

FORTIETH DAY

Wednesday, March 20, 1985

The Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, convened at 11:40 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Major Mervyn Morelock, Divisional Commander, The Salvation Army, Hawaiian Islands Division, after which the Roll was called showing all Senators present.

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

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

Senator Kuroda introduced Mr. and Mrs. Koichiro Aihara and their daughters, Chie and Mie, and Mr. Hiroyuki Kamoshida, guests visiting from Tokyo, Japan.

Senator Chang made the following introductions:

"Mr. President, we are fortunate to have with us today some guests from Puerto Rico. They are here working on a television documentary on the Puerto Ricans in Hawaii. Before I introduce our guests, I would like to introduce the Hawaii host and hostess. With us today is the president of the Puerto Rican Heritage Society, Miss Marion Ortiz Kittelson. Accompanying her is a member of the society, Mr. Raymond Pagan. The Hawaii consultant for the project is Miss Blase Camacho Souza, and with her Mr. Edward Mariani, the photographer of the project. Our guests from Puerto Rico are: Miss Milagros Hernandez, director of the project, and Mrs. Carlos De Noboa."

The guests rose to be recognized and were presented with leis by Senators Hagino, Fernandes Salling, Young, Holt, Cayetano and George.

Senator Abercrombie then made the following introductions:

"Mr. President, I'd like to first introduce Ruth Ellen Lindenberg. She has exemplified the role of the social worker through her achievements and contributions to her profession. With a career spanning almost fifty years, she has demonstrated her skills in the area of teaching, writing, direct practice, administration, volunteer work, and making social policy in such capacities as caseworker supervisor, director, professor, and field instructor. Since coming to Hawaii, she has held positions as project director for the Community Friends of the Mental Health Association, and now

is Field Coordinator Instructor for the University of Hawaii School of Social Work. She has achieved all this with vitality and a sense of perseverance and intelligence which has enabled her to meet these challenges head-on. She is recognized as the Social Worker of the Year by her peers and the Human Services chairman, Mr. President."

"In addition, Mr. President, I have had the opportunity in recent weeks to have a much closer connection, take a much closer look at the work being done by her social workers and in particular we have spent a good portion of time and effort dealing with the work of the Child Protective Services, and I'm very pleased to have two people representing the Child Protective Services today, and I wish to enlighten those members who may not be familiar with it, and members of our audience a little bit more. The Child Protective Services protect children from child abuse and neglect as it may occur within the family.

"It is the social workers on the line who carry the heavy responsibility of child protection, dealing with unhappy and hostile parents on the child's behalf, and must also manage the process of diagnosis and treatment of the family with a multiple of government and private agencies in allied professions. Even though social workers in the Child Protective Services, many times, must contend with the feelings of frustration, helplessness, anger and depression—not a little of which is felt by themselves—believe me, Mr. President, they return day after day to their jobs with a sense of commitment and a demonstration of perseverance surpassed by few. Without the work performed by these social workers, the state would not have a child protective service.

"This certificate indicates that the Legislature, on behalf of the present and future social workers who have given of themselves both physically and emotionally in attempt to protect the lives and future of the children of our state, recognizes them with this certificate. Here to accept it on behalf of the Child Protective Services is Dan Watanabe. And I'm happy to say a friend of mine for many, many years, someone I haven't had the chance to see in recent years and very pleased that she is with DSSH right now. I know they have a superior talent in this young lady, Priscilla Minn."

Senator Abercrombie presented the Senate Certificates to Ruth Ellen Lindenberg, and on behalf of the Child Protective Services, to Dan Watanabe and

Priscilla Minn, who were presented with leis by Senators Kawasaki, A. Kobayashi, Toguchi and Abercrombie.

At 11:49 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:10 o'clock p.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 238 to 246) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 238, transmitting the "C.L.P. Status Report-Construction Summary," prepared by the Department of Planning and Economic Development, was referred to the Committee on Ways and Means.

Gov. Msg. No. 239, submitting for consideration and confirmation to the Board of Electricians and Plumbers, the nominations of the following:

K. David Malama, term to expire December 31, 1985 and
Francis I. Hirakawa, term to expire December 31, 1988,

was referred to the Committee on Consumer Protection and Commerce.

Gov. Msg. No. 240, submitting for consideration and confirmation to the Board of Pilot Commissioners, the nominations of Lou Geronimo and Delmond J. H. Won, terms to expire December 31, 1988, was referred to the Committee on Consumer Protection and Commerce.

Gov. Msg. No. 241, submitting for consideration and confirmation to the Board of Veterinary Examiners, the nominations of Patrick Y. Nakagawa and Patrick A. Y. H. Ahana, D.V.M., terms to expire December 31, 1988, was referred to the Committee on Consumer Protection and Commerce.

Gov. Msg. No. 242, submitting for consideration and confirmation to the Animal Species Advisory Commission, the nominations of the following:

Clifford Winston Smith, term to expire December 31, 1988;
John R. Henderson, term to expire December 31, 1988; and
Timothy A. Burr, term to expire December 31, 1987,

was referred to the Committee on Economic Development.

Gov. Msg. No. 243, submitting for consideration and confirmation to the Library Advisory Commission, County of

Maui, the nominations of the following:

John H. Fitzgibbon, Jr., term to expire December 31, 1986;
Verna Ann Alo, term to expire December 31, 1987; and
Shigeko Ogawa, term to expire December 31, 1988,

was referred to the Committee on Education.

Gov. Msg. No. 244, submitting for consideration and confirmation to the Civil Defense Advisory Council, the nomination of Richard K. Yonezaki, term to expire December 31, 1988, was referred to the Committee on Government Operations.

Gov. Msg. No. 245, submitting for consideration and confirmation to the Advisory Committee on Pesticides, the nominations of Harry M. Okumura and William H. Sager, terms to expire December 31, 1988, was referred to the Committee on Health.

Gov. Msg. No. 246, submitting for consideration and confirmation to the Board of Radiologic Technologists, the nomination of Paul A. DeMare, M.D., term to expire December 31, 1988, was referred to the Committee on Health.

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 40 from the Department of the Attorney General, transmitting the "Supplement to 1985 Report on Claims for Legislative Relief," pursuant to Sec. 37-77, HRS, was read by the Clerk and was referred to the Committee on Ways and Means.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 37 to 39) were read by the Clerk and were disposed of as follows:

S.C.R. No. 37, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF DEREGULATION OF THE INTERISLAND BARGE SYSTEM," was offered by Senators Solomon, Fernandes Salling, Cobb, Mizuguchi, Kuroda, Young, Aki, Hagino, Henderson, Soares, Matsuura, Cayetano, Holt, Chang, Machida, A. Kobayashi, George and Hee.

By unanimous consent, S.C.R. No. 37 was referred jointly to the Committee on Agriculture and the Committee on Transportation.

S.C.R. No. 38, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT

OF LAND AND NATURAL RESOURCES TO RECOMMEND ALTERNATIVE CONCEPTS FOR THE MANAGEMENT OF THE AGRICULTURAL PARKS PROGRAM," was offered by Senators Solomon, Aki, Hagino, Henderson, Soares, B. Kobayashi, Matsuura, Cayetano, Fernandes Salling, Chang, Machida, A. Kobayashi, George, Cobb, Hee, Kuroda and Toguchi.

By unanimous consent, S.C.R. No. 38 was referred to the Committee on Agriculture.

S.C.R. No. 39, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO STUDY THE NEED FOR POST-HARVEST TREATMENT FACILITIES FOR THE PAPAYA INDUSTRY AND OTHER HAWAIIAN GROWN AGRICULTURAL CROPS," was offered by Senators Solomon, Aki, Hagino, Henderson, Soares, Matsuura, Cayetano, Fernandes Salling, Chang, Machida, A. Kobayashi, George, Hee, Cobb, Kuroda and Toguchi.

By unanimous consent, S.C.R. No. 39 was referred to the Committee on Agriculture.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 43 to 47) were read by the Clerk and were disposed of as follows:

S.R. No. 43, entitled: "SENATE RESOLUTION REQUESTING A REVIEW OF THE FEASIBILITY STUDY FOR THE ESTABLISHMENT AND CONSTRUCTION OF A CONVENTION CENTER IN HAWAII," was offered by Senators Kuroda, McMurdo, Fernandes Salling, Mizuguchi, B. Kobayashi, George, Aki, Soares and Chang.

By unanimous consent, S.R. No. 43 was referred to the Committee on Tourism and Recreation.

S.R. No. 44, entitled: "SENATE RESOLUTION SUPPORTING A TRI-FLY CONTROL PROGRAM WITHOUT THE USE OF AERIAL SPRAYS," was offered by Senators Solomon, Fernandes Salling, Mizuguchi, Yamasaki, Kuroda, Young, Aki, Hagino, Henderson, Soares, Matsuura, Cayetano, Holt, Chang, Hee, Machida, A. Kobayashi, George and Toguchi.

By unanimous consent, S.R. No. 44 was referred jointly to the Committee on Agriculture and the Committee on Health.

S.R. No. 45, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO RECOMMEND ALTERNATIVE CONCEPTS FOR THE MANAGEMENT OF THE AGRICULTURAL PARKS PROGRAM," was offered by Senators Solomon, Fernandes Salling,

Mizuguchi, Yamasaki, Kuroda, Young, Aki, Hagino, Henderson, Soares, Matsuura, Toguchi, Cayetano, Holt, Chang, Machida, A. Kobayashi, George and Hee.

By unanimous consent, S.R. No. 45 was referred to the Committee on Agriculture.

S.R. No. 46, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO STUDY THE NEED FOR POST-HARVEST TREATMENT FACILITIES FOR THE PAPAYA INDUSTRY AND OTHER HAWAIIAN GROWN AGRICULTURAL CROPS," was offered by Senators Solomon, Fernandes Salling, Cobb, Mizuguchi, Yamasaki, Kuroda, Young, Aki, Hagino, Henderson, Soares, Matsuura, Cayetano and Toguchi.

By unanimous consent, S.R. No. 46 was referred to the Committee on Agriculture.

S.R. No. 47, entitled: "SENATE RESOLUTION URGING THE BOARD OF MASSAGE TO CREATE A SPECIALIZATION DESIGNATION FOR NERVE THERAPY TECHNICIANS," was offered by Senators Machida, McMurdo, Soares, Fernandes Salling, Chang, Matsuura, Aki, George, A. Kobayashi, Hagino, Young, Kawasaki, Yamasaki, Hee, Mizuguchi, Cayetano, Henderson, Toguchi, Abercrombie, Solomon, Kuroda, Cobb and Holt.

By unanimous consent, S.R. No. 47 was referred to the Committee on Consumer Protection and Commerce.

STANDING COMMITTEE REPORTS

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 722) recommending that the Senate advise and consent to the nominations of the following:

Calvin T. Masaki to the State Planning Council on Developmental Disabilities, in accordance with Gov. Msg. No. 87;

Robert E. L. Berry, M.D. to the Board of Health, in accordance with Gov. Msg. No. 121;

Elena Gaborno to the Honolulu Subarea Health Planning Council, in accordance with Gov. Msg. No. 122;

Noberto Baysa, M.D. and Patrick R. Cullen to the Central Oahu Subarea Health Planning Council, in accordance with Gov. Msg. No. 123;

Yvonne M. Angut, Maryknoll K. Spotkaeff and Richard P. Bettini to the Waianae Coast Subarea Health Planning Council, in accordance with Gov. Msg. No. 124;

Reverend Kenneth W. Smith to the Kauai County Subarea Health Planning Council, in accordance with Gov. Msg. No. 125; Warren Y. Toriano to the County Hospital Management Advisory Committee, Hawaii County Hospital System, in accordance with Gov. Msg. No. 126;

Bertram A. Weeks, M.D. to the County Hospital Management Advisory Committee, Maui County Hospital System, in accordance with Gov. Msg. No. 127;

Howard G. Medeiros and Hisao Nakamura to the Advisory Commission on Drug Abuse and Controlled Substances, in accordance with Gov. Msg. No. 128;

Nellie S. Chang to the Drug Product Selection Board, in accordance with Gov. Msg. No. 129;

Vincent H. S. Lee and Coletta M. Whitcomb to the Commission on the Handicapped, in accordance with Gov. Msg. No. 130;

Darryl K. H. Choy, Eugene M. Yamane, Wayne K. Ogasawara, Frederick C. Greenwood, Ph.D. and Tom Poy to the Advisory Committee on Pesticides, in accordance with Gov. Msg. No. 131;

Violet S. Tsukayama, Ronald Brian Fitzgerald and Louisa Leones Sumaoang to the Board of Radiologic Technologists, in accordance with Gov. Msg. No. 133; and

Herbert A. Segawa and Lawrence A. Peebles, M.D. to the County Hospital Management Advisory Committee, Hawaii County Hospital System, in accordance with Gov. Msg. No. 188.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 722 and Gov. Msg. Nos. 87, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 133 and 188 was deferred until Thursday, March 21, 1985.

Senator Young, for the Committee on Housing and Community Development, presented a report (Stand. Com. Rep. No. 723) recommending that House Bill No. 209, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Young, seconded by Senator Hee and carried, the report of the Committee was adopted and H.B. No. 209, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX INCREMENT FINANCING," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Young, for the Committee on Housing and Community Development,

presented a report (Stand. Com. Rep. No. 724) recommending that House Bill No. 861, H.D. 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Young, seconded by Senator Hee and carried, the report of the Committee was adopted and H.B. No. 861, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Second Reading and was placed on the calendar for Third Reading on Friday, March 22, 1985.

Senator Solomon, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 725) recommending that the Senate advise and consent to the nomination of Tracey Elmore Lauder to the Advisory Committee on Flowers and Foliage, in accordance with Gov. Msg. No. 180.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 725 and Gov. Msg. No. 180 was deferred until Thursday, March 21, 1985.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 718 (Gov. Msg. Nos. 153, 154, 190, 191 and 232):

By unanimous consent, action on Stand. Com. Rep. No. 718 and Gov. Msg. Nos. 153, 154, 190, 191 and 232 was deferred until Thursday, March 21, 1985.

Stand. Com. Rep. No. 719 (Gov. Msg. No. 86):

By unanimous consent, action on Stand. Com. Rep. No. 719 and Gov. Msg. No. 86 was deferred until Thursday, March 21, 1985.

Stand. Com. Rep. No. 720 (Gov. Msg. No. 132):

By unanimous consent, action on Stand. Com. Rep. No. 720 and Gov. Msg. No. 132 was deferred until Thursday, March 21, 1985.

Stand. Com. Rep. No. 721 (Gov. Msg. No. 204):

By unanimous consent, action on Stand. Com. Rep. No. 721 and Gov. Msg. No. 204 was deferred until Thursday, March 21, 1985.

RE-REFERRAL OF HOUSE BILLS

The President made the following re-referral of bills that were received:

House Bill	Referred to:
No. 26, H.D. 1	Committee on Judiciary, then to the Committee on Transportation

No. 570, H.D. 1 Committee on
Judiciary

Senator George rose and spoke on a point of parliamentary inquiry as follows:

"Mr. President, is this an appropriate time for me to speak against the re-referral of House Bill No. 26, H.D. 1?"

The Chair answered: "You may."

Senator George spoke against the re-referral as follows:

"Thank you, Mr. President. I was disturbed to hear yesterday afternoon that it was contemplated that this measure be re-referred. The re-referral, as I understand it from looking at the referral sheet, is that it will find its way out of Judiciary in time to make the internal deadline and then be referred to Transportation.

"Mr. President, I do not feel that this is an appropriate re-referral. I think we have all been inclined to think of this as a drinking and driving measure. The tendency to do this, I think, has been exacerbated by the Congress' intent and the Administration's intent to withhold funds from our highway safety program in the event that we do not pass the bill to raise the drinking age from 18, which it is at present, to 21. However, there are many other good and sufficient reasons for raising the drinking age, and I would hate to think that money would be the important reason for either voting for the bill or voting against the bill, and most certainly money shouldn't be the reason we should put the bill in the closet for a year, which appears from press reports to be the intention of the chairman of the Transportation Committee. I think the bill should properly be heard, voted upon, reported out by the Judiciary Committee, and sent to the floor for the courageous disposition of the measure that our constituents, the people we serve, expect of us.

"I can understand the interest of the chairman of the Transportation Committee in this measure. He's been outspoken about it in previous sessions and I do appreciate that he has strongly held opinions. However, the chairman of the Transportation Committee is also the vice chairman of the Committee on Judiciary and certainly could have his input and his say in that committee.

"What I don't know now is what's going to happen to the promise that was made to the members of Mothers Against Drunk Driving that the measure would be heard and given a fair shake in the Judiciary Committee. It seems to me to be a meaningless commitment if the bill is to be re-referred

into a committee where the chairman has expressed the intention of hanging on to it.

"I regret that I have to publicly deplore what I perceive to be misuse of the parliamentary process. Mr. President, I don't dispute that you have the power to make this re-referral. I think that you do have the capability of playing a game of keep-away with this bill, but I implore that you reconsider your action and give us all the opportunity to display the courage, if that's what it takes, to stand up and be counted on this bill. Thank you, Mr. President."

Senator Cayetano rose to speak in response and in favor of the re-referral as follows:

"Mr. President, let me give a bit of history about how this re-referral came to be. When the bill in question was first introduced and referred to the Judiciary Committee, I expressed my concern to you, Mr. President, that there was a transportation issue involved and I requested that the bill be referred to Transportation, as well. I did this with this House bill and also with the Senate companion bill, and in fact, there is a memorandum that was sent to your office which will attest to that fact. And during all of this time we had discussions between you, the Judiciary chairman and myself about how we would proceed on this matter.

"Let me state that I believe, first of all, that this bill should be heard, and if it comes to the Transportation Committee, I intend to exercise prerogative as chairman and have this bill heard. I also intend to exercise my prerogative as chairman and determine when and where this bill will be heard. That is the responsibility and a right that we all have as chairmen, as you all well know.

"Statements attributed to me in the press are accurate. What are my intentions if this bill is referred to me? It seems to me it is critical that we remove any cloud of duress or any appearance of coercion on the part of the Federal Government which may influence our votes regarding this very important measure.

"Let me trace some history on the part of this Legislature as to the question of the legal right of the 18 year olds to consume liquor. Mr. President, in 1972, this Legislature passed a bill which lowered the age of majority from 20 to 18. I have here a copy of the House committee report and I want to recite the reasons stated in those reports for the passage of the bill. This bill was supported by the 'AFL-CIO, the Hawaii Medical Association, the National Association of Social Workers, the Hawaii Federation of College Teachers, the

Department of Education, the University of Hawaii, the Family Court of the State, the Law Enforcement and Juvenile Delinquency Planning Agency, the Public Defender's Office, the Office of Information and Youth Affairs, and many other groups. And the committee found this:

'(1) Youth are better educated today than were their parents or forebearers at the age of eighteen and consequently are better able to discern and judge factors which affect their lives;

'(2) Medical studies evidence that people today are maturing physically at a younger age than the generations preceding them;

'(3) The Twenty-Sixth Amendment to the Constitution of the United States, ratified by this State and certified as a valid amendment to the United States Constitution on July 5, 1971, prohibits the denial or abridgement of the right of any citizen eighteen years of age or older to vote on account of age.'

"And it goes on, and let me bring one other reason to your attention.

'(6) No person should be discriminated against in livelihood, responsibility, and obligation when in the precept of our government, the equality of all people outweighs the purpose of distinguishing that person by class.'

"Then it goes on to say, 'This bill will lower to eighteen the minimum qualifying age of persons to: serve legal process; acquire certain firearms; purchase or lease residence lots...and consume intoxicating liquor.'

"Mr. President, the State of South Dakota, when the federal law was passed, filed a lawsuit. I want to quote here for this body a few passages from the press release that was issued from the Office of the Attorney General of the State of South Dakota. This press release speaks to an amendment made to the federal law, the Lautenberg Amendment, which would require the Federal Government to withhold federal highway money if the states did not comply and raise the drinking age to 21. This is what the Attorney General of the State of South Dakota says in part. I quote: 'The Lautenberg amendment is a flagrant violation of the Twenty-first Amendment to the United States Constitution, which reserves unto the states the exclusive right to control transportation and use of intoxicating liquors within their respective jurisdictions.' He goes on to say, 'The lawsuit that I have filed in Federal District Court this morning alleges that the United States Congress is without constitutional authority to force the State of South Dakota to enact any statute dealing with the sale or

possession of intoxicating beverages within its borders.' Mr President, that issue is before the Federal Court and I intend, as chairman, to exercise my prerogative because it is my firm belief that before we change what we said in 1972, before we tell the young people of this state who are between 18 and 21 that we think you are mature; we think you can do all of these things; we think you can sell property; we think you can enter into contracts; we think you can vote; but we don't think you can consume liquor. Before we do that, Mr. President, I want to make sure that there's no cloud, that the federal blackjack is hanging over our head right now, is not there.

"I think that's reasonable, quite frankly, because this bill never passed this Senate and when we are free of any kind of coercion on the part of the Federal Government, then it seems to me that we can consider the principles, the fundamental issues stated in the House committee report and published in the House Journal, 1972. My feeling is that the House of Representatives which passed this bill over to us was not accorded that privilege and I would like to make certain that we exhaust every avenue to see that this issue is resolved in Federal Court before we indeed make a decision as to whether we want to deprive a certain class of citizens in this state of their privilege which is given to every other adult not in that class. Thank you very much."

Senator George in response stated as follows:

"I don't want to get into a lengthy debate with my friend, the Senator from the Sixth District, but as long as he has brought up the State of South Dakota's suit in Federal Court in this matter I too have some objection to a federal blackjack. I certainly have no objection to our state's joining the State of South Dakota to determine whether or not this is legal on the part of the Congress and the Federal Government. I just don't happen to feel that it is germane to the passage of this legislation. Deferring this legislation would make us responsible for I do not know how many lives, I do not know how many violent accidents, I do not know how many felonies which might well be committed in the next year when we do finally get around to it. I suggest that we instruct the Attorney General to get on the stick and join in, filing an amicus brief, if that is the appropriate attorneys' way of putting it, but in the meantime, get on with this one.

"The previous speaker made reference to the 1972 Legislature's reasoning. I too have some rather interesting remarks to make about that reasoning. In the Senate's committee report, when the drinking age

was lowered to eighteen, it made reference to the trend as nationwide. During the past two years, eight states have taken the significant step—California, Illinois, Michigan, New Mexico, North Carolina, Tennessee, Vermont, and Washington. The House's position in its StandCom said the trend is nationwide. Within the past two years, eight states have lowered the age of majority. Those states are: Vermont, Tennessee, Michigan, North Carolina, Illinois, Washington, New Mexico and California.

"I quote Leland Spencer who has a deep interest in the passage of this bill because of the particular cases he handles on the bench. He says, 'In contrast to 1972, the current and overwhelming nationwide trend now is to raise the minimum age to 21. In fact, seven of the eight states mentioned in the 1972 StandCom reports as examples for Hawaii to follow in lowering the minimum age currently set the minimum age at 21. The nationwide trend and examples set by the cited states should be as influential with the 1985 Legislature to raise the minimum age as these factors were with the 1972 Legislature to lower the minimum age.' I will not read Judge Spencer's, to me, very persuasive testimony about the overrepresentation of young people between 18 and 21 in the area of violent crime. They are many times more apt to have consumed alcohol immediately before committing these crimes than older people are, people 21 and over. I think the evidence nationally and locally is overwhelming that alcohol does indeed play a large part in leading young people to do things they shouldn't do. Thank you."

Senator Cayetano in response stated as follows:

"Mr. President, I'm not sure that I made myself clear. I disagree with the good Senator. I think that the fact that we have this federal law hanging over our head may cloud the decisions of members here. I accept that as a practical fact of political life. Certainly, there are other things, other influences here which are of a much lesser magnitude which affect the way we vote. We all know that the highway fund is in deep trouble. Before the committee is a bill which would require us to raise taxes, as well as a vehicle weight tax, fuel tax, registration fee, to make up the deficit that we anticipate the highway fund will face when the 4 percent general excise tax set aside is terminated.

"So, this federal law which proposes to withhold federal money from that particular source hits us in a very, very sore spot. I wonder, truly, how many people here would be able to make decisions with this hanging over our heads, that we would be willing to face up to our constituents and say, 'I

believe in principle that we should not raise the drinking age, but also my principles led me to make a decision which led to the loss of \$17 million in federal highway money.'

"I would submit to you that we should do everything we can to remove that kind of influence, and that's my purpose. I assure you that if this bill should be re-referred to my committee, that if proponents of this bill want a hearing, fine, we will have a hearing. I will accede to that request. However, I will also exercise my prerogative as chairman to postpone decision making until the next legislative session."

Senator Abercrombie rose and commented as follows:

"Mr. President, I don't propose to comment on the previous remarks, but on those made even before that because there were citations from Judge Spencer and so on, I think it needs to go on the record right now because there's an implication that somehow that this bill, if it doesn't pass, is going to cause more deaths on the highway. That is simple assertion. That has nothing to do with the facts as I've been able to discern them, and I don't want the public taking the attitude that that is going to be the case. And I most certainly don't want Judge Spencer's warped logic to be the touchstone upon which we make a decision. I'm beginning to wonder about whether he went to Marquette with Ron Rewald in terms of being a lawyer.

"The trend that was mentioned with respect to Judge Spencer was the states making their decision, state by state, based on the decisions within those legislatures. That's the principle. Whether the trend was to go down in age or up in age, that was the state by state decision. So it is not only illogical, but it is an exercise in legal nonsequiturs to indicate that the trend now should be any different. The object is for the state to make a decision. If the State of Hawaii decides it does not want to raise the age, that's entirely within, not only within its purview but it fits exactly into the situation that took place in the 1970's. So, far from saying that we should now raise the drinking age because the age was lowered at another time, the object lesson to be learned, if Judge Spencer could open his eyes and see straight, that it's up to the states to make those decisions. The difference here is that the Federal Government has decided you have to do this or else. Nobody was telling those states in 1972, or 3, or 4, whenever it was, that you must do this or else. That was a decision made free of coercion of the legislature. So, there's no analogy whatever.

"If this is the kind of mind on the bench, we're in serious trouble. Speaking again, as a probation officer who was an officer of

the court and had to deal with judges, I'd have great difficulty in dealing with someone who doesn't understand the difference between symptoms of society's problems and equating the symptoms with the problem itself. It seems to me that we need some judges that can do more than deal with analogy for fact and substitute opinion for judgment.

"I just want to say in conclusion with respect to how this bill is being dealt with because I see once again the editorial line of the Advertiser right here. And, Mr. President, as you know I challenged the anonymous editorial writer or writers at the Advertiser, as well as their reporters, to come into my office to see the evidence that I have that it is the exact opposite of what is stated here. 'We feel,' I'm quoting, 'We feel that the case for raising the drinking age is made by the overwhelming bulk of evidence that it has saved lives elsewhere.' That is not true. I have said that publicly here; I've said it privately; I've said it to the reporters here; the message was delivered to the Advertiser. This is the kind of propaganda that comes out. '...and that Hawaii is not somehow an exception to the point that teenage drinking and driving causes special problems which reach below age 18.' That is not true. Why, it's an entirely different statistical orientation which I offer again to show, so when they talk about the Senate sidetracking, this is not true. The elements that are involved in this about having an honest hearing and all the rest of it is simple propaganda.

"What bothers me the most out of all this is that the very people who are calling for this hearing and for this passage are not members on this floor whose motivations I do not argue with because I know all the individuals involved when we talked, but these outside forces...these so-called pressures that have been mentioned—Mothers Against Drunk Driving, the Honolulu Advertiser and others. Deceptive, dishonest presentations...people who tell me to my face that the reason that they raise the drinking age is they can get away with it, and they couldn't get away with it for the ages that they really think should be involved...these kinds of things. I don't want to hear any self-righteous baloney from people who say they are in favor of this when their own motivations are surely suspect."

Senator Soares rose and commented as follows:

"Mr. President, I was in the House at the time of this bill, referred to by Senator Cayetano, in 1972. I voted for it.

"I think the purpose that we have raised this morning has been served. I appreciate that Senator Cayetano will have a hearing

and I appreciate the comments that he has raised with regard to his prerogative as chairman. I also would like to say that we have taken the Senate to be an independent body, big enough and strong enough to take the floor, as we are this morning, and debate issues such as this.

"Our whole idea is that if we have an issue with such widespread concerns to all parts of the community, let's bring it to the floor, debate it, argue it, fight it, be big enough to take the lumps, whether we win or lose. I think the whole idea this morning has been brought to bear. The fact is that if we have a chairman who wants to take on an issue, have a hearing, get the committee together, bring it here. Take the lumps publicly as we have this morning.

"I'm enjoying this debate, as far as it might be. And I appreciate it. This is where it should be done, right here. Bring the bill out, debate it, fight it, and vote up or down on the merits of the bill. Thank you, Mr. President."

Senator Cobb added his remarks as follows:

"Mr. President, in doing so, if anything, today's discussion has illustrated that the technique of federal blackmail has in fact backfired. If it were not for the cloud of the threat of withholding federal funds, this bill could in fact be debated solely on its merits without the threat of a loss of revenue.

"I think the State of South Dakota is entirely within its rights to pursue that suit. I think we should join them in that suit, and I think it should be resolved before the Supreme Court of the United States as quickly as possible. I have said it before in caucus, and I will say it again on the floor of this Senate.

"In 1983 we passed a primary source liquor law. All of the testimony on that particular law said that the bill before us at that time was anti-consumer, anti-competition, would drive up prices, and was monopolistic even though it was passed to avoid disruption in the liquor industry. We had waited two years to pass that bill pending a decision by the United States Supreme Court, and in 1983 the United States Supreme Court said that the states have the sole prerogative of legislating on liquor, even if the law is anti-competitive, monopolistic, would hurt the consumer, or transgress the federal interest. And they said that under the terms of the Twenty-first Amendment of the United States Constitution. Within one year, the United States Congress chose to ignore that opinion and attempted to blackmail every state by threatening to withhold funds. That's why I think the State of South Dakota

is absolutely and entirely within its rights to pursue this matter to the United States Supreme Court and get the issue resolved because I too would like to vote on the merits, and not with the threat of any kind of blackmail which I question its constitutionality.

"So, the proponents of this who think they pulled a fast one by getting Congress to bludgeon the states are now seeing that their tactic has backfired. We don't like federal blackmail. We've said no to federal money in the past and I'm sure we'll say no to it in the future. And so, the sooner we can get this question resolved, because I doubt the action of the United States Congress was constitutional myself. I'm waiting for the State of South Dakota in this case, so that they can have a United States Supreme Court decision to give us a definitive ruling on this, so that when we do vote, we'll vote it up or down on the merits and not on the question of whether it involves \$17 million of federal funding. Thank you."

The Chair then stated as follows:

"I want to make it perfectly clear that the responsibility lies with the Chair to re-refer this bill, and that was based on a discussion with the chairman of Judiciary asking him to move the bill on to Transportation because there are some implications which involve the highway fund. I want to make it perfectly clear that it is the Chair's position to have the bill re-referred to the Committee on Transportation.

"I'm just hopeful that, despite all the media attention which has been brought to bear on this issue, the fact remains that the bill is not dead. It is in its final committee and there is that possibility that it may be coming out, in spite of what has been said otherwise publicly.

"And I think that the chairman of that committee has expressed his opinion on the matter. I think it is the Chair's responsibility to make the re-referral based on what I consider to be the appropriate subject matter and I believe it is within the purview of the Committee on Transportation. The Chair has made its decision, and I ask the members of the Senate to support that decision. It is now up to the committee chairman to do as he wishes with that particular measure. I hope in his wisdom that he will allow that public an opportunity to testify on the measure."

Senator Solomon rose and spoke on a point of personal privilege as follows:

"Mr. President, on behalf of your Agriculture Committee, we would like to

remind our fellow Senators that today is 'Agriculture Day,' the first day of spring, in Hawaii. The designation of this one day in the year is supported by the Agriculture Council of America, a private, nonprofit educational corporation located in Washington, D.C., and is endorsed by the national association of state departments of agriculture.

"This special day was first observed in 1973 as a time to explain and salute the achievements of the working men and women of agriculture in America who are responsible for twenty percent of our gross national product. It is now an annual celebration officially recognized by the Congress of the United States.

"This year's slogan 'Agriculture: America's Heartbeat' is graphically illustrated by the logo of a barn and silo superimposed on an electrocardiogram.

"In commemoration of 'Hawaii Agriculture Day,' a display of agricultural commodities produced in Hawaii and promotional material developed by the Hawaii Department of Agriculture will be available for viewing near the chamber level entrance of the State Capitol."

Senator Kawasaki then asked if the chairman of the Ways and Means committee would yield to a question. The Chair posed the question and Senator Yamasaki having answered in the affirmative, Senator Kawasaki inquired as follows:

"Mr. President, I'd like the chairman of the Ways and Means Committee to inform us where the money that the Governor gets to pay this Washington representative of his, \$82,500, comes from. From the newspaper article I read, apparently, she's not a very effective representative, not getting too much results. It just seems to me in my decision to vote for or against the budget, which includes the Governor's office budget, I need to know where this money is coming from that the Governor finds so easily."

Senator Yamasaki answered: "I believe it's in the Governor's budget."

Senator Kawasaki further inquired as follows:

"I see. Perhaps that's some food for thought because from what I can read out of the media coverage of the item, she's not very effective. Why are we wasting \$82,500 for a person in Washington, who incidentally, represents a whole spectrum of other clients? We, perhaps, should ask the Governor's office in their presentation next time how they justify that."

At 12:44 o'clock p.m., the Senate stood in

recess subject to the call of the Chair.

The Senate reconvened at 12:46 o'clock p.m.

At 12:47 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., Thursday, March 21, 1985.

ADJOURNMENT