

## FIFTY-FIFTH DAY

Monday, April 20, 1987

The Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, convened at 11:50 o'clock a.m., with the Vice President in the Chair.

The Divine Blessing was invoked by Chaplain Jim Butt, Lieutenant, Pearl Harbor Naval Station, after which the Roll was called showing all Senators present.

The Chair announced that she had read and approved the Journal of the Fifty-Fourth Day.

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

Senator McMurdo introduced the Dr. Frances Delany, Ms. Georgia Miller, Mrs. Martha Black, Ms. Jean Minton and Ms. Loretta Shuler as follows:

"Madam Vice President, I have a singular honor today in introducing to the Senate five individuals who are being presented with certificates of appreciation in recognition for their hard work, enthusiasm, and dedication to their respective communities. Each individual who will stand here today has contributed to the betterment of the quality of life in her community.

"These individuals have voluntarily given of much of their time to researching, organizing, managing, and fighting for issues that are important in the areas. These outstanding community members are recognized for their hard work, their commitment of the people of Hawaii in the betterment of life in the Islands and, individually, I would like to present and ask each in turn to stand and be recognized.

"First, Dr. Frances Delany. This Certificate of Achievement will go to Frances for her hard work, excellent management and leadership skills as chair of the Citizens to Save Ft. DeRussy Group. Dr. Delany spearheaded a grassroots effort to retain Ft. DeRussy as an open space. Several hundred volunteers collected over 37,000 signatures in a petition to place this issue on the November '86 ballot.

"Dr. Delany is an outstanding example as a leader in the Wakiki community. She also serves on the Wakiki Neighborhood Board and on her condo. Since she hasn't really lived here permanently but a few years, I'm sure that we will hear more and more of her leadership. (Will you join me in acknowledging Dr. Delany.)

"Second, we have Georgia Miller, also

from Waikiki. She's the president of the Wakiki Residents Association and has been for more years than she and I are going to tell you. She's secretary of the Waikiki Improvement Association and a member of the active Waikiki Neighborhood Board, as well as the editor of the Waikiki Business and Professional Women's Club newsletter.

"Through her involvement in the community, Georgia has dedicated her time to promoting better health, safety and noise control, crime control, improved planning and zoning measures, and a fight for open space in the Waikiki area. Ms. Miller is commended on her outstanding leadership contributions to both the residents and commercial needs of the Waikiki community. (Will you join me in acknowledging her, please.)

"Martha Black is an active participant in the state Water Code issue of Hawaii. She is also very involved in the community, serving on numerous committees such as, State Legislative Care for the AAUW (American Association of University Women), the steering committee of Common Cause, League of Women Voters, Hawaii Adult Education Advisory Council, Hawaii Art Education Association, Initiative Hawaii, Honolulu Media Council, and not only is she a member of the organizations but she is an active member.

"Martha Black has dedicated many years in efforts to the betterment of the quality of life for all Hawaiians. Most notably is the work she has recently done on the symposium on the Water Code and I believe that if it hadn't been for Martha's efforts the Water Code would not have done as well and moved as far in the Legislature as it has this year.

"In the balcony we also have people who came to see Martha honored — Muriel Seto from Hawaii's Thousand Friends, Susan Miller from the Sierra Club, Bob Black and his daughter Pam Wood, and Judy Givens who is a water attorney from Colorado and is very interested in what Martha has done.

"Jean Minton is another tireless community organizer and has advocated major legislative reform, especially in the line of time sharing and condo laws. She has addressed major problems confronting the Waikiki community, dedicated much of her time as a consumer protection advocate, and the legislation that she has urged and fought for has had a major impact on the citizens of Hawaii.

"Jean has been an inspiration to all who

come into contact with her. She has dedicated much of her efforts and time to the community and is committed to the betterment of all life for all Hawaii residents.

"I would like to add also that all these ladies are probably familiar to you because they spend a lot of time testifying in a lot of public hearings. (May we have a hand for Jean Minton.)

"And lastly, certainly by no means least, we have Loretta Shuler who was a nurse for 49 years and is an activist in the elderly community of Hawaii. She's made a large contribution to this community and has displayed genuine concern and exuberant energy in following issues and representing the senior citizens.

"Loretta has worked extremely hard; has inexhaustible enthusiasm and displays a genuine concern to those she represents. She is an excellent example of a citizen who can make a difference by becoming involved. (May we have a hand for Loretta.)

"Mrs. Kathy Sunada who is the niece of Loretta Schuler is also sitting in the gallery."

All of the ladies, who were seated on the Senate floor, rose to be recognized and were presented the Senate Certificate, respectively, by Senator McMurdo and leis by various Senators.

Senator Cobb added his remarks on the introduction of Ms. Jean Minton as follows:

"Madam Vice President, I'd like to add to the previous remarks because back in 1980-81 time frame when we were first considering time share legislation and the means to protect Waikiki residents without running afoul of the constitution, this lady (Jean Minton) whom we now call 'Ms. Condominium' was there with us all night for five nights in a row as your Committee on Consumer Protection and Commerce wrestled with this problem.

"That's part of the reason the committee received the nickname 'the Sominex and samurai set' and she was there to see us every step of the way. And it's an honor for me to be asked to present a lei to her because she was here to be honored by this Senate even before Senator McMurdo was elected. She truly deserves the title 'Ms. Condominium.'

"If anything, Hawaii's condominium residents owe a tremendous debt of gratitude to Jean and her friends, her associates, and the ladies present today. I just want to take this opportunity to honor them and say mahalo. Thank you very much."

Senator Ikeda then introduced Mr. Sam Aranio as follows:

"Madam President, it gives me great pleasure this morning to introduce an outstanding individual and rather than botch it up I would like to read the certificate that will be presented to him.

(The Senate Certificate commends and recognizes Mr. Aranio for "his outstanding contributions to the music education of the past, present and future students of Niu Valley, and for enriching the lives of so many others by teaching his students to give the gift of music.")

"Madam President, this man devoted 24 years of his life to teaching music in the Niu Valley area and is really the driving force behind the excellent bands in that area and the students who have progressed to both the symphony and youth symphony and all other aspects of music.

"It gives me great pleasure to present to this honorable body, Mr. Sam Aranio. With him this afternoon is his lovely wife Doreen who has been an enthusiastic supporter and there at all of the fund raisers (for the bands), and the principal of Niu Valley Intermediate School, Mr. Eric Heu."

Mr. Aranio rose to be recognized, together with his wife Doreen and principal Eric Heu, and was presented the Senate Certificate of recognition by Senator Ikeda and leis by various Senators.

At 12:06 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

#### MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 234 to 240) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 234, submitting for consideration and confirmation to the Advisory Committee on Pesticides, the nominations of Jack M. Banks Jr., Charles Y. Nagamine, Sheila Conant, Ph.D., and Anne F. Lee, terms to expire June 30, 1991, was referred to the Committee on Agriculture, Energy and Ocean Resources.

Gov. Msg. No. 235, submitting for consideration and confirmation to the Motor Vehicle Repair Industry Board, the nominations of Raymond S.Y. Luke and Chester C.Y. Kunitake, terms to expire June 30, 1991, was referred to the Committee on Consumer Protection and Commerce.

Gov. Msg. No. 236, submitting for consideration and confirmation to the County Hospital Management Advisory Committee, County of Kauai, the nominations of: Joshua Hew, term to expire June 30, 1988, Alan T. Tsunoda, term to expire June 30, 1989, Yonemichi Miyashiro, Ph.D., term to expire June 30, 1990, and William T. Honjiyo and Myrna Anne Pualehua Kai, terms to expire June 30, 1991, was referred to the Committee on Health.

Gov. Msg. No. 237, submitting for consideration and confirmation to the Criminal Injuries Compensation Commission, the nominations of: Geoffrey Hamilton, term to expire June 30, 1991, and Jacob "Jake" Manegdeg, term to expire June 30, 1990, was referred to the Committee on Human Services.

Gov. Msg. No. 238, submitting for consideration and confirmation to the Criminal Justice Data Interagency Board, the nominations of: Mel K. Soong, term to expire June 30, 1988, Aileen Lum, term to expire June 30, 1989, and Norman Okamura, Ph.D., Harold J. Falk Jr. and Paul Toyozaki, terms to expire June 30, 1991, was referred to the Committee on Judiciary.

Gov. Msg. No. 239, submitting for consideration and confirmation to the Board of Trustees of the Deferred Compensation Plan, the nominations of: Julianne Barlow Nowell and John E. Min, terms to expire June 30, 1989, and Gordon H. Ito, term to expire June 30, 1991, was referred to the Committee on Labor and Employment.

Gov. Msg. No. 240, submitting for consideration and confirmation as Adjutant General, the nomination of Major General Alexis T. Lum, term to expire December 3, 1990, was referred to the Committee on Military and Civil Defense.

#### HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 824 to 866) were read by the Clerk and were disposed of as follows:

Hse. Com. Nos. 824 to 851, returning the following Senate Bills which passed Third Reading in the House of Representatives on Thursday, April 16, 1987, were placed on file:

Hse. Com. No. 824 - S.B. No. 45;  
 Hse. Com. No. 825 - S.B. No. 65;  
 Hse. Com. No. 826 - S.B. No. 66;  
 Hse. Com. No. 827 - S.B. No. 81, S.D. 1;  
 Hse. Com. No. 828 - S.B. No. 82;  
 Hse. Com. No. 829 - S.B. No. 125;  
 Hse. Com. No. 830 - S.B. No. 138, S.D. 1;  
 Hse. Com. No. 831 - S.B. No. 140;  
 Hse. Com. No. 832 - S.B. No. 143;

Hse. Com. No. 833 - S.B. No. 156, S.D. 1;  
 Hse. Com. No. 834 - S.B. No. 258, S.D. 1;  
 Hse. Com. No. 835 - S.B. No. 307, S.D. 1;  
 Hse. Com. No. 836 - S.B. No. 309, S.D. 1;  
 Hse. Com. No. 837 - S.B. No. 310;  
 Hse. Com. No. 838 - S.B. No. 349, S.D. 1;  
 Hse. Com. No. 839 - S.B. No. 370, S.D. 1;  
 Hse. Com. No. 840 - S.B. No. 436, S.D. 1;  
 Hse. Com. No. 841 - S.B. No. 784;  
 Hse. Com. No. 842 - S.B. No. 856, S.D. 1;  
 Hse. Com. No. 843 - S.B. No. 999;  
 Hse. Com. No. 844 - S.B. No. 1095, S.D. 1;  
 Hse. Com. No. 845 - S.B. No. 1145;  
 Hse. Com. No. 846 - S.B. No. 1176, S.D. 1;  
 Hse. Com. No. 847 - S.B. No. 1388, S.D. 1;  
 Hse. Com. No. 848 - S.B. No. 1435;  
 Hse. Com. No. 849 - S.B. No. 1733, S.D. 1;  
 Hse. Com. No. 850 - S.B. No. 1749, S.D. 1;  
 and  
 Hse. Com. No. 851 - S.B. No. 1757, S.D. 1.

Hse. Com. No. 852, transmitting House Concurrent Resolution No. 5, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 5, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A FINANCIAL, MANAGEMENT, AND PROGRAM AUDIT OF THE STATE FOUNDATION ON CULTURE AND THE ARTS," was referred to the Committee on Culture, Arts and Historic Preservation, then to the Committee on Legislative Management.

Hse. Com. No. 853, transmitting House Concurrent Resolution No. 43, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 43, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING AN AUDIT OF ADMINISTRATIVE STAFFING IN THE STATE AND DISTRICT OFFICES OF THE DEPARTMENT OF EDUCATION," was referred to the Committee on Education, then to the Committee on Legislative Management.

Hse. Com. No. 854, transmitting House Concurrent Resolution No. 50 which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 50, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO INCREASING RECOGNITION FOR HAWAII NATIONAL GUARD MEMBERS," was referred to the Committee on Military and Civil Defense.

Hse. Com. No. 855, transmitting House Concurrent Resolution No. 55 which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 55, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE FEASIBILITY OF A LAND EXCHANGE BETWEEN THE STATE AND ALEXANDER AND BALDWIN, INC., FOR THE PRESENT TWENTY-FOUR ACRE SITE OF THE MAUI COUNTY FAIRGROUNDS IN KAHULUI," was referred to the Committee on Housing, Hawaiian Programs and Natural Resources.

Hse. Com. No. 856, transmitting House Concurrent Resolution No. 56, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 56, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE BOARD OF REGENTS TO CONSIDER ESTABLISHING A PERMANENT CAMPUS FOR WEST OAHU COLLEGE," was referred to the Committee on Higher Education.

Hse. Com. No. 857, transmitting House Concurrent Resolution No. 60, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, 1987, was placed on file.

By unanimous consent, H.C.R. No. 60, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONSIDERATION OF THE ESTABLISHMENT OF AN AIRCRAFT MAINTENANCE OPERATION," was referred to the Committee on Transportation.

Hse. Com. No. 858, transmitting House Concurrent Resolution No. 77, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 77, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DISPOSE BY WAY OF AN EASEMENT, CERTAIN GOVERNMENT SUBMERGED LANDS AND LANDS BENEATH TIDAL WATERS FOR PURPOSES OF CONSTRUCTING CERTAIN OFFSHORE IMPROVEMENTS," was referred to the Committee on Housing, Hawaiian Programs and Natural Resources.

Hse. Com. No. 859, transmitting House Concurrent Resolution No. 81, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 81, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT TO

CATALOGUE HAWAII'S SPACE-RELATED BUSINESS ASSETS," was referred to the Committee on Business Development and Pacific Relations.

Hse. Com. No. 860, transmitting House Concurrent Resolution No. 104, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 104, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING CONGRESSIONAL SUPPORT FOR THE DEVELOPMENT OF A STATE-OF-THE-ART APPLIED AQUACULTURE RESEARCH FACILITY AT THE OCEANIC INSTITUTE," was referred to the Committee on Agriculture, Energy and Ocean Resources.

Hse. Com. No. 861, transmitting House Concurrent Resolution No. 110 which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 110, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII TO DEVELOP AND IMPLEMENT AN EDUCATIONAL ASSESSMENT PROGRAM," was referred to the Committee on Higher Education.

Hse. Com. No. 862, transmitting House Concurrent Resolution No. 148, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 148, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO EVALUATE ITS PRODUCE, FEED, EGG, MEAT AND POULTRY INSPECTION, PESTICIDE ENFORCEMENT AND PLANT QUARANTINE PROGRAM," was referred to the Committee on Agriculture, Energy and Ocean Resources.

Hse. Com. No. 863, informing the Senate that the House reconsidered its action taken on April 16, 1987 in disagreeing to the amendments made by the Senate to House Bill No. 14, H.D. 2, was placed on file.

Hse. Com. No. 864, informing the Senate that the House reconsidered its action taken on April 16, 1987 in disagreeing to the amendments made by the Senate to House Bill No. 46, H.D. 2, was placed on file.

Hse. Com. No. 865, informing the Senate that the House reconsidered its action taken on April 16, 1987 in disagreeing to the amendments made by the Senate to House Bill No. 1795, H.D. 1, was placed on file.

Hse. Com. No. 866, transmitting House

Concurrent Resolution No. 40, H.D. 1, which was adopted by the House of Representatives on April 16, 1987, was placed on file.

By unanimous consent, H.C.R. No. 40, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A LEGISLATIVE AGENCY STUDY," was referred to the Committee on Legislative Management.

#### STANDING COMMITTEE REPORTS

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1173) recommending that Senate Concurrent Resolution No. 21, as amended in S.D. 1, be adopted.

On motion by Senator Cobb, seconded by Senator Blair and carried, the report of the Committee was adopted and S.C.R. No. 21, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THAT THE HAWAII ASSOCIATION OF REALTORS AMEND THEIR STANDARD FORM D.R.O.A. TO PROVIDE NOTICE OF THE TERMS OF ANY REVERSIONARY OR SURRENDER CLAUSE," was adopted.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1174) recommending that Senate Resolution No. 25, as amended in S.D. 1, be adopted.

On motion by Senator Cobb, seconded by Senator Blair and carried, the report of the Committee was adopted and S.R. No. 25, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THAT THE HAWAII ASSOCIATION OF REALTORS AMEND THEIR STANDARD FORM D.R.O.A. TO PROVIDE NOTICE OF THE TERMS OF ANY REVERSIONARY OR SURRENDER CLAUSE," was adopted.

Senator Kuroda, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 1175) recommending that Senate Concurrent Resolution No. 66, as amended in S.D. 1, be adopted.

Senator Kuroda then moved that Stand. Com. Rep. No. 1175 be adopted and S.C.R. No. 66, S.D. 1, be adopted, seconded by Senator Hagino.

Senator Kuroda spoke in support of the resolution as follows:

"Madam Vice President, I rise to speak in support of the resolution. Last week, the Senate adopted S.C.R. 17 and the House is acting on H.C.R. 100. The thrust of that resolution is to protect the outer slopes of Diamond Head. As we all know, the Land

Board granted a permit for a tennis complex to be built on the outer slope of Diamond Head and the resolution I just mentioned, which we adopted, proposes to protect the outer slope.

"That same resolution proposes to keep recreation in the inside to be 'passive' and your committee feels that the inside slope should be considered for more active recreation. That's the thrust of S.C.R. 17 and H.C.R. 100.

"The S.C.R. before us, S.C.R. 66, proposes to provide more active recreation. When the Legislature established the Diamond Head Monument State Park in 1976, it stated that it would like to increase public access and enjoyment of the monument, which is Diamond Head. That's what this resolution does because it asks the Legislative Reference Bureau to make a study with regards to a possible golf course in that crater.

"The original resolution asks for the DPED to make a study. DPED suggested that DLNR make a study, and since DLNR, is not too impartial, the committee decided to let the LRB make the study.

"And for the information of those who had expressed some concern, any reference to the Ala Wai Golf Course has been taken out of this resolution. This is in keeping with some thinking on the House side.

"This resolution, as I said, requests a study and if the golf course is built in Diamond Head it will then provide resident golfers another site within city limits. One of the things that this will do, if the golf course is built in Diamond Head, is to provide a better and nicer visual look of Diamond Head.

"I urge all my colleagues to vote for this resolution. Thank you."

Senator George rose to speak against the adoption of the resolution and said:

"Madam Vice President, I'm going to cast a 'no' vote on this resolution; something I rarely do on a resolution that asks for a study. But I think it's important for someone to say that the integrity of the interior of Diamond Head crater has been perceived for many years ... since I was back on the City Council ... as being kept in a natural state.

"Public participation in the recreational opportunities in the crater has been encouraged for a long time. But this has been perceived as walking through the crater, and looking at it. According to the environmentalists, the value of the crater is not to be beautiful, it is to be enjoyed because it is in its natural state, and I don't

think a golf course there would be an improvement of the natural state.

"We are losing the natural state, whatever that is, in a good many places in our Islands to these perceived beautification efforts. This is one of the places where we have gone on record as saying it ought to be kept in its natural state and I think we ought to do it.

"Thank you."

Senator B. Kobayashi also spoke against the resolution and said:

"Madam Vice President, I rise to speak in opposition and simply to say that I believe that Diamond Head Crater could possibly be used more extensively, but I would prefer a more diversified multiple use of the crater. I believe that the golf course would be a highly specialized use, used by only a few individuals.

"I would urge members to vote 'no' against the resolution."

Senator Cobb also spoke against the resolution and stated:

"Madam Vice President, I'm going to be voting 'no' on the resolution for several reasons.

"One, inside Diamond Head there's very little breeze and I don't think the resolution or the proponents or those who are seeking an additional golf course in the area have fully come to grips with that. Most golf courses that we have in Hawaii are open air and not in craters and provide quite a bit of tradewinds. If anyone's ever spent any amount of time inside Diamond Head Crater at mid-day, it's almost like being inside a wok. It's the next best thing to a pressure cooker. It is extremely hot.

"Secondly, there are a number of military facilities in Diamond Head and yet I don't see anywhere in the resolution that there is to be coordination with the existing National Guard facilities relative to the use or possible encroachment of a golf facility within Diamond Head.

"Third, I would agree with the comments of one of the previous speakers in terms of the development aspect.

"And fourth, I think although the House wants to divorce this from consideration of the Ala Wai golf course, this, in any other utilization of golf courses, would help to alleviate the situation for the Ala Wai golfers, while that golf course is under construction, if that particular measure is adopted.

"For each of these reasons, I think the

resolution ought to be expanded and without those kinds of provisions I would find it difficult to support it. Thank you."

Senator Kuroda then responded:

"Madam Vice President, I rise to rebut some statements made.

"With regards to a statement made that only a few individuals will benefit from a golf course, we need to be reminded that there are fewer individuals who relish this natural state in Diamond Head, and if made into a golf course there will be more than a few people who will be enjoying the use of Diamond Head. Right now, Diamond Head Crater is enjoyed by only those who go into the crater and walk up the trail to the crest. The view is beautiful from the crest. But, as one enters that tunnel, the feeling of disappointment immediately hits that person. I think we should beautify the inside of the crater.

"With regards to the heat, the so-called heat in Diamond Head, I think that we'd like to have the person who mentioned the heat in Diamond Head to go to Aliamanu Crater. Aliamanu Crater is enclosed. Within that crater are 3,000 residents, military residents, and I've gone into that crater and it's enclosed and it's not as hot as one would think it would be. Nor would Diamond Head be so hot as to have golfers suffer.

"With regards to the matter of imposing on the military community, the National Guard is a tenant, just as the FAA is a tenant of the State of Hawaii within Diamond Head.

"And for the information of the previous speaker, the proposed golf course would be built around existing facilities. Thank you."

Senator Cobb then responded:

"Madam Vice President, since my remarks were taken into account on rebuttal, I have to point out in response, Aliamanu Crater which is primarily in military housing has one of the highest rates of air-conditioning use in the entire State of Hawaii. It is precisely because of the heat contained inside of there that so many units have air-conditioning, far above what the normal average is for Hawaii.

"Secondly, in terms of tenants, it's true that both the National Guard and the FAA are tenants. Yet, if this resolution is adopted and they would be thrown out as tenants, there's going to be a relocation cost. There's going to be a decrease in military preparedness. There's going to be an impact on federal aviation operations. I think each of those things need to be taken into account in the study; yet, nowhere do I see any of those items addressed in the

resolution.

"Thank you."

The motion was put by the Chair and carried, the report of the Committee was adopted and S.C.R. No. 66, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF THE EXISTING AND PLANNED USES OF LEAHI INTENDED TO ENHANCE CULTURAL AND RECREATIONAL ENJOYMENT BY THE PEOPLE, INCLUDING AN EVALUATION OF THE FEASIBILITY OF INCREASING PUBLIC USE AND ACCESS BY DEVELOPING A GOLF FACILITY WITHIN THE CRATER," was adopted on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Cobb, George, B. Kobayashi, McMurdo and Solomon).

#### ORDER OF THE DAY

#### THIRD READING

House Bills:

By unanimous consent, action on the following House Bills was deferred until Tuesday, April 21, 1987:

H.B. No. 131, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES";

H.B. No. 307, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING";

H.B. No. 1174, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSE RENEWAL BY MAIL";

H.B. No. 1332, entitled: "A BILL FOR AN ACT RELATING TO AIRPORTS";

H.B. No. 374, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL"; and

H.B. No. 1028, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS."

#### FINAL READING

MATTER DEFERRED FROM  
FRIDAY, APRIL 10, 1987

Senate Bill No. 107, S.D. 1, H.D. 1:

On motion by Senator Blair, seconded by Senator George and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 107, S.D. 1, and S.B. No. 107, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I, SECTION 13, OF THE HAWAII

CONSTITUTION, TO CHANGE THE JURISDICTIONAL AMOUNT REQUIRED FOR JURY TRIALS IN CIVIL CASES," having been read throughout, passed Final Reading, by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### RE-REFERRAL OF SENATE RESOLUTION

The Chair re-referred S.R. No. 106, jointly to the Committee on Human Services and the Committee on Education.

Senator Aki, chairman of the Committee on Conference of the Senate Committee on Housing, Hawaiian Programs and Natural Resources, requested a waiver of the 48-hour Notice of a Public Hearing on S.B. No. 242, S.D. 1, H.D. 1, and the Chair granted the waiver.

Senator Hee rose on a point of personal privilege and stated:

"Madam Vice President, this morning the daily newspaper was kind enough to give the Judiciary on both houses an ample spread, although the cartoon certainly doesn't befit me. I would like at this time to respond to some of the remarks to set the record straight as we move into the budget proceedings.

"First of all, let me commend the Advertiser for bringing this to the public's attention. The timing is without question the appropriate although perhaps this should have been done earlier. Rather than refute some of the remarks, let me respond to some which stretch the imagination of truth.

"The editors initially started by saying: 'Equivalent legislation originally introduced in the Senate was referred to as many as five committees. That was an obvious kiss of death, since time was bound to be too short for each of the panels to take its turn holding the necessary hearings.'

"I must commend the Advertiser for knowing that in detail. But on the follow-up to that, there were many House bills which may have had as many as five referrals, and let me recite them: House Bill 903, House Bill 904, House Bill 909, House Bill 918, House Bill 919, House Bill 920, House Bill 921, House Bill 922.

"For the record, each of those House bills moved out of the Senate. They were either agreed upon by the House or we stand ready to go to conference. There seems to be quite a lot of this editorial designed around Senate Bill 767, the administrative director of the courts.

"As you know, members, on March 20, 1986, the Report of the Citizens' Panel on Judicial Administration in the State of Hawaii concluded its reports of which recommendations were made. There were not any legislators as a member of this body. They were: David L. Fairbanks, former president of the Bar Association, Mrs. Dorothy Lum, Mr. Herbert Cornuelle, Judge Masato Doi, Judge Daniel G. Healy, and Dean Jerome Harrison, special counsel to the panel and Dean of the University of Hawaii Law School.

"Suffice to say, in these recommendations was a report of consultants to Hawaii, The Commission of Judicial Administration, The Institute of Judicial Administration, One Washington Square Village, New York, N.Y. It was the consultants of the Institute of Judicial Administration which made the recommendation to this panel, to wit, and I will read: 'Immediate action. Appoint a former judge from either the Supreme Court, Intermediate Court of Appeals or the Circuit Court as the administrative director of the courts.' That was the consultants' recommendation. That was the recommendation adopted by the panel. It's from that recommendation that Senate Bill 767 was born. It is from this independent panel that Senate Bill 767 is now in conference.

"And for the record, that bill was changed because when we had a hearing on the bill, the Hawaii Bar Association asked that the Senate Judiciary Committee consider amending the panel's recommendation to the degree that we also include administrators who may have comparable experience and allow for other people with comparable experience to apply for this important job. The House did not agree; they went strictly by the independent consultant.

"Any attempt to characterize Senate Bill 767 as a legislative attack on the Judiciary is irresponsible because the consultant's report speaks for itself.

"Let the record speak for the Judiciary with its own words that the administrative director of the courts is a line officer position. It is comparable to a department head in a line position in the executive. It is not comparable to an executive administrator, under the governor, who serves as coordinator.

"The administrative director of the courts is the heart and soul of the Judiciary, inasmuch as the chief justice has chosen not to speak for it. This position is an exempt position. No recruitment was conducted on this position. The current incumbent was appointed by the CJ, effective 9/1/86. Prior to that, the current incumbent was the CJ's law clerk, and prior to that, the

current incumbent graduated from the University of Hawaii Law School, and prior to that, the current incumbent was a newspaper reporter.

"Let me for the record state, when we look at the budget which will be conferred on, the difference between the House position and the Senate position is less than one percent for FY '88. The difference between the House position and the Senate position for FY '89 is little larger than 1.5 percent. What we're speaking about is a 51 million dollar budget, which when the House did their deliberations through lump-sum appropriations and the Senate did their deliberations through line-item appropriations, we came out with \$600,000, or one percent for '88 and a difference of a little over \$1 million or a little greater than one and one half percent. Any characterization by the newspaper to state or imply that such close proximity on two widely different ways of doing the budget may not be in fact accurate.

"There is no one here more committed to rebuilding the institution, but to rebuild that institution will take, obviously, a lot of work. There's no one here who believes more strongly than I that part of rebuilding that institution requires several changes and we have, for the record, looked at all aspects of the Judiciary.

"We know, for example, that part-time judges, per diem judges, are serving one out of three district court cases. What is a per diem judge? A per diem judge is an attorney. A per diem judge is handpicked by the chief justice of this state. A per diem judge does not, I repeat, does not, go through a Judicial Selection Commission proceeding. However, we know that some per diem judges have chosen to apply for district court judges and have been turned down. The selection commission turned them down, and they continue to serve as a handpicked member of the chief justice of the Judiciary. We know that the longest judge serving in the district court today is a per diem judge who has served for 24 years. This state is 28 years old. An attorney has been serving as a judge for 24 of the 28 years that this state has been a state. While I make no bones about trying to characterize any person as incompetent, I do question that if this person is so great and is so good, why isn't he a judge?

"To rebuild the Judiciary means to either ask these questions, or in the eyes of others, turn your back on these questions. We choose to do the former.

"We will be having a conference on the Judiciary, my understanding is this evening. I hope the reporters are there. And I look forward, quite frankly, to defending the Senate's position because it is a sound



position, Madam Vice President. We will give the bar yet another opportunity and anyone else who chooses to come forward, as the editorial asks, to defend the Judiciary on Wednesday when we will take up every resolution referred to the committee. That is yet another opportunity. Perhaps at that time others may feel differently, beginning with our daily newspaper.

"Thank you."

Senator Kuroda, chairman of the

Committee on Culture, Arts and Historic Preservation, requested a waiver of the 48-hour Notice of a Public Hearing on H.C.R. No. 5, H.D. 1, and the Chair granted the waiver.

#### ADJOURNMENT

At 12:42 o'clock p.m., on motion by Senator Blair, seconded by Senator George and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, April 21, 1987.