

## SIXTIETH DAY

Thursday, April 19, 1984

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, convened at 11:22 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Arlie McDaniel, Jr., Director of the Resort Missions and Special Missions Ministries, Hawaii Baptist Convention, after which the Roll was called showing all Senators present.

The Chair announced that he had read and approved the Journal of the Fifty-Ninth Day.

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

Senator Kuroda introduced Mr. Joseph A. Pelletier of Pacific Resources, Inc., as follows:

"Mr. President, this year one of our prominent companies in Hawaii is celebrating its 80th birthday. Pacific Resources is this organization and PRI's predecessor company, Honolulu Gas Company, started business with twelve customers and six miles of main. Today the company is listed on the Fortune 500 and is the largest manufacturing enterprise in the State of Hawaii.

"PRI provides energy products to consumers in Hawaii and throughout the Pacific Basin and is a major supplier to the military establishments in this region. In addition, PRI is a good citizen in our community and we wish them continued success. Representing PRI today is its president, Mr. Joseph A. Pelletier.

Mr. Pelletier rose to be recognized and was presented a lei by Senator Young and the Senate Certificate by Senator Kuroda.

Senator Young then introduced Mrs. Marjorie Shimosaki and her son, Troy, from Waipahu who were sitting in the gallery. Senator Young added that "Troy is a student at Kamehameha School and is also an intern in Senator Milton Holt's office."

Senator Cobb then made the following introduction:

"Mr. President, I'd like to make a special introduction. This session we have acted on a measure involving

comparable worth for the equality of pay and recognizing the quality of talent of women. We had an outstanding recognition of that kind of talent when this Senate passed several bills involving dental hygienists.

"I can think of no better example of equality of women's work than to have seen these women coming around this Capitol pushing for something they deeply believed in. More importantly, they did it because they thought they were right, and a lot of us in the Senate agreed with them. They didn't get very well past the conference committee this year, but I predict next year in addition to its being the session of work-comp and tax review, it's going to be the session of dental hygiene.

"I've been all over the country in the army having receiving a lot of dental work, some of which was the result of my wounds in Vietnam. I'd like to introduce to you two people in the gallery whom I consider to be among the best dental hygienists I've ever met in the country, but more importantly, they represent over 300 dental hygienists in this state who are among the best that we can find anywhere in the nation. Karen Billman and Cheryl Oyama, please stand and be recognized. Thank you."

Senator Machida then introduced Mrs. Carol Ebeling and stated as follows:

"Mr. President, members of the Senate and members in the gallery, this being the 60th and final day of the legislative session, I don't know if it's coincidental or premeditated but it is certainly appropriate that we honor an organization for its efforts in providing a service that some of us seem to be needing here on the 60th day. And I am referring to the Mental Health Association of Hawaii.

"We have a certificate to present to that organization, and I'd like to just read briefly part of the contents of that certificate. (Senator Machida then read portions of the certificate).

"May I at this time, Mr. President, introduce Mrs. Carol Ebeling, the executive director for seven years, representing 30 board members and 1,000 members of the Mental Health Association."

Senator Machida presented the certificate and Senator Mizuguchi presented a lei to Mrs. Ebeling.

At 11:30 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:34 o'clock a.m.

Senator Kawasaki then rose to honor Senator Dante Carpenter as follows:

"Mr. President, it has been my privilege for the past 18 years to have served here, in the Hawaii Senate, with a total of 74 individuals, men and women of diverse characters with their individual strengths, their individual weaknesses, and their idiosyncrasies.

"Mr. President, among the very few that perceptive observers of the Hawaii Senate have come to regard with deep admiration, respect and warm affection, is the recipient of the certificate that we are about to present today.

"I know that the female occupants of this chamber and the Capitol will most certainly be hard put to find a replacement for this very urbane gentleman, one so very easy on their eyes. I trust that these ladies will somehow endure their unfortunate circumstance and make do with the other homely individuals and mortals remaining in this body.

"We all know of the many contributions made by Senator Carpenter to the achievements of this Senate. It was our pleasure and privilege to have known this man and have counted him as one of us for all of these years. It was this Senate's good fortune to have had Senator Carpenter work on many, many difficult propositions, issues and controversies, and Hawaii has benefited because Dante was here.

"We wish him well in his future endeavors and wish him Godspeed. Mr. President, before we have the presentation, may I take the liberty of reading this certificate. (Senator Kawasaki read the Senate Certificate honoring Senator Carpenter, in its entirety.) This certificate is signed by every member of this Senate with great affection and, on behalf of this body, I would like to present Senator Carpenter with this certificate."

Senator Soares, on behalf of the Republicans, added his remarks as

follows:

"Mr. President, before I ask for deferment of one day, I think that I'd be remiss as the Republican Floor Leader not to have said a few words about this honorable gentleman, and I was rather surprised that we were going to be doing it now instead of about five minutes to twelve so we could say, 'Mr. President, we're in a new day.'

"But, on a more serious note, all of us who have had the opportunity to serve with Senator Carpenter certainly have enjoyed his wit, his humor, and his compassion for his fellow men. This is Dante's hallmark -- the fact that he's always respected the opportunity to debate or discuss issues with his fellow men or women (I should say women and men so I wouldn't get banged around by my girls back here).

"I think that years come and years go and many of us will be here next year ... I know I will even though somebody announced yesterday he's going to run against me. I can't run for mayor of Hawaii Kai but I can run for the Senate from Hawaii Kai.

"But in all fairness to our great friend Dante, I do think that my colleagues here on this side of the aisle certainly have enjoyed our relationship with him over the years. We certainly enjoyed the participation on the Senate floor with him and I'm sure all of us wish him well and Godspeed in his new endeavors. I certainly knew him before he went to the Island of Hawaii and personally, have the highest respect for Dante Carpenter. Your Republican colleagues wish you well, Dante, and God bless you in your endeavors and we certainly look forward to saying 'yes' to your grants-in-aid for the County of Hawaii."

Senator Henderson also added his remarks as follows:

"Mr. President, I would like to say a few words about Dante Carpenter. I know Dante well. We ran in a political contest in 1978 and you know what happened. Although I'm sad to see him leave the Senate, I was even sadder to see him come to the Senate. I had the privilege of working with Dante during the coalition. I have a tremendous amount of respect for him and his abilities. I look forward to his being the Mayor of the County of Hawaii and I also look forward to working with him in the future to further county and state relations.

Thank you very much."

Senator Cayetano then stated as follows:

"Mr. President, I join with my colleagues in their remarks about Dante. I also want to inform this body that we are forming a campaign committee to raise money and support his opposition because we want to defeat him in his race for mayor so that he comes back here. The Big Island's gain, Mr. President, will be the Senate's loss.

"Mr. President, I had the opportunity and privilege to serve as Dante's vice-chairman when he served as chairman of the Judiciary Committee. As you know, Dante is not an attorney and many looked very hard at him to see whether he could do the job. He did, of course, a tremendous job, even though I voted against half of his bills.

"In his first major speech as the Senate Judiciary chairman, he stated to this body that it was his wish to restore the principles of the law of the splintered paddle set forth by King Kamehameha I, who sought to protect the old and young from attack along the roadside. Well, we have today a paddle; it's not splintered, not yet, and this paddle will be presented to Dante on behalf of his staff and his friends here. It is being donated by Mr. Kayo Chung, the former head of the Koolau Boys' Home (Dante was not a resident there, I assure you) and a former football coach of Senator Carpenter. Dante played end, I believe, for the Roosevelt Roughriders while you, Mr. President, were serving as waterboy for Maryknoll. So, with those remarks, I'd like to have the Sergeant-at-Arms bring the paddle."

Senator Soares then responded: "Mr. President, while we're waiting for the paddle, I'd like to correct my colleague. Dante wasn't that nifty, he played center for Roosevelt, all-star center."

The President interjected: "You can hit him now, Ben."

Senator Cayetano presented the paddle to Senator Carpenter and then said, "Mr. President, this is the paddle and, as you can see, it's a beautiful paddle. You're right, it's not splintered so I will do the job right now."

Senator Fernandes Salling, at this time, presented a lei to Senator

Carpenter and then introduced Senator Carpenter's mother, Mrs. Louise Carpenter, members of his family and his staff, all of whom were sitting in the gallery.

At this time, Senator Carpenter rose and addressed the members of the Senate as follows:

"Mr. President, the first thing I did was to step on the document that Duke gave me. Mr. President, if I may respond to the jaundiced and other remarks given in such cavalier fashion. Mr. President, I just remarked earlier when Neil asked me and Charlie asked me, 'You feel good today?' and I said, 'Yes. I feel almost as good as the first day I arrived here in the Capitol.' It's been one heck of an experience in this great hall with this august body, sometimes more august than others.

"Mr. President, for all of the time I've been here, the six years that I've been a part of this experiment in democracy, which we continue to experiment with on a daily basis, I find that I really owe a lot of people. In particular, I want to introduce again to the members of this body the members of my staff who have done a heck of a job in making me look, in spite of myself, look good, sound good on occasion, act reasonably intelligent and try to act as responsible as I could in representing my constituents.

"I want to introduce them and ask them to rise and be recognized as I call their names. First, my secretary, with whom I had the pleasure this morning of having breakfast at the Hilton Hotel, Jane Watanabe. In addition to serving as one of my very distinguished bosses, Jane is married to one of my former classmates, Judge Wilfred Watanabe, a great Roosevelt graduate. To Jane, I owe a great deal and thank you very much for standing by me in my moments of weakness which have been many.

"Mr. George Jenkins who's up in the gallery and who's been a lifelong friend, and a Kamehameha School graduate (I dropped out of Kamehameha) with whom I've been associated for many, many years as a long time friend. As colleagues growing up, we somehow avoided the school from which this unsplintered paddle comes. George has been with my office three times. This is his third year -- having flunked the first two as an intern -- but George this year has made up for all of the differences that we've shared over

the last two, so I wonder George, if you could rise and be recognized. In George's real life he is the production superintendent for Hawaii Electric Light Company and he's the one that's responsible for us having the second highest electrical rate in the nation. However, seriously, Mr. President, George has been a great mainstay in my office.

"I want also to introduce an individual who came with my office initially from the Majority Office, Mrs. Sesnita Brundage, who has been more than my right arm. She has been a secretary, a general researcher/analyst, budget analyst and a whole mess of other things, too numerous to mention, as well as being a crutch in my times of need, and a person to whom I owe a great deal in terms of the kinds of products that have emerged from my participation with this body.

"Mr. Robert Kim -- Bobby was the first renegade from the University of Hawaii Hilo Campus who advocated secession from the Union and who advocated that young people should take over in the future and that all of us 'old farts' ought to stay home and do other things, so I thought this would be a good experience for him to watch some of us older types in action. Bob has become, over the years, I think, a matured young man -- maturing from one with very broad insights and coming down to the narrow perspectives that we now share, very narrow ones, indeed. Bob has been promoted throughout the years from kind of a 'go-fer' clerk and, finally, to become the clerk of the Committee on Judiciary, where he has done a tremendous job in keeping all things going, in addition to possessing a tremendous wit which he fortunately still has.

"Maureen Thibedeaux, will you rise and be recognized. Maureen Thibedeaux, in addition to being part of my staff here, is in real life my boss back at the job at C. Brewer & Company in Hilo, Hawaii, and my other boss happens to be her husband. So, as you can see, Mr. President, I have a lot of bosses.

"Another young man that I have with me today is Joseph Johns who is an intern from the University of Hawaii Hilo Campus. Joseph Johns, you may recognize, is a gentleman who ran for the office of Governor in the last governor's race, and I thought that anybody who runs for the office of governor can't be all that bad. He ran on the Democratic

ticket and I think he gathered up some three or four thousand votes. I think that certainly has to be a signal honor for a young man who really came in from out of the cold and he has been a great asset to our office and we certainly have enjoyed him this session as well.

"Another young man, Bruce Erickson, who has been in my office on a volunteer basis this year and has been a tremendous asset.

"Mr. President, when I first came to the Senate in 1979, I guess I really didn't know a heck of a lot about the procedures and organizational matters and the like. One of the first things I remember was going into the caucus room here with my Democrat colleagues and asking silly questions -- questions like: how do we organize the Senate, do we take the majority of the majority, or do we take 13 votes out of the whole Senate, how do we do it?

"There were various and sundry replies, as I recall, amongst the catcalls and hoots and hollers, and Senator Kuroda said something that has stuck in my mind from the time since I first arrived. He said, 'We do things in the Senate here with class.' That has always stuck with me, and I adopted a philosophy a little bit later on and I used it, I think, in part of my speech a couple of years back in which I quoted from the famous naval hero, Admiral Farragut during the Civil War at the Battle of Mobile Bay when I accepted the challenge of the office and I said, using his words, 'Damn the torpedoes, full speed ahead.' Well, I certainly did damn a lot of torpedoes, and I certainly did feel at least that we were proceeding at full speed ahead. And I thought that was a classy introduction. Nobody else did, but I did.

"Somewhere along the line, in the very beginning there were discussions about sex symbols and I recall distinctly my wife telling me that I ought not to be one, not here, anyway. And I recall other classy things that I thought of that happened over the years that have stuck with me, and one would have been the singing of 'My Wild Irish Rose' led by Senator O'Kuroda, accompanied by Senator O'Connor and Senator O'George, along with the annual battle of the greens and the oranges, or is it the oranges and the greens. I'm not sure.

"I recall very distinctly, again in

that room over here, at one occasion when we were discussing I believe it was the definition of jeans and the costume or the garb that should be worn on the Senate floor, and I believe it was Senator Kawasaki who said, 'We're not going to have any jeans worn on this Senate floor; we're going to have decorum befitting of this chamber.' Thereafter ensued a four hour discussion on what constituted 'jeans' as opposed to 'denims.' We really came to an understanding that day, and I believe right at this moment Neil is wearing denims.

"I also recall, Mr. President, that you participated in what appeared to be, in that room over there, a kind of acrobatic maneuver which I hadn't seen for a couple of years, and that was somewhat in rebuttal to a verbal comment by Senator Abercrombie in which you literally sailed over at least half of the table and was caught by several of our colleagues and somehow the discussion that ensued quieted everybody's feathers, soothed everyone and we came out one happy family.

"I also recall on one of the nights of the first session I was here that I somehow, right here -- you know, I've never moved from this spot; I've never been promoted from this spot since I got here -- I ended up in a discussion with Senator D. G. Anderson, and we nearly ended up in fisticuffs, right here. And I thought, 'God, this is a pretty classy act.'

"I also recall very distinctly, while the Speaker across the way who was not the Speaker then, was wearing a cast on his arm from having struck a table a little too hard. When Senator Anderson and I engaged in this combat, fortunately, Senator Anderson did not break his hand as he walked along the side of there and punched the wall by the Republican caucus room; fortunately for me, he chose to use that as Senator Mizuguchi came to my rescue and took me in another direction.

"I recall one other incident that I thought that was kind of classy, when Senator Holt to my left, in arguing a point which was made on the floor used an analogy and I think he said something like, 'You know, trying to resolve that problem is like drinking a beer the morning after the night before.' And, I believe I stood up and said something like, 'Mr. President, I believe this young man certainly does not have the

experience of some of us who have been in that kind of situation on many an occasion, (and I said) 'that's the best thing; it works for me everytime.' I thought that was a classy rebuttal.

"On another occasion, Senator Henderson's expletives as we were all emerging from the Majority caucus room into the chamber and the chamber was chock-full with people, all waiting apprehensively, and I believe it was on an issue of a very famous nominee for a particular post which has yet to be discussed this afternoon, in which the good Senator used language which I have not heard from Senators in a long time. I shall not repeat it here, but I do recall we all poured out into this hall and everybody's face was red, including yours, Mr. President. And I think the good Senator who will not be defeated after this election, Buddy Soares, whispered in your ear something; someone made a motion to adjourn and, right after we got together, we were fast gaveled, and everybody went, 'what happened?' We all left this hall having learned an important lesson, and I thought that was a class act.

"I recall a young man by the name of Cayetano, who in defense of his barber for having been credited with possessing a Hotel Street hairdo spoke magnificently and even brandished a machete into the face of the enemy Charlie -- not Charlie what's his face, I think he called him Charlie McCarthy that day -- and I thought that was a classy act.

"One of the things I really cannot forget about Senator Cayetano was his first year as the chairman of the Ways and Means Committee. While at a hearing, a young lady by the name of Abbie Shaw spoke to a certain request. Seeming mesmerized, Ben leaned over the end of the table and with a room full of people asked her, 'Are you Filipino?' I thought that was kind of classy. Pure Filipino!

"One of the persons I certainly have got to admire is Senator Yamasaki who has always been, in my estimation, somewhat the rock -- 'The Rock of Gibraltar.' Senator Yamasaki, on one occasion, I recall, produced notes that went back about 23 years -- and his whole drawer and filing cabinet certainly has to have the best notes kept, in the entire State of Hawaii, on any proceedings in this building. He still does that.

"One of the things that I shall

certainly not forget -- I guess there comes a time when one gets caught between a rock and hot spot -- one of the other rocks of this great institution of the Senate here is Senator Patsy Young who, in her tenacious disgust for certain individuals to an appointed post as recommended by the Governor, stood up and basically said, 'I don't like these three guys.' And in support of the chair, I said, 'Stick with it, Patsy.' Then I recall having to stand here in this very same spot vigorously supporting the chair and politely denouncing one of my own Big Island candidates for the position who I didn't know was a Big Islander. So, Patsy, please, if there is a next time, would you please tell me from whence these guys come before you get me to commit.

"That was a hard one. Well, I think that there have been many class acts and class actions and I've certainly enjoyed every moment with my colleagues here in this hall. I've enjoyed the new ones as well as the old ones, and I have enjoyed the newer ones as well as the older ones.

The President, in jest, queried: "Senator Carpenter, are you trying to filibuster?"

Senator Carpenter responded that he was not and continued as follows:

"Mr. President, I shall close very shortly. I thought one of the classiest things I saw happened last night when Senator Ajifu in announcing a late guest introduced Representative Clayton Hee as one who'd soon be one of his constituents. I thought that was the ultimate in class.

"Mr. President, I know there are many more class acts and class distinctions that this great body assembled here will accomplish in the years ahead, hopefully in the next few moments ahead, and it's been a great pleasure, a great thrill, a great honor to have served with this body. I've learned many things. You will hopefully recognize me next year, if I'm fortunate enough to be elected as Mayor of the County of Hawaii, as being perhaps a little shorter than I am now because I'll probably be on my knees to everyone of you asking for a little bit of support for Hilo Hospital subsidy, a little bit of kokua for a reduced real property reaction to some god-awful idea somebody had to save money.

"So, Mr. President, I just want to

plant a few seeds in your minds today in preparation for next year. But I think we can do it all for the Big Island of Hawaii for about 25 million bucks, and I think that's a good deal, Mr. President, because the potential reward of energy and environmental and educational return on that investment is going to be, I would say, no less than a thousand-fold to the people of this State. And that is our just due. I think it's only fair.

"Mr. President, with that I want to conclude my remarks and thank you all very much for the distinct honor and pleasure of serving with each and everyone of you, irrespective of party, irrespective of personality, and I thank all of you very much for letting me participate with each of you. Aloha and thank you very much."

Senator Carpenter then received a standing ovation from the members of the Senate and the audience in the gallery.

The President then stated:

"Dante, on behalf of all of us, we just want to say, we love you, good luck and Godspeed."

Senator Abercrombie then rose and stated:

"Mr. President, I can't let this moment go by without indicating there is generally a phrase that people know that someone's loss is someone else's gain. You may have noticed that when Senator Fernandes Salling was trying to put the lei around Senator Carpenter's magnificent mane of hair that when he leaves I will be reminded not only of his loss, but what I have also lost."

Senator Cobb then stated:

"Mr. President, Dante gave us, I think, a small part of the wit we know him by. I can't forget in 1980 when he was passing out calendars and he gave you a calendar -- I think it's still in your office -- your smiling picture in the year 1980 and the caption in between, it said 'Keystone Traffic Cop.' Then he gave me one that said 'Midnight Waiver' and waiver was spelled like I waive a bill in committee instead of wave a sign in traffic. I just want to say, Dante I look forward to coming to the Big Island this year to do some midnight waving on your behalf and then I expect an invitation to the inauguration. Thank you."

Senator Kuroda then rose and stated:

"Dante, we do have class and class dictates that we shouldn't make any more introductions after you've been introduced, but I'm going to make a classy introduction. Before I do, speaking of class, when I met Dante in 1976 when we were both candidates, he for mayor and I for Congress, we were so classy that we both lost.

"Mr. President, Senator Kawasaki in describing the attraction of the younger and prettier gender for Senator Carpenter talked about young ladies who see Senator Carpenter in awe. I want to introduce one of these charming women whose gaze and stares have fallen upon Senator Carpenter and it's my pleasure to introduce her.

"Senator Carpenter and I were at breakfast this morning along with our secretaries, his secretary Jane and my secretary Sharon, because this is National Secretaries Week. Today we recognize all the secretaries here in the Senate by recognizing one who represents all. And I'd like to read the certificate before I introduce this person who represents all secretaries here. It reads, 'Senate Certificate on the occasion of National Secretaries Week, the Senate recognizes Mrs. Joseph as the representative of all the secretaries here in the Senate.' (Senator Kuroda read portions of the Senate Certificate)

"Mr. President, today, on behalf of the Senate, this presentation is made to the person, who represents all secretaries, who has served our Senate President for 18 years, Mrs. Gwen Joseph. Mr. President, I'd like to call for a recess so that you can present a lei to someone who's faithfully served you for 18 years and on behalf of all of us in thanking our secretaries."

Mrs. Joseph rose to be recognized and was presented with the Senate Certificate by Senator Kuroda and the lei by the President of the Senate.

At 12:10 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:21 o'clock p.m.

#### HOUSE COMMUNICATIONS

The following communications from

the House (Hse. Com. Nos. 514 to 532) were read by the Clerk and, by unanimous consent, were deferred to the end of the calendar:

Hse. Com. No. 514, transmitting House Concurrent Resolution No. 36, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 515, transmitting House Concurrent Resolution No. 83, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 516, transmitting House Concurrent Resolution No. 84, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 517, transmitting House Concurrent Resolution No. 92, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 518, transmitting House Concurrent Resolution No. 97, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 519, transmitting House Concurrent Resolution No. 121, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 520, transmitting House Concurrent Resolution No. 124, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 521, transmitting House Concurrent Resolution No. 125, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 522, transmitting House Concurrent Resolution No. 128, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 523, transmitting House Concurrent Resolution No. 140, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 524, transmitting House Concurrent Resolution No. 141, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 525, transmitting House Concurrent Resolution No. 148, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 526, transmitting House Concurrent Resolution No. 62, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 527, returning Senate Concurrent Resolution No. 39, S.D. 1, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 528, transmitting Senate Concurrent Resolution No. 51, S.D. 1, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 529, transmitting Senate Concurrent Resolution No. 71, S.D. 1, H.D. 1, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 530, returning Senate Concurrent Resolution No. 72, which was adopted by the House of Representatives on April 18, 1984;

Hse. Com. No. 531, returning Senate Concurrent Resolution No. 31, S.D. 1, H.D. 1, which was adopted by the House of Representatives on April 18, 1984; and

Hse. Com. No. 532, returning Senate Bill No. 1918-84, S.D. 1, which passed Third Reading in the House of Representatives on April 19, 1984.

#### STANDING COMMITTEE REPORTS

Senator B. Kobayashi, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 923-84) recommending that Senate Resolution No. 72, as amended in S.D. 1, be referred to the Committee on Legislative Management.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 72, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE FEASIBILITY OF ESTABLISHING A PORT AUTHORITY FOR HAWAII," was referred to the Committee on Legislative Management.

Senator Aki, for the Committee on Economic Development, presented a

report (Stand. Com. Rep. No. 924-84) recommending that House Concurrent Resolution No. 78 be referred to the Committee on Legislative Management.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 78, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF ESTABLISHING A STATE ENVIRONMENTAL PROTECTION AGENCY, DEPARTMENT, OR COMPARABLE BODY TO COORDINATE AND ADDRESS MATTERS OF ENVIRONMENTAL QUALITY," was referred to the Committee on Legislative Management.

Senator Aki, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 925-84) recommending that House Concurrent Resolution No. 138, H.D. 1 be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 138, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION TO ASSIST ONGOING HIGH TECHNOLOGY DEVELOPMENTS, TO IDENTIFY HIGH TECHNOLOGY DEVELOPMENT SITES ON A STATEWIDE BASIS, AND TO STREAMLINE PERMIT PROCEDURES AND RECOMMEND INCENTIVES FOR HIGH TECHNOLOGY DEVELOPMENTS," was adopted.

Senator Mizuguchi, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 926-84) recommending that Senate Resolution No. 123 be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 123, entitled: "SENATE RESOLUTION REQUESTING A STUDY FOR SHARING THE COST OF PROVIDING HANDICAPPED SPECIAL TRANSIT SERVICE FOR THE HANDICAPPED," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 927-84) recommending that Senate Resolution No. 172 be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and



carried, the report of the Committee was adopted and S.R. No. 172, entitled: "SENATE RESOLUTION REQUESTING A STUDY OF RESEARCH IN ENVIRONMENTALLY SOUND MEANS OF CONTROLLING PESTS WITHOUT THE USE OF DANGEROUS CHEMICALS," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 928-84) recommending that Senate Concurrent Resolution No. 137 be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.C.R. No. 137, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF RESEARCH IN ENVIRONMENTALLY SOUND MEANS OF CONTROLLING PESTS WITHOUT THE USE OF DANGEROUS CHEMICALS," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 929-84) recommending that Senate Resolution No. 100, as amended in S.D. 1, be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 100, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE GOVERNOR'S AGRICULTURE COORDINATING COMMITTEE TO DEVELOP A SYSTEMATIC AND COMPREHENSIVE ACTION PLAN TO PROMOTE HAWAII'S BEEF CATTLE INDUSTRY," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 930-84) recommending that Senate Resolution No. 132 be referred to the Committee on Legislative Management.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 132, entitled: "SENATE RESOLUTION REQUESTING THE SENATE AGRICULTURE COMMITTEE TO MONITOR AND, AS NECESSARY, CONDUCT OVERSIGHT HEARINGS ON THE NEGOTIATIONS BETWEEN THE LULUKU BANANA GROWERS ASSOCIATION AND IOLANI SCHOOL," was referred to the Committee on Legislative Management.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 931-84) recommending that Senate Resolution

No. 167, as amended in S.D. 1, be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 167, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE USE OF BIOTECHNOLOGY FOR FRUIT FLY ERADICATION TO REDUCE COSTS AND CURB ADVERSE IMPACT," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 932-84) recommending that Senate Concurrent Resolution No. 132, as amended in S.D. 1, be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.C.R. No. 132, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE USE OF BIOTECHNOLOGY FOR FRUIT FLY ERADICATION TO REDUCE COSTS AND CURB ADVERSE IMPACT," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 933-84) recommending that Senate Resolution No. 74, as amended in S.D. 1, be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 74, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE STATE TO CONDUCT A FEASIBILITY STUDY REGARDING THE POSSIBLE ACQUISITION OF THE KOHALA DITCH SYSTEM," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 934-84) recommending that Senate Concurrent Resolution No. 12 be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.C.R. No. 12, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING ESTABLISHMENT OF A JOINT INTERIM COMMITTEE TO OVERSEE THE PROGRESS OF THE STATE OF HAWAII LAND EVALUATION AND SITE ASSESSMENT COMMISSION DURING THE 1984 INTERIM PERIOD," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report

(Stand. Com. Rep. No. 935-84) recommending that Senate Concurrent Resolution No. 67, as amended in S.D. 1, be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.C.R. No. 67, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE STATE TO CONDUCT A FEASIBILITY STUDY REGARDING THE ACQUISITION OF THE KOHALA DITCH SYSTEM," was adopted.

Senator Hagino, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 936-84) recommending that Senate Resolution No. 99 be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 99, entitled: "SENATE RESOLUTION REQUESTING A COMPREHENSIVE CROP PROTECTION ACTION PLAN FOR HAWAII," was adopted.

Senator Solomon, for the Committee on Education, presented a report (Stand. Com. Rep. No. 937-84) recommending that Senate Resolution No. 133, as amended in S.D. 1, be adopted.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 133, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE BOARD OF EDUCATION TO ENCOURAGE THE DEPARTMENT OF EDUCATION TO CONTINUE TO PROMOTE HAWAIIAN STUDIES PROGRAMS IN OUR PUBLIC SCHOOLS AND TO REQUEST THE DEPARTMENT OF EDUCATION TO COMPLETE A STUDY REGARDING ITS HAWAIIAN STUDIES PROGRAM," was adopted.

Senator Young, for the majority of the Committee on Housing and Urban Development, presented a report (Stand. Com. Rep. No. 938-84) recommending that House Concurrent Resolution No. 50, H.D. 1, be referred to the Committee on Legislative Management.

On motion by Senator Kuroda, seconded by Senator Soares and carried, the report of the majority of the Committee was adopted and H.C.R. No. 50, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO CONDUCT A STUDY OF THE PUBLIC AUTHORITY DEVICE

FOR THE DEPARTMENT OF HAWAIIAN HOME LANDS," was referred to the Committee on Legislative Management.

#### ORDER OF THE DAY

##### FINAL READING

Conference Committee Report No. 77-84 (H.B. No. 1640-84, H.D. 1, S.D. 1, C.D. 1):

Senator Cobb moved that Conf. Com. Rep. No. 77-84 be adopted and H.B. No. 1640-84, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Soares.

Senator Abercrombie rose and stated:

"Mr. President, with respect to the budget, unfortunately, I do not believe we have adequately resolved the issue of the worksheets. The information that was made available was not that which I thought was going to be the information, but that can remain for discussion at another time. I do think it would have been a little more helpful to us had we been able to resolve that issue on a little more satisfactory basis. But, with respect to this budget document, Mr. President, I want to indicate that I feel and I have, as you know, indicated in the caucus already a perspective for the members who were there and I think that it's important for purposes of the record to reiterate that.

"Mr. President, I feel very strongly that we need to have in our negotiation posture with the House in the next session a point of view, if you will, a perspective, a strategy, a consensus of approach, both from committee members and the chairs of the committees, that will serve us well with respect to those negotiations. I feel that, given the present circumstances surrounding the completion of the budget process that I would like to focus on just one or two issues by way of example, one or two areas of the budget by way of example, indicating that I think we could all serve each other better in here and the public as a whole if we were to achieve that kind of unified purpose, unified approach.

"Mr. President, we were given very strict instructions in the subject matter committee in Education as to what we should do, what kind of guidelines would be required of us with respect to expenditures. We tried to follow them. It's no secret, Mr. President, to anyone who has

paid attention to the political process that I was the chairman of the committee until almost the end of the last session and as a result of the conflict which took place, the confrontation on issues, etc., and how to resolve them, that I was removed as chairman of the Education Committee. I think, however, the record will show, Mr. President, that subsequent to the attempted reorganizing of the Senate...I should say, re-reorganizing, I think it'd be more accurate this year...I think the record will show, and I trust that the chair of the committee will corroborate that those of us who remained on the committee who found ourselves in opposition to the restructuring of the organization, those of us who remained on the committee did our very best to be cooperative members to contribute to the very best of our abilities and called upon whatever experience we had to contribute to the work product of the committee and the requests from the Chair that we do so, that we participate. We tried very hard to do that.

"I don't think there is any kind of situation existing on the floor now, nor during this session, which would indicate that there was any kind of an attitude which would indicate other than a sense of cooperation and a sense of trying to do our best. I go into that for purposes of the record because I want to indicate that my remarks are not based on the fact that many of us are carrying taut feelings or carrying an attitude that we did not get to do things the way we wanted to do it and therefore we want to be critical. On the contrary, I think that we lived up to both the letter and the spirit of what we were instructed to do.

"I go into the rather lengthy dissertation prior to my discussion of the education budget side because I think we find ourselves at a disadvantage in a certain sense. We did all the cutting; we did all the hard work for the House in terms of trying to deal with the budget limitations and restrictions we were given in the subject matter committee and yet when the budget comes out in the end there are a great deal of additions and changes made to the budget with education that on paper looked very good. And I don't dispute the necessity or the requirements for the Department of Education and its programs that are manifested in this budget. What bothers me is that whether that budget will be able to stand up later down the line, and that, of course, refers back to my

opening remarks about the worksheets and understanding the financial plan.

"I have yet to be able to fully comprehend exactly what the tactic strategy and basis of the financial plan is. We have to trust in it. We will have to trust in it with respect to the budget. If it works out, Mr. President, that's to everyone's advantage and I'll be very happy to see that take place. But, if it does not, what I fear is that we may find what appears to be a very strong budget in education on paper disappear as fast as it has in the past with respect to restrictions that might be occurring.

"Also, Mr. President, as a general remark, also with respect to the education budget, I'm sorely disappointed that the House of Representatives does not yet recognize that the people of this state in passing the Constitutional Amendments in 1978 gave particular emphasis to Hawaiian studies. I think the Senate recognized exactly what the mandate in the Constitution is with respect to Hawaiian studies and what it means in terms of curriculum. It's recognized in our State Plan; which as you know we are still debating with the House, and I think the chair of the Education Committee would also concur with the view I'm expressing. It has been virtually impossible for us this year, with the exception of obviously some individuals in the House who do recognize it, but in terms of policy, virtually impossible to get them to recognize that Hawaiian studies is not only part and parcel of the curriculum, but a fundamental and vital element in the conduct of the Department of Education's educational business. We do not find the plan for action, if you will, with respect to Hawaiian studies being recognized as a result of the conference posture of the House.

"So, the principal object here of my discussion is that regardless of one's views on the individual items that appear in this budget and in the capital improvements budget yet to be discussed, it is vital that whatever organizational structure emerges after this next election and before the next session, when we come to that point when we will be introducing bills up to the 19th day of the Legislature because this ill-advised bill about reducing it has been defeated by the voters, when we come to that point, I hope that organizationally speaking we will have enunciated to one another and agreed with one another on an approach, on a philosophy, if you

will, of a perspective in terms of programs, in terms of content of that program, in terms of the structure we wish to utilize in not only preparing, but carrying through on that program in such a manner that when we come to the biennium budget negotiations and related issues in next year's session that we will have an operation here that we can all not only participate in, but enthusiastically support.

"Thank you."

Senator Toguchi then stated:

"Mr. President, before I begin, I'd just like to say that I give you my word I will not talk until ten o'clock tonight. Mr. President, I share the comments of the previous speaker. In addition, I'd like to bring up one part of the budget, and I'd like to file a protest for the record. I'd like to refer you to Section 63A, and this is on page 90 in your budget. Section 63A transfers HIMAG from the Budget and Finance to the Department of Personnel Services. This is being done through a budget proviso.

"I just want to point out for the other Senators that there was a bill in the Human Resources Committee, H.B. 1550, H.D. 2. It was killed in that committee and held in that committee. I question the process that's utilized to transfer any agency.

"In addition to my protest about the process, I'd like to also make reference for the record again and direct your attention to HRS 8111 to 8118. This is the section that created the HIMAG, the agency that's being transferred, and I'd like to read to you just one part of that section and this is out of 8115, 'Organization and administration.' It says here in the statutes, 'The institute will be a division within the department of budget and finance. Its affairs will be administered by a director appointed by and responsible to the director of finance.'

"Mr. President, even though we have a proviso in the budget which directs a transfer of the Hawaii Institute for Management and Analysis in Government from Budget and Finance to the Department of Personnel Services, nothing has been done in the statutes. We still have language in the statutes that places HIMAG in Budget and Finance. I think this is something that we have to be aware of, something that we have to be concerned about. I think if we continue with something like

this, we're going to be destroying the committee process that we have here in the Legislature. I'd just like to also point out that I have talked to the chairman of the Ways and Means Committee and it's my understanding that this was a House position and it was the House that insisted on the inclusion of this proviso in the budget.

"I'd like to, Mr. President, at this time, if the chairman of Ways and Means will yield, I'd like to ask several questions of the chairman of Ways and Means."

The Chair posed the question to Senator Yamasaki and Senator Yamasaki having answered in the affirmative, Senator Toguchi inquired: "Mr. President, what I want to know is by what authority is this proviso included in the budget and also does the Ways and Means chairman agree with the process that was utilized to include this proviso in the budget document?"

Senator Yamasaki replied:

"Mr. President, I would like to answer by stating that there was a request by the Finance Committee of the House to have the proviso inserted in the budget document. Knowing full well...I'm not so sure whether they knew, but I knew full well that it has been our position that no statutory change could be inserted in the budget through provisos; that it could not be enforced. So whether we put it in the budget or not, it made no difference.

"Also, we have pointed out in a previous conference subject matter that the House also again, or we suggested to take care of their problem that we might put a proviso; however, it could not stand up because they are making some statutory change, and it was my position that anytime that we make any kind of a statutory change in the budget, it would not stand up. So we have this severability clause in the budget which provides that if any portion is declared invalid, other provisions in the remainder of the Act shall not be affected.

Senator Toguchi further inquired: "Mr. President, I'd just like to direct another question. Can I conclude by that remark that the chairman of the Ways and Means Committee agrees with me that the practice of including this proviso through the process that I discussed earlier is highly questionable?"

Senator Yamasaki responded: "Mr. President, that is my statement that any time we try to make any kind of changes through provisos, to make any kind of statutory change through a proviso is not a proper one."

Senator Toguchi thanked Senator Yamasaki.

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

"Mr. President, I speak in favor of the budget but with reservations that I would like to express for the record. Mr. President, as a veteran of this Senate for six years and the other house for four years, one thing that I have learned is that when you go into conference, you'd better have a battle plan ready; you'd better be prepared; and you'd better have some philosophy.

"My concern about the budget, about some of the bills that will be coming up, is that there are many technical errors in these measures; that these have come about primarily because the Senate was imbued with a spirit of accommodation, as you stated last night, instead of seeking compromise and coming up with measures that we can both walk away with and respect.

"The item pointed out by Senator Toguchi and the statement made by the chairman of the Ways and Means Committee illustrate exactly what I mean. I think the chairman's position on this particular issue that you cannot amend the statutes through a budget proviso is well taken. It's supported by ample precedent in both houses of this Legislature. Knowing that, why did we agree to put this proviso in? It has to be, and in the spirit of the chairman's remarks, I have to believe that it was because we wanted to accommodate the House. What was our end purpose in all of this? Should we not have held out and try to convince the House that it would be better to come up with a budget which did not have these kinds of legal problems, or was our objective to come up with a budget and finish on time?

"Mr. President, you and I have had differences on this question. I've never felt that finishing on time should be the objective of the Legislature. If you can finish on time, fine. I've always felt, however, that finishing with a product that we can be proud of in terms of quality, in terms of the

benefits it's going to provide to the people of this state was far more important whether the job took 60 days, 65 days, 70 days, or whatever it took. That is my feeling.

"In the times that I have chaired committees in this body, whether it be in the House or the Senate, I've never agreed to accommodate the other body on an issue like this. I think, Mr. President, that this problem will be found in some of the other bills as we go through the Order of the Day and as we discuss them; for example, the capital improvement bill, the so-called "pork" bill. Each Senator was allotted \$750,000 as compared to \$500,000 for the House. Clearly, if you take our responsibilities in terms of the constituents we represent, in terms of the land area we represent, that proportion is not equitable, and yet we did not, we moved off, we accepted that, we accommodated the House because the House refused to budge from their position of \$500,000. I think the budget contains some good things, Mr. President, but I think for the Senate, this budget...well, you can't go on winning forever...I think in the past, since 1979 through last year, the Senate has come up pretty well in the budget negotiations, including the two years that the present chairman chaired the Committee on Ways and Means.

"But, this year there has been a change in philosophy of the Senate. You used the word last night, Mr. President, 'accommodation'. I thought that was an unfortunate choice of word. I hope, Mr. President, that next year when we organize, we can organize so that the talents of all of our members will be used to the fullest utility, and that we have a revamping, if you will, of the philosophy of the Senate. This Senate is the only body, as far as I'm concerned, in the Legislature which looked, at least in the past, looked to its constitutional duty, under the separation of powers, its constitutional duty to act as a check with the other two branches of government -- the judiciary and executive. I see that eroding very much, especially so this session. So, I offer these remarks in a constructive sense; I hope that next year we can do better, and I hope that next year, in terms of organization, in terms of the attitude of the leadership, that we get back on course -- the old course, I think, that made the Senate a pretty proud place to be in.

"Thank you."

Senator Yamasaki then rose to speak in favor of the bill as follows:

"Mr. President, I believe this supplemental budget for fiscal year 1984-85, as a whole, is a good one which allows the departments to continue to provide necessary services to the people. During this session, there were appropriations to take care of our public employees, and the budget also provides for adequate funds to address the needs of our social and human services agencies.

"In considering the subject, as the previous speakers have said, there were differences between the House and the Senate, there were some decisions that had to be made, and I merely followed the Rules of the Senate, which provides for consultation with subject matter committees and that the final decision rests with the Ways and Means Committee of which I am chairman. For the actions that we have taken, I take full responsibility; there is no question. The budget is the product of the House and Senate in conference, and although it may not contain all that the Senate subject matter committees advocated, it was a compromise to get out of this session in the allotted time-frame. It is true that not all of the items advocated by individuals were considered; however, there were some that were considered not on the basis of individuals, but on the basis of what it means for our public good.

"Before I close, I'd like to read into the record a correction that is necessary due to clerical error. I'd like to call to your attention to page 27 of the budget on item No. 48; page 27, item No. 48, 'Academic Support-Windward Community College Operating, UOH 332,' the first column of 12 positions and \$430,115 in general funds is correct. However, the second column for fiscal year 1984-85 should read 12 positions, and in bracket, \$433,437, and underneath that figure, a new sum of \$444,073 with an underscore; and then in the total column, the sum of \$863,552 should be bracketed, with an insertion of \$874,188 underscored.

"And now I have another request from the House which the House would like to have me read into the record; however, before doing this, I would like to request for a short recess."

At 12:50 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:02 o'clock p.m.

Senator Yamasaki then stated: "Mr. President, I would like to call to the attention of the members to page 70 of Conference Draft No. 1, Section 30B, the proviso in Section 30B. It refers to 'the sum of \$150,674 (of which not less than \$28,000 shall be for the Hawaii Student Science Training Program located in Hilo)' and the intent of the proviso is that the allocation of \$28,000 for the Hawaii Student Science Training Program shall be expended for the summer 1984 program since this part of the summer program for the Enhancement of Basic Education is already in existence and does not require planning and does not need the money to function in the summer of 1984. That is the statement that the House has requested us to insert into the record."

Senator Cayetano rose and inquired: "Mr. President, for the record, the House has the responsibility for printing the budget, is that correct?"

The Chair replied: "That is correct."

Senator Cayetano then stated: "Then, Mr. President, for the record, I want to make a few comments. Mr. President, during the intermission we find that there are items which had been agreed to by the Senate which were left out of the budget. We find that there are items which were not agreed to by the Senate which were inserted in the budget. Now, the chairman of Ways and Means just read a statement that the House wanted read into the record. Everyone here knows that that statement has absolutely no impact or no effect on the budget. The provisos in the budget speak for themselves. So, I'm at a loss for words as to all of these problems, and really, if these matters were of a greater magnitude, we really should reject and go on for another 48 hours and do the job right."

At 1:05 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:14 o'clock p.m.

Senator Abercrombie then rose and remarked:

"Mr. President, I asked for a recess because I wanted to clarify

some of the details that were alluded to by the previous speaker, and I think it was very important for in the absence, Mr. President, of a decision to go back and see that this budget is printed correctly and all the agreements or disagreements are accurately stated, which would require the extension of this legislative session, in the absence of that, I would like to direct a question or two to the chairman of the Education Committee for purposes of the record so that the Department of Education can have very clearly in mind what it is that is expected with respect to the budget. That is my purpose in rising now.

"I would like to ask the chairman of the Education Committee to refer to page 74 of the budget, Section 36, and ask the chair if she would give us her view as to the appropriateness of Section 36 as it appears on pages 74 and 75 with respect to the agreement or disagreement of the Senate to that proviso and what the chair's position is with respect to the subject matter addressed in Section 36."

Senator Solomon replied:

"Mr. President, in addressing the concerns of the previous speaker, the proviso in Section 36 is a House position. However, this position was never agreed upon during the budget conference. As a matter of fact, the Senate position advocated that we preserve these resource teachers in the areas of reading, music, art and physical education, and at no time was it discussed that these positions could 'be utilized at the discretion of the district superintendent, where feasible, to lower the pupil-teacher ratio in kindergarten and grades one through three; and provided further that all the remaining resources and other district-level teachers may be utilized at the discretion of the district superintendent for the Gifted and Talented Program.'

"Mr. President, I really don't know what more to say, except that I was very much surprised when I saw this proviso in the budget. I had made inquiries to the staff of Ways and Means and they said that they had sent all the provisos that I had reviewed to the House for consideration, and among them for my review, this proviso was not there.

"However, Mr. President, for the record I just would like to state in support of my subject matter committee that this was a very difficult

situation for us, overall. Subject matter committee took a very strong position which the Senate approved and we appreciated this body's support in the area of deployment. Unfortunately, we were not able to convince the House as to the reasonableness of...as to this position and philosophically the education budget in concurrence with the...let me reiterate, on the education budget, philosophically, we were very, very far apart with the House, and I think this is what the difficulty was in the budget negotiations with the House and the Senate. But, I have to say that when I was approached by the Ways and Means chairman during the recess that I would concur with him in that they do have this portion in here that says 'may be utilized at the discretion of the district superintendent, where feasible,' that I think maybe working with the superintendent we can address our concerns in the matter.

"Thank you."

Senator Abercrombie then remarked: "Mr. President, on the basis of the chair's response I would like to have it made clear for the record that the acting superintendent should understand very clearly that regardless of the appearance of this particular Section 36 in the budget, that to act upon it as if this was agreed upon by the Senate and the House will have dire consequences for the department, should any attempt be made to cite it as a reason for making any changes which otherwise would not be warranted. And while the acting superintendent is, in fact, acting, he should reflect upon the fact that we are not acting as Legislators, with the exception of myself, who might be returning next year."

Senator Soares rose to speak in support of the budget as follows:

"Mr. President, I rise to speak in favor of the budget with reservations and I think I express my concerns for the Republicans here on the Senate floor. We just are not very happy with the product in terms of workmanship. We believe that these kinds of examples of what have been brought before us now with things missing, and sections not being agreed upon, and something not being shown, do not dictate, hopefully, the future of our voting for budgets. We want to be absolutely sure that we, for the record, indicate that these kinds of examples had better not be appearing again on the Senate floor."

Senator Uwaine also rose to speak in support of the budget as follows:

"Mr. President, it's been my pleasure for the past four years to work closely with Senator Yamasaki on four different budgets, and on occasions I had my difficulties with him; I had my difficulties where I had to swallow certain things; and it's quite clear on the record that on one occasion I voted against the budget. But during the four years that I've worked with Senator Yamasaki, he has always been consistent. We've talked about the word 'accommodation.' Senator Yamasaki has always been accommodating, accommodating not to the House, but to the people of this state. We don't have a House budget before us; we don't have a Senate budget before us. We have a budget before us that's going to serve the people of this state.

"Senator Yamasaki, in all good effort, came up with the best package he possibly could have gotten, not for the Senate, again for the people. If you had been able to work with Senator Yamasaki from the beginning when he first became chairman of the Ways and Means Committee back in 1981 till today, four years, you can see a tremendous growth, growth that has been a very positive thing for the state, but also has taken its toll.

"The problem with being Ways and Means chairman, and I think all the people who have served in the same capacity here, know that you can't satisfy everyone. There are going to be some people that just unfortunately, accommodations are going to have to be cut back for them, as well as added on.

"But I think at the end, when we examine this budget and this budget goes forth to operate the state, I think the people in this state are going to realize that they have a good budget. And I think Senator Yamasaki and his staff brought back to the Senate a budget that not all of us can accept but we can live with. And I just want to say to Senator Yamasaki that I think he did a good job."

The motion was put by the Chair and carried, and Conf. Com. Rep. No. 77-84 was adopted and H.B. No. 1640-84, H.D. 1, S.D. 1, C.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 Final Reading on the following showing of Ayes and

Noes:

Ayes, 25. Noes, none.

MATTERS DEFERRED FROM  
APRIL 18, 1948

FINAL READING

Conference Committee Report No. 7-84 (H.B. No. 1828-84, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 7-84 was adopted and H.B. No. 1828-84, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 51-84 (H.B. No. 1933-84, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 51-84 was adopted and H.B. 1933-84, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 1:26 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

At this time, the Chair made the following observation:

"The Chair stands before you quite embarrassed. We passed the budget and it is my understanding that the messenger that was supposed to deliver the bill to the Governor took a little more time than had been anticipated. Therefore, the two measures that we just passed were done prior to the formal transmittal. We will have to go back and pass them over again."

RECONSIDERATION OF  
ACTIONS TAKEN

Conference Committee Report No. 7-84 (H.B. No. 1828-84, H.D. 1, S.D. 1, C.D. 1):

Senator Cobb moved that the Senate



reconsider its earlier action on Final Reading of H.B. No. 1828-84, H.D. 1, S.D. 1, C.D. 1, seconded by Senator Soares and carried.

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 7-84 was adopted and H.B. No. 1828-84, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 51-84 (H.B. No. 1933-84, H.D. 2, S.D. 2, C.D. 1):

Senator Cobb moved that the Senate reconsider its earlier action on Final Reading of H.B. No. 1933-84, H.D. 2, S.D. 2, C.D. 1, seconded by Senator Soares and carried.

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 51-84 was adopted and H.B. No. 1933-84, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### FINAL READING

Conference Committee Report No. 54-84 (S.B. No. 1575-84, S.D. 1, H.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 54-84 and S.B. No. 1575-84, S.D. 1, H.D. 1, C.D. 1, was deferred to the end of the calendar.

Conference Committee Report No. 62-84 (H.B. No. 1946-84, S.D. 2, C.D. 1):

Senator Cobb moved that Conf. Com. Rep. No. 62-84 be adopted and H.B. 1946-84, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Soares.

Senator Abercrombie spoke against the bill as follows:

"Mr. President, I'm going to vote 'no' on this bill because I believe it is an improper way to deal with an item that properly belongs in the DSSH budget. There's no clear indication that I have been able to discern as to

why the figures were changed from \$175,000 to \$500,000. I think that there has been no evidence before me that DSSH is incapable of dealing with this matter. It's one that's very vital and important to the people who receive their services, and what I fear, Mr. President, is that when we pass this, people would have the assumption that this money will be here and that there's every likelihood, inasmuch as it is my understanding that the amount of money represented here is beyond the restrictions, beyond the ceiling placed there by the Governor, that it will be denied to the people.

"I don't want to get into the position that I've criticized in the past and I want to be consistent with that criticism where we stand around leaving a bill with your name on saying, 'Well, it passed the Legislature; it's not my fault that it got cut.'

"It seems to me that DSSH in its enormous budget should be able to find the amount to take care of the personal care services within its present budget and I disapprove of a process whereby a legislator seeks merely to have a name on a bill for whatever purposes are involved, as I believe is the case here, and at the same time risk the individuals who would ostensibly be the beneficiaries of the bill not getting the services that they think will be forthcoming as a result of the passage of the bill."

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

"Mr. President, I'm going to vote for this bill because I think the subject matter is important, but I just want to express my reservations about the procedure. This was touched on by the previous speaker. We all know that we all have and we submit appropriation bills which are dear to our hearts. The fact of the matter is that the process ends at Ways and Means.

"The appropriations, if accepted, are put in the budget. In this particular case, exception was made and I cannot help but believe that the exception was made because I see no other reason for it, that the exception was made because the author of this particular measure wanted to be able to go around his neighborhood and wave it in the face of his constituents. If an exception is made here, then the consideration should be given to every member of this body in terms of appropriations

bills that they submit for different kinds of subjects. We don't do that because it makes the process very, very cumbersome, and secondly, it dilutes from the ability of the public or whoever to really have a good idea of what the state is spending. So, I hope that this kind of procedure is not allowed to happen again next year."

At 1:35 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:45 o'clock p.m.

Senator Yamasaki replied as follows:

"Mr. President, in response to the remarks made by the previous speaker that we have acted upon this bill to allow an individual to raise a flag on the roadside what he did in this bill to obtain appropriation for personal care, I'd like to point out that I have been consistently following the examples of the former chairman of the Ways and Means Committee and my record shows that back in 1979 there were several bills that were identical to this type of legislation, and I'd like to point them out to you.

"Senate Bill 1657 which became Act 178 in 1979, Sugar Producers' Crop Loan Fund, \$3,200,000 was made available through a special bill.

"Senate Bill 1611, Act 143, Relating to Premarital Examination to Provide for Rubella Examination, an appropriation of \$50,000 was made by a special bill.

"H.B. 48, Act 144, Relating to Program for the Unemployed, \$3,550,000 for 1979-1980 was appropriated by a special bill.

"Act 218, Relating to the Tax Review Commission, \$40,000 was appropriated to the commission by a special bill.

"These were not considered budget items at that time and I think that what I am doing is consistent, that there are occasions when it's necessary for special bills to be considered with an appropriation. Therefore, I'd like to set the record straight that this is not an unusual action taken by the chairman of the Ways and Means Committee."

Senator Cayetano then responded:

"Mr. President, I'm glad the

chairman had the time to do research on those bills. I'm glad they know how to do research in Ways and Means. Mr. President, I did not say that this has never been done. I know, for example, on the sugar producers' bill it's almost been a tradition that it's done every year because of the importance of sugar, and sometimes these bills are introduced by the administration, etc. I don't know what these other bills are. All I'm saying is that if this practice is expanded, it is not a good practice. That's the only point that I was trying to make."

Senator Kawasaki then spoke against the bill as follows: "Mr. President, I speak against the passage of this bill primarily because this is a bill that comes under the category of human services, which more properly should have been handled through the requirements of Chapter 42, involving grants-in-aid and purchases of service. I think that the passage of this bill at this point, notwithstanding precedents set in prior years, I think is a clear circumvention of our intent in passing and enacting Chapter 42. For this reason I speak against voting for this bill."

The motion was put by the Chair and carried, and Conf. Com. Rep. No. 62-84 was adopted and H.B. No. 1946-84, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PERSONAL CARE SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conference Committee Report No. 63-84 (H.B. No. 2257-84, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 63-84 was adopted and H.B. No. 2257-84, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE AND NEGLECT PREVENTION SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 74-84 (H.B. No. 2044-84, H.D. 1, S.D. 1, C.D. 1):

Senator Cobb moved that Conf. Com. Rep. No. 74-84 be adopted and H.B. No. 2044-84, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Soares.

Senator Mizuguchi rose to speak in favor of the bill as follows:

"Mr. President, section 2 of this particular bill simply extends the workmen's compensation moratorium period, whereby, the bill reads that 'no such filing shall be made at any time prior to June 1, 1985.' So, it's simply an extension of the workers' comp moratorium. Thank you."

The motion was put by the Chair and carried, and Conf. Com. Rep. No. 74-84 was adopted and H.B. No. 2044-84, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Carpenter).

Conference Committee Report No. 75-84 (H.B. No. 2006-84, S.D. 1, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 75-84 was adopted and H.B. No. 2006-84, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 76-84 (S.B. No. 1115, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 76-84 was adopted and S.B. No. 1115, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 78-84 (H.B. No. 1751-84, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Cobb,

seconded by Senator Soares and carried, Conf. Com. Rep. No. 78-84 was adopted and H.B. No. 1751-84, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SHARING OCCUPATIONAL AND CAREER INFORMATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 79-84 (H.B. No. 654, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 79-84 was adopted and H.B. No. 654, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ACQUISITION OF VOTING STOCK BY FOREIGN INVESTORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### CONFERENCE COMMITTEE REPORTS

By unanimous consent, action on the following conference committee reports and bills was deferred to the end of the calendar:

Conf. Com. Rep. No. 80-84 and H.B. No. 2203-84, H.D. 2, S.D. 1, C.D. 2;

Conf. Com. Rep. No. 81-84 and S.B. No. 1846-84, S.D. 1, H.D. 1, C.D. 1;

Conf. Com. Rep. No. 82-84 and H.B. No. 2092-84, H.D. 1, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 83-84 and H.B. No. 2320-84, H.D. 2, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 84-84 and H.B. No. 1956-84, H.D. 2, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 85-84 and H.B. No. 2402-84, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 86-84 and H.B. No. 1906-84, H.D. 1, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 87-84 and S.B. No. 20, S.D. 1, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 88-84 and S.B. No. 2125-84, S.D. 2, H.D. 2,

C.D. 1;

Conf. Com. Rep. No. 89-84 and S.B. No. 878, S.D. 2, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 90-84 and S.B. No. 1709-84, S.D. 1, H.D. 1, C.D. 1;

Conf. Com. Rep. No. 91-84 and H.B. No. 1874-84, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 92-84 and S.B. No. 1788-84, S.D. 1, H.D. 1, C.D. 1; and

Conf. Com. Rep. No. 93-84 and H.B. No. 2151-84, H.D. 2, S.D. 2, C.D. 1.

Senate Bill No. 1509-84, S.D. 1, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, 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," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 2213-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 2213-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 2119-84, S.D. 2, H.D. 2:

By unanimous consent, action on S.B. No. 2119-84, S.D. 2, H.D. 2, was deferred to the end of the calendar.

Senate Bill No. 2180-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 2180-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Carpenter).

MATTERS DEFERRED FROM  
APRIL 18, 1984

THIRD READING

Standing Committee Report No. 832-84 (H.B. No. 1760-84):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 832-84 was adopted and H.B. No. 1760-84, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF IMPROVEMENT DISTRICT BONDS FOR HAWAII COMMUNITY DEVELOPMENT AUTHORITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 834-84 (H.B. No. 2230-84, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 834-84 was adopted and H.B. No. 2230-84, H.D. 1, 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. 835-84 (H.B. No. 2409-84, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 835-84 was adopted and H.B. No. 2409-84, H.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR THE POHAI NANI GOOD SAMARITAN KAHALE HEALTH CARE FACILITY FOR THE ELDERLY," having been read throughout, passed Third Reading by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

House Bill No. 1800-84, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1800-84, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," having been read throughout, passed Third

Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 79:

By unanimous consent, action on H.B. No. 79 was deferred to the end of calendar.

At 1:54 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:56 o'clock p.m.

MATTERS DEFERRED FROM  
APRIL 18, 1984

ADVISE AND CONSENT

Standing Committee Report No. 755-84 (Gov. Msg. No. 208):

By unanimous consent, action on Stand. Com. Rep. No. 755-84 recommending that the Senate advise and consent to the nomination of Roland Higashi to the Board of Land and Natural Resources, in accordance with Gov. Msg. No. 208, was deferred to the end of calendar.

Standing Committee Report No. 829-84 (Gov. Msg. No. 184):

By unanimous consent, action on Stand. Com. Rep. No. 829-84 recommending that the Senate advise and consent to the nomination of Edwin K. Hayashi to the Stadium Authority, in accordance with Gov. Msg. No. 184, was deferred to the end of calendar.

ADVISE AND CONSENT

Standing Committee Report No. 894-84 (Gov. Msg. No. 318):

Senator Cobb moved that Stand. Com. Rep. No. 894-84 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nomination of John M. Gooch, D.V.M. to the Windward Oahu Subarea Health Planning Council, term to expire December 31, 1987, seconded by Senator Soares.

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

Ayes, 25. Noes, none.

Standing Committee Report No. 909-84

(Gov. Msg. No. 264):

Senator Cobb moved that Stand. Com. Rep. No. 909-84 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nomination of George K. Sano to the Commission on Transportation, term to expire December 31, 1987, seconded by Senator Soares.

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

Ayes, 25. Noes, none.

Standing Committee Report No. 910-84 (Gov. Msg. Nos. 285 and 286):

Senator Cobb moved that Stand. Com. Rep. No. 910-84 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nominations of the following:

Sam Leong to the Library Advisory Commission, County of Hawaii, term to expire December 31, 1984;

Helen K. Tayamen, Maile Ann Rierison and Lilly Yuriko Inouye to the Library Advisory Commission, County of Hawaii, terms to expire December 31, 1987;

Rufina K. Molaka-Lee to the King Kamehameha Celebration Commission, term to expire December 31, 1985;

Manu Kahaialii and Ramona Teves to the King Kamehameha Celebration Commission, terms to expire December 31, 1986; and

Anne K. Inaina Kaapana, Beatrice H. Rosa and Henry Cho, Sr. to the King Kamehameha Celebration Commission, terms to expire December 31, 1987,

seconded by Senator Soares.

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

Ayes, 25. Noes, none.

MATTERS DEFERRED FROM  
APRIL 18, 1984

Standing Committee Report No. 879-84 (S.C.R. 111):

On motion by Senator Mizuguchi, seconded by Senator Abercrombie and carried, Stand. Com. Rep. No. 879-84 was adopted and, Roll Call vote having been requested, S.C.R. No. 111, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO RESCIND ALL STATUTES THAT DENY UNEMPLOYMENT INSURANCE BENEFITS TO PROFESSIONAL AND NON-PROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS SOLELY DUE TO THE 'REASONABLE ASSURANCE' THAT THEY WILL BE EMPLOYED DURING THE NEXT ACADEMIC TERM," was adopted on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 880-84 (S.R. No. 108):

Senator Kuroda moved that Stand. Com. Rep. No. 880-84 be adopted and Senate Resolution No. 108 be adopted, seconded by Senator Aki.

Senator Kawasaki spoke against the resolution as follows:

"Mr. President, I speak against this resolution primarily because I think the committee report treats the issue in a rather simplistic fashion. First of all, it's one thing to say in this committee report, 'The purpose of this resolution is to request the Department of Land and Natural Resources make all deliberate speed in reinstating the historic sites removed from the Hawaii Register of Historic Places in 1979.'

"Indeed, back in those years the Department of Land and Natural Resources did use deliberate speed. As a matter of fact, they did it so speedily that some 529 private properties owned by private citizens were designated as historic sites without even the courtesy to the owners of these properties being notified that government agencies had intended to designate these properties as historic sites. As a consequence of the designation, many owners could not do what they wanted to do with their properties, either to sell, to renovate, to subdivide it, or whatever.

"My point is that a committee report that says 'to proceed with deliberate speed' may just overlook the fact that we have to perhaps write very specific language, or certainly enter into the record of the Journals of the Senate, our intent that these properties should be designated historic

sites only with the consent of the private property owners, a very important point under our form of government. This is not the Kremlin. That due process not be forgotten; that notices to private owners be duly sent out; due public hearings conducted so that only after the private owner has had his chance to oppose the placing of his private property into the historic sites category, only then decisions would be made that will affect that property forever in the future.

"So, I would like to have that intent of, at least, the Senate, be entered into the record, that when we say, proceed with deliberate haste, due speed, that we do not trample over the private property rights guaranteed under the provisions of the Federal Constitution."

Senator Kuroda then stated as follows:

"Mr. President, the previous speaker is correct with regards to the lightness with which the committee report was made. We wanted to spare the Majority Research from additional work and the chair felt that the explanation was adequate. But inasmuch as the previous speaker has requested more information, I would like to then enter into the Journal the reason why this resolution is brought forward.

"Primarily, the DLNR rather embarrassingly admitted about the procedural error when the question was asked by the chair of DLNR at the public hearing. The testimony supporting this resolution reads in this manner: 'The removal of 579 sites from the Hawaii Register of Historic Places in 1979, because of the procedural error, was a major setback to the protection of our historic cultural resources. Instead of responding quickly to the setback by making a concerted effort to reregister these sites, both DLNR and the Hawaii Historic Places Review Board have been exceedingly slow in getting these sites back on the register.'

"The previous speaker complained of the delay in sale by the private property owner. That's the reason why there is need for immediacy as far as this action is concerned. I read further: 'This task should be made a priority in order to protect adequately our historic resources and this resolution will demonstrate public concern over the slow progress in getting sites back on the register and

to help get things moving. That the threat of destruction to sites formerly on the register is real was recently demonstrated at Kualoa. Formerly the entire Ahupuaa was on the State Register because of its known historic importance and existence of extensive archaeological remains. Since 1979 it has not been so protected and within the last few months extensive bulldozing and grading have taken place in a privately owned area mauka of the highway.'

"I will not read any further, Mr. President, because we need the time to further debate other issues, but I think this clearly explains why the committee has taken this action. Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 880-84 was adopted and, Roll Call vote having been requested, S.R. No. 108, entitled: "SENATE RESOLUTION REQUESTING TIMELY REINSTATEMENT OF SITES TO THE HAWAII REGISTER OF HISTORIC PLACES," was adopted on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Standing Committee Report No. 888-84 (S.R. No. 112);

Senator Kuroda moved that Stand. Com. Rep. No. 888-84 be adopted and Senate Resolution No. 112 be adopted, seconded by Senator Aki.

Senator Kawasaki made the following comment on Senate Resolution No. 112:

"Mr. President, while I will vote for this resolution I also would like to enter into the record my concern that the Department of Land and Natural Resources in developing procedures whereby Neighborhood Boards and people generally in the neighborhood of a particular site involved be aware of the fact that the nature of the beast, so to speak, the average human being by nature, doesn't want his property to be affected...don't touch my property, you guys...but where it affects somebody else's property, it's fine to turn that into a public historic site. The Department of Land and Natural Resources, I think, should be very much aware of this tendency on the part of all of us. We're very protective of our own property, but where somebody else's property is concerned, we do not give this matter of private property rights too much concern and we're all in favor of converting it into public

use so all of us can use it, but just don't touch ours."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 888-84 was adopted, and S.R. No. 112, entitled: "SENATE RESOLUTION REQUESTING COMMUNITY PARTICIPATION IN THE PLANNING OF HISTORIC PARKS AND SITES," was adopted on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 889-84 (H.C.R. No. 144):

On motion by Senator Kuroda, seconded by Senator Aki and carried, Stand. Com. Rep. No. 889-84 was adopted and H.C.R. No. 144, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF SISTER-STATE/PREFECTURE RELATIONSHIPS BETWEEN HAWAII AND HIROSHIMA, KUMAMOTO, OKINAWA, TOKYO, AND YAMAGUCHI PREFECTURES," was adopted.

Standing Committee Report Nos. 896-84 (S.C.R. No. 89, S.D. 1):

Senator Kawasaki moved that Stand. Com. Rep. No. 896-84 be adopted and S.C.R. No. 89, S.D. 1, be adopted, seconded by Senator Cobb.

Senator Abercrombie rose and stated:

"Mr. President, the resolutions reflect some very important points with respect to the situation in Central America. The reason for the appearance of the resolutions is to have before the Congress and the President of the United States some semblance of feeling as to the approach that would be best inasmuch as it affects all of us throughout the country, that is to say the situation which exists in Central America.

"Mr. President, while there are individual instances of attention which are paid depending on what part of Central America at the present time one is focussing on -- an election at one time, an insurrectional instance in another -- whether one is focussing on any particular nation, among them Nicaragua, El Salvador, Honduras, Guatemala, Costa Rica, Delize, Mexico, we find ourselves more and more evolving a discussion locally and nationally, and internationally for that matter, as to the role that the United States should take with respect to Central America and in

particular the role of military aid in Central America, perhaps in my judgment a misnomer.

"I'm not so sure that military aid aids anything in the way of an effective policy with respect to Central America. That is the basis principally for the 'Be it resolved' clause and its subparts, its subelements as it appears in the resolution and the concurrent resolution. I'd just like to focus very briefly, Mr. President, on the subelements in the 'Be it resolved' clause. The first, 'supporting efforts of Central and Latin American countries to act as mediators where conflict exist;'. Mr. President, I think this is a very positive step. I think one of the things that has harmed our foreign policy, harmed the interest of the United States is when we do not take advantage of those nations' good offices that are available in activities with respect to foreign policy throughout the world, particularly so in Latin America where, Mr. President, as you well know, it is not the Russian Bear or the Chinese Tiger which is the element which is immediately before the people in those countries, rather the American Eagle; that is to say, Mr. President, all rhetoric aside, the plain fact of the matter is, as well, nations...I even hesitate to use the word nations here...certain leadership in nations may not wish us well or wish us ill with respect to our foreign policy. What they can do and what they cannot do about it, and what effect they really do have and do not have is more often with respect to Central America, in particular, a function of what the United States does or does not do, rather than the desires or the actions of other nations, especially some of the so-called big powers. We are the deciding factor in terms of what is a big power too.

"I think to indicate otherwise is to perhaps rhetorically score points but not be very helpful in terms of resolving issues in the area. That's the reason why I think we should utilize and urge the utilization of the good offices of those countries in Central and Latin America which offered to do so and are ready to do so, distinctly to our advantage.

"Number 2, 'urging the Nicaraguan and Honduran governments to sign and implement a treaty of non-aggression and guarantee of borders;'. This is particularly pertinent because as was indicated elsewhere in the resolution, Mr.

President, regardless of the headlines that may or may not appear in the news on a given day with respect to Nicaragua and Honduras, we recognize both of these nations, in fact, we have ambassadors and economic, diplomatic and other kinds of activities taking place in both of these nations, and it is distinctly, I believe, to our advantage to urge these nations...and this is the essence of the resolved clause...urge these nations to implement a treaty of non-aggression with one another and a guarantee of borders. It's obviously like any treaty; it's based on the hope that the elements of a treaty will sustain themselves. But in the absence of it, of course, the diplomatic mission, the emphasis on achieving a peaceful resolution of conflict is scarcely possible.

"Third, 'urging withdrawal of military aid and supplies to all sides in El Salvador in recognition of the need to encourage negotiations to end the civil war;'. This is a policy which has been urged by our neighbors in Central and Latin America who wish to mediate the situation. I think the record...I will not go into a detailed exposition at this time, although I assure you, Mr. President, that if time permitted or was necessary I would be able to explicate in detail for you about the failure of military aid, per se, in El Salvador to achieve anything in the way of a political solution which would be commensurate with the desires of most of the people of the United States, let alone the people in El Salvador.

"In any event, suffice to say for purposes of the resolutions that what is urged here is that there be a cessation of emphasis on military activity in El Salvador so that negotiations by the contending parties might take place in an atmosphere conducive to ending the civil war which now exists. I would make just a brief allusion to our own history where in our own Civil War, I think, the introduction of military aid from outside would hardly have been conducive to the resolution of the political, social and economic problems of the United States at that time. I think the same thing applies here.

"Number 4, 'respect for self-determination of all people in Central America and non-interference in their internal affairs;'. This again is a diplomatic approach in the sense of what we are urging the Congress and the President to try. The reason for it is that on the surface quite simple,



but in terms of the foreign policy history of this country in Central and Latin America, it's quite detailed, complicated and emotional, Mr. President. It would seem, as I said, on its face to be self-evident with respect to determination of all people in Central America. The plain fact of the matter is that throughout Central America, oligarchies, economic and social oligarchies have ruled often with cruel and oppressive forces at their command to a degree that's scarcely imaginable in our everyday experience.

"The battles, if you will, that take place on this floor in our political circumstances may seem to have a quality of extreme passion from our point of view, but compared to the literal life and death circumstances that people face when attempting political reform in much of Central and Latin America, it is very difficult for us, I think, to attain more than an intellectual empathy for what is going on. That's why it's so important for us to recognize that their affairs will be settled in a manner possibly not entirely to our liking, but as is often said on the floor of this Legislature, something that we can live with. After all we do not have to live there any more than we had to live in Yugoslavia or in other countries in areas and regions which solve their own problems, often in bloody fashion, just as the United States did and has done right up until very recently in its history, and unfortunately in some instances still faced with situations of violence and bloodshed in the political context right here in our own country. It hardly does anything for our credibility to think that we can insist then in other nations that their internal affairs be conducted in such a manner as entirely compatible with what we would like in any given moment. In any event, such determination as will occur in those countries is something that in all likelihood we should try to respect in the sense of aiding people than in a way to lead them towards stability, economically and socially and in their personal lives. That we can do as a country.

"Next section, 'ending economic aggression and discrimination against any nation in Central America and an expression of willingness to negotiate economic assistance on a non-ideological basis;'. That's an extension of the previous sub-point, Mr. President. I think it should be obvious to everyone that we do that right now with the Soviet Union, with

the Peoples Republic of China.

"As a matter of fact, the President of the United States, as you well know, will be spending Easter Sunday in the State of Hawaii on his way to the Peoples Republic of China. I do find it a little incongruous that we can maintain trade and diplomatic relations with China and with the Soviet Union, but find difficulty in doing it with nations considerably smaller than ourselves, considerably less powerful in terms of treasure and military and economic might. I think that in such circumstances it is much to our advantage both in Central and Latin America, as well as with respect to our relations with others throughout the world that we not pick and choose so often in terms of ideological purity when it suits us and rather take an approach that we have with socialist governments in France, with communist governments in Middle Europe and elsewhere throughout the world, with kingdoms, in other words, the whole spectrum of political orientation as already represented in our relationships with other nations and areas. And I think that it would serve us well as a policy in the national interest of the United States to continue such an approach in Central America that will rebound to the good credit of this country there and elsewhere.

"And finally, 'no foreign military bases or troops in Central America and an end to foreign military exercises in that area;'. Obviously, Mr. President, that refers to all nations, ours as well as any other nation that are foreign to the area in terms of bases and troop exercises. I know that we are engaged in such exercises at the moment on the Nicaraguan border. It may serve the purposes of CBS evening news to show helicopters flying around or bases being constructed. It ominously reminds me of the same thing that I witnessed in my brief sojourn in Viet Nam in 1969, where we, photographic and other records that we have of the same kind of thing going on, where we built airstrips and bases and troops were there as advisors, and so on.

"I well recall, Mr. President, that one of my colleagues in probation work was one of the first people to go in as an advisor in the early 1950's, 1954 if I'm not mistaken, in Viet Nam in what was then Saigon, one of the very first, I believe 40 or 55 people there, 55 advisors, I believe; he was one of them, and indicating to me as far back as the

early 60's what he foresaw the result would be from that activity, that foreign policy activity, and as you know it was a great tragedy for all concerned. I am not so much trying to draw a parallel to the situation that occurred in Viet Nam so much as I am trying to draw attention to the fact that often one's foreign policy, when it is mixed up with military aid per se, ends up being a barren political policy. It ends up ignoring or obscuring some of the social and economic issues that might be handled in another way. If they were handled in another way, we might not find ourselves in having to rely more and more on military 'solutions' (and I put the word solutions in quotation marks), 'solutions', in other words which are not solutions, but merely the prelude to more problems for us.

"Mr. President, we are the citizens of a proud and mighty nation. In all likelihood, arguably, the mightiest nation that ever existed on earth in terms of the engines of its war capacity and, Mr. President, I would hope the capacity of its people to recognize and nurture the capacity for peace. It takes a great nation and a great people to understand its special responsibility when it has that kind of power. It takes a great nation and a perceptive people to understand that other people's aspirations are not always couched in terms that suit our own, are not always put in a manner that reflects the common considerate attitude, if you will, that exists when one feels comfortable, when one feels in control of a situation.

"In Central America and much of Latin America, today, we are dealing with a situation of strife, a situation of the culmination of hundreds and in some instances, thousands of years of exploitation and oppression, and as a result of that, Mr. President, I believe we have an opportunity, as well as a special responsibility to act in such a manner as to try to win those people not to the side of the United States, but win them to the point of view that the United States is desirous of being good neighbors with them, an able, a big enough country, a country of compassion and understanding that realizes that it is not necessary to have the obeisance of other people, but rather their friendship, and that we stand ready to seek that friendship on the basis of a mutual recognition of interest, which I believe is embodied in the points outlined in the 'Be it resolved' clause. Thank you very much."

Senator Kuroda rose to speak in against the measure as follows:

"Mr. President, I rise to speak against S.C.R.No. 89, S.D. 1 and S.R. No. 103, S.D. 1, which requests 'the President of the United States to stop military aid to Central America.' I would suggest that we leave it to the Defense and State Department experts in Washington to determine to what extent we involve ourselves in Central America.

"These jelly beans that I have here that Senator Hagino's staff has given to me and to other Senators on the floor, remind me of our President. I'll be in the same building with the President this Sunday, one of the rare times I'm going to be in church. If I have a chance to, I'll say to him, 'Mr. President, keep up your good work of protecting our freedom and liberty while you are in the White House.' And if the Republican leader and the Republican Minority leader use their influence, I'll let you use my camera for a picture. Thank you."

Senator Soares also spoke against the resolution as follows:

"Mr. President, we've been here for a long time so I don't want to make it lengthy, but I totally disagree with the entire resolution. I think the sensitivity of the situation in Central America right now is so delicate that I fully feel that it's ill-advised for us to make statements that appear here in the resolution. I recognize...and I've been in the company of my colleague, Senator Abercrombie, and I know how he feels and where he's coming from when it comes to foreign policy.

"I do believe very strongly that this resolution should not pass. I support my President, the foreign policy that he is leading, the State Department of the Department of Defense in this whole effort, and I ask all my colleagues to vote this resolution down."

Senator Cobb also spoke against the resolution as follows:

"Mr. President, I rise to speak against the resolution but in doing so with mixed feelings because when I look at the second 'Be it further resolved' clause, I find myself in agreement with at least five of the six topics or items mentioned in that 'Be it further resolved' clause.

"What I find missing in this

resolution are two elements of reciprocity that I think are critical to a peaceful solution to the situation in Latin America. The first lack of reciprocity is in the first 'Be it resolved' clause when it states 'that the policy of providing military aid to El Salvador, Guatemala, and the Nicaraguan "contras" be abandoned.'. There is no mention about the aid from the Soviet Union and Cuba in Nicaragua also being stopped in that first 'Be it resolved clause.' And I find that a critical omission.

"Secondly, in item 6 of the last paragraph of page 1, that 'no foreign military bases or troops in Central America and an end to foreign military exercises in that area.' That's good insofar as it goes. It does not mention the 2500 to 5,000 Cuban, Czech, East German and Soviet advisors already in Nicaragua already providing direct assistance. It does not mention the huge amounts of money that are being spent, both in terms of direct and indirect aid from the Government of the Soviet Union and the Government of Cuba to Nicaragua. And I think both those items, as a matter of fairness and reciprocity, should have been mentioned because the curtailment of those activities is just as important to a solution to the problems in Central America.

"Finally, Mr. President, the one area that I do disagree with in the 'Be it further resolved' clause, the last paragraph, is 'to negotiate economic assistance on a non-ideological basis.' It is a well established policy in both Democratic and Republican administrations over the last fifteen years that high technology and items involving technology with a military application should not and are not shared with or traded with Communist block countries, and that the embargo of that kind of critical technology is very much in the interest of the defense of the United States, and that in fact a coordinating committee has been established in NATO to insure that such critical technology not be shared. And in dealing with a Communist or Socialist type of government we have found that one of the areas that is most sought after is technology in trade. Even the trade that is being shared with Mainland China does not include the latest of technology or the latest of weapons, even though the present administration has granted China a most-favored-nation status for the purpose of trade. That sharing of technology has not taken place and I

think it has not taken place for a very good reason. If we are to say that their trade will be entirely on a non-ideological basis, then we would be abandoning that policy.

"Mr. President, I, among others in the Reserve in the Armed Forces, do not want any expansion of military activities in this area. I know all too well what a war means, having served in Vietnam, having been wounded four times in Vietnam. I don't ever want to see that experience shared again on my son or the sons of others, but I recognize very clearly that if we are going to achieve a peaceful and political solution, there must be negotiation and reciprocity on all sides, and those very important elements are missing as I have outlined in at least two parts of this resolution.

"Further, Mr. President, when we consider a long history of American intervention that has taken place in Central America, I don't agree with the President's policy that rejected direct negotiation with the Sandanista Government. I think that should have taken place, and I still favor that. There are a number of substantive areas of disagreement that I have personally as a private citizen with the actions of the present administration in Washington, and I would like to see a peaceful solution to the problem. But this resolution ignores two major areas of reciprocity and would contravene a central economic policy of the United States, and we would be asking our Congressional delegation to do it were we to adopt it. Thank you."

Senator Cayetano spoke in favor of the resolution as follows:

"Mr. President, I've never been in the military; I've never been in a war. While I was in law school, I did draft-counseling as I was against the war in Vietnam. When the war in Vietnam was going on, I understand this Senate issued a resolution urging the end of the war. So, something like this resolution is not without precedent.

"I think it's important that we make some expression to the President because ever since he has taken the helm of this country the foreign policy of our nation has taken a decidedly militaristic stance. When Mr. Reagan took office, there was an immediate chill on talks between the Soviets and the United States on disarmament. The history of his foreign policy has been a dramatic

and costly defense buildup to the detriment of social programs which would benefit our people. His record indicates that he has sent our Armed Forces to invade a tiny little island called Grenada. When you talk about a shot-gun approach to kill a little fly, that was a good example. Conservatives and hawks referred to that as a victory for the United States. That kind of thinking, in my view, is incredible...18 American soldiers were killed, if I recall correctly. Then he sent U.S. Marines to Lebanon along with the Battleship New Jersey, and everything I've read about the President's optimism with respect to how the Battleship New Jersey and the U.S. Marines were going to pound a peaceful solution in Lebanon. Of course, all came to a head when our Marines were placed in hopelessly indefensible position and we had 300 Marines killed, and, a retreat to the Battleship New Jersey and out of Lebanon.

"Now, that brings me now to Central America. Anyone who has studied the history of Central America, or South America, for that matter, knows that U.S. gunboat policy in that area has been a sore point in our relationships with those countries...simply put, they hate us. They hate us for the past. And, Mr. Reagan now is attempting to resurrect the past by increasing our activities in Central America. When Mr. Reagan comes to Hawaii, as the Majority Leader pointed out, I hope that I will be able to hand a copy of this resolution to him. I probably will not go to the church for services, but I would like to do so, because I think the foreign policy that he is following only means disaster to the United States.

"The young men of Hawaii have responded magnificently when their country has called them. In Korea, for example, I recall reading that our soldiers performed very well and also Hawaii had the highest percentage of casualties on a per capita population basis; and the same for Vietnam. I think those kinds of considerations make it important that we do get involved, that we do express our opinion to the Congress. The most shameful thing that has recently happened in Central America is that under the Reagan administration the CIA has been mining harbors; mining harbors and blowing up the ships of nations who are friendly to us -- the Japanese, the British, etc. This can only lead to further escalation of our problems there.

"When the Nicaraguan Government attempted to bring the matter before the World Court, the United States under President Reagan took a most shameful position. We refused to submit to the jurisdiction of the World Court. Well, for a country that professes to live by laws and for a country that wants to set an example for other countries, that in my view was the worst bit of foreign policy that I have ever seen. This resolution is not perfect. I don't quite agree with all of it. I think that the points made by Senator Cobb are well taken, but on the whole, they express a point of view -- stop escalating United States military presence in Central America. And that, I think, overrides all the other considerations. Thank you."

Senator George spoke against the resolution in Spanish.

Senator Cobb spoke against the resolution in Russian.

Senator Abercrombie then stated:

"Mr. President, I think it's important to recognize precisely the points raised by the last two speakers, speaking in a different language from that which is generally understood in the United States.

"I think, Mr. President, just in very brief response to the speakers who indicated they would be against the resolution. That was one of the points I was trying to make here, and I had hoped that the resolution made clear. If it has not, I would like to do so at this time. We're dealing with people who have a different perception of the world. We're dealing with people for whom their conversations in English which, of course, is a foreign language to them, have been mostly with people who are telling them what to do, mostly with people who are deciding their fates for them. It may be amusing for us to be able to speak in a language different from that which we are used to, but for the people that I am speaking about it is a language of life and death, as far as they are concerned. And I would hope that we would take a serious attitude toward the points that were raised; and I say that in this context, Mr. President.

"I can recall very well with respect to certain anecdotes which bring us to this point and have been mentioned on the floor today. I recall very well sitting in a room with approximately a

hundred other leaders of a Democratic Party club throughout the State of California at that time in 1964 and being told that we would support ... I beg your pardon, in 1965, after the 1964 election for President of the United States, and being told that it was our duty to support the President of the United States, Lyndon Johnson. I had voted for Lyndon Johnson and tried to get other people to vote for Lyndon Johnson on the basis that he would not take us into a war. I was told in that meeting, which took place in the Secretary to the Governor of California's home, that we were to line up behind the President of the United States and that we were to leave it to the experts in Washington. I am not paraphrasing, I am indicating to exactly what I was told; it was burned in my memory because of all the events that took place subsequent to that time. I remember being among the few people in the room that refused to do that for which I also remember being soundly criticized at the time in no uncertain terms and as a matter of fact some people quite agitated about it.

"Mr. President, we had left our foreign policy in many instances in the past to the experts in Washington, and we have seen the results quite often as to what those experts have done. They remain in Washington and remain experts and the young men and women of our country go off to war to fight battles based on their expertise.

"Mr. President, the object of introducing the resolution is with the idea of protecting our freedom and liberty. I think we ourselves are our best protection of our freedom and liberty, not the experts in Washington, nor even the President of the United States and the Congress of the United States. And it is our duty as free men and women to let those people who are in the position to make decisions with respect to the subject matter of this resolution; it is our duty and obligation to let them know what we think. That is the reason for resolutions at this level.

"This goes back in a historical sense all the way to the town meetings and all the rest of the history that we have in our country of the expression at the local level for what people believe is in their interest and in their country's interest at the national level. So I think it's very important for us to make this move, that is to say, to go on the public record with respect to

what we believe, rather than leaving it to the experts alone.

"I, too, support the President of the United States; I support the Office of the Presidency, Mr. President, just as I support this institution even though I may be in disagreement with you or with others at any given moment during its existence or my privilege to serve in it. I think that the passage of this resolution is an expression of support for the institution of the Presidency and the Congress and the decision-making process because it lets them know that we want them in turn to know what we are thinking and are relying upon them to utilize their good judgment.

"One of the things that happens, Mr. President, in this body, as you well know, and certainly happens to the President of the United States and to the Congress is that you find yourself constantly revolving, if you will, in a rather small world. We spend 60 days during the session with one another, maybe more than we would wish to in some instances, almost, but nonetheless that is the logistical fact of life. And one of the reasons we have public hearings, one of the reasons we try to have contact with constituents is so we get another point of view and make sure that we have the broadest possible input.

"That's why I think it is necessary to pass this resolution so that we try to remove a bit of that isolation, that inevitable isolation that take place, and let the President know and the Congress know that there is a point of view out there that expresses it. That take me to the last part of my remarks which are not a rebuttal, in particular to Senator Cobb, but rather a perspective raised with his comments in the hopes that he might change his mind and those who subscribe to the points that he raised would likewise change their minds as a result of the perspective I would like to present.

"I appreciate the fact that Senator Cobb was generous in his judgment of much of the substance of the resolution and would like him to respond in hopes that this will meet his objections. As to the elements of reciprocity, no mention of...in particular, I believe he mentioned the Soviet Union and the Cuban Government. The reason for that is not that I did not recognize the presence there, but rather it is the nature of the resolution because the object was to get foreign domination and

interference out that, I thought, obviously meant the Cubans, the Soviets, the United States, whatever elements were actively engaged in the military aid process. So for the good Senator's perspective that the resolution does, in fact, refer to those countries as well as the United States very clearly with respect to non-interference in internal affairs and no foreign military bases or troops in Central America. That statement is a flat statement -- 'no foreign military bases or troops in Central America,' no matter what country they come from. No means no.

"And the second point I believe had to do with the non-ideological economic assistance. Mr. President, I believe that the Senator is correct that there are laws already in the books with respect to what can be traded with anybody with respect to high technology unless you are in certain categories of already existing reciprocal agreements. There was no thought in the resolution at all to high technology. In all honesty, I doubt that the people in the areas I've mentioned, in El Salvador, Guatemala, Honduras and so on, are much interested at the moment in high technology. The only high technology they're seeing at the moment is in the form of very advanced weaponry. Many of the people that we're speaking of, if not the overwhelming majority, do well to be able to feed them and clothe and house their families and hope that there will be a time when they will not live in fear of violent death. So, the reference to economic assistance of non-ideological basis is meant to be again just exactly that, that we focus on assistance of an economic nature suitable to the situation and to the degree that that should not involve high technology trading forbidden by law. Obviously we could not do it. And I want to emphasize one last word there. It is negotiate. We would have to negotiate, and if it was not in our particular interest, I believe we would not negotiate anything of that nature. I hope that that answers his questions.

"The intent of the resolution is to end the foreign involvement, and I would conclude by saying that in the absence of doing something along these lines of trying to focus on diplomacy, a couple of things occur. There's literally nothing to lose by taking this approach and a great deal to gain. By not taking this approach and continuing to focus on military aid, I see a situation of continuing degeneration of the issue, continuing

degeneration of the situation where we will indeed have freedom and liberty on the line. It will not be ours; it will be that of the people that we will be in perhaps a war-like situation with. So, we have everything to gain and there's only one other institution or one other element in this picture, I think, which stands to gain if we continue on the present course; and that is, Mr. President, the Soviet Union. The Soviet Union, simply by standing and waiting and watching what's going on now will be succeeding. We will be, in fact, serving the purposes of those political elements in the Soviet Union that do not wish us well by continuing a policy which focusses upon military aid, first, and diplomacy and a political solution such as is advocated here, second.

"So I would ask those of you who were thinking of voting 'no' to consider these final remarks, consider the context and perspective that's been established and the spirit within which these resolutions are offered, and give your support to this approach on the basis that it is one which might possibly bear fruit in terms of peace and progress for all the parties concerned and can do no essential harm to either the military or political posture of the United States.

"Thank you."

The motion was put by the Chair, and Roll Call vote having been requested, Stand. Com. Rep. No. 896-84 and S.C.R. No. 89, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES TO STOP MILITARY AID TO CENTRAL AMERICA," failed to be adopted on the following showing of Ayes and Noes:

Ayes, 11. Noes, 14 (Aki, Carpenter, Cobb, Hagino, Holt, B. Kobayashi, Kuroda, Machida, Uwaine, Yamasaki, Ajifu, George, A. Kobayashi and Soares).

Standing Committee Report No. 897-84 (S.R. No. 103, S.D. 1):

On motion by Senator Kawasaki, seconded by Senator Machida, and Roll Call vote having been requested, Stand. Com. Rep. No. 897-84 and S.R. No. 103, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES TO STOP MILITARY AID TO CENTRAL AMERICA," failed to be adopted on

the following showing of Ayes and Noes:

Ayes, 11. Noes, 14 (Aki, Carpenter, Cobb, Hagino, Holt, B. Kobayashi, Kuroda, Machida, Uwaine, Yamasaki, Ajifu, George, A. Kobayashi and Soares).

Standing Committee Report Nos. 898-84 (S.C.R. No. 131, S.D. 1):

Senator Kawasaki moved that Stand. Com. Rep. No. 898-84 be adopted and S.C.R. No. 131, S.D. 1, be adopted, seconded by Senator Machida.

Senator Kuroda rose to speak against the resolution as follows:

"Mr. President, I rise to speak against S.C.R. 131 and S.R. 166. I believe the adoption of this resolution, although it calls for a study, could be interpreted as an anti-military measure, which affects as I stated previously the economic health of our state. This type of resolution makes competing states very joyful and pleased.

"The 'Whereas' clauses tend to lean toward a study to establish a nuclear-free zone, and I oppose the resolutions on that basis. Thank you."

Senator A. Kobayashi spoke in favor of the resolution as follows:

"Mr. President, the threat of nuclear war has increasingly become a part of our daily lives due to the buildup and stockpiling of nuclear weapons by the Soviet Union and the United States. The ever-present danger has been the source of great anxiety and distress for many citizens of this state. The concern to protect our citizens and our beautiful state from nuclear disaster or nuclear accidents has been manifested by the adoption of ordinances by the counties of Maui and Hawaii which ban nuclear reactors or devices in these counties and its surrounding waters.

"The City and County of Honolulu voiced its concern by adopting a resolution calling for a bilateral nuclear freeze by the two major powers, the United States and the Soviet Union. Recent actions taken by the counties of Maui and Hawaii have raised questions regarding propriety and legality of such legislation which declares the counties, including the surrounding waters, to be nuclear-free zones. If our county governments are willing to take such extreme stands on this

issue, I feel strongly that we should address their concerns on a statewide level. These resolutions would provide for an objective study to be jointly conducted by the Department of Planning and Economic Development, the Department of Health and the Department of the Attorney General to determine the feasibility of establishing nuclear-free zones in our state.

"The purpose of the study is not meant to be anti-military. Its sole purpose is to clarify the legality and propriety of establishing nuclear-free zones in Hawaii. We as legislators are responsible for protecting the environment and ensuring a Hawaii that is safe for our future generations. And it is my hope that Hawaii will become the leader in the fight to reduce nuclear arms.

"Thank you."

Senator Cayetano then stated: "Mr. President, I want to commend the previous speaker for her well prepared remarks and I'd like to express her sentiments as my own and invite her to join the Democratic Party."

Senator Abercrombie interjected: "Mr. President, after the last vote she may not know which section of the Democratic Party she wants to get in."

Senator Cobb then commented:

"Mr. President, I rise to speak on this resolution with really mixed feelings, and there may be further debate that could change my mind. I'm inclined to vote against, although there may be further debate that could change my mind. I'd like to share a few facts with the members of this Senate, if I may, in terms of both the nuclear reality as well as the deployment of the Pacific Fleet and some of the questions that have bothered me on this and hopefully could be addressed.

"At any given time, Mr. President, anywhere from 20 to 40 percent of the Navy ships, depending upon the type of ship, are nuclear-powered; and as many of you know, most of the submarines in the Navy are nuclear-powered, and most of them have nuclear weapons on board. Are we to then say that any such Navy ship cannot or should not call on Pearl Harbor or use Pearl Harbor as a homeport. That raises some very fundamental questions with the adoption of the resolution that we

took action on yesterday, asking for an expansion of the homeporting facilities at Pearl Harbor both for purposes of jobs, construction, reverberation of economic income to the state and related subjects.

"It's also a well known fact, Mr. President, in nuclear technology that unless a weapon is armed it is incapable of what is called 'pre-initiation' of the premature explosion and that a weapon can only be armed upon direct authority of the National Command Authority of the United States, meaning the President of the United States, that a stored, inert nuclear weapon is not capable of that in nuclear physics is called 'pre-initiation.' As we know, also, from numerous encounters with the Defense Department and the military establishment, those individuals will neither confirm nor deny the presence or storage locations or even existence of nuclear weapons here or anywhere. And that's an ongoing policy.

"My summation, Mr. President, would be that Pearl Harbor or any strategic military facility will be a Class I nuclear target not for the reasons that there may or may not be ships there with nuclear devices, but because of the receiving, staging, repairing and deployment capabilities of that facility. When people look to the strategic reasons for classifications of a target for any reasons, those enter very high on the list of considerations by both sides as to whether an area would be a Class I or Class II nuclear target. I think the reality of nuclear weapons and physics are bad enough without some of the media stories that go into exaggeration or scare tactics. What bothers me the most is that while we are confronting the Soviets as well as some of our own friends of other nations who desire to have nuclear reactors with a capability of producing Plutonium 238, which then has a weapons capability, we are spending precious little time and not enough research money or effort on the alternatives to make such weapons obsolete. Can I refer, in particular, to not only the laser beam, but also particle beam weapons technology which could render nuclear weapons obsolete. So when we are addressing the problem of a freeze, I'd like to see it not only bilateral, but I'd like to see a lot more research done and effort put in to the project of ending this horror.

"This resolution, Mr. President, seems to be a prelude to an overall ban in Hawaii even though it says

report back, even though it says we would like to request the Department of Planning and Economic Development, the Department of Health, and the Department of the Attorney General to conduct a joint study on the feasibility of establishing nuclear-free zones in the State of Hawaii. I hope by these remarks entered into the Journal, they will consider some of the ramifications, alternatives and problems in doing so that we have not only economic but also military problems were we to say for the Island of Oahu that no ship with a nuclear reactor, be it a warship or a peaceful steamship, should call on either Pearl Harbor or Honolulu, or that we would ignore then the ongoing research into nuclear-powered aircraft. Are we then to say that any nuclear-powered aircraft should not land at Honolulu International Airport because of this nuclear-free zone? That's what bothers me about the resolution as it seems to be leading to that conclusion. And I hope that if it is adopted that the departments involved would take cognizance of these remarks.

"Thank you."

Senator Abercrombie then remarked:

"Mr. President, the remarks of the previous speaker seem to me to be more an argument for passage of the bill than against it, and inasmuch as he expressed a willingness to consider that, I just want to posit for him the following.

"I am speaking in favor, I beg your pardon. It says, 'conduct a joint study on the feasibility of establishing nuclear-free zones in the State of Hawaii.' It does not say to make the State of Hawaii a nuclear-free zone. And the reason for saying nuclear-free zones in the State of Hawaii, the reasons are very specific because sub-zones would have to be specified and the reasons for that involve safety factors, among otherwise. It would seem obvious on the face of it when we're speaking about nuclear weapons that safety is a question that does not even need any explication. But that is not the fact because, as the Senator clearly understands and points out, and I think the resolution indicates quite clearly, we're talking about more than ships and/or planes which may carry nuclear weaponry, per se. We are speaking of ships which have nuclear engines; we're speaking of radioactive waste products not just for military activities, per se, but medical



activities, etc.

"So, I think what is necessary here, or the reason behind the resolution obviously is one that takes into consideration the overall problem of nuclear weaponry and accidents and/or situation that presents itself in terms of a nuclear conflict, but to hold that up as being something beyond our capacity to deal with or something that we should not involve ourselves in is not the same thing as saying that we should not be concerned about the safety factors whether it's military, per se, or civilian medical in nature.

It is really a disservice to any nuclear policy, let alone a foreign or military policy, to ignore the safety factors that might otherwise be involved, and I think it would be in answer to say ships can simply come into Pearl Harbor and we don't pay any attention as to whether there's any leaking in the water or whether there's radioactive material or whether proper safeguards are being managed. That kind of thing has literally nothing to do with secrecy from our enemies, supposed or real, and has everything to do with proper management and cooperation between the civilian and the military elements in this state.

"Many, many times, Mr. President, the necessity for cooperation between the military and the civilian sides of life are cited on this floor and elsewhere in this state, and I think this is one instance in which the civilian side and military side can cooperate with one another to determine whether or not there are particular areas that should be set aside for activities which involve nuclear materials, and whether or not it is possible to come to a mutually agreeable solution as to how we can be assured that proper safety precautions are being taken.

"So, I don't see the slightest harm in passing the resolution and possibly a great deal of good to be done in terms of assurances at whatever station in life one is at or whatever pursuit you follow -- military, civilian, or otherwise.

Senator Cobb replied: "If the previous speaker would agree to amend the resolution to provide a copy to the Department of Defense for input on the 'Be it resolved' clauses thereof, I think that would lessen some of my concerns because I agree there has to be some joint discussions going on relative to what areas can and should be nuclear-free zones,

and I would further agree that we have an affirmative responsibility to monitor radioactive leaks from any ship, as well as the conduct of nuclear safety on board any ship, whether it be engine generation or weapon carrying capabilities. But when I see the participants of this study, I don't see any local representative of the Department of Defense at all who should be having discussion or input into the resolution."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 898-84 was adopted, and Roll Call vote having been requested, S.C.R. No. 131, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE FEASIBILITY OF ESTABLISHING NUCLEAR-FREE ZONES IN THE STATE OF HAWAII," was adopted on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Aki, Cobb, Kuroda, Machida and George).

Standing Committee Report No. 899-84 (S.R.No. 166, S.D. 1):

On motion by Senator Kawasaki, seconded by Senator Machida and carried, Stand. Com. Rep. No. 899-84 was adopted, and Roll Call vote having been requested, S.R. No. 166, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE FEASIBILITY OF ESTABLISHING NUCLEAR-FREE ZONES IN THE STATE OF HAWAII," was adopted on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Aki, Cobb, Kuroda, Machida and George).

Standing Committee Report No. 900-84 (H.C.R. No. 11, H.D. 1, S.D. 1):

On motion by Senator Aki, seconded by Senator Hagino and carried, Stand. Com. Rep. No. 900-84 was adopted and H.C.R. No. 11, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A MORATORIUM ON THE DISPOSAL OF NUCLEAR WASTE MATERIALS IN THE PACIFIC BASIN," was adopted.

Standing Committee Report No. 912-84 (S.R. No. 154):

Senator Machida moved that Stand Com. Rep. No. 912-84 be adopted and S.R. No. 154 be referred to the Committee on Legislative Management, seconded by Senator Mizuguchi.

Senator Kawasaki rose to inquire

about the resolution as follows:

"Mr. President, I rise to speak against passage of this resolution, but before I go into further discussion on the resolution could I direct a question to either chairmen of the joint committees that reported this resolution out. The resolution requests the Senate Committees on Health and Human Resources to study the employee classification and compensation schedules of Hawaii's private, nonprofit human services agencies in order to establish a classification compensation schedule.

"The question I have to either chairmen is, from what fund do we pay for the work to make this study? Is that coming out of the legislative expenses appropriation confined to activities of both the House and the Senate? Do we use the resources of the Department of Health, the Department of Social Services? The financial impact of this resolution's mandate is what I am interested in."

The Chair replied: "I think, Senator Kawasaki, since it is a Senate resolution and does not require approval by the Speaker, it would be at the expense of the Senate."

Senator Kawasaki again inquired: "So that might be taking away from that appropriation we set aside to provide for the Legislative Auditor's office to do other kinds of audits for us. Is that correct? "

The Chair again replied: "This is separate from that appropriation. It will be Senate monies involved if this is adopted, should we do this study."

Senator Kawasaki then stated:

"It seems to me that this is quite a monumental task that we're imposing on both of these committees. I just wonder whether we want to do that in view of our rather limited appropriations set aside for the activities of this Legislature, this Senate specifically.

"Mr. President, I submit that we have no business, no business in the Legislature doing a study to find out or in trying to develop a schedule and classification system for private agencies providing what is generally categorized as purchase of service activities in human services, grants-in-aid as we called it formerly. I think one of the advantages of having some of these purchases of services, human services, provided to us was that these private agencies

would compete among themselves to offer us a package of human services programs that they offer to us to say, 'you apparently at the state level do not have these kinds of services under the aegis either of the Health Department or the Department of Social Services; we have these kinds of services to perform; will you buy these services from us.'

"And generally, I had assumed that we buy the services based on the 'bang that we got for the bucks,' so to speak, how much services can we get for a given price. It just seems to me that we have no business as government entity going into the private agencies and say, 'we're going to try and classify your personnel; we're going to establish the salary schedule and so forth.' I don't think we have any business doing that. If we are going to do that, then I say why not just put them under the civil service system. At least under the civil service system we have some control; we have some semblance of knowing what the classifications are going to be; what is the cost impact; we would at least have some control over the quality of services, the competency of some of these people we're talking about providing these services.

"In effect, I think by going the route of this resolution, we are establishing a fourth branch of service. You know we have the judicial; we have the legislative; and we have the administrative branches under which purview comes all of the Department of Health, Department of Social Services. Now we are creating another branch of service not particularly controlled under civil service regulations, civil services requirements, examinations to be given to make sure that people are promoted from the ranks with qualifying performances.

"I think perhaps we are stepping into very dangerous grounds here. It just seems to me that we are not quite aware of what the end effect of the passage of this resolution is going to be. I ask members of this Senate to very seriously consider the impact of what we're trying to do here. We have no business going into the private area and to tell them 'we're going to do the classifying and establishment of salary schedules for you people.' If we're going to do that, we should just put them under the civil service program that we have. At least this way we have some measure of control and we have some measure of deciding the quality

of the kind of services we're going to provide the taxpayers of this state. For these reasons I urge this Senate body not to vote for this resolution."

Senator Machida then rose and remarked:

"Mr. President, may I just submit some comments in rebuttal. First of all, much of the data has already been gathered. The director of the Department of Personnel Services did testify that much of the classification data for employees of human services and private agencies are already in his office. It's a matter of putting this data together and creating a classification system. The thrust of the Legislature, as indicated from the budgeting process last year and also this year, is to go into a systems approach of financing human service programs. This is quite evident in the mental health and substance abuse area. And this year in the budget negotiations this was the topic of our discussion between the House and Senate.

"The systems approach and the purchase of service approach will be, I think, a lot better for the state in the long run because the human services agencies presently don't have a classification system, which results in a very high turnover rate and high overhead costs. From agency to agency, a similar position is paid differently, and so these agencies have a hard time attracting qualified employees and also retaining these employees.

"Our approach, in this resolution, is to try to have some uniform pricing system for employees in the private agencies. If this comes about, I think in the long run, administrative costs of these agencies will go down, in turn the state will save some money. So, I think this resolution is proper and I think we should proceed with forming such a system. So I urge all my colleagues to support the resolution."

Senator Mizuguchi then rose to speak in support of the resolution as follows:

"In support of the resolution, Mr. President, I just want to remind my colleagues that we just voted on a supplemental budget and in that budget there was about \$8 million appropriated for human services and health, vis a vis purchase of services and grants-in-aid. We do have a concern about pricing, about compensation for these people in

private agencies and we need to find out whether or not these salaries are reasonable and commensurate with the jobs these private agencies do. And to alleviate the fears of interim expenses, what the chairman of Health and I had in mind is that it will be an interim study and we will use permanent staff in the Majority office to assist us in this program. So I urge my colleagues to support the resolution."

Senator Cayetano then inquired: "Mr. President, I'm not opposed to this resolution but I'd like to ask either chairmen a question, if they would yield."

The Chair posed the question to the chairmen and Senator Machida having answered in the affirmative, Senator Cayetano continued:

"Mr. President, will you ask the chairmen if ... let me preface my question by stating that my experience with these private organizations is, one, that they are paid lower wages when compared to their counterparts in the state. But, the other experience that I've had is that the qualifications for these personnel in the private side are not at all comparable to that on the state side, some maybe. For example, you have the Catholic Social Services, you have social workers, and we have social workers in the state and they may require the same kinds of qualifications, education, etc.

"Now as part of this study, will the study then include that particular area? Will you look also at the qualifications, education, training, etc.? If that's the case and you apply that standard to these private organizations today, I would say that my experience has been maybe they would lose one-half to three-quarters of the personnel."

Senator Machida replied:

"Mr. President, in answer to that question, the classification study, when completed will include minimum qualification standards. The point that we are trying to address is that presently because of the lack of a system, you may have some employees that are in positions for which they are not qualified for. A person trying to do a job he is not qualified for, in the long run, I think, hurts the state's ability to provide effective services through the purchase of service system.

"Many of the services that are

provided by these human service agencies are programs that are mandated by the state or federal governments. These are services that the state cannot provide and so we go out to these private agencies to obtain them. If these services are mandated, and are considered important, I think we should have qualified people handling these services. Therefore, I believe that a classification system will bring about more qualified people, and like I said in the long run will be better for the state."

Senator Cayetano then stated:

"Mr. President, I will support this resolution, but I just want to make this observation. The reason we go out into the private sector is that they are able to provide the services cheaper. Certainly, as the chairman pointed out, if the state were to understand these responsibilities, paying employees at state salary levels, the cost will be horrendous. We go out into the private sector because the private sector can or has shown an ability to provide these services at less cost. One of the facts of life is that the reason they can is that they pay the people less."

Senator Machida replied: "Mr. President, one point I'd like to make in reference to the remarks, is that we're not saying in this resolution that the salaries should be similar or same as those in the government sector. We're saying that it should be uniform and come up to some level with the state positions. We're not advocating that they be exactly the same."

Senator Kawasaki again stated:

"Mr. President, the comments just made by the chairman of the Health Committee just assures me that in the end the salaries that we're going to pay the personnel of these private agencies are going to be comparable to what we pay at the state level under the civil service tenure system. My point again is that at least under the civil service tenure system we have entry examinations, we have qualification tests for these people to be promoted to higher levels of responsibility. If we're going to generally classify these private agencies staff people comparable to what is paid in the state then where do you maintain this semblance of competition.

"We have gone to the private agencies because we think the private

agencies competing among themselves and the state not interfering as to what they should pay these people, not interfering, let the private agencies deliver to us a price package, if you will, for human services. We go to them and have them compete among themselves and we contract with the agencies which apparently gives us the best service for the costs involved. We have this responsibility to make this decision on behalf of the taxpayers of the state. This is why we go to the private agencies.

Once you qualify everybody generally, standardize everything, then you eliminate this fact of competition. As I said, just put them under the civil service; that's the easier way to do this. And I just can't see what we're going to accomplish if we're thinking in terms of providing for the taxpayers of the state human services which are not provided today by the state to be provided by the private sector. Leave the private sector alone; it's their business as to how they conduct their affairs. We should only be concerned with the quality of the human services provided us. We should not be interfering with their classification system, etc."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 912-84 was adopted and Roll Call having been requested, S.R. No. 154, entitled: "SENATE RESOLUTION REQUESTING THE SENATE COMMITTEES ON HEALTH AND HUMAN RESOURCES TO STUDY THE EMPLOYEE CLASSIFICATION AND COMPENSATION SCHEDULES OF HAWAII'S PRIVATE, NONPROFIT HUMAN SERVICES AGENCIES IN ORDER TO ESTABLISH A CLASSIFICATION AND COMPENSATION SCHEDULE COMPARABLE WITH STATE CIVIL SERVICE," was referred to the Committee on Legislative Management, on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Carpenter, Kawasaki and Henderson).

At 3:25 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:30 o'clock p.m.

#### STANDING COMMITTEE REPORTS

Standing Committee Report No. 939-84 (S.R. No. 91, S.D. 1):

Senators Holt and Machida, for the

Committee on Higher Education and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 939-84) recommending that Senate Resolution No. 91, S.D. 1, be referred to the Committee on Legislative Management.

By unanimous consent, action on Stand. Com. Rep. No. 939-84 and S.R. No. 91, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 940-84 (S.C.R. No. 81, S.D. 1):

Senators Holt and Machida, for the Committee on Higher Education and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 940-84) recommending that Senate Concurrent Resolution No. 81, S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 940-84 and S.C.R. No. 81, S.D. 1, was deferred to the end of the calendar.

At 3:32 o'clock p.m., the Senate stood in recess until 8:00 o'clock p.m.

#### NIGHT SESSION

The Senate reconvened at 9:03 o'clock p.m., with all Senators present.

#### MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 323 and 324) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 323), informing the Senate of the withdrawal of the nomination of Nelson K. Moku, Jr. to the Board of Private Detectives and Guards, term to expire December 31, 1987, under Gov. Msg. No. 242, was placed on file.

In compliance with Gov. Msg. No. 323, the nomination listed under Gov. Msg. No. 242 was returned.

A message from the Governor (Gov. Msg. No. 324), transmitting the 1983 Annual Report of the Department of Social Services and Housing, pursuant to Section 346-5, H.R.S., was placed on file.

#### MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

#### HOUSE COMMUNICATIONS

House Communication No. 514 (H.C.R. No. 36):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 514 was placed on file and H.C.R. No. 36, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A JOINT INTERIM COMMITTEE TO OVERSEE THE PROGRESS OF THE STATE OF HAWAII LAND EVALUATION AND SITE ASSESSMENT COMMISSION DURING THE 1984 INTERIM PERIOD," was referred to the Committee on Legislative Management.

House Communication No. 515 (H.C.R. No. 83):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 515 was placed on file and H.C.R. No. 83, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING U.S. SENATOR MATSUNAGA'S BILL S.2116 WHICH PROVIDES REDRESS AND REPARATIONS FOR AMERICANS AND RESIDENT ALIENS OF JAPANESE ANCESTRY AND ALASKAN ALEUTS WHO WERE SUBJECTED TO FORCED EVACUATION AND INCARCERATED IN DETENTION CAMPS DURING WORLD WAR II," was adopted.

House Communication No. 516 (H.C.R. No. 84):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 516 was placed on file and H.C.R. No. 84, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE MAYOR OF THE COUNTY OF HAWAII AND THE CHAIRPERSON OF THE HAWAII COUNTY COUNCIL TO ASSEMBLE AN ECONOMIC TRANSITION ASSISTANCE TEAM TO AID THOSE AFFECTED BY THE CLOSING OF THE PUNA SUGAR COMPANY," was adopted.

House Communication No. 517 (H.C.R. No. 92, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 517 was placed on file and H.C.R. No. 92, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE TO ACQUIRE THE KOHALA DITCH SYSTEM," was referred to the Committee on Agriculture.

House Communication No. 518 (H.C.R.

No. 97):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 518 was placed on file and H.C.R. No. 97, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT CONGRESS ENACT LEGISLATION MANDATING THE APPOINTMENT OF AT LEAST ONE HAWAII RESIDENT AS REPRESENTATIVE OR ALTERNATE REPRESENTATIVE ON THE SOUTH PACIFIC COMMISSION," was adopted.

House Communication No. 519 (H.C.R. No. 121, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 519 was placed on file and H.C.R. No. 121, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING HAWAII'S UTILITY COMPANIES TO TAKE GREATER EFFORTS TO ENCOURAGE THE DEVELOPMENT OF ALTERNATE ENERGY SOURCES," was adopted.

House Communication No. 520 (H.C.R. No. 124):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 520 was placed on file and H.C.R. No. 124, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING APRIL 29 -- MAY 5, 1984 AS LAW WEEK 1984," was adopted.

House Communication No. 521 (H.C.R. No. 125, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 521 was placed on file and H.C.R. No. 125, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO STUDENT RIGHTS AND RESPONSIBILITIES AND ACADEMIC GRIEVANCE PROCEDURES AT THE UNIVERSITY OF HAWAII," was referred to the Committee on Higher Education.

House Communication No. 522 (H.C.R. No. 128, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 522 was placed on file and H.C.R. No. 128, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CLARIFICATION OF EXEMPTIONS FOR HOTEL OPERATIONS FROM REAL ESTATE LICENSING REQUIREMENTS," was referred to the Committee on

Consumer Protection and Commerce.

House Communication No. 523 (H.C.R. No. 140):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 523 was placed on file and H.C.R. No. 140, entitled: "HOUSE CONCURRENT RESOLUTION IN SUPPORT OF NON-PROFIT PUBLIC INTEREST LAW PROGRAMS," was adopted.

House Communication No. 524 (H.C.R. No. 141, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 524 was placed on file and H.C.R. No. 141, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE RECOGNITION OF SURFING AND POLYNESIAN CANOEING AS OLYMPIC SPORTS," was adopted.

House Communication No. 525 (H.C.R. No. 148, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 525 was placed on file and H.C.R. No. 148, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY INTO THE EXISTING DUTIES AND RESPONSIBILITIES OF THE REAL ESTATE COMMISSION AND TO DEVELOP RECOMMENDATIONS TO IMPROVE THE SERVICES TO LICENSEES AND THE PUBLIC," was referred to the Committee on Consumer Protection and Commerce.

House Communication No. 526 (H.C.R. No. 62):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 526 was placed on file and H.C.R. No. 62, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A REPORT CONCERNING CAREER AND EMPLOYMENT GUIDANCE PROGRAMS IN THE PUBLIC HIGH SCHOOLS OF THE STATE OF HAWAII," was adopted.

House Communication No. 527 (S.C.R. No. 39, S.D. 1, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 527 was placed on file and the Senate agreed to the amendments proposed by the House and S.C.R. No. 39, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STATUS REPORT ON THE BIG

ISLAND OCEAN RECREATION AND TOURISM PROJECT," was finally adopted.

House Communication No. 528 (S.C.R. No. 51, S.D. 1, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 528 was placed on file and the Senate agreed to the amendments proposed by the House and S.C.R. No. 51, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO KAHANA VALLEY STATE PARK," was finally adopted.

House Communication No. 529 (S.C.R. No. 71, S.D. 1, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 529 was placed on file and the Senate agreed to the amendments proposed by the House and S.C.R. No. 71, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE HAWAII STATE LEGISLATURE'S SUPPORT FOR THE AUSTRALIAN FEDERATION (AFTA) OF TRAVEL AGENTS CONVENTION AT KEAUHOU-KONA, HAWAII FROM JULY 27, TO AUGUST 2, 1985," was finally adopted.

House Communication No. 530 (S.C.R. No. 72):

A communication from the House (Hse. Com. No. 530), returning Senate Concurrent Resolution No. 72, which was adopted by the House of Representatives on April 18, 1984, was placed on file.

House Communication No. 531 (S.C.R. No. 31, S.D. 1, H.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Hse. Com. No. 531 was placed on file and the Senate agreed to the amendments proposed by the House and S.C.R. No. 31, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN ASSESSMENT OF WATER HAZARD WARNING MEASURES AT STATE AND COUNTY BEACH PARKS," was finally adopted.

House Communication No. 532 (S.B. No. 1918-84, S.D. 1):

A communication from the House (Hse. Com. No. 532), returning Senate Bill No. 1918-84, S.D. 1, which passed Third Reading in the House of Representatives on April 19,

1984, was placed on file.

#### SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 174 to 183) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 174), entitled: "SENATE RESOLUTION RECOGNIZING WITH GRATITUDE EACH OF THE MINISTER OF RELIGION WHO OPENED A DAY OF THE SENATE, TWELFTH LEGISLATURE, 1984, STATE OF HAWAII, WITH AN INSPIRATIONAL INVOCATION," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 174 was adopted.

A resolution (S.R. No. 175), entitled: "SENATE RESOLUTION EXPRESSING DEEPEST APPRECIATION TO THE MEMBERS OF THE VARIOUS MEDIA FOR THEIR COVERAGE OF THE ACTIVITIES OF THE TWELFTH LEGISLATURE, REGULAR SESSION OF 1984," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 175 was adopted.

A resolution (S.R. No. 176), entitled: "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE TWELFTH LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 176 was adopted.

A resolution (S.R. No. 177), entitled: "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO EXPEND FUNDS AFTER ADJOURNMENT," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 177 was adopted.

A resolution (S.R. No. 178), entitled: "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 178 was adopted.

A resolution (S.R. No. 179), entitled: "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTIETH DAY," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 179 was adopted.

A resolution (S.R. No. 180), entitled: "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 180 was adopted.

A resolution (S.R. No. 181), entitled: "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 181 was adopted.

A resolution (S.R. No. 182), entitled: "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE," was offered by Senators Uwaine and Henderson.

On motion by Senator Cobb, seconded by Senator Soares and carried, S.R. No. 182 was adopted.

A resolution (S.R. No. 183), entitled: "SENATE RESOLUTION HONORING THE MEMORY OF THE LATE FRANK CHURCH, FORMER UNITED STATES SENATOR AND EXTENDING CONDOLENCES AND DEEPEST SYMPATHY TO HIS FAMILY," was offered by Senators Kawasaki, Abercrombie, Cayetano, Fernandes Salling, Aki, Carpenter, Toguchi, Hagino, A. Kobayashi, Holt, Young, George, Ajifu, Henderson, Yamasaki, Soares, Machida, B. Kobayashi, Cobb, Uwaine, Mizuguchi, Kuroda, Wong and Solomon.

Senator Kawasaki moved that S.R. No. 183 be adopted, seconded by Senator Abercrombie.

At this time, Senator Kawasaki rose

to speak in support of the resolution as follows:

"Mr. President, it is with saddened hearts that those of us who were fortunate enough to know Senator Frank Church and his wife Bethine move the adoption of this resolution. It is the unfortunate irony of American history that Senator Frank Church of Idaho was defeated for the Democratic nomination to the Presidency by former President Carter, for indeed, he would have been an illustrious President of the United States.

"Senator Frank Church has joined other magnificent American statesmen of our times in the sublime world beyond. Adlai Stevenson, Senator Wayne Morse of Oregon, Vice President Hubert Humphrey and Frank Church were men of vision, great humanity and indomitable courage. Each of them would have been great American presidents who could have given not only Americans, but citizens of the entire world the inspired leadership so badly needed in these troubled times in a world torn by unrest, strife and despair.

"This Senate, Mr. President, joins the Congress of the United States and all of the people of the world in mourning the loss of this great statesman by the adoption of this resolution."

Senator Abercrombie also paid tribute as follows:

"Mr. President, speaking in favor of the resolution, I would like to add to the comments of the previous speaker by indicating that it is a sad irony that we are passing this resolution today in the midst of discussions once again taking place in this country about the tragedy of American foreign policy, in this particular instance, having to do with Latin America.

"Mr. President, Senator Church was the kind of man who inspired courage in the rest of us, those of us at different levels of public and civic life, community life, when we were suffering the slings of arrows of disapprobation, sometimes from our fellow citizens, sometimes from other organizations, community organizations at the local level, because citizens across the country in the early 1960's were organizing themselves to speak out against the war, against the foreign policy which could only result in disaster for the United States. It is a sad time to find the same kinds



of arguments made today that were being made then with the same kind of disastrous results before us.

"So, I think that it's only fitting that as we honor this great leader, this great political visionary, Senator Frank Church, that we keep very clearly in mind the lessons that he attempted to imbue us with at the time he was in the United States Senate and remember that those who do not learn history are doomed to repeat it."

The motion was put by the Chair and carried by a rising vote, and S.R. No. 183 was adopted.

#### CONFERENCE COMMITTEE REPORT

Conference Committee Report No. 94-84 (H.C.R. No. 26, H.D. 1, S.D. 2, C.D. 1)

Senator Aki, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to House Concurrent Resolution No. 26, H.D. 1, S.D. 2, presented a report (Conf. Com. Rep. No. 94-84) recommending that H.C.R. No. 26, H.D.1, S.D. 2, as amended in C.D. 1, be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 94-84 was adopted, and H.C.R. No. 26, H.D. 1, S.D. 2, C.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO THE STATE TOURISM FUNCTIONAL PLAN," was finally adopted on the following showing of Ayes and Noes:

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

#### STANDING COMMITTEE REPORTS

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 941-84) recommending that House Concurrent Resolution No. 78 be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 941-84 was adopted and H.C.R. No. 78, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF ESTABLISHING A STATE ENVIRONMENTAL PROTECTION AGENCY, DEPARTMENT, OR COMPARABLE BODY TO COORDINATE AND ADDRESS MATTERS OF ENVIRONMENTAL QUALITY," was adopted.

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 942-84) recommending that Senate Resolution No. 17 be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 942-84 was adopted and S.R. No. 17, entitled: "SENATE RESOLUTION REQUESTING A FINANCIAL AND MANAGEMENT AUDIT OF THE STATE FOUNDATION ON CULTURE AND THE ARTS," was adopted.

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 943-84) recommending that Senate Resolution No. 86, S.D. 1, be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 943-84 was adopted and S.R. No. 86, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A MORATORIUM ON LEASE RENT INCREASES FOR RESIDENTIAL HOUSELOTS AND AN INTERIM STUDY," was adopted.

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 944-84) recommending that Senate Resolution No. 117 be adopted.

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 944-84 was adopted and S.R. No. 117, entitled: "SENATE RESOLUTION ENCOURAGING BETTER AND MORE COORDINATED AND COOPERATIVE RELATIONSHIPS BETWEEN THE VARIOUS STATE, COUNTY, AND PRIVATE PROGRAMS AND AGENCIES ESTABLISHED TO RESPOND TO THE NEEDS OF VICTIMS AND WITNESSES OF CRIME," was adopted.

#### ORDER OF THE DAY

##### MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

##### FINAL READING

Conference Committee Report No. 80-84 (H.B. No. 2203-84, H.D. 2, S.D. 1, C.D. 2):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 80-84 was adopted and H.B. No. 2203-84, H.D. 2, S.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO

ENERGY RESOURCES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conference Committee Report No. 81-84 (S.B. No. 1846-84, S.D. 1, H.D. 1, C.D. 1):

Senator Cobb moved that Conf. Com. Rep. No. 81-84 be adopted and S.B. No. 1846-84, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Soares.

Senator Abercrombie spoke in support of the measure as follows: "Mr. President, I rise to speak in favor of the bill, registering my objection -- on page 18, item No. 18. Thank you."

The motion was put by the Chair and carried, and Conf. Com. Rep. No. 81-84 was adopted and S.B. No. 1846-84, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conference Committee Report No. 82-84 (H.B. No. 2092-84, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 82-84 was adopted and H.B. No. 2092-84, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conference Committee Report No. 83-84 (H.B. No. 2320-84, H.D. 2, S.D. 1, C.D. 1):

Senator Cobb moved that Conf. Com. Rep. No. 83-84 be adopted and H.B. No. 2320-84, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Soares.

Senator Carpenter spoke in favor of

the bill as follows:

"Mr. President, I rise to speak in favor of this measure, but I wish to point out some of the areas of weakness, I believe, I pointed out before the bill crossed over to the other house.

"Mr. President, I recognize that the mission of the Hawaii Crime Commission, which was initially set forth by this Legislature some years ago, has been changed somewhat, and changed, I believe, in a good vein, a vein which would now change the mission to be an agency which would, in effect, become from a Crime Commission to a Criminal Justice Commission, and the new language which is added in the mission speaks to research, evaluation and making recommendations regarding the Criminal Justice System, as well as developing, recommending and implementing public education programs relating to that Criminal Justice System.

"Mr. President, I suggested that the language was, in the first instance, weak and that it does not really charge this commission to carry out major functions in terms of oversighting, and neither does it give this commission an authority that would allow it to intercede in operations relating to the Criminal Justice System, amongst which are those agencies under the counties, the police and the prosecutor; those agencies under the state, the Attorney General, the Corrections Division, and a host of others all related to the total Criminal Justice System, as well as the Judiciary.

"Mr. President, I certainly want to commend the commission chairman, Cora Lum, who has redirected the efforts of the group, who has streamlined the commission's numbers in terms of the number of individuals who are research agents. I want to commend the director, Keith Kane-shiro, who I believe in concert with the commission chairman and other members of the commission have sought to redirect the efforts of this group. I believe they can serve a useful purpose.

"I would hope that the bill in passing would give enough life to show that, indeed, the Criminal Justice System is in need of a great deal of coordination, a great deal of oversight by some independent agency, and this agency could be that agency. I only wish the

language of the bill were a little stronger to require the cooperation of all of the agencies within the Criminal Justice System so that this commission could carry out its mission in a more positive manner. I hope that the future will show that the Criminal Justice System is in need of sad repair and, indeed, this commission can help to effect that repair.

"Thank you."

Senator Soares then spoke against the bill as follows:

"Mr. President, I rise to speak against the bill as I did when the bill left this Senate, going to the House, because as it stands now the bill primarily appropriates \$302,000 for research, evaluate and make recommendations regarding the Criminal Justice System, develop, recommend and implement public education programs relating to the Criminal Justice System. That's all it does...no investigative powers. There's no teeth, as I said before, to this bill. The function merely is education and research, and for the amount of money we're spending, this program can be taken care of by the Attorney General's office, the various police chiefs and the Judiciary branch of our state. So, as far as I'm concerned, I don't think we've given enough teeth to this commission to make it really as strong as it should be, and for the amount of money we're spending for research and developing recommendations, it's far more than I can stand."

Senator Henderson also spoke against the bill as follows:

"Mr. President, I think it's a waste of money. We're appropriating \$302,000 to put an information system in place. It would be much better off to give \$25,000 to an advertising agency, if that's what we want to do. I don't think we need to do the things that are proposed in this bill. If we want some studies made, we can have the University of Hawaii make the studies. It's ridiculous to create a whole bureaucracy to study these things that don't need to be studied. We have the Crime Commission coming down with a complete report next year. I think it's ridiculous to spend \$302,000, Mr. President, \$302,000 to implement this program. It's crazy. I recommend a vote against the bill."

Senator Abercrombie then interjected: "Mr. President, speaking in favor. Compared to the crazy things we've been doing this session, this looks like a bargain."

The motion was put by the Chair and carried, and Conf. Com. Rep. No. 83-84 was adopted and H.B. No. 2320-84, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CRIME COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 9:18 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:21 o'clock p.m.

Conference Committee Report No. 84-84 (H.B. No. 1956-84, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 84-84 was adopted and H.B. No. 1956-84, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kuroda).

Conference Committee Report No. 85-84 (H.B. No. 2402-84, S.D. 1, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 85-84 was adopted and H.B. No. 2402-84, S.D. 1, C.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 Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

Conference Committee Report No. 86-84 (H.B. No. 1906-84, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 86-84 was adopted and H.B. No. 1906-84, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL ACTIVITIES," having been read throughout, passed Final Reading on the following showing of

Ayes and Noes:

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

Conference Committee Reports:

By unanimous consent, action on the following conference committee reports and bills was deferred to the end of the calendar:

Conf. Com. Rep. No. 87-84 and S.B. No. 20, S.D. 1, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 88-84 and S.B. No. 2125-84, S.D. 2, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 89-84 and S.B. No. 878, S.D. 2, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 90-84 and S.B. No. 1709-84, S.D. 1, H.D. 1, C.D. 1;

Conf. Com. Rep. No. 91-84 and H.B. No. 1874-84, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 92-84 and S.B. No. 1788-84, S.D. 1, H.D. 1, C.D. 1; and

Conf. Com. Rep. No. 93-84 and H.B. No. 2151-84, H.D. 2, S.D. 2, C.D. 1.

Conference Committee Report No. 54-84 (S.B. No. 1575-84, S.D. 1, H.D. 1, C.D. 1):

Senator Cobb moved that Conf. Com. Rep. No. 54-84 be adopted and S.B. No. 1575-84, S.D. 1, H.D. 1, C.D. 1, having been read through-out, pass Final Reading, seconded by Senator Soares.

Senator Cayetano spoke against the bill as follows:

"Mr. President, the overall purpose of this bill is good. It goes into an area which has been ignored for too long a time, and that is regulation of facilities which care for children. This bill received a lot of publicity because of an incident involving a child care facility on the Windward side and involving the kidnap and molestation of three children. But most of the publicity, I think, focussed on the disclosure section of the bill, and unfortunately, I think, because attention was focussed on that section, some of the other sections were not paid too close attention to, and for the reasons I'm going to state and elaborate, I believe

this bill is constitutionally defective.

"Mr. President, under existing law, if one cares for children, baby-sits for two or more children, one has to have a license from the Department of Social Services and Housing. If one does not procure a license, then, one would be guilty of a violation which can be punishable by a fine of \$200. A violation, however, Mr. President, is different from a criminal offense.

"The problem that I have with this bill is that it changed the penalty from a violation of a fine of \$200 to a misdemeanor, which is a criminal offense punishable by a sentence of one year in jail, \$1,000 fine, or both. Moreover, this is compounded by the fact that the bill is effective upon approval. Mr. President, as we all know, there are literally thousands of housewives, thousands of persons in this state who baby-sit for side income. I don't think we have to conduct a survey to conclude that because of the lack of enforcement in the past, many of those people are either ignorant or unaware of the department's requirement for licensing. Therefore, when the Governor signs this bill, if he ever does (my suspicion is that he will be compelled to veto this bill), we will have as instant criminals literally thousands of baby-sitters.

"The bill is defective in this further sense. I think the Conference Committee, in trying to deal with the problem and trying to exempt certain groups or persons caring for children, and I direct my colleagues' attention to page 3 of the bill that speaks to 'Exclusions' and came up with a whole list of exclusions. Now, we have to bear in mind that this is now a criminal offense, no longer a violation. A violation is like a parking ticket. This is a criminal offense. And under our Constitution, everyone is entitled to equal protection of the law; therefore, when exemptions are carved out to a criminal offense, these exemptions have to have a rational basis of some kind. I direct the members' attention to page 3, items 1, 2, 3, 4, and 5.

"Item 1, for example, exempts 'An individual person caring for a related child;'. What about the individual person caring for two children or three children who are related to him? A grandmother, for example, caring for three of her grandchildren. Why is there an exemption for one child and not for more? The bill speaks to developing regulations evolving

around, for example, fire code specifications, obviously meant to protect children who are being cared for. The exemption stated does not in any way connect to those kinds of concerns. The main concern of this bill, of course, is to protect the best interest or the health and welfare of the children who are being cared for. The exemptions are, I suspect, based on more convenience than those considerations because certainly a person who is caring for one related child has no advantage in terms of meeting fire code violations than a person who's caring for three. The question is whether the dwelling in which the child is being cared for meets the fire code.

"The same thing with exemption No. 2, 'A neighbor or friend caring for a child or children, if the person provides care for less than three hours per day but not more than two times a week;'. Now, what is the rational basis for 'three hours per day but not more than two times a week'...absolutely no connection to the question of fire safety or fire code, for example, no connection whatsoever.

"No. 3, 'A kindergarten, school, or program licensed by another department;'. Now, that may have rational basis because I assume that if it's a kindergarten, school, or program licensed by another department, then the rules and regulations will probably require compliance to the fire code, for example.

"No. 4, 'A program which provides exclusively for a specialized training or skill for children from and including age five to age seventeen, including but not limited to, such activities as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts;'. Again, no connection to the question of fire code, to the standards set forth in this bill as far as protecting the child.

"No. 5, 'A community association duly incorporated under the laws of the State which operates for the purpose of promoting recreation, health, safety, or social group functions for children from and including age five to age seventeen;'. It seems to me that that is quite broad. Whether that can be connected to the standards with respect to fire code or fire regulations is, I guess, anybody's guess.

"But if there's an argument about exemptions stated in Items 1 through

5, in my view, Mr. President, there is no question that exemption No. 6 makes this bill constitutionally flawed. Exemption No. 6 states, 'Other such organizations as the director may choose to exclude.' Mr. President, on its face that language gives the director of the Department of Social Service and Housing extremely broad powers. In other words, the director may choose to exclude certain persons, groups, etc. from being covered under this bill, if it becomes law. There is no criteria set for the director to follow, but even if there were, I know of no criminal law in this state which permits a bureaucrat to determine who will be covered, or who will be granted exemption under the law. For example, certainly, we don't allow the police chief to grant certain individuals or groups exemption under any of our criminal laws. That's unheard of. Generally, we don't allow the director of Immigration Services to grant exemptions under our immigration laws unless in the law itself certain categories are provided, and he's given that discretion under certain criteria.

"For that reason, I think that this provision really undermines this bill on the constitutional basis. It's too vague; it's broad; and there are no guidelines. I see no reference to, for example, Chapter 91 requirements. Mr. President, as I stated earlier, I think there are good things in this bill, but I also think that on a legal basis, this bill has a lot of problems. I hope that this matter or the points that I've tried to make on this floor will be brought to the attention of the Attorney General, so when the Attorney General, if this bill should pass, if the Attorney General reviews this bill I feel convinced that the Governor will be compelled to veto this particular measure. For the reasons stated, I'm asking that all of my colleagues vote this measure down.

"Thank you."

Senator Mizuguchi spoke in favor of the bill as follows:

"Mr. President, this particular bill attempts to strengthen the statutes required for licensing of child care providers. It also allows public access to records on child care facilities. This bill is an attempt to protect infants and children that require family care, day care or preschool services.

"As the previous speaker stated, the Legislature has been very inactive

in this whole area of regulating child care facilities. We have abdicated our responsibilities and we have given the authority to the Department of Social Services and Housing, and they have governed this whole area of licensing regulation through their rules and regulations. The previous speaker's comments regarding exclusionary provisions, etc. are well taken, and this reinforces the proposition that the Legislative Auditor should assist the Legislature in studying the legal framework that governs this particular program and also review the current scope and emphasis of regulation and other aspects of this particular program.

"This bill, while not perfect, is an attempt for the Legislature to get back into policy making regarding regulations of day-care facilities. It's a bill that is not perfect, but it is an attempt to protect children from undesirable elements and situations during their very formative years of growth. For those reasons, Mr. President, I ask my colleagues to vote for this measure.

"Thank you."

Senator Cayetano then remarked:

"Mr. President, I appreciate the chairman's remarks about the concerns that I have regarding the legal problems of this bill, and I think that the conferees on this bill should be commended for their objective and what they have tried to do under the bill. But, if we want to protect children, then we should pass legislation which can be enforced. There is no sense, Mr. President, in passing legislation which is meant to deal with certain problems and when someone is accused of violating the law, the law cannot be enforced against that person because the law is unconstitutional. That is the problem that I have with this bill."

Senator Abercrombie spoke in favor of the bill as follows:

"Mr. President, I was one of the conferees on this bill and the previous speaker's remarks have been made on the floor for all to hear and, of course, he has indicated in his discussions in caucus and in other conversations his concerns about it, and it concerns me. I would obviously not like to think that I would be a part of a conference which in the end, trying to do a good thing, put forward to the body a defective bill in order to accomplish it.

"I would like to refer the members to page 4, '346-20 Rules;'. Mr. President, it is my contention, with respect to voting for the bill, that the Rules section as stated there from lines 3 through 13, I hope will be sufficient to address the concerns as stated by the previous speaker with respect to constitutionality. I am not an attorney and did not pass on the legal implications with respect to their ability to withstand the constitutionality. My assumption has to be, as a member of the Conference Committee, Mr. President, that the attorneys approved the language. I want to bring the members' attention, in particular, to lines 8 and 9 with respect to lines 3 through 13, 'shall make, prescribe, and publish such rules in accordance with chapter 91 as are deemed necessary to protect the best interests of minor children and to carry out the purposes of sections 346-18 to 346-25,' which includes the items mentioned by the previous speaker about exclusions.

"The attempt here, Mr. President, for purposes of the record and I hope it would be sufficient to guarantee the constitutionality. If it is not, well then, we'll have to come back and try again, but for purposes of the record, I want to indicate that when this is reviewed by the Governor and the Attorney General for its ability to withstand constitutional scrutiny, that No. 6 in particular, 'Other such organizations as the director may choose to exclude.' will not take place in a vacuum; that is to say, that if the bill is adopted, the director of the Department of Social Services and Housing will have to comply with Chapter 91 and at such time and in the hearings that are pursuant to Chapter 91, as I understand them, those organizations which are not denominated in No. 6 on page 3 will be; that is to say, those organizations that desire to be excluded will be enunciated at that time.

"So, in the absence of a firm legal foundation in my own background to be able to pronounce on the constitutionality, per se, I want to indicate for the record that the conferees attempted to in 346-20 to address the concerns that were put forward so clearly by the previous speaker. I am hopeful that this will take care of the necessary constitutional foundation to make the passage of this bill one which will enable us to carry forward on the purposes enunciated at the beginning of the bill."

Senator Chang spoke in favor of the bill as follows:

"Mr. President, I rise to speak in favor of this bill and in doing so I concur with the concerns expressed by the previous two speakers. I believe that this bill is needed and I also feel that any entry into Sub-section 6, found on page 3, will so delicately affect substantial interests that entry ought not to be made except upon serious consultation with the legal offices of the state. I do note that all of the concerns expressed here tonight have been directly communicated to the Chief Executive, to the chief legal officer and the director of the department that is so affected and I expect that they will take heed and pay attention to all of the concerns expressed.

Senator B. Kobayashi rose and spoke in favor of the bill:

"Mr. President, I rise to speak in favor of this particular bill and would like to reinforce the comments of the previous two speakers.

"Exclusion, Section No. 6, allows the director to exclude such organizations as the director may choose to exclude. If we take that section in conjunction with the section on page 4 having to do with rules prescribed and published in accordance with Chapter 91 and we read that to say that these rules shall carry out two purposes: (1) to protect the best interests of minor children, and (2) to carry out the purposes of Sections 346-18 to 346-25. Then, I believe you will have due process protections. That is, if the organizations the director may choose to exclude are chosen through a Chapter 91 process, as indicated on page 4, due process I believe will follow.

One of the concerns we had about this particular bill is that there are, indeed, many organizations and individuals who will be affected. I was contacted by one of these. The organization is the YMCA of Honolulu. This is not a fly-by-night organization and it is an organization which has many diverse programs, some of which deal with children and some which do not. Because they deal with a variety of people, they are not a program which will fall under the Exclusion Section No. 4 as a program which provides exclusively for specialized training or skill for children, etc., etc.; that is the YMCA provides programs for children and for adults and for children and adults of many

different ages. The YMCA as of recent have begun experimenting with programs having to do with after school care, recognizing the great need in the area and their ability, because of their long standing physical resources, facilities, to care of these kinds of children. And it is this kind of organization that perhaps might be affected and included in the Exclusion Section No. 6. I think that the bill overall is a worthy attempt to address a pressing need in this state and I think that the various flaws that have been pointed out are not totally without protection of the law.

"Thank you."

At 9:43 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:57 o'clock p.m.

Senator Mizuguchi then stated: "Just for the record, Mr. President, I'd like to note for the record the revisor is to include that section on Exclusion between Sections 346-18 and 346-25. Thank you."

Senator B. Kobayashi then added:

"Mr. President, I'd like to read into the record a provision in our HRS Chapter 1, 'Common Law; Construction of Laws; Section 1-23, Severability. If any provision of the Hawaii Revised Statutes, or the application thereof to any person or circumstance, is held invalid, the remainder the Hawaii Revised Statutes, or the application of the provision to other persons or circumstances, shall not be affected thereby.' I believe this provides us with some protection, should one particular section of this bill be constitutionally flawed."

Senator Cayetano further remarked:

"Mr. President, I'm a bit lonely but I'd like to respond to some of the remarks made by my colleagues. First, with respect to the section on page 4, 346-20 dealing with the Rules, if the members will look at line 11, this section only deals with Sections 346-18 through 346-25. The section dealing with the exemptions, I assume, will be a number subsequent to 346-25.

"Now, I don't know what the chairman was getting at when he made a statement about the revisor. Would the chairman explain?"

Senator Mizuguchi replied: "Yes,

Mr. President, for the record, we are asking the revisor to include that section on Exclusions within 18 and 25, so it could be numbered 25a, or 24a, etc."

Senator Cayetano further inquired: "Mr. President, would you ask the chairman what is the justification for asking the revisor to do this?"

Senator Mizuguchi again replied: "So that that portion of Exclusions will be covered under Chapter 91."

Senator Cayetano then remarked: "Mr. President, the problem that I have with that is that line 11 states exactly what the existing law is. There is no typographical error; there is no error of any kind. So, the bill on its face speaks for itself.

"The point, I guess, I'm trying to make is that the nature of this particular subject area has changed dramatically when we made it a criminal offense. I think that we should all just keep that in mind. Secondly, even if the Rule and Regulation section were to apply, the bill states that the bill becomes effective upon approval by the Governor. I doubt very much that if rules and regulations, public hearings, etc. will have been in force when the Governor, if the Governor signs this particular measure. So, there are a lot of problems with this bill and I just want to point them out for the record and hope that if the bill passes, that some measures be taken to correct them. Quite frankly, I think we should vote the bill down, and do it right the next time."

The motion was put by the Chair and carried, and Conf. Com. Rep. No. 54-84 was adopted and S.B. No. 1575-84, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD CARE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Carpenter, Cayetano, Fernandes Salling, Kawasaki, Solomon and Toguchi).

Senate Bill No. 2119-84, S.D. 2, H.D. 2:

On motion by Senator Cobb, seconded by Senator Soares and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2119-84, S.D. 2, and S.B. No. 2119-84, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT

RELATING TO COMPARABLE WORTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

### THIRD READING

House Bill No. 79:

Senator Cobb moved that H.B. No. 79, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Cayetano spoke against the bill as follows:

"Mr. President, as I understand the bill, the bill makes an amendment to Chapter 662 to require that lawsuits brought against the state under the State Tort Liability Act be confined to state courts. Apparently the bill was introduced in response to a ruling made by Judge King in the Holo Holo case which was tried in federal court. I am at a loss to determine what is the purpose in us changing the law to require that all lawsuits filed against the state be tried in state courts.

"When the Legislature enacted the State Tort Liability Act, it said and let me quote: 'Section 662-2. Waiver and liability of State. The State hereby waives its immunity for liability for the torts of its employees and shall be liable in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.'

"Mr. President, would you ask or may I ask the chairman of the Judiciary Committee to state what is the public purpose or the public benefit of this particular bill?"

Senator Chang responded: "Mr. President, rather than yielding to that question, I'll respond to that question in my remarks in support of the bill itself."

Senator Cayetano then stated:

"Mr. President, then, I'll state my concerns about this bill. Mr. President, in the Holo Holo case the lawsuit was filed in federal court because one of the counts in the complaint, I believe, was grounded in admiralty, and under federal law the federal government has original jurisdiction over claims made in admiralty. That was one of the counts. The other counts, I believe,



were general tort counts based on negligence which are not tried under the admiralty laws. If this bill had been passed, I believe the plaintiffs in that case would have been forced to file a claim in federal court and then another claim in state court. This, it seems to me, places an undue burden not only on the plaintiffs, but also on the state because the state, then, would have to deal with actions in both courts. I am at a loss as to what the public gain is on this and I will end my remarks by again repeating my question to the chairman of the Judiciary Committee."

Senator Chang then responded:

"Mr. President, this particular bill deals with an area of the law that possibly interests only the attorneys and, as the record will indicate, some in these chambers. This has to do with the matter of sovereign immunity.

"The 11th Amendment of the United States Constitution states that 'the judicial powers of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.' This particular provision has been established as an immunity for the various states in the Union against any suits in the federal court.

"In 1978 when the State of Hawaii decided to establish a law for claims against the state by individuals, it provided for these particular sections in Chapters 661 and 662. The legislative history of that act clearly establishes that the Legislators at that time meant to expose the state only to claims in its own state courts. The record establishes that Senators Abercrombie and Cobb, at that time Representatives, participated in discussions and that Representative Sutton clearly stated that the purpose of this bill is for conferring jurisdiction upon the district courts to hear and determine certain claims against the state and that this would facilitate the bringing of cases in rural areas. The discussion of this particular matter then goes on to discuss various jurisdictional amounts which in comparison to federal jurisdiction established in the United States Constitution clearly indicates that what was being discussed there was state district courts and not federal district courts.

"Unfortunately, in the Holo Holo

decision there is a reading of Chapters 661 and 662 that appears to indicate that the interpretation of those sections exposes the state to vulnerability in federal court, as well, and that is clearly not consistent with the legislative history of those Hawaii Revised Statutes sections. Therefore, this bill has been introduced to insure that there will no further doubt as to what the Legislature intended in 1978. That is the purpose of this bill."

Senator Abercrombie then rose and stated: "Mr. President, the previous speaker has indicated to myself and another member of the Legislature or utilized us with respect to his comments, and I would like a recess to refresh my memory with what he is saying."

At 10:09 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:14 o'clock p.m.

Senator Abercrombie then spoke against the bill as follows:

"Mr. President, I was right in 1978 and I am right today. I was against this bill when it first passed and to the degree that the chairman of Judiciary's view is the one that represents what the bill was supposed to do, voting against it was a good idea then, and I'll quote from my speech then. 'Theoretically, maybe if this bill passes it would be good for people, but my understanding of it is that the state, the sovereign that's brought in here, can appeal anyway. So the person of limited means is going to have the hell beaten of him, anyway, if the state decides they want to do it.' And that's what it seems to me is exactly the case here.

"I couldn't know at that time that it would be the Holo Holo. It just so happens, Mr. President, that I had friends who were directly affected by the Holo Holo because of death, and also it happens to be the case that of all the members on this floor I probably know as much or more about the case than anybody here because I was chairman of the Higher Education Committee when we held a hearing of many hours' length, tapes of which exist to this day in my records, with respect to the question of negligence and admiralty law and the appropriateness of moving in the federal courts. When the committee report states that the interpretation is erroneous, that there may be a suit

brought in federal court, it is denying our citizens the opportunity to seek redress, to seek a decision on their behalf in a court of the land. That's what we're supposed to be voting for tonight, and I think it should be made clear to everyone on the floor and everybody in the state that if we pass this bill we are trying to limit you in a way that you can seek justice in the country.

"Now, the plain fact of the matter was unless you want to claim that Judge King did not know what he was doing, and that Judge King was in error, and that Judge King was violating the Constitution of the United States, unless you want to claim that you cannot claim in turn that the interpretation is erroneous. Mr. President, I was a member of this body when we settled the Holo Holo case. The same conclusion that I came to in my hearing, except we paid an attorney in this state hundreds of thousands of dollars to fight the case which couldn't be won in the first place. There was negligence in this situation, and the state settled after a lengthy review -- an unnecessary review, I might add, given the facts of the case as they'd been established. In fact, that settlement came into the millions of dollars. Now, if we pass this bill, what we're saying is that should some tragedy occur in the future in which citizens of this state decide to seek redress in federal court, they will not get the opportunity.

"Mr. President, I ask you and the members to consider, if a case is not properly before the federal court, they will be denied. The fact of the matter is that the Holo Holo case cited as an example here was accepted in federal court. If that was accepted by the federal court, not appealed by the state, and won, then that means that the individuals who went to the federal court were in order. I cannot understand how anyone can try to deny any citizen or anyone under the protection of the Constitution of the United States in our state the opportunity to go to federal court if they so desire. So, I voted 'no' in '78 and the people who were involved in the Holo Holo case at least had the benefit of going to the federal court and I think we should vote 'no' this evening."

Senator Chang responded:

"Mr. President, just to clarify a few other points. As the previous speaker has stated, the Holo Holo case involved a claim in admiralty and

where the federal court has a case properly brought before it because it has jurisdiction over such matter, that case will be heard. As the previous speaker had further pointed out, this was an admiralty claim and the federal court had jurisdiction over that admiralty claim, and this is why that claim was properly before the federal court.

"As I had earlier stated, these are not simple matters and I would just read a passage from the text on constitutional law that has been written by John Nowack & Company where they discuss this particular area. They speak about the 11th Amendment and go on to say, 'This provision acts as a jurisdictional bar to suits brought against state governments in the federal courts. It does not grant the states true immunity for it does not exempt them from the restrictions of federal law. It only means that some types of suits against them must be brought in state, rather than federal court. This distinction raises extremely important and complex issues as the Supreme Court interpretations of the amendment have led to both expansions and restrictions of the literal application of its working.'

"The crucial point, Mr. President, is that the states have the authority to decide for themselves the forms in which these claims will be brought, and the State of Hawaii has decided that these claims, where there is no federal jurisdiction, shall be brought in state court. I believe this is an appropriate and proper decision.

"Thank you."

Senator Cayetano responded:

"Mr. President, in response to the chairman, first of all, let me say that I believe the authorities and the arguments made by the chairman were made in federal court before the Honorable Judge Samuel King, and Judge King relying on the reading of 662-2 where we say the state 'waives its immunity for liability for torts of its employees and shall be liable in the same manner and to the same extent as a private individual under like circumstances,' I think Judge King relying on that, ruled that the case could be brought against the state in federal court. In any event, obviously, there's a dispute.

"During the recess I looked at the quotation cited by the chairman, and I noticed that he cited Representative Ike Sutton as an authority. Repre-

representative Sutton was a good Representative, but I'm not sure his interpretation of law was pristine and absolute. In any event, there is apparently a question, and so then, what it boils down to is this. Based on authority cited by the chairman, we know that in order to sue the state you need the state's permission. 662-2 -- past Legislature said okay, you can sue the state for the torts of its employees, and the question before us now is a policy question. Do we want to limit such lawsuits to state courts? I say that we should not because it places a burden on the plaintiff. The plaintiff would have to go to federal court if it has a claim in admiralty and then file a lawsuit in state court if the claim is in tort. This only, in my view, creates multiple litigation; it creates a burden not only on the plaintiff, but also on the state, and so it's a policy question. If you sue the state, shall it be only in the state courts unless it's in admiralty?

"Thank you."

Senator Abercrombie then remarked:

"Mr. President, I fail to understand the logic of the Judiciary chairman in stating that it was all right to bring the Holo Holo case to the federal court because the judge ruled that it was properly before it, and at the same time indicate that this is somehow different, that this bill and the committee report somehow is addressing a different area or a different reason when the second paragraph of the committee report states 'This bill is a response to a case decided in federal court, In Re Holo Holo,' and I direct the members' attention to line 10 of the bill itself: 'This Act is a response to the court's erroneous interpretation of section 662-3, Hawaii Revised Statutes, in In Re Holoholo.'

"In other words, Judge King was erroneous. How can the chairman on the one hand say that the Judge acted responsibly and acted legally by accepting the case, and then give us a bill that says the Judge's decision was erroneous? If you want to say that you want to do something different, say so, but don't make an argument both in the bill, in the very bill itself and in the committee report that the Judge's decision was erroneous when clearly it was not. The plain fact of the matter is that if you pass this bill, what you are saying to citizens of this state is that they would be cut off from an opportunity to seek justice in the federal courts

because the state lost. The fact of the matter is that in this particular case and in possibly in any case that might affect any of you or any of your constituents or anybody else in the state under the protection of our Constitution, if negligence has in fact taken place and you do have an opportunity to go to the federal court and the federal court recognizes that you should have the opportunity to do so, and anything which interferes with that on the basis of ostensibly protecting the state, in fact, protects an abstraction; and this country was not founded on the principles of protecting abstractions, but rather the individuals who reside in it, in the United States of America."

Senator Cayetano then inquired: "Mr. President, earlier I asked the chairman to respond to a question. I shall repeat it. If this bill becomes law, how will it benefit the public? I ask the question again and I ask him to answer that."

Senator Chang replied: "I believe that I have, Mr. President, but I suppose there's no harm in reiterating it. The public policy of this state, as decided in 1978, was to expose itself to vulnerability in tort claims and it decided that this vulnerability would be heard in the state forums. This is clearly indicated not so much by Representative Sutton's remarks, but by the committee report itself where it discusses various items that clearly indicate that the state forum was the chosen forum for these tort claims. Furthermore, I am told that persons bringing claims where there are items properly within federal jurisdiction file in two courts, anyway. They file in both the federal court and the state court and for these persons that are in these limited situations, there is no harm that is brought to them because they file two claims, as a matter of course, in order to protect their interest. I trust this answers the question."

Senator Cayetano then remarked: "Mr. President, I'm not sure he answered the question, but in response to his statement about persons filing in two forums, yes, it's done. Some choose to do it, some may not choose to do it. If, of course, this bill becomes law, there will be many who will not be able to do it."

Senator Abercrombie further remarked: "Mr. President, on a point of information. Representative Sutton who's not here to defend himself has been cited several times this evening with respect to this bill."

I simply want to point out to the members that Representative Sutton argued against this bill, not for the bill, and voted 'no' along with Representative Ajifu and myself."

The motion was put by the Chair and carried, and H.B. No. 79, entitled: "A BILL FOR AN ACT RELATING TO STATE TORT LIABILITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Abercrombie, Carpenter, Cayetano, Fernandes Salling and Kawasaki). Excused, 1 (Henderson).

At 10:25 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:07 o'clock p.m.

#### ADVISE AND CONSENT

Standing Committee Report No. 755-84 (Gov. Msg. No. 208):

Senator Aki moved that Stand. Com. Rep. No. 755-84 be received and placed on file, seconded by Senator Hagino and carried.

Senator Aki then moved that the Senate advise and consent to the nomination of Roland Higashi to the Board of Land and Natural Resources, term to expire December 31, 1985, seconded by Senator Hagino.

Senator Kawasaki spoke in favor of the appointment as follows:

"Mr. President, I rise in favor of the confirmation of the nominee. Mr. President, I feel that Mr. Higashi is one of those outstanding individuals in this state who serves on a very meaningful and important commission, the Board of Land and Natural Resources.

"At a public hearing of the Economic Development Committee, we were quite overwhelmed with the unanimity of the endorsements in behalf of Mr. Higashi. Individuals representing most of, if not every, major community organization on the Big Island testified to highly endorse this gentleman for reappointment to that position. Let me just recite a list of some of these people. We had testifying in favor of Mr. Higashi, Mr. Bill Pendered who was the president of the Hawaii Island Board of

Realtors. We had the construction industry legislative organization and their spokesman testify in his behalf. We had Donald Yamada, president of the Japanese Chamber of Commerce and Industry of Hawaii, testifying; Mayor Herbert Matayoshi of Hawaii testifying; Bob Robinson who is the president of the Chamber of Commerce of Hawaii testify in his favor. We had the County of Hawaii Councilmember Kalani Schutte testify in his behalf. We had Walt Southward, past president of the Hawaii Island Chamber of Commerce; we had Merle Lai, Councilwoman for the Big Island, testify in his favor. We had former Representative Stan Roehrig whom we respect immensely for his past legislative contributions as a member of the House of Representatives. We had Susumu Ono who is chairman of the Board of Land and Natural Resources, and if there is any individual who should know the performance of an individual who had served on that board, I think this gentleman would. We had Mr. Joseph Andrews, chairman of the Big Island Business Council, testify in his behalf. We had Mr. Robert Santos, president of the Hawaii Island Portuguese Council, testify in his behalf and I'm sure Senator Buddy Soares is very interested in this one. We had Randy Ahuna, president of the Kanoa Lehua Industrial Area Association, Inc., testify in his behalf. We had Jim Nottage, president of the Kona Coast Chamber of Commerce testify in his behalf.

"I think all of these people, unanimous in their testimony, advising the reappointment of this gentleman is ample proof that this man apparently serves this body with dedication, energy and commitment. I see no reason why we should not feel that this gentleman is qualified. I can fully understand some of the feeling of those who may not be inclined to go along with this confirmation. I think I fully understand the situation because, perhaps, I've experienced some of the kind of unhappiness that apparently prevails on this particular issue. Be that as it may, I think that it is only fair that we reconfirm a man who has proven by his past performance to be one very valuable to the citizens of the state. I urge his confirmation."

Senator Henderson also spoke in favor of the nominee as follows:

"Mr. President, I rise to speak in favor of the confirmation of Roland Higashi. I agree with what the previous speaker said. There is no

question that he had complete support by the testimony at the hearing. There was none there that testified against Roland Higashi. There was no question when we subjected him to questions and answers, he understood what the problems and concerns of being a board member of the Department of Land and Natural Resources meant. He is probably the most qualified person in the State of Hawaii, and he represents the Big Island. I urge members of this Senate to support his nomination. Thank you very much."

Senator Carpenter also spoke in favor of the nominee as follows:

"Mr. President, I rise to speak in favor of the nomination in Governor's Message 208, Mr. Roland Higashi to the Board of Land and Natural Resources. Mr. President, the litany of individuals as attested by Senator Kawasaki who spoke glowingly and in favor of the retention of and reinstatement of Mr. Higashi to the post which he presently is holding on an interim basis was glowing, indeed.

"When the hearing concluded, Mr. President, the hearing officer, the chairman, Senator James Aki, said these words, and I quote: 'In view of the overwhelming support for Mr. Higashi's appointment, I recommend Governor's Message No. 208 be moved out and reported to the floor.'

"Mr. President, the committee reports says succinctly, 'Your Committee on Economic Development after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified to the position to which nominated and recommends that the Senate advise and consent to the nomination.' It is signed by all but one of the members.

"Mr. President, I believe there really are only two questions related to this individual's desire to and subsequent appointment of by this body to be asked, and those questions are: is he qualified, and is he willing to serve? And the answer is unequivocally, yes, to both questions.

"Mr. President, the problem which may have ensued between the Senate as regards the concern for advice and consent and arguments perhaps with the Governor really took place because the Senate neither confirmed nor denied his appointment. Subsequently, this year it caused a bill to be generated which was sent by

this Legislature to the Governor just recently. Mr. Higashi has served with distinction for four years with the sanction of the Senate; for two years in an interim appointment; and I believe, Mr. President, that notwithstanding our discussions with the Governor in terms of the question of 'advise and consent,' the qualification to the post is certainly one in which Mr. Higashi has in the past and certainly can continue in the future to provide a continuing service to the State of Hawaii. I strongly urge your support for this appointment. Thank you very much."

Senator Abercrombie also spoke in favor of Mr. Higashi as follows:

"Mr. President, I speak in favor of the nomination. I have not served on the committee that dealt with this appointment, neither have I served on many other committees that dealt with appointments, but they come before us routinely. I simply would like to know. This has been put off a long time. My understanding is that Senators can make their views known as to whether or not they like somebody to serve, and generally at least given the courtesy of a reason why. If it's political; if someone campaigned against you...it's happened to me; it's happened to others on this floor...you can make your own decisions about whether or not that constitutes enough reason to vote against somebody. I wouldn't deny it to anybody. But so far as I know, with respect to campaigning and Mr. Higashi, any allegations in that direction have been dealt with by speakers on this floor already who were affected by it, and it seems to me that my experience in the Legislature has been is that's a personal matter with the Senators involved and if they're satisfied, that should end that particular portion. Then it moves to other questions already raised by previous speakers as to qualifications, willingness to serve, etc. Inasmuch as it has caused so much confusion to this point, and I personally do not know Mr. Higashi...I would not know him if he is in the audience tonight; I don't know it...so I have no personal ax to grind. I think it is only fair, if there's been all this discussion about him and he has had to wait through all of this process, that someone who opposes him at least state for the record why they are opposing and give us the reason not to vote for the individual. In the absence of that, just as we have done with dozens, and dozens, and dozens of other appointments this year and in other

years, I think the person is entitled to an affirmative vote."

Roll Call vote having been ordered, the motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Uwaine and Wong).

At 11:18 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:19 o'clock p.m.

Standing Committee Report No. 829-84 (Gov. Msg. 184)

Senator Kuroda moved that Stand. Com. Rep. No. 829-84 be received and placed on file, seconded by Senator Aki and carried.

Senator Kuroda then moved that the Senate advise and consent to the nomination of Edwin K. Hayashi to the Stadium Authority, term to expire December 31, 1987, seconded by Senator Aki.

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

"Mr. President, in rising to speak in favor of the confirmation of the nominee, I believe that an explanation is in order to those other eleven members of this Senate body who had previously informed me that they would join me to reject this confirmation, originally.

"Either, there's a possibility of my getting old ahead of my time, or perhaps I am a pushover for a sad story, or perhaps I've been very effectively propagandized by my dear friends Senators Cayetano and Toguchi, or perhaps it is a combination of all three factors taking place here. In any event, to all of you in this group of 12 Senators, I express my appreciation of your support to maintain a semblance of fidelity and loyalty to this Senate body.

"We count a total of 12 votes against confirmation, and added to these 12 votes are three additional votes of Senators who said to me, personally, if I would join them to vote against the confirmation of Mr. Higashi, who was just confirmed, then they would support me and give me, perhaps, a total of 15 votes. I thanked them for this interesting 'tit for tat' proposition and I said I could not quite agree to that; I deem it

inappropriate and not in keeping with the dignity of the Senate.

"At the request of Senators Toguchi and Cayetano, the three of us met with the nominee and I have satisfied myself that the nominee, by his own admission, claims that he was used without his realizing the impact of his actions and he has expressed regret over the matter. I accepted the apology of the nominee. I thanked him, and not wishing to split this Senate over a minor issue such as an appointment to the Stadium Authority, I will now vote to confirm the nominee.

"And again, I express to all of you who had originally confirmed support of my position, originally in opposition, I now urge you to vote for the confirmation of this gentleman, as I said, in keeping with what was previously, earlier this evening, said, the 'class' that we have in this Senate.

"Thank you very much."

Senator Soares rose to speak in support of the nominee as follows:

"Mr. President, I rise to speak in favor of the nominee and I'm compelled to do so because the previous speaker just turned me on... something that I think is important for us to remember.

"I very seldom raise my voice on the floor of the Senate and I guess when I do I talk too damn loud and raise the whole top floor, but I'm really getting concerned that the advice and consent of this body has become a sham because of certain indications of campaign work, one or the other, not the man's merits, not his ability, not his integrity or credibility, but what he may have done or may have not done in support of someone else.

"We have hearings; we have testimonies; we have every opportunity in the world to find out what the man is made of and we resort ourselves to finding out who is going to join someone in voting this person down, publicly, for whatever office, and ignore the true sense of 'advise and consent.'

"And I hope to God we go back to where we belong and examine the benefits of the candidates, for whatever office, debate the merits of his or her ability and vote accordingly and leave the rest out of it."

Senator Kawasaki then responded:

"Mr. President, I'm glad that the previous speaker agrees with me and supports the confirmation of the nominee, but I'm a little at loss to understand why he is so incensed at the fact that a Senator here may take offense to the fact that someone campaigned against another fellow Senator in this body, particularly, particularly if a Senator here feels that the man who was campaigned against was a good man, was a good woman Senator, and that his or her presence in this body is an asset to the people of Hawaii. If he is in support of such a Senator in this body and he feels that anyone campaigning against re-electing a person that is useful to the people of the state and this body, then I think the Senator who finds that he can't quite vote for the confirmation of a person who campaigned against what he deems to be a valuable member of this body, who is valuable to the people of the state, then I think any Senator is perfectly right to vote against the confirmation of an individual working against what he thinks to be the best interest of the people."

Senator Henderson then rose to speak in response as follows:

"Mr. President, I don't think that's the issue at all. The issue here is that the Governor sends down a nominee and we have to look at the nominee and see if he is qualified to serve in the office. It's not whether he worked for or against anybody. It's whether he has the qualifications to perform the duties that the Governor has appointed him to.

"I find myself in a quandary here. Here I am a Republican, standing up and speaking in favor of a Governor's nominee, but I believe it. I believe the Governor is entitled to have who he wants to serve on his boards and commissions and unless there is an overriding reason why that person shouldn't be there, then we ought to confirm him.

"We should not play politics with the Governor's nominees. We shouldn't play politics with whether somebody worked for you or worked against you in your campaign. We had an issue tonight I voted up on, and so did Senator Carpenter. They were subjects of work against us. That doesn't make any difference. The man is qualified and you have to vote on the qualifications of a person to the job, not how your political aspirations are or how you feel about

it, but whether the person is qualified to perform the job that he was appointed for.

"Thank you."

Senator Toguchi then rose to speak in favor of the nominee as follows:

"Mr. President, I'd like to react to some of the comments made by some of the previous speakers.

"I'd like to commend Senator Kawasaki. I think what the Minority members are saying and what you think 'advise and consent' should be is exactly what happened when we had a meeting with the nominee, Edwin Hayashi, with Senator Kawasaki and Senator Cayetano.

"I just want it clear, for the record, that a misunderstanding was cleared and in our discussion we talked about his qualifications; we talked about his past service, his past tenure on the Stadium Authority. I'd like to commend Senator Kawasaki tonight for, as Senator Carpenter said earlier tonight, for the class that he displayed in that meeting we had with the nominee.

"I'm satisfied that Senator Kawasaki in his discussion with the nominee did ask him questions about his qualifications and his past experiences and his willingness to serve.

"I wanted to clear the record and I really don't know whether you are talking about this nominee or previous nominees.

"Thank you, Mr. President."

Senator Uwaine rose on a point of inquiry as follows:

"Mr. President, it's a beautiful thing to hear beautiful speeches about the purpose of 'advise and consent,' especially from the Minority Leader and the Minority Floor Leader...about the merits of an individual and the political aspects not be considered, but I'd like to remind the two good Senators, three years ago, when this body on the recommendation of a Republican Senator voted down the nomination of Tim Farr to the Board of Regents. I'd like to ask the two Senators, on what purpose did we vote him down?"

Senator Soares interjected: "Mr. President, point of order. That's an 'apple and orange' case. You recall, the Higher Education Committee chairman at that time was Senator

Saiki. Hearing was held; in the caucus room we discussed each one of the merits and demerits of the nominees and we voted that one down.

"I want to make one thing very clear, I have the highest respect for Senator Kawasaki's concern with regards to the floor of the Senate having class but I will not bend back to anyone on this floor to not admit tonight that both of these candidates, both of them, had problems because someone wanted to not confirm them because of political interference.

"Let's be honest! Let's call a spade a spade!"

"What I'm trying to say is that you examine the 'advise and consent' responsibility, best be very careful that the time may come where someone, publicly, will be voted down because of a personal vendetta by someone...that's all I'm concerned about."

Senator Uwayne then remarked: "Let's talk about justice, Mr. President.

"The two Minority leaders still have not answered my question. Let's give Mr. Farr some justice tonight and answer the question."

Senator Soares responded:

"Again, I want to repeat, we had a public hearing. The Higher Education Committee discussed all of the candidates to the Board of Regents; full-blown hearings were held. We had a coalition; we discussed in caucus, both in leadership and in caucus, those members whose names were brought up; we were asked to vote for or against them. As far as the hearings were concerned, the hearings themselves dictated the vote for or against Mr. Farr. There were others besides Mr. Farr that we voted against. It had nothing to do with Mr. Farr campaigning for someone or against someone. Let's not compare the both."

The Chair then interjected: "I'd like to remind the Senators that we're getting far afield and, if there are other individuals wishing to speak for or against the individual, I wish they would limit their comments to that."

Senator Cayetano then remarked: "Mr. President, I'd like to thank the Majority Leader for refreshing my recollection. I remember the incident very, very clearly and the reason Mr. Farr was not confirmed. As far

as I'm concerned, it was politics."

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

"Mr. President, I think if there is a message tonight in terms of one of equality, from what I've heard debated on the floor tonight, it's that anyone can fight politics and go for or against an individual legislator on the basis of politics, but I would hope that if they miss, the individual is elected despite the playing of those games or campaigning, that they have the same freedom of action. The sword should cut both ways. Thank you."

Senator Carpenter then responded: "Mr. President, I'd just like to suggest, in deference to the previous two speakers that I think that politics has been given a nasty connotation here. I thought everything we did in this building had political ramifications. Whether our votes were up or down and for whatever rationale we chose to exercise; that's our responsibility; that's our job and I don't see that being dirty in any way whatsoever. I'd like to hope that politics is a clean word because that's the business I intend to stay in for a while. Thank you."

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

"Mr. President, I just wanted to clear the record that as far as I'm concerned the class act that we should all be aware of is that of the chairman of the Tourism Committee, and that credit should be given to him for looking at the qualifications of the nominee and taking into consideration the persons character, his involvement in the community, and the support that he has had from many people out there, athletes and non-athletes alike, and for the action that he took in bringing this nomination down to the floor for a vote."

Roll Call vote having been ordered, the motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Wong).

MATTERS DEFERRED FROM  
EARLIER ON THE CALENDAR

FINAL READING

Conference Committee Report No. 87-84 (S.B. No. 20, S.D. 1, H.D. 2, C.D. 1):



On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 87-84 was adopted and S.B. 20, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PAYMENT FOR GOODS AND SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 88-84 (S.B. No. 2125-84, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 88-84 was adopted and S.B. No. 2125-84, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PENSIONER'S BONUS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 89-84 (S.B. No. 878, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 89-84 was adopted and S.B. No. 878, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conference Committee Report No. 90-84 (S.B. No. 1709-84, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 90-84 was adopted and S.B. No. 1709-84, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conference Committee Report No. 91-84 (H.B. No. 1874-84, S.D. 1, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 91-84 was adopted and H.B. No. 1874-84, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 92-84 (S.B. No. 1788-84, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Conf. Com. Rep. No. 92-84 was adopted and S.B. No. 1788-84, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL FUND EXPENDITURE CEILING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conference Committee Report No. 93-84 (H.B. No. 2151-84, H.D. 2, S.D.2, C.D. 1):

Senator Cobb moved that Conf. Com. Rep. No. 93-84 be adopted and H.B. No. 2151-84, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Soares.

Senator Abercrombie then rose to ask if the chairman would yield to a question.

The Chair posed the question and the chairman having answered in the affirmative, Senator Abercrombie queried as follows:

"Mr. President, would you ask the chairman if the effect of this bill is to divert the 4 percent excise tax, currently charged in the sale of gasoline, to the state Highway Fund?"

Senator Yamasaki answered: "Yes."

Senator Abercrombie continued: "Would the chairman indicate how much money is expected to be derived from that transfer and for how long a period of time this would take place?"

Senator Yamasaki answered: "It's a little over \$16 million."

Senator Abercrombie continued: "Is it correct to say that this will be for a year's time or, rather, three years' time?"

Senator Yamasaki answered: "That is correct."

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

"Mr. President, I know of no other instance where there is such a transfer, is contemplated in law.

"Mr. President, we had the opportunity to address this issue in another manner, most particularly addressing it by virtue of a user's orientation. Instead, we are choosing at a time when we have passed the budget and which some of us have raised reservations as to whether or not there will be sufficient funds for education as well as for other services, that we do not divert a particular sum of money to the tune of \$16 million for our children, but we can do it for highways. It is a strange, strange set of priorities that we have.

"The use of the word 'politics' vended about on the floor tonight may be used at any given time to suit any given purpose but I agree with one of the previous speakers that, with respect to politics, all that we do on this floor and building is political in nature, so when we vote 'aye' and we vote 'nay' on individual issues we are stating a political philosophy. The philosophy here is, keep those construction contracts going at all costs but let the kids take their chances when it comes to their education.

"Mr. President, I feel I have a particular right, if you will, to speak on this aspect of funding because as a member and the chairman of the Education Committee or vice-chairman of the Education Chairman over the past ten years, I have seen many budgets, many programs, many discussions and, ostensibly, an abiding interest in our educational system and its welfare.

"Now in this particular instance, Mr. President, you will note that the education system has suffered a series of cuts, a series of restrictions over the past two years amounting to millions and millions of dollars. If one averages it out it's somewhat coincidental but nonetheless instructive to note that the cuts approximate that, on the average, over the last two years, of the amount of money that goes into the Highway Fund.

"You're taking the excise tax, and I'm not sure everyone in the public

understands it so I'm going to repeat it. You're taking the excise tax, the 4 percent that we pay and we are diverting from the General Fund funds which we have stated, and I have read in the media we have just congratulated the media I think, I believe it was stated somewhat, we have a perfunctory congratulations that we hand out every year to members of the media who are here to deliver the message, if I'm not mistaken, I think the record will show that the media has routinely printed, and broadcast warnings and statements by members in this body that we have a tight fiscal situation, that human services, and education and other elements of our state budget which we consider important must stand close scrutiny because funds are tight, because our general revenue picture is, perhaps, more bleak than we wish it to be and yet when we talk about the Highway Fund, the \$16 million, 'oh, it's for repair of highways,' we don't receive anything in the way or have anything before us...at least I don't see it in front me by way of the committee report, I don't see anything that indicates whether these highways actually need all this money, whether there's been any examination as to the quality of the work, whether there's an audit which is called for routinely for virtually everything in the state from the possible wickedness of the State Foundation of Culture and the Arts that might possibly pay \$50 more for a painting than somebody thinks it's worth, to various and sundry other agencies and organizations, and yet the state Highway Fund is some sacrosanct area which receives little or no attention in terms of where the actual expenditures are going on and whether in the balance, given the fact that the education system, for example, has already sustained \$30 million plus worth of restrictions in the last two years, could utilize some of those funds or that we might put something off for a year, six months, a year, eight months, eighteen months, that kind of examination hasn't been made. We told the children to sacrifice but not the highways.

"I've complained already on this floor about abstractions, that we seem to have a fidelity to abstractions in this Legislature this year and difficulty in responding affirmatively to the needs of people. In this instance, to our educational system.

"And Mr. President, I want to indicate that the reason I'm so concerned about it is, is that the

confidence that people I think were beginning to have or the re-establishment of confidence in our educational system is very fast eroding and I just do not find it reasonable to expect us to vote for diversion of the 4 percent excise tax for the highways, without a question, when we can't even sit down and figure out whether we are going to get rid of the 4 percent tax on drugs and on food. We can't come to a conclusion about how we're going to deal with that, if there's some alternative available to us and we've been looking at that for years. We can't even discuss that any further. We can't discuss how to get these cuts or restrictions revised with respect to education...."

At this time, the Chair interjected: "Excuse me, Senator Abercrombie, is it possible for you condense your presentation to about five minutes, the House is awaiting our signal to adjourn sine die."

Senator Abercrombie responded: "Mr. President, you can condense it...I can condense it by you indicating as to whether or not you feel that the vote will be negative. I feel I'm entitled to the full complement of remarks that I want to make."

The Chair allowed Senator Abercrombie to proceed.

Senator Abercrombie continued: "You've been paying attention, I notice. I looked at the clock to make sure (Chair: "I know you did.") as to what it was and it wasn't with the intention of holding up the business of the body. After all, I didn't take the recess for almost an hour to try to determine something that you had an opportunity to talk about for how many years now over the nominations. I don't think it's fair to put the burden on me for the fact that the leadership was unable to figure out what the vote was going to be on the nomination of Roland Higashi.

"Now I'm concerned about the Highway Fund getting the 4 percent. The sun will come up for Mr. Higashi, either way, but the fact of the matter is the sun is set to the tune of \$30-plus million for our education system and it appears to be on a constant rise for the highway system. The burden of my remarks is, is that if you vote this bill it seems to me the statement that is being made very clearly is, is that the Highway Fund must be salvaged at all cost but the education system must be savaged at any cost."

The motion was put by the Chair and carried, and Conf. Com. Rep. No. 93-84 was adopted and H.B. No. 2151-84, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE HIGHWAY FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Abercrombie, Cayetano, Fernandes Salling, Hagino and Kawasaki).

Standing Committee Report No. 939-84 (S.R. No. 91, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 939-84 was adopted and S.R. No. 91, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO PERFORM AN AUDIT OF THE CANCER CENTER OF HAWAII," was referred to the Committee on Legislative Management.

Standing Committee Report No. 940-84 (S.C.R. No. 81, S.D. 1):

On motion by Senator Cobb, seconded by Senator Soares and carried, Stand. Com. Rep. No. 940-84 was adopted and S.C.R. No. 81, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO PERFORM AN AUDIT OF THE CANCER CENTER OF HAWAII," was adopted.

At 11:46 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:48 o'clock p.m.

At this time, the Chair appointed Senators Cobb, Kuroda, Henderson and Soares as a Special Committee to inform the Governor and the House of Representatives that the Senate is prepared to adjourn Sine Die.

Senator Carpenter then introduced Councilwoman Helene Hale from the Big Island.

Senator Uwayne introduced Mr. Meyer Ueoka, "a former House member who served his constituents in Maui very proudly and who now serves on the Board of Education."

Senator Ajifu then requested that his statements, commending the chairman of the Ways and Means, and commending the Chair's leadership be inserted into the Journal, and the

Chair granted the request.

Senator Ajifu's statement commending the chairman of Ways and Means reads as follows:

"Mr. President, I wish to take a few moments to publicly acknowledge the superlative job which has been done by the chairman of the Senate Committee on Ways and Means.

"Mamoru Yamasaki of Maui is known to legislators and followers of the Legislature for his many years of public service.

"For the last four years, spanning the entire lives of the Eleventh and Twelfth Legislatures, Senator Yamasaki has served us as Ways and Means chairman.

"The job has not been an easy one, as I am sure all of us realize.

"Yet through all of the many measures heard and voted on, I have always seen the chairman available to answer questions from his colleagues, always available to do what had to be done to complete work on the many responsibilities of his position.

"Under increased sensitivity about openness in government, Senator Yamasaki has, like you Mr. President, been open and accommodating to his colleagues. We have seen, in the past couple of years, some of the most open budget sessions in the history of this body.

"This year we are adjourning on time, a feat due, in no small part, to the leadership exhibited by Senator Yamasaki.

"A quiet man, a hard-working man, a polite man, I think we all owe a debt of gratitude to the Senior Senator from Maui.

"Thank you very much."

Senator Ajifu's statement on the Chair's leadership reads as follows:

"Mr. President, as we come to the close of the Twelfth Legislature, you are completing your sixth year as president of this body.

"As has been true of any major political leader, you have had your share of criticism.

"Rare in that criticisms, however, has been any charge of unfairness. You are, I believe, one of the most fair individuals in this building, and

a leader who has consistently shown fair, professional conduct to your fellows.

"You have run a Senate which has been open. I think that any critic of your manner of operation need only look at alternatives to recognize the major commitment you have to openness in management.

"I can say, based on my own experience, that your decentralized approach to Senate management, with its emphasis on wide-open discussion, has been commendable.

"Finally, let me speak of your leadership abilities. I feel strongly that you have demonstrated to this body and the general public the kind of honest and broad-minded leadership that is needed in this day and age.

"Thank you very much."

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

"Mr. President, I know you have something say but I think it's very fitting that I say a few words on behalf of the retirement of Senator Fred Rohlifing.

"We have heard from the other House that Senator Rohlifing has announced his retirement. Many of us in this Senate had the pleasure of serving with him. I particularly was given the opportunity be here because of his opportunity to run for the U.S. House and he asked the Governor to ask me to replace him.

"I'd like to read into the Journal, from today's Star Bulletin editorial: 'Rohlifing's Retirement. The Republican Party may have gained strength with the addition of Frank Fasi who in all probability will be its nominee for Mayor of Honolulu, but the retirement of Fred Rohlifing at the Legislature is certainly a loss. Rohlifing has been a stalwart of the GOP at the Legislature for many years. He was first elected to House in 1959 and served there until 1966. He was then elected to the Senate. He lost a bid for the seat in Congress in 1976 after serving as the director of the Honolulu Liaison Office of American Samoa as acting Attorney General, then returned to the House in 1980. He plans to move to Maui and practice law there. His retirement from politics may not be permanent. We hope not.'

"Mr. President, we've lost a great servant of the City and County of Honolulu and the State of Hawaii in Senator Rohlfling and I do hope that he does not leave politics."

The Chair then introduced Representative Fred Rohlfling, a former member of the Senate, who was received with a round of applause.

The Chair then discharged the Managers who were appointed on the part of the Senate for the conferences to consider the amendments proposed by the House and Senate to their respective bills.

The Chair, at this time, delivered his closing remarks as follows:

"Members of the Senate, before adjourning this final session of the Twelfth State Legislature, the Chair would like to make a few comments.

"When we started here some 60 days ago, no one was quite sure what might happen. We began the session with some factional problems. The media and our constituents were poised to make an issue of our dissensions.

"They never had the chance. Although we did not entirely resolve our differences, for the most part, we put them aside in favor of getting the job done in addressing some of the issues facing our state.

"I want to express my sincere appreciation to you all for participating in good faith, concentrating upon the tasks at hand and contributing in a positive manner to the work of the Senate. All of you participated constructively and while the process may have been a little tense at times, I think the final product is one we can all share credit for.

"I make no claims for daring or imaginative legislation this year. Some sessions are like that, just a 'nuts-and bolts' session. Restrained by the state's tight fiscal condition and deterred from taking action on some issues until various studies now underway are completed, we did the best job possible given the circumstances.

"However, we did make some solid accomplishments and I would like to mention just a few.

"We have passed a supplemental budget which meets the basic needs of the state while staying within our

available fiscal resources. Funds were provided for worthwhile human service programs to continue providing services to the people.

"We have, after years of trying, finally adopted 10 of the State Functional Plans which will help guide the future direction of our state.

"We have tightened up our laws to protect consumers, notably with respect to regulating health clubs and investment firms, two areas where major problems became evident last year.

"We have moved forward in the campaign against drunk driving with clearer statutory language on police roadblocks and with stiffer penalties for offenders. The law was also strengthened against those who supply liquor to minors.

"We have provided for public access to records relating to child care facilities to better assure the health, safety and welfare of our young children.

"On behalf of all the 25 senators, I want to express this body's sincere appreciation to our hard working staff -- in our offices, in the printshop, in the research offices, in the support offices and on the floor. Each of you knows the quality of your own personal contribution over these past three months. You are the energy and support that fuels the legislative machinery, and we could not have done our work without you. Mahalo to you all.

"When we next meet, there may be some changes in this chamber. To those of you running for reelection, I wish you the best of luck. While we may have had our differences from time to time, I have a great deal of respect and aloha for all of you. I appreciate having had the opportunity of working with you. You have represented your constituents faithfully and well. Personally speaking, I think the voters in your districts would be well served to return you back here next year.

"I look forward to seeing you all back -- hopefully from the vantage point of this podium when we convene the 1985 legislative session.

"Of course, we all bid farewell to Senator Dante Carpenter and wish him luck in his race for mayor of the Big Island.

"To those of you who are not up

for reelection this year -- if you want to keep your campaigning skills in fine tune, you can always come to help me.

"Anyway, until next year, aloha to you all!"

Senator Soares, on behalf of the Minority, remarked as follows:

"Mr. President, we want to thank you very much for your consideration for us these last two years and appreciate all the fairness and considerations that we've received. We've tried to do our best in our involvement throughout the committees especially in conference committee to share with the Majority members the burden that we had this year. It was very difficult at times but I think we, five members on this floor, showed ourselves well.

"We were worried and concerned that we had missed a number of things, very important things, just like the drinking age, making it to 21; we had some problems with the milk bill and excise tax for food and drugs, but these things are going to be up again next year and we sure hope that all five of us return so you guys can come and help us so we can get back and serve the state.

"Thank you, Mr. President."

Senator Kawasaki added his remarks as follows:

"Mr. President, I would like to be privileged to enter into the records of the Journal, my personal appreciation of the eminently fair manner and eminently gentlemanly manner in which you have presided over the affairs of this body.

"I know that I was perfectly justified in having considered you, over the years, a good personal friend and I wish you well in your endeavors."

Senator Henderson also added his remarks as follows:

"Mr. President, we've had, I think,

a good year and, speaking for my colleagues, I know we are all running for re-election, whether we come back or not is another matter, but I would just like to leave the message that next year there are some very, very important matters that will be coming before this body. We have the Tax Review Commission's report; we have the lease act, the land valuation report; we have the Water Commission report; we have the Crime Commission's recommendations; the biennium budget to look at; we have all kinds of very, very important -- unemployment, worker's compensation -- very important matters coming before this body next year. I only ask that everybody be back. I hope that my colleagues are back; I would like to be back myself, and I only can say that whoever is back, whether we are back or not, that the body take a very good look at what needs to be done because we have major work to do next year. Thank you."

At 11:57 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

Senator Kuroda, for the Special Committee, reported that it had informed the Governor and the House of Representatives that the Senate is ready to adjourn Sine Die.

The President then discharged the Committee with thanks.

#### ADJOURNMENT

Senator Cobb moved that the Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, adjourn Sine Die, seconded by Senator Soares and carried.

At 11:59 o'clock p.m., the President rapped his gavel and declared the Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, adjourned Sine Die.