

TWENTY-SECOND DAY

Monday, February 23, 1998

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 11:48 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Sister Norise Kaiser, OSF, Diocesan Department of Religious Education, after which the Roll was called showing all Senators present with the exception of Senator Fernandes Salling who was excused.

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

At this time, Senator Matsunaga introduced Jose Ramos-Horta, 1996 Nobel Peace Prize Laureate, and commended him for his vigilant effort in promoting peace.

At 11:52 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:08 o'clock p.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 26 to 28) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 26, transmitting H.B. No. 611, H.D. 1, which passed Third Reading in the House of Representatives on February 20, 1998, was placed on file.

On motion by Senator Ihara, seconded by Senator Slom and carried, H.B. No. 611, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RESOURCES," passed First Reading by title and was referred to the Committee on Judiciary.

Hse. Com. No. 27, transmitting H.B. No. 2900, which passed Third Reading in the House of Representatives on February 20, 1998, was placed on file.

On motion by Senator Ihara, seconded by Senator Slom and carried, H.B. No. 2900, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII BOARD OF REGENTS," passed First Reading by title and was referred to the Committee on Education.

Hse. Com. No. 28, transmitting H.B. No. 3130, H.D. 1, which passed Third Reading in the House of Representatives on February 20, 1998, was placed on file.

On motion by Senator Ihara, seconded by Senator Slom and carried, H.B. No. 3130, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A CONSTITUTIONAL CONVENTION," passed First Reading by title and was referred to the Committee on Judiciary.

SENATE COMMUNICATION

Sen. Com. No. 1, notice to the Governor dated February 23, 1998, transmitting S.B. No. 2043, S.D. 1, which proposes amendments to the Hawaii State Constitution.

By unanimous consent, the following notice was sent to the Governor:

"February 23, 1998

The Honorable Benjamin J. Cayetano
Governor of the State of Hawaii

State Capitol
Honolulu, Hawaii 96813

Dear Governor Cayetano:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form to the following Senate Bill, a copy of which is attached hereto:

S.B. 2043, S.D. 1
'PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 5, OF THE HAWAII CONSTITUTION TO LIMIT EXECUTIVE MODIFICATION OF THE BUDGET.'

Respectfully,

/s/ Paul T. Kawaguchi
Paul T. Kawaguchi
Clerk of the Senate"

STANDING COMMITTEE REPORT

Senators D. Ige and Metcalf, for the Committee on Commerce, Consumer Protection, and Information Technology, presented a report (Stand. Com. Rep. No. 2418) recommending that S.B. No. 2596 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2596, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 24, 1998.

ORDER OF THE DAY

THIRD READING

MATTERS DEFERRED FROM
FRIDAY, FEBRUARY 20, 1998

S.B. No. 2074, S.D. 1:

On motion by Senator Kawamoto, seconded by Senator Sakamoto and carried, S.B. No. 2074, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF SUPERVISORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2339:

On motion by Senator Kawamoto, seconded by Senator Sakamoto and carried, S.B. No. 2339, entitled: "A BILL FOR AN ACT RELATING TO MOPEDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2660:

By unanimous consent, S.B. No. 2660, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," was recommitted to the Committee on Transportation and Intergovernmental Affairs.

S.B. No. 2911:

On motion by Senator Kawamoto, seconded by Senator Sakamoto and carried, S.B. No. 2911, entitled: "A BILL FOR AN ACT RELATING TO RIDING BICYCLES ON ROADWAYS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

THIRD READING

S.B. No. 2021:

On motion by Senator Kawamoto, seconded by Senator Sakamoto and carried, S.B. No. 2021, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2180, S.D. 1:

On motion by Senator Kawamoto, seconded by Senator Sakamoto and carried, S.B. No. 2180, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

At 12:10 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.

S.B. No. 2556, S.D. 1:

By unanimous consent, action on S.B. No. 2556, S.D. 1, was deferred to the end of the calendar.

S.B. No. 2913, S.D. 1:

On motion by Senator Kawamoto, seconded by Senator Sakamoto and carried, S.B. No. 2913, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2334, S.D. 1:

On motion by Senator D. Ige, seconded by Senator Metcalf and carried, S.B. No. 2334, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2611:

Senator D. Ige moved that S.B. No. 2611, having been read throughout, pass Third Reading, seconded by Senator Metcalf.

Senator Slom rose in support of the measure and stated:

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

"I think it's an excellent bill. That's why I introduced a similar bill on the first day of the session. I'm so happy my colleagues like the bill also and I'm very happy to throw my weight and support behind it.

"Thank you, Mr. President."

Senator Metcalf then added:

"Mr. President, I would like to have the Senator's remarks inserted in the record as my own, inasmuch as this may be the only opportunity I'll have to do that. Thank you." (Laughter.)

The Chair so ordered.

The motion was then put by the Chair and carried, S.B. No. 2611, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM TRANSFER-ON-DEATH (TOD) SECURITY REGISTRATION ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2833:

On motion by Senator D. Ige, seconded by Senator Metcalf and carried, S.B. No. 2833, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE LEASE DISCLOSURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2135, S.D. 1:

On motion by Senator D. Ige, seconded by Senator Metcalf and carried, S.B. No. 2135, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNFAIR AND DECEPTIVE TRADE PRACTICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2828, S.D. 1:

On motion by Senator D. Ige, seconded by Senator Metcalf and carried, S.B. No. 2828, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PHARMACIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2916:

Senator Aki, moved that S.B. No. 2916, having been read throughout, pass Third Reading, seconded by Senator Tam.

Senator Anderson spoke on the measure as follows:

"Mr. President, I'd like to have some reservations put down for me.

"I'm not on that committee, but it says here that the board of regents may delegate to the president or his designee, authority on such things as purchasing, acquiring land, buildings, appliances, and I'm not too sure that I want to give the board that type of latitude or if I would rather have it with the president. So until such time as I understand the bill better, I will go 'with reservations.'"

The motion was then put by the Chair and carried, S.B. No. 2916, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII BOARD OF REGENTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

Stand. Com. Rep. No. 2296 (S.B. No. 201, S.D. 2):

Senator Baker, moved that Stand. Com. Rep. No. 2296 be adopted and S.B. No. 201, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator Slom rose to speak on the bill and said:

"Mr. President, I have reservations on this bill and possibly the chairs of the Judiciary Committee could straighten it out for me.

"I was troubled by the fact that the definition of 'serious crime' is removed from the bill and I can find no other reference to serious crime anywhere else in the Hawaii Revised Statutes. This could open up possible confusion. I think the intent of the bill is good, however. Thank you."

Senator Anderson added:

"Mr. President, I would like to also be put down as 'with reservations.'"

The Chair so ordered.

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 2296 was adopted and S.B. No. 201, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO JURY TRIALS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

Stand. Com. Rep. No. 2297 (S.B. No. 720, S.D. 2):

Senator Baker, moved that Stand. Com. Rep. No. 2297 be adopted and S.B. No. 720, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator Slom then stated:

"Mr. President, I rise with concerns and reservations on this bill also.

"I note that now we have no fees that are charged and while I think that the program should be self-sustaining and cost should be recaptured, I didn't see from any of the testimony what the basis of the \$15 fee was -- how it was derived, other than that they were looking for general revenue enhancement. So, I will voice my reservations. Thank you."

Senator Anderson also rose and said:

"Mr. President, I had reservations in the committee. It seemed like the \$15 was pulled out of the air with no justification. And those were my reservations at that time because we went from zero to 15 and we really got no definite idea on why. Thank you."

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 2297 was adopted and S.B. No. 720, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE FEES AND COSTS FOR THE ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

Stand. Com. Rep. No. 2298 (H.B. No. 1577, H.D. 2, S.D. 2):

Senator Baker, moved that Stand. Com. Rep. No. 2298 be adopted and H.B. No. 1577, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator M. Ige rose in opposition to the measure and stated:

"Mr. President, please note a 'no' for myself. I just believe it's the wrong message to send to our hard working farmers. Thank you."

Senator Slom then rose and said:

"Mr. President, I wish to have reservations on this bill. I think that while some measures certainly are in order, the foreclosure procedure may be too harsh. Thank you."

Senator Anderson then added:

"The same for me too, Mr. President."

The Chair so ordered.

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 2298 was adopted and H.B. No. 1577, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION WATER PROJECTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Ige, M.). Excused, 1 (Fernandes Salling).

H.B. No. 1647, H.D. 1, S.D. 1:

Senator Baker, moved that H.B. No. 1647, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator Sakamoto rose and stated:

"Mr. President, I'd like to speak with some reservations for this measure.

"This measure related to network marketing, similar to Amway where different tiers of people sell products. Although, I guess, in the testimony, because 45 other states do this we accept it as justification for this being okay. However, I think the 45 other states also have better laws dealing with independent people being business people; have better laws dealing with working as independent contractors; better laws that don't allow cash under the table.

"I'm for business, Mr. President, and network marketing allows people to be in business. But I don't like the parts of the bill where the Tax Department asks 'big brother' to collect taxes for little brother, little sister, and all the keikis underneath. It's a bad precedent to not have individuals who are in business, selling products, taking tax deductions, not pay their fair share of the tax, and pay the correct tax. In network marketing, people give away products; people make promotional offers; they give different discounts to different people.

"I think the correct collection of tax from the responsible party is what our system should depend on. So because of that, I vote 'with reservations,' Mr. President."

Senator Bunda then said:

"Mr. President, could you have the Clerk register my vote 'with reservations.'"

The Chair so ordered.

Senator Slom added:

"Mr. President, reservations for me also, please."

The Chair so ordered.

The motion was then put by the Chair and carried, H.B. No. 1647, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING OF CERTAIN SELLERS,"

having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

Stand. Com. Rep. No. 2300 (S.B. No. 1927):

Senator Baker, moved that Stand. Com. Rep. No. 2300 be adopted and S.B. No. 1927, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator Slom then stated:

"Mr. President, I express my reservations on this bill.

"There are several questions in the bill. One is the impact to the retirement system. The second is that some of the language, I think, is vague and confusing, particularly with respect to identification of spouses and then the limits to employee beneficiaries. Thank you."

Senator Anderson added:

"I'd like to be down with a 'WR' also. I brought up some concerns in committee and they still are very pertinent to what the former speaker said."

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 2300 was adopted and S.B. No. 1927, entitled: "A BILL FOR AN ACT RELATING TO HEALTH FUND MEDICARE PART B," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

Stand. Com. Rep. No. 2301 (S.B. No. 2386, S.D. 2):

Senator Baker, moved that Stand. Com. Rep. No. 2301 be adopted and S.B. No. 2386, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator Kanno rose in support of the measure as follows:

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

"Mr. President, this measure comes as the result of many months of work during the interim. I'd like to take a minute to acknowledge the Judiciary's Center for Alternative Dispute Resolution. I'd like to acknowledge director Elizabeth Kent and Dee Dee Letz of the Center for Alternative Dispute Resolution, together with Neal Milner and Kem Lowry of the University of Hawaii. Each of the four of them helped serve as facilitators through the interim to work on this measure. I'd also like to acknowledge our Co-Majority Leader from Kahaluu who played a key role in shepherding the process during the interim.

"The goal of this bill is to create a more efficient workers' comp system by expediting medical care and returning injured workers to their jobs promptly. This is accomplished through enhanced coordination and communication between the parties involved. These include the workers' compensation insurance company, the health care provider involved, the employer and the employee.

"The impact of this measure is great, Mr. President. Each and every working person in the State of Hawaii would be protected under this law. For a number of us, the priority with this measure is to maintain a high level of quality care for all working people in this state.

"Thank you."

Senator McCartney also rose in support and stated:

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

"In addition to the previous speaker's remarks, I'd like to thank the 40-plus people from the private sector who helped the HRE Committee work on the bill, and I especially would like to thank the two co-chairs for their focus and their dedication on the bill and another Senator, in particular, who worked very hard to help us craft the language is the Senator from Moanalua. We thank you for your hard work on the bill, also."

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 2301 was adopted and S.B. No. 2386, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO COORDINATED CARE ORGANIZATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

Stand. Com. Rep. No. 2302 (S.B. No. 2934, S.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 2302 and S.B. No. 2934, S.D. 1, was deferred to the end of the calendar.

S.B. No. 2619, S.D. 1:

On motion by Senator D. Ige, seconded by Senator Metcalf and carried, S.B. No. 2619, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAIR TRADE REGULATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2822, S.D. 1:

On motion by Senator D. Ige, seconded by Senator Metcalf and carried, S.B. No. 2822, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEMON LAW DISCLOSURE COMPLIANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2823, S.D. 1:

On motion by Senator D. Ige, seconded by Senator Metcalf and carried, S.B. No. 2823, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARE IDENTIFICATION BADGES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

S.B. No. 2454, S.D. 1:

Senator Chun Oakland, moved that S.B. No. 2454, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kanno.

Senator Slom rose and said:

"Mr. President, I rise to indicate my reservations with the bill.

"Again, I think some of the bill's language is vague and confusing, and while the bill is supposed to be a collaborative effort between employer and employee, ultimately the director of labor still has the ability to step in and make decisions. Also, there is a penalty provision that does not specify what the penalty will be. It says, 'the penalty may be defined by the director.' So I express my reservations.

"Thank you."

Senator Anderson then added:

"I'd like to be down 'with reservations' and would the Minority Leader's words be put in the Journal as though they were my own."

The Chair so ordered.

Senator Sakamoto rose and said:

"Mr. President, I also would like to rise with reservations on this measure.

"The work comp laws already have to be in total, at least, the provisions notifying the employee of all his rights, including voc rehab. To carve out this part, and especially putting penalties on this part, is not right. Something that the Department of Labor couldn't do, we are now asking employers to do and penalizing employers if they don't do. This is not working in the spirit of working together.

"I believe if injured employees are given voc rehab information in writing early on, later on when they really need it, they may then deny they've received it, then employers are subject to fighting whether we gave them it or not, then law suits come into play. I believe this is not the proper way to go. I believe in the previous bill where we spoke about working together works well. This is not a working together bill, Mr. President."

The motion was then put by the Chair and carried, S.B. No. 2454, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fernandes Salling).

At 12:27 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:42 o'clock p.m.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

S.B. No. 2556, S.D. 1:

By unanimous consent, action on S.B. No. 2556, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REGISTRATION OF VEHICLES," was deferred until Tuesday, February 24, 1998.

Stand. Com. Rep. No. 2302 (S.B. No. 2934, S.D. 1):

Senator Baker, moved that Stand. Com. Rep. No. 2302 be adopted and S.B. No. 2934, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator Iwase rose in opposition to the measure as follows:

"Mr. President, I'm rising to speak in opposition to the bill.

"Mr. President, I voted 'with reservations' on this bill in the Ways and Means Committee. In fact, I think there were six reservations expressed. And I have thought this bill over a whole lot.

"This matter involves the Mitchell case. When the Mitchell case came out, there were expressions of concern all over Hawaii. This was a decision that had to be addressed. The Economic Revitalization Task Force addressed it. I thought that we could deal with this with a bang, and instead I think what we've ended up with is a 'shoo shoo baby.'

"Mr. President, this bill does not address the Mitchell case. It is limited to the facts of the Mitchell case -- disciplinary actions only. And I think what is important to understand, Mr. President, when you're dealing with the workers' compensation law, as Chief Justice Moon noted in his decision, the workers' compensation law in Hawaii is given liberal interpretive construction because, and I'm quoting: 'The Legislature has decided that work injuries are among the cost of production which industry is required to bear.' That is Chief Justice Moon.

"The workers' compensation statute was not enacted, not enacted, or intended to abolish the rights of employers to act as employers. Employers have the right to hire, to fire, to transfer, to lay off, to have job evaluations. Those are employer prerogatives. And if the employer abuses those prerogatives, that abuse is dealt with elsewhere in the statutory scheme in Hawaii or in collective bargaining. There's an appeal procedure. If you're fired, if you're demoted, if you're transferred, there's an appeal procedure, and that's where the issue of employer acting properly should be dealt with -- not in the workers' compensation law. The workers' compensation law, again, is to insure that workers who are injured are compensated.

"This bill is limited solely to the facts of the Mitchell case -- disciplinary action. It doesn't address job transfer, layoff, demotion, termination, work evaluation, and stress which may arise therefrom. It's like a four-box step, Mr. President, what we've done here. We've told the employer, we're going to address you in the first step because the Supreme Court has ruled disciplinary action is compensable. Now, if you have a problem with job evaluation and stress, moving to your right, it is compensable and you've got to go back to the Legislature. Moving back for demotion, you have a problem, go to the Legislature. This does not help the employers, in this time when we've all made a commitment to help business if they have to play this catch-up game.

"We should have done what the State of Maine did. And I want to point out that Chief Justice Moon, in his decision, pointed out various states that have statutes that address this issue. Maine was one of those states. Colorado was another. I have the Maine statute in front of me. By the way, Maine has a Democratic governor. It has a Democratic legislature, both houses. I'm reading from the Maine statute:

'Mental injury is not considered to arise out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or any similar action taken in good faith by the employer.'

"We have not done that, Mr. President. We have chosen to constrict ourselves to the facts of the Mitchell case, dealing solely with discipline and adding the words 'just cause.' The Mitchell case must be addressed in total. It is not addressed in this bill. It cannot be addressed in this bill because of the narrow title. It can be addressed in the House bill which is moving and hopefully will come to the Senate. This bill does not address the Mitchell case. It does not help the employer. It does not help the worker. It does not help our economy and it is with great reluctance that I vote 'no' because I believe that the Mitchell case must be addressed and we all embraced that goal when the Mitchell case came out and unfortunately we're falling far short.

"Thank you."

Senator Solomon, also rising in opposition, then stated:

"Mr. President, I'm also speaking in opposition.

"I would like the remarks of the Senator from Mililani to be included as though they were my own. Thank you, Mr. President."

Senator Sakamoto rose to speak against the measure and said:

"Mr. President, I'm speaking in opposition. I can't speak like the previous speaker but his remarks stand as they stand.

"Mr. President, we've read in the paper about all of these layoffs, big companies. We've read about or heard about it on this very floor, little companies and big companies going out of business, Mr. President. The public doesn't expect us to come here and play games, Mr. President. The public doesn't come here and ask us to create a title for a bill so narrow that it only addresses worker's compensation claims arising out of disciplinary actions for just cause, Mr. President. The public expects us to come here and make policy on a broad issue related to workers' comp, get the pluses and minuses and deal with the issue.

"When we do gamesmanship on this floor, in this body, it doesn't help. We need to address the issues. Some people are not going to return, Mr. President, so I'm asking you and the rest of my colleagues here to put the games away and deal with what we need to deal with as quickly as we can deal with it. Regarding this bill, some proponents said we want to speed it up. I will object to the point if anybody, after this bill passes this day, claims that we are addressing the Mitchell case. The Mitchell case, as the previous speaker from Mililani said, deals with a broad issue. This deals with the 'shoo shoo baby' that even misfires. We need to deal with issues, Mr. President, not deal with gamesmanship.

"So I ask all of our colleagues, let's get down to business in due haste, but pass measures that will help and will help all of the people get jobs, and keep their jobs, Mr. President. Thank you."

Senator Slom spoke against the measure as follows:

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

"I agree with my colleagues and their remarks, but what this really comes down to is one of the sticking points in the bill, and that's 'good faith.' The public had good faith that we would address this problem. Employers had good faith that we would address this problem. Hard working employees that see the use of stress as a sham, had good faith that we would address this problem. It's far too easy for us to say maybe there'll be a House vehicle coming over that we can work with. But if that's the case, then we don't even need the Senate. Maybe we do need a unicameral legislature with one body, unless we are going to do what we're supposed to do and exert our leadership and show that we can take a problem and provide a solution to it.

"The court gave us several options. There are many opportunities for us to act and we chose deliberately to narrow it down to make sure that we would not address this problem. So I speak against the bill and urge my colleagues to do so and want to let you know, Mr. President, that you have 100 percent opposition from the Minority on this bill. Thank you."

Senator Anderson then rose and said:

"I'm the other half, Mr. President. Thank you."

Senator Kawamoto then stated:

"Mr. President, I vote with reservations."

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 2302 was adopted and S.B. No. 2934, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION CLAIMS ARISING FROM DISCIPLINARY ACTIONS FOR JUST CAUSE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 9 (Aki, Anderson, Bunda, Ige, M., Iwase, Sakamoto, Slom, Solomon, Tanaka). Excused, 1 (Fernandes Salling).

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

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

"Mr. President, on Thursday last, I stood on this floor and made some comments about American Cruises not paying their fair tax and that I went to the tax office and asked about their 1996 taxes and I was not able to get any answer from them. Well, I did get a letter from Mr. James Noble. He informed me that my research was not quite accurate. I guess I could have done more follow through for Hawaii Cruise because they did pay \$1,287,075 of which \$444,000 had been prepaid, and they are also looking at prepaying others.

"So I apologize to American Cruise Boats. I made a mistake. I didn't do a good, I guess fair research on that particular measure. But I do not apologize for the other bill that I had in which asked for them to pay a fair tax like the hotels did.

"And I received a letter from another individual that gave me a few outlines. One of them on, I guess item No. 5, says Cruise ships are not hotels. Hotels do not pay wharfage of \$2.50 when anyone leaves the boat. I would like to inform that person that my wife and I used to be hotel and transportation representatives when I had my own business and I fully understand what the hotels do pay and I want the cruise boat people to understand that they do not pay property tax. They do not pay TAT. They do not pay a lot of other taxes that the hotels do pay. And that was one of my reasons for the other bill.

"So I would like to be very explicit about apologizing when I am wrong, but if I feel that I am right, I will take the floor and I will defend any bill that I put in.

"Thank you very much, Mr. President."

Senator Chumbley, for the Committee on Judiciary, requested a waiver of the 72-hour Notice of a Public Hearing pursuant to Senate Rule 20 for S.B. Nos. 2239, 2312, 2318, 2466, 2697, 2715, 2717, 2740, 2790, 2791, 2853, 2854 and 3040 and the Chair granted the waiver.

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

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

"I just wanted to acknowledge and commend my colleague from the windward side, the Minority Leader, for making the statements that he did. This floor is meant for people to speak on points of personal privilege and I think it took a lot of class to do what he just did and acknowledge what he did, and I just appreciate that. Thank you."

ADJOURNMENT

At 12:56 o'clock p.m., on motion by Senator Ihara, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 24, 1998.