

SIXTY-SECOND DAY

Tuesday, April 22, 1986

The Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1986, convened at 11:45 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Pastor Bob Anders of the First Baptist Church of Nanakuli, after which the Roll was called showing all Senators present with the exception of Senator Henderson who was excused.

The President announced that he had read and approved the Journal of the Sixty-First Day.

The following introductions were made for the members of the Senate:

Senator Abercrombie introduced 66 fourth, fifth and sixth graders from Epiphany Episcopal School in Honolulu, accompanied by their teachers, Mrs. Renee Nakayama, Mrs. Theolinda Matsumoto and Mrs. Lori Arakawa.

Senator Aki introduced two supporters of the New Zealand Trade Expo: Mr. Howard Morrison, a premier entertainer and director of the Office of Maori Affairs; and Mr. Tommy Taurima, cultural art director for New Zealand at the Polynesian Cultural Center and Brigham Young University, Hawaii.

Senator Aki also introduced Mr. Kamaki Kanahale, director of the Office of Hawaiian Affairs, and staff members, Ms. Jenna Keala and Mr. Ed Michelman.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 356 to 358) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 356, informing the Senate he signed the following bills into law:

April 18, 1986:

Senate Bill No. 505 as Act 51, entitled: "RELATING TO THE NEWSPAPER ANTITRUST EXEMPTION,"

Senate Bill No. 1573-86 as Act 52, entitled: "RELATING TO THE CONSUMER AND SMALL BUSINESS ADVOCATE,"

Senate Bill No. 2300-86 as Act 53, entitled: "RELATING TO CORPORATIONS," and

Senate Bill No. 2325-86 as Act 54,

entitled: "RELATING TO FUEL TAX LAW."

April 21, 1986:

Senate Bill No. 1794-86 as Act 55, entitled: "RELATING TO THE METROPOLITAN PLANNING ORGANIZATION,"

Senate Bill No. 2056-86 as Act 56, entitled: "RELATING TO HORIZONTAL PROPERTY REGIMES,"

Senate Bill No. 2159-86 as Act 57, entitled: "RELATING TO DEPARTMENT OF TRANSPORTATION," and

Senate Bill No. 2206-86 as Act 58, entitled: "RELATING TO COMMERCIAL FISHING VESSELS,"

was placed on file.

Gov. Msg. No. 357, returning Senate Bill No. 2046-86, without his approval, together with his statement of objections relating to the measure which reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU

April 21, 1986

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2046-86

Honorable Members
Thirteenth State Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2046-86, entitled 'A Bill for an Act Relating to Employees' Retirement System.'

The apparent purpose of Senate Bill No. 2046-86 is to clarify retirement plan provisions with respect to: credited service and retirement allowance for members who transfer from the noncontributory to the contributory plan; treatment of retirants who return to service and members with breaks in service; and retirement eligibility under the noncontributory plan.

Senate Bill No. 2046-86 is purported to be a 'housekeeping measure' to correct technical ambiguities that became known subsequent to establishment of the noncontributory plan. However, the amendment to lower the age at which a person with deferred vested rights and twenty years of credited service would be

eligible to receive a retirement allowance, is a major policy change. I believe that this amendment is contrary to the original concept of the noncontributory plan whereby deferred vested benefits were to be payable at age 65 regardless of length of credited service.

For the foregoing reason, I am returning Senate Bill No. 2046-86 without my approval.

Respectfully,

/S/ George R. Ariyoshi
GEORGE R. ARIYOSHI
Governor of Hawaii,"

was placed on file.

Gov. Msg. No. 358, returning Senate Bill No. 2169-86, without his approval, together with his statement of objections relating to the measure which reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU

April 21, 1986

STATEMENT OF OBJECTIONS TO SENATE
BILL NO. 2169-86

Honorable Members
Thirteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2169-86, entitled 'A Bill for an Act Relating to Workers' Compensation.'

The purpose of Senate Bill No. 2169-86 is to exclude from the workers' compensation law vacuum cleaner salespeople who are paid solely by way of commission and individual taxi cab drivers who own their cabs.

The legislative committee reports indicate that the committees felt that such vacuum cleaner salespeople and taxi cab drivers are independent contractors who should not be covered by the workers' compensation law. However, the committee reports also noted that 'the piecemeal approach to excluding specific occupations from statutory coverage is unsatisfactory.' I agree with the committees' assessment and believe that a uniform definition of independent contractor should be developed to apply to all of the employment-related statutes. One committee indicated its intention of pursuing this and until such a definition is developed, exclusions by specific occupations should not be made. There are many other similar occupations that would not be covered by the specific exclusions of this bill.

For the foregoing reasons, I am returning Senate Bill No. 2169-86 without my approval.

Respectfully,

/S/ George R. Ariyoshi
GEORGE R. ARIYOSHI
Governor of Hawaii,"

was placed on file.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 708 to 717) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 708, informing the Senate that the report of the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to the following House Bills were adopted by the House; and said bills passed Final Reading in the House of Representatives on April 18, 1986:

No. 1954-86, S.D. 1, C.D. 1;
No. 172, S.D. 1, C.D. 1;
No. 2280-86, H.D. 2, S.D. 1, C.D. 1;
No. 2170-86, S.D. 2, C.D. 1;
No. 2444-86, S.D. 1, C.D. 1;
No. 2069-86, H.D. 1, S.D. 1, C.D. 1;
No. 2166-86, H.D. 1, S.D. 1, C.D. 1;
No. 2202-86, H.D. 1, S.D. 1, C.D. 1;
No. 2845-86, H.D. 2, S.D. 1, C.D. 1;
No. 2495-86, H.D. 2, S.D. 1, C.D. 1;
No. 2725-86, H.D. 1, S.D. 2, C.D. 1;
No. 2596-86, S.D. 1, C.D. 1;
No. 105, H.D. 1, S.D. 1, C.D. 1; and
No. 1688-86, H.D. 1, S.D. 2, C.D. 1,

was placed on file.

Hse. Com. No. 709, informing the Senate that the report of the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to the following Senate Bills were agreed to by the House; and said bills passed Final Reading in the House of Representatives on April 18, 1986:

No. 1678-86, H.D. 1, C.D. 1;
No. 425, S.D. 2, H.D. 2, C.D. 1;
No. 2190-86, S.D. 1, H.D. 2, C.D. 1;
No. 2309-86, S.D. 1, H.D. 2, C.D. 1;
No. 383, S.D. 1, H.D. 1, C.D. 1;
No. 1595-86, H.D. 1, C.D. 1;
No. 1762-86, S.D. 1, H.D. 2, C.D. 1; and
No. 1550-86, S.D. 2, H.D. 1, C.D. 1,

was placed on file.

At 11:51 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:15 o'clock p.m.

Hse. Com. No. 710, transmitting House Concurrent Resolution No. 129, H.D. 1 which was adopted by the House of Representatives on April 21, 1986, was placed on file.

By unanimous consent, action on H.C.R. No. 129, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING IMPROVED UNITED STATES IMMIGRATION AND CUSTOMS SUPPORT AT THE HONOLULU INTERNATIONAL AIRPORT," was deferred until Wednesday, April 23, 1986.

Hse. Com. No. 711, transmitting House Concurrent Resolution No. 142 which was adopted by the House of Representatives on April 21, 1986, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 142, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A REVIEW OF THE POLICY AUTHORIZING NONCOOPERATION IN THE ESTABLISHMENT OF PATERNITY AND OBTAINMENT OF CHILD SUPPORT UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM," was adopted.

Hse. Com. No. 712, transmitting House Concurrent Resolution No. 164 which was adopted by the House of Representatives on April 21, 1986, was placed on file.

By unanimous consent, action on H.C.R. No. 164, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE STATE DEPARTMENT OF TRANSPORTATION ACCELERATE THE DESIGN AND CONSTRUCTION OF THE WAIPIO INTERCHANGE AT MILILANI CEMETERY ROAD TO ALLEVIATE TRAFFIC CONGESTION ON KAMEHAMEHA HIGHWAY," was deferred until April 23, 1986.

Hse. Com. No. 713, transmitting House Concurrent Resolution No. 166 which was adopted by the House of Representatives on April, 1986, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 166, entitled: "HOUSE CONCURRENT RESOLUTION COMMENDING THE UNITED STATES DEPARTMENT OF AGRICULTURE AND ITS SUBSIDIARY, THE AGRICULTURAL RESEARCH SERVICE, ON THEIR CONTINUED SUPPORT OF AQUACULTURE DEVELOPMENT IN THE UNITED STATES," was adopted.

Hse. Com. No. 714, transmitting House Concurrent Resolution No. 172 which was adopted by the House of Representatives on April 21, 1986, was placed on file.

By unanimous consent, H.C.R. No. 172, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF THE LEGISLATIVE STAFFING SYSTEM," was referred to the Committee on Legislative Management.

Hse. Com. No. 715, transmitting House Concurrent Resolution No. 173 which was adopted by the House of Representatives on April 21, 1986, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 173, entitled: "HOUSE CONCURRENT RESOLUTION COMMENDING THE UNITED STATES DEPARTMENT OF AGRICULTURE AND ITS SUBSIDIARY, THE COOPERATIVE STATE RESEARCH SERVICE, FOR THEIR EFFORTS TO DEVELOP THE MARINE SHRIMP INDUSTRY IN THIS NATION," was adopted.

Hse. Com. No. 716, transmitting House Concurrent Resolution No. 189 which was adopted by the House of Representatives on April 21, 1986, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 189, entitled: "HOUSE CONCURRENT RESOLUTION URGING A CONCERTED EFFORT TO MAINTAIN THE FEDERAL BUDGET APPROPRIATION FOR THE UNITED STATES COAST GUARD IN THE STATE OF HAWAII," was adopted.

Hse. Com. No. 717, transmitting House Concurrent Resolution No. 208, H.D. 1 which was adopted by the House of Representatives on April 21, 1986, was placed on file.

By unanimous consent, action on H.C.R. No. 208, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE APPOINTMENT OF A SPECIAL INTERIM COMMITTEE TO SELECT A SITE FOR A CONVENTION CENTER," was deferred until Wednesday, April 23, 1986.

STANDING COMMITTEE REPORT

Senator Cayetano, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 1162-86) recommending that House Concurrent Resolution No. 107, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Cayetano, seconded by Senator Toguchi and carried, the report of the Committee was adopted and H.C.R. No. 107, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO RENAME KEAHOLE AIRPORT AS 'KEAHOLE AIRPORT — LIEUTENANT COLONEL

ONIZUKA FIELD," was adopted.

ORDER OF THE DAY

MATTERS DEFERRED FROM
MONDAY, APRIL 21, 1986

FINAL READING

CONFERENCE COMMITTEE REPORTS

By unanimous consent, action on the following conference committee reports and bills was deferred until Wednesday, April 23, 1986:

Conf. Com. Rep. No. 19-86 and H.B. No. 2221-86, H.D. 2, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 22-86 and S.B. No. 1550-86, S.D. 2, H.D. 1, C.D. 1;

Conf. Com. Rep. No. 23-86 and H.B. No. 2117-86, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 24-86 and H.B. No. 2468-86, H.D. 2, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 25-86 and H.B. No. 2282-86, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 26-86 and H.B. No. 2246-86, H.D. 2, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 27-86 and H.B. No. 326, H.D. 1, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 28-86 and H.B. No. 381, H.D. 1, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 29-86 and H.B. No. 1691-86, H.D. 2, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 30-86 and H.B. No. 2373-86, H.D. 1, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 31-86 and H.B. No. 1740-86, H.D. 2, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 32-86 and H.B. No. 26, H.D. 1, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 33-86 and H.B. No. 122, H.D. 1, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 34-86 and H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 2;

Conf. Com. Rep. No. 35-86 and S.B. No. 303, S.D. 1, H.D. 1, C.D. 1;

Conf. Com. Rep. No. 36-86 and S.B. No. 592, S.D.1, H.D.1, C.D. 1;

Conf. Com. Rep. No. 37-86 and S.B. No. 2290-86, S.D. 1, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 39-86 and H.B. No. 1388, H.D. 1, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 40-86 and S.B. No. 909, S.D. 1, H.D. 1, C.D. 1;

Conf. Com. Rep. No. 41-86 and H.B. No. 1665-86, H.D. 2, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 42-86 and H.B. No. 2608-86, H.D. 2, S.D. 1, C.D. 1; and

Conf. Com. Rep. No. 43-86 and H.B. No. 2495-86, H.D. 2, S.D. 1, C.D. 1.

Conf. Com. Rep. No. 44-86 and H.B. No. 393, H.D. 1, S.D. 1, C.D. 1;

By unanimous consent, Conf. Com. Rep. No. 44-86 and H.B. No. 393, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was recommitted to the Committee on Conference.

By unanimous consent, action on the following conference committee reports and bills was deferred until Wednesday, April 23, 1986:

Conf. Com. Rep. No. 45-86 and H.B. No. 1663-86, H.D. 2, S.D. 1, C.D. 1;

Conf. Com. Rep. No. 46-86 and H.B. No. 1666-86, H.D. 2, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 47-86 and S.B. No. 2190-86, S.D. 1, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 48-86 and S.B. No. 425, S.D. 2, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 49-86 and S.B. No. 1762-86, S.D. 1, H.D. 2, C.D. 1;

Conf. Com. Rep. No. 51-86 and H.B. No. 100, H.D. 1, S.D. 2, C.D. 1; and

Conf. Com. Rep. No. 52-86 and H.B. No. 2561-86, S.D. 1, C.D. 1.

Conf. Com. Rep. No. 53-86 and S.B. No. 1831-86, S.D. 2, H.D. 1, C.D. 1;

By unanimous consent, Conf. Com. Rep. No. 53-86 and S.B. No. 1831-86, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," was recommitted to the Committee on Conference.

By unanimous consent, action on the following conference committee reports and bills was deferred until Wednesday, April 23, 1986.

Conf. Com. Rep. No. 54-86 and S.B. No. 2266-86, S.D. 2, H.D. 1, C.D. 1;

Conf. Com. Rep. No. 55-86 and H.B. No. 1680-86, H.D. 1, S.D. 1, C.D. 2;

Conf. Com. Rep. No. 56-86 and H.B. No. 2348-86, H.D. 1, S.D. 1, C.D. 2;

Conf. Com. Rep. No. 57-86 and H.B. No. 2549-86, H.D. 2, S.D. 2, C.D. 1;

Conf. Com. Rep. No. 58-86 and H.B. No. 1857-86, H.D. 2, S.D. 1, C.D. 2; and

Conf. Com. Rep. No. 59-86 and S.B. No. 1843-86, S.D. 2, H.D. 2, C.D. 1.

FINAL READING

By unanimous consent, action on the following bills was deferred until Wednesday, April 23, 1986:

S.B. No. 934, S.D. 2, H.D. 2;

S.B. No. 1718-86, H.D. 1;

S.B. No. 1960-86, H.D. 1;

S.B. No. 1961-86, S.D. 1, H.D. 2;

S.B. No. 2166-86, S.D. 2, H.D. 2;

S.B. No. 2303-86, S.D. 2, H.D. 2;

S.B. No. 2359-86, S.D. 1, H.D. 1;

S.B. No. 2474-86, S.D. 2, H.D. 2; and

S.B. No. 2478-86, S.D. 2, H.D. 2.

THIRD READING

By unanimous consent, action on the following standing committee reports and bills was deferred until Wednesday, April 23, 1986:

Stand. Com. Rep. No. 1090-86 and H.B. No. 2204-86;

Stand. Com. Rep. No. 1091-86 and H.B. No. 2574-86, H.D. 1;

Stand. Com. Rep. No. 1092-86 and H.B. No. 2446-86, H.D. 1;

Stand. Com. Rep. No. 1094-86 and H.B. No. 2199-86, H.D. 2;

Stand. Com. Rep. No. 1095-86 and H.B. No. 1927-86, H.D. 2;

Stand. Com. Rep. No. 1096-86 and H.B. No. 2430-86, H.D. 1;

Stand. Com. Rep. No. 1097-86 and H.B. No. 2429-86, H.D. 1;

Stand. Com. Rep. No. 1098-86 and H.B. No. 2428-86, H.D. 1;

Stand. Com. Rep. No. 1100-86 and H.B. No. 2209-86, H.D. 2;

Stand. Com. Rep. No. 1101-86 and H.B. No. 1891-86, H.D. 1;

Stand. Com. Rep. No. 1102-86 and H.B. No. 2536-86, H.D. 1;

H.B. No. 1708-86, H.D. 2; and

Stand. Com. Rep. No. 1105-86 and H.B. No. 2506-86, H.D. 2.

ADVICE AND CONSENT

Stand. Com. Rep. No. 1161-86 (Gov. Msg. No. 355):

Senator Cobb moved that Stand. Com. Rep. No. 1161-86 be received and placed on file, seconded by Senator Soares and carried.

Senator Cobb then moved that the Senate advise and consent to the nominations to the Board of Regents, University of Hawaii of the following:

Robert M. Fujimoto, term to expire June 30, 1990 (Due to 8-year statutory service limitation, eligible to serve until July 18, 1987);

Albert M. Nishimura, term to expire June 30, 1987;

seconded by Senator Soares.

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

Ayes, 23. Noes, none. Excused, 2 (Henderson and Young).

STANDING COMMITTEE REPORTS

Stand. Com. Rep. No. 1004-86 (S.C.R. No. 141):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and S.C.R. No. 141, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES AND THE SOVIET UNION TO SUPPORT PEACEFUL USES OF SPACE AND TO AVOID THE USE OF SPACE FOR WARFARE," was adopted on the following showing on Ayes and Noes:

Ayes, 18. Noes, 5 (Cobb, George, Kuroda, McMurdo and Soares). Excused, 2 (Henderson and Young).

Stand. Com. Rep. No. 1005-86 (S.R. No. 173):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 173, entitled: "SENATE RESOLUTION URGING THE UNITED STATES AND THE

SOVIET UNION TO SUPPORT PEACEFUL USES OF SPACE AND TO AVOID THE USE OF SPACE FOR WARFARE," was adopted on the following showing of Ayes and Noes.

Ayes, 18. Noes, 5 (Cobb, George, Kuroda, McMurdo and Soares). Excused, 2 (Henderson and Young).

Stand. Com. Rep. No. 1126-86 (S.C.R. No. 129):

Senator Cobb, for the Committee on Tourism and Recreation, presented a report (Stand. Com. Rep. No. 1126-86) recommending that Senate Concurrent Resolution No. 129 be adopted.

Senator Cobb then moved that Stand. Com. Rep. No. 1126-86 be adopted and S.C.R. No. 129 be adopted, seconded by Senator Soares.

At this time, Senator McMurdo rose to speak against the measure as follows:

"Mr. President, I rise to speak against this resolution. I can't find the committee report right now, but in there it says that the Federal Government has said that it's going to sell; it's available to buy this land; and it's not true. I think it's very premature to put something out like this when there is no evidence, at this point, that the Federal Government even intends to sell Fort DeRussy or do to anything else with it. Second, last year we did pass a concurrent resolution which asked the Federal Government to consider returning or giving Fort DeRussy to the state in order to maintain the open space. This particular resolution doesn't make any effort to decide what it is they want to use DeRussy for, in the first place. If they're even thinking convention center, as far as I'm concerned, that's out. So, I rise to speak against this resolution. Thank you."

Senator Abercrombie then said:

"Mr. President, perhaps the chairman of the committee might indicate where he got the information which I read here that 'Your Committee finds that the federal government intends to convey the use of Fort DeRussy in Waikiki to the people of Hawaii, but that the actual method of conveyance, the specific grantee, and the use have not yet been determined.'"

The Chair posed the question and Senator Kuroda replied:

"Mr. President, the resolution is intended to call the attention of the Legislature that if the land becomes available, to consider an exchange with other state lands rather than purchasing it."

Senator Abercrombie rose to speak against the measure and continued:

"Mr. President, I now rise to speak against the resolution because I'm afraid that's not what it says. If that's the intent, it should be voiced in another context. It indicates quite clearly that there is the intention to convey the use ... it says 'the use of Fort DeRussy ... to the people of Hawaii.' Now, use of Fort DeRussy as opposed to Fort DeRussy itself, as to say the land itself, because the use is there for the people of Hawaii right now in one form or another.

"So, it is very unclear from this as to exactly what is meant. If it means that the land itself is to be conveyed, that is one thing. If it's merely the use, that's quite another. The land exchange arrangement is not clear unless that understanding is made clear beforehand. As for what might be exchanged, could the chairman indicate who would be making such a decision, and under what circumstances would that discussion take place? That's not clear to me from that resolution. In other words, what are the criteria that would be employed by the Department of Land and Natural Resources?"

The Chair posed the question and Senator Kuroda answered:

"Mr. President, the resolution does not attempt to spell out any details or dictate any specifics. The Department of Land and Natural Resources has the expertise among its personnel to make a determination. Such exchange efforts have been made in the past, and the Legislature is attempting to adopt a resolution to suggest that. Should this particular parcel of land become available by the negotiation that is now taking place among those who represent the City and the Federal Government, then an effort should be made to save the state money by considering an exchange. As to the specifics of who will make the determination, we leave it up to the DLNR who have the people with the experience to do so."

Senator Abercrombie stated:

"Mr. President, there's a point of order I have to raise. I was focussing on the committee report and I think we need a recess right now so that an inquiry can be of the chair."

At 12:24 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:32 o'clock p.m.

Senator Abercrombie then continued and remarked:

"Mr. President, I think the situation was that the S.C.R. was attached to the S.R.; the numbers were mixed up and I apologize

to you and to Senator Kuroda.

"Nonetheless, Mr. President, I'd like to point out to the members before they vote that the chairman of the Tourism Committee, Senator Kuroda, has indicated that there are no specific criteria. Now, when you make an exchange, you have to make one based on value of what the exchange is to refer to. If we do not refer, as was indicated by Senator McMurdo, to the use to which we intend to put the land at Fort DeRussy, we will not have any criteria on which to base the land exchange.

"The first question that the Armed Services people are going to ask when we talk about exchanging one set of land for the other is well, what is the relative value. If it is to be open space for a park, it's one thing; if it's to be a convention center, it's quite something else again, if there is to be some kind of equity in the exchange. So, in the absence of indicating quite clearly in the resolution, as to what the purpose or to what use or what purpose Fort DeRussy will be put to, I think it is absolutely impossible for any kind of negotiation with respect to land exchange to take place. Therefore, I do not see the efficacy in voting for this resolution. Thank you."

Senator McMurdo continued and stated:

"Mr. President, before I go any further, now that I have found this (resolution), I want to correct an error on my part. I fully intended to put 'I do not concur' on this when I signed the committee report.

"To continue on this, first of all, as I said before, there's no evidence whatsoever that there is any opportunity for any negotiations at this point. I don't know what the chairman of the Tourism Committee is referring to because, at this point, the Department of Defense study, regardless of what you might have read in the papers on Friday and Saturday, said that at this point all land at Fort DeRussy is in use. There is no excess land. They said in the future if the Reserves — if, not when — if the Reserves are ever moved, then there might possibly be excess land. But at this point in time, on this day of history, there is not excess land, and therefore, there is nothing for sale down there.

"The bottom line will be written the Congressional hearing by the House Armed Services Committee is held — and this will probably be the end of June of the first of July, depending on how well Representative Bill Nichols is because they want him to make the trip. But, Representative Ron Dellums and Representative Dan Daniels from the Subcommittee on Military Construction and the Subcommittee on Readiness are chairmen of the two committees which will be here for a joint

hearing. What they are coming for is, and I quote, 'to find out what the wishes of the people of the State of Hawaii are with regard to Fort DeRussy.'

"So, I think at this point this is an extremely premature resolution, particularly when there isn't any (designated) 'use.' Any one of you who has been in real estate knows that you can't just go out and say, 'I want to exchange this piece of land.' You have to know what the comparable value is for the piece of land you want to exchange and what the uses will be. Otherwise, you don't have anything tangible to go looking for. So, I urge you not to vote for this resolution. Thank you."

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

"Mr. President, I rise to speak in favor of this resolution. The chairman of the Tourism Committee has said that this is only a resolution requesting that the Land and Natural Resources Department look into the possibility of land exchange. Very clearly the issue could be easily settled without all this redundancy here and all this verbiage, I think. For those who would like to have Fort DeRussy, that site, considered as a possible convention site, vote for this resolution. If you are totally against even the consideration of the Fort DeRussy site being selected as the site for a convention center, then vote against it. That's how simple it is. Never mind all this 'b.s.' that goes on here, just trying to block this."

Senator McMurdo quipped:

"Mr. President, I believe I hear the 26th Senator speaking."

Senator Cayetano added:

"I would like to thank Senator Kawasaki for making up my mind for me."

Senator Hee inquired:

"Mr. President, on a point of inquiry to Senator Kawasaki, we're undecided, how shall we vote?"

The Chair replied:

"You just vote 'aye.'"

Senator Kuroda then stated:

"Mr. President, I thank the previous speaker for standing up to speak in support of the resolution. I urge the Senators to vote for the resolution on the basis that it's going to be a study as to the possibility of exchanging land. Never mind the convention center; it's going to be open space in the future. Never mind the convention center. Thank you."

At this time, Senator Cobb stated:

"Mr. President, before speaking, I'd like to ask for a conflict ruling on this resolution. I drill as a member of the Army Reserve at Fort DeRussy and could be directly impacted."

The Chair replied:

"No conflict."

Senator Cobb proceeded and spoke against the resolution:

"Caught between two friends who are protagonists on this, Mr. President, I'm going to speak against it because of the fact that the conveyance, cost and other elements have apparently not been flushed out yet.

"I'm not aware of the testimony that took place on this, but I am aware that the purchase price for Fort DeRussy is estimated to be \$392 million, and if the Reserve facilities presently located there are going to be moved, that cost alone is an additional \$50 million to \$75 million. Now, perhaps, one of the exchange sites that the State or Federal Government might be looking at would be Fort Armstrong for Fort DeRussy, and that would just further muddy the waters as to where the convention site may or may not go. I think, though, that this would be a predetermination of where a convention center would be unless we studied all sites. Why not a feasibility analysis to include whether or not the zoo or the golf course or Fort Armstrong would also be feasible? This one particular resolution seems to aim in the direction of only Fort DeRussy. I'm reluctant to predetermine the choice. Thank you."

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and S.C.R. No. 129, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE POSSIBILITY OF EXCHANGING STATE LAND FOR FORT DERUSSY," was adopted on the following showing of Ayes and Noes:

Ayes, 18. Noes, 5 (Abercrombie, Cayetano, Cobb, Hee and McMurdo). Excused, 2 (Henderson and Young).

Stand. Com. Rep. No. 1127-86 (S.R. No. 162):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and S.R. No. 162, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE POSSIBILITY OF EXCHANGING STATE LAND FOR FORT

DERUSSY," was adopted on the following showing of Ayes and Noes:

Ayes, 18. Noes, 5 (Abercrombie, Cayetano, Cobb, Hee and McMurdo). Excused 2 (Henderson and Young).

H.C.R. No. 212, H.D. 1 (Hse. Com. No. 691):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 212, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE DEPARTMENT OF LAND AND NATURAL RESOURCES TO COORDINATE A STUDY OF AND REPORT TO THE STATE LEGISLATURE ON STATE HISTORIC PRESERVATION STANDARDS," was adopted.

H.C.R. No. 192 (Hse. Com. No. 692):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 192, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONDUCT AN IN-HOUSE MANAGEMENT STUDY OF THE BEACH AREAS FROM ST. THERESA'S CHURCH TO THE SECOND DITCH IN KEKAHA, KAUAI," was adopted.

H.C.R. No. 113 (Hse. Com. No. 693):

By unanimous consent, action on H.C.R. No. 113, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE BY WAY OF A LEASE, CERTAIN GOVERNMENT SUBMERGED LANDS FOR THE PURPOSE OF A MARINA FACILITY," was deferred until Wednesday, April 23, 1986.

H.C.R. No. 114 (Hse. Com. No. 694):

By unanimous consent, action on H.C.R. No. 114, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE BY WAY OF A LEASE, CERTAIN GOVERNMENT SUBMERGED LANDS FOR THE PURPOSE OF A MARINA FACILITY," was deferred until Wednesday, April 23, 1986.

H.C.R. No. 117 (Hse. Com. No. 695):

By unanimous consent, action on H.C.R. No. 117, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE BY WAY OF A LEASE, CERTAIN GOVERNMENT SUBMERGED LANDS FOR THE PURPOSE OF A MARINA FACILITY," was deferred until Wednesday, April 23, 1986.

H.C.R. No. 133 (Hse. Com. No. 700):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 133, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TAXATION TO ESTABLISH A MONITORING PROCEDURE FOR THE PURPOSE OF ENSURING THAT MAINLAND CONTRACTORS PERFORMING CONSTRUCTION WORK ON MILITARY INSTALLATIONS PAY THE STATE EXCISE TAX AS REQUIRED BY CHAPTER 237, HAWAII REVISED STATUTES," was adopted.

H.C.R. No. 154, H.D. 1 (Hse. Com. No. 701):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 154, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CHAIRPERSON OF THE BOARD OF LAND AND NATURAL RESOURCES TO ISSUE A TEMPORARY MORATORIUM ON THE ISSUANCE OF NEW PERMITS FOR COMMERCIAL BOATING OPERATIONS ON PUBLIC BEACHES LOCATED ON THE NORTH SHORE OF KAUAI," was adopted.

H.C.R. No. 165 (Hse. Com. No. 702):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 165, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF REPLENISHING DEPLETED STOCKS OF FISH AND SHELLFISH THROUGH CULTURE AND RELEASE PROGRAMS," was adopted.

H.C.R. No. 167 (Hse. Com. No. 703):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 167, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A COMPENDIUM OF OCEAN AND MARINE-RELATED POLICIES," was referred to the Committee on Legislative Management.

H.C.R. No. 184, H.D. 1 (Hse. Com. No. 704):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 184, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HAWAII INSTITUTE OF GEOPHYSICS TO PREPARE A REPORT ON THE INSTITUTE OF OCEANOGRAPHIC SCIENCES' PLANNED GEOLOGICAL SURVEY OF THE SEAFLOOR WITHIN THE EXCLUSIVE ECONOMIC ZONE

SURROUNDING THE HAWAIIAN ARCHIPELAGO," was adopted.

H.C.R. No. 201, H.D. 1 (Hse. Com. No. 705):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 201, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF PLANNING AND ECONOMIC DEVELOPMENT TO SPONSOR AN OCEAN RECREATION CONFERENCE IN 1987," was adopted.

H.C.R. No. 206 (Hse. Com. No. 706):

By unanimous consent, action on H.C.R. No. 206, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE DEPARTMENT OF TRANSPORTATION TO CONDUCT A USE AUDIT OF THE ALA WAI CANAL AND TO STUDY THE IMPACT OF ANY FUTURE MIX OF COMMERCIAL AND RECREATIONAL ACTIVITIES," was deferred until Wednesday, April 23, 1986.

H.C.R. No. 211, H.D. 1 (Hse. Com. No. 707):

On motion by Senator Cobb, seconded by Senator Soares and carried, the report of the Committee was adopted and H.C.R. No. 211, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE POLICY PLANNING COMMITTEE TO STUDY THE FEASIBILITY OF EXPANDING THE HAWAII OCEAN CENTER CONCEPT BY INCLUDING MAJOR OCEAN EXHIBITS AND DISPLAYS IN THE ACTUAL MARINE ENVIRONMENT," was adopted.

At 12:44 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

At this time Senator B. Kobayashi rose on a point of personal privilege and stated as follows:

"Mr. President, I rise on a point of personal privilege. Mr. President, last week some comments were made on this floor regarding a Senate Resolution and a Senate Concurrent Resolution. I should like to suggest that there is some information that this Senate should have on those resolutions.

"Specifically, Mr. President, Senate Concurrent Resolution No. 3 and Senate Resolution 22 are exactly the same, except for the difference between an S.R. and an S.C.R. These two resolutions are virtually identical to a resolution presented in 1984, S.C.R. No. 41. The only difference is that there are dollar amounts that differ as to the rates per day at Kuakini Medical Center

and Queen's Medical Center. Also, there is a 'Whereas' clause which exists in the 1984 resolution which does not exist in the 1986 resolution. This 'Whereas' clause contains reference to a December 1983 report and a House bill which were pertinent at that time. But essentially, the 1986 resolutions and the 1984 resolutions are exactly the same.

"Also presented to this body in 1985 were two resolutions, S.R. No. 11 and S.C.R. No. 4. All of the 'Whereas' clauses in the 1986 resolutions are exactly the same as those in the 1985 resolutions, except again for the rates per day at Kuakini Medical Center and Queen's Medical Center. In addition, all of the 'Be it resolved' clauses are the same, except for one stylistic difference in the 1985 resolutions. The stylistic difference is as follows: The 1986 resolution adds three words 'is requested to.' These three words do not exist in the 1985 resolution. The statement has to do with 'the Legislative Auditor is requested to conduct a thorough study.' The 1985 resolution simply reads: 'the Legislative Auditor conduct a thorough study.'

"Essentially, the point I would like to make is that there were allegations that there was perhaps a conspiracy involved in not hearing these resolutions. I would suggest, Mr. President, that there was a consistency involved. The same resolution was introduced by the same Senator in three different years. They were handled and referred to three different committees and three different chairmen during those three different years. The three different chairmen reacted to the resolutions in the same way with disapproval.

"If there is any information to suggest that there was a conspiracy involved, that conspiracy seems to have started in 1984. I was not chairman of the committee when this event occurred. In 1985, I specifically asked the Senate President, yourself, to refer all matters relating to Queen's Medical Center and to SHPDA (State Health Planning and Development Agency) to another committee. In spite of that request, the resolutions for 1985 were appeared in my committee. I requested a

re-referral of those resolutions and at that point a re-referral was made.

"This year, I understand that the same request that I had made last year still applied, but as in 1985 those resolutions appeared in my committee. I did not pay much attention to resolutions for the first two months of the session, hoping that I would be able to, first of all, handle all of the bills that were in my committee. An event happened on February 28 where I was involved in the birth of a son and subsequent to that I did not get to hearing resolutions until later than I had hoped for. At that point, I thought it too late to request a re-referral of the resolutions in my committee, and so I decided to either hear resolutions or not hear resolutions. Given the press for time, I did not hear all of the resolutions in my committee. The two resolutions in question were two resolutions I did not hear.

"In short, Mr. President, I would like to state for the record that three sets of resolutions, virtually identical in every particular 'Whereas' clause and in every particular 'Be it resolved' clause, were presented to this body in three different years. They were handled by three different chairmen and met with similar results.

"I would suggest that what we have is not conspiracy, but rather a consistency in approach and/or thought. And if there is a conspiracy, I would suggest further that it is one which goes back in time prior to 1986. I can assure this body that I did not communicate or lobby the chairman involved with these particular items in 1984. And any time during 1985, I did not lobby or communicate with the chairman of these respective items. So, I would suggest, rather, that there was a similarity or consistency of handling these measures and no conspiracy. Thank you much."

ADJOURNMENT

At 12:54 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 12:30 o'clock p.m., Wednesday, April 23, 1986.