

FIFTY-SIXTH DAY

Tuesday, April 25, 2000

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2000, convened at 11:40 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Very Reverend Joseph Grimaldi, JCL, Judicial Vicar, Diocese of Honolulu, after which the Roll was called showing all Senators present.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 317 and 318) were read by the Clerk and were placed on file:

Gov. Msg. No. 317, informing the Senate that on April 20, 2000, he signed the following bills into law:

Senate Bill No. 2088 as Act 26, entitled: "RELATING TO SHORT-TERM INVESTMENT OF STATE MONEYS";

Senate Bill No. 2289 as Act 27, entitled: "RELATING TO PREPAID TELEPHONE CALLING SERVICE";

Senate Bill No. 2542 as Act 28, entitled: "RELATING TO STATE BONDS";

Senate Bill No. 2563 as Act 29, entitled: "RELATING TO INSURANCE";

Senate Bill No. 2742 as Act 30, entitled: "RELATING TO PORK";

Senate Bill No. 2830 as Act 31, entitled: "RELATING TO EMPLOYMENT OF SCHOOL PRINCIPALS AND VICE PRINCIPALS";

Senate Bill No. 2858 as Act 32, entitled: "MAKING AN EMERGENCY APPROPRIATION FOR THE STATE MEDICAL ASSISTANCE PROGRAM";

Senate Bill No. 2942 as Act 33, entitled: "RELATING TO THE GENERAL FUND EXPENDITURE CEILING REPORTING DATES";

Senate Bill No. 2947 as Act 34, entitled: "RELATING TO DISCLOSURE OF TAX INFORMATION";

Senate Bill No. 3117 as Act 35, entitled: "RELATING TO MOTOR VEHICLES"; and

Senate Bill No. 3192 as Act 36, entitled: "RELATING TO CAPTIVE INSURANCE."

Gov. Msg. No. 318, letter dated April 24, 2000, informing the Senate that S.B. No. 2941, which proposes a constitutional amendment, was filed with the Office of the Lieutenant Governor on April 24, 2000.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 684 to 713) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 684, returning S.C.R. No. 12, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 685, returning S.C.R. No. 14, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 686, returning S.C.R. No. 18, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 687, returning S.C.R. No. 26, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 688, returning S.C.R. No. 47, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 689, returning S.C.R. No. 57, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 690, returning S.C.R. No. 59, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 691, returning S.C.R. No. 73, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 692, returning S.C.R. No. 89, S.D. 2, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 693, returning S.C.R. No. 102, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 694, returning S.C.R. No. 116, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 695, returning S.C.R. No. 122, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 696, returning S.C.R. No. 125, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 697, returning S.C.R. No. 131, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 698, returning S.C.R. No. 141, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 699, returning S.C.R. No. 166, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 700, returning S.C.R. No. 176, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 701, returning S.C.R. No. 183, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 702, returning S.C.R. No. 196, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 703, returning S.C.R. No. 210, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, was placed on file.

Hse. Com. No. 704, returning S.C.R. No. 60, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 60, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 705, returning S.C.R. No. 74, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 74, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 706, returning S.C.R. No. 77, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 77 and requested a conference on the subject matter thereof.

Hse. Com. No. 707, returning S.C.R. No. 123, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 123 and requested a conference on the subject matter thereof.

Hse. Com. No. 708, returning S.C.R. No. 129, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 129, S.D. 1, and requested a conference on the subject matter thereof.

In accordance therewith, the President appointed Senators Kanno, Taniguchi, co-chairmen, Slom as managers on the part of the Senate at such conference.

Hse. Com. No. 709, returning S.C.R. No. 143, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 143 and requested a conference on the subject matter thereof.

Hse. Com. No. 710, returning S.C.R. No. 173, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 173, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 711, returning S.C.R. No. 179, S.D. 1, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 179, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 712, returning S.C.R. No. 204, which was adopted by the House of Representatives on April 24, 2000, in an amended form, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 204 and requested a conference on the subject matter thereof.

In accordance therewith, the President appointed Senators Kanno, Taniguchi, co-chairmen, Slom as managers on the part of the Senate at such conference.

Hse. Com. No. 713, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2066, H.D. 1, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2066, H.D. 1, S.D. 1, passed Final Reading in the House of Representatives on April 24, 2000, was placed on file.

CONFERENCE COMMITTEE REPORTS

Senator Chumbley, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1955, H.D. 2, presented a report (Conf. Com. Rep. No. 3) recommending that H.B. No. 1955, H.D. 2, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 3 and H.B. No. 1955, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CORRECTIONS POPULATION MANAGEMENT COMMISSION," was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2513, S.D. 1, presented a report (Conf. Com. Rep. No. 51) recommending that S.B. No. 2513, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 51 and S.B. No. 2513, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Nakata, for the Committee on Labor and Environment, presented a report (Stand. Com. Rep. No. 3582) recommending that the Senate advise and consent to the nomination of RANDALL Y. IWASE to the Labor and Industrial Relations Appeals Board, in accordance with Gov. Msg. No. 221.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 3582 and Gov. Msg. No. 221 was deferred until Wednesday, April 26, 2000.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 3583) recommending that the Senate consent to the nomination of KARL K. SAKAMOTO to the office of Judge, 1st Division, Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Gov. Msg. No. 310.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 3583 and Gov. Msg. No. 310 was deferred until Wednesday, April 26, 2000.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 3584) recommending that the Senate consent to the nomination of SIMEON R. ACOBA, JR., to the office of Associate Justice, State Supreme Court, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Gov. Msg. No. 311.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 3584 and Gov. Msg. No. 311 was deferred until Wednesday, April 26, 2000.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 3570 (Gov. Msg. No. 283):

Senator Hanabusa moved that Stand. Com. Rep. No. 3570 be received and placed on file, seconded by Senator Tanaka and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nominations to the Island Burial Council, Islands of Kauai and Niihau, of the following:

R. KALANI FRONDA, MICHAEL H. FURUKAWA, BRUCE B. ROBINSON, DONNA KALIKO SANTOS, PRESLEY V. WANN and A. JAMES WRISTON III, terms to expire June 30, 2003; and

LA FRANCE KAPAKA-ARBOLEDA and JOHN A.P. KRUSE, terms to expire June 30, 2004,

seconded by Senator Tanaka.

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

Ayes, 24. Noes, none. Excused, 1 (D. Ige).

Stand. Com. Rep. No. 3571 (Gov. Msg. No. 286):

Senator Hanabusa moved that Stand. Com. Rep. No. 3571 be received and placed on file, seconded by Senator Tanaka and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nominations to the Island Burial Council, Island of Oahu, of the following:

A. VAN HORN DIAMOND and LURLINE NAONE SALVADOR, terms to expire June 30, 2002;

KALEI S. KINI, term to expire June 30, 2003; and

PETER K. APO, PHYLLIS COOCHIE CAYAN, CLARENCE DE LUDE and THOMAS T. SHIRAI, JR., terms to expire June 30, 2004,

seconded by Senator Tanaka.

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

Ayes, 24. Noes, none. Excused, 1 (D. Ige).

Stand. Com. Rep. No. 3572 (Gov. Msg. No. 303):

Senator Hanabusa moved that Stand. Com. Rep. No. 3572 be received and placed on file, seconded by Senator Tanaka and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nomination of RANDALL QUINONES to the Kaneohe Bay Regional Council, term to expire June 30, 2003, seconded by Senator Tanaka.

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

Ayes, 24. Noes, none. Excused, 1 (D. Ige).

FINAL READING

S.B. No. 862, S.D. 2, H.D. 1:

Senator Chun Oakland moved that S.B. No. 862, S.D. 2, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chumbley.

Senator Chun Oakland rose in support of the measure and stated:

"I rise to speak in support of S.B. No. 862.

"Your Committee on Health passed out this bill during the 1999 session. Your Committee heard poignant and convincing testimony from patients and caregivers that marijuana indeed provides significant relief from many of the debilitating effects of cancer chemotherapy, symptoms of HIV disease -- including AIDS Wasting Syndrome -- and can provide relief from severe pain. Other patients submitted anonymous testimony or were afraid to testify for fear of arrest or job loss. Your chair, in fact, had many concerns initially about this issue, but was convinced to support it by the compelling testimony presented during the almost seven hours of the hearing.

"Perhaps the most important part of this bill would be to break down the current wall of silence between patients who currently use or would like to try marijuana to alleviate their symptoms and their doctors. This bill will protect from arrest both the patient who might find relief from marijuana and the doctor who might recommend its use and enable discussion between doctor and patient.

"This measure is narrowly drawn and would only permit patients who meet very specific medical criteria to use marijuana. A physician must provide the patient with written certification, and the doctor must have a bona fide relationship with the patient. All other laws against cannabis remain in place. Any diversion would be punished and smoking outside of one's home would not be permitted.

"One of the concerns that has been raised in the past is the concern that it might send the wrong message to our children. I share that concern and I wanted to reiterate what we really should be teaching our children -- children can and should be taught the difference between medicine and drug abuse. There are no substances in the entire Physician's Desk Reference that children should use for fun. If anything, the use of marijuana by seriously ill people should de-glamorize it for children.

"Some of you may have heard that some medical organizations oppose the medicinal use of marijuana. While some do, there are scores of health and medical organizations and other prominent associations which do support access to medicinal marijuana including the American Academy of Family Physicians; the American Public Health Association; The New England Journal of Medicine; the AIDS Action Council; National Nurses Society on Addictions; Lymphoma Foundation of America; National Association of People With AIDS; the California and Florida Medical Associations; the California Society of Addiction Medicine; California Pharmacists Association; British Medical Association; Consumer Reports magazine; the nurses associations of New York, California, Virginia, Mississippi, Colorado and numerous other health and medical groups.

"Many health organizations in Hawaii also support this legislation: the Hawaii Nurses' Association representing Hawaii's 2,500 Registered Nurses, the Hawaii Public Health Association, AIDS organizations such as The Governor's Committee on HIV/AIDS, the Life Foundation, the Maui AIDS Foundation, the Big Island AIDS Project, Kauai's Malama Pono, the AIDS Community Care Team, and senior organizations such as the Kokua Council have also testified in support. The Department of Health has also supported this measure.

"I ask you now to think of your friends and relatives who are afflicted with cancer or other serious illnesses. We know that marijuana can ease their suffering. Our sister states in the West have all approved similar measures and a poll conducted this February by QMark Research and Polling found that 77 percent of Hawaii voters support the Legislature taking action on medical marijuana this year.

"In closing, I would like to acknowledge Hawaii's historic leadership in public health issues. We have been in the forefront in approving progressive legislation to guarantee our residents insurance coverage, confidentiality, and access to care. We take pride in being the Health State and have a growing reputation as a center for wellness. Hawaii has always been a place where aloha and caring for the less fortunate are a way of life.

"I now ask for your support of this carefully drafted measure to remove the threat of arrest from the severely ill people who currently benefit from the medical use of marijuana -- and for those who might use it in the future to alleviate their suffering.

"Thank you, Mr. President."

Senator Sakamoto rose in opposition to the measure and said:

"Mr. President, I rise in opposition to this measure.

"Mr. President, some people want the legalization of marijuana in all forms, and I believe those advocates are pushing for bills like hemp, last year; bills like this, this year, and this will not be the end of it. They will continue to push. But I'm not here to speak against that. Certainly, that's a debate.

"Let me address this bill that we have before us. The previous speaker commented that this is a carefully drafted measure. I respectfully beg to disagree, and I'll go through it, Mr. President, being that we had no Conference Committee and no opportunity to look at how we can make bills better. We in this body take pride in not passing something that's defective. We in this body take pride in making sure that what we say and what we vote on is correct. Speakers before, here, argued many times that we shouldn't pass something that's flawed. Each of you in the respective areas that you look at, you choose not to pass something that is 'maybe not okay' and defer it to the next year. I don't understand why some of you feel we need to pass this bill that is definitely not drafted carefully.

"Page 1: 'modern medical research has discovered a beneficial use of marijuana in treating or alleviating the pain.' I don't know this part about treatment . . . certainly, alleviating or makes you feel better -- if you want to pass a feel good bill for some people -- but there's no claim and I don't see the research that it treats. Palliative, feel better -- if you should call that treatment -- but it's not curative. There's a big problem and there's a big difference -- it's not curative.

"Line 8: 'Legislature is aware of legal problems.' When else do we pass measures that we're aware of legal problems. Our job is not to pass measures that we are aware there are legal problems. Our job is to make sure there are no legal problems. This is the bill . . . 'federal law expressly prohibits the use' So who are we? Are we going to join the sovereign nation and

ignore federal laws? And that's just in the first few lines. 'A number of states are taking the initiative Voter initiatives permitting the medical use . . . California, Arizona' etc. Voter initiatives, big difference. As elected officials, those bodies had to pass something because their voter initiative said that.

"People claim there's a QMark poll. I haven't seen the questions. Have you? Who's against helping somebody who's ill? Maybe the question is, Are you against helping somebody who's ill whom marijuana may help them? No, we're not against that. But did the bill say 'and let you grow your own'? I mean the poll. Did the poll say it's okay for your neighbor to grow his own three mature plants? I don't think so.

"Yes, we're the health state . . . 'intends to join this initiative for health and welfare of its citizens.' It may help some citizens, but what about the rest? ' . . . does not in any way diminish the legislature's strong public policy and laws against illegal drug use.' Give me a break! We're approving something that the federal government said is illegal. How can we, in the same breath, say 'does not in any way diminish'? The 'medical use of marijuana would likely outweigh the health risks for the qualifying patient.' When do we say something would likely do something and we make it such an important policy statement that we ignore the police?

"Further down on page 2: 'necessary to assure the uninterrupted availability.' When do we assure an uninterrupted availability of anything else? And why this curious substance must we assure that? And here it admits, alleviating the symptoms, nothing about treatment. And certainly, 'three mature plants, four immature plants and one ounce of usable per each mature plant' . . . who controls the potency? Who agreed that this is a good thing? Some areas . . . well how big can a mature plant be? Can it be tall as this? Can it? Certainly, I've seen pictures of green harvest where the plants are darn tall. That doesn't make sense. If we want to pass something good, let's pass something good.

"Then 'debilitating medical condition.' People talk different things, but the bill says, 'one or more of the following' and one of them -- '(B) Severe pain; (C) Severe nausea' -- severe pain, I've had medical severe pain. I've had migraine headaches. Maybe some of you, and you go to the doctor and say 'I've got severe pain, Dr. Tanaka. Why don't you dispense some of this to me?' The bill says he can. That's ridiculous. Severe nausea -- women get pregnant; women get airsick; men get airsick; some get severe nausea -- is it okay to prescribe medical marijuana? Because the bill says you can. And the bill doesn't say it's the medicine of last resort. It doesn't say take Tylenol, take Aspirin, take Aleve. It doesn't say anything of that sort. It just says you can take it for these things.

"Medical use . . . in the common sense, use is when you use it. But in this sense, 'use means the acquisition, possession, cultivation, use, distribution, or transportation of marijuana or paraphernalia.' So in this use, acquisition. So for the person who can use it, acquisition means he or she can buy it. The bill doesn't say he or she can't buy it because it says they can use it. Including means acquisition. Distribution -- the bill says they can distribute. It didn't say distribute to themselves. The bill says medical use means you can distribute -- means you can sell. That's what the bill says. Tell me about it.

"Primary caregiver: for people under 18 years of age you can have your primary caregiver agree to undertake the responsibility. What are the qualifications of this primary caregiver?

"I know many families where the kids suffer because one of the parents is a drug abuser. And in many of these families the children are not well. So now, this bill says that's okay if a parent is a drug abuser; the kid is sick; parent can acquire, possess, cultivate all of this stuff for their younger than 18-year-old. And who's to say we should even offer this to the under-

18-year-olds. You hear sad stories about the old people, but why are we even allowing it for the under-18-year-olds?

"Again, written certification, professional opinion 'likely would outweigh' . . . ugh! That means everything is problematic. The Judiciary chairs are usually very thorough. They have their staff check out every sentence, every jot and tittle. Not in this case. The primary caregiver now can give their . . . they can determine the dosage and the frequency, and they don't even know the dosage of the plant that they're growing. Nobody said you had to be tested. I'm not a user, but I hear stories -- weaker, stronger, strongest, watch out how much you take -- but not for these people.

"Endangers the health or well-being' . . . crazy. Certainly, it would endanger. Now, here we're talking about anti-smoking campaigns. No smoking. Just smoke this stuff. Even the under-18-year-olds too. Is that right? Obviously not. (Sigh.)

"The fee, \$25 -- that's not enough to cover it. What do they have to do? Check out everybody, make cards, make registrations. Obviously, other things . . . oh, do you have funding for the mechanism? Maybe we should make sure how much money they need. Where is the funding? Where is the special fund? Where, where? Where, oh where?

"Now here, 'No person shall be subject to arrest or prosecution for simply being in the presence or vicinity of medical use of marijuana.' So what happens? What happens to enforcement? 'Hey braddah, you get some? Eh, medical yeah? Medical, yeah?' We're being ridiculous. And you can say I'm just putting this on; but I'm saying think about it. How is HPD going to enforce anybody? 'Oh, I thought was medical.' 'He said he had sore back. Worker's comp, you know. He had sore back. Medical.' Ha? And no, the bill doesn't say you only can smoke it in your house. You can smoke it in braddah's house. It doesn't say you can't. Maybe Sam's house. It doesn't say you can't. Right?

"Now, one part of the bill calls for urgency, 'returned immediately.' Now, calling for some certainty, you got to return this thing immediately. Misdemeanor . . . other parts of the law talk about felonies. What if they got a pound of it? Oh, misdemeanor, oh shucks. On and on . . . Violations of Chapter 329, Uniform Controlled Substances Act or any rule thereof, bla, bla, bla . . . except this is the only exception. This is the only exception -- a flawed exception -- medical marijuana, and all of these things that physicians can do. Mr. President, and on and on.

"I hope some of you read in one of our papers, marijuana is not a safe drug. This family physician with special interest in addiction treatment says, 'Marijuana is a gateway drug that has enabled millions of Americans to proceed toward a miserable lifetime of drug addiction and suffer many severe health consequences. It is not harmless.'

"This study -- 1998 Hawaii Student Alcohol and Drug Use Study -- sadly, half of our seniors in the schools that responded to this study, sadly, half of them have tried marijuana.

"Lastly, Mr. President, helping people is a good thing. This bill doesn't help people, Mr. President. This bill, Mr. President, is full of holes. We've had many measures before that I may not have agreed on, but I wouldn't say they were full of holes. I may not have agreed on sometimes the direction, but this bill, Mr. President, as I stated in some examples just on a cursory reading, is full of holes, Mr. President.

"And why would we want to foist on our population the temptation, that somebody may be in need, but his family members, his neighbor, the kids down the street, anybody else can get imperiled, far more imperiled than they, Mr. President? If you are in a hospital, you can't use it. If you're on oxygen, try and use it. You'll go quick.

"Mr. President, it's not worth the temptation in spite of the good for some people. This will do great damage, Mr. President. Fix it up."

Senator Slom rose in support of the measure as follows:

"Mr. President, I rise to speak in support of the measure, although it's very difficult after the highly animated, colorful, and passionate remarks of my colleague from Moanalua.

"I think that's part of the problem. I think this issue has been overshadowed by emotion rather than rationality and fact. I think that the opponents, basically, have talked in terms of fear rather than in terms of hope. And the comments that we should not be passing defective, non-carefully drafted bills, of course, is something that I echo with the good Senator. I wish it were so. I wish the hundreds of bills that we have passed that were defective, or blank, or in some way unconstitutional, or unenforceable, or whatever, had more care, but they didn't. Otherwise, we would have created massive unemployment with the attorneys in our community. So from that standpoint, they're good economic bills.

"I think compassion enters into this debate and into this bill. And it saddens me that again for the second year in a row and the second time this year that this will be the closest vote that this legislative body takes. Nobody gets so impassioned about restrictions on their civil rights that apply to everyone! Nobody gets so impassioned about taxes! Nobody gets impassioned about laws and regulations and taxes and fees that will put more small business women and men out of business! Nobody gets so impassioned about the things that we have done and haven't done that have forced our neighbors and friends to move away from this state because they can't pay to take care of themselves and their children and their families! Nobody gets so impassioned about that, but they do get impassioned about trying to relieve the pain and suffering from individuals!

"Those of us that have lived with, in our families, that pain and suffering, know all too well that we're not talking about simple nausea or backache or headache or upset stomachs or anything else. And for the good Senator and others, let me assure him that the passage of this bill will not force anybody to use marijuana, medically or for any other reason, or any other thing that they don't want to use. It will not force any doctor or physician to prescribe the medical use of marijuana. What it does, however, is to allow the use in those certain medical circumstances where everything else including morphine has been tried and does not relieve the pain and suffering.

"And lest we be very quick to say we don't want to pass any bills that affect just some of the people, we do that all the time. Almost all of the legislation that we pass here have an impact on some of the people and have a different impact on other people. So what we're saying in this point with this bill is no, it's not perfect; we don't do perfect work here. Lots of times we don't even do good work. But sometimes we have to do what's right. And what's right is to provide an option and an alternative, not compulsion; not force; not mandate, like 95 percent of the measures that we pass here where people don't have a choice -- they can't say yes; they can't say no. This bill allows that choice.

"So Mr. President and colleagues, while I do not ever seek to be the poster boy for this legislation (laughter), somehow it's thrust upon me. My constituents have told me that they want this measure passed. Young people, older people, sick people, well people, they have said that they believe in this measure as an option, not as a panacea. And I don't see them becoming drug addicts or dealers or users or abusers. And that's why I support this measure, Mr. President.

"Thank you." *

Senator Kawamoto rose in opposition to the measure and stated:

"Mr. President, I rise in opposition of this bill.

"I'm not as articulate as the previous two speakers. I'm just wondering if we're doing the right thing, doing 'pono' by our people.

"Last year I fought against hemp. I said this is again an opportunity for illegal drugs to come in. We mentioned medical marijuana last year, and we mentioned the possibility of legalization of marijuana. Now we're here, another year, and we're in medical marijuana.

"Before this bill is even decked, we hear the rumblings of legalization of marijuana. What's next? Cocaine? Ice? This permissive attitude that we've had this past 15-20 years has created turmoil in our community. We've spent millions of dollars on Green Harvest. We've spent millions of dollars trying to teach our young people, our keiki to 'Say No to Drugs' -- the DARE program. I've been to about ten marches on 'Say No to Drugs.' How can I tell fifth graders, third graders to say no to drugs, except for. How can we say that? Will they understand that? Some of us are grandparents; some are the parents of young people. This permissive attitude will go on. This permissive attitude will provide the opportunity of things that's going to hurt us. And you cannot say it will not because it's happening. It's happening. People out there are saying legalize marijuana; it's not as bad as we think it is.

"I've been to Bobby Benson. I've been to different places where we see young people, 17, 18 year old young people whose brains are fried. They're going to be this way for the rest of their lives -- the rest of their lives. They haven't had a chance to experience the good things of life.

"Yes, there are people in pain, but the good Lord made us human beings, gave pain to us to understand that there is pain out there. Maybe it's for a reason.

"What we're saying is think about the young people, our kids, our grand-kids. This permissive attitude that we've taken has gone afoul. Join us and stop the war on drugs. It's going to cost us. It's already cost us -- 95 percent of the people that are incarcerated right now are due to drugs. That never happened 15, 20 years ago. We never heard of AIDS; we never heard of HIV. But we do hear it now.

"So I ask you, Mr. President and colleagues, think of what we're doing. I'm proud to be a Senator in this 20th Legislative Session. Are we going to pass something here that's going to mark this legislative session as the start of legalizing marijuana and drugs? Our permissive attitude is going to allow this to happen. And I will take my last ounce of blood that I have yet to spill to stop drugs, to protect our young people, and to allow them to grow and enjoy life to its fullest.

"That's the reason, Mr. President, I'm voting 'no' on this bill, and I request a roll call vote. Thank you."

Senator Tam rose to speak against the measure and stated:

"Mr. President and fellow colleagues, I'm voting in opposition to this bill.

"The issue for me is not whether marijuana should be approved as a remedy for pain due to one's health problems. The issue is how to make marijuana legal for medical use. This morning I had the opportunity to talk to Dr. Jon Van Dyke, who is a constitutional attorney teaching constitutional law at the University of Hawaii's Richardson School of Law. Dr. Van Dyke stated that there is NO clear way of legalizing marijuana when the federal government deems it as illegal.

"If this bill becomes law in Hawaii, how do I explain to medical patients who use marijuana that the federal government claims jurisdiction over the State of Hawaii in the legalization

of marijuana as it now stands and we, the state government, ignore the federal government's jurisdiction?"

"I asked the proponents for the medical use of marijuana to give me a letter from the federal government, specifically from Steven Alm, the U.S. Attorney here in Hawaii, stating that the federal government would not prosecute individuals should they be prescribed marijuana for medical purposes. No such letter has been received by me at this time.

"Thank you."

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

"Mr. President, I'm going to vote for the bill with reservations, and everybody will probably say there he goes again.

"Members of the Senate worked very hard. Opponents to this bill could have worked to have this bill amended. We're not legalizing the limitless and unrestricted use of marijuana. We're giving the option for some people to use marijuana solely for medical purposes.

"My issue with this bill is enforcement. That's what this bill does not properly address. If you are so afraid of our children -- because I happen to be a father and grandfather -- being addicted to something, then you, members of the Democratic caucus, should have amended this bill to make sure that not everybody and his brother will be allowed to grow marijuana, if that's what you were worried about. Previously, I had asked if each island would have someone designated that the physicians could refer patients to. But members sit here and say this is a bad bill because it's going to send the wrong message to our children. What we've done is send the wrong message because we didn't try to work on this particular bill, and it's our fault. This bill should have been amended. It should have been written so the law enforcement agents can do their job; but we didn't do that. The opponents to this measure should have pushed for this bill to be amended.

"When I have something that I'm really interested in, I run to the other side and try to work with the House people. I try to work with the Senate people, the chairmen. But you don't wait until the last moment and then look at it and say, 'Well, you and Sam should do this.' There are 23 Democrat members, and if it's going to be a close vote, it's because you didn't work with one another. You didn't look at trying to fix this bill to make it workable.

"So it's our fault, ladies and gentlemen. That's all I have to say, Mr. President."

Senator Chumbley rose to support the measure and said:

"Mr. President, first I want to start out by thanking the good Senator from Moanalua for his comments about my co-chair and myself and for the good work in the Judiciary Committee. However, this issue is not quite as transparent as he may claim it to be. Just a couple of points of rebuttal and then I'd like to make a statement.

"There was a statement made that this bill does not require medical marijuana to be the last resort. Mr. President, no other substance is required to be the best choice in order to be legal. No one only has access to Advil, if Aspirin or Tylenol proves effective. Medical marijuana should be held to the same standards as any other medicine -- not higher standards.

"There was a comment about the medical value, and I won't go into detail about the volumes of studies that have been done over this issue over the past decades. I want to just bring up one, however. In March of 1999 there was a 207 page Institute of Medicine report that said: 'Marijuana and Medicine: Assessing the Science Base,' commissioned by the Clinton

Administration and drug czar Barry McCaffrey, and this is their conclusion -- 'there are some limited circumstances in which we recommend smoking marijuana for medical use.' Both the government and the scientists speaking in support of medical marijuana in one blow.

"There are those who have said that medical marijuana is advocated by those who support the legalization of drugs. Many who support medical marijuana do not advocate other reforms of drug laws. Patients should not be punished just to spite drug reform supporters, and each law should be judged on its own merits. Medical marijuana does not lead to the legalization of non-medical uses any more than the legalization of knives leads to murder.

"There was a statement about what's next -- cocaine, ice. Well, the answer to those statements are 'No.' We will not legalize cocaine. We will not legalize morphine. We will not legalize speed. We will not legalize marijuana for recreational uses. That is just simply not the case.

"The legalization of medical marijuana is a divisive topic. People of equal intelligence and equal thoughtfulness can have difficulty seeing eye to eye on this issue. The opinions that people have on this issue often seem to be irreconcilable. Do we protect our rights or do we protect our children? Shall we have mercy or shall we have justice? I stand here today to tell you that these positions are not as diametrically opposed as they seem. Yes, I declare that it is possible to have your magic brownie and eat it too.

"Do we protect our rights or our children? Unfortunately for those who would divide us with fears, we can do both. Children can and children should be taught the difference between medicine and recreational drugs. Doctors can legally prescribe cocaine, morphine, and speed. We still explain to children that using these substances recreationally is wrong and can be dangerous. We don't tell children that if you recreationally use cocaine that it's right. We tell them that it's wrong. In fact, the use of marijuana by old people and dying patients might make pot less appealing to children. Who wants to use a substance that makes you gain weight and disconnects you from your body's nifty sensations? What teenager wants to be as cool as a dying AIDS patient? When marijuana is viewed as a substance only for sick people, both the rights of the sick and the well being of the children can be protected.

"Shall Hawaii support justice or mercy? Unfortunately for those who would divide us with slippery slopes, we can have both. There are those who claim that allowing medicinal marijuana would open a floodgate to people who are not ill. I strongly deny this allegation. As co-chairs of the Judiciary Committee, the Senator from Palolo and I deal with our state's law enforcement coalition, prosecuting attorneys, and judges. To imply that these fine state officials are not capable of telling a sick person in need, from someone who is simply out partying, is an insult to these outstanding individuals. Our state's fine judicial system is more than adequate to mete out justice to the few troublemakers who would try to take advantage of the state's mercy and the situation.

"This bill does not conflict with federal laws. It does not in any way stop or prohibit the federal government from prosecuting law breaking recreational users, or even patients, for that matter. This bill simply states that Hawaii refuses to use its own resources to arrest and prosecute sick people who are using marijuana as medicine.

"Mr. President and my fellow Senators, I stand before you today to urge that you listen to your hearts, listen to your minds, and listen to the facts. Those who want to divide this body will fail when they are faced with Senators acting out of clarity and compassion. Medical marijuana is a frightening proposition, and it might make us shake a little to take such a bold step. But let us remember that the shaking of fear is also the shiver of excitement, that the flip-flopping of a position is also the

courage to reconsider when facing new facts, and that the apprehension of not knowing the public's response is also the freedom to listen to your own conscience. Medical marijuana is the compassionate choice; it is the conscientious choice; and today, it is the correct choice.

"Thank you, Mr. President."

Senator Iwase rose in opposition to the measure as follows:

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

"First of all, Mr. President, let me express my thanks to the co-chairs of the Judiciary Committee and the chair of the Health and Human Services Committee for their work on this.

"This is a very difficult and a very emotional issue as demonstrated by the debate today. It is also one, as the Senator from Hawaii Kai points out, that has been a very close vote. We're dealing here with marijuana, and I guess if you're from the '60s you look upon that substance with some degree of fond memories. But this is not the '60s. This is today, and we are sitting here in this body, in this Legislature having to make very important decisions about the use of drugs.

"When we deal with drugs, and I agree with the Senator from Hawaii Kai, emotionalism is always here, but we must act with more rationality, and for good reasons -- we're talking about public health and safety. And for better or for worse, the government has a role to play in attempting to protect public health and safety, particularly when it comes to drug use and medical treatment. We have a whole range of laws -- for example, the professional licensing law for pharmacists; the laws to insure that doctors are well trained. We have a process to insure that drugs which are put on the market are safe for the public. It is not always successful. Thalidomide from the '60s is an example of a failure, but also the danger of putting on the market a drug which has adverse effect when applied to the broad public. It may be helpful to a few, but when applied to the broad public it could be harmful.

"So we have all of this in place, this process. When it comes to drugs, you go to the FDA and they have a process. It is cumbersome. It is long. But marijuana is not the only drug that this country prohibits from use, despite the fact that the drugs that are prohibited and used in Europe or Japan may have medical value and does help those who are suffering. This country does not necessarily approve those drugs because they work in Europe or because they work in Mexico or because they work in Latin America or because they work in Japan or China or elsewhere.

"We have this process, and it is a process designed for one purpose. It is not designed to respond to emotionalism. It is not designed to respond to money. It is not designed to respond to lobbyists. It has one purpose -- to protect the public's health and safety. And in this case, my reluctance here and my reason for voting 'no' is, one would hope and expect that if we are going to approve the use of medical marijuana, that the FDA has approved it; that there is consensus with the federal government; that it will no longer be criminal for someone to prescribe it. And that is not true today. That is why we do not ask the physician to prescribe. We say primary caregiver, whomever that might be.

"I don't know if we're necessarily protecting the public's health and safety by this bill. When you look at this medical treatment process, normally, a doctor will prescribe. Normally, a doctor will ask the patient to come back and check. Normally, the drugs you ingest are produced and manufactured by companies licensed by the government and issued by pharmacists licensed by the government. In this case, the manufacturer as someone who is not licensed by the government, need not be. The person who prescribes the treatment, the dosage, the quality of the medicine is not one licensed by the government. The frequency of treatment is not

prescribed. This is not medical. This is not something that is consistent with medical treatment, and it's perhaps because there is no agreement. The process has not been adhered to. For better or for worse, the process has failed. The process is time consuming. The process causes delay. The process causes drugs that may be helpful, to not be used in the United States, causing people to have to go to Mexico or Europe or Latin America for treatment. But that's the law that we have for one purpose -- the public health and safety. And we are not meeting that today.

"In closing, Mr. President, I don't think that the process says that we will approve a drug because a few find that it is helpful to them. Because when we do, just on that basis, we forget that when we approve the use of a drug, we are approving it for use for a broader cross-section of our public, for all of the public. And for that reason, we must be careful and circumspect and follow the process. And I don't think we have that here. We have a law or are attempting to pass a law that I think in the long run . . . not in the long run, as we sit here today and pass it, is one which has not been approved by the FDA for medical treatment. It is one which has not been decriminalized by the federal government. It is not one which will protect the medical treater, the physician, or a pharmacist from protection of our criminal laws. And certainly, while it may help a few -- a few -- I don't think it will help the many.

"Thank you, Mr. President."

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

"Mr. President, I stand in opposition to this bill.

"One of my reasons for not supporting Senator Iwase on his nomination is that I want him to stay in the Senate. One of my big reasons -- we need his brain, we need his mind, we need how he interprets and evaluates all the different bills; we need the Senator in the Senate. And that was the reason why some of us banded together a couple of years back and formed a group that many called the dissidents. And Senator Iwase was certainly one of our leaders at that time.

"Mr. President, in the TV commercial B-A-L-O-N, is that E-Y or just Y -- baloney -- B-A . . . Oscar Meyer Wiener Baloney. You know, Mr. President, I think everybody who stands on this floor and talks about sensitivity and caring about this measure is full of B-A-L-O-N-E-Y. You cannot sugar-coat the fact that this bill is a vote for drugs -- you support drugs, plain and simple.

"In our ECD hearing, Economic Development, there was a resolution talking about the possibility of developing a sister-state relationship with a province in China called Yunnan which has tremendous potential -- agriculture, precious metals, but more importantly, herbal, and relating to, I guess, the types of agricultural projects on the Big Island. And it had tremendous potential there. Unfortunately, it was brought up by the Senator from Waipahu that it's possible that there may be some drug problems. Why? Because it bordered three major drug countries -- Burma, Vietnam, and Thailand. And I wasn't aware that this was called the 'Golden Triangle.' But just the hint of drugs sent our ECD Committee for cover -- cover in the sense that we all stood up and said this is wrong because we know that drugs are a problem in our society that rips apart our communities, that affects many lives right here in our neighborhoods today, as we speak.

"Mr. Sakai from the Corrections Division comes before us, talks about his budget and where we're going to spend these millions of dollars from the tobacco settlement money -- millions of dollars. And you know, we have 186 women prisoners out in Kailua and only 12 slots for drug abuse treatment -- 12. Mr. President, that's shameful. But it's okay. It's okay. We'll go vote for drugs.

"Alcohol in our high schools, in my opinion, is rampant, and the state has failed its responsibility regarding alcohol. What have we done for that? Is this bill a precursor to marijuana?

"Yes, Mr. President, I'm angry. A month ago someone dropped off four marijuana plants in my yard. I called the police immediately. There was a report in the newspaper. It made it seem as though I was growing it.

"Mr. President, if this bill passes, next year legalized marijuana. A year ago it was hemp; this year it's medical; next year, what?

"I challenge any community. Looking at our resources on the Windward side -- our water, our greenery -- I tell you what, you put marijuana plants in the Windward side and we will be the capitol of the world. We will probably grow the most potent marijuana plants known throughout the world, with no question. Because that is the essence of the Windward side. That was the reason we had all the lo'i and the taro, the most extensive lo'i in this whole state -- the Luluku Lo'i system.

"And four plants were dropped off at my gate about a month ago. The police came. It met a certain weight. They had to bring a certain van and get it out. And I reported it. And that was a day after I addressed Mr. Sakai about our drug problem and incarcerated prisoners and not providing enough support to these women who have children.

"Mr. President, this bill supports drugs. I ask you to walk the talk. Lead by example. Because, Mr. President, there's absolutely, trust me, there's absolutely no hope in dope.

"Thank you."

Senator Chun added his remarks in opposition and said:

"Mr. President, I rise in opposition to the bill.

"Mr. President, I agree with a lot of the comments made today by both the supporters and the opponents of the bill. In fact I stand up here today, really out of respect for a lot of the chairmen, both the Judiciary and the Human Services, because I want them to know that I'm voting not against them but against the rationale on the bill, because I do recognize that reasonable minds can differ. I'm going to try to keep my comments straight to the facts as the Senator from Hawaii Kai has asked me to.

"Let's look at the facts. I agree that there was a report done by Drug Czar McCaffrey which basically tended to indicate that there was some medical benefits of marijuana. I recognize that and I think it's something worthwhile looking at. But what bothers me about this bill is the fact that it attempts to go beyond what the scientific studies have shown to be medical benefits from the use of marijuana and goes into areas where no proof is shown. For example, the same report which the Senator from the Judiciary Committee has indicated, clearly indicated that for diseases such as Parkinson's disease, Huntington's disease, migraines (i.e. headaches), epilepsy, and Alzheimer's, medical use of marijuana doesn't support these claims; medical marijuana does not help these conditions.

"Yet, in our own bill, the bill that we're being asked to vote on today, on page 3, lines 11 and 12 specifically authorizes the medical use of marijuana for epilepsy, a condition which the report specifically states it does not help. Why are we doing that? Why are we not just limiting ourselves to conditions which medical reports have indicated marijuana can be useful? Why are we going out of our way to say whatever the advocates for legalization of marijuana want to say, that we're going to give them everything without any further study.

"Mr. President, I know that we disagree on a lot of things. There are very few times that we agree. I think members of the public realize that and respect that. I think what we all are

asking for, even the public, is that we should be consistent in our actions, that we know that we will have a standard that we will follow.

"Mr. President, just a few months ago we had another very hotly debated issue in front of us about the use of another drug and whether that drug should be placed into our water system to help our children strengthen their teeth and their bones so they can grow up to be healthy individuals. We heard scientific testimony from both sides, one indicating that the long term and short term effects are beneficial. And yet at the same time we heard testimony from the other side saying no, the long term and short term effects of that drug is harmful. And yet, based upon that conflicting testimony we decided to take the conservative route, the reasoned route, and say let's take a look at this further.

"And I thought that was a reasonable thing for the Senate to do at that point in time, even though it's controversial, even though we were going to take a lot of hits and a lot of criticism for that kind of position, even though the administration really wanted it. We felt that the fact there was conflicting testimony required us to study it more. We did not want to take that kind of leap.

"We have a similar situation here. We have an administration bill that asks us to legalize, and it's a very limited basis, medical use of marijuana. We also have conflicting testimony from different sides saying that marijuana use is not going to be beneficial. It has long term and short term negative impacts. We have reports on the other hand saying yes, it will have medical benefits. But what do we do? Rather than take the cautious approach, which we did last time, we say no, let's just go ahead and pass it. So the question I ask is why do we pass it? Why on one hand are we taking the cautious approach and another hand we just throw caution to the wind? The only explanation I've heard on that is we want to have mercy. That's not one that's based on fact. Again, the advocates are saying let's just throw everything to the wind and have mercy.

"On mercy, then, on that kind of issue, I have problems. I have problems of accepting a bill based upon mercy, whether it feels good, whether it's going to benefit my special interest or not. For example, on one hand we're saying that drug use is bad, and hemp in fact is bad and then we passed a bill which allowed the cultivation of hemp on the Big Island, which I gather now is in Wahiawa. But in that one we realized that hemp has less of a THC, an active component. We realized that it doesn't grow the same way as it grows with hallucinogenic marijuana. But we recognized the dangers and we put these huge fences and barriers about that because we proceed cautiously.

"And yet on THC, marijuana, that has the most psychoactive ingredients in it, we don't proceed cautiously. We don't have any provisions here about fences around the marijuana plants. We don't have any provisions here regarding inspections. We don't have any provisions regarding reports.

"And again, I'm confused. Why are we not being consistent in our handling of this issue? Mercy, that's the only thing it comes down to. And if that's the only thing it comes down to, Mr. President, I'm going to have to say that mercy without standards, mercy without direction will lead to chaos. And I don't think that's something the Senate stands for. I don't think that as a Legislature the voters want us to have chaos. They've come to us to ask for direction in their life. They've come to us to ask for a plan on how to approach things logically. They didn't come to us to make happenstance decisions based upon who can lobby the best, or who yells the loudest, or who cries for mercy the most.

"Mr. President, I am not against mercy, but I am only willing to give that if I know that mercy will be controlled and that mercy is the only last resort and that there are standards that

we'll be using. So Mr. President, I must reluctantly state that I'm going to have to vote against this bill, and I hope that the proponents of this bill will heed these words and go forward from here, and even though this bill passes, that they decide to strengthen it and to act consistently so that we can give some kind of direction to our people.

"Thank you, Mr. President."

Senator Slom rose again and said:

"Mr. President, if I may, a few words of rebuttal to some of the things that have been said since I spoke last.

"First of all, the argument that we knew that if we approved industrialized hemp on a project pilot program last year that it would lead to legalization of drugs and the call for medical marijuana . . . first of all, the call for medical marijuana has been going on for quite some time. This is not new. It didn't just occur over the last 12 months. What has occurred, I think, has been a realization by more people, more information, more studies, more decisions by individuals who can adequately separate a solution or an option for pain and suffering from recreational use of drugs; a realization that people can, in fact, talk to people whether they be young adults, children or older people, and explain the differences between medical uses of prescribed substances and recreational uses. So I think that's a major point to be concerned about.

"However, my good friend the colleague from the Garden Island has just raised the issue of consistency and caution, and he used as an example our action in fluoridation of the water supply. And he said that he looked around for any explanation and the only explanation he could find was mercy. I guess he must have been distracted and wasn't listening to my words earlier. I know he usually listens to every word. And one of the major points that I made was that this bill, unlike so many bills that we pass in this body, does not force or mandate everyone to do something. I remind the good Senator and my colleagues that that was one of the primary issues about fluoridation -- you didn't have a choice! We stuck it in your water and you were going to get it. And we didn't worry about dosages, whether you drank 16 glasses a day or not. We didn't worry about that. We were going to tell you everybody was going to take it. We were saying fluoridation was to help our keiki of a certain limited age because of dental caries, but then we said everybody was going to have to have the impact. This bill does not do that.

"So, aside from any question or issue of compassion and mercy, there is a very clear distinction. Had this bill said everyone must take marijuana, I would have been the first one to stand up and to have spoken and voted against it. But it does just the opposite. It allows choice, and that is part of mercy, as well.

"Thank you, Mr. President."

Senator Inouye rose to oppose the measure and said:

"Mr. President, I wish to register my 'no' vote on this particular bill.

"Mr. President, much has been said with regards to the bill before us, and I wish to enter the concerns of the Senator from Moanalua and the Senator from Waipahu into the Journal as if they were my own.

"Yes, this bill is flawed. If you look on page 2, 'Medical Use of Marijuana' under 'definitions' it talks about the adequate supply. I just wanted to add that where are the provisions for cultivation, for growing? Where are the plants to come from? Perhaps considering using the airlines to send the plants over from the Big Island or from Kauai or wherever. That's a great concern.

"We are putting a lot of pressure and placing a lot of burden on our enforcement agencies.

"Thank you, Mr. President."

Senator Sakamoto rose again and said:

"Mr. President, just to follow-up on some of the comments made.

"Actually, some of the comments made by the proponents I'd almost say that they should be in the Journal because for mine . . . maybe I'm confused, but I heard the Senator from Judiciary say that they should be held to the same standards as any other product. I guess he was implying not higher standards, but certainly I would agree, should be held to the same standards as other medical products, period. And I heard those words, and I would agree strongly. This bill does not do that.

"I heard words from the Senator from Hawaii Kai saying, after everything else has been tried. I agree, after everything else has been tried this might be an option, but this bill does not do that. The bill should have. The Senator from Waimanalo saying maybe we could have fixed it. I'm sure that there are many proponents and opponents who had discussions, but unfortunately the bill was not fixed. It still has all of those holes. If I keep reading it, there might be more holes.

"And yes, as the Senator from Kauai mentioned, all of this security for the hemp -- alarms, fences, research, let's study this thing, keep it under lock and key -- but as the Senator from the Windward side was talking, now imagine . . . I've hiked with the boy scouts through those areas and I can see what could happen. And let's say you see marijuana plants growing as you hike down a street. Who's to say for the passerby, HPD, or anybody else if that was medical?"

"There's no signs in here saying if you're cultivating it you should even have to protect it; you should even have to label it. Certainly, those things should have and could have been done if that's the intent. But furthermore, on the health concerns as the Senator from Mililani points out, we could have -- we could have -- taken a bold step in authorizing our university, our cancer research center, etc., to have done a controlled program, which would have been a good thing. We can still do that.

"We should still do something to help the people who need help, but do it in the proper manner, controlled manner.

"Thank you, Mr. President."

Senator Matsunaga rose to support the measure as follows:

"Mr. President, I rise in support of this measure.

"First of all, I want to acknowledge the thanks from the Senator from Kauai, the Senator from Moanalua, and the Senator from Mililani for our work on this measure. Never before have I received so much thanks from so many people voting against my bill. (Laughter.)

"Second of all, unlike the Senator from Kaneohe, I want to assure the Senator from Mililani that I am supporting him for his appointed position (more laughter) and it's not because I want to get rid of him from the Senate. It's because he is qualified for the position.

"Mr. President, much has been said and we've debated this measure before. I just want to clarify and re-focus on what this bill is really all about. The core issue of this bill is simply the removal of state criminal penalties for patients who use medical marijuana. As we all know, current federal and many state laws subject seriously ill patients to arrest and imprisonment for using marijuana. Should seriously ill patients be arrested and sent to prison for using marijuana with their doctor's approval? I don't think anybody on this floor thinks so.

"Number two, the goal is to protect from arrest and imprisonment the tens of thousands of patients who are already using marijuana, as well as the doctors who are recommending such usage.

"And finally, number three, Mr. President, patients for whom the standard legal drugs are not safe or effective are left with two untenable choices -- continue to suffer, or use marijuana illegally and risk criminal consequences.

"I also heard the concern that individuals who are caught growing marijuana for recreational use will now try to use this bill as an excuse. Let me assure my colleagues that this bill has a number of safeguards to insure that it will not be misused in this manner. For example, the amount of marijuana that may be legally possessed for medical purposes is clearly indicated. Number two, debilitating medical condition is defined and limited, and medical use is clearly defined. A patient must have written certification from a licensed physician indicating that medical use of marijuana is appropriate for that individual. The qualifying patient must register with and provide a copy of the written certification to the state Department of Public Safety. The department will issue a registration certificate to the individual, which can be shown to inquiring law enforcement officers. And finally, Mr. President, those who try to fraudulently use this law will be subject to fines and criminal charges.

"Mr. President, the Senator from Waipahu eloquently stated that the Good Lord gave us pain for a reason. But, Mr. President, the Good Lord also gave us a heart for a reason -- that reason is for compassion.

"Thank you, Mr. President."

At 12:54 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:56 o'clock p.m.

Senator Chun rose again and said:

"The last rebuttal, Mr. President, hopefully it's the last.

"Mr. President, even though I recognize the Honorable Senator from Hawaii Kai's position that he did not support fluorination because it didn't provide for choice, I know that was a Minority position. But the main fact is that we did not support fluorination because we did not know the true impact of that drug upon the human body, both long term and short term. We did not know.

"Similarly in marijuana, there are more than 400 active components in marijuana which we don't know the impact. Marijuana as we are calling it today is not a single chemical. It is not a single substance. It is a combination of hundreds of chemicals, cannabinoids, I gather it's called, some of which have never been studied, and some of which already have been determined after studies that it is harmful to the human body. And that's what I'm trying to bring out. We need to identify within this complex plant what active ingredients will really help, and which ones will hurt. And without that kind of specific type of research, without that kind of specific type of analysis, we are going to be in danger of hurting people more than helping them.

"And I note that this bill states that marijuana will only be used upon the 'permission,' or some kind of permission, by the physician. That's a fancy word for saying that the physician himself doesn't have to take responsibility for prescribing the medicine. The prescription authority under our laws has some very certain things that the physician must know and must agree to before he gives his authority to use that drug. That kind of analysis, that kind of thought, that kind of standards are not contained in the more permissive 'permission' that the

physician can give. It's a fancy way of saying I'm not responsible; I'll let you use it, but I'm not responsible for what happens to you.

"I think what we're standing for this session is that we want to encourage responsibility. We want to encourage accountability. This bill does not do it. And that's another reason why I do not support it.

"Thank you, Mr. President."

Senator Bunda then requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, and Roll Call vote having been requested, S.B. No. 862, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL USE OF MARIJUANA," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 10 (Buen, Chun, D. Ige, M. Ige, Inouye, Iwase, Kawamoto, Matsuura, Sakamoto, Tam).

S.B. No. 1095, H.D. 2:

On motion by Senator Inouye, seconded by Senator Chumbley and carried, S.B. No. 1095, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

MISCELLANEOUS COMMUNICATION

Misc. Com. No. 12, from the Honolulu Community Action Program, Inc., dated April 18, 2000, transmitting the HCAP Annual Report for Fiscal Year 1998-1999, was read by the Clerk and was placed on file.

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 2849 (H.D. 1):

Senator Chun Oakland moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2849, seconded by Senator Chumbley and carried.

Senator Chun Oakland moved that the Senate agree to the amendments proposed by the House to S.B. No. 2849, seconded by Senator Chumbley.

Senator Chun Oakland noted:

"Mr. President, S.B. No. 2849, H.D. 1, had only one technical non-substantive amendment to this draft.

"Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2849 and S.B. No. 2849, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REVIEW HEARINGS," was placed on the calendar for Final Reading on Wednesday, April 26, 2000.

S.B. No. 2930, S.D. 2 (H.D. 1):

Senator Chun Oakland moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2930, S.D. 2, seconded by Senator Chumbley and carried.

Senator Chun Oakland moved that the Senate agree to the amendments proposed by the House to S.B. No. 2930, S.D. 2, seconded by Senator Chumbley.

Senator Chun Oakland then said:

"Mr. President, S.B. 2930, H.D. 1, reflects more accurately what the Controlled Substances Division had wanted in the bill with regards to the itemizing of the various controlled substances.

"Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2930, S.D. 2, and S.B. No. 2930, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," was placed on the calendar for Final Reading on Wednesday, April 26, 2000.

APPOINTMENT OF CONFEREES

H.B. No. 2418 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2418, and the request for a conference on the subject matter thereof, the President appointed Senators Chumbley, Matsunaga, Levin, co-chairmen, Anderson as managers on the part of the Senate at such conference.

H.B. No. 2648, H.D. 2 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2648, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Chumbley, Matsunaga, Levin, co-chairmen, Anderson as managers on the part of the Senate at such conference.

H.B. No. 2653, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2653, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Chumbley, Matsunaga, Levin, co-chairmen, Anderson as managers on the part of the Senate at such conference.

ADJOURNMENT

At 1:04 o'clock p.m., on motion by Senator Chun, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, April 26, 2000.