be heard from in terms of presenting their evidence before an interim decision is taken. Thank you."

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

"Mr. President, just so that there's no confusion, when we say an additional 30 days, does that mean ... we're actually talking about two separate 30-day periods following the nine-month period, if the commission decides that's in order, are we not?"

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

Senator Abercrombie acknowledged: "Thank you."

The motion was put by the Chair and carried, and H.B. No. 2201-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Kawasaki).  
Excused, 1 (Henderson).

House Bill No. 1983-84, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 1983-84, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Carpenter rose to speak against the measure and stated as follows:

"Mr. President, my understanding is that there was some discussion on this bill in caucus.

"I find that I think the language is perhaps a little too broad. A very

simple defense is, 'I don't know,' and then another defense, I guess, to this language would be, 'I thought I was in danger or somebody else was in danger.'

"I just don't see how this language, even modified, is going to do anything but add another measure on our books that becomes totally unenforceable.

"If we want to express a concern or an educational effort toward making it a crime not to report a crime, then I think a petty misdemeanor which carries a maximum of \$500 fine and six months in jail is inadequate.

"So, Mr. President, I hope that should this bill pass, as I suspect it will, going into conference, that it emerges very different from that which is represented here in this form."

The motion was put by the Chair and carried, and H.B. No. 1983-84, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A DUTY TO ASSIST IN CERTAIN CIRCUMSTANCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 7 (Abercrombie, Ajifu, Carpenter, Fernandes Salling, Holt, Soares and Solomon).  
Excused, 1 (Henderson).

At 3:39 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:41 o'clock p.m.

Standing Committee Report No. 624-84 (H.B. No. 1629-84, H.D. 1, S.D. 2):

Senator Cobb moved that Stand. Com. Rep. No. 624-84 be adopted and H.B. No. 1629-84, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator George rose to speak in support of the bill as follows:

"Mr. President, I rise to speak in favor of the bill with serious reservations about half of the bill. That half of the bill which deals with roadblock, I find somewhat difficult to come to terms with.

"To me, it seems to put forward a roadblock in the path of the police who are undertaking a very

successful system of roadblocks against drunk drivers. But the rest of the bill incorporates a good many factors which I think we need; therefore, I will vote for the bill."

Senator Chang responded to the previous speaker's concern as follows:

"Mr. President, there have been similar concerns expressed about some of the elements that pertain to the roadblock proposal, in particular, the requirement that a warrant be obtained prior to the establishment of a roadblock, and I have received those concerns and indicated that I will take this bill to conference and cure these perceived deficiencies."

Senator Soares then asked if the chairman would yield to a question.

The Chair posed the question and the chairman asked to hear the question.

Senator Soares asked: "Mr. President, it's my understanding that the police department testified against this measure. Is that correct?"

Senator Chang answered: "Mr. President, the police department did not testify against this measure as it was presented to your Committee on Judiciary. The police department was supportive, however, when there was discussion on the matter of a warrant requirement. They inserted that a warrant be procured by the requesting authority. The police department did express their concern."

Senator Soares stated and further inquired: "Mr. President, I should ask this then. My understanding is that the police department expressed concern that this particular bill makes it harder for them to perform the function than previously before we passed this bill. Is that correct?"

Senator Chang responded: "Mr. President, with respect to the section of this bill that deals with roadblocks and, in particular, the warrant requirement, the police department did testify that they do not establish roadblocks willy-nilly in this city, but consider different factors before they decide on the time and place that a roadblock will be placed.

"In particular, they talked about the number of incidents or accidents that occurred at particular intersections and also the volume of traffic and other traffic related factors.

"Your committee determined, at that time, if this kind of rational decision-making was already taking place with the police authorities, that it would not represent any great obstacle for the requesting authority to present such empirical information to a judge in order that the judge would find that such a roadblock was reasonable and appropriate under the circumstances."

Senator Carpenter, against the measure, stated as follows:

"Mr. President, on the other half the Senator from the Windward District was having trouble with, I have a problem with the section beginning on page 7, Section 286-128.

"Mr. President, I believe that the point awards for points 1, 2 and 3 are inconsistent with the language that we have already adopted into law and are presently modifying, relating to the suspension of licenses for drunk driving, because these are points administered by the Department of Transportation, not the police department nor the Judiciary, and do not necessarily speak to the time of removal of licensure for the offenses of drunk driving, either first, second or third offense within a period of five years.

"Mr. President, I also think that another problem may be that in addition to being inconsistent with the other statute, that at some point in time someone may argue in court that in addition to the penalty received under the present statute that this is a secondary penalty which might, perhaps, nullify that which already is stated in statute, and I'd just like to suggest that when this bill goes to conference that these points be considered because I don't think it necessarily helps to enforce our driving under the influence of alcohol statute and, in fact, may be confusing and unconstitutional. Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 624-84 was adopted and H.B. No. 1629-84, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Carpenter, A. Kobayashi, Soares and Solomon). Excused, 1 (Henderson).

At 3:39 o'clock p.m., the Senate

stood in recess subject to the call of the Chair.

The Senate reconvened at 3:41 o'clock p.m.

Standing Committee Report No. 627-84 (H.B. No. 1148, H.D. 1, S.D. 2):

Senator Cobb moved that Stand. Com. Rep. No. 627-84 be adopted and H.B. No. 1148, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki rose to speak against the measure as follows:

"Mr. President, I rise to speak against passage of this bill. I suppose of all the bills that have come before us today, this is the one that I object to most strenuously, as I did back in the late 60's when the first proposition to provide immunity to the Medical Review Board came before the Senate.

"A peer review committee is a committee comprised of medical people -- staff, doctors and so forth -- to review, more often than not, any act of negligence, incompetence, error, but, more importantly, lack of competence on the part of any doctor serving a patient.

"At that time, in my objection to this bill, I said that as I see it from my lay standpoint, this bill we're asked to vote on, as we are asked today for this group of people involved in medical practices, the bottom line is that this is an obstruction of justice.

"What is requested here is that the discussion, but, more importantly, the records of a review committee reviewing possibly the acts of negligence, incompetence on the part of a doctor, when this review committee has a discussion and this discussion is recorded and even if facts are found to prove the case of negligence and incompetence from which consequence a patient suffered, either because of bodily injury or because of great economic loss to himself, even the records are not subject to discovery by that branch of government in our society that is given the responsibility of adjudicating fairly for people in a litigation.

"When we say that we will not make records that are recorded available to the courts or the attorneys representing parties to a litigation in

a case of possible medical malpractice suit, then we are, in effect, obstructing justice.

"For any other group of citizen activities, we require, sometimes by subpoena, the producing of evidence pertinent to a case before the courts. Why is it that only for this medical profession we allow this professional group, who in my judgment is perhaps most flagrantly guilty of covering up...you know, to have a doctor testify against another doctor in a malpractice suit is almost impossible...we have this very exclusive cover-up arrangement in the medical profession?

"As a matter of fact, I have a rather dim view of the American Medical Association to begin with, because, historically, if you study the social legislation that exists on the books today in our country, you will find that when propositions to improve the health, to improve the welfare of citizens of this country was considered before the Congress, from the Social Security Act, from the creation of the National Health Institutes that are a part and parcel of our health programs in this country today, or even for that matter when the first proposition to create Medicare was concerned, the most vocal opponent, the most rigid opponent was the American Medical Association.

"Today, when we find that there is abuse of this program we call Medicare, to attend to the medical needs of our indigent, the greatest perpetrators of abuses in the way of fraud and overcharges, charges not warranted, is the medical profession.

"The point I'm establishing is that I don't know why we accord the medical profession a very special privilege in this country of ours, and a medical peer review committee making discovery impossible, for the records of the peer review committee fall into this category. We are, in effect, as I said, denying the courts, the lawyers in their litigation before the courts the right to examine the records of a particular patient, and the records of medical staff people or the doctors attending to the care of a citizen.

"I think we are doing something that we are going to regret in the years to come by enlarging this special privilege of making discovery impossible for medical records of these groups of people outlined in this bill. It was bad enough when we

provided immunity for the original medical peer review committee. We're expanding this impossibility of discovery by the judiciary system, making it impossible for the judiciary system to have before them to make relevant information intelligent decisions, fair decisions. This, in my judgment, is unspeakable. But I know we have passed propositions like this, in the past.

"I ask this body to consider this very carefully before voting for something as advocated in this bill. I will vote against it."

Senator Abercrombie also spoke against the measure as follows:

"Mr. President, I've mentioned on the floor and I'm not the only one, but I mentioned recently that the people of this state, in the Senate in particular, will have to go a long way in its history before we find someone for whom we can be more thankful for in terms as exists in this body, someone like Senator Kawasaki.

"I want to repeat that because, if you'll notice, Mr. President, that Senator Kawasaki has stood...."

Senator Soares, at this time, interjected: "Point of order, Mr. President, are we in a campaign today?"

The Chair responded: "Senator Abercrombie, you will restrict your comments to the measure before the body."

Senator Abercrombie then remarked as follows: "Mr. President, I believe my comments are directly related to the measure before this body, and I reject that admonition. As far as elections are concerned, I don't think anybody in this room can take Duke Kawasaki on, let alone anybody else in the public who wants to do it. Anybody who cares to get into that buzz saw is welcome to it, so it has nothing to do with an election.

"What it has to do is a recognition and, as I said, Senator Kawasaki stood on this floor this afternoon and has admonished some of us and made his views known and has not prevailed on some occasions; on other occasions, he has.

"The point is that when it comes to pointing out and standing up, pointing out deficiencies, standing up for principles, he is the one that does it. And in this particular instance, I can think of all the

measures he's talked about today, he has done so more eloquently and more to the point than perhaps anything else today or in a long time.

"I support that position. I cannot see a scintilla of evidence as to why these peer review committees and/or the quality assurance committees in hospitals should be exempt from having to own up to what their responsibilities are and to own up to what is necessary in terms of discussion of the adequacies or inadequacies of the activities involved in operations of the hospital, or in terms of people performing their duties, or in the methodology in which those duties are carried out in the institutions themselves.

"How is it possible for us to say that we represent the public and at the same time turn around and exempt these people from having to carry out their duties? It is an open invitation to do exactly as the Senator indicated, which is to prevent the public, individually and collectively, from having any kind of a capacity that ordinarily would be expected in a democratic society, and the kind of capacity for redress of any grievance that they might have.

"If we want to pass this bill, what we are saying, in effect, is that we are going to assure any kind of malpractice, any kind of incompetence, assure that those activities that could be characterized that way would be able to continue unabated.

"How is it possible for anyone who calls himself or herself a physician or in any of these other areas that are indicated or would come under the quality assurance committees, how is it possible for them to call themselves professional, to have a professional attitude and say that they should be exempted, as called for in this bill, from having to own up to their responsibility? There can only be one reason for it, and that is to get out of having any responsibility, is to assure yourselves that no matter how things are fouled up, no matter what kind of outrage takes place, that you will not be responsible.

"The Senator has indicated that, and I will take the same point of view, that if this bill passes, as far as I can tell, not even the courts of this land will be able to compel testimony that would bear any relationship to discussions that took place in these committees in their deliberation.

"The only argument that I've heard put forward is that in the absence of this you will not have free and full discussion, which seems to me to be an argument on its face that people will try and hide the inadequacies or the incompetencies in the hospital, and that the professionals are already engaged in this. And I ask you to take into account, if the argument is that full and fair discussion cannot, is not, or will not take place without this particular kind of immunity, it is implicit, if not in fact explicit, that it is not taking place now, which is an indictment. It's an indictment on its face.

"And so what we're saying is, because this discussion doesn't now take place, because people are covering up, what we want to do is give it the advantage of law. And rather than seeking to open this up and to require people to carry out their duties and responsibilities, what we'll do is admit that this is already going on and we'll help them in terms of the cover-up.

"We haven't quite reached the state in 1984 in this country of complete totalitarianism, but this kind of bill is a helluva good step on that route where we protect the privileged and divorce ourselves from the responsibility of protecting the weak."

Senator Cayetano also rose to speak against the measure as follows:

"Mr. President, I would like to elaborate a bit on the remarks made by the two previous speakers.

"In order to put this into proper perspective, it seems to me that there should be some discussion as to the position of medical providers and physicians in this state with respect to civil liability.

"Mr. President, there is no other group of professionals in this state who are better protected, who have been afforded, through the good graces of this Legislature, greater protection than the ordinary man on the street. Let me illustrate.

"In order to sue a doctor or hospital for malpractice today, one will have to, first of all, find an attorney who is willing to take the case; two, file a claim before the Medical Conciliation Panel, which is a body that was created by this Legislature in 1976, and have a dress rehearsal there before that body in terms of trying the merits of the

case. This of course raises some expense to the person who has been hurt and who seeks redress. After going through the Medical Conciliation Panel, then the plaintiff or the patient, if he wants to proceed further, has to go and file a law suit in court.

"Now, with the exception of the engineers and architects who have a similar agency that gives them the same kind of protection, they knew a good thing when they saw it and came in a couple of years ago and we did the same for them. With the exception of that profession, no one else has this kind of protection. So, the doctor has all of that protection, all of those obstacles in the way of the plaintiffs.

"Yet, if you, Mr. President, driving your car were to run a doctor over in the street (I know you probably will not do that purposely), he could sue you right off the bat; I mean there would be absolutely no problem.

"In a similar vein, what we have done is, we have already in law granted or exempted from discovery the records and proceedings of the peer review committees. I think this bill just adds a little more and clarifies that.

"Now, while one can make a case, I think, although it would be a rather tenuous case for exempting the proceedings of the peer review committee because, after all, in a peer review committee someone has been charged with incompetence or negligence and his peers then review his action. Okay. A case can be made, I think, for keeping those kinds of proceedings privileged, although I might add that lawyers in our disciplinary council, I don't believe we have that kind of a privilege. But, nevertheless, a case can be made.

"But for the hospital quality assurance committees, I don't see the same kind of case being made. The committee report on the second page defines these committees as follows: '...hospital quality assurance committees, which have been created in hospitals to conform to requirements of the Joint Commission on Accreditation of Hospitals, need this same protection to ensure high quality medical services...' etc., etc. So, basically these committees were created to see that their practices and their procedures conform to the requirements of the accreditation

association or committee.

"What may happen, and this is I think my most serious concern, is that during the course of these committee meetings, it may come to the attention of the committee that a certain procedure or practice followed by the hospital may not have been proper. If a person gets hurt as a result of that procedure or practice, that person as part of this case would have to prove, among other things, that the hospital knew or should have known that this practice or procedure poses some harm to the patients.

"Now, if that kind of information was divulged at a committee meeting by one doctor or one staff person, and say you had four or five other members of the committee who learned about it at that meeting, if this bill were to become law, the plaintiff who sued the hospital could not, in deposing the other members, get them to testify about what they had learned in committee. And clearly then, this poses some roadblock or additional roadblocks to patients who have been injured who seek redress from doctors and medical or health care providers.

"I don't think it is fair or equitable for us to continue to provide these kinds of protection for the hospitals, for the medical profession, when we don't for the rest of the community. For that reason, I am urging a 'no' vote on this bill."

Senator Chang, in support of the measure, stated:

"Mr. President, I believe that the reasons for the passage of this bill are adequately presented in the committee report. I just want to add a few remarks as to the role and function of hospital quality assurance committees.

"These committees are mechanisms for reviewing and evaluating patient care and have as their function the identification of potential problems or related concerns in the care of patients. Thus, they serve as a very important sounding board for various kinds of observation that are noted by the hospital staff, and provide for the objective assessment of the cause and scope of problems or concerns, including the determination of priorities of both investigating and resolving problems.

"Thus, it is the committee's determination that it is very important for these committees that there be full

and unfettered discussion of items brought to the committee's attention.

"The speakers who have concerns about this bill overstated, I think, the detrimental effect that would occur if this bill was passed. I believe there were statements made that it will be well nigh impossible to bring malpractice claims against physicians if we were to exempt these quality assurance committees from discovery. Your committee *does* not believe this to be a result of the bill.

"We will note that medical records continue to remain available, including mobility and mortality reviews, reviews of prescriptions, incident reports made into both individual safety and clinical care, utilization review findings, data obtained from staff interviews and observation of hospital activities, and findings of other hospital committees which may relate to items like safety and infection control. And, thus, if a person wishes to initiate a complaint against a physician or a health care facility, the fundamental records would still remain available for the patient's use in processing that claim.

"This bill would in no means eliminate the accessibility of these fundamental documents.

"For these reasons, I do believe that the concerns are overstated and exaggerated, and I recommend the passage of this bill."

Senator Abercrombie responded and stated as follows:

"Mr. President, the chairman has succeeded in convincing me even more the necessity of defeating this bill.

"The chairman, by his own account, states that the quality assurance committees are involved in the area of patient care -- patient care, not doctor's care, patient's care -- and that the committees are to look for potential problems and discuss potential problems, problems or potential problems, and that they are to be the sounding board for these potential problems with respect to an objective assessment of the problems and their solutions.

"He then goes on to indicate that some of us may have overstated the case, and indicates that there are fundamental records, as for example, with safety it will still be involved.

"We passed this legislation not only as an invitation, but any hospital

administrator worth anything, and any board in any hospital would take the point of view, don't put anything in these records...have everything referred to the quality assurance committee and all the records become a part of the activities...formal records will be only in the quality assurance committee; therefore, it can never be touched.

"So you can have certain allegations that might be made, but in terms of the potential problems in their discussion, in terms of objective assessment of the problems, and in terms of possible solutions, all with respect to patient care, now, that can take place entirely within the confines of the privileged quality assurance committee; and all the records which have been referred to by the chairman of the Judiciary Committee will be in effect useless and non-existent. They will all come into the purview in any discussion, in any kind of formal sense that might be able to be subpoenaed or to be questioned in any way that would have an effect, legally or otherwise, will be in that kind of privilege.

"You have to remember, when we pass this stuff...sometimes I wonder if you only stand down here, you run for office, and you think it's because it's in the public interest, and then I get down here and I wonder where in the hell the people are in all this that we do. And, especially, I stand in the Democratic Party and I wonder what the Democratic Party is all about. Are we just for the rich? Of the rich, by the rich, for the rich, take care of the people that have it all to begin with? And that's what this is all about.

"And when you pass a law, people take advantage of it. And so, if you pass a law giving privilege to a group of people in a committee like this, what they're going to do is try and fix things so that that committee gets to have control over all of it because they will never have to account for itself. That's what people do. We're inviting them to do it when we pass this.

"Every once in a while, shouldn't we decide whether to pass a bill or not on the basis of whether it serves the public interest? And as the majority party on this floor, every once in a while, shouldn't we stand up here and actually vote because we think it's good for people, rather than just good for us?"

Senator Cayetano, also in response,

stated as follows:

"Mr. President, just a brief response to the chairman's remarks.

"The chairman stated that the concerns raised were exaggerated and overstated. It is not my intention to do so. I voiced my objections to this bill as the bill creating one more obstacle. Just one more obstacle in addition to the many other obstacles that this Legislature and past Legislatures have put in front of people who have been hurt by the medical profession. Just one more such obstacle to that kind of person.

"I agree with the chairman. This will not cut off discovery completely, but my experience has been that every time you create a privilege, what will happen is that the defense lawyers...and now there are many good defense lawyers in town...will use the privilege to their purpose.

"You will find that probably the cost of medical malpractice suits will go up because in many cases they will attempt to use the privilege to stop the plaintiff from getting certain kinds of information, and that will have to be litigated in court.

"This is my concern and I'm sorry that we seem to be heading in a direction that bothers me."

Senator Chang then stated as follows:

"Mr. President, in brief response, I in no way intended my remarks to characterize the previous speaker's conclusions, but instead directed my response to those characterizations which would seem to imply or state that the initiation and processing of malpractice claims would be completely eliminated by the operation of this bill.

"As I remarked previously, the fundamental means by which such claims may be initiated still remain intact.

"I will note that when this bill was heard that the attorneys who practice in this field expressed no concern at that time.

"I understand, in recognition, that there are varying interests, disparate interests to be weighed here that quality care is assured by the full and free discussion of potential problems in these committees without concern for discovery or suit, and on the other hand, the interest that

patients' claims be initiated with full access and free access to information that pertains to hospital care. Because these interests get to be weighed and the issues not resolved, the attorneys had chosen not to take a position at that position."

Senator Cayetano then added as follows:

"Mr. President, taking a page from Senator Kobayashi's law, as stated in the caucus, I would like to try and determine whether there is a compelling need for this bill and, therefore, would like to ask the chairman if he would yield to a question?"

The Chair posed the question and Senator Chang asked to hear the question.

Senator Cayetano then asked: "Mr. President, would you ask the chairman whether there is a compelling need for this bill with respect to the hospital quality assurance committee?"

Senator Chang answered: "Mr. President, testimony was received from the hospital association that requested the furtherance of this proposal which had come to the Senate from the House and this request was based upon the concern that full and free discussion was not taking place in the proceedings of the committee.

"I will concede to some previous speakers that in catering to this inhibition that is being speculated upon, we appear to be condoning a practice that is not desirable from the standpoint of the entire society. Nevertheless, we as legislators must take the world as we find it and recognize realities as they exist.

"If there are certain evils that need to be addressed, and certain evils that need to be reconciled, then as Judge Learned Hand has stated in another instance, as is so often the case, 'the answer must be found in a balance between the evils, inevitable in either alternative.'"

Senator Cayetano then remarked and queried as follows:

"Mr. President, I'm trying to find out if the evil does exist. I would like to ask the chairman whether the representatives of the hospitals came in and did offer any kind of empirical evidence or evidence which was not speculative to lead to the conclusion

that members of these committees were in fact inhibited and not engaged in full and free discussion."

Senator Chang answered as follows:

"Mr. President, as has been pointed out, the existing law does recognize these considerations, and does exempt, at the present time, peer review committees of local societies and also exempts peer review committees of hospital staffs that do discuss hospital care and quality of that care. So these considerations have been previously weighed and well considered, and I think that the policy judgment has already been made that quality of patient care is at this time the foremost consideration in these situations."

Senator Cayetano then continued:

"Mr. President, I believe the chairman mistook my remarks. I think at the beginning of my remarks, I conceded that there is an argument for this kind of privilege to be given to a peer review committee where a charge has been made against someone and the committee's job was to review the charges.

"My question relates to the hospital quality assurance committee. What empirical evidence or what evidence was submitted by the medical care providers that would indicate that the inhibition, the unwillingness to hold unfettered discourse, if you will, in fact, existed."

Senator Chang answered:

"Mr. President, there was no empirical evidence, and I believe that this particular subject does not yield of the prospect that such empirical evidence could be presented."

Senator Kawasaki added his remarks as follows:

"Mr. President, perhaps it is my very limited McKinley High School education that prevents me from reading into the language of this bill what the chairman of the committee reads.

"Let me just read one section on the first page here. It says here very clearly, '...the proceedings and the records of hospital peer review committees of medical, dental optometric staffs having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, peer review committees of state, county, local, or



speciality medical, dental, or optometric societies, or hospital qualify assurance committees shall not be subject to discovery.'

"In simple language, at my level, this is purely a well-known medical profession's cover-up operation.

"In talking about cover-up, we introduced a resolution asking for a legislative audit of two hospitals and their hospital charges, room rates. And talk about a cover-up, I find that Mrs. Ono who represents the Queen's Hospital has been talking to different Senators here, encouraging that we do not audit the Queen's Hospital, which has the benefit of \$100 million of special purpose, tax exempt revenue bonds we authorized and the savings that they can enjoy thereby.

"Again, I speak against passage of this bill as not being in the public interest."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 627-84 was adopted and, Roll Call vote having been requested, H.B. No. 1148, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DISCOVERY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 8 (Abercrombie, Carpenter, Cayetano, Fernandes Salling, Kawasaki, Solomon, Toguchi and Wong). Excused, 1 (Henderson).

At 4:19 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:21 o'clock p.m.

At this time, Senator Abercrombie rose on a point of personal privilege and stated as follows:

"Mr. President, I will take it as an article of faith that you will review for your leadership or possibly for the Senate as a whole what is expected of Senators with respect to decorum on this floor."

The Chair responded in the affirmative.

The Chair then made the following observation:

"Members of the Senate, the Chair would like to take this opportunity to thank all of you for being very patient during the six-and-a-half hours that you've been here. I think the debates were lively and everything was done well.

"I look forward to seeing you all again."

#### ADJOURNMENT

At 4:24 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:00 o'clock a.m., Tuesday, April 3, 1984.