

## FIFTY-SEVENTH DAY

Tuesday, April 16, 1985

The Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, convened at 3:15 o'clock p.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Alan Fisher of United Church of Christ, after which the Roll was called showing all Senators present.

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

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

Senator Matsuura, on behalf of Senator Aki, introduced members of the Advisory Study Commission on Water Resources as follows:

"Mr. President, it is truly a privilege for me to introduce to this body officers of the Advisory Study Commission on Water Resources of the State of Hawaii.

"First, Mr. Gregory R. Gomes, the chairman. In private life Mr. Gomes is the president of WEBCO Hawaii, a distributor of diversified products; next is Mr. Reuben S.F. Wong, attorney in private practice; thirdly, Mr. Kazu Hayashida, general manager and chief engineer of the Board of Water Supply of the City and County of Honolulu; and lastly, Mr. Samuel Chang, director of the Legislative Reference Bureau.

"As we are all aware, the Legislature in 1982 passed Act 170 which created the Advisory Study Commission on Water Resources. In passing Act 170, the Legislature found that the State of Hawaii, pursuant to Article 11, Section 7 of the Constitution of Hawaii, that the State of Hawaii had an obligation to protect, control and regulate Hawaii's water resources for the benefit of the people.

"The Legislature further found that a comprehensive review of the numerous issues relating to Hawaii's water resources was necessary and that the review should be conducted by a specially designated study group.

"The purpose of Act 170 of 1982 was to establish an advisory study commission on water resources to perform a comprehensive review of the various issues relating to Hawaii's water resources and to formulate a proposed water code.

"The Senate is pleased with the high quality work product of the advisory commission on water resources. The commission is to be commended for a truly

outstanding job on one of the most important subjects, our water resources. The appreciation of the entire State Senate is also extended to each member of the commission and to the director and staff of the Legislative Reference Bureau for time and talent given so fully and freely during the past two and a half years.

"May I introduce the officers of the Advisory Study Commission on Water Resources: Mr. Gregory Gomes, chairman; Mr. Reuben Wong, vice chairman; and Mr. Kazu Hayashida, secretary; and Mr. Samuel B.K. Chang, director of the Legislative Reference Bureau."

The honorees rose to recognized and were presented with the congratulatory certificate by Senator Aki and Senators A. Kobayashi, Young, Solomon and Fernandes Salling presented them with leis.

Senator Matsuura also recognized other members of the commission as follows: Susumu Ono, Hideto Kono, Kent Keith, James Nakatani, Georgiana Padeken, Charles Clark, Leslie Matsubara, William Sewake, Bill Haines, Vince Bagoyo, Raymond Sato, Charles Reppun, Dickey Nitta and Fred Trotter.

Senator Toguchi then introduced Mr. Kengo Takata, Mrs. Esther Kau and Mr. Art Kaneshiro as follows:

"Mr. President and honorable members of the Senate, it is my pleasure this afternoon to introduce two outstanding individuals in the State of Hawaii who recently received prestigious honors in the area of education from the Freedom Foundation of Valley Forge, Pennsylvania.

"Mr. President, first, I would like to introduce Mr. Kengo Takata who was recently awarded the George Washington Medal of Excellence in the category of Educators for 1984, an award given on a national level by the Freedom Foundation at Valley Forge.

"The honor, Mr. President, was based on the leadership that Mr. Takata has provided the Windward District of the DOE, as well as the State of Hawaii, in the school climate project and for his continued endeavors to make education better for our youngsters.

"Mr. Takata has been with the Department of Education for 35 years and has held positions as a teacher, principal, deputy superintendent and, now, district superintendent.

"Mr. President, the second honoree

receiving the Freedom Foundation Award is Mrs. Esther Kau, principal of Farrington High School.

"Mrs. Kau has been honored with the 1984 Freedom Foundation Educator Award. She was selected for her contribution as an administrator who leaves no stone unturned in her attempts to raise student achievement.

"As principal of the state's largest high school with an enrollment of 2600 students, where the population is a mixture of various ethnic groups, she has been instrumental in targeting successfully specific areas of basic skills such as reading, writing and speaking, and restoring to a once agitated campus a scene of calmness and motivation.

"Mr. President, Mrs. Kau has been in the Hawaii public school system for 34 years as a music coordinator, classroom teacher, registrar, principal, acting district superintendent, and district superintendent of Leeward Schools.

"Mr. President, this afternoon, it is my honor to introduce to this honorable body Mr. Kengo Takata and Mrs. Esther Kau, two pioneers in the field of education in our State of Hawaii. Congratulations to both of you!"

The honorees rose to be recognized and were each presented with a Senate congratulatory certificate by Senator Toguchi and leis by Senators Young and Hee.

Senator Toguchi then continued:

"Mr. President, also here with us this afternoon is another educator with deserving honors. He is Mr. Art Kaneshiro, principal of Kahaluu Elementary School.

"Mr. Kaneshiro was awarded the National Distinguished Principal's Award for 1983-1984 from the National Association of Elementary School Principals, in cooperation with the U.S. Department of Education.

"Mr. Kaneshiro's selection was based on his administrative leadership at his school and his creation of a positive school climate which has brought parents, teachers, school staff and students together in a way he never thought possible in the history of that school.

"As an extraordinary administrator, he earned not only the respect of his peers and neighborhood community leaders but also received statewide recognition as Hawaii's selectee for the National Distinguished Principal's Award.

"Art Kaneshiro, Mr. President, has been

with the Department of Education for 15 years as a classroom teacher, resource teacher, vice principal and principal.

"Mr. President and members of this body, it gives me great pleasure to introduce a dedicated individual in Hawaii's public school system, Mr. Art Kaneshiro.

"Also with us, in the gallery, we have Mr. Kaneshiro's family — his wife Lorraine, daughter Stacy, son Bryce, and his mother Mrs. Elaine Kaneshiro."

Mr. Art Kaneshiro rose to be recognized and was presented with the Senate congratulatory certificate by Senator Toguchi and lei by Senator Fernandes Salling.

Senator McMurdo then introduced Mr. Don Hansen as follows:

"Mr. President, it's my privilege at this time to introduce a man who has been honored very recently as one of nine recipients of the Jefferson Award. This man has worked for many, many years as a volunteer in housing. At one time, he was an advisor to the United Nations.

"During the past ten years he has been known best to all of you in the Legislature and at City Hall for his continuous lobbying on behalf of projects which he thinks are good for the state and for the people of Hawaii.

"His most recent efforts, and one that's been very successful, is the project which he started at Waianae on housing for the low income.

"At this time, I would like to introduce the man that we are honoring today as Mr. Affordable Housing, Mr. Don Hansen, and his lovely wife, Mrs. Jane Hansen."

The honoree and his wife rose to be recognized and was presented with the Senate congratulatory certificate by Senator McMurdo. Senators George and A. Kobayashi presented them with leis.

Senator Abercrombie then introduced Representative Peter Apo who was sitting in the Senate gallery.

At 3:52 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:56 o'clock p.m.

#### MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 307 and 308) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 307, transmitting copies of

the Hawaii Wildlife Plan, prepared by the Department of Land and Natural Resources in cooperation with the U.S. Forest Service, was referred to the Committee on Economic Development.

Gov. Msg. No. 308, informing the Senate that on April 13, 1985, he signed the following bills into law:

S.B. No. 34 as Act 12, entitled: "RELATING TO PRIVATE ACTIVITY BONDS";

S.B. No. 193 as Act 13, entitled: "RELATING TO THE BOARD OF DENTAL EXAMINERS";

S.B. No. 194 as Act 14, entitled: "RELATING TO DENTAL HYGIENISTS";

S.B. No. 218 as Act 15, entitled: "RELATING TO HEARING AID DEALERS AND FITTERS";

S.B. No. 479 as Act 16, entitled: "RELATING TO ADMINISTRATION OF TAXATION";

S.B. No. 1240 as Act 17, entitled: "RELATING TO CHILD ABUSE";

H.B. No. 112 as Act 18, entitled: "RELATING TO CHICKEN EGGS";

H.B. No. 275 as Act 19, entitled: "RELATING TO TAXATION"; and

H.B. No. 861 as Act 20, entitled: "RELATING TO HOUSING,"

was placed on file.

#### HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 542 and 543) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 542, returning Senate Bill No. 1075, S.D. 2, which passed Third Reading in the House of Representatives on April 15, 1985, was placed on file.

Hse. Com. No. 543, returning Senate Bill No. 1132, which passed Third Reading in the House of Representatives on April 15, 1985, was placed on file.

#### SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 139 and 140) were read by the Clerk and were disposed of as follows:

S.C.R. No. 139, entitled: "SENATE CONCURRENT RESOLUTION HONORING PROFESSIONAL SECRETARIES ON THE OCCASION OF PROFESSIONAL

SECRETARIES' DAY, APRIL 24, 1985, AND THE PROFESSIONAL SECRETARIES' WEEK, APRIL 21-27, 1985," was offered by Senators Henderson, Soares, George, A. Kobayashi, Hee, Matsuura, Aki, Holt, Toguchi, Machida, McMurdo, Yamasaki, Chang, Cobb, Young, Wong, Hagino, Kawasaki, Fernandes Salling, Abercrombie, Kuroda, Mizuguchi, Cayetano and Solomon.

On motion by Senator Kuroda, seconded by Senator Henderson and carried, S.C.R. No. 139 was adopted.

S.C.R. No. 140, entitled: "SENATE CONCURRENT RESOLUTION DESIGNATING THE WEEK OF MAY 19, 1985, AS TOURISM WEEK IN HAWAII," was offered by Senators Kuroda, Young, Aki, McMurdo, B. Kobayashi, Chang, Fernandes Salling, Mizuguchi, Soares, George, Kawasaki, Matsuura, Abercrombie, Yamasaki, Cayetano, Wong, Cobb, Hee, Toguchi, Solomon, Henderson, Machida, Holt, A. Kobayashi and Hagino.

On motion by Senator Kuroda, seconded by Senator Henderson and carried, S.C.R. No. 140 was adopted.

#### SENATE RESOLUTION

S.R. No. 185, entitled: "SENATE RESOLUTION HONORING PROFESSIONAL SECRETARIES ON THE OCCASION OF PROFESSIONAL SECRETARIES' DAY, APRIL 24, 1985, AND THE PROFESSIONAL SECRETARIES' WEEK, APRIL 21-27, 1985," was offered by Senators Henderson, Soares, George, A. Kobayashi, Hee, Matsuura, Aki, Holt, Toguchi, Machida, McMurdo, Yamasaki, Wong, Cobb, Young, Chang, Hagino, Kawasaki, Fernandes Salling, Abercrombie, Kuroda, Mizuguchi, Cayetano and Solomon, and was read by the Clerk.

On motion by Senator Kuroda, seconded by Senator Henderson and carried, S.R. No. 185 was adopted.

#### CONFERENCE COMMITTEE REPORTS

Senator Matsuura, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to Senate Bill No. 153, S.D. 1, presented a report (Conf. Com. Rep. No. 1) recommending that S.B. No. 153, S.D. 1, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 1 and S.B. No. 153, S.D. 1, H.D. 2, C.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GEOTHERMAL ENERGY," was deferred for a period of 48 hours.

Senator B. Kobayashi, for the Committee

on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to House Bill No. 165, presented a report (Conf. Com. Rep. No. 2) recommending that H.B. No. 165, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 2 and H.B. No. 165, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," was deferred for a period of 48 hours.

Senator B. Kobayashi, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to Senate Bill No. 76, S.D. 1, presented a report (Conf. Com. Rep. No. 3) recommending that S.B. No. 76, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 3 and S.B. No. 76, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," was deferred for a period of 48 hours.

#### STANDING COMMITTEE REPORTS

Senator Chang, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1004) recommending that the Senate consent to the nomination of Daniel G. Heely, as Judge, to the First Circuit Court, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Gov. Msg. No. 288.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1004 and Gov. Msg. No. 288 was deferred until Wednesday, April 17, 1985.

Senator Chang, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1005) recommending that the Senate advise and consent to the nominations of Joe S. Tanaka, Herbert K. Apaka, Jr., Cora K. Lum, Frank D. Slocum, George Iranon, Roland D. Sagum, Roy Chang and Harold J. Falk to the Hawaii Criminal Justice Commission, in accordance with Gov. Msg. No. 286.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1005 and Gov. Msg. No. 286 was deferred until Wednesday, April 17, 1985.

Senator Chang, the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1006) recommending that Senate Resolution No. 167 be adopted.

On motion by Senator Cayetano, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.R. No. 167, entitled: "SENATE RESOLUTION RECOGNIZING LAW WEEK, APRIL 28 - MAY 4, 1985, AND ENCOURAGING COMMUNITY PARTICIPATION IN THE EVENT," was adopted.

Senator Chang, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1007) recommending that Senate Concurrent Resolution No. 123 be adopted.

On motion by Senator Cayetano, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 123, entitled: "SENATE CONCURRENT RESOLUTION RECOGNIZING LAW WEEK, APRIL 28- MAY 4, 1985, AND ENCOURAGING COMMUNITY PARTICIPATION IN THE EVENT," was adopted.

Senator Chang, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1008) recommending that Senate Resolution No. 164 be referred to the Committee on Legislative Management.

On motion by Senator Cayetano, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.R. No. 164, entitled: "SENATE RESOLUTION REQUESTING THE SENATE TO CONDUCT AN INTERIM STUDY ON THE PROPOSED REVISIONS TO THE HAWAII PENAL CODE," was referred to the Committee on Legislative Management.

Senator Chang, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1009) recommending that Senate Resolution No. 122 be referred to the Committee on Legislative Management.

On motion by Senator Cayetano, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.R. No. 122, entitled: "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY OF LAWS BASED ON AGE," was referred to the Committee on Legislative Management.

Senator Chang, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1010) recommending that Senate Concurrent Resolution No. 96 be adopted.

On motion by Senator Cayetano, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.C.R. No. 96, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY OF LAWS BASED ON AGE," was adopted.

Senator Chang, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1011) recommending that Senate Resolution No. 123 be referred to the Committee on Legislative Management.

On motion by Senator Chang, seconded by Senator Cobb and carried, the report of the Committee was adopted and S.R. No. 123, entitled: "SENATE RESOLUTION REQUESTING THE SENATE COMMITTEE ON JUDICIARY TO REVIEW AND EVALUATE HAWAII'S JUDICIAL SELECTION AND RETENTION SYSTEM," was referred to the Committee on Legislative Management.

Senator Young, for the Committee on Housing and Community Development, presented a report (Stand. Com. Rep. No. 1012) recommending that House Bill No. 1000, 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. 1000, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 17, 1985.

Senator Young, for the Committee on Housing and Community Development, presented a report (Stand. Com. Rep. No. 1013) recommending that the Senate advise and consent to the nomination of George G. Costa, Jr., to the Hawaii Housing Authority, in accordance with Gov. Msg. No. 135.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1013 and Gov. Msg. No. 135 was deferred until Wednesday, April 17, 1985.

Senator Young, for the Committee on Housing and Community Development, presented a report (Stand. Com. Rep. No. 1014) recommending that the Senate advise and consent to the nomination of Ryokichi Higashionna, Ph.D., to the Aloha Tower Development Corporation, in accordance with Gov. Msg. No. 205.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1014 and Gov. Msg. No. 205 was deferred until Wednesday, April 17, 1985.

Senator Young, for the Committee on Housing and Community Development, presented a report (Stand. Com. Rep. No. 1015) recommending that the Senate advise and consent to the nomination of Vance C. Cannon to the Hawaii Community Development Authority, in accordance with Gov. Msg. No. 206.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1015 and Gov. Msg.

No. 206 was deferred until Wednesday, April 17, 1985.

Senator Young, for the Committee on Housing and Community Development, presented a report (Stand. Com. Rep. No. 1016) recommending that the Senate advise and consent to the nomination of Fred K. Kwock to the Hawaii Housing Authority, in accordance with Gov. Msg. No. 284.

In accordance with Senate Rule 33, action on Stand. Com. Rep. No. 1016 and Gov. Msg. No. 284 was deferred until Wednesday, April 17, 1985.

## ORDER OF THE DAY

MATTERS DEFERRED FROM  
MONDAY, APRIL 15, 1985

### FINAL READING

Senate Bill No. 1404, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 1404, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FRAUDULENT TRANSFER," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Senate Bill No. 83, S.D. 2, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 83, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL PARKS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, 1 (Chang).

Senate Bill No. 1157, S.D. 1, H.D. 1:

On motion by Senator Cobb, seconded by Senator Soares and carried, S.B. No. 1157, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII YOUTH CORRECTIONAL FACILITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, 1 (Chang).

### THIRD READING

House Bill No. 1060:

Senator Cobb moved that H.B. No. 1060, having been read throughout, pass Third Reading, seconded by Senator B. Kobayashi.

Senator Abercrombie spoke on the measure as follows:

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

"Mr. President, I object to the immunity clause on page 2. I have discussed this with the chairman and he has kindly given me information as to the rationale associated with it. But, Mr. President, I think that you are aware of my objection...I do not believe I am the only person on the floor...my general objection to this increasing use of immunity on behalf of various boards and commissions, etc.

"Here we have a situation where it says on page 2: 'In the absence of actual malice, members of the NAIC, their duly authorized committees, subcommittees, and task forces, their delegates, NAIC employees, and all others charged with the responsibility of collecting, reviewing, analyzing' et cetera, information on these annual statements shall have immunity.

"Mr. President, my understanding of it is that negligence could be involved here and these people would be immune. I do not understand why it is, now that we want to protect the government from the people. Why these boards and commissions are in a sense, in more than a sense, given legal license, in fact, under obligation and responsibility to carry out duties and then not assume the responsibility that goes along with the exercise of the opportunities that exist for them because they are a board or commission authorized by the state.

"I think that this is a very unfortunate trend. I think that this allows for sloppiness. It allows for opportunities for people whose motives may not always be the best to operate with impunity. It allows for and in fact encourages or opens the door for decisions being made which people may be uncomfortable with, which in other circumstances they might think twice about, maybe three or four times, and they will not have to do so now because they will find themselves immune.

"There's a great burden of proof placed upon anyone who wishes to dispute it and, therefore, I think it will serve to take a message to the public, yet again, that we are in the business not of protecting the public but protecting these boards and commissions and government officials of one kind or another from the public. I think that is the wrong message.

"I have no objections to the substance of the bill in terms of what it is trying to accomplish by way of filing of requirements and information on behalf of the public, and the revocation provisions that are associated with it, but precisely because these things are so important.

"We have examples in the newspapers and

in other media every day, whether it's failures of savings and loans, whether it's investment companies, no matter what it is, especially in this area of insurance. All these business ventures...we need accurate information. We need to have sober opinion. We need to have a presentation to the public in which they can place confidence. So, if we are talking about filing requirements, if we are talking about revocation of authority, it seems to me that this is not the place then to be invoking immunity with respect to meeting your responsibilities and obligations, whether it's public officials, elected public officials or appointed.

"Thank you."

Senator Cobb then remarked as follows:

"Mr. President, I rise to speak in favor of the measure.

"By way of background and explanation, the NAIC (National Association of Insurance Commissioners) is a nonprofit association formed by the insurance commissioners of the various states. The system in which we are seeking to fully participate in involves the association analyzing annual reports and indicating to the states the problems that are detected from those annual reports. It is in effect an early warning system and should enable us to get involved with problem companies at a much earlier stage.

"This is an important service to the states and one which we believe can save consumers from significant problems in the long run. Nonetheless, because this early warning of problems entails the NAIC staff to make certain judgments about an insurance company's health, judgments to which the company involved would undoubtedly object very strenuously, the NAIC staff must be given very substantial immunity or the tough calls would simply not be made.

"The NAIC analysis is provided to state insurance commissioners as background information only on insurer's companies. In fact, it's provided on a confidential basis, and is only going to be useful if those who provide the advice are freed from the threat of suits for good faith analysis and recommendations that they provide to us.

"If Hawaii chooses not to participate, so be it. But if we do want to participate, we must create a climate in which those analyzing insurance companies have no reason to fear the wrath of the insurers for that analysis.

"In addition, I received a further communication from Mr. Ramil in addition to the one I just quoted from on the Insurance Regulatory Information System or

IRIS. This assertion is that NAIC should not be liable for errors in its reporting for the following reasons: (1) An unfavorable report on a company amounts to no more than a basis for the commissioner at his discretion to take a closer look at the company. That report, initial report, at least, is not public. Any error in that report will therefore at most result in the commissioner doing some extra work. Such a situation is certainly not an occasion for NAIC liability.

"(2) Any report from NAIC is confidential and thus errors, if they are present, should have no harmful effect; and

"(3) The NAIC report would never be a basis for legal action by the commissioner. The commissioner would only proceed on the basis of an independent investigation conducted by the commissioner and the NAIC report would not even be introduced as evidence. In this respect, the NAIC report are analogous to a 'tip' of problem areas. Under these circumstances, errors should not result in harm as the error would be detected either during the investigation or during the subsequent follow up by the insurance commissioner.

"Thank you."

Senator Abercrombie then said:

"Mr. President, as a follow up then, on my remarks, it would seem to me that the chairman has made an excellent argument against this bill because if all of those things are so that none of these areas could result in judgments or suits, then why should we give them immunity?

"If it is on the basis that they might fear the wrath of the companies that they are investigating, why are they doing it in the first place? What kind of people do we have there who would be hesitant to make these judgments purely on the basis that somebody is going to get mad at them. Surely, they don't expect that they are going to be congratulated for being an early warning system, that's in the nature of the business. And if they are in the national association of insurance commissioners, don't they have a higher duty in the first place?

"To say that immunity is required in order to get them to do their duty is a comment on the commissioners and the caliber of the commissioners and probably is a comment on the kind of work that they do.

"It would seem to me that if the results of this are as innocuous as is claimed on the one hand, and yet as fraught with peril as they are claimed on the other, that the awarding of immunity would serve only to further the cause, as I indicated in the first place, of raising in the public mind questions as to the commitment of these commissions

or any other commissions enjoying similar immunity to the public interest."

The motion was put by the Chair and carried, and H.B. No. 1060, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 1063, H.D. 1:

Senator Aki moved that H.B. No. 1063, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Toguchi on the measure as follows:

"Mr. President and members of the Senate, I rise to speak against H.B. 1063, H.D. 1, relating to land use.

"Mr. President, the purpose of the bill as contained in the committee report is to allow as a permitted use the establishment of golf courses and golf driving ranges in agricultural districts, provided that they're not located on lands not classified as A or B by the Land Study Bureau's Detailed Land Classification study.

"Mr. President, as I go through my arguments against this bill, I would like to refer the members from time to time to a memo that I have placed on all of your desks dated April 16, 1985.

"First, Mr. President, how did the various groups testify on this bill?

"Mr. President, the State Land Use Commission objects to this proposal and recommends that the existing process of requiring that golf courses be approved be either a special use permit or a district boundary amendment procedure. They prefer that that be retained.

"Mr. President, further, the State Land Use Commission believes that the basis for the commission's position is that golf course and driving ranges are not agriculturally related purposes and would remove large acreage of land which may potentially be suited for agricultural uses.

"And they go further in their testimony that the commission finds that the present process which would permit closer review of golf course proposals and its impact on surrounding agricultural uses is an appropriate process and should be retained.

"Mr. President, the Department of Planning and Economic Development (DPED) also testified against this bill. Keep

in mind that this bill came from the Economic Development Committee.

"The Department of Planning and Economic Development opposes the intent of this bill. The DPED also believes that this current procedure is far better in addressing the issues of allowing golf courses and golf driving ranges in the state agricultural districts than that proposed by this House bill.

"Mr. President, the Hawaii Farm Bureau Federation also sent a letter to the chairman of the committee, the Economic Development Committee, opposing this measure. In fact, they recommended that the committee hold the bill till next session so that they can study the impact that this bill might have.

"They also point out in their testimony, Mr. President, that virtually all of our diversified agriculture activities, with the exception of sugar and pineapple, sits on land currently classified C, D and E or marginal. These include practically all agricultural activities in Waianae and on that section of Kauai.

"The City and County in their testimony before the committee on March 16th also asked that the current statutes be retained. They say that the zoning code currently permits golf courses and golf driving ranges as a conditional use in agricultural districts. They also agree that the golf courses and driving ranges should not be located in prime A and B agriculture lands. Allowing such uses in other agricultural district lands, they point out, through the special use permit review process will avoid potential conflicts with the right to farm, as well as other land use conflicts.

"Mr. President, the only group that came in to testify for this bill was the Land Use Research Foundation of Hawaii. If I recall correctly, the former chairman of the Land Use Commission is now the head of this Land Use Research Foundation of Hawaii.

"Second, Mr. President, let's look at the existing system and how it has worked. Mr. President, under Section 205-4, HRS, any person with property interest may petition the State Land Use Commission for a change in the boundary of a district.

"Members, if you look at attachment 5 of the memo that I handed out, part 1 of attachment 5 is the petition to the Land Use Commission for a change in boundary since 1975. I think if you look at it you see that there were 12 petitions. One was a petitioner who came in but denied and came back and applied again. But if you look at the number that applied there's only two pending and of those that have applied all of them have been approved.

"It's interesting also, Mr. President, if you look at the dates of the application, for example, if you look at the Moana Corporation, the first petitioner, in Poipu, they applied in September 1976; they got approved in April of '77. That's approximately 7 months.

"If you look at others that I have presented in the list that I provided you, I think the longest was approximately 14 months.

"Mr. President, additionally, in the HRS section 205-6, Special Permit, 'Any person who desires to use his land within an agricultural ... district other than for an agricultural ... use, ... may petition the planning commission of the county within which his land is located for permission to use his land in the manner desired.'

"In that alternative, Mr. President, a copy of the decision of the county commission, together with the findings shall be transmitted to the Land Use Commission. It is then the role of the Land Use Commission, within 45 days, to approve with modification or deny the petition. Mr. President, a denial at the county or LUC level may be appealable to the Circuit Court.

"Mr. President, what am I saying here? What I'm saying is that the two alternatives that we presently have in our statutes, either going for a boundary change or going through the special permit, as provided for under HRS Section 205-6, is working.

"The list that I provided you showing the application, the numbers approved, the timetable under which they were approved, I think is an argument for not passing this bill.

"I would like to urge all of the members to think about what we are doing with this bill. If this bill is passed, what we are essentially saying is that we are placing golf courses and driving ranges as a permitted use in agricultural districts. What does that mean? It means that we are going to be allowing the counties to make the decisions about golf courses in agricultural lands that have traditionally and historically been the responsibility of the state.

"For all these reasons, Mr. President, I urge all of the members to vote 'no' on this House bill. Thank you."

Senator Hee then inquired as follows:

"Mr. President, on a point of inquiry, would you ask the chairman of the Economic Development Committee if he would yield to several questions?"

The President posed the question to the chairman and Senator Aki having answered



in the affirmative, Senator Hee remarked and asked:

"Mr. President, I don't follow the logic in the committee report, SCR 983, attached to H.B. 1063, H.D.1. The second paragraph, I'll read it for the record: 'Your Committee supports the intent of this bill and believes that allowing these limited recreational uses on non-prime agricultural lands will protect prime agricultural lands.'

"What is the relationship of building a golf course with respect to protecting prime ag lands? In my own view, it doesn't have any relationship, but perhaps the chairman could clarify this."

Senator Aki answered:

"Mr. President, if I understand the question correctly, the question is how do we protect prime agricultural land by this bill. Is that correct?"

Senator Hee responded:

"Mr. President, that is partly correct. I don't understand why that statement is even in the committee report, so perhaps he could, for our edification, clarify what that has to do with the bill."

Senator Aki answered:

"Mr. President, the first way that we protect prime agricultural land in this bill is that we do not touch lands that are classified as A and B, which are the prime agricultural lands. This bill deals chiefly with lands that are classified as C, D and E, or marginal or unproductive agricultural lands."

Senator Hee responded:

"Mr. President, I still don't understand. That's not the answer to my question."

"I don't see what building on non-prime ag land has to do with protecting prime ag land. He still has not clarified that for me. I understand what the bill intends to do, but I don't see the bill as protecting prime ag lands by building on non-prime ag lands because, the bill has nothing to do with protecting prime ag lands. It has everything to do with destroying non-prime ag lands."

"Secondly, according to chairman's response this bill will allow the building of golf courses and driving ranges on C, D and E lands. Would you ask the chairman if, in fact, that is not possible today under the present rules and regs of the Land Use Commission and by statute. Is that not allowed today for this kind of activity to be built?"

Senator Aki answered:

"Yes, Mr. President, it is possible today to build golf courses on lands that are classified C, D and E. And I might add also ... no, I won't say that, A and B, because it is prohibited by law. However, the problem is that it takes a long time and a lot of effort to have these golf courses built. I think what we have to understand here is that the process which involves a special use permit or rezoning of agricultural lands is indeed a very time consuming process. And what this bill does is eliminates the process whereby the developer would have to go the Land Use Commission and get a rezoning request approved."

Senator Hee continued:

"Mr. President and members of this body, this bill is reminiscent of other bills which serve to circumvent the process as it was set up to be, and the integrity of the process."

"Would you ask the chairman, Mr. President, that if this bill does become law, what would be the economic impact of farming and/or other kinds of activities presently, statewide, are performed on lands zoned C, D and E."

Senator Aki answered:

"Mr. President, in terms of the impact this bill will have on agricultural farm lands, I think we have to look at the total number of lands that are available in agriculture today. There's approximately 1.9 million acres of land in all of ag A, B, C, D and E, and out of that 1.9 million acres about 500,000 acres are classified as A and B. The remaining areas are C, D and E; therefore, in terms of development of golf courses, say we do develop 10 golf courses in the next year or two years, that would eliminate approximately 2,000 acres of agricultural land, based on a 200-acre size of each golf course. I do not think that this is a large amount of acreage being taken out of agricultural lands."

Senator Hee continued:

"Mr. President, thanking the chairman for responding to that question, I wonder if of this 1.4 million in C, D and E, if in fact the 2,000 or so acres would be on lands that are presently under production, which is to say, for example, that I do not personally believe that a golf course would be built in some remote area that could not attract or does not have the infrastructure that makes it presently accessible were there to be a golf course there."

"I don't know what the top of Mauna Loa is, but if it's C, D or E, I don't know how many thousands or millions of acres are on the top of Mauna Loa. As a practical matter, a golf course would not in fact be there, but perhaps be in areas where there

are small farms presently. Case in point would be the district in Maunawili or would be on the North Shore near Kuilima where there are presently small farms and, quite frankly, it should not be a surprise that evictions would begin to set in at the outset.

"One last question for the chairman of the Economic Development Committee, Mr. President, does he feel that ag lands presently classified C, D and E are of less economic value than lands classified A or B, and that is why he is in support of this kind of activity on C, D or E lands?"

Senator Aki answered:

"Mr. President, I do not feel that lands classified as C, D and E are of less value. In fact, I would venture to say that I cannot determine myself the impact of the value of each parcel of land. I think this is why we have commissioned the LESA commission to come up with the land evaluations and site assessment report which is pending before us. In fact, I have a copy here with me. I think only through this process we will be able to evaluate each parcel of land for its potential."

Senator Hee continued:

"Then, Mr. President, would you now ask the chairman if it would be not legislatively more appropriate, pending the outcome of the LESA commission, that any such legislation which he apparently does not have the answer for be enacted?"

Senator Aki answered:

"Mr. President, in answer to that last question, the LESA report is just that, a process, and it is before us, and I think we should use this report as a process to determine each applicant on a site by site basis."

Senator Hee then remarked:

"Well, Mr. President, I'm going to vote against this bill. Let me offer just a few comments.

"I don't know why this bill was not taken up in the Agriculture Committee, but, nonetheless, it is before us as an action by the Economic Development Committee. That being the case, Mr. President, I believe the chairman of the Economic Development Committee has made my argument with respect to not having the information available and waiting for the 'process' to unfold. This is a similar argument to a bill that was before this Legislature two years ago with respect to establishing a minimum stream flow in the state. At that time, the chairman of the then Water and Land Committee said we should wait till the water code is before us and presently we

have the argument in reverse. We have the chairman saying we should wait for the LESA commission to submit its report but this bill should go anyway.

"Mr. President and members of this body, it is not correct and is an archaic argument to assume that C, D and E lands are of less value than A and B lands, and the case in point is, if we look at the Natural Energy Laboratory on the Kona Coast where this august body had appropriated millions of dollars, it sits on E land and that the economic potential and the viability as an 'ag productive center' is not yet known. In fact, it is without estimate as to the potential of this project, and the same could be said for the project at Kahuku, the shrimp farm project, that the economic viability of that project which sits on E land is not yet known.

"It will become an archaic argument, Mr. President, for us to assume that in this age of high technology, of hydroponic planting, of aquaculture activities that are all computerized, that it will become a fact that the E land that it will sit on is just that — a commodity which it will sit on — but yet without that commodity you could not have economic development. And in my view, we are not talking about the old traditional thinking processes of lands just sitting on coral or without water. That is an archaic argument.

"For these reasons I will vote 'no.' I hope that the other members will at least allow this bill to be debated again at a more appropriate time, after the outcome of the LESA commission at the very least. Thank you, Mr. President."

Senator Young also spoke on the measure as follows:

"Mr. President, I, too, rise to speak against this measure.

"As stated earlier, this bill proposes to permit golf courses and golf driving ranges in agricultural districts. I would rather see a proposal utilizing marginal agricultural lands for land banking and housing.

"The House committee report justifies this bill by finding that the need for recreational facilities on Oahu has remained unfilled.

"Previously, I informed this body that certain studies indicate the state suffers from a 30,000 housing-unit shortage. The Hawaii Housing Authority estimates are in the vicinity of a 60,000-unit shortage on Oahu alone.

"Letters and phone calls received by my office from residents of our state validate my fear that there is a lot of frustration and anger out there. Hawaii's families want,

more than anything else, to be able to own a home. It is a fundamental dignity that must be afforded to all our residents. Senators, I cannot stress this point enough to you.

"Mr. President, we need to reassess our priorities. The basic need for food and shelter must come before such luxuries as golf courses and driving ranges. I urge a 'no' vote."

Senator Abercrombie then said:

"Mr. President, I have an inquiry of you.

"Mr. President, I believe this bill is defective. If I read this bill correctly, if you look on page 5, line 9, you'll see that a period is removed from the bill and a comma is placed there. If I read this bill correctly, all of the activities or uses in that paragraph starting on page 4, line 19, will be forbidden on lands classified A and B. I am correct, am I not?"

At 4:19 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:29 o'clock p.m.

Senator Abercrombie then continued:

"Mr. President, I believe my last comment was I am correct, am I not."

The Chair responded:

"The Chair has a slight disagreement with you regarding the grammatical structure, in response to the question that you raised.

"It is the Chair's opinion, after checking with the chairman, that the paragraph merely describes the inclusion of golf courses and golf driving ranges."

Senator Abercrombie then remarked:

"I quite agree, Mr. President. The paragraph does that. The 'they' refers to everything in the paragraph. Then I am correct. You are agreeing with me that all of the activities and uses described, starting on page 4, line 19, up to and including golf courses and golf driving ranges, if this bill passes, are forbidden on land classifications of A and B."

The Chair added:

"And that the thoughts that were mentioned and the articles mentioned prior to that are followed by a semicolon which is broken up by a comma which introduces a new idea which says, after the word facilities, 'including golf courses and golf driving ranges, (comma) provided that they ...' and the 'they' is referring back to golf courses and golf driving ranges."

Senator Abercrombie remarked:

"Mr. President, it may be your desire that it refers back to golf courses and golf driving ranges but that is not what is said. And I think we have to vote on legislation on the basis of what is said, as opposed to what is wished for."

The Chair answered:

"I think, Senator Abercrombie, that you are entitled to your opinion, but the Chair really feels that there is nothing wrong with the paragraph as grammatically constructed. I think that an unbiased reading of the paragraph can only lead to the conclusion that all it does is permit golf courses and golf driving ranges on C and D lands."

Senator Abercrombie continued:

"Very well, Mr. President, then I will continue my argument in another vein, but I will have it entered in the record and, I presume, if this bill passes, and I hope that it does not, that it will be looked at critically. I raised the point seriously. I believe it is defective. If that is the intent, I do not believe that this language does it, and I believe that should it pass, it should be vetoed on the basis that it does not accomplish what is the intent.

"Mr. President, I would speak against the bill, but before I do I have a question of the chairman of the committee. I refer the chairman to Standing Committee Report 963, House Bill 206, H.D. 1, recently passed by this body. The standing committee report was on April 10th and I have discussed this issue with the chairman previously and I wish to refer him to it now.

"Does the chairman have a copy of the bill to which I refer? Standing Committee Report 963, House Bill No. 206, H.D.1, 'A Bill for An Act Relating to the Facilitation of Permit Processing.'"

Senator Aki responded:

"No, I do not have that bill or committee report before me, Mr. President."

Senator Abercrombie remarked:

"Mr. President, would you object if I share the copy that I have with the ..."

The Chair interjected:

"Short recess."

At 4:32 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:49 o'clock p.m.

Senator Abercrombie then continued:

"Thank you, Mr. President.

"Mr. President, does the chairman of the Economic Development Committee have the bill to which I referred?"

Senator Aki answered:

"Yes, Mr. President."

Senator Abercrombie continued:

"Thank you.

"Mr. President, my reason for bringing the bill to your attention and to the chairman's attention is that the argument that I heard made by the chairman to previous speakers was, there was a necessity, at least in the area of golf course building, to speed up the process, and that this was the principal reason for the passage of the bill in the face of questions which have been raised by previous speakers as to other uses for this land, for waiting on the reclassification of lands for agricultural purposes, and whether or not the process was efficient at the present time.

"If the argument, and it appears to be, at least the from the chairman's previous remarks, the principal argument if not the sole argument, is to speed up the process, would the chairman please elucidate for us as to what the consequences of the passage of H.B. 206 are?

"Prior to him answering, for the benefit of the members who do not have the bill before them or who may not remember the details of H.B. 206, I think that I can summarize them fairly quickly. The title itself is revealing, 'A Bill for an Act Relating to the Facilitation of Permit Processing,' and what it does, it refers to the central coordinating agencies being established for each of the four counties in 1977, and that the purpose of the act is to authorize the Department of Planning and Economic Development 'to facilitate, expedite and coordinate state agency and intergovernmental permit processes.'

"A further purpose of the act is to authorize and establish procedures by which federal, state and county agencies and authorities consolidate their review and action on permit applications for projects in the state. These procedures obviously for state are mandatory, and for federal and county agencies are voluntary.

"The bill then defines permits and projects in a reasonable and sensible way, which includes utilization, use of natural resources of land, air and water within the state for various projects and then it indicates a consolidated application process

to be followed which would considerably reduce the amount of time necessary for regulatory review, hearings, preparations, environmental impact statements, and other actions required to minimize duplication and coordinate activities of the applicant, the agencies and the authorities.

"It goes on to cause the implementation of an information service to facilitate this and concludes with a streamlining requirement for implementing measures for all affected state agencies, county, central coordinating agencies, and members of the public. It includes checklists, applications, and other forms necessary to streamline all of these permit process applications.

"With that in mind, and if the chairman will grant that I fairly summarized the bill, with that in mind, I ask the chairman would not his purpose in this bill be accomplished already with the passage of H.B. 206?"

Senator Aki answered:

"Mr. President, in answer to that question, House Bill 206, H.D.1, proposes to establish a program of permit coordination among the county, state and federal agencies and authorities involved in developing permit processing. I believe, Mr. President, that House Bill 206, H.D. 1, if passed, will streamline the permit process and therefore would cut down on the time required."

The President then responded:

"Yes."

Senator Abercrombie then said:

"Is the Chair agreeing with me?"

The President again responded:

"Yes."

Senator Abercrombie continued:

"Mr. President, I'll ask the chair then, I think my question was, does the chair not believe that the passage of this bill facilitates the very thing that he's trying to accomplish with 1063?"

Senator Aki answered:

"Mr. President, in answer to the question, does it assist. House Bill 206, as I stated, is a bill to coordinate the different agencies, and the bill that the we are talking about 1063 would be affected by this bill. However, I would like to point out, Mr. President, the whole area of permits and development is a very complicated process and I believe that this bill will assist in facilitating the process; however, there are other areas that the developer must go

through to also get approval."

Senator Abercrombie then said:

"Was that preparatory to answering my question? Were those preliminary remarks?"

The President answered:

"My feeling was that that was directed as an answer in response to your question."

Senator Abercrombie continued:

"Well, I'm afraid I must ask it again because.... I'm quite serious about this, Mr. President.

"I am in sympathy with those who have indicated that the permit processes are too complicated and the principal argument being made for the passage of this bill in the face of the other arguments that have been made, which by the way have not to this point been disputed. We're talking about agriculture; we're talking about the advancement of other forms of agriculture in new kinds of agriculture under new technological circumstances, that which was not feasible in previous times may now be feasible because of technological advances. Lands which were previously thought to be unproductive may now be productive as a result of technological advances, alterations, and methodologies of producing agricultural goods.

"Questions concerning housing, all of these points have been raised in dispute of the passage of bill 1063. The question that stands in relation to those points which have been raised was one of facilitating the process for developers to be able to build golf courses, etc.

"Now, I'm maintaining, Mr. President, that when we passed H.B. 206, the very thing the chairman seeks to accomplish has already been accomplished in 206, and that therefore is it not correct (this is the question to the chairman) is it not correct then that we need not pass 1063 at this time because his purposes have already been accomplished in 206 and the objections which have been raised to 1063, legitimate objections, can then take precedence until we come up with the issue further at another time."

The Chair interjected:

"Was that a question?"

Senator Abercrombie then said:

"It's important to have that perspective for the chairman.

"In sum, are his purposes not accomplished with the passage of H.B. 206?"

Senator Aki answered:

"Mr. President, I believe that the passage of House Bill 206 does accomplish some of the things that we want to do; however, it does not accomplish all."

Senator Abercrombie then asked:

"Mr. President, would the chairman please differentiate the 'some' and the 'all,' then?"

Senator Aki answered:

"Yes. Mr. President, what we are trying to do in House Bill 1063 is to avoid the state permit process, and this would eliminate the necessity to bring the proposal to the Land Use Commission to get a redesignation of the land from agriculture to urban."

Senator Abercrombie continued:

"Mr. President, thank you.

"Did I understand him correctly, to say this is to avoid the permit process?"

The President responded:

"That is correct."

Senator Abercrombie continued:

"Okay, so, Mr. President, I speak against the bill.

"The chairman had indicated to other speakers who had raised the issue that the idea here was to speed up the process. Now it is said by the chairman the idea is to avoid the process entirely.

"Mr. Chairman, I do not object to having golf courses or golf driving ranges on these so-called marginal lands. I object to this bill, but I do not object to the idea that's involved. If it was presented in another form and in another way, I think I could vote for it, but I want the members who are thinking of this ... I know some of you agree with me on this ... that you have no objection to golf courses being on marginal lands.

"What I do object to is, now the process is to be avoided entirely, at the very time when we are reclassifying agricultural district lands right now, and there are alternative uses to which these lands might be put. I don't think it is a good idea, and I'm going to say parenthetically that I am not one who is enthralled by the Land Use Commission and the way it has conducted its operations and all the rest of it either, but, it is certainly a legitimate question at this point in time in particular, and especially in the light of the passage of a bill which speeds up the permit process which offers consolidation and streamlining

and puts in statute such consolidation and streamlining, the very thing that people have been asking for in terms of deregulation, in terms of speeding up development process, here we go and do it and now the chairman is saying that's not good enough, you want to avoid it entirely. Now that is bad policy.

"To avoid it entirely is bad policy because you may very well have a situation not only on this island, but on other islands, in which there are alternative agricultural uses which have a higher priority in terms of what the state seeks to accomplish in its public purposes.

"I really don't think that I am being out of line or being competitive about the issue just for the sake of seeing it defeated. I don't have an objection, I repeat, to what is sought by way of accomplishment here. There may be perfectly reasonable conditions under which the golf course is an appropriate utilization, and that can be brought forward. That can be done now. The chairman admits that. It's just that it takes longer. Well, we've already passed a bill that consolidates and streamlines all of that process. To avoid it entirely is anathetical to what we want to accomplish in this Legislature. It most certainly is against those things that we want to accomplish, I will say again, for the Majority party.

"Mr. President, I refer the members to the Thursday, April 11th, scarcely a week ago, less than a week ago, Honolulu Star-Bulletin, I believe. 'The Hawaii Housing Authority' ... I'm quoting now. This was a story on people living on the beach. 'The Hawaii Housing Authority manages 5,124 low rent units throughout the state in a variety of locations. But with nearly 7,000 people on Oahu waiting lists' ... 7,000 people on Oahu waiting lists, '...facing a wait of up to 2-1/2 years...some have nowhere to go.'

"And it goes on to get into the tight rental market, Mr. President. You may know that the rental program of the HHA and the Federal Government and the city is what's called the fair market rental program.

"Mr. President, a check of the classified advertisements in the Honolulu dailies, that is to say, the Advertiser and the Star-Bulletin last week revealed there were no three- or four-bedroom apartments available at prices within the guidelines. I repeat, Mr. President, there was not a single unit on Oahu in three-bedroom or four-bedroom units within the guidelines and there are thousands of people waiting for housing and not a single unit on Oahu available.

"Four, partly-furnished, three-bedroom houses were advertised within the allowed amounts. Four, on the entire island. Furnished, two-bedroom units, similarly scarce, a total of 21 two-bedroom houses and apartments were available, partly-furnished, out of the thousands who need it.

"Mr. President, it is against every thread of values that the Majority party is supposed to hold in this state. To insist that we should pass a bill today to completely obviate the need for people who want to build golf courses to be subject to review, and at the same time with thousands and thousands of people on waiting lists for shelter, with not a single unit available in the three- and four-bedroom category, for those families that exist right now, this very moment as I speak, and not have a bill before us to facilitate the process for them to receive that shelter, simply is beyond belief to me.

"We have already passed a bill that facilitates the time process. To object at this stage to having any review whatsoever in the face of objections that have been made to this point seems to me to run against everything that this party should be standing for. There is no necessity to do this at this moment. There is a necessity to respond to the housing crisis as is being attempted by the Housing Committee and other committees in this Legislature. That's where our attention should be directed. This bill should be defeated at this time so that it can be taken up at a later time when circumstances are more appropriate."

Senator Solomon also spoke on the measure as follows:

"Mr. President, I rise to speak against this legislation.

"I just would like to reiterate some of the positions that have already been stated here on the floor as my own; that I feel it's untimely.

"We should wait for LESA to be completed in terms of reclassifications. I'm going to yield that position to Senator Hagino who will be speaking on the issue later.

"For the body's information, I would just like to quote from the statement of the Land Use Commission. 'The basis for the commission's position is that golf courses and driving ranges are not agriculturally related purposes and would remove large acreages of land which may potentially be suited for agricultural uses. The commission has also found' (and this is why I want to emphasize this point) 'that many golf course proposals are the initial step

towards the development of a major urban facility such as a resort development.'

"I'd like to make the commission's findings as remarks of my own and that the commission concludes, 'that the present process which would permit close review of the golf course proposals and its impact on surrounding agricultural uses is an appropriate process and should be retained.

"Thank you."

Senator Cayetano then rose to ask:

"Mr. President, I would like to ask you a question. Will you yield?"

The President answered in the affirmative and Senator Cayetano asked:

"Mr. President, in reading the bill, I note the word 'agriculture' was used nine times; the word 'farms' was used three times; and the word 'crops' was used one time.

"Mr. President, my question is, why wasn't this bill referred to the Agriculture Committee?"

The Chair answered:

"The reason is that the Chair decided that the matter rests with the permit process and deals with land use in particular, and that is the primary responsibility of the Economic Development Committee."

Senator Cayetano then continued:

"Okay, thank you.

"I have a question, Mr. President, for the chairman of the Committee on Economic Development, if he would yield."

The Chair asked the chairman of Economic Development Committee if he would yield, and Senator Aki, having answered in the affirmative, Senator Cayetano asked:

"Mr. President, would you ask the chairman to point out the section, chapter, line, subsection of our State Plan, our Majority package, or any other living document where we, the Democratic Majority, have given golf courses high priority?"

"I withdraw the question. I think his actions answer the question.

"Mr. President, I'm going to speak against this bill.

"I've always wondered why the Democratic Party chose the jackass as a symbol while the Republicans chose the elephant, and after listening to the debate

today, I've come to the conclusion that with the jackass it's easier to kick yourself in the ass.

"That's what we're doing by passing this bill, I can tell you.

"I won't go over some of the arguments to the points that have been made by those speaking before me in opposition to this bill, except to point out that the array of departments, of committees, committee chairmen who are opposed to this bill is so varied and widespread that it would appear that we should at least take some time and heed the warning of the Hawaii Farm Bureau Federation to withhold this bill and reflect on it and maybe deal with this matter next year.

"Minority members must be clapping their hands in glee (I see Senator Soares with a big smile on his face.) when we Democrats, as we approach the 1986 gubernatorial election continually drive nails into our own coffins, and that's what we're doing when we elevate golf courses, a game in which one spends hours hitting a little white ball, when we elevate that to the level of priority that we don't even give housing, for example, as pointed out by the chairman of the Committee on Housing.

"I have no problem, Mr. President, in attempting to facilitate or speed up the process. I have no problem with that, but, where we do have a process, speeding up the process or passing measures which would do that should be only for those purposes to which we designate high priority. Geothermal, for example, certainly developing alternate energy resources is a high priority with this state. Golf courses are not.

"Housing, I've been told by the Housing chairman, and this is my understanding also, anyone who wants to develop housing will have to struggle through the land use process, but someone who wants to develop a golf course does not have to. So, all of this in my view does not make much sense on the merits. It certainly does not make much sense politically. It certainly is inconsistent with the fundamentals and philosophy of the Democratic Party. Of course, the Democratic Party has been in limbo lately and we are not helping ourselves, again I repeat, by engaging in this kind of activity by passing a measure which is really, if we are honest with ourselves, probably designed to help a particular party. And on this matter, let me ask the chairman of the committee if he would yield to a question. Mr. President, would he yield?"

The Chair posed the question to the chairman of the Economic Development Committee and Senator Aki answered:

"Yes, I will, Mr. President."

Senator Cayetano inquired:

"Mr. President, will you ask the chairman, who is this bill for?"

Senator Aki responded:

"The question is, who is this bill for? This bill is for all of us, for all of Hawaii, for economic development, for jobs."

Senator Cayetano continued:

"For jobs, economic development. Well, Mr. President, I think I asked the chairman this question in the caucus, behind closed doors. I asked him who is this bill for and at that time the answer was not for all of Hawaii, not to my recollection. I'd like for him to state for the record. We all have to take responsibility for our actions here. For him to give me the answer he gave in caucus, if he is brave enough. Give me that answer for the record."

Senator Aki answered:

"Mr. President, the previous speaker refers to the discussion we had in caucus. If I recall, the specific question is, where are these golf course going to be located, and I did relate to him at that time that there are several locations being proposed for golf courses."

Senator Cayetano continued:

"Well, Mr. President, my recollection of the question and I defer to the recollection of the other Majority members who were there when I asked, and I asked expressly and let me quote myself verbatim: 'Who is this bill for?' And the answer was 'some developer in my district.'"

"If anybody has any problem with that answer, then I stand ready to have my memory refreshed because I think that was my answer. Anyway, I think the die has been cast on this and again I find all of this incredible."

"This bill which clearly relates to agriculture is referred only to the Economic Development Committee, and this bill which will now raise the development of golf courses to a level of priority which is higher than housing and maybe it's on the level of geothermal energy. This may become a part of the Majority package for 1986 elections."

"I intend to vote 'no' because then it's easier to explain to my constituents when I say I voted 'no.' No further inquiry may be made. Thank you."

Senator Hagino then spoke on the measure as follows:

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

"Earlier this session, we extended the life of the LESA Commission. Part of their task was to deal with situations such as this. By passing this bill, we are saying that we know more than the commission and we should be giving a blanket approval to all golf courses and not deal with them on a case by case basis."

"Mr. President, there's not much difference between A and B lands and C and D lands. In fact, the Land Study Bureau mentions that there are C and D lands that could become B and A lands with irrigation. C and D lands are so rated because of their capacity to grow general crops. They are lands under C and D which can grow other types of crops which may be classified B lands. These include grazing lands. Even though they are classified C and D, general crops, for grazing they would be classified as a B land. Much of the Kunia lands are C and D lands. Contrary to what the chairman of the Economic Development Committee stated, these are not marginal lands."

"Mr. President, I have a book here from the Land Study Bureau. On it is a picture and it's ironic that this picture is taken from Kunia. These are C and D lands. So maybe sometime in the future we'll have a picture of a golf course on this book, instead."

"Mr. President, permitting golf courses and golf driving ranges on C and D lands will make it easier to obtain an urban classification once LESA is in effect because, under the site assessment portion of LESA, wherever you have infrastructures already available, it will make it that much easier to be reclassified into an urban area."

"As was stated earlier, a recent bill reduces the Land Use Commission period of making decisions on reclassifications. This will reduce it to 120 days. As also stated earlier by Senator Toguchi, in most cases it took six to eight months to reclassify land for golf courses. Under the new bill it would take just 120 days."

"Mr. President, when I was first elected to the House in 1981, one of my first tasks was to find out land for a general aviation airport. They still have not succeeded in that. And I reviewed the Kentron report and I believe there are about 32 sites mentioned, possible sites for a general aviation airport, and under these sites they were thoroughly reviewed and whenever a site was not deemed possible for a general aviation airport, there was a detailed reason why it was not suitable."

"It's funny that whenever there's a golf course listed as a possible site, the only explanation given was that it was a golf



course.

"Mr. President, by passing this bill, as stated earlier, we would be raising golf courses to a higher level of sanctity.

"In conclusion, Mr. President, the chairman of the Economic Development Committee said that we should use the LESA report to take situations up on a case by case basis. Mr. President, let's just do that. Let's just wait for LESA to come up. Thank you."

Senator Kawasaki also spoke on the measure as follows:

"Mr. President, I rise to speak in support of the chairman of the Economic Development Committee, which is to say, I rise to speak in favor of this bill.

"First of all, to respond to the statement made by Senator Cayetano that apparently there's nothing on the books today that gives us the right to place or give the creation of golf courses a high priority. I'm not exactly a golfer and I don't think we should give golf courses much of a priority, but let's face the facts. I would hope that these people who are concerned about golf courses being given such a high priority, at least in this bill as it's designed to do, I would hope that each and everyone of those opposed to this elevating golf courses to such a high priority would do something to rescind the tax exemption that we give golf courses, incidentally, owned by wealthy entities ... Waialae Golf Course, for example, owned by Bishop Estate. They don't pay a nickel of property taxes.

"Now if giving tax exemption is not an expression of placing a high priority on a particular undertaking, then I don't know what is, because agricultural lands, incidentally, pay property taxes. It may be low, but they pay property taxes. Golf courses, on the other hand, as statutes enacted by past legislatures and we continue to maintain these statutes on the books, giving them complete tax exemption, in my judgment, from the bottom line standpoint, is giving them top priority. That being the case, on the basis of expressions I've heard today, let us rescind all exemptions given to Waialae Golf Club, Oahu Country Club, Mid-Pac Golf Course, and all of these golf courses owned by, incidentally, pretty wealthy people, then I would say that I can agree with Senator Cayetano that we should not give golf courses such a high priority.

"Now, in terms of the need for housing, as expressed by Senator Abercrombie, I completely agree. But the sad fact remains that there's very little done, as he stated, to expedite the development of more housing for people who need housing badly.

"And I am for, along with this bill, expediting the process of allowing landowners of marginal lands to use it for golf courses, if they want to.

"I'm also for expediting the process involved in creating housing for people, even from marginal lands.

"I think all of this expediting is needed badly, but I haven't seen much effort on the part of both the Senate, the House or the administration in helping to expedite the creation of housing that's so badly needed.

"It seems to me, if an owner of a property who's got land classified as marginal land decides to sell that land because selling that land as a golf course use might perhaps be more profitable to him, then I think it's his business.

"It seems to me, using land, even marginal land, as agricultural subdivision is one that is more profitable. On pure economics, people who own marginal lands would want to subdivide their land so that lots, one, two-acre lots would be available to farmers, part-time farmers, retirees, so that they could use it as agricultural farms. What worries me is that there's not much effort around here to make these marginal lands available for subdivision, and there's not much effort expended out here to make the creation of subdivisions easier by developers who are willing to take those risks.

"So let us not talk about how bad it is to allow people who own marginal lands to use it as golf courses. If that's the course they decide to go, I am for allowing them to use it, and if they're going to make less money, economically, by using these as golf courses ... I think, if they're that stupid, it's their business.

"It seems to me, using these lands as agricultural lots is more sensible, simply from the pocketbook standpoint.

"We talk a lot over here and Senator Cayetano had said that passing and voting on this bill is a direct path to oblivion or limbo, as he put it, for the Democratic Party. Well, I'll tell you something, on the basis of action we've taken over here in the way of removing all interest rate ceilings for consumers who are having a hard time paying 18 percent on their loans, removing that ceiling so the lending institutions could charge 30 percent or 50 percent, that's really a direct path to oblivion.

"Disallowing minority shareholders to vote for a minority director on one of these big companies, that's a road to oblivion and limbo, but we think nothing of that. In a very cavalier fashion we think nothing of passing these kinds of bills which are

directly against the best interests of our public.

"So let's not get too concerned about measures like this which seem to indicate to some of us that it's a direct path to limbo. We've taken the path to limbo time and again on this floor.

"One of the questions I have for the chairman of the Economic Development Committee is what is the real property tax implication of this bill passing and allowing owners of marginal agricultural lands to use it as golf courses? It seems to me that although the land is still zoned as agriculture, by virtue of the fact that he uses it as a golf course, he may be forcing the property tax division of the City and County to impose a higher property evaluation, assessment. As consequence, he's going to pay a higher property tax because he uses agriculturally zoned land as a golf course. Can I have an answer to that?"

The President asked the chairman if he would yield to the question and Senator Aki answered:

"Yes, Mr. President.

"I think the statements made by the Senator are correct. Agricultural land is taxed based according to highest and best use. Therefore, I believe that by using this land for golf course purposes we derive much higher revenues for our state."

Senator Kawasaki continued:

"So his land is classified, though it's agriculture, is classified at a higher rate of taxation, is that correct? So that he'd be paying more than the ordinary landowner who's not using it as a golf course. Is that correct?"

Senator Aki answered:

"No, that is not correct. The way the agricultural land tax is charged, I believe, is by the highest and best use, and there is a formula that the tax department uses. In other words, when a farmer who produces vegetables accounts for all the crop that he produces on a monthly or yearly basis and he has a figure that he submits to the tax department, he is taxed along that basis. For a golf course the same principle would apply; however, the amount of revenues that would be derived would be many times greater on a golf course as in regards to a small agricultural activity."

Senator Kawasaki then continued:

"Thank you.

"Farmers are given all kinds of tax

exemptions, as I recall. That being the case, from purely the standpoint of counties deriving more revenues, and this is the season when counties are saying they're broke, we need to have help from the State Legislature, particularly because it's a state law that allows collective bargaining to raise the salaries of the county employees. Perhaps a bill like this passing which indirectly raises some revenue, or improves their revenue picture is desirable at this point.

"It appears to me that golf courses, all of a sudden this season, has gotten very unpopular. I recall at one time that we were giving tax exemptions to golf courses because it was very fashionable in those years to say we want open spaces; we want greenery. We were talking about making Hawaii ... the tourist industry saying, let us make Hawaii more attractive from the tourist standpoint; let's beautify Hawaii a little more; perhaps, more golf courses is the answer.

"In any case, Mr. President, I would support any proposition that allows a property owner to do what he wants to do with his land if what he does is not contrary to our trying to create Hawaii to be a more aesthetically pleasing place, more open spaces, places where people would like to come to relax. Perhaps then we don't have to allocate eight, nine, ten million dollars to the HVB to sell Hawaii as a vacation spot. This perhaps has some economic impact.

"So, for these arguments, I do support this bill but, please, don't say that we did not give golf courses a high priority. Let's remove the tax exemption from these high priced golf clubs and golf courses which you and I can't belong to begin with, not that I care. I just want to say that let's not use specious arguments here in opposition to this bill."

Senator Abercrombie then remarked:

"Mr. President, point of inquiry.

"Mr. President, could you inquire of Senator Kawasaki's office where he is. There's an imposter in his seat on the floor."

Senator Hee then said:

"Mr. President, speaking against the measure again.

"In the presence of Senators Cayetano and Abercrombie, I personally asked the previous speaker, Senator Kawasaki, if he would keep an open mind and he said he would. I would like his remarks as if they were my own speaking against the bill because he has again in his enviable fashion crystallized many of the arguments heretofore said by previous speakers, that

being that the land owner should be able to do with his land what is his business, and this bill does not in any way impinge on the landowner's right and in fact as has been stated time and again that this is a permitted use in and of itself, irrespective of whether this bill is passed, but that in fact the Legislature went so far as to streamline the permitting process.

"Mr. President, just as a final comment, speaking against the measure, to add an addendum to Senator Cayetano's remark with respect to the animal species on the floor, I think it's also fair to say that the Minority party will also be accountable. I think that it is not an exclusive kick, if you will, to the Majority party.

"Thank you, Mr. President."

Senator Kuroda then rose to remark as follows:

"Mr. President, after the seven Senators spoke against the bill, I'm glad that Senator Kawasaki stood up in support of the measure because, here I sat, as a person who will be voting for the bill and feeling rather downcast because it appears that the seven Senators who spoke in opposition to the bill, cast an image of evildeings on those of us who will be voting for the measure. So, I rise to speak not only for the measure, Senator Cobb, but also rise to speak as a conscience-clearing effort.

"Senator Kawasaki said he doesn't golf. I do. And when I stand over the putt I shake my shoulders in this fashion (shook shoulders) to relieve myself of evil spirits. So I do it twice as I speak in support of this bill and shake my shoulders twice to cast away the evil spirits that those who speak against the bill cast upon those of us who are going to vote for the bill.

"There seems to be a rising of the specter of housing shortage as the reason why this bill should be defeated. We must all remember that the landowner is the one who determines whether housing will be built and that the profit factor is that which determines whether there'll be affordable housing. I don't think that this measure before us is going to preclude the building of shelter.

"There are two areas of agriculture zoned land that I know of which could be used for housing. One is known as the Waiawa Tract. This is above the Mililani/Pearl City area. There's another one, just above Waipahu. These lands have been laying fallow. Why? Because the landowners are looking for a better opportunity in order to get better returns for the use of the land. Let's consider that land. Should this bill pass and should the landowner decide that he will now utilize a part of that land for

golfing purposes, that land that may still lay fallow ten, fifteen, twenty years from now will be put to use now. Tax wise, revenue wise, as Senator Kawasaki says, it'll bring in revenues. The other better point is that it is now utilized by those who choose a recreation, which is golf, and there are many golfers in Hawaii who wait many hours because of the shortage of golf links.

"Another important factor. The visitors who come to Hawaii also seek more places upon which to enjoy the game of golf. So I think that this bill should be passed and an easier opportunity be provided the developer or the landowner in utilizing this agricultural land for a purpose rather than letting it lay fallow."

"Thank you."

Senator Henderson then spoke on the measure as follows:

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

"Mr. President, there's been a lot of confusion about House Bill 1063. House Bill 1063 really is only trying to clarify what the original legislative intent was back in 1963 when the land use law was adopted.

"If you read the original law, the Legislature defines allowable uses in agricultural districts, and they describe all of the things that may be done, such as farming, energy production, dwellings, living quarters, roadside stands. We've also amended it lately to put in wind machines and wind farms. In the original law, they also had a classification for an allowable use which said 'open area recreational facilities.'

"Now, I ask you, probably the best example of an open area recreational facility is the golf course. So, clearly, golf courses are an allowable use in ag lands. However, in the original law they wanted to protect A and B lands so they specifically excluded a number of things including golf courses and driving ranges from being built on A and B lands. They did not exclude it from C, D and E lands. However, the Land Use Commission, when they drew up their rules and regulations, excluded it in the rules and regulations not only from the A and B lands but also the C, D and E lands, so they effectively, through their rules and regulations and with absolutely no statutory authority, banned golf courses in ag districts.

"If we pass House Bill 1063, it will keep the land designated agriculture. Right now, if you want to build a golf course, you've got to go in, have the land reclassified urban, and the land is forever out of ag. This bill will allow golf courses to be built in ag districts and the land would still be ag.

So, I think the opponents of the bill are fighting what is in their own interests.

"The other thing is this. This bill has nothing to do with housing; it has nothing to do with LESA. This bill strictly clarifies what the original legislative intent was of an allowable use in an ag district. And I ask you to vote in favor of the bill. If you do, you will keep more land in ag. Thank you very much."

Senator Young then spoke on the measure as follows:

"Mr. President, I rise to speak against this measure and respond to the other speakers.

"Land is a precious commodity. It is finite. We here are custodians of land. It is precious. Where are our priorities? What do we use our land for?

"We are custodians of the lands in Hawaii, and I think we should use it for what is best for our people. Thank you."

Senator Hagino then said:

"Mr. President, rising again to speak against the measure. I'd just like to clarify again because there seems to be some confusion.

"C and D lands are not marginal lands. In many instances they can become B or A lands with irrigation. But we are not talking about marginal agricultural lands.

"Mr. President, I'd like to read something that was included by Senator Toguchi from the Land Use Commission, their testimony, I believe you've already read it but I'd like to read it again: 'The Commission has also found that many golf course proposals are the initial step towards the development of a major urban facility, such as a resort development.'

"Mr. President, if you drive from Waipahu to Wahiawa via the Kunia Road, practically all those lands are C and D lands, and to my recollection the only golf course that is not associated with any type of development is the Kunia Golf Course.

"Thank you, Mr. President."

Senator Kawasaki then added:

"Mr. President, in response to the previous speaker.

"Apparently, he seems to have a dim view of and encouraging resort developers. It just seems to me, with our great concern about where are the jobs to provide for the literally hundreds of thousands of graduates of high schools and our colleges here, perhaps, welcoming some of these resort

developers, particularly the quality developers who do develop the Mauna Lani's and some of these beautiful resort developments on the outside islands, perhaps this is necessary if for no other reason than to enhance our economic development situation here. So I don't know that allowing even golf courses, which may be the prelude to resort developments, I don't know that this is a bad thing.

"As a response to Senator Hee who seems a little concerned that I have a closed mind. For 19 years I've tried to keep my mind as open as possible, but I do not propose to keep it so open that my brain falls out."

Senator Chang then remarked as follows:

"Mr. President, in response to Senator Cayetano's inquiry about the basic or organic document which might pertain to this decision, may I just read from Section 1 of Article XI of the Hawaii State Constitution.

"It states: 'For the benefit of present and future generations, the state and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy resources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the state.'

Senator Aki then said:

"Mr. President, I think there has been enough debate. I just want to say that I am in favor of this bill and would like to request a roll call vote."

The motion was put by the Chair and carried and, Roll Call vote having been requested, H.B. No. 1063, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 14. Noes, 11 (Abercrombie, Cayetano, Fernandes Salling, Hagino, Hee, B. Kobayashi, Matsuura, McMurdo, Solomon, Toguchi and Young).

At 5:32 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:35 o'clock p.m.

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 995 (Gov. Msg. Nos. 88, 138 and 226):

Senator Abercrombie moved that Stand.

Com. Rep. No. 995 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations to the Advisory Council for Children and Youth of the following:

Jane Iwalani Han, term to expire December 31, 1988;

Rene M. Mansho and Betty Ona, terms to expire December 31, 1988;

Roberta W.S. Chang, Karen K. Horita and Maria V. Bunye, terms to expire December 31, 1988; and

Marlene B. Maneha, term to expire December 31, 1986,

seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 996 (Gov. Msg. Nos. 137 and 227):

Senator Abercrombie moved that Stand. Com. Rep. No. 996 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations to the Board of Vocational Rehabilitation of the following:

Karen A. Taketa, term to expire December 31, 1988;

Lawrence Pang and Ronald I. Nakatsu, terms to expire December 31, 1988,

seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 997 (Gov. Msg. No. 141):

Senator Abercrombie moved that Stand. Com. Rep. No. 997 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations of Ruby L. Hargrave and Ben B.

Mayes to the Progressive Neighborhoods Task Force, terms to expire December 31, 1988, seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 998 (Gov. Msg. Nos. 139 and 207):

Senator Abercrombie moved that Stand. Com. Rep. No. 998 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations to the Policy Advisory Board for Elderly Affairs of the following:

Roy Lee Roberts and Colette V. Browne, terms to expire December 31, 1988;

Mary I. Ventura, Tony Tomoso, Shintaro R. Higa and Pedro E. Racelis, Jr., terms to December 31, 1988; and

Jiro Wakumoto, term to expire December 31, 1986,

seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 999 (Gov. Msg. No. 89):

Senator Abercrombie moved that Stand. Com. Rep. No. 999 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nomination of Susan P. Walker to the Criminal Injuries Compensation Commission, term to expire December 31, 1986, seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 1000 (Gov. Msg. No. 274):

Senator Abercrombie moved that Stand. Com. Rep. No. 1000 be received and placed

on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations to the Commission on the Handicapped of the following:

Eloise A. Wetherall, term to expire December 31, 1985; and

Kristin C. Mills and Frederick W. Hoogs, terms to expire December 31, 1988,

seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 1001 (Gov. Msg. No. 285):

Senator Abercrombie moved that Stand. Com. Rep. No. 1001 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations to the Commission on the Status of Women of the following:

Juliette T. Sarmiento and Sharon N. Chiba, terms to expire December 31, 1985; and

Linda M. Colburn, Andrea L. Simpson, Rose Chang, Sharon S. Narimatsu and Walette G. Pellegrino, terms to expire December 31, 1988,

seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 1002 (Gov. Msg. Nos. 136 and 225):

Senator Abercrombie moved that Stand. Com. Rep. No. 1002 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations to the Board of Social Services and Housing of the following:

Richard M. Iga, term to expire December 31, 1988; and

Toby Bailin Pontius and Barbara Dart, terms to expire December 31, 1988,

seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

Stand. Com. Rep. No. 1003 (Gov. Msg. No. 140):

Senator Abercrombie moved that Stand. Com. Rep. No. 1003 be received and placed on file, seconded by Senator Yamasaki and carried.

Senator Abercrombie then moved that the Senate advise and consent to the nominations to the Child Abuse and Neglect Secondary Prevention Advisory Committee of the following:

Frances G. Riggs, M.D., Sumiko Agena and Beverly Ing Lee, terms to expire December 31, 1985; and

Genevieve T. Okinaga, Gail Breakey, Patti J. Lyons and Calvin S.J. Sia, M.D., terms to expire December 31, 1986,

seconded by Senator Yamasaki.

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

Ayes, 23. Noes, none. Excused, 2 (Fernandes Salling and Toguchi).

At 5:36 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:37 o'clock p.m.

#### MATTERS DEFERRED FROM MONDAY, APRIL 15, 1985

By unanimous consent, action on the following House Concurrent Resolutions were deferred until Wednesday, April 17, 1985:

H.C.R. No. 92, H.D. 1; and  
H.C.R. No. 103, H.D. 1.

#### RE-REFERRAL OF RESOLUTIONS

The President made the following re-referral of Senate resolutions that were offered:

Senate	
Concurrent	
Resolution	Referred to:

No. 101 Jointly to the Committee on Economic Development and the Committee on Higher Education

Senate Resolution Referred to:

No. 137 Jointly to the Committee on Economic Development and the Committee on Higher Education

At 5:37 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:39 o'clock p.m.

At this time, Senator Holt, chairman of the Committee on Higher Education, requested a waiver of the 48-hour notice of a Public Hearing on the following:

Gov. Msg. No. 258, submitting for consideration and confirmation to the Board of Regents, University of Hawaii, the nomination of Dennis Yamada; and

Gov. Msg. No. 304, submitting for consideration and confirmation to the Board of Directors, Research Corporation, University of Hawaii, the nomination of Thomas S. Yagi,

and the President granted the waiver.

At 5:41 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:43 o'clock p.m.

Senator Kuroda then rose on a point of personal privilege as follows:

"Mr. President, the Senate just adopted two resolutions, Senate Concurrent Resolution 139 and Senate Resolution 185, and these resolutions honor professional secretaries on the occasion of professional secretaries day and week. I think that when we adjourn today we should show appreciation to our secretaries by a rising, clapping vote."

Senator Soares then rose to remark as follows:

"Mr. President, I rise on a point of personal privilege.

"I have not written the speeches that I've heard tonight about the jackass and the offers by Senator Cayetano and my good friend Senator Abercrombie but I can't help but remind the members of this body that all through the past 56 days we've had all the opportunity in the world to pass many, many bills that were requested and were echoed throughout the community by our constituency and we didn't do so.

"We spent an hour and a half fighting over a bill for golf courses and, in that argument, up comes again the role of the Majority and the Minority. And I would say thank God for this body there are only four of us here. If there were ten, it'll be a lot more fun than I see tonight.

"Maybe we're spoiled because we spend so much time in the caucus room as part of the coalition when we learned to respect one another's views and we learned to work very closely together to bring to the floor of the Senate bills that were meaningful and bills that were going to satisfy the needs of our constituents.

"You talk about Republicanism. I feel like Marvin Hagler in '86. Boy, I hope we can come back and do that in '86. Four of us go to 8 or 10. I think the people of this state certainly need that, Mr. President.

"But it seems to me, I see a crew on the Hokule'a here, in the middle of the doldrums, going down to Tahiti because we haven't taken the time to handle the initiative bill, the drinking age bill, capital punishment ... we're fighting over tax increases; we haven't satisfied the budget; we haven't satisfied workers' compensation.

"While I love to hear all this idea about the jackasses and the elephants (my voice is getting better), all of a sudden with four more days left we begin to remind ourselves: Who in the world put us here, Mr. President? Have we not a responsibility to them? And, so, I think as we go down the wire to the end of the session, I do not plan to write any more speeches, but I plan to remind all of ourselves we took the oath of office and we took the responsibility to perform. And I'll remind all of you on the last night of the session.

"I plan to go back and look at the opening day speeches by all the Senate Presidents and the House Speakers and the Governors and the glowing ideas about how we're going to have this state 'fly like a bird' and let's see what happens between now and next year.

"I'm very hopeful, however, that we have the kind of respect for one another and in the next four days we can get together and do our level best to finish the job we set out to do and, I hope, I really hope that we can end up being proud of our achievements be it a jackass or an elephant."

The Chair then made the following announcement:

"Members of the Senate, before adjourning, I would like to request that all conferees stay on call; and Ways and Means, you have a long evening ahead of you."

## CONFERENCE COMMITTEE REPORTS

On motion by Senator Cobb, seconded by Senator Soares and carried unanimously, the Senate suspended Rule 30 of the Senate Rules to authorize the Senate Clerk to receive conference committee reports prior to midnight. In consequence thereof, subsequent to its recessing at 5:50 o'clock p.m., and, in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on the following conference committee reports and bills was deferred for a period of 48 hours:

Conf. Com. Rep. No. 4 and House Bill No. 1162, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RIGHTS OF VICTIMS AND SURVIVING IMMEDIATE FAMILY MEMBERS TO NOTIFICATION OF PAROLE OR RELEASE OF A PRISONER";

Conf. Com. Rep. No. 5 and House Bill No. 1386, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS";

Conf. Com. Rep. No. 6 and Senate Bill No. 1408, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ABUSE OF FAMILY AND HOUSEHOLD MEMBERS";

Conf. Com. Rep. No. 7 and House Bill No. 188, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING";

Conf. Com. Rep. No. 8 and Senate Bill No. 1224, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING";

Conf. Com. Rep. No. 9 and Senate Bill No. 93, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISH CATCH REPORTS";

Conf. Com. Rep. No. 10 and Senate Bill No. 90, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL MARINE LICENSE";

Conf. Com. Rep. No. 11 and House Bill No. 268, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT";

Conf. Com. Rep. No. 12 and House Bill No. 488, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH";

Conf. Com. Rep. No. 13 and Senate Bill No. 78, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES";

Conf. Com. Rep. No. 14 and Senate Bill No. 249, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE

## CONFIDENTIALITY OF ADULT PROBATION RECORDS";

Conf. Com. Rep. No. 15 and House Bill No. 830, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROHIBITED MOTOR AND OTHER VEHICLE EQUIPMENT";

Conf. Com. Rep. No. 16 and Senate Bill No. 1264, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE SAFETY";

Conf. Com. Rep. No. 17 and House Bill No. 1393, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL AIR PATROL";

Conf. Com. Rep. No. 18 and House Bill No. 89, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC SAFETY";

Conf. Com. Rep. No. 19 and House Bill No. 519, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR AND OTHER VEHICLES";

Conf. Com. Rep. No. 20 and Senate Bill No. 133, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REGISTRATION OF AIRCRAFT";

Conf. Com. Rep. No. 21 and House Bill No. 329, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR";

Conf. Com. Rep. No. 22 and House Bill No. 1257, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS";

Conf. Com. Rep. No. 23 and House Bill No. 28, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EVIDENCE";

Conf. Com. Rep. No. 24 and House Bill No. 104, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NAMES";

Conf. Com. Rep. No. 25 and House Bill No. 436, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL CARE SERVICES"; and

Conf. Com. Rep. No. 26 and House Bill No. 776, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD CARE."

## ADJOURNMENT

At 12:00 o'clock midnight, the Senate adjourned until 11:30 o'clock a.m., Wednesday, April 17, 1985, in honor of the secretaries.