

EIGHTEENTH DAY

Tuesday, February 15, 2005

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2005, convened at 11:53 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor O.W. "Dub" Efurud, Mililani Baptist Church, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Seventeenth Day.

STANDING COMMITTEE REPORTS

Senator Ige, for the majority of the Committee on Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 49) recommending that S.B. No. 584, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 584, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EXPENSES OF THE 2005 NATIONAL ASSOCIATION OF COUNTIES ANNUAL CONFERENCE AND EXPOSITION IN HONOLULU," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 50) recommending that S.B. No. 637, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 637, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DEVELOPMENT OF A NON-EMERGENCY REPORTING SYSTEM, KNOWN AS 3-1-1," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 51) recommending that S.B. No. 1060 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1060, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Ige, for the Committee on Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 52) recommending that S.B. No. 1548 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1548, entitled: "A BILL FOR AN ACT RELATING TO COUNTY ETHICS COMMISSIONS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the majority of the Committee on Transportation and Government Operations, presented a report

(Stand. Com. Rep. No. 53) recommending that S.B. No. 20, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 20, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 54) recommending that S.B. No. 73 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 73, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 17, 2005.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 55) recommending that S.B. No. 74 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 74, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 56) recommending that S.B. No. 76 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 76, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 57) recommending that S.B. No. 77, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 77, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 58) recommending that S.B. No. 80 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 80, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 59) recommending that S.B. No. 664 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 664, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR ELECTRICITY PAYMENTS STATEWIDE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 60) recommending that S.B. No. 694, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 694, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DISPOSITION OF VEHICLES, VESSELS, AND AIRCRAFT," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 61) recommending that S.B. No. 843, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 843, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERFERENCE WITH TRAFFIC-CONTROL DEVICES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 62) recommending that S.B. No. 845, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 845, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 63) recommending that S.B. No. 846, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 846, S.D. 1, entitled: "A BILL FOR AN ACT A BILL FOR AN ACT RELATING TO STATEWIDE TRAFFIC CODE," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the majority of the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 64) recommending that S.B. No. 850, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 850, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC OFFENSES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 65) recommending that S.B. No. 851, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 851, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HIGHWAY DEVELOPMENT SPECIAL FUND," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Inouye and Hee, for the Committee on Transportation and Government Operations and the Committee on Higher Education, presented a joint report (Stand. Com. Rep. No. 66) recommending that S.B. No. 1038, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 1038, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PROCUREMENT INSTITUTE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 67) recommending that S.B. No. 1876, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1876, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAYS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Ige and Inouye, for the Committee on Intergovernmental Affairs and the Committee on Transportation and Government Operations, presented a joint report (Stand. Com. Rep. No. 68) recommending that S.B. No. 449, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 449, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators Ige and Inouye, for the Committee on Intergovernmental Affairs and the Committee on Transportation and Government Operations, presented a joint report (Stand. Com. Rep. No. 69) recommending that S.B. No. 1478, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 1478, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE COUNCIL," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Ige and Hanabusa, for the Committee on Intergovernmental Affairs and the Committee on Judiciary and Hawaiian Affairs, presented a joint report (Stand. Com. Rep. No. 70) recommending that S.B. No. 604 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 604, entitled: "A BILL FOR AN ACT RELATING TO SUBPOENAS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 71) recommending that S.B. No. 426 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 426, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO INSTALL A SECOND ACCESS ROAD TO LEEWARD COMMUNITY COLLEGE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 72) recommending that S.B. No. 903 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 903, entitled: "A BILL FOR AN ACT RELATING TO KAHEKILI HIGHWAY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 73) recommending that S.B. No. 988 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 988, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 17, 2005.

Senators Inouye and Ige, for the Committee on Transportation and Government Operations and the Committee on Intergovernmental Affairs, presented a joint report of the majority of the Committees (Stand. Com. Rep. No. 74) recommending that S.B. No. 1366, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the majority of the Committees was adopted and S.B. No. 1366, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 75) recommending that S.B. No. 1400 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1400, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Inouye and Ige, for the Committee on Transportation and Government Operations and the Committee on Intergovernmental Affairs, presented a joint report of the majority of the Committees (Stand. Com. Rep. No. 76) recommending that S.B. No. 1731, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the majority of the Committees was adopted and S.B. No. 1731, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 77) recommending that S.B. No. 1732 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1732, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A LOCAL FLOOD WARNING SYSTEM FOR LAKE WILSON," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 78) recommending that S.B. No. 1887 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1887, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR HIGHWAY ACCESS IMPROVEMENT IN PUNA," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Fukunaga and Kim, for the Committee on Media, Arts, Science and Technology and the Committee on Tourism, presented a joint report of the majority of the Committees (Stand. Com. Rep. No. 79) recommending that S.B. No. 575 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the majority of the Committees was adopted and S.B. No. 575, entitled: "A BILL FOR AN ACT RELATING TO THE KING KAMEHAMEHA CELEBRATION COMMISSION FUND," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Fukunaga and Kim, for the Committee on Media, Arts, Science and Technology and the Committee on Tourism, presented a joint report (Stand. Com. Rep. No. 80) recommending that S.B. No. 967, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 967, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MUSEUM OF HAWAIIAN MUSIC AND DANCE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 81) recommending that S.B. No. 1132, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1132, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 82) recommending that S.B. No. 1117, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1117, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST UTILITIES SERVING THE GENERAL PUBLIC," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 83) recommending that S.B. No. 1345, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1345, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 84) recommending that S.B. No. 1347, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1347, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 85) recommending that S.B. No. 1778, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1778, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep.

No. 86) recommending that S.B. No. 1412, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1412, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator English, for the Committee on Energy, Environment, and International Affairs, presented a report (Stand. Com. Rep. No. 87) recommending that S.B. No. 1262, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1262, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE WAIANAE COAST," passed Second Reading and was referred to the Committee on Ways and Means.

Senator English, for the Committee on Energy, Environment, and International Affairs, presented a report (Stand. Com. Rep. No. 88) recommending that S.B. No. 1003, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1003, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NET ENERGY METERING," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator English, for the Committee on Energy, Environment, and International Affairs, presented a report (Stand. Com. Rep. No. 89) recommending that S.B. No. 1556, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1556, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Kanno, for the majority of the Committee on Labor, presented a report (Stand. Com. Rep. No. 90) recommending that S.B. No. 294, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Labor.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 294, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Second Reading and was recommitted to the Committee on Labor.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 91) recommending that S.B. No. 48 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 48, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF SAFETY HELMETS BY MINORS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 92) recommending that S.B. No. 427, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 427, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PASSENGER SAFETY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 93) recommending that S.B. No. 428, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 428, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 94) recommending that S.B. No. 453, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 453, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF THE OMBUDSMAN," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 95) recommending that S.B. No. 614 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 614, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC OFFENSES REQUIRING IMPOSITION OF INCREASED PENALTIES FOR SUBSEQUENT OFFENSES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 96) recommending that S.B. No. 844, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 844, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 97) recommending that S.B. No. 1040, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1040, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTALS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 98) recommending that S.B. No. 1224 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1224, entitled: "A BILL FOR AN ACT RELATING TO TORT LIABILITY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 99) recommending that S.B. No. 1240 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1240, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Inouye, for the Committee on Transportation and Government Operations, presented a report (Stand. Com. Rep. No. 100) recommending that S.B. No. 591, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 591, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC OFFENSES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

ORDER OF THE DAY

RE-REFERRAL OF SENATE BILL

The Chair re-referred the following Senate bill that was introduced:

Senate Bill Referred to:

No. 294, S.D. 1 Committee on Labor, then to the Committee on Ways and Means

ADVISE AND CONSENT

Stand. Com. Rep. No. 41 (Gov. Msg. No. 77):

Senator Hanabusa moved that Stand. Com. Rep. No. 41 be received and placed on file, seconded by Senator English and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nomination of RICHARD THOMAS BISSEN, JR. to the office of Judge, Circuit Court of the Second Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator English.

Senator English rose in support of the nominee as follows:

"Mr. President, on behalf of the Committee on Judiciary and Hawaiian Affairs, I rise in support of the nomination of Richard Thomas Bissen, Jr., to the Second Circuit Court in Maui County.

"Since his graduation from the William S. Richardson School of Law, Mr. Bissen has served as interim Director of the Department of Public Safety, as First Deputy Attorney General for the State of Hawaii, as Prosecuting Attorney for the County of Maui, and as an attorney in private practice. This kind of experience is very important for a judicial candidate.

"Mr. Bissen has been active in community service, Mr. President. He is a member of the Royal Order of Kamehameha I, Kahekili Chapter, which is on Maui; the Maui Drug Court Policy Committee; the Domestic Violence Clearinghouse Maui Advisory Committee; and numerous other organizations dedicated to improving the quality of life in Maui County. The Maui County Bar Association honored him as its Lawyer of the Year in 2001.

"Mr. President, I rise in support of the candidate and ask other members to support him also. Thank you."

Senator Hanabusa rose in support of the nominee with reservations and stated:

"Mr. President, I rise in support of Gov. Msg. No. 77, but 'with reservations.'

"Mr. President, first, I beg your indulgence and the indulgence of my colleagues. I would like to begin by thanking the Committee on Judiciary and Hawaiian Affairs, in particular the good Senator from Maui, Lanai, and Molokai, who has assumed the usual chores of the Chair in making the introduction. Unfortunately, because the Chair has reservations on this candidate, I did not believe it was appropriate for me to assume that duty at this time.

"Mr. President, colleagues, as we have come before you before on nominations who have caused this Body to sit and ponder about what our obligations are, this is nothing new for us. We have, as you know, last year gone through the confirmation of or the ultimate rejection of Mr. Hong as a Circuit Court Judge as well. In this particular case, I would like to say at the outset that the Chair has very strong reservations. However, in deference to my Maui colleagues and the Maui Senators, as well as the people of Maui, I have decided that I will rise in support, albeit 'with reservations.' I ask you, Mr. President, as well as my colleagues, for some indulgence in explaining why I feel that my statements here must become part of the record.

"First of all, colleagues, what we have here is a situation where I believe we have had, unfortunately, a matter of words. And let me explain this. What we are dealing with is really one page of the application to the Judicial Selection Commission. On this one page, page 16, there are seven questions. Of the seven questions, really two are at issue. The words that are making it difficult for this Chair to support a candidate without any reservations are the words admonished, disciplined, criticized, and admonished in a written decision. Permit me to explain that further. As a practicing attorney, there are certain things that occur in one's life that one never forgets. One is any complaint to the Disciplinary Counsel, because it can mean your career and your years of education coming to a screeching halt if they find that you have violated our disciplinary rules. So whether or not the Disciplinary Counsel finds against you or basically says you're okay, you never forget that process. Secondly, you never forget when you are criticized by the court. I can tell you candidly, I won't forget when a judge scolded me

from the court, although he actually ruled in my favor, because I never again made that mistake – that mistake in which he said I failed to address a particular argument though the rest of my arguments carried it. I don't forget those things and neither do attorneys. This brings us now to Mr. Bissen and the reason why I'm having the difficulty.

"The first question on page 16 is: Have you ever been admonished or disciplined for (a) breach of code of professional responsibility; (b) professional misconduct; or (c) professional negligence? Mr. Bissen's response was, 'According to the ODC the answer is no. However, please read further.' He then actually gives us a case called *State v Abraham Aki*. We read that case, Mr. President. *State v Abraham Aki* involves the failure to file an answering brief basically on time. So Mr. Bissen, as the head of the Prosecutor's Office, along with some of these other colleagues were really the ones responsible for this particular action.

"However, what was not mentioned is the case of *State v Sanchez*, and to some it may seem like that's not a big deal. *State v Sanchez* is a case that was very similar to Aki in that it had a written decision by the Appellate Courts, and this particular case resulted with a reversal based upon prosecutorial misconduct. In addition to that, it had a complaint with the Office of Disciplinary Counsel, which like Aki resulted with a dismissal, but a caution, a caution. And as I stated earlier, Mr. President, you don't forget even a complaint. You just don't, because every time something like that comes forward, it means that it's at your core. Someone is challenging your integrity, your ethics.

"When I looked at this question – Have you ever been admonished or disciplined? – admonished seems to me, anything – caution, any kind of scolding short of a discipline. Mr. Bissen said in his confirmation hearing that now he looked up the word admonished in the dictionary and he realizes that it is caution, that caution falls within admonished, and that he still didn't believe that he was required to reveal *State v Sanchez* because the Disciplinary Counsel said he did not have to. Mr. President, I called the ODC. They would not admit or deny whether or not they even give this kind of advice orally, in writing or whatever, because their proceedings, unlike ours, are confidential.

"But it still begs the major issue, and the major issue here is – why Aki and why not Sanchez? When you compare the two cases, as an attorney I would remember that which was directed at me, not directed at my colleagues where I can be magnanimous and say I am the head and therefore I should be held responsible. Sanchez is directed at me. Why would I not put Sanchez in my application if I felt compelled enough to put Aki in that response?

"The difference also is, Mr. President, in 2002 Mr. Bissen applied for a judgeship, and I would like to say that Mr. Bissen, when I requested all of his applications, had it sent over immediately. In 2002 this questionnaire ended at number four. Number five, six and seven was something new in the 2004 application for the present circuit courtship. Number five says, 'Has your behavior or conduct ever been criticized or have you been admonished in a written decision by any court?' Mr. Bissen's response is, 'not that I can recall.' Again, Mr. President, I have a difficulty with that.

"Sanchez, in terms of an ICA decision, a published opinion, has eight separate counts which were basically sustained, and cumulatively, cumulatively, the court unanimously found that those actions, they could not find – it's sort of a strange way of putting it – but they could not find beyond a reasonable doubt

that this defendant was given a fair trial. As a result, it was reversed.

“Now, to me that’s a major sanction. That’s a major sanction, a major criticism by any court to reverse, because reversals based on prosecutorial misconduct are very rare, and that’s something else that you do not forget.

“We had a very interesting situation in these confirmation hearings and that was a very active role of the Attorney General. I would say he was almost acting like the attorney for Mr. Bissen during these proceedings. Believe it or not, in his zealotness of defending Mr. Bissen, he actually came up with the case that put it all together for me. Knowing Mark Bennett, he must have stayed up and gone through West Law until he found a case that he could bring before us, and he did. It was called *McGuire v United States*. It’s a 1991 case. This is way before Sanchez or any of the other cases. It’s by the District Court of Appeals for the District of Columbia. What he was telling us then was the real issue in prosecutorial misconduct, and this is a quote, ‘It’s not whether the prosecutor engaged in some kind of misconduct but whether the trial judge should have intervened if and when the prosecutor went beyond the limits of permissible argument.’ Now, I’m sure and I believe that Mr. Bennett was proposing this to us as a rationalization as to why we should not hold Sanchez as anything definitive. But what he did not realize is that by showing us this case or showing me this case it made it very clear to me what we’re talking about.

“Mr. President and my colleagues, we are here to determine if someone should serve as a judge – not a prosecutor, not an advocate, but a judge – for 10 years in the Second Circuit. That’s what we are tasked with here today. When you read this – that prosecutorial misconduct according to this court is whether the trial judge should have intervened – then the question then becomes, what do we know about Mr. Bissen that addresses this?

“During the hearing, Mr. President, we asked questions about why wasn’t Sanchez there. And we had a variety of reasons why, and I’m sure my colleagues who may have asked that question had responses. One of them was that he had forgotten – it wasn’t part of his file, he had forgotten. The next question was, what about the holding in Sanchez? How do you feel about that? The court said, basically, reversal on prosecutorial misconduct, not something that occurs on a regular basis. And his response was that he disagreed. He disagreed with the court. And then I asked him specifically, but this is the case. This is the case that’s cited on issues of prosecutorial misconduct, and he said, ‘well, yes it is.’ I said, ‘well wouldn’t this be something that you would remember because it is something on you? It is a case decided on your conduct.’ And Mr. President, quite honestly, I did not have a response to that question that I felt was satisfactory.

“To the people of Maui, Mr. President, they see someone who’s been an active participant in their community. They see someone who’s been a great prosecutor for them, and that weighs into my decision as well. But I am looking at what we have to do, which is to decide – can that advocate put it aside. Can he then, as a trial judge, when he himself has pushed the envelope too far in Sanchez, can he then take on the role as someone who is supposed to ensure a defendant’s civil rights? And that’s what we have come down to. That’s the role of the judge. Irrespective of the public defender or the defense counsel or the prosecutor, the role of the judge is to ensure that justice is done, and it is not justice as one sees it, it is justice as the law is written.

“And then we come back to what I have had problems with – the respect for the law; the respect for the disciplinary proceeding; the respect for our codes of ethics. Let there be no mistake, Mr. President, the reason why prosecutors have a higher code of ethics is because they speak with authority. They are the State. Criminal cases are State v whoever. You are speaking for the State. That is a high obligation that you have to fulfill. It is not there to simply say, ‘lock them up or throw away the key,’ or anything like that. That’s not what it’s about. It’s justice – this concept called justice. That is why we hold prosecutors to a higher level when we are talking about them in terms of professional responsibility or when the courts look upon them in their conduct, because they speak for the State. It’s no different than us. When we have ethical problems or when we are under scrutiny, it is because we are looked upon as people who have special positions. Prosecutors are the same.

“Now we must switch back again. This is somebody who wants to be a judge for 10 years. And the question that each and every one of us must deal with is, can that person meet out justice when we have had less than satisfactory answers as to disciplinary cautions, or just the fact that it had occurred, or *State v Sanchez*, prosecutorial misconduct, not to mention the fact that there had been another case, *State v Schmidt*, though not reversed, one count sustained as to prosecutorial misconduct.

“I have said from the beginning that this is not an issue so much about prosecutorial misconduct. For me it has been an issue of disclosure, because remember, Sanchez came out in 2002, was not listed in 2004’s application, but in December of 2004, Sanchez is brought to the attention of Mr. Bissen and he forwards to the Judicial Section Committee Sanchez, saying that it was not actually Mr. Bissen but Mr. Edmonds who remembered from 2002 that there was this case, and in response to that, it’s forwarded. Mr. President, I will tell you it was never mentioned to me. And in my conversations with colleagues, it was never mentioned until we raised it.

“Now the Hawaii State Bar Association came before us and took the position that they were not aware of Sanchez as well. Whether that’s true or not, they kind of went wishy-washy on it and they said, well maybe it was mentioned. But let there be no mistake – it was never mentioned at that hearing the first time by name. And for lawyers, cases are everything. And it’s by name because then we can go in and we can read it for ourselves.

“Mr. President, the question that you may have and others may have is why then do I stand here, albeit ‘with reservations,’ saying we can move this candidate forward? And to that I must credit our colleagues from Maui who believe so strongly that Mr. Bissen will make a good judge and, in addition, their constituents who have come forward for them.

“I cannot, however, set aside the fact that I have grave concerns. Mr. President, your Judiciary Committee, like with Mr. Hong, I think they went beyond the call. We have these marathon-like sessions where we believe that everything there is to be asked will be asked and the candidate, the nominee is given full opportunity to respond, which I believe he did. And to Mr. Bissen’s credit, I believe that when we asked for things, we got it. My problem of course is the fact that in certain situations we asked for them versus it coming forward voluntarily.

“Even the bar association, Mr. President, I would like to say that since Mr. Hong and Ms. Pollack, the Maui judge, during the interim your Judiciary Chair worked with not only the bar association, but the judiciary on issues regarding confirmation and the appropriate roles of every entity in our process. And

it's still ongoing. I sit with the American Judicature Society now on trying to determine what are the respective roles and what should we do as a body in terms of recommendations that come forward and how well thought out these recommendations are. The bar association has come very far, but I will tell you, in this particular situation I personally had many reports about whether it was said, it wasn't said, or whatever.

"But we are at a point where we have to decide. We've got only one more day under the Constitution to decide on Mr. Bissen. And that is why I stand before you and the rest of this Body to say that I am recommending and asking that my colleagues vote for Mr. Bissen. But I'd also like to ask that they vote 'with reservations' because I think we do have an obligation to ensure that these questions and how it arrived are part of this record and that Mr. Bissen remember what the concerns were that we had throughout these proceedings.

"Thank you, Mr. President."

Senator Tsutsui rose in support of the nominee as follows:

"Mr. President, I rise in support of Gov. Msg. No. 77, the confirmation of Richard T. Bissen to the Circuit Court of the Second Circuit.

"Mr. President, before I begin I would like to request that the words of the good Senator from the 6th District, my colleague from Maui, be inserted into the Journal as if they were my own. (The Chair so ordered.)

"In addition, Mr. President, over the past few weeks we've heard from many Maui individuals who have come to testify in support of Mr. Bissen – a former Maui Mayor, we've heard from judges, prosecutors, public defenders, concerned citizens, people who knew Mr. Bissen on a professional level, and others who know him on a personal level – all of which have come and testified with many, many good things to say about Mr. Bissen.

"And as all of you know, Mr. Bissen has served as a prosecutor on Maui for many years and as a First Deputy Attorney General for the past two. Over those years, I believe that he has acquired the knowledge that is necessary to preside over a courtroom. There is no doubt that Mr. Bissen will serve the people of Maui and the State of Hawaii very well. There is no doubt in my mind that he will be fair and impartial and he will do what is right.

"Today, colleagues, I strongly urge your support for Gov. Msg. No. 77, the confirmation of Richard T. Bissen to the Circuit Court of the Second Circuit, State of Hawaii.

"Thank you, Mr. President."

Senator Hee rose in opposition to the nomination and said:

"Mr. President and colleagues, I rise to vote 'no.'

"Let me state at the onset, I am not under any grand illusion that this nominee will not be confirmed by an overwhelming majority. That is not my point. It has never been my point. Unlike others, I have not taken any straw votes nor have I asked anyone to join me in voting 'no.' To do so would trivialize the seriousness of our job of consenting to a judicial nominee. To do so would place this nominee as an object as opposed to a person who has worked exceedingly hard to earn the confidence of the Governor and the opportunity to be evaluated by the Senate. To do so would place winning above all else. This nominee does not deserve that kind of invidious treatment.

"My friends, the Hawaii State Constitution demands us as Senators to consent to judicial nominees. It is our duty to do so. It is the single biggest difference between our colleagues in the House of Representatives and us.

"The late Charles L. Black, Jr., in a published article in the Yale Law Journal in 1970 spoke about the serious differences between the confirmation process between cabinet officers and judges. Using the federal system as the example, Black said that 'after arguing that a Senator should let the President have wide latitude in filling Executive Branch posts,' he said that, 'just the reverse, just exactly the reverse is true of the judiciary. The judges are not the President's people. God forbid. They are not to work with him or for him. They are to be as independent of him as they are of the Senate, neither more nor less.' As numerous legal scholars have shown, it is the judicial nominee that carries the burden of convincing the Senate that he should be confirmed, and doubts should be resolved in favor of protecting the public.

"Law professor Chemerinsky wrote, quote, 'Under the Constitution there is no reason why a President's nominees for Supreme Court are entitled to any presumption of confirmation. The Constitution simply says that the President shall appoint federal court judges with the advice and consent of the Senate. The Senate is fully entitled to begin with a presumption against the nominee and confirm only if persuaded that the individual is worthy of a lifelong seat on the Supreme Court.'

"Some say that this is the toughest job of being a Senator, and in some ways it can be. It should come as no surprise that many of us have been lobbied to vote one way or the other regarding this nominee. But really, friends, for many of us this confirmation is easy. Some of you will vote for this nominee because, like the Governor, who made the appointment, you are a Republican and that's easy. There are others who will vote for this nominee primarily because, like the nominee, you are from the island of Maui and that's easy too. And then there are some who will vote for this nominee because you have developed political friendships since your election or you see this as an opportunity to do just that. Even that's easy, although less transparent. Several of you may justify your vote for the nominee by the Hawaii Bar Association's, quote, 'qualified,' end quote, rating or the Judicial Selection Commission's recommendation, regardless that you haven't a clue how the mysticism of either shrouded rating system operates. But even that is easy because you can lay off your constitutional responsibility to some other organization's dereliction.

"We know it is true that both organizations discussed the nominee's first admonishment of prosecutorial misconduct, which resulted in a reversal of a lower court verdict in a case dated August 5, 1996. This case is known as *State v Sanchez*. But what is also true, and more important for our purposes, is that the nominee failed to disclose the Sanchez case in both his 2002 and 2004 judicial applications to both organizations in writing. And but for a single, solo practitioner, Maui lawyer who brought the case to the Chair of the Committee, no one would have known about it. To prove the point, and to my disappointment, only when asked did the nominee disclose to us the Sanchez case. The Senate would never have known about Sanchez because it was never volunteered to us ever.

"The sad fact of the matter is it is also true that both the Judicial Selection Commission and the Hawaii Bar Association to this very moment are evidently unaware of a second written admonishment of the nominee. Why is this, and how could this happen? Because as far as the Judiciary Committee can conclude, the nominee never disclosed the second admonishment to either organization verbally or in writing. And how do we know that? Question five on page 16 of the

nominee's 2004 application asks, quote, 'Has your behavior or conduct ever been criticized or have you been admonished in a written decision by any court?' end quote. The nominee's answer is, quote, 'Not that I can recall,' end quote.

"This second case is known as *State v Schmidt*, dated January 17, 1997. The Intermediate Court of Appeals in its written decision admonished and criticized the nominee for improper behavior in his statements involving a theft case. Again, had it not been for one single lawyer familiar with the case coming forward, the Senate would not have known about this second admonishment. When asked about the case five days ago on February 10th he said, quote, 'Senator, I do not recall.' The Sanchez opinion was written on August 5, 1996; the Schmidt opinion was written on January 17, 1997. Both opinions were written by Supreme Court Justice Simeon Acoba, who at the time was a judge of the Intermediate Court of Appeals, and both opinions were concurred by a unanimous vote of the other judges who preside on the ICA.

"The fact remains that the nominee should have disclosed both admonishments in both his applications in 2004 and 2002. What I find most troubling is that even after explaining to the Committee he should have disclosed Sanchez to us, the nominee could not recall Schmidt. That, for me, is problematic. Only after being informed about Schmidt did he agree that Schmidt should also have been disclosed to us as well. To this extent, I agree with the Chair of the Judiciary Committee because this speaks to the elements of character and integrity.

"Mr. President and colleagues, every lawyer and judge that I have spoken to has said to me that it is very difficult to understand how someone could forget a written court admonishment, sanction, or other violation. In fact, to a person, every lawyer and judge has said that it is precisely those criticisms that are most often remembered as opposed to victories and wins. Such criticisms are personal. They strike to the heart of one's professional conduct as improper and unacceptable. The nominee's apparent inability to remember these cases is baffling to me and suggest to me that either the nominee has difficulty recalling serious admonishments or there maybe have been a belief the Senate would never have found out.

"Prosecutorial misconduct is a serious offense. It oftentimes indicates a zeal to convict at any cost, rather than following longstanding rules of court governing a prosecutor's ethical conduct to ensure that a fair trial will occur for the accused. It is so serious that less than one-half of 1 percent of all cases brought to the courts by Attorney Generals, County Prosecutors, and Federal Prosecutors end up in situations where an Appellate Court opines that the prosecutor's behavior was so improper that the defendant was denied a fair trial. Cases like Sanchez are even rarer because in this case the Appellate Court actually reversed the decision of the lower court.

"Canon number one of the Code of Judicial Conduct says in part 'An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing and should himself observe high standards of conduct so that the integrity and independence of the judiciary may be preserved.' Some of you may argue that he is not yet a judge and therefore should not be held to that standard. The preamble of the Code of Professional Responsibility of the Hawaii Court Rules says in part, quote: 'Lawyers, as guardians of the law, play a vital role in the preservation of society. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct. Not every situation which he may encounter can be foreseen, but fundamental ethical principles are always present to guide him,' end quote.

"Mr. President and colleagues, it was reported by both newspapers that the administrator of the State Water Commission resigned last week for refusing to support legislation she believes would kill the agency that environmentalists see as a guardian against over-development. Her name is Yvonne Izu. She is a lawyer and a former Deputy Attorney General. Ms. Izu said in part, quote, 'I did not feel it was fair to ask the Water Commission staff to prepare testimony that would dismantle the agency that they work for,' end quote. Regardless of whether you agree or not with Ms. Izu, we should all agree that she stood up for her principles. She relied on her belief in fairness to guide her in her decision. She stood up for the commission upon which she was hired to represent. She stood up for her employees against the State Department. She stood up for the people of Hawaii against legislation supported by the Governor. She held that accountability to her job and the people of Hawaii was more important to her than keeping her job. She did her job. She followed her ethical principles. She followed her heart, and she stands alone.

"Too often we make the mistake of placing a priority of trying to keep our job over doing our job. My friends, there are others here who can tell you that we merely occupy these seats. None of us will be here forever, not a single one of us, and these are the times when we are called upon to do our jobs. Ask Yvonne Izu.

"Some of you, like me, may have received veiled threats and unfair criticism because of an uncompromising belief held by some that we need a, quote, 'Hawaiian,' end quote, on the court, or that the nominee is really a popular, quote, 'Maui Boy,' end quote, or that what we don't need is another 'a'ama crab in the pakini holding a Hawaiian down because of, quote, 'one minor incident,' end quote. And who can blame this critic? After all, his conclusions are primarily based on a three-second sound byte that ran on the Channel 2 News. And he is not alone – a former Supreme Court Justice has weighed in on this matter. He is joined by former judges as well as lawyers, as well friends. Four labor leaders that I know of have weighed in on this discussion, but they certainly don't know what has been presented to the Senate. And there have been others who have also appealed to us to deny confirmation. Like the other side, they have shared their opinions on the fitness of this individual to stand in judgement over one's property and one's liberty. And like the other side, they certainly don't know what has been presented to the Senate in its totality.

"Difficulty is merely a part of this process. Difficulty isn't convenient. It isn't easy. It wasn't meant to be easy. It will never be easy – ask Yvonne Izu.

"Let me conclude by noting that in last Saturday's Honolulu Advertiser the nominee said in part he felt vindicated and that he answered the questions, quote, 'straight up,' end quote. Moreover, he said he didn't understand why reservations still remained.

"Here's why I voted 'with reservations' last Friday. Throughout the difficult process, I've tried to give the nominee the benefit of the doubt if nothing else. If nothing else, he has always availed himself to discuss his nomination, and I aloha that. Unlike others, this nominee never once said he wouldn't be available. In fact, we have each other's cell phone numbers, and I aloha that. In our initial office interview, which that lasted 90 minutes or so, he was exceedingly pleasant and open. Frankly, I enjoyed our conversation. One of the last questions I asked was, quote, 'Is there anything you think I should know that I haven't asked?' end quote. His answer was, quote, 'no, Senator,' end quote.

"After the first judicial hearing when the Sanchez case was discovered, I met with Justice Acoba who wrote the Sanchez opinion for approximately 45 minutes. He came to my office at the Capitol. I then met with Attorney General Bennett and Prosecutor Carlisle for approximately one hour, and following that meeting I met with the nominee again for an additional two hours. Each explained their views on the Sanchez case. No one, not one, brought up the Schmidt case. This much is certain – Justice Acoba knew about the Schmidt case because he was its author, and the nominee knew about the case because he was the prosecutor in the case. Schmidt was brought to me after I met with all of these people. Only then did doubt and questions of credibility arise. After all, as I stated earlier, I believe it's prudent to give someone the benefit of the doubt.

"That the nominee feels vindicated and he cannot understand why reservations still exist demonstrates to me an inability to fully appreciate the seriousness and gravity of the confirmation proceedings. I understand there are several of you who will cast your vote 'with reservations' as opposed to straight up. That suggests that you continue to have some doubt about the fitness of this nominee to sit in judgement over others accused of crimes including rape, assault, and murder.

"My friends, no person is entitled to a seat on the Circuit Court. This is not a reward. And if a nominee cannot clearly satisfy the Senate without any reservations whatsoever that he or she meets all the criteria for confirmation, the people of Hawaii should not be asked to bear the risk of entrusting this individual with the reins of judicial power.

"U.S. Senator Robert Byrd said in a debate over the elevation of Justice Rehnquist to Chief Justice, quote, 'The benefit of any doubt should be resolved in the favor of the people of the United States. If there is a cloud of doubt, this is the last chance. If there is a doubt, I say resolve it in the interest of our country and its future, and in the interest of the court,' end quote. Senator Byrd is right. This is the last chance. Once the nominee is confirmed, 10 years will pass before any evaluation by the people will occur. Because the cloud of doubt still remains on this nominee's courtroom indiscretions, the court's admonishments in two separate cases, and the nominee's inability to recall and voluntarily disclose the admonishments candidly to the State Senate of Hawaii, it is with great regret that I shall vote 'no.'

"Mr. President, this basket of flowers is from my Auntie. Her name is Johanna Bissen. She is the nominee's cousin, Lehua. The nominee and I are Hawaiian. I admire this nominee. He grew up the hard way and I admire that. He grew up pulling taro in Kahakuloa – I admire that. He went to school in California – I admire that. He came back and went to the Richardson School of Law – I aloha that. He worked for the interest of his people on Maui as its prosecutor – I aloha that. He is a winner. He doesn't quit, but that is not why we are here today. We are here because of the duty of evaluating a nominee in his totality.

"Let me be the first to congratulate Rick Bissen. Let me be the one, because I know how its going down and I'm okay with that because we're all called to do our duty.

"Mr. President and friends, if there is doubt, let doubt rest on the shoulders of those who elected you. Mahalo, Mr. President."

Senator Baker rose in support of the nominee as follows:

"Mr. President, I rise in strong support of Gov. Msg. No. 77, Richard T. Bissen, Jr., to the Circuit Court, Second District, my home island and my home County of Maui.

"I have no reservations about supporting this nominee, but I will not cast aspersions on any other who may look at the evidence as I have and reach different conclusions.

"One of the people who testified at Rick's confirmation hearing noted that a person ought not to be measured by an incident viewed in isolation but rather by the person's full life. I firmly believe that Rick's life as a whole, both personally and professionally, demonstrates his overwhelming fitness for judicial office. I've known Rick for many years. I served in county government with him for four years. Today I want to represent the people and the overwhelming support from his home county where he seeks to be a judge.

"In his letter to the Judiciary Chair he noted: 'I wish to be a Circuit Court judge because I feel I am ready to continue to serve my community in this new capacity. As a judge, not an advocate, I will be called upon to make decisions that will have tremendous impact on the lives of my fellow community members. I am fully aware of the awesome power and corresponding responsibility that comes with it. I do not take this charge lightly. I wish to be a Circuit Court judge particularly in the Second Circuit because it is where I grew up, where most of my family and friends live, and where I spent most of my legal career. Maui is my home. The judge should, as allowed by the law, be an impartial problem solver that assists citizens in finding resolutions without the need to litigate whenever possible.' I think that Mr. Bissen presented a very favorable judicial philosophy in that particular statement.

"To say that this nominee has been thoroughly scrutinized would certainly be an understatement, Mr. President. During two days of grueling questioning by the Committee on Judiciary and Hawaiian Affairs – grueling, but fair I believe – Rick never lost his cool, never lost his temper or his calm demeanor. Despite the nature of some of the questions, Rick approached each as a professional. He took none of the questioning personally and withstood the questions, I think, with honor and dignity. The Committee heard much testimony with regard to the significance of Rick's conduct in *State v Sanchez*, and of course we had that recounted this morning on the Floor. I don't think any prosecutor is ever happy to learn that a court has described conduct as prosecutorial misconduct, but maybe it's appropriate to note some words from a court decision that our Judiciary Chair cited earlier, *Maguire v United States*, to note that the words 'prosecutorial misconduct' perhaps are not as sinister as they sound. In that case, the court noted: 'We think that the word misconduct is overused and that some less sinister name should be given to the rhetorical excesses of attorneys who say what they should not say when engaged in forensic combat.'

"Now moving forward, the Judicial Selection Commission that named Rick to their list of qualified individuals knew every fact that the Committee knew because Rick had appeared before the commission twice. In 2002 he discussed the Sanchez case with the commission, and in 2004 he not only discussed it orally with the commission but also supplemented his application in writing. This commission, established by our Constitution to find qualified judicial candidates, concluded, I think quite clearly, that Rick had been honest and forthright in his discussions with them. The commission even took the extraordinary step of sending a letter to your Senate Committee on February 10, 2005, specifically stating that Rick had discussed Sanchez in both 2002 and 2004. If the commission had believed that Rick was in any way dishonest, it would never have placed his name on the list of qualified candidates.

"In one last word on that particular case, I'd like to quote from the testimony presented by retired Judge Walter Heen,

President of Na'A'ahuhiwa, the organization of Retired Native Hawaiian State Court Judges, who wrote to strongly urge Rick's confirmation. He noted that Rick's qualifications were undisputed and said, 'It should be eminently clear that Mr. Bissen's conduct during the Sanchez trial was not considered a serious matter by the disciplinary counsel.' With regard to Mr. Bissen's actual application to the Judicial Selection Commission, Judge Heen noted that because the disciplinary counsel did not sanction him, Mr. Bissen can be excused for not considering that he had been admonished. Judge Heen further wrote, 'If the disciplinary counsel had found Rick's conduct to be demanding of admonition, it would have used much harsher language than it did.'

"In addition, the bar also reaffirmed its support for Rick Bissen when it wrote to the Committee about his disclosure of the Sanchez case. The Maui County Bar Association also voted Rick 'highly qualified.' For the record, Mr. President, I'd like to have the statement of the Hawaii Bar Association regarding the nomination of Richard T. Bissen, Jr., dated February 10, 2005, included in the record. (The Chair so ordered.)

"The Honorable Marie Milks, who is both a retired judge and one of the most respected members of the Hawaii legal community, wrote to the Committee with her views as to the nature of Rick Bissen's conduct in Sanchez. Judge Milk's wrote, 'There is nothing in the appellate decision that causes me to conclude that Mr. Bissen conducted himself in an unethical manner or to suggest that he lacks the competence and integrity to serve as a judge.'

"I'd like to continue to cite a few of the examples among the scores of letters that were written in support of Rick Bissen. The Office of Hawaiian Affairs wrote that it supported Mr. Bissen's nomination and confirmation. The Administrative Director of the Courts, Mr. Thomas R. Keller, wrote in his personal capacity of his support for Mr. Bissen noting, 'Mr. Bissen inherited his family's values for hard work, public service, and courage.' Retired Judge Boyd P. Mossman, currently an OHA Trustee, who has observed Rick for many years on Maui, noted, 'I can attest to his good character, his integrity, his legal competence, his trustworthiness, and reliability, as well as his keen mind. Rick has been a fine example of a Native Hawaiian who has demonstrated leadership in the community and has been willing to fight for all that he believes in – that being justice for all, fairness for all, and service most of all.'

"A member of the Royal Order of Kamehameha I with the title of Alii Nui wrote on behalf of the Order supporting Rick's nomination with these words: 'No finer person could have been selected.' Former Attorney General Earl Anzai wrote, 'I know Mr. Bissen to be a man of conviction. He is both strong but fair.' Former Attorney General Anzai gave Rick his highest recommendation. My former boss, as well as Rick's boss, former Mayor James 'Kimo' Apana, wrote in support of Mr. Bissen and testified orally. Former Mayor Apana testified that when he took office after a series of Republican Mayors, he fully expected to name a new prosecuting attorney. Mr. Apana testified, however, that after doing his due diligence, he came to the easy conclusion that there was no finer person than Rick to serve as Prosecuting Attorney for the County of Maui, and thus, Mayor Apana kept Rick on for his entire term. Mr. Apana wrote, 'Rick is also an outstanding member of the community. He's a great friend, honest, compassionate, talented, and a person that you can count on.'

"But even more important for me than these words from former judges and former mayors are the words from Stacey Moniz, the Executive Director of Women Helping Women on Maui, an organization that I have great respect and admiration

for because this organization stands up for women who are victims of domestic violence, particularly, and also sex abuse. Stacey writes: 'I've known Mr. Bissen for many years and have appreciated his balanced sense of fairness and broad range of vision. He's a stellar leader in our community.' She went on to talk about Rick's work with children and his efforts to stop domestic violence and help them get grants and come up with win-win solutions for ways that the shelter could stay open. She noted that he was naturally open-minded and willing to find win-win solutions in many challenging situations.

"Every one of Hawaii's Prosecuting Attorneys and Police Chiefs wrote in support of Rick, and perhaps that's what is to be expected, but I think a letter from his successor Davelynn Tengan also is appropriate to note at this particular time. She says he's a well loved, well respected, well received individual who she believes will do great things for Maui as a judge and will personify the best qualities of a judge, irrespective of one's place of origin. Meyer Ueoka, longtime Democrat on Maui, longtime attorney – I guess he's the oldest practicing attorney on Maui – started by saying that he'd seen judges come and go, but he had known Rick for many years and he knows him to be fair, honest, intelligent, and a man with integrity beyond reproach who grew up in the community, comes from a good religious background, has all of the fine attributes of becoming an outstanding judge, and if confirmed would bring credit not only to his family and the state but to the judiciary as well.

"I got an e-mail from a gentleman that I don't know, Robert Alakai, in support of Rick Bissen. He says he's known Rick for many years as a member of our Hawaiian cultural group Na Koa O Hale Mua O Kualii, the men's house on Oahu, and Hale Mua O Maui. The purpose of Kane O Hale Mua is to build a strong sense of caring and values for family, culture, and the environment as we become practitioners of our culture. He said, 'Rick served as a leader. As we look to our ancestors for the knowledge to help us live in today's world, we want strong Hawaiian men for our generation and generations to come. We learn as we walk in the footsteps of our ancestors. The people of Maui will benefit from Rick's strong sense of value and purpose as he serves on the Circuit Court bench.'

"Just to conclude from the remarks that Mr. Ueoka shared with the Committee, it was this personal perspective about the nominee that he wanted to read, and that was that Rick had in fact come from such humble beginnings. Mr. Ueoka felt that because of this – his hard work and his effort – he would have empathy with all who would come before him and be able to be that fair and impartial judge that would be a role model for others striving to enter government service.

"I guess the question that was raised needs to be answered – can this zealous advocate transition from that role to judge? I believe that the folks that have shared with us his background, his passion, his commitment, his sense of fair play, believe that he can. I've seen him in action. I, too, believe that he can, and I think because of the kind of support and testimony that has come before us, there are others who share that belief.

"The testimonials that I read and alluded to are but a small sampling of the support that came forward in support of Rick Bissen to be Maui's newest judge. They were lawyers, former judges, regular folk, community leaders, Democrats and Republicans. The testimony I think of all of these individuals speaks to the values of the man – his integrity, his background, his competence to serve, his commitment to youth and families, helping others, his support for our society's most vulnerable, especially women who've been the victims of domestic violence, sexual harassment, or sexual assault.

"In fact, when I told Rick that I wanted to say a few words on the Floor on his behalf, I asked him, was there anything in his background that he wanted me to highlight in my remarks. Well, he mentioned that he was very proud of being a father. He and his wife just celebrated their wedding anniversary yesterday on Valentine's Day. And I said, 'No, something in your professional career or something else that you're proud of aside from your family.' And he mentioned two awards that made him proud because I think it speaks of the kind of concern and commitment that he has. One goes to his professional accomplishments where he was selected by the Maui County Bar Association as Lawyer of the Year in 2001, but the one that really stood out for him was to receive the Distinguished Citizen Award from the Men's March Against Violence in Oahu in 1999.

"It should also be remembered that Rick was one of the founders of Drug Court, and those programs owe much of its successful start to him. As was noted in a Maui News article, 'Much of what Rick's background has touched on are issues of youth and families that this new judge is expected to handle. The year after he was appointed head Prosecutor, Bissen began delivering parenting talks, aimed at strengthening families, to parent-teacher associations. He drew on his experiences as the father of three girls. As prosecutor, he also developed a series of crime prevention videos aimed at youth.' He's worked in our correctional facilities. He has that perspective that perhaps no other judge has, but I think it's the breadth and the experience that he brings to this position that really enables us to vote with confidence that he has the requisite background to be a judge.

"Mr. President, this nominee has been scrutinized to the nth degree and I think he's stood the test.

"I'd just like to conclude with these final words – throughout his career in professional, in personal, in community capacities, Richard T. Bissen, Jr., has demonstrated that he has all of the judicial qualifications and attributes that will make him a fine judge for the Second Circuit, Maui County. I strongly support his confirmation and ask my colleagues to join with those us from Maui to vote to consent to this nomination. Mahalo."

The Chair having so ordered, the Statement of the Hawaii State Bar Association dated February 10, 2005 reads as follows:

"Testimony of the
HAWAII STATE BAR ASSOCIATION
Relating to the nomination of

RICHARD T. BISSEN, JR.
Judge, Circuit Court of the Second Circuit

To: Senate Committee on Judiciary and Hawaiian Affairs
Honorable Colleen Hanabusa, Chair
Honorable Clayton Hee, Vice-Chair,
and members

Hearing: Thursday, February 10, 2005, 9:00 a.m.
Conference Room 229
State Capitol

At the request of Hawaii State Bar Association President Richard Turbin, a special meeting of the Board of Directors was convened on February 5, 2005 on the nomination of attorney Richard Bissen for the position of circuit court judge of the Second Judicial Circuit.

Following further interview of the candidate and discussion, the HSBA Board reaffirmed its finding that attorney Richard Bissen is qualified to be a circuit court judge of the Second Judicial

Circuit. The HSBA Board further concluded that Mr. Bissen provided the HSBA Board with sufficient disclosure of all relevant issues."

Senator Sakamoto rose in support of the nominee as follows:

"Mr. President, I rise in support of this nomination, but not because of party, not because of geography, not because of ethnicity, not because there is a lack of substance to the issues raised. No one likes to be wrong. No one likes to be criticized. Everyone likes to put their best foot forward, but we all need to balance our ego and our pride with humility.

"I think nominators, whether it's committees or individuals, need to ask the hard questions and ferret out issues so they need not be brought out in this Body. Nominators need to do their job. They need to do their job so these issues don't dangle here. There are very eloquent remarks on both sides of this issue, but it's not about what people have done; it's about what people are today.

"I hope nominees will be willing to disclose their faults and say 'I've learned from them.' The nominees don't feel they have to hide certain things to feel that they can't be viewed fairly and honestly by the nominator, by whatever committees they come before, because in this world, we all have faults and we learn from the mistakes we make. It's those who are not willing to say we've made mistakes and do not learn from them that are in an unreal world. Only God is perfect, and we are all frail and we all make mistakes. So I ask future nominees to be willing to disclose things, but still be humble yet confident, because there is a place for each person to do an excellent job in this world.

"I hope and pray that Mr. Bissen will be an excellent judge, and I pray that those who support him will help him be an excellent judge. I hope as he sits as judge, should he be confirmed, that he will be able to see things from everyone else's point of view. Just as here, should he be confirmed, it doesn't vindicate that there was no evidence or no reason for concern, because there is. But I hope as he sits as judge, he will truly look at other people's point of views within the context of the law and grow to become the best judge he can be.

"Thank you."

Senator Inouye rose to speak in support of the nominee and stated:

"Mr. President, I speak in support of Gov. Msg. No. 77.

"Mr. President and colleagues, I have given my favorable approval to Mr. Bissen personally, as well as to the Governor.

"However, Mr. President, I have been deeply concerned in the last hour of information we received here on the Floor, particularly for those of us not sitting on the Judiciary Committee. But I wish to make it known here and in the Journal that those concerns raised by members of the Committee is a concern of mine. And the concerns also include the appointee's responsibilities sitting as a Circuit Court Judge, not as a District Court Judge.

"The nominee will be hearing cases on rapes, heavy crimes, murders, and many other issues. He will be making decisions that will affect many lives on his island. He will be making decisions of the people, for the people of Maui. But I will give Mr. Bissen the benefit of the doubt that he will uphold the oath of the office to support and defend the Constitution of the United States and the Constitution of the State of Hawaii.

"I will support my colleagues from Maui who feel that Mr. Bissen will make a good judge for their community, for their people. I pray that Mr. Bissen will fulfill his full term of 10 years and not forget today's deliberations and that the Senate of the 23rd Session has given him the opportunity to erase all doubts of his capabilities to do a fine job.

"Thank you, Mr. President."

Senator Ihara rose in support of the nominee with reservations as follows:

"Mr. President, I rise in support of the nomination of Richard Bissen for Second Circuit Judge, 'with reservations.'

"Mr. President, I want to outline my reservations of this nomination. I do not believe any of my reservations, even when taken together, warrant a 'no' vote on my part. The nominee did not disclose the Sanchez case until seven weeks after filing his application for nomination, which is submitted to the Judicial Selection Commission, and he did so only because a member of that commission asked specifically about that case.

"At last week's hearing, the nominee said that he would not have disclosed the Sanchez case if it wasn't raised in that interview. The nominee indicated that he did not recall the Sanchez case when asked if a court has ever criticized or admonished him in writing because, and I'll paraphrase my understanding of what he said, because he did not initially consider that case as criticizing him, but it was more of a disagreement with the higher court that he respected.

"Mr. President, when considering these reservations in light of all the facts and testimony, I am satisfied that the nominee is qualified to serve as a Circuit Court Judge for 10 years, and I am satisfied that the nominee has the integrity and the judicial temperament to be a fair judge. I have noted my reservations and I will vote to confirm the nominee.

"Thank you."

Senator Hemmings rose to speak in favor of the nominee

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

"Mr. President, I want the record to note that this Body once again is serving this State well by debating an issue not only with our hearts, but also with our minds. I respect those who dissent as much as I respect those who affirm, but there are some issues from our perspective that need to be reiterated.

"It was inferred by a previous speaker that some of us may be voting for our political considerations in the party we may or may not be a member of. It was inferred that some of us may be voting for the nominee because of the island we're on. I can assure you that I don't believe that at all. This Body on many occasions has gone against conventional wisdom on certain issues. On many occasions I was so proud of how we had voted on issues based on the merits of the issues rather than extraneous considerations.

"It was said, regarding this debate, that those who supported the nominee may have done so based on what they know or do not know. That's a fair statement. But in defense of this process and in recognition of the Chairman of the Judiciary Committee, all the issues that are being discussed on today's advise and consent discussion were known many days prior to today. Most people from the law enforcement agencies, the bar associations, the neighborhood organizations, the civic clubs, the leaders of the judiciary from both political parties where their roots may be, had an opportunity after hearing these issues

to come forward and change their testimony or come back to the Committee. So, after further consideration and after finding out what we felt we don't know, it's salient they could have changed. None of them did because they recognized that this is a good man that can do a good job.

"So it comes down to a very interesting aspect of the law that my not being a lawyer made me have a little different perspective on. It seems that the defendant, as a prosecutor, had a case reversed. As it says here in the committee report, on one of the grounds the reversal was that it was viewed with various instances of prosecutorial misconduct. Well, I would suggest to this Body that once someone is confirmed a judge, they do not automatically disavow their convictions of who they are. There are judges because the law is not absolute to the extent that it has to be judged. Therefore, the judge that reversed the decision's perceptions of what is allowed or what the tolerances of allowances are in the judicial process for the defendant may differ from one judge to another. That's why we have judges who have reputations as being very strict when it comes to administering justice and others who could be considered as very liberal.

"So the debate between the Appeals Court Judge and the judge that rendered the decisions in the process may differ because of their differing judicial temperament. Nevertheless, it says in the committee report that the Sanchez case did go over to the disciplinary counsel and the ODC concluded there was insufficient evidence to clearly support the findings of disciplinary violations by the nominee. So once again, after further consideration on these issues, there was not a problem.

"So what it gets down to, really, is considering what we as humans are doing here for the benefit of the people of Hawaii. I honestly believe that we have done our duty – that we have considered the evidence before us in making our decision to support this nominee, and we have looked at the pros and cons and are rendering a just and fair decision on behalf of the process. Quite frankly, I am very supportive of the nominee, as all his testifiers have been, but I am also very confident in the process that we've gone through here today and that this Senate will indeed give advice and consent in support of the nominee, Richard Bissen, to the State Court.

"Thank you, Mr. President."

Senator Hanabusa rose and said:

"Mr. President, Roll Call vote."

The Chair so ordered.

Senator Taniguchi rose to speak with reservations on the measure and said:

"Mr. President, I'd just like to note for the record my 'reservations,' but I'll be voting in support of this nominee."

The Chair so ordered.

Senators Chun Oakland, Espero, Kokubun and Bunda requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Hee).

At this time, Senator Hanabusa introduced Judge Bissen to the members of the Senate. (Judge Bissen, who was seated in the gallery with members of his family, rose to be recognized.)

At 1:19 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:25 o'clock p.m.

Senator Inouye, Chair of the Committee on Transportation and Government Operations, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 1595.

Senator Inouye noted:

"Mr. President, this bill repeals the provisions for automatic permit approvals."

The Chair then granted the waiver.

Senator Kanno, Chair of the Committee on Labor, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 294.

Senator Kanno noted:

"Mr. President, the bill makes adjustments to the minimum wage and also makes adjustments to the amount employers contribute for unemployment insurance."

The Chair then granted the waiver.

ADJOURNMENT

At 1:28 o'clock p.m., on motion by Senator Hee, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, February 16, 2005.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate