

TWENTY-EIGHTH DAY

Monday, March 4, 1985

The Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, convened at 12:20 o'clock p.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Jack Isbell of the Metropolitan Community Church, after which the Roll was called showing all Senators present.

The Chair announced that he had read and approved the Journal of the Twenty-Seventh Day.

Senator Abercrombie then introduced Dr. Dean Edward Neubauer and Dr. Cornel West to the members of the Senate as follows:

"Mr. President, I would like to introduce someone to you and to the members. He is on the floor today and I hope is as surprised as we had hoped to make him, as he is not aware of this presentation. I think he thought that this was going to be for our other guest from out-of-state. I would like to introduce to the body Dr. Dean Edward Neubauer who is at the age of 43 named Dean of the faculty of Social Sciences at the University of Hawaii at Manoa and this appointment was made in recognition of his outstanding teaching and leadership capacity. These qualities have served as an impressive counterpoint to his scholarly achievements, particularly in the area of public health policy.

"As chairman of the Department of Political Science at the University of Hawaii and now as dean, Dr. Neubauer has been a leader in aggressive recruitment of exchange professors, one of whom we will meet shortly, providing a challenging academic atmosphere.

"A scholar whose achievement and creativity receives international respect, Dr. Neubauer, is welcomed and congratulated by this body.

"I might add, Mr. President, that Dr. Neubauer was...I have a conflict of interest here which you will have to rule on...he was on my thesis committee at the University of Hawaii and one of the first people I met on my return there that let me know that there are among the faculty at the University truly inspired teachers and aggressive scholars that we can all be proud of. We hear a great deal, not the least I might say for myself, about the shortcomings of the University, but we don't want to forget for a moment of the real talent, the tremendous pool of talent, that we have at the University and Dean Edward Neubauer is one of those people, and I'd like him to stand and be recognized.

"Next I would like to introduce to this body, and again I'll quote from the Certificate to be presented to him, a gentleman that I had the opportunity to meet in New York City whose fantastic personality, his dynamic character, was such that he is the kind of individual one never forgets once one has had the opportunity to meet him, someone whose friendship I treasure from a distance.

"Mr. President, before I introduce Dr. West, I want to indicate that this is a particularly appropriate moment for him to be here for just in this morning's Honolulu Advertiser there was an article reflecting on the Selma march, which I believe you had the honor of participating in or one similar to it at that time, Mr. President, back in 1965. Hawaii was represented in the civil rights marches which led to civil rights law changes and we're celebrating the 20th anniversary this year. Dr. West is a product of that revolution, one of the great Afro-American teachers and scholars in the United States today, Dr. Cornel West.

"Accompanying Dr. West and his hostess for this week and the lady who introduced me to him is my wife Nancie Caraway. I might say that Nancie met Dr. West when she was at Columbia University getting her degree at the School of Journalism there and it was a very fortuitous acquaintance that was made.

"This meeting today, then, reflects, Mr. President, the University of Hawaii's commitment to bringing in people from all over the world, not only from the United States, so that they may share their knowledge with us.

The Senate Certificates were then presented by Senator Abercrombie with Senators Fernandes Salling and McMurdo presenting leis.

At 12:33 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.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 24 to 29) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 24, transmitting House Bill No. 26, H.D. 1, which passed Third Reading in the House of Representatives on March 1, 1985, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 26,

H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed First Reading by title and was referred to the Committee on Judiciary.

Hse. Com. No. 25, transmitting House Bill No. 159, H.D. 1, which passed Third Reading in the House of Representatives on March 1, 1985, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 159, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH AND SUBSTANCE ABUSE," passed First Reading by title and was referred to the Committee on Health.

Hse. Com. No. 26, transmitting House Bill No. 230, H.D. 1, which passed Third Reading in the House of Representatives on March 1, 1985, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 230, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY," passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce.

Hse. Com. No. 27, transmitting House Bill No. 232, H.D. 1, which passed Third Reading in the House of Representatives on March 1, 1985, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 232, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF MASSAGE," passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce.

Hse. Com. No. 28, transmitting House Bill No. 267, H.D. 1, which passed Third Reading in the House of Representatives on March 1, 1985, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 267, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT," passed First Reading by title and was referred to the Committee on Labor and Employment, then to the Committee on Judiciary.

Hse. Com. No. 29, transmitting House Bill No. 311, H.D. 1, which passed Third Reading in the House of Representatives on March 1, 1985, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 311, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS," passed First Reading by title and was referred to the Committee on Consumer Protection and Commerce.

S.R. No. 27, entitled: "SENATE RESOLUTION REQUESTING CONGRESS TO INCLUDE A SUGAR PRICE SUPPORT PROGRAM IN THE 1985 FARM BILL," was offered by Senators Solomon, Matsuura, Hagino, Cayetano, Fernandes Salling, Henderson, McMurdo and Machida, and was read by the Clerk.

By unanimous consent, S.R. No. 27 was referred to the Committee on Agriculture.

STANDING COMMITTEE REPORTS

At this time, Senator Yamasaki rose to correct a typographical error on line 3 of the last paragraph in Standing Committee Report No. 316 on Senate Bill No. 115. The words "Second Reading" should be corrected to read "First Reading."

The Chair so ordered the correction.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 316) recommending that Senate Bill No. 115, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Ways and Means.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.B. No. 115, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed First Reading and was recommitted to the Committee on Ways and Means.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 317) recommending that Senate Bill No. 477, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.B. No. 477, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, March 6, 1985.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 318) recommending that Senate Bill No. 479, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.B. No. 479, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATION OF TAXATION," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, March 6, 1985.

Senator Yamasaki, for the Committee

SENATE RESOLUTION

on Ways and Means, presented a report (Stand. Com. Rep. No. 319) recommending that Senate Bill No. 1209, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.B. No. 1209, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, March 6, 1985.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 320) recommending that Senate Bill No. 884, as amended in S.D. 1 pass First Reading and be recommitted to the Committee on Ways and Means.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.B. No. 884, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL DEVELOPMENT BONDS," passed First Reading and was recommitted to the Committee on Ways and Means.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 321) recommending that Senate Bill No. 885, as amended in S.D. 1 pass First Reading and be recommitted to the Committee on Ways and Means.

On motion by Senator Yamasaki, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and S.B. No. 885, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL DEVELOPMENT BONDS," passed First Reading and was recommitted to the Committee on Ways and Means.

ORDER OF THE DAY

THIRD READING

Senate Bill No. 153:

By unanimous consent, action on S.B. No. 153, entitled: "A BILL FOR AN ACT RELATING TO GEOTHERMAL ENERGY," was deferred until Tuesday, March 5, 1985.

Senate Bill No. 1351, S.D. 1:

Senator Cobb moved that S.B. No. 1351, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose to speak against the bill as follows:

"Mr. President, I have supported the Hawaii Community Development Authority after it was conceived and passed in the Legislature, although at the time I voted

against its initiation because I felt it was usurping a proper role of the City and County of Honolulu. Whatever political machinations were taking place at the time did not in my judgment authorize us to take away from the City and County the planning, taxing, etc. capacities it then enjoyed, particularly for this area of such vital concern to the economic, health and welfare of the Island of Oahu.

"However, once the Legislature did pass that legislation, I think the record will show that I consistently tried to support the aims of the HCDA with respect to the development process for protection of the small businesses that were there, and for the utilization of that land in Kakaako to the maximum benefit of the people of this island and ultimately to the people of this State because of the tremendous economic impact that is involved in Kakaako.

"However, I find myself in a difficult position today because I appreciate what the intent of the bill is and what the intent of the chair and the committee is. Perhaps if there was more time to deal with it or under different circumstances, I would be able to change my mind. I believe this is a single referral bill. If it is, I would urge that perhaps it be recommitted and worked on a little longer.

"The reasons, Mr. President, the necessity for my negative vote. I think that in Kakaako, because we have here a separate, distinct and unique entity, not only on this island but throughout the state, that we have to treat it differently than we do the ordinary assessment process. Now, again, I may be speaking into the wind, but I tell you, if the argument is going to be that assessment takes place in a certain process throughout the rest of the state and throughout the rest of the counties, then let's get rid of the HCDA and treat Kakaako the same as we treat everything else. You cannot make an argument logically that we should apply the assessment rules, apply the process to Kakaako, when by definition we have created a separate entity precisely because in the origination of this legislation we did not want the assessment process, property taxes, etc., zoning and everything else to proceed apace. It is schizophrenic, at the least, to say that the assessment process should apply as is usually the case.

"Here, we are dealing with land, the overwhelming majority of which is owned by three entities—Victoria Ward, Dillingham and Bishop Estate. You have in the small percentage of the land that is left, a multiplicity of small ownership of all kinds of property square footage, the absolute majority of it undeveloped in terms of sewers, in terms of amenities, in terms of all the things that are associated with assessment.

"The reason for setting up the HCDA...I'm sorry, Mr. President, I have to go into a little bit of a history lesson, but it's necessary to establish a perspective...was to have the developers do this. That's why we did this. For some of you who weren't in the Legislature at the time, that's why I'm going through it, and for those of you who were when this was created, we did this in order to get the developers to do it, in great measure because it was apparent at the time that the small people in the Kakaako area would never be able to combine themselves. And, I ask you to think of your own districts...don't forget Kakaako doesn't mean anything to most of you folks here because it's where you go to get your business done, but there are no houses, and if there are, there are very few. The number of voters left in Kakaako is miniscule. I've had to deal with this situation all my political life. It's very important from the economic point and obviously important to the few people who live there, but those small people in there the small businesses cannot do this. You're talking about starting from utter scratch. You see the rain now. If you guys want to go with me, if we go down to Kakaako, it's through floods and everything else down there right now. Virtually every other community, including rural areas, have an infinitely greater public service capacity in terms of infrastructure and all the rest of it than has been in existence in Kakaako right now.

"How are these people going to do it? The idea behind all of this was that the developers would do it, and that the state would assist with some of the major infrastructure, and I voted for those things.

"But, now we're at a stage where developers are making presentations, getting permission and it is not happening. And, now on top of the property tax which is being paid, and I ask all of you to remember here on this floor, you have constituents who live in your districts who do business, who have their businesses in Kakaako. Not everybody here, obviously; the neighbor islands don't, but they may have friends, relatives and so on. They're already paying property tax down there. Now we want to give the HCDA the capacity to assess on top of that.

"I don't think that's right. I don't think it's fair. Why are they doing it now? That was not the way it was presented to us. I understand the committee's motivation in this. I really do. And I understand the dilemma the Chair has been placed in with this, but I think this needs another look-see.

"This needs some more contemplation before we turn over additional taxes now. This is what the assessment is going to be. You're going to pay the property

tax and you're going to pay the assessment, and the developers are going to take a hike, and the developers don't forget in this instance are not going to be the little people. They're going to be the big guys that own most of the land and the big financiers that are going to come in and mostly the small landholders in there and the business that is on there is going to have to try to accommodate in one form or another.

"So, I think we should lessen the burden of the state and not put the burden on the small landholder in relation to the large landholders and the big...financial development that is required in order to develop this area in a rational way. I'm not trying to turn the clock backwards with this plea. Believe me, I'm not. And I think the small landholders in there, as well as the small businesses, understand that they have to make an accommodation.

"I'm very grateful to the chairman of the Housing Committee for recognizing this over the years and putting in legislation not only to accommodate it, recognize it, but to actually try and do something about it. But this assessment process, given the state of development right now in Kakaako which is theoretical, is not necessary at this time and deserves another look before we in effect add another tax on those people least able to bear the burden. We can survive without this legislation at this time. It is not necessary to give it to them at this time and it is necessary to take one more look, I ask you, please. Thank you."

Senator Kawasaki responded as follows:

"Mr. President, in view of some of the arguments just presented by the Senator, can we have this deferred one day so we can take a look at some of the cogent points that he has brought up in this discussion."

By unanimous consent, action on S.B. No. 1351, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," was deferred until Tuesday, March 5, 1985.

Senate Bill No. 117:

By unanimous consent, action on S.B. No. 117 was deferred to the end of the calendar.

Senate Bill No. 120:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 120, entitled: "A BILL FOR AN ACT RELATING TO USE TAX LAW," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 118, S.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 118, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 119, S.D. 1:

By unanimous consent, action on S.B. No. 119, S.D. 1, was deferred to the end of the calendar.

Senate Bill No. 714:

Senator Cobb moved that S.B. No. 714, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie asked if the chairman would yield to a question. The Chair posed the question and Senator Yamasaki having answered in the affirmative, Senator Abercrombie inquired as follows:

"If you will refer, Mr. President, to the bottom of the facing page of the committee report it indicates that Kaiser...I'm quoting now... 'Kaiser, as a federally qualified health maintenance organization, is required to develop rates based on cost, and therefore any savings in interest expense is directly passed on, via reduced increases in rates, to the consumer.' My question to the chairman is, did the Kaiser organization present any testimony to the committee which indicated that that sentence 'savings in interest expense is directly passed on via reduced increase in rates to the consumer'...did Kaiser Corporation give anything to the committee to indicate that that is in fact taking place?"

Senator Yamasaki replied as follows:

"I believe that the testimony included statements saying that allowing the special purpose revenue bonds to be authorized will have a positive impact on the cost containment of services provided by Kaiser."

Senator Abercrombie inquired:

"Mr. President, I appreciate the answer, but that was not my question. I would assume that they would say that it would do so. What I was asking was, is there anything given to the committee by way of an audit, by way of a notarized statement, by way of an independent verification as to what that would actually be in terms of cost savings as opposed to merely an assertion that this would be beneficial?"

Senator Yamasaki answered:

"Yes, according to the testimony of Kaiser representatives, there is a sentence in the testimony which says that 'therefore, any savings in interest expense is directly passed on in the way of reduced increases in rates to the consumer.'"

Senator Abercrombie in response to the previous speaker's reply, spoke against the bill as follows:

"Mr. President, I'm certainly...no, I think it was we who were against the Girl Scouts and so on and so forth over the years; now I suppose I'm going to be against patients and hospitals. I would like to believe the Kaiser organization...I've been a member of it for 26 years myself. Maybe after this vote they'll find a way to get rid of me. I do not think it is right to pass legislation based on the assertions of the organization which will benefit. I think that that would be in order if the organization took the time and trouble to explain to the taxpayers and to the consumers and to the committee exactly how this is going to take place. This is something that is always asserted, and may very well be true, but we have no real proof of it. For that reason, I will vote no."

Senator Kawasaki in response to the previous speaker's remarks stated:

"Mr. President, while I am voting for this bill, I think the point raised by Senator Abercrombie is well taken. I trust that perhaps all of these hospitals coming for these special purpose revenue bonds should be required to specify and the resulting savings that result therefrom...I think this language should be provided.

"May I address a question to the chairman of the Ways and Means Committee. On the one bill, 557, that we deferred for 48 hours, could we insert this kind of language to show that indeed the savings enjoyed by Queen's Hospital that had over \$100 million of these kinds of bonds, that the savings would be directed toward reducing the costs to consumers, patients. Could we put this kind of compelling language in the committee report inasmuch as we delayed it for 48 hours?"

Senator Yamasaki answered as follows:

"I believe that it can be done."

Senator Kawasaki continued:

"Are they qualified as a federally qualified hospital like Kaiser claims it is? I would think they are, but I just want it clarified that they are."

Senator Yamasaki answered: "They are."

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

"Mr. President, I believe Senators Kawasaki and Abercrombie raised some very valid points and my recollection is that over the four year history of these bills they were, I think, only possible as a result of the actions of the Con Con.

"We have not had enough time to record a history to determine whether or not any savings as a result of the bonds which are issued, have been passed on to the taxpayers. Pending that kind of determination, I'm going to continue to vote for these bills, to give the hospitals the benefit of the doubt and hope that at some point in time when enough of a history has been recorded in terms of the savings which may be realized from these bonds that the Legislature look into the matter to determine, in fact, whether the consumer has realized a savings in medical care costs. My own feeling is one of pessimism, but I will go along with the bill for the present."

The motion was put by the Chair and carried, and S.B. No. 714, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS," 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 (Abercrombie).

Senate Bill No. 1392:

Senator Cobb moved that S.B. No. 1392, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie asked if the chairman would yield to a question. The Chair posed the question and Senator Yamasaki having answered in the affirmative, Senator Abercrombie inquired as follows:

"Mr. President, could the chairman indicate as to what portion of the \$4.6 million is related to code deficiency?"

Senator Yamasaki answered as follows:

"I don't have the breakdown of the amount that would be allocated to correct code deficiencies, but according to the testimony of the representative from the Wahiawa Hospital, this \$4.6 million is for the last major component of the building program, which includes correction of code deficiencies, conform to current standards, modernize obstetrical services, replacement of the surgical suite, and to refurbish the radiology facility. I don't have the breakdown for each of them."

Senator Abercrombie further inquired as follows:

"Thank you very much. Mr. President, could the chairman...I'm forced by necessity to do this. Could you ask the chairman, what is the relationship, then, of this bill to, I believe it's...there's another bill..."

Senator Yamasaki interjected:

"The next bill also includes a portion of the authorization for Wahiawa."

Senator Abercrombie responded:

"Yes, I think \$225,000. I wonder if..."

Senator Yamasaki answered:

"\$3 million for Wahiawa. \$225,000 is the projected savings that will be realized."

Senator Abercrombie in response to the previous discussion, spoke against the bill as follows:

"Mr. President, although the Ways and Means Committee may very well have enjoyed the benefit of the breakdown on these bonds, my experience with it to this point and as a previous Senator has indicated, we don't have the history on it. We also don't have much of a history as to how they arrived at these numbers.

"To the best of my knowledge, Mr. President, we're simply relying on the hospital's indication that they need \$4.6 million. Now, when we take capital improvement projects in the Legislature in other areas they're subjected to a great deal of scrutiny as to whether the amount of money is in fact needed. You need only look at the deliberations of the Education Committee or the Higher Education Committee, for example, to realize what an extraordinarily involved process it is to try to determine not only the priorities of what capital improvement expenditures should be, but what the sum should be. And in this instance it seems the hospitals come in regularly now, more and more, and simply give us a figure and we vote it through.

"Now again, it can be misconstrued that we're against people and in this instance, I suppose, in rural areas. I wonder, how much when it comes to some of the savings in some of the other things that we're talking about has to do with whether people really want to use these facilities, whether they'd rather go to other facilities, whether these facilities and the costs associated with them are accurate reflections. I don't want to make an accusation that these figures are crooked in any way, because I can't do that. On the other hand, it appears that most of us in the Legislature can't say for any certainty that these figures are accurate either. And I don't think that we should put that kind of thing through the Legislature when we cannot say to the taxpayers

and to the consumers who utilize these facilities that we gave these figures the kind of scrutiny that we are supposed to give every other capital expenditure."

The motion was put by the Chair and carried, and S.B. No. 1392, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS," 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 (Abercrombie).

Senate Bill No. 557:

By unanimous consent, action on S.B. No. 557, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS FOR HEALTH CARE FACILITIES," was deferred until Wednesday, March 6, 1985.

Senate Bill No. 561:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 561, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senate Bill No. 116, S.D. 1:

Senator Cobb moved that S.B. No. 116, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose to speak against the measure as follows:

"Mr. President, this certainly is something that everybody can relate to—even my friends in the Republican Party right here that I'm cozying up to at the moment—taxes. And I understand that the Republican Party is headed by someone, who if this bill was going to be employed, and if I looked over his taxes when he was Governor of California, probably, would have had to pay the \$500 in here. But, of course, I might be biased, and that's precisely the foundation of my criticism of the bill.

"Here, you're talking about the imposition of a \$500 penalty, civil penalty, on top of what is already a misdemeanor and on top of what is already a federal crime. Inasmuch as a misdemeanor can be viewed by the judge involved, by the sentencing authority with a jail and heavy fines, to add a civil penalty at this stage seems to me meretricious, at best, and at worst is just another indication to the taxpayer that no matter how he or she tries to deal with something that the tax department is an all

powerful source of government oppression that will, in addition to those things it can already do, assign a civil penalty of \$500.

"I wish I could find either in the committee report, and if someone who signed the bill, inasmuch as the chairman has been good enough to answer all these questions, perhaps somebody on his committee will be good enough to tell me, anything in the committee report or in the bill itself that merits the addition of a \$500 civil penalty on top of the penalties that already exist in the law. If they cannot do that in any compelling way I feel that we are obligated to vote 'no' on this bill."

Senator Yamasaki replied as follows:

"Mr. President, this bill that's before us merely conforms to the federal requirements, what the federal law imposes.

Senator Cayetano rose and spoke against the bill as follows:

Mr. President, these penalties really allow the taxing authorities to further oppress taxpayers who usually are in the lower brackets. I just finished reading Lee Iaccoca's book, and in part of his book he deals with Henry Ford and relates a story about how one year Henry Ford was upset because for the first time he had to pay taxes, and I think he paid the grand sum of \$11,000, or something like that. All the years before that, his accountants were clever enough to avoid his paying taxes. Certainly, the example given by Senator Abercrombie about our President who never paid a dime in taxes until he was relegated to the light of public scrutiny is another example. Now I understand his accountants are not as clever as before and now he pays taxes. Still the amount of taxes he pays seem disproportionate, in a lesser sense, to what many who really work for a living have to pay. I was surprised when I...I'm always surprised when I in my law business deal with cases in which we must scrutinize the taxes paid by other parties, the opposing parties, and we find that people who make a lot of money and have clever accountants and who are able to afford tax shelters pay very little in taxes. This bill just adds another layer, another burden, another penalty to the whole scenario, and for that reason, I am opposed to it."

Senator McMurdo remarked:

"Mr. President, I did sign the committee report, but after hearing the arguments this afternoon I would like to change my vote to 'no' on this."

Senator Yamasaki stated:

"Mr. President, this bill that we have before us addresses the problem

that we have with those tax protestors, and they have found that there is information in the withholding statements submitted to the employer that they want to have reduction of taxes, and this is the area that the bill addresses so that there will not be any fraudulent information submitted to the employer just to avoid taxes."

Senator Henderson rose and spoke in support of the measure as follows:

"Mr. President, I think the testimony we heard in Ways and Means was that the tax department needed this civil penalty in order to expedite compliance with the tax laws. The example, I think, was given that somebody would claim 100 exemptions on their forms or some other out-of-sight number of dependents, and as a consequence, in order to go after that person they'd have to go through the criminal statutes and it was a very, very tedious and time-consuming process. And they felt that this civil penalty would be much quicker. The person would still have the right to appeal to the Tax Appeal Court and if he lost there he'd also go into the regular court. And I think that this measure would only expedite the payment of taxes by people that should be paying taxes. Thank you."

Senator Abercrombie rose in rebuttal as follows:

"Mr. President, coming from my colleague who has been always quick to point out to us waste in government, I find it rather incredible that he can be indicating that we are now going to have another layer of government coming in to assess penalties. The \$500 here would cost more than \$500 just to get the bureaucracy cranked up on this to go after this person. And, if you are in fact talking about someone who claims a hundred exemptions (I believe that was the statement of the previous speaker), that is obviously false and fraudulent information that is already a misdemeanor. And, if it is the testimony that we have to go through tedious processes in this country to prosecute people for crimes, that separates us from some other nations in the world with respect to how they deal with crime. There, you can get pretty swift justice in a lot of places in this world, that is to say you don't get any trial at all.

"Now, how someone who is already willing to commit perjury by saying that he or she has a hundred individuals who are deductions available to him...exemptions, excuse me, a hundred exemptions is going to be dissuaded from doing so by the so-called threat of a civil penalty of \$500 which also has to be taken into some kind of judicial process is absolutely beyond me. It simply would not take place.

"This is another example of us passing

along, on the basis of an assertion for which we have no evidence whatsoever that it will work in any way, shape, or form. I can tell you what it will do, however. It will allow taxpayers to have to spend even more to get this particular individual. Let's not mistake the fact that what is being addressed here is already a crime, and will be put into the judicial process as a crime, and then the person will be prosecuted. The civil penalty aspect is merely symbolic, at best, and at worst will cost the taxpayers even more money than could possibly be collected."

Senator Chang remarked as follows:

"Mr. President, I will be voting for this bill, but I must share my reservations about the substitution of civil law process for vigorous criminal prosecution. I also do share some of the reservations about utilizing civil law process merely to conform with federal law. However, until more substantial concerns are raised, I will vote for the bill. Thank you."

The motion was put by the Chair and carried, and S.B. No. 116, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WITHHOLDING AND COLLECTION OF TAX AT SOURCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Abercrombie, Cayetano, Hee, McMurdo and Kawasaki).

Senate Bill No. 338, S.D. 1:

Senator Cobb moved that S.B. No. 338, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose to speak against the measure as follows:

"Mr. President, I was on the committee and had the privilege of serving in the Ways and Means Committee at the time when this bill came forward, and was particularly swayed by the testimony at that time of the late Senate President Dave McClung, that this was at the time a good idea. It will help the business get underway which would be useful and beneficial to the State of Hawaii, and would be a useful adjunct in our tourist business. I thought that that was the case then and voted affirmatively, and I think that that has worked out, but the one thing that was stated at that time was that they merely wanted the opportunity to prove that the business could succeed and that the only precedent that it would set was that if similar businesses, that is to say, similar operations come into the State of Hawaii, not necessarily maritime in nature, that they might enjoy a similar opportunity to get a one-time start. They have done that. I think we have carried out our end of the bargain and I do not think it is

fair when you come into a legislature and say, 'we want to come in one time and out,' to then come back again and say, 'no, we want to do it again.'

"Some of the members of this body recall that there have been other people who have come into this Legislature saying that they needed a one-time appropriation in the public interest for far less money, and they have lived up to their word. They have not come back to us under those circumstances.

"I can cite public radio, for example, as one which was a very, very difficult passage and they have never come back for a single penny in operating funds. They've proved themselves, and as a matter of fact that this year now are in a position of asking us once again for matching money to provide a second station. They've never come in for a penny. They've kept their word.

"Now, these folks are a multimillion dollar operation, employ a lot of people. They've proved themselves. They're successful. They said they were coming in here for a one-time relief, and I don't think it's fair to the businesses that have to operate day in day out who don't have this kind of push in the Legislature, for them to have to pay their taxes. Then we continue with this company and say, 'that's all right, we know what you said but we're not paying any attention to it. We're going to do it all over again.' It's not right. It's not fair to those people who don't have this kind of opportunity, particularly those in small business who could also use the same of kind of tax breaks, I'm sure, to the advantage not only to themselves, but to the State as a whole. Thank you."

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

"Mr. President, I feel I must speak for this bill. I feel that the maritime industry and the passenger ships for our whole country have been in danger for some time. Now, we have these people who are just starting to make money within the past two years. I think they need this extension. I think the tourist benefits from this. I think the whole image of Hawaii benefits from this, and I would speak in favor of it. Thank you."

Senator Kawasaki rose on a point of inquiry:

"Mr. President, this is directed to the chairman of the Ways and Means Committee. I understand that while the company operating these cruise ships has been making money as of the last two years, their losses that had accumulated over the past five years amount to a considerable amount of money, and my question specifically addressed to the chairman of the Ways and Means Committee is, do we

have an approximate idea as to what their cumulative losses up to this point are?"

Senator Yamasaki replied:

"I believe it's over \$20 million."

Senator Kawasaki spoke in support of the bill as follows:

"Thank you. If there is anybody who looks askance at providing tax exemptions for private entrepreneurs, it has been me over the years. But, in this particular case I support the bill primarily because while these two companies as I've stated previously, are now making money, their cumulative losses up to now in operating these ships which are, as Senator McMurdo just stated, as a tourist attraction are tremendous, they provide right now about 1400 jobs, and they have in their long-range plans, plans to bring another ship that might create another 7-800 jobs. All of this considered, and primarily because their losses up to now, even if they did make money in the last two years, amounts to over \$20 million, until they recoup their losses accumulated in the past, I am willing to support this bill."

Senator Abercrombie rose and spoke in rebuttal:

"Mr. President, I'm not so naive, or I think so economically ignorant as not to understand what the loss procedure involves with respect not only to this company, but to similar operations in any corporation.

"Mr. President, when this tax relief measure was given to us in the Ways and Means Committee it was anticipated that there would be losses for two, three or maybe even four years, and it was anticipated that the loss would be in the multimillion dollar area until they were established. It was also indicated that they felt within the fourth or fifth year they would be making money and they would have no need to come back here. And that's exactly what is taking place. Why should we extend the tax credit when what was said was going to happen has happened? And as for the losses of \$20 million, Mr. President, it's an indicator. I'm not so naive as to believe that that was not written off the books. That was put into the equation when this company went into business in the first place. The \$20 million loss, and there's been references earlier in the discussion not just in this bill, but in other bills about clever accounting. It doesn't take clever accountants to understand what the depreciation and loss is in terms of how you report income and what kind of investment you're going to make and what you tell your stockholder they're going to have to put up with in terms of losses until money is being made. That was the decision made by the

company involved just as any small businessperson has to do it.

"I will say, standing here as a Democrat today, it dumbfounds me how you can talk about differences between the Democratic Party and the Republican Party, when we're really talking about a Legislature that seems to divorce itself from the average person in this state, let alone the Democratic Party. The Democratic Party is in trouble today not only because it does not have a direction and a philosophy, but the only place that it seems to go is around in circles and up its own tail. Unfortunately, in this instance it appears the Republican Party is only too anxious to join us in this endeavor. Now, whether all of us will survive the process of election in 1986 on the basis of our record is something else again.

"We want to talk about jobs...I'm not going to get trapped into something that says, 'oh, but in this particular one, there's a lot of jobs.' There's a helluva lot of jobs. We just finished talking about Kakaako. There's a helluva lot of jobs down there that we're talking about.

"I will say, as a member of the Democratic Party and of the majority in this Senate body, that I think it is time that we start having people live up to what they say they're going to do and hold them to it. We're supposed to be accountable, and so should these people. And I would not think for a moment that the investors in this company did not know what they were doing, did not have the long-range view, did not understand what the accounting procedures would be, and that this \$20 million was written right into the equation when it was first put together. I know that to be the case because that's what the testimony was when this exemption was first given.

"Now, the terms have been met and I am pleased about that. I think that's fine. It shows that they had shrewd people at the helm I might say, no pun intended, of this company. They knew exactly what they were doing. They were able to accomplish it. They are right on schedule. And so should we.

"We should end this tax benefit and look for other ventures that could benefit from it. I don't think it's fair to go to people and tell them there has to be restrictions in education, there has to be cuts in higher education because we don't have the revenues when we have a revenue producing business that has taken advantage, full advantage, of the law that we passed that allowed them the exemption, are on their feet, are making money, and now we turn around and say, 'Well, we're going to let you continue right on doing it,' and at the same

time turn to our elderly, turn to our needy, turn to our students, turn to our taxpayers and tell them that they have to pay.

"There is even a bill in this Legislature in the House, I understand, to increase the excise tax. Who's going to pay it? People are getting off paying their taxes, but I have to pay it, my mother has to pay it, your fathers, your mothers, sons, daughters, workers, people all over the state, small businesspeople have to pay it. If you're big, you get out of it. If you're small, then you have to pay. And if that's what the Republican Party wants to do, and the Democratic Party wants to do, maybe there's going to have to be an Independent Party come up that will speak for people in this state who are the hardworking, everyday people who pay their taxes and do not have the opportunity to come down here and lobby for this kind of bill."

Senator Cayetano then rose and spoke in support of the bill as follows:

"Mr. President, I share the concerns of the previous speaker. I'm going to support this bill, but I hope that when some of the House bills come over, the bills referred to by the previous speaker, that at least the Democratic majority in this body retains its resolve to see that the little guy is not taxed more. It will be totally inconsistent, in my view, for us to pass a bill like this on one hand and on the other hand vote for measures which would increase the taxes of everyone else.

The motion was put by the Chair and carried, and S.B. No. 338, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

Senate Bill No. 34, S.D. 1:

Senator Cobb moved that S.B. No. 34, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Abercrombie rose and spoke against the bill as follows:

"Here, once again we have the Federal Government coming forward here in this instance indicating to us that we must deal with the Federal Deficit Reduction Act of 1984, one of the great, ironic eggs that I have witnessed in a long, long time. The Federal Deficit Reduction Act, as a result I have learned in the discussion about this, Mr. President, that the percentages indicated in the bill are based on population.

"Well, that's probably as good a measure as we can find, but what bothers me

here is that the Legislature is giving over its function to the executive, and I don't think that's the correct way of doing it. I realize as I read through the bill that there are many steps along the way, requests, etc., that need to be made.

"Very frankly, Mr. President, if this is the way we're going to handle it, the allocation of these funds, it seems to me we should just give a list up to the Executive and say, 'Here, you folks decide and figure out anyway you want. We really don't have anything to do with it.' I don't think many of us would find that process palatable to our constituents, whether it's in our own districts or whether it's in our own counties, and as a result I feel that we are giving up once again a role that is properly the Legislature's.

"It's a trend that began in this state some years back, an unfortunate trend I think, where the Legislature slowly but surely has moved away from making policy decisions and given more and more of the power to the central authority of the Executive, to the narrow confines of people who do not have to appear before the public in elective office, and we simply rely on those people.

"Maybe that's good if you happen to be one of the insiders that can manipulate and maneuver this kind of thing, and if that's what we think that government should be, behind the scenes, maneuvering, manipulating, requesting, cajoling, begging, demanding, behind the scenes, then that's the way we should handle it. But I don't happen to be one of those people.

"I think the Legislature should have the consummate and primary role in making these decisions and that there's no project so urgent, no project so fraught with complexity, that it cannot be dealt with in one session or another, in a manner which would see to the proper instituting of these particular projects under the bonds that are in question. I simply do not believe that the legislative process is so slow that it could not accommodate something of this nature when I watch how slow the process is at the executive level when they choose to make it that way and how swift they can move when they choose to make it that way. So, in effect, what we're doing is abrogating our responsibility as legislators, and I don't think that that's the trend that should be continued one step further."

Senator Yamasaki explained as follows:

"Mr. President, I just would like to explain that the Legislature will have the opportunity to review any kind of project that is proposed by the counties or the state under the formula that we have under this bill. So, we are not delegating any kind of authority to any agency or county government or to the state agencies. I

think that if there is a project that will be covered under this private activity bond issue, then we'll have an opportunity to review that and to authorize the expenditure.

The motion was put by the Chair and carried, and S.B. No. 34, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE ACTIVITY BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 35:

By unanimous consent, action on S.B. No. 35, entitled: "A BILL FOR AN ACT RELATING TO GENERAL OBLIGATION BONDS OF THE STATE OF HAWAII," was deferred until Tuesday, March 5, 1985.

Senate Bill No. 362:

Senator Cobb moved that S.B. No. 362, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Fernandes Salling rose and spoke in support of the bill as follows:

"Mr. President, previously I did not concur with this bill. I believe that it is important when looking at legislation like this that we consider whether or not the state was at fault or whether they were aware of this kind of double payment of taxes being made. On the other hand, I also do think that we should look at what kind of precedent passing legislation such as this will set in this state and whether there is any kind of common rationale or reasoning that we have used to support legislation such as this that we would use in the future to support similar legislation. And I have been informed that in the past we have supported similar legislation under the rationale that when the party applying for relief such as this has not been aware of paying the tax twice and it was simple mistake on their part, and despite the fact that the state did not make a mistake we felt that in those instances that we should provide this kind of relief to the taxpayers. And on that basis, I will change my position and support this legislation. Thank you.

Senator Henderson then asked:

"Mr. President, I'm a General Motors dealer and will be affected by this bill and I ask to be excused from the vote.

The Chair answered as follows:

"The Chair declares that there is a conflict, therefore you are excused from voting."

At 1:55 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:57 o'clock p.m.

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

"Mr. President, this is one of the cases in which I think what is important is the principle involved here because I'm not particularly enthralled at the proponents of this bill, the Hawaii Automobile Dealers Association, which in my mind, in their pricing of their products that come here have worked a detriment to the consumers of this state, that is to say, specifically, that their profit margins on those cars that they import from Detroit have been higher, much higher than the West Coast dealers' profits with the added benefit of the added cost of freight and storage involved here.

"I've generally been very much against their pricing policies, but I think where businessmen have dutifully paid their taxes and they made a mistake in paying that tax twice to the tax office and for the tax office to plead the statute of limitation and say, 'Beyond three years, we're not going to pay your over payment even though it was paid erroneously.' I think this is wrong. I don't think the tax office should assume this kind of posture. Where the taxes are paid in accordance with the law and an overpayment was made notwithstanding the three year statute of limitation that we have, I think the government owes it to citizens and in this case a private group of dealers and companies, the overpayment. And for that reason, I vote for this bill."

The motion was put by the Chair and carried, and S.B. No. 362, entitled: "A BILL FOR AN ACT RELATING TO USE TAX OVERPAYMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 117:

Senator Cobb moved that S.B. No. 117, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki rose to speak against the bill as follows:

"Mr. President, according to the committee report here, this would discourage tax protestors from filing frivolous tax returns, and it's not very clear to me what they mean by frivolous tax returns. I think, perhaps, one of the things that we pride ourselves on in our form of government democracy is that citizens can indeed, protest, and if I can remember the

most perhaps dramatic evidence of taxpayer protest happened in Boston Harbor when bundles of tea were thrown overboard by people who protested what the monarchy across the Atlantic Ocean tried to impose upon them. I think there was a case where the courts overruled an imposition of a fine against one of these so-called protestors when the court had found that indeed this taxpayer was justified in protesting and filing what the tax office had termed frivolous tax returns. In any case, I think to allow citizens, taxpayers, to protest in their own way, however frivolous it may seem to some revenue agent, I think, is a healthy situation in our form of government. For that reason, I think we should not pass this bill."

Senator Abercrombie also spoke against the bill as follows:

"Mr. President, if we're going to fine people or put them in jail for being frivolous, none of us would be able to get out of this chamber on some of these days. I mean that, you know. I wonder how many of us actually have taken the time to look at what the word frivolous means in our dictionary. What frivolous means is 'of little weight, lacking in seriousness,' something that might apply to more than one of us on occasion, 'unbecoming levity.'

"I can't believe that we're really serious about passing this kind of bill. We are the ones who are being frivolous, and we're being frivolous in a way that is, in fact, unbecoming because we're saying here that we are trying to stop tax protestors, and as the good Senator just indicated that would be a goodly proportion of the people of the then colonies that existed in what is now the United States of America, as that's in fact what they were, tax protestors.

"And their protest was seen as frivolous at the time because of the structure of the tax laws revolving around the importation of tea. The colonial governors of New York and Massachusetts and others at that time pointed out to them that this was in fact symbolic and that the nature of the import duties on tea at the time of the American Revolution was such that what they were protesting, in the minds of the colonial governors, had very little to do with what the actualities were, or the realities were to the system of taxation then imposed by the King of England and Parliament. What they failed to understand in Parliament, and I can refer you to Barbara Tuchman's book, 'The March of Folly,' which would apply to what we are doing here today. What they did in England was they failed to realize the nature of the protest and were blinded by the literal nature of what the protest was. What did it have to do with the argument was what was said in Parliament. They did not realize the depth of the emotional commitment that was being made by

virtue of the tea protest.

"Now, to you Mr. President and to myself or someone in this body or in the august halls of the tax department which apparently is reaching the stage of 'big brother' in this country, what is frivolous to you or to me may not be so to the person who is making the protest.

"That's what the First Amendment to the Constitution is all about—'Congress shall make no law, with respect to freedom of speech.' And all of us know we enjoy the privilege of immunity, for example, on this floor and off this floor with respect to the carrying out of our duties. We understand that making no law against the exercise of freedom of speech means. And we also know that freedom of speech extends to writing. It is not speech, that is to say, verbal.

"The First Amendment to the Constitution, the glory that is this country, our Constitution, particularly the first ten amendments to it, preserve and defend the right to freedom of speech no matter how much we disagree with it, no matter how foolish it seems, no matter how difficult it makes our lives for us. Look at how we struggle with religious expression, for example, in freedom of speech, trying to decide whether people can solicit donations, etc., all these things.

"The Constitution and the right of free speech is not there to make life convenient for us. It is there to make sure that when it is made inconvenient for us that we treasure even more our capacity and ability to be able to express ourselves because we may be that person on another occasion, anxious to express ourselves and to register our protest for the redress of a grievance.

"I cannot find it in my heart to say that someone is being frivolous, having finished their tax return and is so frustrated they write on it 'I don't like paying this.'

"That's what the case that the good Senator just indicated was all about. The person paid their taxes but wrote on it that they didn't like it. Then the tax department says, 'We'll show you. We're going to prosecute you because you told us that you didn't like it.' In the United States of America, I'm talking about, not the Soviet Union, this is what's come to pass.

"I refer you to the bill...lines 7, 8 on: 'contains information that on its face indicates that the self-assessment is substantially incorrect; and the conduct is due to a position which is frivolous or a desire (which appears on the purported return) to delay or to impede the administration of the tax laws,'. Anybody in this country has the right to delay or impede the payment of taxes if that's what they believe is the correct thing to do. It is up to

a court of law to make a judgment as to whether it was correct or incorrect, whether it was fraudulent or not fraudulent, not whether it was frivolous or not, but to make a judgment on the facts as to what it was or what not in terms of the criminal law.

"If we are about to take frivolousness and make that a crime...to be frivolous is now a crime...then, Mr. President, I think that we have lost all sight of what it is we're supposed to be doing here. If someone can show me that the laws are now inadequate or conversely, that they can show me that this is not, in fact, of little weight.

"How many people do this out of the thousands of taxpayers in this state and the millions of taxpayers in this nation? Do you mean to say we cannot put up with a few dozen or a few hundred people who feel so deeply about the tax situation that they wish to protest it in some manner which others might deem frivolous? If we cannot abide those folks under the First Amendment to the Constitution, then this country cannot survive a little frivolousness in terms of an attitude with tax returns.

"A far greater issue is the protection of free speech. The fact that some people may take advantage of it, whether they are of a frivolous nature or otherwise, it is utterly, and totally and completely beside the point for purposes of defending the Constitution. Tax protest has an honorable history in this country; freedom of speech is the foundation stone upon which this country exists; and to pass this kind of law is to fly in the face of all that we should hold dear and true in terms of the kinds of things that we ourselves hold to be the traditions that we must stick by if we are to survive as a country."

Senator McMurdo spoke against the measure as follows:

"I seem to be very busy this afternoon. I wasn't going to speak to this, but I feel compelled to. Since it is a woman's prerogative to change her mind. I did sign this, but also my children have accused me for years as being a member of the original Boston Tea Party, so in all good conscience I will have to change my vote to 'no.'

Senator Yamasaki then spoke in favor of the bill as follows:

"Mr. President, I just want to merely point out that this bill codifies Section 6702 of the Internal Revenue Code, so we are conforming to the federal requirements."

Senator Cobb spoke for the bill with reservations as follows:

"Mr. President, I think I would like to make my reservations on the bill known as a matter of record. This country was founded

on ostensibly what was a tax revolution that began on the Boston Harbor and quickly spread to Lexington and Concord in the Thirteen Colonies. And as I listened to the remarks and looked at what the Federal Internal Revenue Code promulgated by the federal government that preaches individualism, conservatism, individual rights and liberties, deregulation, which seems to be at variance with what is set forth in the Code. I am somehow sadly reminded of a movie I saw recently on television called 'Hitler's S.S., the Legacy of Evil,' where a young S.S. officer was looking at the pending takeover of Germany by Adolf Hitler, and considering a rather brutal suppression of the S.A. and his remark was to the effect, 'Who needs revolutionaries once the revolution has been accomplished.'

"There are times, Mr. President, I would want to protest taxes. There are times I find that I disagree with the policy and the testimony of the state tax office that the Federal Government will either refund your money or begin paying interest on it after 45 days, but the state tax office takes twice as long, 90 days for any taxpayer who has money coming back to him before he gets into a score sheet.

"I'm saddened in a way when I look at the Federal Revenue Code, and if I were totally convinced that just writing on the tax return or sending a separate letter to the tax office 'I don't like paying this tax,' that that would be subject to prosecution I'd probably change my vote. But according to the provisions of the bill that were quoted, it has to be in a manner that would make it impossible to compute taxes or the computation of a frivolous tax.

"I would be one to agree that it's difficult to define what is frivolous, and it's a sad state of affairs to see that we're conforming with the federal government in something like this. Thank you."

Senator Kawasaki rose to speak against the bill as follows:

"Mr. President, I notice a tendency in the last few years on our part to try to conform. We seem preoccupied with this great desire to codify our tax laws in conformance with the Internal Revenue Code. I was never one of those who felt that the federal government or its tax department had a cartel on wisdom, accounting wisdom or taxing wisdom. I think perhaps we have to stand up as a state, that is individual state, to codify our tax laws according to what we consider to be a fair, equitable treatment of our taxpayer citizens. We've been overly zealous in trying to conform to the Internal Revenue Code. The Internal Revenue Code is a tax document that is constantly evolving. It's in a process of evolution from

year to year. It's in a process of evolution depending on which administration is in power in Washington. So, I don't find any magic in our having to conform strictly to the provisions of the Internal Revenue Code. Perhaps we should maintain a semblance of independence here and not vote for this particular bill."

Senator Hee spoke in favor of the measure as follows:

"Mr. President, I am, as the chairman of Ways and Means said, looking forward to codifying the income tax bracket to establish an alternative minimum income tax consistent with the Federal Government, thereby establishing a tax for the state for all of those who are on pension in excess of \$50,000 a year. Thank you, Mr. President."

At 2:14 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:17 o'clock p.m.

By unanimous consent, action on S.B. No. 117, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Tuesday, March 5, 1985.

Senate Bill No. 119, S.D. 1:

Senator Cobb moved that S.B. No. 119, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Soares.

Senator Kawasaki spoke against passage of the bill as follows:

"Mr. President, what this bill does is to increase the statute of limitation that's accorded the tax office. You know that the tax office cannot get into a citizen taxpayer's return beyond three years. This is known as the statute of limitation. What the tax office is trying to do is to get this extended to six years. Again this constantly increasing trend toward oppression by the tax department, both of the federal government and the state government. Right now we have provisions that allow the tax office to go back into a taxpayer's return any number of years just as long as fraud could be proven. And I think this is adequate to protect the tax office from the ill effects of fraudulent tax returns. There's no statute of limitation. The statute of limitation of three years on any other type of return, I think, is adequate and we should not start increasing the statute of limitation from three to six years, and for this reason, I urge the body to vote against this bill."

Senator Abercrombie also spoke against passage of the bill as follows:

"Mr. President, as the previous speaker

indicated, there is no statute of limitation to my knowledge where the fraudulent return is involved. Mr. President, we just deferred for one day a bill having to do with taxation on what constitutes frivolous behavior, we have passed bills already today concerning civil penalties, and in other words, everything that the taxpayer has to put up with. We're moving them along, but when it comes to holding the tax department to account, that's a different story. Now, what we're saying is that we're going to allow them to double the time that they can come after somebody. God knows what reason they might want to come after somebody. It could be that they conceive a person is being a tax protestor in some way. It may be that they would have succeeded in something with the IRS and they decided, well, let's go back and see if we can get them over something else. They don't have to have a reason. You'll notice, Mr. President, and I ask the members to look at it. I'd like to know what the reasoning is involved here. What is the compelling reason? I can't find anything in the committee report.

I would be delighted to be made aware by some member of the Ways and Means Committee as to what the compelling reason is for increasing this from three years to six years. I would like to be able to tell the taxpayers in my community or in any community throughout the state, no matter what party they belong to, what the reason for doubling it from three years to six years is. What reason has the tax

department given us that compels us to double the number of years. Failing a compelling reason or reasons to do this, we have no business passing this legislation. I think that's a fair question. I think it deserves an answer."

By unanimous consent, action on S.B. No. 119, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Tuesday, March 5, 1985.

RE-REFERRAL OF SENATE BILL

The President made the following re-referral of a Senate bill:

Senate Bill Referred to:

No. 761 Committee on Labor and
Employment

Senator Yamasaki, Chairman of the Committee on Ways and Means, then requested a waiver of the 48-hour Notice of a Public Hearing for the subjects listed on the agenda of the Senate Ways and Means Committee's hearing notice for Tuesday, March 5, 1985, and the President granted the waiver.

ADJOURNMENT

At 2:24 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, March 5, 1985.