

TWENTY-SIXTH DAY

Thursday, March 3, 1988

The Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, convened at 11:38 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Captain W. M. Hermann of The Salvation Army, after which the Roll was called showing all Senators present with the exception of Senators Fernandes Salling and George who were excused.

The President announced that he had read and approved the Journal of the Twenty-Fifth Day.

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

Senator Aki introduced students from Waianae Elementary School who were accompanied by their teachers.

Senator Solomon, on behalf of Senators Matsuura, Herkes and herself, introduced several "kupunas" from the Big Island who are active in their "silver legislature": Sharon Brandt, Martina Whitehead, Joe Garcia, Shigeo Terada and Dolly Rohrbacher.

Senator Tungpalan, on behalf of Senators Mizuguchi, Menor and herself, introduced the 11th grade Modern Hawaiian History class from Pearl City High School who were accompanied by their teacher, Mrs. Joanne Ing, and assistant teacher, Mr. Fred Weisberger.

Senator Hagino introduced Chris Kanae, a student from Wheeler Intermediate School, who was observing the legislative process.

Senator Hee introduced 24 students in grades 4, 5 and 6 from Windward Preparatory School who were accompanied by their chaperone, Miss Karen Tullos.

Senator Hee also introduced his "ace" staff member, Mr. Raul Catangui.

Senator Hee then introduced Mr. Kuniyaki Shibata from Japan, a friend of our Sergeant-at-Arms Ben Villaflor. Mr. Shibata is a former Featherweight Champion and Junior Lightweight Champion of the World. He fought Ben in two championship fights, winning one in 1972 on a decision and losing to Ben on a first round "KO" in 1973.

Mr. Shibata rose to be recognized and was presented a lei, on behalf of the Senate, by Senator Tungpalan.

Senator Tungpalan, on behalf of Senators Menor, Mizuguchi and herself, introduced the Pearl City High School Chargers Boys Soccer Team who won their second consecutive Oahu Interscholastic Association championship on February 13, 1988. Present on the Senate floor were Brent Tokita, Jason Higa and Shane Uemoto, team captains, accompanied by Dr. Jerald Suyama, principal of Pearl City High School, and Mr. Ron Mata, head coach.

The honorees rose to be recognized and were presented the Senate certificate of recognition by Senator Tungpalan and leis by Senators Young, Solomon, McMurdo, Ikeda, A. Kobayashi and Tungpalan.

Senator Ikeda introduced Carolyn Kuo, the 1987 Champion Newspaper Carrier for the Honolulu Advertiser. She was selected over 140 qualifying newspaper carriers and will be joining 175 young adults from across the nation in April for an all-expense-paid trip to England and Scotland which is co-sponsored by the Honolulu Advertiser, Hawaii Newspaper Agency and Parade Magazine. She was accompanied by Mr. Noah Parker, Mr. Thomas Bibbs and Mr. Robert Marciel from the Circulation Department of the Hawaii Newspaper Agency.

The group rose to be recognized, Carolyn Kuo was presented the Senate certificate of recognition and lei by Senator Ikeda and leis were presented to the gentlemen by various Senators.

At 11:55 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:01 o'clock p.m.

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 35 from the Office of the Ombudsman, transmitting the 1986-1987 Annual Report, pursuant to Sec. 96-16, HRS, was read by the Clerk and was placed on file.

HOUSE COMMUNICATIONS

Hse. Com. Nos. 9 to 23, transmitting the following House bills which passed Third Reading in the House of Representatives on March 2, 1988, were placed on file and, on motion by Senator Blair, seconded by Senator A. Kobayashi and carried, said House bills passed First Reading by title and were referred to committees:

Hse. Com. No. 9 - H.B. No. 2038, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AN EMERGENCY AND BUDGET STABILIZATION FUND," was referred to the Committee on Ways and Means;

Hse. Com. No. 10 - H.B. No. 2019, entitled: "A BILL FOR AN ACT RELATING TO BUSINESSES," was referred to the Committee on Business Development and Pacific Relations;

Hse. Com. No. 11 - H.B. No. 2040, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OCEAN," was referred to the Committee on Higher Education, then to the Committee on Ways and Means;

Hse. Com. No. 12 - H.B. No. 2390, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," was referred to the Committee on Business Development and Pacific Relations, then to the Committee on Ways and Means;

Hse. Com. No. 13 - H.B. No. 2428, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGES," was referred to the Committee on Housing, Hawaiian Programs and Natural Resources;

Hse. Com. No. 14 - H.B. No. 2429, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE LOAN EXEMPTION," was referred to the Committee on Ways and Means;

Hse. Com. No. 15 - H.B. No. 3448, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII

COMMUNITY DEVELOPMENT AUTHORITY," was referred to the Committee on Business Development and Pacific Relations;

Hse. Com. No. 16 - H.B. No. 3501, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF BONDS BY THE STATE," was referred to the Committee on Ways and Means;

Hse. Com. No. 17 - H.B. No. 3512, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAXATION," was referred to the Committee on Ways and Means;

Hse. Com. No. 18 - H.B. No. 3514, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR TAX," was referred to the Committee on Ways and Means;

Hse. Com. No. 19 - H.B. No. 3515, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," was referred to the Committee on Business Development and Pacific Relations, then to the Committee on Ways and Means;

Hse. Com. No. 20 - H.B. No. 3518, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAXES," was referred to the Committee on Ways and Means;

Hse. Com. No. 21 - H.B. No. 3521, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATION OF TAXES," was referred to the Committee on Ways and Means;

Hse. Com. No. 22 - H.B. No. 3522, entitled: "A BILL FOR AN ACT RELATING TO THE COUNCIL ON REVENUES," was referred to the Committee on Ways and Means; and

Hse. Com. No. 23 - H.B. No. 3533, entitled: "A BILL FOR AN ACT RELATING TO PETTY CASH FUNDS," was referred to the Committee on Ways and Means.

At 12:02 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:05 o'clock p.m.

Senator Menor introduced the Mililani High School Girls Varsity Soccer Team who won the 1988 State Soccer Championship, their first state soccer championship, and the 1988 Oahu Interscholastic Association Championship for the third consecutive year. Present on the Senate floor were Diane Ota, senior captain and voted most valuable player, Melanie Watanabe, senior captain, and Michelle Carter, junior captain. They were accompanied by Mr. Byron Yoshina, principal of Mililani High School, Mr. Charles Esperas, coach, and Mr. Harmon Ah Sam, assistant coach.

Seated in the gallery were the other team members: Jennifer Asano, Jennifer Brashear, Kammi Canales, Jan Harrington, Tricia Higa, Christine Iwamoto, Tina Iwamoto, Cindy Kawano, Kristine Masatsugu, Deborah Nii, Tracie Nishikawa, Myrissa Olanda, Cheryl Takahashi, Rae Takenaka, Miki Tanitomi, Wendy Toguchi, Jennifer Umamoto, Jennifer Uno, Leona Valdez, Jill Yamashita and Sherilyn Yano, accompanied by several of the parents.

The honorees rose to be recognized and were presented the Senate certificate of recognition by Senator Menor and leis by various Senators.

At 12:09 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.

STANDING COMMITTEE REPORTS

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1923) recommending that Senate Bill No. 3210, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3210, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Nakasato, for the Committee on Labor and Employment, presented a report (Stand. Com. Rep. No. 1924) recommending that Senate Bill No. 3256, as amended in S.D. 1, pass First Reading and be placed on the calendar for Second and Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3256, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONNEL OF THE CHILD SUPPORT ENFORCEMENT AGENCY," passed First Reading and was placed on the calendar for Second Reading on Friday, March 4, 1988 and for Third Reading on Monday, March 7, 1988.

Senator Tungpalan, for the Committee on Culture, Arts and Historic Preservation, presented a report (Stand. Com. Rep. No. 1925) recommending that Senate Bill No. 743, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 743, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senators B. Kobayashi and Nakasato, for the Committee on Health and the Committee on Labor and Employment, presented a joint report (Stand. Com. Rep. No. 1926) recommending that Senate Bill No. 2265, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the joint report of the Committees was adopted and S.B. No. 2265, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A JOB-SHARING PILOT PROJECT IN THE DEPARTMENT OF HEALTH," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator B. Kobayashi, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1927) recommending that Senate Bill No. 2871, S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2871, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH

INFORMATION," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Young, for the Committee on Public Utilities, presented a report (Stand. Com. Rep. No. 1928) recommending that Senate Bill No. 2486 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2486, entitled: "A BILL FOR AN ACT RELATING TO THE GRANT OF A FRANCHISE FOR THE ISLAND OF LANAI TO MAUI ELECTRIC COMPANY, LIMITED," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Nakasato, for the Committee on Labor and Employment, presented a report (Stand. Com. Rep. No. 1929) recommending that Senate Bill No. 2267, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2267, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Matsuura, for the Committee on Agriculture, Energy and Ocean Resources, presented a report (Stand. Com. Rep. No. 1930) recommending that Senate Bill No. 3227 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3227, entitled: "A BILL FOR AN ACT RELATING TO FISHING," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Matsuura, for the Committee on Agriculture, Energy and Ocean Resources, presented a report (Stand. Com. Rep. No. 1931) recommending that Senate Bill No. 3163 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3163, entitled: "A BILL FOR AN ACT RELATING TO THE GOVERNOR'S AGRICULTURE COORDINATING COMMITTEE," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Matsuura, for the Committee on Agriculture, Energy and Ocean Resources, presented a report (Stand. Com. Rep. No. 1932) recommending that Senate Bill No. 2756, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2756, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL PARKS," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Chang, for the Committee on Business Development and Pacific Relations, presented a report

(Stand. Com. Rep. No. 1933) recommending that Senate Bill No. 2943 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2943, entitled: "A BILL FOR AN ACT RELATING TO INTERNATIONAL ARBITRATION," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Mizuguchi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1934) recommending that Senate Bill No. 2817 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2817, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL DISTRICT ADVISORY COUNCILS," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Mizuguchi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1935) recommending that Senate Bill No. 2815 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2815, entitled: "A BILL FOR AN ACT RELATING TO ADULT EDUCATION PROGRAM," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Hagino, for the Committee on Planning and Environment, presented a report (Stand. Com. Rep. No. 1936) recommending that Senate Bill No. 2641, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2641, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATER POLLUTION," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator J. Wong, for the Committee on Military and Civil Defense, presented a report (Stand. Com. Rep. No. 1937) recommending that Senate Bill No. 3198 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3198, entitled: "A BILL FOR AN ACT RELATING TO OATHS," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator J. Wong, for the Committee on Military and Civil Defense, presented a report (Stand. Com. Rep. No. 1938) recommending that Senate Bill No. 3199 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3199, entitled: "A BILL FOR AN

ACT RELATING TO THE HAWAII CODE OF MILITARY JUSTICE," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator J. Wong, for the Committee on Military and Civil Defense, presented a report (Stand. Com. Rep. No. 1939) recommending that Senate Bill No. 3200, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3200, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE DEFENSE FORCE," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator J. Wong, for the Committee on Military and Civil Defense, presented a report (Stand. Com. Rep. No. 1940) recommending that Senate Bill No. 1581, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Military and Civil Defense.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 1581, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MILITARY," passed First Reading and was recommitted to the Committee on Military and Civil Defense.

Senator Menor, for the Committee on Corrections, presented a report (Stand. Com. Rep. No. 1941) recommending that Senate Bill No. 2055 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2055, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Menor, for the Committee on Corrections, presented a report (Stand. Com. Rep. No. 1942) recommending that Senate Bill No. 2810 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2810, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Chang, for the Committee on Business Development and Pacific Relations, presented a report (Stand. Com. Rep. No. 1943) recommending that Senate Bill No. 3233, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Business Development and Pacific Relations.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 3233, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," passed First Reading and was recommitted to the Committee on Business Development and Pacific Relations.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1944) recommending that Senate Bill No. 2114 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2114, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII REGULATORY LICENSING REFORM ACT," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1945) recommending that Senate Bill No. 2870, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2870, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICINE AND SURGERY," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1946) recommending that Senate Bill No. 2789, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2789, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHIROPRACTIC," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1947) recommending that Senate Bill No. 2782, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 2782, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE CODE," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 7, 1988.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1948) recommending that Senate Bill No. 1637, as amended in S.D. 1, pass First Reading and be recommitted to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the report of the Committee was adopted and S.B. No. 1637, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed First Reading and was recommitted to the Committee on Ways and Means.

At 12:13 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:14 o'clock p.m.

ORDER OF THE DAY

MATTER DEFERRED FROM

WEDNESDAY, MARCH 2, 1988

THIRD READING

Senate Bill No. 2570:

By unanimous consent, S.B. No. 2570, entitled: "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS," was recommitted to the Committee on Judiciary.

Senate Bill No. 2718:

Senator Hee moved that S.B. No. 2718, having been read throughout, pass Third Reading, seconded by Senator Holt.

Senator Menor rose to speak against the measure as follows:

"Mr. President, with all due respect and deference to the chairman of the Judiciary Committee, I rise to speak against Senate Bill 2718.

"Mr. President, I strongly urge my fellow colleagues to vote against this bill because I cannot find, either in the committee report or in testimony presented to the committee, any logic or justification to support the enactment and adoption of this bill.

"As I read it, this bill would, in effect, create distinctions between two classes or groups of 17-year-olds. Under this bill there would be, as I read it, one group or class of 17-year-olds that would be able to exercise the right to vote by virtue of turning 18 years old, as the committee report indicates, on or before December 31 of the year in which the election is held.

"On the other hand, for other 17-year-olds this right to vote would not be available.

"Frankly, as I read the committee report, and again referring to the committee hearings on this bill, I can find no rational basis or justification for making the sort of distinction that is being proposed. Moreover, if the proponents of this bill had wanted to extend the right to vote to 17-year-olds then they should have proposed extending that right to all 17-year-olds and should not have proposed a change in the age qualification for voting which would, in fact, be applied in a discriminatory fashion.

"Moreover, I do not believe that conferring the right to vote upon 17-year-olds makes sense if we do not also confer additional rights that are similarly exercised by adults.

"Finally, for those who would argue that this bill would not, in fact, enact an amendment to the Hawaii State Constitution and would, in fact, only be putting the question on the ballot for voter approval, I believe that it is incumbent upon this body to submit only those proposals for voter approval which we, as a body, can fully support and justify.

"So, to the extent that I can find no justification for this particular bill, I strongly urge my colleagues to vote against Senate Bill 2718. Thank you."

Senator Hee, in support of the measure, stated:

"Just briefly, Mr. President.

"This bill would allow for the process of democracy to extend to those who would turn 18 in the calendar year of the election.

"This bill would allow the people of this state to make that determination.

"This bill would allow for democracy by direct participation of all those who exercise their privilege to vote to make that decision.

"This bill was passed in 1987. After much discussion the Chair relented to have it recommitted for further discussion; we have had that discussion. Those who oppose the bill for whatever reason did not exercise that privilege during the public hearing on this bill. This bill went through a thorough process. The majority of members on the Judiciary Committee including the previous speaker signed in favor of the bill.

"This bill allows those who vote a privilege of exercising their opinion on election day, relative to the constitutional change.

"Thank you."

Senator Menor then responded:

"Mr. President, just for clarification I would like to respond to the previous comments of the chairman of the Judiciary Committee.

"I want to clarify the purpose of my signature on the committee report. I signed 'with reservations.' I signed the committee report not because I supported this particular bill but because I believed, in deference to the Judiciary chairman, that this matter should be given further discussion before the entire Senate body. Thank you very much."

Senator A. Kobayashi also spoke against the bill and said:

"Mr. President, the Minority will also be opposing this bill.

"Mr. President, there will be many logistical problems because the federal government is not changing their voting age to 17.

"When there is a presidential election there will be logistical problems. The 17-year-olds who are 18 the year of the election will be voting in local elections but not in the presidential election.

"Also, where does this end? Eventually, if you are going to get married the year you're 16, does that mean that you can get married? I mean, how far are we going to go? There's a drinking age ... there's a rape age.

"There are many areas where age is a factor and we're not relaxing it for the others, we just see no point in this bill. The Minority will oppose it. Thank you."

At 12:20 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:28 o'clock p.m.

Senator Hee then added:

"Mr. President, just one brief remark regarding the Minority Floor Leader's position.

"With all due respect to the Minority Floor Leader, at some point when this country puts logistics over democracy where people cannot make determinations between who is running for president of the United States and for the office of State Senate ... at the point where we place priorities of logistics over democracy, at that point, I think, perhaps, we should look at the whole system of government.

"Democracy is too important to lightly take the logistical argument as a means to not allow the public to participate in the fundamental pillars and the foundations of this government.

"Thank you."

Senator A. Kobayashi responded:

"Mr. President, in response to the former speaker, I think he misunderstands, the Republicans are the champions of democracy and that was not a main focal argument it was just one of the factors. We feel that if you're going to start relaxing the age requirement we are just wondering how far it would go. Thank you."

At 12:30 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:34 o'clock p.m.

The motion was then put by the Chair and carried, and Roll Call vote having been requested, S.B. No. 2718, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE II, SECTION 1, OF THE HAWAII CONSTITUTION, TO CHANGE THE AGE QUALIFICATION FOR VOTING," having been read throughout, passed Third Reading by less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 13. Noes, 9 (Blair, Cobb, Herkes, Ikeda, Kobayashi, A., Kobayashi, B., Menor, Nakasato, Reed). Excused, 3 (Chang, Fernandes Salling, George).

RE-REFERRAL OF SENATE BILL

The President re-referred S.B. No. 377 to the Committee on Ways and Means.

At this time, Senator Aki, chairman of the Committee on Housing, Hawaiian Programs and Natural Resources, requested a waiver of the 48-hour Notice of a Public Hearing on S.B. No. 3224 and S.B. No. 3225, and the President granted the waiver.

Senator Solomon then rose on a point of personal privilege and said:

"Mr. President, I rise on a point of personal privilege to clarify my position on the statement that appeared in the recent articles in the Advertiser. These statements were made in rebut to DPED's proposed use of a statue of Duke Kahanamoku as part of our Hawaii Water Sports exhibition in the World Expo '88 in Brisbane, Australia.

"My immediate reaction to this proposal was one of outrage. The life-like statue of Duke Kahanamoku surfing is to be used as a greeting to the theme of the exhibit, 'The Games Islanders Play.' Yes, Duke Kahanamoku more than anyone else was responsible for the popularizing of surfing on a national and international level. Moreover, Mr. President, surfing is an indigenous Polynesian water sport that was highly developed by the people of Hawaii.

"Archaeological evidence proves that the Na Po'e O Hawaii or the people of ancient Hawaii built heiaus dedicated to the art of surfing. Persons showing great skills in surfing were revered by not only the people but the alii and the gods. Hawaiian surfers worshipped the gods and goddesses as a means to improve their skills and agility. Duke Kahanamoku's accomplishments inspired scholars to pursue and identify these sites, to link the oral traditions to the site, so we today have an understanding of the cultural significance of the art of surfing.

"But to put a life-like statue of this revered Hawaiian in an exhibit for promotional purposes is sacrilegious. Afterwards, I thought what would people think if we used a life-like statue of President Eisenhower posed as a golfer for promotional purposes of the United States of America. It was in this light that I expressed my feelings which appeared to be misconstrued in a newspaper article. I would like to go on record as opposing the use of a statue of Duke Kahanamoku for promotional purposes in this exhibit if it is not within the Hawaiian cultural context and the spirit of aloha and does not show the reverence that we the people in this state feel for the late Duke Kahanamoku. His athletic ability in the art of surfing and swimming and his life accomplishments have inspired our young people to go on to achieve higher rewards in the Olympic games."

At this time, Senator J. Wong, chairman of the Committee on Judiciary, requested a waiver of the 48-hour Notice of a Public Hearing on S.B. No. 1581, and the President granted the waiver.

Senator Yamasaki, chairman of the Committee on Ways and Means, then requested a waiver of the 48-hour Notice of a Decision-Making Hearing for the subjects listed on the agenda of the Senate Ways and Means Committee's hearing notice for Thursday, March 3, 1988, and the President granted the waiver.

Senator Holt rose on a point of personal privilege as follows:

"Mr. President, on a point of personal privilege and an extension to the statements of the chairman of the Higher Education Committee regarding her statements that were displayed in the newspaper.

"I was at that hearing when those statements were made. I support the statements that were made earlier that it was in response to the exhibit that the Hawaii people are going to put on down in Australia are questions that we raised and the statements that came out, were basically, in response, a reaction. Why, when the Expo '88 theme for the whole expo is 'Leisure in the Age of Technology.'

"That the State of Hawaii is taking Duke Kahanamoku down to display in the Hawaii exhibit seems to be going backward and not forward. That was the reason why the statements by Senator Solomon were made in response to the theme that was developed by the Department of Business and Economic Development.

"Thank you."

Senator Hee also rose on a point of personal privilege and remarked:

"Mr. President, I had the privilege of receiving 4500 signatures in the hall at about 10:30 this morning regarding pornography, Senate Bill 2329, which, by the way, this house held a hearing on and not the other house.

"On the members' desks is a letter dated February 19, 1988 from state Attorney General Warren Price III. I would like every member to take sometime during the day to read this and if, after reading this, that the conclusion should be that, in deference to the attorney general, I would appreciate if the members would seek the attorney general for an opinion.

"I would like to enter the letter into the record for the purpose of Senate Bill 2329 and I will hand a typewritten copy to the Clerk for such purposes. But I would like to read certain statements from the Price letter: '... it is my opinion,' says Mr. Price, 'that your Committee should hold this bill because the Supreme Court of Hawaii ... has already ruled that the same statute unconstitutional It is my opinion,' said Mr. Price, 'that the Court found no compelling state interest in restricting the sale of materials ... and that passing an identical statute with the Legislature's finding of such interests would not cause the Court to change its position. ... Thus, passing an identical statute relating to these types of materials would be redundant.'

"Mr. President, as we have till the deadline of tomorrow night, this bill, which again was only heard by this house, appears to be headed for a highlighted first crossover.

"For these reasons, I would ask the members to review the attorney general's letter and if they have any questions, either consult the attorney general directly or I would be happy to respond to any questions. I would also note that this body will be considering the bill which would raise a misdemeanor to a felony 'C' for promoting pornography to a minor.

"For the record, this body should understand that that bill, standing committee report for Senate Bill 1563 was part of the law enforcement package of the attorney general, the four prosecutors, the chiefs of police of the four counties. This bill, Senate Bill 2329, which the attorney general has commented on was not part of the law enforcement package. It was introduced by a member of the Senate and supported by elements of the package group, certainly, not the attorney general, the highest law enforcement officer of the state.

"Thank you."

(Letter from Attorney General Warren Price III, to Senator Clayton Hee, dated February 19, 1988, follows.)

"The Honorable Clayton H. W. Hee
Senator, Ninth District
State Capitol, Room 227
Honolulu, Hawaii 96813

Dear Senator Hee:

In response to your questions raised during a public hearing on February 17, 1988 regarding S.B. No. 2329, it is my opinion that your Committee should hold this bill because the Supreme Court of Hawaii in State v. Kam has already ruled the same statute unconstitutional as it prohibits the selling of certain pornographic materials for people to view in the privacy of their own homes. The Court declined to comment on whether child pornography, 'snuff flicks', etc. should be afforded the same protection, and I believe this was indication from the Court that prosecutions could still be maintained under the existing statute for these types of materials. Thus, passing an identical statute relating to these types of materials would be redundant. It is my opinion that the Court found no compelling state interest in restricting the sale of materials other than these types, and that passing an identical

statute with the Legislature's finding of such interests would not cause the Court to change its position.

Should you have further questions regarding these matters, please do not hesitate to call.

Very truly yours,

/s/
Warren Price, III
Attorney General"

At 12:48 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:50 o'clock p.m.

ADJOURNMENT

At 12:51 o'clock p.m., on motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the Senate adjourned until 11:30 o'clock a.m., Friday, March 4, 1988.