

THIRTY-FIFTH DAY

Wednesday, March 8, 1978

The House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, convened at 1:25 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by Representative Russell Blair, after which the Roll was called showing all members present with the exception of Representatives Baker and Naito, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Thirty-Fourth Day.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, reading of the Journal was dispensed with and the Journal of the Thirty-Fourth Day was approved.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 68 to 72) were read by the Clerk and were disposed of as follows:

A communication from the Senate (Sen. Com. No. 68) transmitting Senate Bill No. 1757-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PROVISIONAL APPOINTMENTS OF PUBLIC EMPLOYEES", which passed Third Reading in the Senate on March 7, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 69) transmitting Senate Bill No. 1879-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE POST-SECONDARY EDUCATION COMMISSION", which passed Third Reading in the Senate on March 7, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 70) transmitting Senate Bill No. 2074-78, entitled: "A BILL FOR AN ACT RELATING TO APPLICATIONS FOR GENERAL ASSISTANCE", which passed Third Reading in the Senate on March 7, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 71) transmitting Senate Bill No. 2380-78, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII", which passed Third Reading in the Senate on March 7, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 72) transmitting Senate Bill No. 1758-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING", which passed Third Reading in the Senate on March 7, 1978, was placed on file.

On motion by Representative Yuen, seconded by Representative Kondo and carried, S.B. Nos. 1757-78, SD 1; 1879-78, SD 1; 2074-78; 2380-78; and 1758-78, SD 1, passed First Reading by title and further action was deferred until later in the calendar.

ORDER OF THE DAY

COMMITTEE REFERRALS

The following Senate Bills were disposed of as follows:

<u>S.B. Nos.</u>	<u>Referred to:</u>
1590-78	Committee on Energy and Transportation, then to the Committee on Consumer Protection and Commerce
1756-78	Committee on Public Employment and Government Operations
1757-78	Committee on Public Employment and Government Operations
1758-78	Committee on Public Employment and Government Operations
1759-78	Committee on Public Employment and Government Operations
1799-78	Committee on Public Employment and Government Operations, then to the Committee on Finance
1879-78	Committee on Higher Education
2074-78	Committee on Public Assistance and Human Services
2114-78	Committee on Education, then to the Committee on Public Employment and Government Operations, then to the Committee on Finance
2380-78	Committee on Higher Education, then to the Committee on Finance
2614-78	Committee on Public Employment and Government Operations, then to the Committee on Finance

DEFERRED RESOLUTIONS

The following resolutions (H.R. Nos. 422 to 431) and concurrent resolutions (H.C.R. Nos. 85 and 86 and S.C.R. Nos. 15 and 72) were disposed of as follows:

<u>H.R. Nos.</u>	<u>Referred to:</u>
422	Committee on Ocean and Marine Resources
423	Jointly to the Committees on Water, Land Use, Development and Hawaiian Homes and Culture and the Arts
424	Jointly to the Committees on Judiciary and Consumer Protection and Commerce
425	Jointly to the Committees on Health and Public Assistance and Human Services
426	Committee on Youth and Elderly Affairs
427	Committee on Energy and Transportation, then to the Committee on Water, Land Use, Development and Hawaiian Homes
428	Jointly to the Committees on Energy and Transportation and Water, Land Use, Development and Hawaiian Homes
429	Committee on Energy and Transportation
430	Committee on Higher Education
431	Committee on Corrections and Rehabilitation, then to the Committee on Health, then to the Committee on Finance

H.C.R. Nos.

85	Jointly to the Committees on Judiciary and Consumer Protection and Commerce
86	Jointly to the Committees on Consumer Protection and Commerce and Public Assistance and Human Services, then to the Committee on Finance, then to the Committee on Legislative Management

S.C.R. Nos.

15	Committee on Employment Opportunities and Labor Relations
72	Placed on Clerk's Desk

UNFINISHED BUSINESS

Stand. Com. Rep. No. 490-78 on H.B. No. 3042-78, HD 1 (Deferred from March 7, 1978):

Representative Garcia moved that the report of the Committee be adopted and H.B. No. 3042-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Abercrombie then rose to speak in favor of the measure, stating:

"Thank you, Mr. Speaker.

I am also pleased as I stand to hear the debated breath of anticipation. Mr. Speaker, I had intended to read verbatim into the record my attempts to hear from the Attorney General expenses, including witness expenses, in the criminal proceedings. Mr. Speaker, on the 22nd of March, it will mark one year - one year - since I began my attempt to the Comptroller to indicate to me how he was dispersing funds in the State. Now, I find that the Finance Committee has been able to get from various sources in Budget and Finance, I expect, in the testifying as to what kind of witness expenses were involved in the criminal proceedings. Yet, when I asked the Comptroller of this State for similar information, he told me a year ago that his attorney advised him that while legal proceeding was underway, that he could not give me such information.

Over and above the possible fact that that might be true, and I don't believe it, once the criminal proceedings ended, and obviously here, the bill before us states appropriations for witness expenses in criminal proceedings must have some idea about where they were. I have discussed this personally with the Finance Chairman and the Finance Chairman feels that this bill brings us closer to being able to preview almost exactly what the kind of witness expenses we are going to be dealing with will be so that we can bring the House more closely aligned budgetarily with the actual figures that are involved. I think it is a big step forward. It seems strange to me that the Comptroller then selectively decides as to who shall have this information and who shall not.

Now, it may be 1:40 in the morning right now and we are one hour and forty minutes into our legislative day, but maybe 1:40 in the morning is when it was decided that people of

this State will not be allowed to find out how much money was spent in the criminal proceeding, and I think this is especially important, Mr. Speaker, because the reason I inquired in the first place, and the record is here - the whole year's record, a year's record - trying to find out how the taxpayers' money was spent began; not with the criminal proceedings per se, but with the transfer of funds letter that I received from yourself and with the simple act of trying to find out where the transfer of fund letter. . . excuse me, what was involved in the transfer of fund letter, I got embroiled in the circuit court; letters back and forth from the Attorney General on being told that while a criminal proceeding, or while a court case, I should say, is in action, that you cannot receive the money.

Now, there's a court case, possibly, if not already under way, in the Department of Education. Does that mean that Representative Mizuguchi cannot receive any financial information from the Department of Education for the next year? There have been suits against the University of Hawaii. Does that mean that Chairman Ushijima cannot receive any information for the next year? No, I think it's being selectively pursued, and so the reason I stand to speak for this bill, and standing now at this late hour, is precisely because at the late hour is when all the skulduggery is done. This is when the backroom decisions are made by those who want to keep people from finding out how their money's being spent. And I just think it extremely fortunate for us that this bill appears before us now as an example, flagged out for all to see, that you can, in fact, when you wish to, in this State, provide information to individuals and/or legislators, and/or legislative bodies, committees, when it suits your purpose, concerning the amount of money that is being spent of the taxpayers' fund that go into it.

Now, the fact that the case that I'm speaking of was a notorious one involving the Mayor of the City and County of Honolulu is absolutely beside the point. I didn't make it notorious. I didn't make my inquiries about it on that basis. But that's the reason that it was utilized - to prevent citizens from having just the kind of information that is involved in this bill, and I ask you to think about it.

Do you have to be a Finance Committee of the Legislature of the State of Hawaii to get such information? If that's the case, if that's the case, we are in

very serious trouble in respect of the capacity for the executive to spend money without any check whatsoever, legislatively or as an individual citizen in this State.

Secondly, if that is, in fact, the case, it is a chilling effect upon the citizenry to believe that they can get information from the government or that they count for anything, or that the government can't do anything to them that they want in respect of secret spending of funds.

And the third point is the transfer of funds. Those were funds that we voted in this House and there was a transfer of funds. There may or may not have been a good reason. I can't find out because I can't even find out what was spent and why. We voted those funds. I'm asking you to think about that one second. I don't care if it's 1:45. We voted those funds for specific purposes and a transfer letter comes across and the money's moving here and moving there, and you just try to find out a little information which is routinely available - routinely available in every other instance. I've gotten it from the University over and over again. Routinely available, and yet we can't get it in this instance, and this goes right back to the kind of discussion we've been having in Judiciary, all around on the floor here today, about the increasing powers - police powers of the State - to utilize those powers against the individual when it suits the purpose of executive agency and/or the Judiciary. This is where we are. We should pass this bill; of course, we should pass this stuff and then keep in mind the next time an executive agency prevents you from trying to find out how your money is being spent; that it is selectively - selectively given out in terms of information.

Now, there's a person, Mr. Rolf, out at Mililani - the Rolf family. I know them out there. The pursuit is an assessment deal all the way through and they probably have a file thicker than this, and if I'm given to understand correctly what they had to go through, but here is the visible record - the visible record of one citizen simply trying to find out how the hell the money was being spent - not whether it was being spent wisely. I want to bring that to your attention; not questioning whether it could be done.

The Attorney General can spend the money any way he or she feels fit. I might not like it, but that's fine. All I want to know is what is it and where is it. Is that unreasonable for a citizen

of the United States of America to ask? It apparently is because this is what it has taken - one year, March 22nd - still can't get a decision from the judges on this. That's why this should be passed as a beacon reminder to us of how easy it is for democracy to slip right away from us, even for the fund that we ourselves have voted, and no longer control, and simply ask to have an accounting of. That's all - just an accounting; not even a justification - just an accounting and we can't get it. If the Attorney General wanted an accounting from you, anyone on this floor, or anybody up here in the gallery, as to how their money had been spent for purposes of tax evasion or anything else, you just bet you'd pony up fast with the information. But the Attorney General of this State is above the law and when that happens, you don't have law."

The motion was put by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3042-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPROPRIATIONS FOR WITNESS EXPENSE IN CRIMINAL PROCEEDINGS", having been read throughout, passed Third Reading by a vote of 48 ayes to 1 no, with Representative Ajifu voting no, and Representatives Baker and Naito being excused.

Stand. Com. Rep. No. 505-78 on H.B. No. 2239-78, HD 2 (Deferred from March 6, 1978):

Representative Garcia moved that the report of the Committee be adopted and H.B. No. 2239-78, HD 2, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Campbell then rose and stated:

"Mr. Speaker, I have some remarks in favor of the passage of this bill and I wonder if I might insert those in the Journal."

The Chair, noting that there were no objections, "so ordered."

Representative Campbell's remarks are as follows:

"House Bill No. 2239-78, HD 2, makes some far-reaching changes in House Draft 1, which was passed by this body. At least two of these provisional changes should be closely

scrutinized to determine their impact on prevention, detection and successful prosecution of crime in our State. One deals with the life of the Commission and the other has to do with funding.

This version of the bill (H.B. No. 2239-78, HD 2) reduces the life of the Commission by twelve months and reduces the funding of the Commission from \$500,000 to \$100,000.

Here are some compelling reasons why we should stand firm for an expanded crime commission: Through the general plan, this body said that we're going to support law enforcement programs aimed at curtailing criminal activities. We said that we were going to assure public safety and adequate protection of life and property for all our people. We cannot achieve the noteworthy goals we have committed ourselves to achieve if we do not support an expanded crime commission.

Crime in this State is serious. A survey conducted by the Crime Commission found that 73 percent of those surveyed felt that crime was a very serious problem in Hawaii and 70 percent felt that organized crime was a serious problem.

In spite of these sobering revelations, the Crime Commission, in its report to the Legislature, said: 'Owing to the severe lack of manpower, most of the information dealing with criminal activity was referred to proper Federal and local law enforcement officials.'

The Judiciary Committee funded the commission with \$500,000 to come up with concrete measures for fighting crime in the streets and organized crime. This body concurred.

The report of the Crime Commission states that it was able to accomplish more than its appropriated funds would have allowed because of the generous aid of volunteers. It further stated: 'The quality of the Commission's service will be determined by the funding available to it.'

The Judiciary Committee said, and this body concurred, that crime is a problem of such proportions that the activities of the Commission should be encouraged and the life of the Commission should be extended to 1980.

It is my hope, Mr. Speaker, that this measure will go to conference and return to us strengthened with extended life and expanded funding - ready to do battle with one of the most serious problems facing Hawaii's people

today - crime.

Thank you."

Representative Sutton then rose and stated:

"Mr. Speaker, I rise to speak in favor of this bill, with reservations.

Mr. Speaker, I have had the great and good pleasure of being a close friend of Governor James Thompson, Governor of the State of Illinois, and he has been very cooperative in helping Lieutenant Governor Doi, and I do feel that having gotten this Commission off on good ground, that this high body would be willing sometime, before we have an adjournment around the 15th of April, to make a nice resolution which I shall draw up, thanking Governor Thompson for his wonderful help to this Commission in achieving the first and, therefore, being in a process where we can give them an additional year. And I would draw this up, Mr. Speaker, as a resolution thanking Governor Thompson, and maybe someday, not too distant, Governor James Thompson will be President of the United States, Mr. Speaker.

Thank you."

Representative Kamalii then rose and requested that her remarks, in favor of the bill, be inserted into the Journal and the Chair, noting that there were no objections, so ordered.

Representative Kamalii's remarks are hereby inserted as follows:

"Mr. Speaker, members of the House, I rise to speak in favor of House Bill No. 2239-78, HD 2.

It has been no secret to the members of this body and to the general public that I have consistently called for the creation of a permanent crime commission for this State and for the protection of its citizens. Although we have yet to give such permanence to our present Commission, we will, upon the adoption of this bill, move in that direction.

House Bill No. 2239-78, HD 2, recommends changes that will not only continue the existence of the present crime commission, but equally as important, will give to it additional powers that I believe will have enormous impact in our continual struggle against the criminal society.

As earlier stated, I would prefer a permanent crime commission and that shall be my continued goal. For now, I strongly support the present recommended extension of the Commission until June 30, 1979.

This bill will provide for closed hearings when dealing with matters relating to criminal activity or the criminal justice system. Although this is in contradiction to my basic belief in an open and accessible government, in this one particular area, it is the criminal element that would most benefit if we were to require our Commission to be completely open, for such a requirement would certainly guarantee coercion, and intimidation of those who might possess information vital to our efforts in combating crime.

The granting of the subpoena power to our present Commission is the weapon that it has too long been without. It was folly in part to have expected this Commission to go into battle completely defenseless, and now we have given them the single most important tool with which to perform their function.

Our addition of the requirement that all government agencies, both state and county, provide this Commission with assistance and data necessary to perform its function again removes another obstacle that the Commission has found itself struggling with.

The amendments that I have mentioned this morning are the most important changes this body has presented. It is my feeling that these changes will allow the Crime Commission to perform the function for which it was created, that being a renewed and forceful challenge against the criminal elements in this State and the protection of its citizens.

I urge your support and I feel that the public demands it."

The motion was put by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2239-78, HD 2, entitled: "A BILL FOR AN ACT RELATING TO A CRIME COMMISSION", having been read throughout, passed Third Reading by a vote of 49 ayes, with Representatives Baker and Naito being excused.

At 1:50 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:54 o'clock a.m.

H.B. No. 2147-78

On motion by Representative Garcia, seconded by Representative D. Yamada and carried, H.B. No. 2147-78 was recommitted to the Committee on Judiciary, with Representative Evans voting no.

H.B. No. 2248-78

On motion by Representative Garcia, seconded by Representative K. Yamada and carried, H.B. No. 2248-78, entitled: "A BILL FOR AN ACT RELATING TO GENERAL POWERS OF COUNTIES", having been read throughout, passed Third Reading by a vote of 42 ayes to 7 noes, with Representatives Abercrombie, Carroll, Evans, Ikeda, Kamalii, Narvaes and Sutton voting no, and Representatives Baker and Naito being excused.

H.B. No. 2152-78, HD 1

Representative Garcia moved that H.B. No. 2152-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Abercrombie then rose to speak against the bill, stating:

"Mr. Speaker, I feel I must speak against the bill although I may wish to have stated otherwise. I feel that, Mr. Speaker, it may be that there are procedures which attorneys are using in the courts. The Judiciary Chairman has apprised me in which the deferred acceptance of guilty plea procedure, as I understand it to operate, is not operating; that is to say, people are going virtually to the point, and the Judiciary Chairman could stop me if I'm wrong anywhere along the line here, that apparently some attorneys have been going to the point of practically a guilty finding and then asking to have the deferred acceptance situation brought in which I think is a violation, in spirit, if not in the letter of what the whole idea of deferred acceptance of guilty pleas are all about. As I understand them and have seen them operating, the deferred acceptance idea is to happen at the beginning, with the idea that the person not enter a plea of guilty and what this situation is is we have in a bill here is there's some demand that somebody plead guilty. Then they put it off a deferred acceptance and then somehow in the end, it's supposed to change.

Now, it doesn't happen. I'm quite familiar with how the various agencies - police agencies - record data once you plead guilty. That's it. I don't care what you do later about deferred action and they got taken off and all that. Anybody could find in a law enforcement agency whatever it is. Now, this should happen at the beginning and the reason is, you take these various dope cases that come up. Why should you have this guilty thing as such. It may be somewhat questionable.

Well, it may be that I'm misreading the intent of the clarification, but it seems to me that the whole sense of what deferred acceptance of a guilty plea is is being violated. Now, if the attorneys and the judges are violating it, in the sense of how they're using that concept now, that's one thing, and maybe that should be addressed. But to address it in a manner in which the bill does, does violence, it seems to me, to the whole idea of deferred acceptance of guilty plea proceedings.

Now, as I say, the Judiciary Chairman spoke with me about this and we discussed it and I am not totally familiar with how attorneys may be and the judges; how the system may be using and/or abusing the present idea or the present utilization of deferred acceptance to guilty pleas, but I would hate to see this good idea go down the drain because it has not been properly utilized at this point. I think it would be much preferable for us to write a law, if necessary, or write a bill, if necessary, which would get us back on the track of what deferred acceptance of guilty pleas are all about, rather than taking what amounts to a sort of vengeful attitude for the fact that it doesn't seem to work, or has not been working, or has been utilized in the advocacy fashion against what the idea is about in the first place.

Now, I've seen case after case where dope was involved, for example, in which a deferred acceptance of guilty plea was a judicious thing to do. Everybody - the prosecutors, everybody - thought this was a fine thing to do. And to get into a pleading of guilty and so on, does, as I said, simply changes the whole idea around of what it should be and it could be anybody's, especially where young people are involved. I think this is a very, very dangerous thing to do right now and actually, I ask you to think about it again. It is not really what deferred acceptance of guilty pleas was supposed to be about in the first place.

Thank you."

Representative Carroll then rose and stated:

"Mr. Speaker, I rise to speak in favor of the measure.

Mr. Speaker, as a member of the Judiciary Committee, when this measure first came to pass, or first became law, I'd like to allay the fears of our learned Representative from Manoa. And when I first saw this Committee Report, I frankly entertained some of the same thoughts. But, for the information of those members who might not be familiar with the procedure, what actually happens is that the defendant will come to an attorney, there appointed or purchased, and tell him his story of the case. At that point, the attorney will know the defendant's side, probably doesn't have too much idea what the prosecution has. After he goes through a certain amount of discovery, he will know basically what the evidence potentially is going to be and then he's going to be able to make a determination, at that point, as to what he considers to be the guilt or the innocence. Probably, during that same period of time, the defendant has pleaded not guilty and has been given a date by which to file preliminary motions and possibly a trial date. The time period that I'm talking about is a two or three month period generally, or perhaps a little bit more. All during this period of time, the defendant has the opportunity to enter the plea, you know, enter the guilty plea, and then ask for a proper motion for deferred acceptance of guilty.

The way this bill works out is that it's saying that this has to be done prior to the commencement of the trial, and given the basic purpose of this particular bill wherein the person is, in effect, admitting his guilt, deciding that he does not wish to sin anymore, that he wants to change his ways, and that he is, you know, desirous of having his record expunged, then he goes there and lays himself at the mercy of the court.

Now, to go all the way through the trial and then decide when he sees that the chips are falling against him, to be allowed at that point to enter the plea, to my way of thinking, flies in the face of this provision. And I think that every safeguard that was originally considered in the creation of this measure is kept here, and I think that we are considering. . . excuse me, I think that the Judiciary Committee certainly did consider all of the elements that is apparent to me from the reading of this. Nothing

is lost to the defendant and, incidentally, I've never prosecuted a case and, therefore, I would say that this is a good measure and it should be voted out."

Representative Abercrombie, at this time, asked if the "gentleman from Waikiki who just spoke yield to a question?"

Representative Carroll replied in the affirmative.

Representative Abercrombie then asked:

"In respect of the points just raised, the idea of expungement of records - was the contention in the speech just given that upon a guilty plea, and subsequent deferral or what shall be done with that, that there is an expungement of record so that it does no longer exist, in terms of a criminal record?"

Representative Carroll answered:

"That's correct. What happens is that the defendant goes down and he enters the plea of guilty and he lays himself at the mercy of the court for the sentencing. At that time, or concomitantly, or concurrently, he would then make a motion that the court accept a deferred acceptance of the guilty plea. Then, the court, at that point, holds it in abeyance until he gets the report from the adult probation officer who does a very thorough investigation on a defendant. Then, when he reads that investigation which will set forth all of the facts of the case, both as understood by the Police Department and the defendant, then the judge will come in say, probably four or five weeks later, and either grant the motion or deny the motion. Then, he will say in the case where he accepts the motion or where he grants the motion, rather, that the deferred acceptance to a guilty plea is accepted, and it will last for six months, a year, eighteen months, or two or three years, or whatever the case may be. At the end of that time, at the time set by the judge, when that time is ended, then that defendant's records are expunged and he has no criminal record and there's no record of his conviction. And that's why it's such a very excellent thing for a deferral of certain types of felons back into the community after having had a brush with the law and still they can emerge from that particular situation pretty much whole and able to pursue their lives, and I personally think, though not really a do-gooder type, that it's a very excellent law.

One other point, I did not really consider those former remarks as a speech, but rather, an explanation."

Representative Abercrombie then rose and stated:

"Mr. Speaker, I'd like to speak again. . . I'm sorry, Mr. Larsen hasn't had the opportunity. . ."

Upon being recognized by the Chair, Representative Larsen asked:

"I just wanted to know if he could repeat the question."

Representative Kunimura then rose and asked:

"May I ask if the 'conduit for information' would yield to a question?"

The Chair replied:

"I'm assuming you're inquiring of Representative Carroll."

Representative Kunimura answered:

"Yes, the gentleman from Waikiki. I mean the conduit. . . I mean. . ."

The Chair recognized Representative Kunimura and he asked:

"I wonder if you would be kind enough to ask 'Mr. Conduit' if he will give us the other side of the story if the judge does not accept deferred acceptance to guilty plea."

Representative Carroll replied:

"Well, Mr. Speaker, I know it's late, and I suppose some of us are not night persons, but I did answer that question. I'll answer it again."

At the time that the person enters the plea of guilty, he puts himself at the mercy of the court. Then he makes the concurrent motion for the deferred acceptance of guilty plea. If the court decides not to accept that motion, then he will be sentenced."

Representative Kunimura rose and stated:

"You didn't say that, you know."

Representative Carroll replied:

"Well, I said that. I didn't, maybe, say it that clearly."

Representative Kunimura then

said:

"If he says. . . you know, if it's granted, then you said what would happen. May I further inquire of the 'conduit'?"

The Chair replied, "you may."

Representative Carroll then rose on a point of order and stated:

"Well, Mr. Speaker, I just really resent being called 'Mr. Conduit'."

Representative Kunimura answered:

"Well, I'm not being facetious, Mr. Speaker, but he referred to himself as a conduit so. . . okay then, the gentleman from Waikiki, because we are not night people and I'm also not a practitioner before the Bar, whether it be Kapiolani or the courts of the State of Hawaii. I don't drink."

The Chair remarked: "Much."

Representative Kunimura then said:

"Period. Yes, if, you know, the judge does not grant DAGS, can the. . . you know, accused, pick up his marble and say, well, I changed my mind."

Representative Carroll replied:

"No, Mr. Speaker, you cannot. That's what I'm saying. At the time that you enter the guilty plea, you are laying yourself before the court and you are giving up any further rights that you may have. That's why it's incumbent on the attorneys who go to use the DAGS plea understand fully what it's for. But I think most of the attorneys that are doing any defense criminal law of practice are fully aware of that fact and they have the defendant in court subscribe to a very lengthy sheet in which he signs in open court after lengthy questioning by the judge to make sure that there's no question that he knows what he's doing, both at the time that he makes the guilty plea, and at the time he makes the motion for the deferred acceptance of guilty plea."

Representative Kunimura then stated:

"May I request the Chair thank the gentleman from Waikiki and not the conduit."

The Chair said:

"The Chair will so note."

Representative Kunimura then rose and asked:

"May I rise now to speak against this bill?"

Representative Carroll then asked:

"Mr. Speaker, may I just finish my answer. The . . ."

The Chair interrupted and said:

"Representative Carroll, he has accepted your answers and thanked you very much for the answers."

Representative Carroll thanked the Chair.

Representative Kunimura then asked for a recess and at 2:15 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 2:20 o'clock a.m., Representative Kunimura rose and stated:

"At the advice of counsel, my good Chairman of the Transportation Committee, who practices criminal cases before the courts of the State, I'm told that this is a good bill, and I've seen his standard as far as justice and liberty to all, so now, I'd like to speak for the bill. It's a good bill and I recommend everybody to follow Mr. Cayetano."

Representative Abercrombie asked for a recess and the Chair declared a recess.

Representative Abercrombie then asked:

"Mr. Speaker, may I ask a point of personal privilege? There are people getting upset. . . point of personal privilege - may I be recognized on that?"

The Chair replied:

"The Chair has already declared a recess. . ."

Representative Abercrombie interrupted and said:

"Well, I'm going to raise it after the recess. You might as well hear it now."

The Chair remarked:

"Raise it after the recess."

At 2:21 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 2:30 o'clock a.m., Representative Abercrombie stated:

"Mr. Speaker, I'd like to withdraw my point of personal privilege and make a point of information, please."

Directed by the Chair to "state your point", Representative Abercrombie asked:

"I wonder if you could ask the Representative from Waikiki if he is quite certain, in respect of the expungement proceedings, as he indicated?"

Representative Carroll answered:

"I am, Mr. Speaker."

Representative Abercrombie then said:

"In that case, Mr. Speaker, I would like to withdraw my opposition, but I would like my remarks to be made on the record as it was indicated that these concerns were genuine."

The Chair responded, stating:

"The record will so show."

The motion was put by the Chair and carried, and H.B. No. 2152-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE: DEFERRED ACCEPTANCE OF GUILTY PLEA", having been read throughout, passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Ajifu, Evans, Medeiros and Sutton voting no, and Representatives Baker and Naito being excused.

H.B. No. 1445, HD 1

Representative Garcia moved that H.B. No. 1445, HD 1, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Abercrombie then rose and stated:

"Mr. Speaker, if I can have a moment to get this bill that's on trespass, I'd like to speak against it."

Mr. Speaker, right now, we're taking something which is a violation, not a crime, and when you get rid of the trespass thing and you move it into this area, if my understanding is correct, you could get as much as six months in jail.

The rationale for this is that physical arrest cannot be made by law enforcement agencies in the case of a violation except where a penal summons has been issued. That's precisely my point. Why not have a penal summons issued? If someone is trespassing, if they have no legal right to be on the property, yet are not committing a crime; that is to say, are not disorderly, then why shouldn't a penal summons be issued? If you do not do that, what you do is you move it into the area in which someone knowingly enters or remains unlawfully upon the premises, that you move in to criminal trespass. And, the simple trespass, which is a violation, disappears out of the State of Hawaii. Just as with many of the other bills that we were discussing this evening, in respect of philosophy, we will have provided an opportunity for those we will. . . rather, we will have taken away an opportunity for those who may engage in trespass knowingly, remain unlawfully upon the premises, yet commit no disorderly conduct, and they will now become criminals in the sense that they are no longer violators of law with a violation.

Well, I can tell you what the effect of this will be. I think that's fair in deciding on a vote of a bill. The people who are now in Hale Mohalu will not leave those premises. They're knowingly there and they remain there unlawfully. They received a letter this past Friday confirming the fact that they were there unlawfully from the administrator of the leprosy program, Mr. Richard Young. I have entered those premises knowingly, and I have remained there unlawfully. I shall do so again. If there is a penal summons which is every bit the right of the executive agency or such agency able to command it from a court, I shall go there and be arrested on the basis of that penal summons. My immunity does not apply should it occur during the legislative session or after as to the best that I am able to figure out. The provisions involved with immunity could not be claimed by myself. Therefore, myself, or anybody else, will remain on the property even though we commit no disorderly conduct; even though we do nothing to hurt any other human being; even though we do nothing to be physically aggressive towards anyone; even though we do not resist the rest, but not cooperate with the rest, we shall now be, and the leprosy patients shall now be criminal trespassers in the second degree.

It is well known, not only in this country, in this State, in the world, that the idea of trespass to bring attention

to a social cause, I suppose we call it sit-ins in recent years; they had other names for them - India when it was utilized with the British. I suppose one man who trespasses is another man's 'stand up and fight for your cause' and there are ways to do it which do not involve physical violence.

The people in Hale Mohalu are non-violent people. People who will be arrested with them are non-violent. They will not resist. They will not create violence of any form. They will be trespassing; they are trespassing. Now, they know they are trespassing. They have invited the State to come and take them from the area that they are trespassing upon. Now, this is a notorious situation and is upon us right now. Nonetheless, I submit to you, there have been other instances in the recent past, in our State, in our city, in which there are also trespass. Many of those trespass cases will resolve in time with no one being hit, no violence occurring and such trespass - simple trespass - as people were charged with remaining a violation.

Now, we're talking about people; we're not talking about hit men; we're not talking about guys who have machine guns; we're not talking about people who are operating gambling operations; we're not talking about syndicate criminals. We're talking, especially here, where simple trespass is concerned, with people who may be involved in what they consider to be a legitimate attempt to bring to the attention of the public at large their grievance, and they're willing to do it by submitting to a penal summons. I can tell you, assert now, that the people there in this instance, whether it's the Aloha Hotel, but most certainly in this instance, will not leave. They will not go, and no amount of persuasion, and most certainly, I can tell you, no amount of changing it to criminal trespass is going to change it. And this is one of the reasons, I presume, the bill is before us - to try to be a deterrent effect, where people have strong personal convictions - social convictions - where these convictions are attached to human rights. You will never be able to pass a law which will prevent them from exercising these rights. The South African government is in the process of doing it right now and they cannot stop it. This is no where on that level. This doesn't approach that obviously. But what it does try to do, consciously or unconsciously, is deter. And I maintain to you that moving an inch of this area will not deter that kind of activity, but what it will cause is something that many of us may not wish to really have come about; that these people or these circum-

stances, unfortunate or not, whether you believe in these people or not, whether you have that cause or not, there may be some in here one day, or maybe have already, been involved in social activities in respect of human rights, in which they will have to find themselves saying, well, am I going to go in, or am I going to go out; am I going to stick with it or not. I don't think that's what we really want to do. I suppose, in a way, I could say please don't pass this bill because if you do, when I get arrested, it's going to cost me six months rather than a violation. I think that would be a reasonable thing to do anyway. I suppose I could declare a conflict. But, I've been around jails and prisons; I don't want to go to jail. There's no question about that. It scares me witless to think about that. But the people who ordinarily would be involved in this, and are involved in this now, in simple trespass - they don't deserve to be in jail. They're violating the law. They're willing to take their chances on that respect, but the degree, especially with disorderly conduct, is not the question. It seems to me, by eliminating that section, leaves no discretion whatsoever for any judge, prosecutor, or whoever would be involved in the circumstances of dealing with the trespass, leaves no discretion for them whatsoever to decide whether or not the simple trespass category was most appropriate to the resolution of the circumstances once the penal summons had been issued.

Now, all day today, I have heard flexibility - please give flexibility. Then, why should we remove simple trespass for situations such as the Aloha Hotel, Chinatown, wherever it may come up; doesn't have to be Hale Mohalu. It can be anything. If you remove simple trespass, what you've done is put people automatically in the category of criminal violators, second degree. You have no opportunity for discretion to be utilized. I think that would be a very, very unfortunate thing to happen in this State or anywhere in the world that simple trespass, when disorderly conduct is not involved, could be eliminated."

The motion was put by the Chair and carried, and H.B. No. 1445, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE", having been read throughout, passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Abercrombie and Peters voting no, and Representatives Baker and Naito being excused.

H.B. No. 445

Representative Garcia moved that H.B. No. 445, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Sutton then rose to speak against the bill, stating:

"Mr. Speaker, we have a concept here that is very novel, very traumatic to think of, and I admittedly do not know enough about medicine to make any medical analysis. All I do know is that there are some aspects of this that seem very, very touchy and that we should either recommit this or study it at a future date. Particular part is that you have a living will witnessed by two people; then you have a revocation that could be feasibly done. We have very, very strong inhibition of a life imprisonment for anybody who falsely witnesses this document or who should put the signor under duress.

But, Mr. Speaker, is that an adequate safeguard when you realize that General of the Army, Cushing, said that, 'at no time was any wounded soldier ever to be given up in the hospital', and when you realize it, General Eisenhower did the same thing. Now, these were war wounded with wounds far more serious than anything of a terminal illness and we are, all of a sudden, putting a mechanism in to allow the individual to have his own life terminated by what we roughly term, 'pulling the plug' - not giving him oxygen, not feeding him intravenously, and doing the sort of non. It isn't an actual overt act; it's a non act.

Now, the individual that might make a living will of this nature might be cured. That individual might find that what was determined as terminal was not terminal. Maybe, the laboratory made a mistake. He was told it was terminal and it was somebody else's specimen that was being used. This has happened, and we have put a mechanism here that I think is premature for our thinking. I don't think we're quite ready for it, Mr. Speaker. I just feel that there are some aspects to it that might lead to duress and might lead to a fact that you would not have the individual really knowing his own mind when he made a living will, and then subsequently, when he came to revocation, not be able to work a revocation.

Therefore, I would ask you, Mr. Speaker, to urge all of your colleagues to vote this measure down."

Representative Cobb then rose and stated:

"Mr. Speaker, I hadn't planned to speak on this bill, but some of the previous remarks have occasioned me to stand to speak in favor of it even though I have some reservations. By my own religious training, it would go against the grain of most of what I've learned. But, I've also learned that upon taking an oath of office, I cannot impose my own religious philosophy on others who may not believe the same way. Sometimes, that entails the most difficult of all choices.

The previous speaker spoke of soldiers and of efforts being made to preserve their life, or their lives. Mr. Speaker, this has hit kind of close to home and, perhaps, a little reality, making necessary to be presented on the floor of this House. I have witnessed and I have helped men decide in the time frame of thirty seconds or less whether or not they shall live or die when bitten by a poisonous snake, and those men that I served with exercised in their own choice, life or death, and only by holding their thumbs up or down. In effect, the most immediate, the most drastic, the most short-lived kind of life or death choice that can be made. Some chose to live; others preferred that a machete not be applied for immediate amputation, and they died in less than a minute.

The reality of the situation, Mr. Speaker, is that these choices are with us almost every day even though there's no longer a war. We had a brave Sister come and testify before our Committee that relatives of people in hospitals today are making such choices and even though a choice of death over life. The situation is hopeless — goes against the grain of trying to preserve life. There are cases where it happens. In a terminal illness, it is perhaps over a prolonged period. In the case of a snake bite or a war, perhaps the compression is one of time. But the choice still remains and is still made by human beings choosing their own life, up or down. God help us that we had a way out of it.

The point I want to make, Mr. Speaker, is that a living will is not mandatory. It becomes an option for the individual — a matter of choice to define under what circumstances, if any, that life becomes unbearable. I think because it is going on today, Mr. Speaker, in unwritten form, that we should

not force people to do it, but we ought to allow them that choice.

Thank you."

Representative Evans then rose and stated:

"Mr. Speaker, I rise to speak against House Bill 445 and before I do, I know that my colleagues are as tired as I am and some of them are asleep, and that's understandable, but I feel, because of the seriousness of the subject, I feel compelled to give my speech rather than just insert it into the Journal. So, if you'll bear with me, I speak against this measure, not without compassion for the terminally ill patient and his family. I feel very deeply about the tremendous ordeal through which so many families and individuals have suffered in the case of terminal illnesses such as cancer. As a registered nurse, I witnessed first hand the pain and agony these individuals and their families have had to undergo. It is no easy nor simple decision for me to speak against this particular bill, but oppose it I must.

House Bill No. 445 is an extremely poorly written bill. It's a dangerous bill because it deals with such a serious subject and yet, has been handled almost casually in the Legislature this session. The Health Committee Chairman even weighed the panel hearing of the bill so that its only referral and hearing was before the Judiciary Committee.

This bill provides for the discontinuation of medical treatment to persons who request it and who are suffering from a terminal illness, and which enables persons to request in advance the discontinuation of treatment in the event they become terminally ill. This measure before us has raised many questions among the medical community and in the State Department of Health. I'd like to know why there's such a rush to pass this bill which has so many technical flaws and which has language which is so loosely worded as to make it a dangerous piece of legislation.

Let me point out a few examples of unclear wording that could lead to serious abuse of this law if it is passed. Section 5 includes a witness statement which says that the person declaring the living will 'appeared to appreciate its significance', but there is no statement which indicates that the declarant had been thoroughly informed and counseled as to the significance of this declaration. Section

8A does not clarify the definition of mentally responsible. Section 9B says that: 'Physicians who have taken part in the discontinuation of treatment or feedings shall be deemed not to be in breach of any professional oath or affirmation.'

Testimony last year, offered last year, by physicians, however, indicated that withholding treatment which they felt would benefit their patients was against their ethical and scientific training.

My other objections to House Bill No. 445 are that the bill advocates practice of euthanasia by withholding treatment or feeding, in that the definition of what is an irremediable or terminal condition is so broad that it is open to abuse, so much so that any chronically ill or congenitally abnormal person could qualify.

I am also very concerned about other aspects of this bill which have not been adequately discussed. In hearings last year on this bill, it was pointed out that experts maintained that the most legally fool-proof living will cannot be expected to hold water necessarily at the time of the approaching death of a would be testator. The experience of professionals in the health field has been that people view death much differently when it approaches them than they did years before.

There is still a great deal of skepticism that the availability of a legal living will would actually eliminate situations that may have prompted development of such a will. Some possibilities are when there might be complaints that liberties were taken with dying patients in the name of experimentation or practice which actually increased the suffering of the individual.

Physicians have been threatened with losses or prosecution if they, in their best judgment, decided there was nothing more to be gained by the use of artificial support systems in the final minutes of an individual's life. And it is well known that the cost of maintaining someone on a respirator or a kidney machine is tremendous and seems like a phenomenal waste if the patient never regains consciousness and dies. And then we have the case of so-called terminally ill patients who do not die as expected but who, instead, recover and return to productive lives. This happens. Life support systems are not automatically initiated on everyone, but they are initiated if there is even a small chance that the patient might be saved. Even

the terminal patient is not denied the right to hope. And what about the possibility that someone may be rushed into a disconnection of support systems simply because a donor is needed for an organ transplant?

The passage of this measure will open the door for involuntary euthanasia and pretty soon, we will be legislating legalized murder of the aged, deformed and unneeded individuals of society. We'll rationalize it all in the name of society and call it humane treatment. We might even conclude that the introducer of this bill, who so steadfastly refuses to hear testimony on the death penalty measure, is actually supporting a kind of death penalty by pushing House Bill No. 445 through without cleaning up the language and resolving more of the questions.

I submit that we have before us a piece of legislation that needs a lot more work before it is ready for us to reach any kind of rational decision. I further submit that we have not fully studied other alternatives to living wills, and that by passing this measure so hastily, we preclude any additional information or research unto this terribly sensitive issue.

I would suggest that this bill be killed here on the floor today, this morning, and that, in its place, we introduce a resolution directing the Legislative Reference Bureau to conduct a comprehensive study on the issue similar to the excellent work that they did on the definition of death. We must have all the facts before us, and a reasonable piece of legislation on which to base our decisions, before we take any further action on living wills. Let us weigh all these questions in our minds and hearts before we allow ourselves to vote on this measure. I hope you will all agree with my reservations and vote 'no' on this bill."

Representative Ikeda then rose and stated:

"Mr. Speaker, like the previous speaker, I must agree that this bill is too important to let go without comment and, therefore, rather than insert my remarks in the Journal, I will address this body.

This measure, Mr. Speaker, and incidentally, I'd like to speak in favor of the bill. This measure addresses the ultimate human right - the right to die with dignity. In a technological era where the definition of 'natural' can be stretched beyond its original intent, there must be provisions for

human choice. Surely, the individual human being must have the right over the machine in situations involving death. This is purely a personal right. It cannot or should not be left to technologies, physicians or families.

This measure also addresses another need - the need expressed by physicians of when to legitimately terminate life support systems. It is a difficult decision that has been traditionally and perhaps wrongly left to doctors. In this bill, the patient has the right to decide. The decision is prior to the stressful period of incurable illness or accident. The decision is not left until he or she is suffering from a terminal condition.

Testimony on this bill correctly reflected a concern for safeguards, and I believe that the bill has adequate safeguards to protect patients' families, nurses, and physicians. Clauses are provided which establish the date, duration, and revocation of the declaration. In addition, there are penalties for destroying or falsifying living wills.

Mr. Speaker, I find this bill to be both necessary and just. Necessary, because technology has outgrown our provisions for human rights; and just, because it appropriately designates the responsibility for discontinuing life support systems with the individual most affected.

This is truly the ultimate human right - the right to die with dignity, and I urge you to support this measure.

Thank you."

Representative Garcia then rose and stated:

"Mr. Speaker, in 1971, when I first introduced a bill similar to this, the Department of Health said we should study it. In 1972, when we reconsidered action on that bill, the Department of Health said we should study it. In 1977, when I introduced the bill, the Department of Health said we should study it. This year, when we had hearings on the bill, the Department of Health said we should wait another year and study it.

Mr. Speaker, the statute that you have before you now is a product of many years of work. It is the model statute that has been adopted in many states. This particular model statute is also being considered

in every state in the union at this time. California has already adopted one and so has Florida and other states at this time.

If there are specific questions regarding the legality of certain acts that take place in this particular area and other amendments are going to be required in the future to take care of that, then so be it. At that time, we'll have to come to those conclusions, but the way the bill is drafted now, in my opinion, is the best way that we can handle this particular situation.

I'd like to echo the excellent remarks made by the last speaker relating to this bill. We're talking about a very personal right and that right is the right to die."

Upon being recognized, Representative Kamalii rose to speak "strongly in favor of this bill", stating:

"The detailed provision of this bill, both in its consideration of individual's revocation and severe penalty for the falsification of a living will, offer vital protections against a potential misuse of a concept of death with dignity. This bill further makes the fundamental distinction between euthanasia and an individual's right to refuse artificial life support systems or treatment with the terminally ill. The difference, I believe, is essential.

The purpose of this bill is not to deny or to redefine the suffering which often accompanies dying. In the instances of progressive diseases to which we do not have cures, then our society in science must offer comfort. Specialized facilities like the hospitals and sophisticated combinations of medication usually called cocktails can alleviate or eliminate pain, but when done properly, can maintain the personality and humanness of the patient in a rational content. And this quality of suffering, regardless of what others who love and suffer with such individuals consider ugly or undeserved, is naturally part of life.

What this bill addresses is the artificial or technological capacity of medicine to sustain life without maintaining the central elements of humanity.

The living will, by its presence or absence, will allow for choice. The physical deterioration or psychological irrationality of the patient will be superseded by well considered individual choice to discontinue treatments. The absence of a will will impair the choice to continue treatments. That

option should remain a choice, and with this bill, does continue.

There's an old Chinese proverb which has been loosely translated: 'When death is inevitable, then style becomes important.' This bill allows an individual to determine that style."

Upon being recognized, Representative Abercrombie spoke in favor of the bill, with reservations, stating:

"My reservation, Mr. Speaker, is that the intent, I think the Chairman of Judiciary has stated in terms of the model features, is good, but what bothers me is we're talking, and I would address, at some time in the future, should this pass, the idea of utilization of various drugs, including heroin, especially in the cases of cancer, the utilization of morphine, that we look to areas in which, if we're talking about dignity in dying, that we're not always dealing with cases in which people are on respirators; we're not always dealing with situations in which there is a massive medical . . . technical set-up, if you will. This will be the person who is dying and who wishes to die with a measure of dignity.

I think that it's important that we take into consideration in the future, should this bill pass, that there are many, many circumstances in which individuals, in respect of a living will, may be choosing their death. If that is the will of the Legislature that we do this, and if that becomes the legal right of any individual citizen, I commend to your attention, in the Legislature, that we will very shortly be dealing with people who will come to us and say, I have the right to do the following because you have given me the license, if you will, in this bill - the living will. Therefore, you cannot deny to me the methodology by which I choose to die. I have no objection to that myself.

I think there will be severe problems, not necessarily severe problems; most surely, the Judiciary Committee and other people are going to have to handle in the future this kind of situation. Absolutely, for one, I know is going to be the utilization of heroin in the treatment of cancer. Marijuana is another in the treatment of cancer, and possibly LSD. I shouldn't say the treatment of cancer; I should say in conjunction with death and cancer. These are just three drug circumstances alone, but there are other kinds of things that may come up.

So, I think I would favor this bill, taking into consideration the deep-felt remarks of Representative Evans, realizing, I think, that medical treatment per se is going to come under very, very close examination should the bill pass, and I hope that everybody votes knowing that it will be coming up.

Thank you."

Representative Evans, in rebuttal, stated:

"The speakers who have spoken for the bill skirt the issue of euthanasia - never mentioned that once. I consider starving a patient to death to be very serious. There is no dignity in starving to death, and yet, the Committee Report, in the second paragraph and I go to the end of the paragraph, ' . . . and to enable persons to request in advance the administration of discontinuing treatment or feedings in the event of their suffering from such a condition at a future date.' If anyone has seen anyone starve to death, it is a critical, serious thing.

Also, the bill is so wide open that an injection of medication can be made to hasten the patient's death, and I consider this to be a direct form of euthanasia.

Also, it was mentioned that since the bill was introduced in 1970 or 1971, every year it's been said to study it. Well, I believe then, it should have been the responsibility of this Legislature to mandate a study such as we did the definition of death.

I have, in my possession, a copy of a living will which is being promoted by the Euthanasia Educational Council, and I consider this a flimsy document. As suggested in the bill, all you would need are two witnesses. I consider this to be . . . would have been a legal document with attorneys and much the same way as one draws up one's will, and I would submit to you that it's crucial enough that we reject this bill.

Thank you."

Representative Kamalii then rose and requested a roll call vote on this measure.

At 3:10 o'clock a.m., on request by Representative Abercrombie, the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 3:11 o'clock

a.m., Representative Dods requested a conflict ruling, stating:

"Mr. Speaker, this place is killing me."

Representative Sutton then rose and requested a conflict ruling whereupon the Chair remarked:

"You're not the living dead."

Representative K. Yamada rose on a point of personal privilege and remarked:

"I would be glad to unplug the gentleman from Nuuanu."

Roll call having been requested, the motion to pass H.B. No. 445 on Third Reading was put by the Chair and carried, and H.B. No. 445, entitled: "A BILL FOR AN ACT RELATING TO LIVING WILLS", having been read throughout, passed Third Reading by a vote of 32 ayes to 11 noes, with Representatives Ajifu, Carroll, Cayetano, Evans, Kunimura, Medeiros, Nakamura, Narvaes, Peters, Sutton and Uechi voting no, and Representatives Baker, Blair, Caldito, Fong, Naito, Poepoe, Shito and Uwaine being excused.

H.B. No. 1884-78

On motion by Representative Garcia, seconded by Representative K. Yamada and carried, H.B. No. 1884-78, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PROBATE CODE CONCERNING NOTICE", having been read throughout, passed Third Reading by a vote of 40 ayes to 3 noes, with Representatives Ajifu, Evans and Sutton voting no, and Representatives Baker, Blair, Caldito, Fong, Naito, Poepoe, Shito and Uwaine being excused.

H.B. No. 1539, HD 1

On motion by Representative Abercrombie, seconded by Representative Garcia and carried, H.B. No. 1539, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL SURETIES", having been read throughout, passed Third Reading by a vote of 40 ayes to 3 noes, with Representatives Ajifu, Evans and Sutton voting no, and Representatives Baker, Blair, Caldito, Fong, Naito, Poepoe, Shito and Uwaine being excused.

H.B. No. 1882-78, HD 1

On motion by Representative Garcia, seconded by Representative K. Yamada

and carried, H.B. No. 1882-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONS ELIGIBLE FOR APPOINTMENT AS GUARDIAN OF THE PERSON OF MINORS AND INCAPACITATED PERSONS", having been read throughout, passed Third Reading by a vote of 43 ayes, with Representatives Baker, Blair, Caldito, Fong, Naito, Poepoe, Shito and Uwaine being excused.

The Chair directed the Clerk to note that H.B. Nos. 3042-78 had passed Third Reading at 1:46 o'clock a.m.; 2239-78 at 1:49 o'clock a.m.; 2248-78 at 1:55 o'clock a.m.; 2152-78 at 2:31 o'clock a.m.; 1445 at 2:44 o'clock a.m.; 445 at 3:15 o'clock a.m.; 1884-78 and 1539 at 3:16 o'clock a.m.; and 1882-78 at 3:17 o'clock a.m.

At 3:18 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:20 o'clock a.m.

DISPOSITION OF MATTER PLACED ON CLERK'S DESK

By unanimous consent, S.C.R. No. 72, commending Mr. Joe C. Harper, was taken from the Clerk's desk.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, S.C.R. No. 72 was adopted.

At 3:23 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:28 o'clock a.m.

At 3:30 o'clock a.m., on motion by Representative Yuen, seconded by Representative Kamalii and carried, the House of Representatives stood in recess until 10:00 o'clock a.m. today, March 8, 1978.

Upon reconvening at 10:10 o'clock a.m., the following introductions were made to the members of the House:

Representative Kondo introduced nineteen students, representing various schools in Maui County, who were "here as a student travel group for legislative experience program". They were accompanied by their advisors, Mr. Masao Okasako, Mr. Dennis Okama and Mrs. May Hiraguchi.

Members of Anne Kerlee's homeroom class from Hale O'ulu School were introduced

by Representative Kihano. "Hale O'ulu is an alternative high school in Ewa which is known for Individual Education, a system which stresses the 4 R's - responsibility, respectfulness, responsiveness and resourcefulness."

By way of an introduction, Representative Kiyabu announced that members of the Kawanakoa, Kaimuki and Moanalua Intermediate Schools had performed this morning in the rotunda of the capitol in honor of Music in the Schools Week.

Representative Yuen introduced students from the Kailua High School Quest Program and a UH intern, Stephen Lum.

Walter Ritte and Francis Kauhane, members of Kahoolawe O'Hana, were also introduced by Representative Yuen.

At 10:18 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:19 o'clock a.m.

UNFINISHED BUSINESS

Stand. Com. Rep. No. 594-78 on H.B. No. 2166-78, HD 2 (Deferred from March 7, 1978):

On motion by Representative Cayetano, seconded by Representative Dods and carried, the report of the Committee was adopted and H.B. No. 2166-78, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES", having been read throughout, passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

Stand. Com. Rep. No. 595-78 on H.B. No. 2102-78, HD 2 (Deferred from March 7, 1978):

Representative Cayetano moved that the report of the Committee be adopted and that H.B. No. 2102-78, HD 2, having been read throughout, pass Third Reading, seconded by Representative Dods.

At 10:20 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 10:22 o'clock a.m., the motion was put by the Chair and carried and the report of the Committee was adopted and H.B. No. 2102-78, HD 2, entitled: "A BILL FOR AN

ACT RELATING TO MOTOR VEHICLE TAXES", having been read throughout, passed Third Reading by a vote of 42 ayes to 4 noes, with Representatives Ajifu, Kamalii, Medeiros and Narvaes voting no, and Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

Stand. Com. Rep. No. 601-78 on H.B. No. 2169-78, HD 2 (Deferred from March 7, 1978):

On motion by Representative D. Yamada, seconded by Representative Yuen and carried, the report of the Committee was adopted and H.B. No. 2169-78, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONSERVATION", having been read throughout, passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

At 10:23 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:25 o'clock a.m.

Stand. Com. Rep. No. 614-78 on H.B. No. 704, HD 1 (Deferred from March 7, 1978):

On motion by Representative Stanley, seconded by Representative Uwaine and carried, the report of the Committee was adopted and H.B. No. 704, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND", having been read throughout, passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

THIRD READING

The following bills, which were on the calendar for Third Reading, were read throughout and the following actions taken:

H.B. No. 2689-78, HD 1:

Representative Kawakami moved that H.B. No. 2689-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Caldito.

Representative Sutton then requested that "his remarks be transcribed and incorporated by reference".

The Chair "so ordered". (See Journal of the 34th Day, March 7, 1978).

The motion to pass H.B. No. 2689-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE", on Third Reading was put by the Chair and carried by a vote of 45 ayes to 1 no, with Representative Sutton voting no, and Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

H.B. No. 2191-78:

On motion by Representative D. Yamada, seconded by Representative Yuen, H.B. No. 2191-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATION OF TAXES", passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

UNFINISHED BUSINESS

Stand. Com. Rep. No. 531-78 on H.B. No. 158, HD 2 (Deferred from March 7, 1978):

Representative Cayetano moved that the report of the Committee be adopted and that H.B. No. 158, HD 2, having been read throughout, pass Third Reading, seconded by Representative Takamura.

Representative Sutton then rose and asked:

"Would the distinguished chairman of the Committee yield to a question?"

Representative Cayetano answered in the affirmative, so Representative Sutton asked:

"Would you please ask him to what extent they have to come back to the Legislature to make any commitment further of the six million that we passed in Act 195 of Session Laws of Hawaii, 1975?"

Representative Cayetano replied:

"Mr. Speaker, before answering that question, I have to have one thing cleared up. Who does the representative mean by 'they'?"

The Chair then asked:

"Representative Sutton, will you clarify your question."

Representative Sutton replied:

"Yes, that the plans for a mass transit system being perfected by OMPA and by the City and County."

Representative Cayetano then stated:

"Mr. Speaker, I don't believe the bill states that. In fact, probably the section that he is looking at is being deleted."

At 10:29 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 10:30 o'clock a.m., Representative Sutton asked:

"Mr. Speaker, let me repeat the question: With the deletion of OMPA, the City and County having to report back to us, does it mean there will be no expenditure of the six million dollars that we committed in Act 195, Session Laws of Hawaii, before legislative control?"

Representative Cayetano answered:

"That is correct."

Representative Cayetano then rose to speak in favor of the bill, stating:

"Mr. Speaker, rather than belabor my fellow members here, who were up until 4:00 o'clock this morning, with my speech, which was quite long, I'd like your permission to insert it into the Journal."

The Chair then stated:

"If there's no objection, so ordered."

The following is Representative Cayetano's speech in favor of H.B. No. 158, HD 2:

"One of the major decisions to be made by the 1978 Legislature is whether the State will agree to fund one-half of the local share of the City of Honolulu's proposed fixed guideway system. Most observers seem to agree that unless the State Legislature grants the City greater taxing powers - a highly remote event - State participation in the funding of the City's fixed guideway system is essential to its survival.

Today, I want to address my remarks to this question. The views I express, of course, are my own. However, I do believe that many members of this House and especially the members of the Energy and Transportation Committee, share some of the concerns that I will discuss.

Before dealing specifically with the City's proposed fixed guideway, let me say something about the decision-making process we elected officials must

go through. We get our information from a variety of sources through public hearings, meetings with various interest groups, meetings with individually concerned citizens and our own knowledge and experience. Most of the time, we are able to deal with the information which is presented to us. However, we are at our greatest difficulty when we try to digest technical information, such as we often are required to do in transportation matters. In such cases, we are often forced to rely on technicians a great deal to help us make decisions.

Nearly three years ago, the 1975 Legislature made a conditional commitment to help the City fund its proposed fixed guideway. I was one of many legislators who supported that commitment. Many of us relied very heavily on the information provided by the City's technicians. I remember at a public hearing held by my committee, we were told that if the Legislature did not make a financial commitment, Honolulu's chances for obtaining federal approval and millions of dollars in federal funds for the project would be all but lost. I also recall the State Department of Transportation raised a few questions about the project, but the significance of those questions, if any, was washed away by the specter raised by the City that millions of dollars in federal funds would be lost if we did not make a commitment at that time. And so, we made a commitment - six million dollars worth.

Three years have passed since the Legislature made that commitment. During that time, many legislators have had the opportunity to take a closer look at the City's fixed guideway proposal. They have had the opportunity to visit cities on the mainland and Canada to see first hand what other cities are doing to meet their transportation needs and learn why they are doing it. And many have learned that the very worst thing that a legislator can do with a project of the magnitude of the City's fixed guideway proposal is to refrain from asking awkward questions. All facets of planning, from objectives to planning work, require careful scrutiny. Failure to do so may lead to such disappointments as those experienced in San Francisco, where local jurisdictions are forced to commit fiscal resources, after the fact, and to the detriment of programs of greater priority, to an extent never imagined in the preconstruction period of thoughtless

enthusiasm.

Now, let us examine some of the concerns I have about the City's fixed guideway proposal:

The City of Honolulu has selected the 14-mile Honolulu Area Rapid Transit fixed guideway system (HART) as the solution to Honolulu's urban transportation problems. According to City studies, HART is the only viable solution, and Honolulu 'cannot afford not to build HART.'

The City's choice of HART is based on a number of specifically selected assumptions which do not stand the test of rational analysis and common sense.

IS HART NEEDED:

Will Oahu's employment and population be sufficient to justify HART? HART proponents claim that a fixed guideway can be justified if Oahu's employment reaches 518,000 and population 924,000 by the year 1995. However, assuming that projection is fulfilled, there is still great doubt whether a fixed guideway is justified for Honolulu.

Wilfred Owens, a nationally renowned transportation planner, states in his TRANSPORTATION FOR CITIES that as a general rule cities should have a population of 2 million for conditions to be fully favorable for a fixed guideway - a population far greater than even the optimistic 924,000 forecasted for Oahu in 1995.

Only eight of the 25 U.S. urban areas with a population over one million in 1970 had fixed guideway systems and only two others are building them. Moreover, several urban areas, with larger 1970 populations, including Los Angeles (8.4 million), Minneapolis-St. Louis (1.7 million) and Seattle (1.2 million) have rejected fixed guideways as a viable, cost-effective solution to their transportation problems.

How realistic are HART's employment and population forecasts? More recent employment and population projections by the City's Department of General Planning and the State Department of Planning and Economic Development, cast doubt upon the reliability of the forecasts used for HART.

In 1976, Oahu had a population of 718,000 persons and 308,000 jobs. In order to reach the HART forecasts of 924,000 persons and 518,000 jobs for 1995, 206,000 persons and 210,000

jobs would have to be added to Oahu's population and job totals by 1995 - more than one job for every man, woman and child added to Oahu's population between today and 1995.

The City's refusal to reassess HART in view of these new employment and population forecasts has only added to HART's credibility problems. What is so magical about HART's original employment and population forecasts? Do the new forecasts mean Honolulu can get along with an all-bus system instead of HART? These questions remain unanswered.

In a recent study funded by the Urban Mass Transit Authority (UMTA) two other criteria were deemed necessary to justify a fixed guideway system: (1) That the city have 100 million square feet of downtown non-residential floor space. Honolulu's estimated downtown non-residential floor space (from Kalihi to Waikiki) comes to a mere 34 million square feet. By comparison, Chicago has over 200 million, Washington about 95 million, Montreal 91 million and Toronto over 75 million square feet of non-residential floor space. (2) A central business district (CBD) with a minimum of 15 million square feet of office floor space. Honolulu falls far below with a meager 5.5 million square feet. New York, Chicago, Philadelphia, Boston and San Francisco all have more than 25 million square feet of office space in the CBD.

HART'S STARTLING RIDERSHIP PROJECTIONS

During the peak hour of a typical 1995 day, HART claims it will carry 18,100 passengers per hour (assuming a population of 924,000 persons and 518,000 jobs).

A comparison of HART's projected ridership to that of other cities indicates that Honolulu with less than 1/7 Chicago's population unrealistically expects more peak-hour riders. For example, Chicago's rail rapid transit system carried a peak hour ridership of 15,000 per hour in 1977. Yet Chicago's population is approximately seven million as compared to the 924,000 projected for Honolulu in 1995.

In 1977, Philadelphia's Lindenwold system, which is probably the most successful system in the United States, carried only 12,000 persons per hour during the peak hour. And yet the Lindenwold system serves the city of Philadelphia, which has a population

of approximately 4.5 million, and the suburbs of New Jersey with a population of 500,000.

The San Francisco BART's transbay tube line carried only 8,000 persons per hour during the peak hour in 1977. Yet it serves the entire Bay Area population of 3.3 million.

In addition to their much greater population both Philadelphia's Lindenwold and San Francisco's BART have a great geographic advantage over Honolulu's HART: both fixed guideway lines cross over bodies of water which act as natural barriers to auto commuters. In Lindenwold's case, persons going from New Jersey to the city of Philadelphia must either drive by automobile across a toll bridge or ride the fixed guideway. The same is true for BART.

A close look at HART's projected daily ridership for 1995 reveals the same wild optimism. HART supporters claim that 473,000 persons or 14.3% of all person trips made per day in 1995 will travel to their destination by transit. Using existing data and HART's own population projections, the claim appears highly unreasonable. For example, Oahu's present population is 718,000 and daily person trips made by transit (bus) total 175,000 per day. HART assumes a 28% increase in population - from the existing 718,000 to 924,000 for 1995. Yet HART projects an incredible 170% increase in daily person trips made by transit (fixed guideway and bus) from today's 175,000 to 473,000 per day in 1995.

Projecting daily ridership is a highly speculative business which becomes even more speculative when the projection is made over a long period. For example, in 1961, consultants predicted that BART would carry 258,000 passengers daily in 1975. In that year BART carried only 131,370 - approximately one-half of the 1961 projections.

COST OVERRUNS: BAIT AND SWITCH IN ATLANTA AND BALTIMORE

Every fixed guideway system recently built in the United States has had cost overruns. BART, once estimated at \$994 million actually cost \$2.1 billion; METRO was estimated to cost \$2.5 billion, a figure which has since been revised to over \$6 billion. Even Philadelphia's Lindenwold, constructed under highly favorable conditions, was over budget by 72%.

Contrary to press reports, even Montreal and Mexico City whose fixed

guideway systems were built by experienced French contractors suffered from substantial cost overruns. As reported by Professor Leonard Merewitz (University of California, Berkeley) the cost was over budget by 73% for Montreal and 67% for Mexico City.

HART supporters, stung by charges of multi-million dollar cost overruns on BART and METRO, point to Atlanta and Baltimore as cities building fixed guideways with little or no expected cost overruns. It is time this fairy tale was put to rest.

Atlanta: 13.7 miles for the price of 53 miles. In 1971, MARTA officials assured legislators that they could build a 53-mile fixed guideway system at a cost of \$1.3 billion. In 1973, the projected cost was revised to \$1.7 billion. After 1974, MARTA officials stopped making cost projections for the entire 53-mile system. And, apparently believing bad news is easier to take in small doses, MARTA announced it would begin construction on a \$1 billion 13.7 mile segment in mid-1975. The latest estimates indicate that the 13.7 mile segment may be built with little or no cost overrun. However, it is doubtful that Atlanta's taxpayers, who will pay \$1 billion or nearly the same price for which they were told could build 53 miles of fixed guideway, will be dancing in the streets when MARTA announces it built the segment without any 'cost overruns'.

Baltimore: 8 miles for the price of 28 miles. In 1968, consultants informed Maryland legislators that a 71-mile fixed guideway system for Baltimore could be built for \$1.7 billion. The system would be built in several phases. The consultants estimated the cost for the first phase at \$656 million for 28 miles. By 1971, the cost for the 28 mile segment was revised up to \$1.1 billion. Finally, in 1974 construction began for an 8-mile segment at a cost of \$721 million. Since Baltimore's 8-mile segment is scheduled to be completed in 1982, it is a bit too early to tell whether there will be any cost overruns. However, this much is already clear — the people of Baltimore will be getting only 8 miles of fixed guideway for more than the price they were assured would buy them 28 miles.

Since Baltimore's consultant (Daniel, Mann, Johnson and Mendenhall) is the same consultant which designed HART, Baltimore's experience should

be of great interest to the people of Hawaii.

COST OVERRUNS: CAN HONOLULU BUILD A FIXED GUIDEWAY CHEAPER THAN THE MAINLAND?

The City DTS claims HART can be constructed at an average cost of \$52 million per mile. This is much cheaper than on the mainland. For example, Atlanta's costs of \$74 million per mile are 41% higher than HART's \$52 million per mile. Baltimore's costs of \$90 million per mile are 73% higher than HART's.

Can HART really be constructed for less than the costs of Atlanta's and Baltimore's systems? Very unlikely.

It is common knowledge that construction costs are higher in Hawaii than they are on the mainland. Hawaii's construction costs for housing, for example, are approximately 30% higher here than on the mainland. Moreover, HART would, if built, be constructed at inflated 1980-85 construction costs, as compared to Atlanta's 1975 to 1980 costs and Baltimore's 1974 to 1982 costs.

What will it actually cost to build HART? No one knows, but it is likely that it will cost much more than the City's consultant (also Baltimore's) predicts.

COST OVERRUNS: WHO WILL PAY?

HART literature indicates that 80% of the cost of building HART will be paid by federal funds through the Urban Mass Transit Administration and 20% by 'local' taxpayers. However, the City is silent on who will pay for any cost overruns, apparently hoping that not raising the possibility will aid their sales campaign. When pressed, City DTS claims that UMTA will 'participate' in cost overruns.

UMTA Administrator Richard Page in November, 1977, said that UMTA will participate, but the participation will apparently not extend to 80% of any cost overruns as implied by HART enthusiasts. According to Page: 'It is our intention that any future construction grant agreements relative to fixed guideway projects shall be negotiated with a fixed ceiling on the Federal contribution, subject to a defined method of adjustment for inflation. Localities will be required to complete the fixed guideway project as defined in the grant agreement, and to absorb

any additional costs incurred, except under certain specified extraordinary circumstances.'

Thus, federal participation includes 'a defined method of adjustment for inflation,' and an 8% inflation rate is already included in the cost estimates. However, inflation is only one of many factors causing cost overruns. Unanticipated construction costs, mistakes in engineering, changes in design, etc. can all contribute to cost overruns as they have in other systems. Moreover, the rate of inflation can generally be predicted within reasonable limits, while unanticipated construction costs, such as engineering mistakes, by their very nature are highly unpredictable. Unfortunately, according to Page, the Federal Government participates in cost overruns only under 'certain specified extraordinary circumstances'. This is hardly an unequivocal commitment to fund 80% of all cost overruns. As a result it is likely that much, or possibly all, of the cost overruns we can expect will have to be paid by local taxpayers.

The impact of cost overruns to local taxpayers is staggering. If HART costs the same per mile as Atlanta's MARTA (\$74 million) rather than the \$52 million per mile now projected, the cost overrun will be \$309 million. If this cost overrun is to be borne completely by local taxpayers, it would have to be added to the local share of \$146 million for a total of \$455 million. Even if UMTA funded the maximum federal share of 80% of the overrun it would cost local taxpayers \$208 million or \$62 million more than the original estimate. If HART costs the same to build on a per mile basis as Baltimore's fixed guideway system (\$90 million), the local share including cost overruns could amount to \$676 million.

The portion of the potential cost overrun to be paid by local taxpayers is not clear, but what is clear is that a minimum of 20% will be paid by local taxpayers and up to 100% of the overrun may be added to the local tax burden.

OPERATING AND MAINTENANCE COST: THE HIGH COST OF HART

All of us have heard the story about the maharajah who was given a white elephant free but eventually went broke because he could not afford the beast's tremendous appetite. HART's operating and maintenance costs pose the same problem.

In 1972, the City's consultants boldly predicted that HART would not only be self-supporting but that it would produce a \$1 million profit in 1980 and a \$14 million profit in 1995. Unfortunately, the consultant was forced to revise these flowing predictions to account for inflation. The latest estimate, which curiously assumes an 8% inflation up to 1980 and only 6% thereafter, predicts an O & M deficit of \$43.4 million for 1985 and \$79.8 million for 1990.

And, using data supplied by the City's consultant, the projected O & M deficit for 1995 is a whopping \$131.5 million. Not surprisingly, the consultant does not mention this publicly.

If inflationary trends in the transit industry continue, it is highly likely that the predicted O & M deficits will be exceeded. The facts show that overall transit expenses between 1970 and 1975 increased about 11% and average wages in the transit industry about 8½%. Hence, the consultant's inflation factors seem strangely low when compared to actual experience.

When one assumes that inflation after 1980 will continue to be at least 8% (instead of reducing it from 8% to 6% as the consultant has done) to 1995, the O & M deficit amounts to a staggering \$184.1 million. At 10% inflation, the comparable 1995 deficit would be \$252.5 million.

HART enthusiasts suggest raising fares to help cover costs, but even a doubling of fares would still result in whopping deficits. For example, taking the best possible situation envisioned by the City's consultant, i.e. 473,000 person trips by HART, a doubling of fares to 50¢ with no decrease in ridership and 6% inflation would still result in a deficit of \$100 million in 1995. At an 8% rate of inflation and a 50¢ fare, the deficit would be \$152.6 million.

The exact amount of the O & M deficit in 1995 is strictly conjecture, but one can safely predict that it will be horrendous as even the lowest projection is \$131.5 million. Worse, the deficits could well be more horrifying if inflation in transit expenses were to approach present levels.

HART'S CREDIBILITY GAP

Frank Herringer, general manager of San Francisco's Bay Area Rapid

Transit (BART), warned against the overselling of rail rapid transit: 'One of the difficulties is this system was oversold (to the public) . . . people expected it to pay for itself, solve pollution problems and get rid of traffic congestion. It is unfortunate these high expectations were raised.'

The City has not heeded Herringer's warning. HART is being sold as if it was a used car. Fortunately, the City's slick public relations campaign has only caused legislators to do more homework. The evidence shows that many of HART's claims are exaggerations, others outright misrepresentations. For example:

Traffic congestion: No fixed guideway system in the world has ever reduced traffic congestion. It is unrealistic to believe HART will be the first.

Studies show any reduction in traffic congestion caused by a fixed guideway is shortlived. What happens is the spaces on the streets made available by drivers who convert to fixed guideways are quickly filled by other drivers - drivers of new cars, former fixed guideway patrons returning to automobile commuting, etc. - and traffic congestion rises to its previous levels again. This musical chairs in automobile commuting occurs simply because people find the private automobile, despite its costs, the most convenient and preferred way to travel. Traffic engineers call this phenomenon 'The Law of Traffic Congestion'.

Air pollution: Because HART will have very little impact on reducing traffic congestion, it is unlikely to cause any measurable reduction in air pollution. Professor George Hilton (UCLA) points out that New York, which alone accounts for nearly one-third of all public transit and for 81% of the nation's fixed guideway ridership, has a higher and more deadly output of noxious emissions than Los Angeles, which has the greatest freeway system in the world. Hilton concluded that New York's output of noxious emissions is so highly concentrated that it would literally kill people if New York had Los Angeles' atmospheric characteristics.

Energy conservation: A recent study by the highly respected Congressional Budget Office (CBO) concluded: 'Of all the commonly held notions about energy efficiency, probably the most misguided are those concerning

rail rapid transit. . . new rail rapid transit systems actually waste energy rather than save it.' Another study by Professor Charles Lave (University of California) found BART would have to be operated for 535 years before it could save the energy that was used to build it.

MORE THAN A REASONABLE DOUBT

Despite the millions of dollars which have been spent on studies for HART and the apparent approval given by the Urban Mass Transit Administration, the fact remains there are too many unanswered questions, too many contradictions, too many implausibles for legislators to support HART.

Studies can be an aid, but not a substitute for common sense. (Remember BART and METRO were 'justified by multi-million dollar consultant studies'). And UMTA approval does not constitute sufficient evidence of good planning since that organization has, in the past, given its good transit seal of approval to ventures which later proved dubious.

A study of the experiences of other cities across the nation reveals a disturbing pattern: in city after city, well-financed, smooth-talking fixed guideway consultants make promise upon promise to local legislators. And, when the millions, sometimes billions, of taxpayers' dollars have been spent, and after the concrete has been poured and the fixed guideway system is built and operating, the legislators discover the results do not measure up to the promises. Why some legislators believe Honolulu's experience with HART will be any different is a great mystery.

Mr. Speaker, my remarks should not be construed to mean that I am opposed to mass transit. I am not. Those who believe a mass transit system is limited to a fixed guideway are misled. I am for mass transit because it is essential to the growth of Oahu and the well-being of our people. However, I am opposed to HART, as it is presently conceived by the City and County of Honolulu, because I believe it has not been well-planned and the information we have been receiving about HART is without credibility and cannot be used as a basis for rational decision-making.

House Bill No. 158, HD 1, would give the Legislature the right to review and approve any mass transit proposal before any funds are released for construction. I urge all of my colleagues to support it."

The motion was put by the Chair and carried and the report of the Committee was adopted and H.B. No. 158, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT SYSTEM", having been read throughout, passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

Stand. Com. Rep. No. 596-78 on H.B. No. 2447-78, HD 1 (Deferred from March 7, 1978):

On motion by Representative Segawa, seconded by Representative Shito and carried, the report of the Committee was adopted and H.B. No. 2447-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE", having been read throughout, passed Third Reading by a vote of 45 ayes to 1 no, with Representative Sutton voting no, and Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

Stand. Com. Rep. No. 607-78 on H.B. No. 2459-78, HD 1 (Deferred from March 7, 1978):

On motion by Representative Suwa, seconded by Representative Peters and carried, Stand. Com. Rep. No. 607-78 and H.B. No. 2459-78, HD 1, were recommitted to the Committee on Finance because the Senate Bill has come over to the House.

Stand. Com. Rep. No. 613-78 on H.B. No. 2185-78, HD 2 (Deferred from March 7, 1978):

On motion by Representative Aki, seconded by Representative Segawa and carried, the report of the Committee was adopted and H.B. No. 2185-78, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADULT CARE HOMES, FAMILY BOARDING HOMES, AND OTHER SIMILAR INSTITUTIONS", having been read throughout, passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

THIRD READING

The following bills, which were on the calendar for Third Reading, were read throughout and the following actions taken:

H.B. No. 1770-78, HD 1:

On motion by Representative Suwa,

seconded by Representative Peters, H.B. No. 1770-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR", passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

At 10:35 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:40 o'clock a.m.

H.B. No. 1779-78, HD 1:

Representative Suwa moved that H.B. No. 1779-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Peters.

Representative Sutton then rose to speak against the bill, stating:

"Mr. Speaker, one of the most important concepts that we have in our democracy is the separation of power - we have the executive, we have the legislative, and we have the judicial.

Now, Mr. Speaker, we, the legislative, are separated from the judiciary, and a constitutional amendment has now made it so the judicial budget passes not from the governor's office but comes directly from the Judiciary to the Finance Committee, then from the Finance Committee onto the floor of this House. Now, Mr. Speaker, we control the purse strings and, therefore, we control the quality of justice that must be dispensed in this jurisdiction. Mr. Speaker, there is no substitute for good justice. If we control those purse strings, let us make sure that the public that elected us is getting the justice that they require.

We do not cite cases that are occurring in another jurisdiction. Under the separation of power, ours is a purely appropriating function. We do not interfere. We do not in any way, shape, or manner name judges. But we do look at the quality of justice that is being dispensed in the District Court system. And, Mr. Speaker, I am not pleased. I am not pleased, and I do not like to see \$9 million over a biennium being given to a system of justice that is not meeting those that are governed. There is a basic statement in the quality of justice, that the people have almost a 90% agreement with most of the decisions and the work done in the justice department, or there is something

wrong. This great nation of ours has been through a"

Representative K. Yamada, on a point of order, stated:

"What the speaker is referring to has no relevance to the bill. This pertains to appropriation for the Judiciary. It doesn't deal with what's been happening in the courts in the last few weeks."

The Chair then stated:

"Representative Sutton, will you confine your remarks to the funding of Judiciary and make the connection thereto."

Representative Sutton replied:

"I will make my connection."

Mr. Speaker, you and I have children. They come to us for their weekly allowance. If they behave, we give them their weekly allowance. If they don't, we cut them down. Mr. Speaker, we're in that position here. I gave to the gentleman from South Hilo the basic concept of the separation of powers. He may have learned that at law school.

The Judiciary is, however, now getting their budget totally through us, not through the governor. A constitutional amendment, which the gentleman from South Hilo may have had a chance to read, indicates that our role is now much more significant because the governor's office, the Bureau of the Budget, does not in any way, shape, or manner, see this budget. It comes directly into the House Finance Committee.

Does that answer the gentleman from South Hilo?"

The Chair then stated:

"Representative Sutton, you're making your argument. Proceed on that basis."

Representative Sutton replied:

"Alright. I do hope he'll read some of these instruments . . . the Constitution, sometime. I'll send him a copy."

Now, Mr. Speaker."

Representative K. Yamada, on a point of personal privilege, stated:

"Mr. Speaker, will you advise the speaker that I have copies of those documents."

Representative Sutton then stated:

"He doesn't appear to have a copy of the document of the last constitutional amendment that changed the whole budgeting procedure. The budgeting procedure, when we were a State and first got statehood, came from the governor's office. It no longer comes from the governor's office, Mr. Speaker. And this is what I would like him to read. It comes directly from the Judiciary to us to insure the separation of powers."

The Chair then stated:

"The Chair would appreciate it if you would confine your debate on the third person basis and not get into a personal debate. Proceed."

Representative Sutton continued, stating:

"The essentiality is the significant constitutional amendment that recently came through that changes the entire budgeting procedure. Therefore, we have a high fiduciary duty — a duty to the citizenry to see that the quality of justice that is dealt out is a type of quality which they in turn will approve of. Read the papers for the last four days and you'll find it has not been. Therefore, that's a significant point when we spend \$9 million."

Representative Peters, on a point of order, stated:

"It seems to me, Mr. Speaker, that whatever one reads in a newspaper does not necessarily reflect what is justifiable."

The Chair then replied:

"That is correct."

Representative Sutton then asked:

"Can I remind him that the late Will Rogers said that all he ever knew was what was in the papers?"

The Chair then remarked:

"But you are not Will Rogers."

Representative Sutton then stated:

"Yes, and you are not Wiley Post taking me over the North Pole."

The Chair then directed Representative Sutton to "proceed".

Representative Sutton then stated:

"Now, Mr. Speaker, this high body has a very, very difficult determination - probably on my life, I have never seen a more qualified man than the chairman of the Finance Committee, and he does go over this with a fine tooth comb; and he's a man of tremendous capacity, way beyond mine, Mr. Speaker - but I do feel that it's only appropriate on the floor of this House that we re-examine this particular budget, where we're giving the District Court of this State \$9 million and not getting the approval of the citizenry. And because we do not have the approval of the citizenry, we are not following the basic formula set down by Oliver Wendell Holmes. He said that any justice, properly dispensed, will meet the approval of 99% of the populace.

And, therefore, Mr. Speaker, I would ask that we recommit this back to the Finance Committee and re-study this in the lights of recent development.

Thank you very much, sir."

Representative Kunimura, upon being recognized, stated:

"I don't think this body should be subjected, and I speak for the bill, Mr. Speaker, to the type of allegation made this morning without a rebuttal.

Mr. Speaker, this matter was carefully considered by the Finance Committee of the House. And I'd like to report here that during that consideration and the hearing that we had, the gentleman from Nuuanu, who was sitting on the Committee, did not object but supported this bill. And furthermore, Mr. Speaker, I personally feel that because of the turn of events of the past week, all of a sudden it becomes popular, I believe, to attack the Judiciary.

It would be tolerating, I think, if anyone of us who are not members of the Bar should do that, but the gentleman from Nuuanu, Mr. Speaker, is a member of the great society. And as Chief Justice Berger, I believe, who made a statement that there's some qualified, but 40% unqualified people practicing law. I'd like to say this, Mr. Speaker, I wouldn't even go that far.

So maybe, if the courts of the State of Hawaii passed judgment on what happened on the District Court level, I believe at that time we will accept whatever is decided upon, or if it's appealed to a higher court. But to condemn the Judiciary Branch at

this point in time, when the controversy is at the hottest point, I believe it is a grave miscarriage of our duties and responsibilities. We are making mockery of the separation of the branches of government.

And I, therefore, Mr. Speaker, would like to urge all members of this House to expunge from the mind what was uttered against the Judiciary this morning, because it's irresponsible, utterly unacceptably irresponsible to try and make popular an issue when one did not stand up when he had an opportunity to do so in the Committee. This, Mr. Speaker, is more sinister than December 7th, 1941."

Representative Suwa, speaking in favor of the bill, stated:

"Mr. Speaker, I'm rising to speak in favor of the bill just to keep the members informed that the original request of the Judiciary Department of \$1,233,255 has been reduced to \$656,650. Thank you."

At 10:50 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 10:53 o'clock a.m., Representative Sutton rose to speak in rebuttal, stating:

"Mr. Speaker, first of all I would like to rise in rebuttal to the remarks from the gentleman from Kauai. Mr. Speaker, I am a member of the legal profession. I am a member of the American Bar Association. I am a past president of the Federal Bar. I took an oath when I became a lawyer, as you did, that we are officers of the court. As officers of the court, we have a very high duty, a duty that supersedes any concept of popularity - a duty that is to inform whatever source is required to be informed of whatever our honest conscience dictates. That is in rebuttal to the gentleman from the island of Kauai.

As far as the Finance chairman is concerned, this man is impossible to rebut, so I will not attempt it.

Thank you."

Representative Peters, upon being recognized, stated:

"I know we had kind of a long session last night . . . early till this morning. By the way, before Sister stands up, I'm speaking in favor of the measure.

I know my brother across the way

from Nuuanu talked about justice in terms of its direct relationships to the media. Perhaps he's recommending that the judicial process is supplanted for what you read in the newspapers and what you see on television and hear on the radio. I'm sure that as a learned lawyer and as a past judge that that kind of observations, I'm sure that he would temper with it a touch of consciousness, I suspect. I'm sure he didn't mean what he said when he talked about that kind of relationship.

I, for one, perhaps slightly disappointed that the Constitution doesn't talk about another power, if you will, by way of this separation of powers. We should include the media - perhaps the most influential lobbying force in this State, in this country, and in this world. And if we are, as elected members, to temper our decisions with what we consider to be the best interest and welfare for our constituency, we cannot, Mr. Speaker, bend to some of those observations that you read about in the papers relating to any system - judiciary, legislative or administrative in nature. I'm sure that the gentleman from Nuuanu, if he had a chance to perhaps rebut, would incorporate those statements within his presentation today.

Thank you very much, Mr. Speaker."

Representative Kunimura then rose in rebuttal, stating:

"We have been told many times, Mr. Speaker, both on the floor of this House and in our Committee meetings that a certain subject matter is now in litigation before the courts and therefore we should not discuss the matter, and we withdraw that. That's basic good sense, honest, fair play.

Mr. Speaker, the founding fathers of our great country have in their great wisdom separated the three branches of government as co-equals. And I would like to say at this point, Mr. Speaker, condemning the Judiciary, and I would like to say that I do not agree with what happened on that rape case, but I must keep my peace because I'm a member of this body, until they go through the process of having a hearing and review what happened, after that, then we will be free to exercise our right to speak. But right now, we may prejudice the due process by uttering some of our personal feelings and may damage the miscarriage of justice to its final degree.

And I'd like to make one point clear, Mr. Speaker, we have a sacred duty and a sacred responsibility. Are we going to tell the Department of Education that you have one bad teacher, therefore we're going to punish you by cutting your appropriation? Are we going to kill the child because they made one mistake? I don't think so.

The Judiciary Branch, I'm pretty sure, will review, and review very thoroughly, and come out with a very impartial answer after they investigate. And they're going to give us their finding. And only at that time should this body act, Mr. Speaker. But whatever we do now, if we vote down this budget, the supplemental budget, then we are going to punish the honest people, or the good people, or maybe all of them because maybe the judge that we question - his ability, his integrity, and his decision - may be doing the right thing. We don't know. Who are we to judge? That's the issue now, and I'd like to request all members to support the supplemental budget."

The motion to pass H.B. No. 1779-78, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO THE JUDICIARY FOR THE FISCAL BIENNium JULY 1, 1977, TO JUNE 30, 1979, AND AUTHORIZING THE ISSUANCE OF BONDS", on Third Reading was put by the Chair and carried by a vote of 43 ayes to 3 noes, with Representatives Abercrombie, Evans and Sutton voting no, and Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

H.B. No. 2402-78, HD 1:

Representative Toguchi moved that H.B. No. 2402-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Morioka.

Representative Blair, upon being recognized, stated:

"Mr. Speaker, he's not here right now, but I think the record should reflect that Representative Carroll is known for fishing for votes in the Ala Wai Canal."

Representative Abercrombie, speaking in favor of the bill, stated:

"Mr. Speaker, Representative Carroll asked me to speak for him on this bill. I don't know whether he'll remember it after I remind him, but this is very, very important to him, and I trust all the members will back him up in this particular recreational purpose."

Representative Kamalii then rose to

speak in favor of the bill, stating:

"Mr. Speaker, I'm extremely pleased that this bill is introduced, and it's looking forward. For many, many years the children of Moiliili and Kapahulu, in that area, really have been unable to use the Ala Wai Canal for recreational fishing. But would you believe that as of today, ten o'clock this morning, after waiting over twenty years, we are going to have the Ala Wai Canal dredged?

The opening ceremonies were at ten this morning and, hopefully, that in the future our children can go and enjoy recreational fishing without getting, as we Hawaiians say, *kake'o*.

Thank you."

The motion to pass H.B. No. 2402-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING", on Third Reading was put by the Chair and carried by a vote of 45 ayes to 1 no, with Representative Kawakami voting no, and Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

H.B. No. 2379-78, HD 1:

On motion by Representative Say, seconded by Representative D. Yamada, H.B. No. 2379-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF ARTISTIC PRINTS", passed Third Reading by a vote of 46 ayes, with Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

The Chair directed the Clerk to note that H.B. No. 2166-78, HD 2, had passed Third Reading at 10:19 o'clock a.m.; 2102-78, HD 2, at 10:22 o'clock a.m.; 2169-78, HD 2, at 10:23 o'clock a.m.; 704, HD 1, at 10:25 o'clock a.m.; 2689-78, HD 1, at 10:26 o'clock a.m.; 2191-78, HD 1, at 10:27 o'clock a.m.; 158, HD 2, at 10:32 o'clock a.m.; 2447-78, HD 1, at 10:33 o'clock a.m.; 2185-78, HD 2, at 10:34 o'clock a.m.; 1770-78, HD 1, at 10:35 o'clock a.m.; 1779-78, HD 1, at 11:00 o'clock a.m.; 2402-78, HD 1, at 11:01 o'clock a.m.; and 2379-78, HD 1, at 11:02 o'clock a.m.

At 11:03 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:05 o'clock a.m.

SUSPENSION OF RULES

On motion by Representative Yuen, seconded by Representative Kamalii and carried, the rules were suspended for the purpose of allowing members to offer a resolution.

INTRODUCTION OF RESOLUTION

A resolution (H.R. No. 432) recognizing the month of March as Red Cross Month in Hawaii and the dedication and devotion of all Red Cross volunteers was jointly offered by Representatives Wakatsuki, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Evans, Fong, Ikeda, Inaba, Kamalii, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Medeiros, Mina, Mizuguchi, Morioka, Naito, Nakamura, Narvaes, Peters, Poepoe, Say, Segawa, Shito, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima, Uwaine, D. Yamada, K. Yamada and Yuen.

On motion by Representative Kihano, seconded by Representative Segawa and carried, H.R. No. 432 was adopted.

Representative Kihano then introduced Mr. Warren Luke, president, Board of Directors, Hawaii State Chapter; Ann Hoadley, chairman of the volunteers, and Dr. John Henry Felix, member of the Board of Governors, American National Red Cross.

At 11:08 o'clock a.m., the Chair declared a recess, subject to the call of the Chair, for the purpose of meeting the honored guests.

The House of Representatives reconvened at 11:12 o'clock a.m.

THIRD READING

The following bills, which were on the calendar for Third Reading, were read throughout and the following actions taken:

H.B. No. 2296-78:

Representative Suwa moved that H.B. No. 2296-78, having been read throughout, pass Third Reading, seconded by Representative Peters.

Representative Uwaine then asked for a conflict ruling, stating:

"I am employed by a savings and loan company."

The Chair ruled "no conflict".

At 11:15 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:16 o'clock a.m., the motion to pass H.B. No. 2296-78, entitled: "A BILL FOR AN ACT RELATING TO DEPOSIT OF PUBLIC FUNDS", on Third Reading was put by the Chair and carried by a vote of 44 ayes to 2 noes, with Representatives Dods and Sutton voting no, and Representatives Baker, Carroll, Cobb, Garcia and Naito being excused.

H.B. No. 3049-78, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

H.B. No. 2085-78, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

H.B. No. 2634-78:

Representative Suwa moved that H.B. No. 2634-78, having been read throughout, pass Third Reading, seconded by Representative Peters.

Representative Cayetano then rose to speak in favor of the bill, stating:

"Mr. Speaker, I'm in favor of this bill, but I have some reservations.

As I glean from the committee report, 'the purpose of this bill is to require beer and wine intended for military consumption to be so identified'. As I see it, the problem is one of preventing leakage into the commercial market, the commercial civilian market, of these items, and to present unfair competition between military and wholesale dealers.

However, Mr. Speaker, the concern that I have is with the enforcement and penalty provision of the bill. I would hope that this problem can be addressed in the Senate. That portion of the bill reads: 'Any person that is selling a container or bottle or can to components of the U.S. Armed Forces not marked, shall be guilty of a Class C felony'. My own impressions, Mr. Speaker, are that one, a Class C felony is much too heavy a penalty for this kind of offense. My recollection of the penal code definition of a Class C felony is that it will impose a fine of \$5,000 and 5 years imprisonment.

Secondly, the language is worded in such a way as to be too broad in my view. It would seem to be very easy for a wholesaler to make a mistake and sell a container or a bottle or a single can, which is unmarked, to components of the civilian market. And for that reason, I would not like to see civilian wholesalers be penalized unnecessarily and unfairly. Therefore, I would hope that this problem would be addressed when this bill gets to the Senate, and I hope that the committee chairmen would bring this to the attention of the senators.

Thank you."

Speaking in opposition of the bill, Representative Nakamura stated:

"I believe that this is a serious infringement on our military neighbors. This is going to create a special burden to the breweries and the wineries, particularly on the mainland who have to make a special effort to identify the beers and the wines designated for Hawaii. I'm sure this is just a small quantity of their total production, and I think that this is an unreasonable requirement to impose on all these wineries and breweries on the mainland.

In addition, Mr. Speaker, I feel that this bill smacks of unconstitutionality. I think it infringes on interstate commerce. And to make this requirement for beer and wine only, is unreasonable classification. For this reason, I believe this law could be very easily invalidated on constitutional grounds.

For these reasons, Mr. Speaker, I urge that this measure be voted down."

Representative Lunasco, upon being recognized, stated:

"Mr. Speaker, I rise to speak in favor of this bill, and maybe I can answer one of the questions of the previous speaker's concerns.

Mr. Speaker, before your Committee on Finance we had several people testifying. Basically, they're not against it, but they felt that it would require some unfair hardship on the industry. Well, let me state here that approximately 30% to 35% of the beer sold in the military somehow finds its way into the public sector. Presently, even the liquor commissioner is admitting, for example, Heineken beer, which is sold on Post for under, what, about \$12.00 a case, \$9-\$12 a case, is presently being sold in bars or establishments throughout the State. Of course, it is an estimate, but they're not sure because they can't identify the beer.

As far as identification for the distributing companies, let me use Primo as an example. I might not be an expert, but I used to work for them. In marking the military beer, usually the casing, already boxed, has a red marking; whereas, the civilian beer is usually marked in black ink, and they're segregated.

At no time, Mr. Speaker, have I heard of any cases of a distributing company making a mistake and distributing military beer to a commercial or public enterprise. But more important, Mr. Speaker, what this bill is trying to do is to stop, you know, the military beer from finding its way into the civilian market, and more so in the commercial stores. And I think by marking it, Mr. Speaker, it would be easily identified; whereas, presently, today, there's no way you can identify military beer once it's removed from its carton. You can take two bottles, one from the military and one from the civilian market, and put them next to each other and you can't tell the difference. I think it would be a safeguard and it would save the taxpayers a hell of a lot of money, so I request all my colleagues to vote in favor of this bill."

Representative Peters, upon being recognized, stated:

"Yes, Mr. Speaker, I look at it simply from a tax revenue point of view. I'm speaking in favor of it.

As you know, Mr. Speaker, we have a 20% liquor tax and a half percent wholesaler tax and a 4% sales tax on liquor. That's approximately, what, 24½% taxes on liquor that we're missing out on.

And just by way of perhaps some examples of disparities existing between civilian and military prices on beer and wine — for beer, on the retail market, they sell it for about eight bucks a case, and the military goes anywhere from, what \$3.65 to maybe four bucks a case, which means fifty percent difference. On the wholesale market, if you buy it and if you retail, you buy it from a wholesaler, you pay about six bucks a case.

Now, we've gone, you know, we've deliberated on these floors, on this floor for I don't know how long, talking about finances, talking about all the different activities that we'd like to see implemented

in this State to have a, hopefully, direct impact on the meaningful services of people throughout this State. We're hampered because we don't have the tax revenues. Right? And I'm saying that this is one of the sources where there is, as Brother Ben indicated, you know, a leakage. This measure simply attempts to plug up that hole so there isn't any more leakages.

Just from the top of my head, I would suspect that we're losing approximately a million dollars tax revenues a year. Just by way of additional figures, if I recall, in the month of December, you know, as Brother Ollie indicated, take Primo, a local product, keeping in mind that the military represents about 18% of the population here in this State, and yet they consume more Primo or other beer in the entire populous of this State.

Now, something smells. Okay? Everybody knows that there is a leakage. I mean, you know, I see nothing wrong in you folks having friends in the military and you want to buy a beer for home consumption. No big thing. This bill prevents, you know, the resale of beer that is purchased in the military. And like I say, there is a big difference — 8 bucks and 4 bucks — you know, that's over fifty percent. If I was in business, you know, heck, I'd like to look at that source as one that I'd like to tap. But we're trying to discourage that and basically mandate that everybody pay their equal share of the liquor taxes in this State.

Thank you."

Representative Kunimura then rose to speak in favor of the bill, stating:

"This is not the first time that the Legislature of the State of Hawaii made attempts to plug the hole and stop the leakage. We made many attempts, and I'd like to rebut some of the points made by the gentleman from Wahiawa, talking about unfriendly act to the military. To the contrary, Mr. Speaker, we would be doing a great favor to our military neighbors because so many of them have complained that since it's a free flow and there's no prohibition or some manner in which to identify this commodity that leaks out from military posts that they are burdened with requests from their neighbors, their friends and their relatives to go and buy liquor for them on the post. Now, with this, they can say it's a definite prohibition, maybe.

And, secondly, the question of it

smacks of constitutionality, we must remember, Mr. Speaker, at one time the federal government retained jurisdiction over alcoholic beverages by constitutional provision in the federal Constitution. But under the Roosevelt administration, the Constitution of the United States, prohibition was lifted. And by that act alone, it gave the states one state's rights that we have complete jurisdiction on alcoholic beverages. And this was stated because at one time, Mr. Speaker, I was chairman of the House COMOSH Committee, with 27 members, and all the liquor bills used to be referred to this committee. I have not developed any sense of expertise, but some experience in liquor laws. Mr. Speaker, with the amount of taxes and licenses imposed upon liquor dealers and liquor wholesalers, if we allow, if we do not make an attempt to plug the hole, we would be hurting and not helping our businessmen who are in this business of selling alcoholic beverages.

And, one more point, Mr. Speaker. We talk about we've got to look for new revenues. Well, this is one good area. It's there. We don't have to develop anything. It's a matter of passing necessary laws to plug the loophole and imposing some hardship on the manufacturer. Oh my goodness, if we're going to be concerned about imposing hardships on manufacturers who manufacture commodities to ship into this State, then we should forget about environmental protection, we should forget about our Department of Health's rules and regulations, we should forget about the federal FDA, because we have a very high standard in the United States and for foreign manufacturers. They must comply with our standards in order to be permitted the license to ship to our country their particular products that they produce.

Therefore, I urge all members of this House to support this 'plug the loophole', or 'plug the leak' bill. Plug the booze."

Speaking against the bill, Representative Narvaez stated:

"Mr. Speaker, the gentleman from across the way, from Waianae, gave us the figure of about a million dollars, which is really, at this time, is a guess. We really don't know how much is involved. I'd really like to know so I can get some accurate figures, not some estimates right now.

Mr. Speaker, I represent an area,

everybody here does, and I'm sure a lot of people here drink beer, and a lot of people here do like to drink beer, and a lot of their constituents drink beer. Mr. Speaker, I'm not going to support any measure which is going to cost my constituents more money. If they can get it from the military base, fine, go ahead. Even if we pass this law, it's not going to stop them from doing it. It may do so in case of nightclub establishments and places like those, but as far as our constituents, if they can get beer from the military bases, they're going to even if this bill is passed. It's just like the marijuana issue that we're looking at right now. We've got laws in the books. Gee whiz, how widespread is it if we're going to pass a law that really won't be obeyed by our people.

Mr. Speaker, I've got a lot of other reasons why I can't support this bill, but basically, that's what it is right now. I urge members to vote against it."

Representative Nakamura, by way of rebuttal, stated:

"Mr. Speaker, I admit there is leakage - every time you have a few beers, you go to the restroom, and there is leakage.

But let me say this, Mr. Speaker, if we want to control this liquor traffic, I think this bill is directed more to the retailer who might acquire the beer from the military establishment. I think that this can be very easily controlled. The liquor commission can control this. I think the burden should be left to them to control this unlawful traffic.

This bill, I think, is an overkill. And because of this overkill, it creates an unreasonable burden on the industry, on the distributors and the consumers as well. This bill doesn't provide for any penalty to the consumer who buys liquor from the military establishment.

If you really want to control it by legislation, I think this measure should be directed to the ultimate consumer. If he is apprehended with beer or wine from the military, he should be punished. But I think that this bill skirts the problem because this will not be the popular solution to the problem. So we are shifting the burden, this unreasonable burden, to the industry.

And, as stated by the previous speaker, even though the bottles or the cans

of beer are marked for military use only, this will not prevent this traffic from continuing.

Mr. Speaker, I submit that this bill should be recommitted, and perhaps a resolution, a very strongly worded resolution, be transmitted to the liquor commission of the various counties.

Thank you, Mr. Speaker."

Representative Takamura, upon being recognized, stated:

"Mr. Speaker, I rise to speak in favor of this bill, and I do so mainly, I think, to clarify one point. I think all of us, as the previous speaker has pointed out, is aware of the fact that, you know, you have friends and relatives that have, at different points in time, purchased, you know, some small amounts of liquor for their own individual use.

I think the problem that we're dealing with, as pointed out by some of the other speakers, with regard to the vast amounts of beer and wine that seems to be bought for these kinds of purposes, seems to indicate that the scope of the problem is indeed a serious one. And, you know, if we're just talking about, you know, the small little incidents, I don't think we would have this bill before us today. However, we are talking about people who are going out and buying cases of beer and cases of wine, and then more or less running a kind of bootleg operation. I think when we run into this kind of abuse, then the kind of measures we're talking about becomes necessary.

And, also, I think the reason why we're having the labeling requirement and also putting the penalty upon the people selling it is because this is to help exactly what the previous speaker talked about. This is to help the liquor commission do their job. Right now, what they're saying is without this identification process, there's really not much they can do. I mean, they know this thing is going on; they can cite us cases of where they've seen station wagons driving around buying cases of beer from various military posts, but then they can't really, you know, trace it, and they really don't know what happens to it after that and they can never trace it because it's not identified.

So, I think, to clarify the point, you know, we are talking about a serious problem. We're not talking about some penny ante sort of thing, and I think the bill before us is a necessary one."

Representative Lunasco, speaking in rebuttal, stated:

"Mr. Speaker, if you read the committee report, all this bill is doing is requiring the distributing companies or the brewers of beer and wine to identify those that are being sold in the military. That's it.

Also, Mr. Speaker, although the military has about 18% of our total population, from reliable sources now, Mr. Speaker, it's not accurate; it might be over this. They estimate that about 30% 35% of the beer sold in Hawaii are from the military establishments.

Mr. Speaker, we had a gentleman from the liquor commission who said that they can't enforce it because they can't identify the beer in the local establishments. By this established, you know, policy, if it were passed, at least the liquor commission could identify the beer in the bars and retail stores. But, presently, as I said, Mr. Speaker, once you remove the contents from the box, there's no way of identifying a military beer versus a civilian beer. And all we're trying to do, Mr. Speaker, is protect the State and collecting the taxes that is just due to them. Also, Mr. Speaker, as an example, the liquor commissioners who testified before us, are investigating presently one or two cases that involve individuals who have purchased Heineken beer in excess of several hundred cases for resale in the civilian market.

Now, all this bill does is require the brewers to identify the bill. That's it. I mean, identify the beer so that at least for enforcement purposes, it would make our local officials' job a hell of a lot easier."

Representative Narvaes then rose in rebuttal, stating:

"Mr. Speaker, it has been said that just the box would be labeled. But as I read the committee report, it says this: 'Each bottle or can containing beer or wine sold within the State in components of the United States Armed Forces is to be marked with an identification on the crown of the bottle or on the top or the bottom of the can with the words 'for military use only'.'

Mr. Speaker, another thing which is also important, which was brought up by Representative Cayetano, which I find very important, is that a Class C felony is going to be the penalty. That's also pretty serious. So it seems that this bill is doing more, quite a lot more, than the previous speaker has stated."

Speaking in favor of the bill, Representative Abercrombie stated:

"You know, it dumbfounds me that this is going on because this is about beer and wine. You know, if it was about dope, about marijuana, it'd be something else. Now everybody's worried about beer and wine. Now, these people are committing a crime. What we're talking about is people . . . we're losing revenue. Just like the speaker from Waianae said, we're losing revenue. God knows we need enough revenue here.

Now, stuff is labeled all the time - you got poison labels and everything else. I don't understand what the big deal is. So what if it's a can. The guy sold it. He should be rapped. It's just like in your income tax or anything else. This is the way you nail people. If these guys are doing it, they should be nailed.

Now, why is the alcohol all of a sudden the big thing? We can't pass even the marijuana thing. We got kids being busted because it's not seen in the same light, because alcohol is looked upon differently - you can get drunk; you can kill people in a car; you just can't get high and sit in your house and not bother anybody.

Now, we're talking about crooks. Now, that's what we're talking about. If there's a problem about that can deal, maybe it can be done. You have to show a pattern or whatever it is as the representative from Pearl City indicated. We can deal with that. But you're not going to deal with it at all unless you pass the bill.

Now, I'm just saying when it comes to the alcohol, I sit here, and every time I go to a place to talk, a high school or to young kids, the first thing they bring up is about marijuana. They want to know if there's an issue. And we can't get a decision on it. We don't think it's a serious issue. It is to them.

Now, here a serious issue is brought up, but because it's about alcohol, even though we know we may be losing revenue on the thing, we're worried

about whether the military . . . why the military sells it in the first place to people they don't know. Why shouldn't it be just sold to military, and if it's exchanged after that, is that right?

Like the representative from Waianae said, if it's going to go, you're going to have a little party, it's like social gambling. You have social gambling as long as the House isn't taking a cut. The House takes a cut, that's gambling, you bust him. If it's just the representative from Waianae and three or four friends, why that's different, unless you can catch them at something in respect to gambling.

Now, the same here. We're not talking about some guy who gets it, like all of us do for our fund raisers.

Mr. Speaker just raised back. Are you alright? Does your back hurt?"

The Chair replied:

"I was wondering whether you were alright."

Representative Abercrombie answered:

"I'm alright. I doubt if there's anybody . . . I shouldn't say I doubt if there's anybody here. I've been at the fund raisers and I have seen liquor that came from the military or purchased on a military base. Now, that's why I asked the chairman yesterday if it was for military use only. I asked him if 'use' means consumption. You mean that only sergeants or whoever it is who buy the beer drink it? We're not talking about that. We're talking about these gangsters that come in here and deprive us of revenue. That's the way I understand it. We know the difference between gangsters and legislators. I'm sorry, Mr. Speaker, some people don't make the distinction sometimes, but I do; not successfully, sometimes, but it's true. This is what it's about. I don't understand it, mark 'em. If we can catch these guys selling any of this stuff, you send the liquor inspectors in and they catch a bottle this or a couple of bottles in one of these bars, nail 'em. That'll stop 'em quick.

Now, maybe the Class C felony is too heavy. We seem to be getting Class C felonies for jaywalking these days, from rolling out of here. I don't see why we can't have Class C felonies then for people that are demonstrably gangsters cheating the State out of revenues. See, we just got rid of simple trespass last night and moved that up to criminal trespass.

Now, I don't see why we can't nail gangsters that are depriving Mr. Suwa's committee of the opportunity to give our Higher Education Committee more money.

Thank you."

Representative Dods then rose on a point of personal privilege and was asked by the Chair to "state the grounds upon which you seek your point of personal privilege."

Representative Dods then stated:

"The previous speaker alluded to the fact that all politicians get their beer from military establishments. I think when they get a paint brush and they paint us all that way, I think it's wrong. I, for one, don't."

The Chair then said:

"Shall we proceed to vote on this bill."

Representative Peters, upon being recognized, stated:

"Forgive me, Mr. Speaker, I don't want to belabor the point. I know my brother from Kalihi Valley indicated that there are some figures that are loosely tossed around. Now, let me point that it is estimated that at least, at least 2 million cases of beer is bought by the military every year. Okay? If you take 35% of that . . . I was trying to do some rough figuring over here . . . it's about 700,000 bucks. Okay? You put the, what the regular going rate of 8 bucks times \$700,000, it comes out to about \$5 million something. Twenty-four and a half percent of that is what we're dealing with, okay?

We're not talking about liquor. We're not talking about scotch or bourbon or gin or the other kind stuff, you know. Because the federal government has established a margin, a ten percent margin on all the hard liquor, okay? In other words, if you buy a quart of vodka or bourbon on the outside for ten dollars, the military can . . . only has a ten percent margin to sell their product on base. So, the difference would be maybe about between \$9 to \$10; one dollar doesn't pay, I would suspect, for all that effort, for somebody going down to the military and try to buy a number of cases.

But beer, the margin is too great. You're dealing with, in many cases, 50%, if not, over that, between 4 bucks a case in the military as compared

to 8 bucks on the outside. That's a lot of money we're talking about. Okay?

Thank you."

Representative Narvaes then rose and addressed the Chair, who, in turn, stated:

"I believe, Representative Narvaes, you have spoken on the motion twice already."

Representative Narvaes then said:

"I rise on a point of personal privilege."

The Chair then asked Representative Narvaes to:

"State the grounds on which you seek your point of personal privilege."

Representative Narvaes replied:

"Mr. Speaker, my point of personal privilege is that even if this bill is passed, that if I go to a friend's house"

At 11:49 o'clock a.m., upon the request of Representative Kamalii, the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:50 o'clock a.m., Representative Narvaes continued, saying:

"Okay, Mr. Speaker, as I was about to finish, I'd say that as a point of personal privilege, and it is a personal privilege of mine which I'm talking about right now - I go and visit a friend of mine, he offers me a beer, and he did obtain the beer from a military base, we'll accept it. . . ."

Representative Carroll then rose and stated:

"I thought we had already cleared that."

The motion to pass H.B. No. 2634-78, entitled: "A BILL FOR AN ACT RELATING TO BEER AND WINE SALES IN HAWAII", on Third Reading was put by the Chair and carried by a vote of 45 ayes to 4 noes, with Representatives Ajifu, Carroll, Nakamura and Narvaes voting no, and Representatives Baker and Naito being excused.

H.B. No. 2444-78, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

H.B. No. 450, HD 1:

Representative Suwa moved that H.B. No. 450, HD 1, having been read throughout, pass Third Reading, seconded by Representative Peters.

Representative Kamalii then rose to speak in favor of the bill, stating:

"This bill and the taxation injustice it corrects has received considerable attention in my district. I have heard examples of the financial burdens which the original law created. Burdens which were only intensified by the emotional upheavals which accompany the death of a spouse.

House Bill No. 450 brings residual, non-transferable pensions into line with the intent of our tax laws in general. The existing situation creates a tax nightmare. Individuals must pay for what they expect to receive and not what they have inherited. You have to only imagine that if our income taxes were collected in the same way and that you were expected to pay the taxes today on what you would expect to earn during the next ten years. That is the injustice which this bill corrects, and I urge my colleagues to vote 'aye'."

The motion to pass H.B. No. 450, HD1, entitled: "A BILL FOR AN ACT RELATING TO INHERITANCE TAXATION", on Third Reading was put by the Chair and carried by a vote of 49 ayes, with Representatives Baker and Naito being excused.

H.B. No. 3012-78, HD 1:

Representative Segawa moved that H.B. No. 3012-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Shito.

Representative Segawa then rose to speak in favor of the bill, stating:

"Mr. Speaker, this bill seems very innocuous, and yet I believe there is quite a bit of significance to this bill. As you see in the committee report, the purpose of this bill is to require returning United States citizens who have resided five or more years in a foreign country, territory or possession of the United States with high occurrence of communicable diseases, to submit an examination report to the Department of Health.

Presently, individuals who are citizens by birth but have lived abroad for several years and individuals

who were born abroad but attained citizenship through United States parentage, can enter or re-enter this State without going through the visa process, which requires a health examination, including a chest Xray. The Department of Health testified that when these individuals are screened by the Department's tuberculosis screening program, the rate of incidence of this communicable disease was found to be similar with that of the immigrants.

Mr. Speaker, we have been, for several years, trying to find solutions to how we could keep the incidence of T.B. as well as incidence of Hansen's disease at a very low level. In the past several years we have seen a rise in these two diseases, which have given us much concern, and the spending of much dollars in the treatment and the loss of dollars to citizens of this State, especially because of the contracting of these diseases through, many cases, no fault of theirs.

And so, this bill, as you can see, has no penalty flaws. And the reason is that we want this bill to be a bill that will require people to come, and we want them to come. But, with a penalty, we feel it may be regressive and not get to the intent of the bill.

But I want to express to this body that this is a great concern for this State and I would like to ask members of this body to vote 'aye' on this bill."

The motion to pass H.B. No. 3012-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNICABLE DISEASES", on Third Reading was put by the Chair and carried by a vote of 49 ayes, with Representatives Baker and Naito being excused.

The Chair directed the Clerk to note that H.B. No. 2296-78, HD 1, had passed Third Reading at 11:16 o'clock a.m.; 2634-78 at 11:50 o'clock a.m.; 450, HD 1, at 11:53 o'clock a.m.; and 3012-78, HD 1, at 11:55 o'clock a.m.

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

The House of Representatives reconvened at 12:08 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 433 to 437) and concurrent resolutions (H.C.R. Nos. 87 and 88) were referred to the

Committee on Legislative Management and further action was deferred until tomorrow, March 9, 1978:

A resolution (H.R. No. 433) requesting the Department of Accounting and General Services to change its policy regarding the leasing of office space from the private sector to provide for longer lease terms was jointly offered by Representatives Segawa, Aki, Blair, Caldito, Cobb, Dods, Inaba, Kondo, Larsen, Mina, Morioka, Nakamura, Say, Takamine, Takamura, Ueoka, Uwaine, D. Yamada and K. Yamada.

A resolution (H.R. No. 434) requesting all food establishments and school cafeterias to post instructions on the Heimlich maneuver was jointly offered by Representatives Segawa, Shito, Aki, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Evans, Inaba, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Mizuguchi, Morioka, Nakamura, Narvaes, Say, Stanley, Sutton, Suwa, Toguchi, Uechi, Ueoka, Uwaine, D. Yamada, K. Yamada and Yuen.

A resolution (H.R. No. 435) expressing the support of the Hawaii State House of Representatives for development of a fair, firm, workable, and clear articulation policy for the University of Hawaii system was jointly offered by Representatives Takamura and Ushijima.

A resolution (H.R. No. 436) requesting the City and County of Honolulu to review and possibly amend its park dedication ordinance to assure that adequate parks and facilities accompany increases in population was jointly offered by Representatives Kawakami, Fong, Garcia, Peters and D. Yamada.

A resolution (H.R. No. 437) requesting the Department of Planning and Economic Development and Department of Budget and Finance to study and propose the establishment of a state economic planning system was jointly offered by Representatives Suwa, Caldito, Dods, Inaba, Kiyabu, Kunimura, Larsen, Lunasco, Mina, Morioka, Narvaes, Peters, Sutton and Takamura.

A concurrent resolution (H.C.R. No. 87) expressing the support of the Hawaii State Legislature for development of a fair, firm, workable, and clear articulation policy for the University of Hawaii system was jointly offered by Representatives Takamura and Ushijima.

A concurrent resolution (H.C.R.

No. 88) requesting the Department of Planning and Economic Development and Department of Budget and Finance to study and propose the establishment of a state economic planning system was jointly offered by Representatives Suwa, Caldito, Dods, Inaba, Kiyabu, Kunimura, Larsen, Lunasco, Mina, Morioka, Narvaes, Peters, Sutton and Takamura.

At 12:10 o'clock p.m., on motion by Representative Yuen, seconded by Representative Kamalii and carried, the House of Representatives stood in recess until 6:30 o'clock p.m. this evening.

EVENING SESSION

The House of Representatives reconvened at 6:40 o'clock p.m.

DEFERRED MATTERS FROM EARLIER ON THE CALENDAR

H.B. No. 3049-78, HD 1:

Representative D. Yamada moved that H.B. No. 3049-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Cobb.

Representative Kamalii then asked that the following be inserted into the Journal:

"Mr. Speaker, members of the House, I have been in favor of the intent of this bill for many years.

The transfer of the functions of the State fire marshal to the County fire chiefs and the development of a model fire code are long overdue.

As an island state, Hawaii has sometimes followed mainland patterns which are inappropriate to our physical situation. The State fire marshal was an example of this misapplied transfer. In areas where fire may be expected to cross different county and state jurisdictional lines, a state fire marshal may be necessary. County lines in Hawaii, however, can be defined as natural fire-breaks: we are separated by what ancient Hawaiians called the 'Eight Seas'.

Formulating a 'model fire code' which may be made more stringent by the county councils will also encourage simplified and increased compliance. The present duplication of codes, which are not identical, causes confusion and difficulty in compliance.

Further, because fire fighting methods and equipment are already county responsibilities, this bill formalizes a necessary combination of duty and accountability at one governmental level. I believe the public generally benefits when a single jurisdiction may be approached for change and improvement of services, particularly those services affecting public safety.

For these reasons, I urge passage of this bill."

The motion to pass H.B. No. 3049-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE MARSHAL", on Third Reading was put by the Chair and carried by a vote of 49 ayes, with Representatives Baker and Naito being excused.

H.B. No. 2085-78, HD 1:

Representative D. Yamada moved that H.B. No. 2085-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Cobb.

Representative Ikeda then rose and stated:

"I rise to speak in favor of H.B. No. 2085-78, but with reservations.

The purpose of this bill is to curb unlicensed contracting activities through the use of building permits. It requires the county to verify whether the license is current in all instances, whether or not the contractor or sub-contractor presents a license to the county at the time of requesting the building permit. The county must also verify that the applicant is in fact the contractor or sub-contractor so licensed.

Mr. Speaker, the intent of this bill is commendable. However, it places a tremendous burden on the counties and will result in adding another delay to the building process. It will also require contractors to appear in person to obtain a building permit. This no doubt will be an inconvenience. Mr. Speaker, I really don't believe that this is really our intent.

The other part of this measure would restrict the homeowner/builder exemption only to those buildings which are for personal use and not for use and occupancy by the general public. I believe that this provision is necessary to curb abuses of this

exemption.

So while I have reservations about portions of this bill, I do agree with its intent and therefore will vote in favor of this measure.

Thank you, Mr. Speaker."

The motion to pass H.B. No. 2085-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUILDING PERMIT", on Third Reading was put by the Chair and carried by a vote of 46 ayes to 3 noes, with Representatives Ajifu, Say and Sutton voting no, and Representatives Baker and Naito being excused.

H.B. No. 2444-78, HD 1:

On motion by Representative Suwa, seconded by Representative Peters and carried, H.B. No. 2444-78, HD 1, was recommitted to the Committee on Finance.

The Chair directed the Clerk to note that H.B. No. 3049-78, HD 1, had passed Third Reading at 6:42 o'clock p.m., and H.B. No. 2085-78, HD 1, at 6:44 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Kunimura, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 621-78) informing the House that House Resolution Nos. 416 to 421 and House Standing Committee Report Nos. 589-78 to 619-78 have been printed and distributed.

On motion by Representative Kunimura, seconded by Representative Lunasco and carried, the report of the Committee was adopted.

Representative Suwa, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 622-78) recommending that H.B. No. 3039-78, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Suwa, seconded by Representative Peters and carried, the report of the Committee was adopted and H.B. No. 3039-78, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR THE FISCAL BIENNIIUM JULY 1, 1977 TO JUNE 30, 1979", passed Second Reading and was placed on the calendar for Third Reading tomorrow, March 9, 1978.

The Chair directed the Clerk to note that printed copies of H.B. No.

3039-78, HD 1, were made available to the members of the House at 6:30 o'clock p.m.

At 6:45 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:47 o'clock p.m.

UNFINISHED BUSINESS

Stand. Com. Rep. No. 603-78 on H.B. No. 2054-78, HD 1 (Deferred from March 7, 1978):

On motion by Representative Garcia, seconded by Representative K. Yamada and carried, the report of the Committee was adopted and H.B. No. 2054-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE", having been read throughout, passed Third Reading by a vote of 50 ayes, with Representative Baker being excused.

Stand. Com. Rep. No. 616-78 on H.B. No. 2307-78, HD 1 (Deferred from March 7, 1978):

Representative Garcia moved that the report of the majority of the Committee be adopted and that H.B. No. 2307-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Yuen.

Representative Sutton then rose and asked:

"Would the chairman yield to a question, the chairman of the Judiciary?"

Representative Garcia replied:

"Depends on the question, yes."

Representative Sutton then asked:

"Sir, I am interested in what the definition of an automatic rifle is."

Representative Garcia answered:

"The Hawaii Revised Statutes' definition would conform to the federal definition that's found in the Alcohol and Drugs Act. So the different classifications are those that are classified in that federal statute.

I would assume that he is referring to automatic weapons - what would be classified as an automatic weapon."

Representative Sutton then asked:

"And do you incorporate by reference the Federal Firearms Act?"

Representative Garcia answered:

"No, we don't, Mr. Speaker."

Representative Sutton then stated:

"Thank you very much."

I rise to speak in favor of this bill.

Mr. Speaker, one of the most insidious crimes that there is is a crime of armed robbery, armed with a machine gun, automatic rifle, or a silencer, and this particular bill is a great step forward and is something that has been needed as a provision to our Hawaii Penal Code.

I would like to commend the chairman and the members of the Judiciary Committee in putting this fine bill before us, and I would urge my colleagues to take an affirmative vote on this excellent statute."

The motion was put by the Chair and carried and the report of the majority of the Committee was adopted and H.B. No. 2307-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS, AMMUNITION, AND DANGEROUS WEAPONS", having been read throughout, passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Cayetano, Peters, Ueoka and K. Yamada voting no, and Representative Baker being excused.

Stand. Com. Rep. No. 617-78 on H.B. No. 1857-78, HD 2 (Deferred from March 7, 1978):

Representative Garcia moved that the report of the majority of the Committee be adopted and that H.B. No. 1857-78, HD 2, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Ikeda then rose to speak in favor of the bill, stating:

"While I am in favor of the basic concept of regulating motor-driven bicycles, I am also concerned with the bill's possible effects; therefore, I support this bill with reservations.

Since this bill classifies mopeds as motor vehicles, owners must buy no-fault insurance, and no one is sure of the cost of this insurance or whether it will be available at all, which could mean that owning a moped could become an expensive inconvenience.

On the other hand, I cannot argue the need for providing for some type of insurance coverage in the event of an accident. So, I can only hope that this requirement does result in adequate coverage at modest rates.

I am by no means suggesting that regulation is not needed, for present abuses by moped drivers endanger many. The stronger regulations spelled out in this bill will reduce hazards to moped drivers, other motorists and to pedestrians.

So, while I sympathize with the present owners of mopeds and philosophically disagree with creating another 'captive market' for no-fault insurance, I believe that the amended version of this bill before us is desirable and should be passed.

Thank you."

Speaking against the measure, Representative Naito stated:

"I agree that regulations for mopeds are needed, but I think that this bill runs far beyond what was needed in this particular instance.

I have a situation - a constituent called me, and I would like to share this with you folks. This gentleman, who is 75 years old, has a son, who is 33, who is slightly retarded. The young man is able, however, to work and has been able to work as a messenger in Waikiki. He is able to drive a moped - he's quite competent and able to drive a moped. He, however, has difficulty in reading and writing. In terms of taking the driver's test, there is no way that the man could pass the driver's test. This particular measure would not only affect him, but it would affect probably a number of other people like this.

In addition, another objection that I have to this particular bill is getting driver's licenses for 15 year olds. Mr. Speaker, I don't think that that's a particularly good thing. I don't think that this is something that we should necessarily push. I, personally, feel that the age for driver's licenses should be lifted rather than lowered, or at least rather than encouraged at the age of 15. All of those children who are now using mopeds would now have to go and get driver's licenses, which would put a lot more people of the age of 15 on the road, in cars, at least giving them that possibility.

For those reasons, and also because the question of insurance has not

been satisfactorily answered, at least to my satisfaction, I, therefore, would urge my colleagues to vote against this measure.

Thank you."

Representative Takamura, speaking in favor of the bill, stated:

"We passed this bill in a previous year, and it was unfortunate that it didn't make it through, and we're talking about it again.

I think it's very important for us to remove mopeds from the classification of bicycles, which is where it is presently. I think that many of us have seen these mopeds as they zip around the streets in ever increasing numbers. And I think that many of us are aware of the fact that these vehicles, and they are vehicles, can operate at a considerable speed. And we've received, during the course of our hearings, testimony from the Police Department which stated that there was a dramatic increase in the number of accidents involving mopeds. The police also cited a couple of incidences where a pedestrian or a person, I think in this case it was a person, alighting from a bus was almost very seriously injured by a moped and the only reason that person got insurance coverage was because, I guess, part of his foot was still attached to the bus, so they were able to get him some insurance.

I think it's these kind of considerations that we have to look at, which is the protection of the majority of the people, particularly the people that are walking and are not on any kind of vehicle. I think it's very important that while we should have some concern for the minority of people, I think we should have some compassion for some of the incidences that the previous speaker brought out.

I think, in this particular instance, the good of the majority must prevail, and I think it's important for us to pass this bill. I must admit that I do have some reservations, because in the definition of a moped we did remove the pedals which I thought was an important addition. But, unfortunately, that view did not prevail. So, I do support this bill and I urge everyone to vote for it."

Speaking in favor of it, Representative Abercrombie stated:

"The reason I'd like to speak in favor of it is I originated the moped bill in 1975. I didn't know anything

about 'em. A constituent of mine, when I was campaigning, indicated to me, living in Manoa, going up and down hills, that this little bike, he called it, I didn't even know the name moped, was something really terrific and we ought to get out there and try and do it.

If we can get it redefined as a bicycle, why then a lot more people could use it. And so, we labored through those members who were here in the House at that time. Remember, we, under then Judiciary chairman Stan Roehrig from the Big Island, we labored through this whole business with the pedals and the motor and 1 3/4 horsepower, and I thought I was dealing with a Toro lawnmower or something by the time we got through. In any event, we were able to do this, to get this bicycle definition in with the moped.

Now, the reason I'm speaking about this historically is that the fact of the matter is that since that time, in their introduction, I think they have become a valuable source, an alternate source of transportation, and should be encouraged. However, like any other law that should pass, or anything else that you hope for, it doesn't always work the way that you want it to work out, or problems arise from it that you either didn't anticipate or hoped wouldn't happen. That's why I'm for the bill as it is. It is changing in certain respects and certain fundamental respects, I guess, the whole idea that we passed in 1975, but it changes it in a way that, I think, meets the realistic conditions of today, including the insurance circumstances.

The fact of the matter is that some people on the mopeds haven't utilized them in a fashion that has aided and assisted other responsible people who are utilizing the mopeds so that we could prevent this kind of legislation being here today. I hope that this is not going to be construed as some way of getting rid of mopeds. I hope this will encourage it.

I know there's an insurance problem on this situation, and I'm counting on the vice speaker to handle that for me and work all this out in the future. So, I'd like everybody to vote for it so that we can continue to have the mopeds and have them under circumstances that are publicly acceptable and not put them under the circumstances they should not be which is this motorcycle category and so on. They can take it right back to ground zero."

Representative Dods, upon being recognized, stated:

"Mr. Speaker, I'd like to rise to speak in favor of it with reservations, and I'd have to say with reservations even though I'm co-introducer of this bill with Representative Cayetano.

I disagree that we're creating a haven for the insurance industry by passing this, because if the people attended the testimonies or the hearings on this, I was totally against putting insurance regulations in at this time. But, I think the idea for the mopeds came about because of the increased concern for safety and that inaccurate use of mopeds in residential subdivisions where very young children are riding it and disregarding the safety and concern of everyone else.

These are the kind of things, I think, that we really have to look at when we pass laws such as this, and I'd weigh my reservations because I think the bill in itself is a very good bill and would cut out a lot of the problems that we have in the residential subdivisions.

I urge all to support this bill."

Representative Uwaine then rose to "make a short statement in favor of this bill", stating:

"Mr. Speaker, I'd just like to enter the same comments my colleague from the 12th District has.

I'd just like to further elaborate the fact of the driver's license. Much of the consideration of the Committee, which wasn't pointed out in the committee report, as far as the driver's license was concerned, our major concern was that the driver of a motor-driven bicycle be familiar with the rules and regulations of the roads. That was the major concern of the Committee.

Thank you."

Representative Sutton rose to speak against the bill, stating:

"Mr. Speaker, a rose by any other name is a rose. That's fine. But, on page four we define moped - 'Moped means a vehicle upon which a person may ride which has two or three wheels in contact with the ground, and a motor which produces one and one-half horsepower or less'.

Now, Mr. Speaker, I just don't feel that is good statutory draftsmanship. Were they to read and say, you know, like a riddle and not tell me it as a

moped, I would have five or six guesses before I came up with the idea of a moped, because I do not find an identifying concept in that definition.

And because this definition is so poorly drawn up, I would urge my colleagues to ask this to be recommitted, redefined and defined in such a way that it does not have that vagueness which might later prove that it did not have force and effect.

Thank you."

Representative Cayetano, speaking in favor of the bill, stated:

"Specifically, Mr. Speaker, I would just like to address myself to the concerns raised by the representative from Nuuanu. He did cite the definition on page four, but I have a feeling he's not read the rest of the bill. On page twenty, for the members' attention, from line 22, where it says 'moped equipment requirements', the definition, which goes on to 21, 22 and 23, becomes quite definite and specific."

The motion was put by the Chair and carried and the report of the majority of the Committee was adopted and H.B. No. 1857-78, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR-DRIVEN BICYCLES", having been read throughout, passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Ajifu, Lunasco, Naito and Sutton voting no, and Representative Baker being excused.

The Chair directed the Clerk to note that H.B. No. 2054-78, HD 1, had passed Third Reading at 6:47 o'clock p.m.; 2307-78, HD 1, at 6:50 o'clock p.m.; and 1857-78, HD 2, at 7:03 o'clock p.m.

At 7:04 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 7:05 o'clock p.m.

THIRD READING

The following bills, which were on the calendar for Third Reading, were read throughout and the following actions taken:

H.B. No. 1875-78, HD 1:

On motion by Representative Garcia, seconded by Representative K. Yamada and carried, H.B. No. 1875-78, HD 1, was recommitted to the Committee

on Judiciary because the "Senate Bill has come over".

H.B. No. 2469-78, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

H.B. No. 2118-78, HD 1:

Representative Garcia moved that H.B. No. 2118-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Ikeda then rose to speak in favor of the bill, stating:

"Mr. Speaker, this bill provides that a person, in soliciting funds from the public, shall not do so by accosting, impeding or inconveniencing the public.

Mr. Speaker, there have been numerous instances where the aggressive demands for contributions by certain organizations have become a nuisance and a source of annoyance not only to tourists but to residents as well. For example, I have been approached for contributions as I waited for a traffic signal to change to permit my turning left at an intersection. I also observed a young man in a motorized wheelchair begging on Fort Street Mall during the lunch hour on many occasions. And I don't have to remind you of the numerous instances where foreign and domestic tourists have been victimized.

Mr. Speaker, the vagueness of the present law has made it difficult for the police to regulate this behavior which has been the source of numerous complaints by both tourists and local residents who have encountered such harassment techniques.

House Bill No. 2118-78, HD 1, clarifies present statutes and, in doing so, will permit the Police Department to take the actions necessary to curb offensive behavior.

Mr. Speaker, this bill does not intend to suppress any person's or organization's constitutional rights. It does, however, address the concern for actions that are deemed disorderly, deceitful and breach the peace and serenity of the public.

The Attorney General's office has determined that this bill, as written, is not unconstitutional for vagueness, overbreadth, and does not restrict the freedoms of movement or religion.

Peddling and soliciting is a privilege which should not be abused, but unfortunately has been. Therefore, I sincerely urge you to vote in support of this measure.

Thank you."

The motion to pass H.B. No. 2118-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLICITING, PEDDLING, AND DISORDERLY CONDUCT", on Third Reading was put by the Chair and carried by a vote of 50 ayes, with Representative Baker being excused.

H.B. No. 2845-78:

Representative Peters moved that H.B. No. 2845-78, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Carroll then rose and asked:

"Mr. Speaker, would the chairman of the Judiciary yield to a question on this, please?"

The Chair then asked:

"Representative Garcia, will you yield?"

Representative Garcia replied:

"Yes, I will."

Representative Carroll then asked:

"My question, Mr. Speaker, is whether or not this particular bill will empower our State harbor police to act according to the terms of this measure? In other words, would they be included in the security police?"

Representative Garcia replied:

"There was no mention of it in the testimony as far as we know. This bill was designated primarily for the State capitol security officers."

The motion to pass H.B. No. 2845-78, entitled: "A BILL FOR AN ACT RELATING TO STATE LAW ENFORCEMENT", on Third Reading was put by the Chair and carried by a vote of 50 ayes, with Representative Baker being excused.

H.B. No. 1879-78, HD 1:

On motion by Representative Garcia, seconded by Representative K. Yamada, H.B. No. 1879-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE TRAFFIC CODE CONCERNING PENALTIES", passed Third Reading by a vote of 49 ayes to 1 no, with Representative Abercrombie voting no, and Representative Baker being excused.

The Chair directed the Clerk to note that H.B. No. 2118-78, HD 1, had passed Third Reading at 7:08 o'clock p.m.; 2845-78 at 7:09 o'clock p.m.; and 1879-78, HD 1, at 7:11 o'clock p.m.

At 7:11 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 7:16 o'clock p.m.

DEFERRED MATTERS FROM EARLIER IN THE CALENDAR

H.B. No. 2469-78, HD 1:

Representative Garcia moved that H.B. No. 2469-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

At 7:17 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 7:25 o'clock p.m., Representative Sutton rose to speak in favor of the bill, asking:

"Mr. Speaker, before I begin, can I have one inquiry of the chairman?"

The Chair then asked:

"Representative Garcia, will you yield?"

Representative Garcia replied in the negative, so the Chair directed Representative Sutton to "proceed with your argument".

Representative Sutton then stated:

"Mr. Speaker, there is a growing public concern with the entire criminal justice system in America, and particularly in Hawaii. It has been said that it is the system that operates with a few and hard and fast rules, with only the most vague and undefined standards of conduct, either for the people who administer it or the people who are subject to it. The criminal justice system is often the object of public outrage as we have seen recently.

Many members of the public want the bank robber and other violent criminals, the one who attacks an elderly citizen, the one that commits rape, the one that murders, the one that kills a police officer, to have maximum sentences. But, no matter how much pressure is applied to make this system more certain and more predictable, the effort seems to have no effect.

Mr. Speaker, it would be in the best interest of society to limit the control and discretion that . . .
."

Representative Abercrombie, at this time, interrupted on a point of information.

The Chair then stated:

"While the debate is going on, the Chair will have to declare your point of information out of order."

Representative Abercrombie then stated:

"Point of order."

The Chair asked Representative Abercrombie to "state your point of order".

Representative Abercrombie replied:

"Is it permissible to quote someone without stating the source of the quote during debate in an attempt to convince the members one way or the other?"

At 7:28 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 7:31 o'clock p.m., Representative Abercrombie stated:

"Mr. Speaker, I would like to withdraw my point of order."

The Chair then directed Representative Sutton to "proceed".

Representative Sutton continued, stating:

"Mr. Speaker, the great difficulty with our criminal justice system is that prosecutors have had so much discretion: Shall we bring a particular indictment? Shall we go ahead and proceed on this case? Shall we have plea bargain?

And we go to the next stage, the

administrators of our prison system, they have immense discretion.

And then our whole parole system gives another broad range.

We find ourselves in utter frustration. That's why this bill is a magnificent piece of statutory legislation, because it takes that discretion away from the prosecutor, from the judge, from the prison administrator, and from the parole board, and puts it down in black and white: these are the rules and regulations; these are the minimum sentences; these are the ex-sentences.

Now, this is a new concept, this idea of saying that we should have life as a mandatory sentence in the following cases, mandatory - a peace officer: the killing of a police officer while in the performance of his duties; a person known by the defendant to be a witness; a person by a hired killer, in which event both the person hired and the person responsible for the hiring, similar to the Kuriyama killing here - shall be punished for a life imprisonment and a mandatory sentence. It is unfortunate that they did not include the killing of an innocent victim in an armed robbery. That, subsequently, can be amended and we can add that.

We have also seen in this particular bill taking care of the three time loser, the habitual criminal, and forcing mandatory sentences there.

This is an excellent bill and will go a long ways to achieving justice in Hawaii. I would urge all of my colleagues to vote in favor of this bill.

Thank you."

Representative Naito then rose to speak against the bill, stating:

"Mr. Speaker, the public, as well as the Legislature, is most concerned about crime in Hawaii, but the regressive solutions for reducing crime that have emerged from the Judiciary Committee during this session are not solutions at all but scare tactics and an emotional play on the public's terror of crime and desire for retribution. Although this might make for good election politics, it is in my opinion, the most irresponsible act that legislators can perform.

Like the rest of us here, I am also concerned about crime and want to reduce it, but the bill that we have before us does nothing to address that problem. What it does is create

an even greater crime problem and criminal element for the State of Hawaii.

Frankly, I am at a loss as to how this particular bill got out of committee. It is ill-considered, illogical, and completely objectionable on many grounds. One of the major elements of the bill is the elimination of any discretion on the part of the courts and even the prosecutors or the Parole Board for the new Class X felons. The bill even fails to meet its own objectives. The Judiciary Committee says in its report: 'Your Committee finds that it would be in the best interests of society to limit or control discretion: The discretion of prosecutors to choose charges and plea bargain; the discretion of the judges to choose any sentence within a broad range of time; the discretion of prison administrators to decide what kind of treatment a prisoner needs to make him law-abiding; the discretion of parole boards to release, or not to release, prisoners without ever having to justify, or try to render consistent, their decisions.'

This bill indeed will limit judicial and parole board discretion, but only in the kinds and lengths of sentences given to Class X felony offenders. In other words, it prohibits judges and parole board members - those who are closest to the situation - from considering the particular circumstances surrounding the crime or the offender's efforts at rehabilitation. It tells the offender, in effect, we don't care how you got involved in this crime or even if there's an excellent chance that you'd never do it again. What it says is: You were involved and you are going to pay for it with at least ten or twenty years of your life.

What this measure actually will do is encourage even more plea bargaining by prosecutors, and by doing so, take away judicial discretion. While forbidding a reduction of sentences because of mitigating circumstances surrounding a crime or because an offender is truly repentant, this bill will encourage a reduction of sentences in cases where prosecution is difficult. This measure will not help put away the professional or the syndicate criminal; he can afford a high-priced defense attorney. It will make it hard on the poor, the first-time offender, the one who has the best chance of rehabilitation.

My next objection is that the bill will hamstring efforts at any chance to rehabilitate the offender. Study

after study has shown that excessively long prison sentences - such as the ones proposed by this bill - do nothing to rehabilitate offenders but rather have the completely opposite effect. The longer the inmate remains in prison, the greater are his chances of recidivism. In addition, this measure would remove any incentive for an offender to reform. No matter what he does, how he behaves, the Class X felony offender knows he is going to sit in prison for at least ten or twenty years. So why should he try to reform? Let me ask you: What good does it do to keep an offender imprisoned for years after he could possibly be reintegrated back into the community, years after he is no longer a danger to society or himself? This bill, I submit, is based on blind retribution, and nothing more.

In addition, Mr. Speaker, perhaps you can explain how the mandatory institutionalization of an inmate for ten or twenty years, with no incentive to improve his lot, can help society. Envision, if you can, a man or woman sitting and rotting in a cell for all the years with nothing but time on his hands and hatred on his mind. And then, one day, he magically returns to the community. Can you imagine what kind of an animal he or she has become by that time? What kind of an animal we've created by such legislation as this? And, can you imagine what the effect of the release of such a person would have on the crime rate in Hawaii? It is a horror to conceive!

Another objection - and perhaps one of the strongest - is that the penalties in this bill do not fit the crime. I fail to see how a 20-year old who sells some hashish to his friends deserves the same mandatory term as someone who commits murder or who shoots an innocent bystander during a robbery. Where is the logic? The fact is that there is none. These offenses seem to be pulled out of a hat from somewhere. The net effect of this bill will be the same as our marijuana laws; it fosters disrespect, cynicism and even hatred for our criminal justice system, our courts, the legislature and our government.

Another major objection, Mr. Speaker, is that this bill completely negates the concepts of the Hawaii Penal Code and the Correctional Master Plan, both of which were passed by this body not too many years ago. The master plan, in particular, stresses individual treatment of the offender and his reintegration into society as soon as practicable. Ten or twenty years in prison, in most cases, doesn't quite cut it. There is not much to

return to after all those years and, again, where is the incentive to reform?

Mr. Speaker, I have been one of the most major critics of our Hawaii Correctional Master Plan and our Corrections Division. The need for improvement is immense. In our committee, over the last two years, we have been attempting to seek solutions to make Hawaii a safer place to live, to reduce crime and to try and salvage at least some of those inmates who are salvagable. This bill is a step backward, not of 20 or 30 years, but of 100 or 200 years of penology, a step back into the dark ages, and it's a sad day in Hawaii indeed that we can even conceive of such a measure.

Another most major objection to this bill will be the mushroom effect of the inmate population to an inconceivable extent. We have all read projections that show our inmate population continues to rise. Without changes in programs, such as more diversion out of the system, more in-community programs, work release, and restitution to victims, the prison population will totally overflow our prisons even before completed. The passage of this bill guarantees that in a very short time these facilities will be not only over-populated enormously, but to the boiling point. Right now there are nearly 150 inmates in prison who could possibly qualify for conviction under a Class X felony, and each year roughly 50 more enter the system also under that Class X felony. If each of these offenders must serve a minimum of ten or twenty years before he is eligible for parole, we are indeed in serious trouble.

Overcrowding is already the case right now. This bill will exacerbate the situation to the point of unlivable and despicable conditions as has been the case in many other states where the federal courts have had to step in to condemn these overcrowded facilities.

The results, Mr. Speaker, is that if this bill were to pass, the \$30,000,000 that's already down the tubes in prison construction and the over \$25,000,000 biennium operating budget will be a mere drop in the bucket compared to the millions and millions of dollars in costs as a result of the vast, long term increase of prison inmate population that we'd see. When our taxpayers are pleading for more

child care money and less prisons, how are the supporters of this bill going to answer.

Mr. Speaker, I consider this bill before us the most despicable piece of legislation I have seen on the floor of this House in my four years in office."

Representative Abercrombie then rose on a point of information, asking:

"Would you ask the first speaker against the bill, from Nuuanu, from whence he derived the quotation that he directed to the members of this body in his attempt to convince them to vote for the bill?"

The Chair then asked:

"Representative Sutton, will you yield to the question?"

Representative Sutton replied in the negative.

Representative Medeiros, speaking in favor of the bill, stated:

"The standing committee report is absolutely correct when it says 'there is a growing public concern with the American criminal justice system in which nothing is certain'. The public is concerned!

Every day we see people who have committed serious crimes get off with light sentencing; some of them repeat offenders. Criminals who are paroled, who were supposed to have been in jail for 'life', are now going free. The system is totally unpredictable. No wonder the public is baffled, disturbed, and feels betrayed.

It is time that society be protected by limiting this discretionary power - the discretionary powers of judges to choose sentencing; the discretionary powers of the prosecutors to plea bargain; the discretionary powers of parole boards to release or not to release prisoners.

The existence of so much discretionary powers has led to its abuse and to inconsistencies that have alarmed and, in some cases, literally outraged the public, thousands and thousands of law-abiding citizens who are bewildered, offended and made cynical by our criminal justice system.

Among other things this bill creates a new class of felonies - Class X. A Class X conviction results in a mandatory minimum sentence of ten years subject to a maximum of twenty years. Fines,

probations, suspension of sentence in lieu of imprisonment will not be permitted. Class X felonies includes murder and first degree convictions of assault, rape, robberies, promoting dangerous drugs, promoting harmful drugs.

The bill also provides a mandatory life sentence without possibility of parole where a person is convicted of Class X felonies, who has two prior convictions of any Class X felony in his jurisdiction or other jurisdictions. Repeat offenders will not be turned loose to commit another crime after they have been convicted of three X felonies. Remember, we are talking about serious crimes - murders, rapes, assault, robbery and promoting dangerous drugs.

The time has come to restore credibility to the American system of justice, to make it predictable, consistent, and to bring an end to the abuse of discretionary powers. Determinate sentences will do that. I urge that we respond to the wide-spread, ever-growing public concern with the passage of this bill.

Join me in voting 'aye' on this bill.

Thank you."

Representative Abercrombie, on a point of information, asked:

"Would the last speaker cite the instances that he refers to in respect of people being on the street, who have been convicted for life sentences, and cite in addition, should they exist, what the relationship between those instances are in our criminal conviction rate and our imprisonment rate?"

The Chair then asked:

"Representative Medeiros, will you yield to that question?"

Representative Medeiros replied:

"Mr. Speaker, being that the representative from Manoa has asked a complex question, and very involved, may I ask for a recess at this point?"

At 7:48 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 7:50 o'clock p.m.

Representative Stanley then rose to speak against the bill, stating:

"I would like to bring the attention of my colleagues to what I think is the problem and the solution. We have a problem of crime, and I think before us today is a bill, it is not a solution. I don't think that by creating the Class X felony we're going to have fewer criminals on our streets or there's going to be a reduction in crime. I think we have to look at it - our society and why we have crime - in a much broader perspective, and then look at some of the causes.

One of the reasons I don't think that this bill will work is that there will be plea bargaining, and people won't be sentenced under this, and they will be sentenced for lesser sentences, and under the lesser sentences will be able to return to the street. So, I don't think it's going to accomplish the purposes of punishment of putting people away.

Now, I believe that punishment is a court approach to the problem of crime. Yet, for punishment to be effective, it has to be immediate and it has to be certain. Our present system doesn't provide that, and to lead the public to believe that it does, I think, is irresponsible on our part. In so many of these bills that we've heard, and particularly this one, I think, holds out false hope that crime, in any sense, is going to go down or even the people are going to be effectively punished. If they're not, we should look to other alternatives and other approaches and improve the prosecution and look at our sentencing from another perspective.

I urge all my colleagues to vote 'no'. Thank you."

Representative Lunasco, upon being recognized, stated:

"Mr. Speaker, I rise to speak in favor of this bill briefly, agreeing with some of the comments made by speakers who spoke against the bill, especially the chairman of the Corrections.

Mr. Speaker, I, too, had the pleasure of chairing the Corrections Committee many years ago. But looking at it realistically, there are some people, whether we like it or not, who cannot be rehabilitated. What do you do with them? Release them?

Mr. Speaker, I think we're past that stage of turning the other cheek. If we didn't have a problem, believe me, this bill wouldn't be before us today. Our courts, in many cases,

have been very lenient because we've been catching the flack here from the general public screaming bloody murder at us as to why a convicted felon, who serves a few months and gets out, or is put on probation - the whole shot. You just name it.

Mr. Speaker, I agree that this will not deter crime because crime today has been, you know, a profitable business. But, I think those who are engaging in those crimes now can look at the law today and say, hey, you know, if we do that, we're going to have a mandatory sentence and not be, you know, left up to the judge.

I think, Mr. Speaker, the general public demands safe streets, and especially their homes. Today, you know, the unrest in our community, especially even in their own homes, is frightening. They don't know where to turn. They've come down here and begged with us to do something. And, personally, Mr. Speaker, you know, I've been a very passive person, but I think enough is enough, and we just got to put a stop to it."

Speaking in favor of the bill, Representative K. Yamada stated:

"Mr. Speaker, I think a great number of the concerns which were expressed here could have been answered if those individuals who spoke against the bill took a very close look at the bill. If we were to examine the bill, we'd look at only certain types of crimes, Mr. Speaker, not all crimes, just certain types. And if you look further, these are all Class A felonies which carries imprisonment up to 20 years, plus a fine, in addition, as the court deems necessary. But these are all Class A felonies, again, Mr. Speaker, and I'd like to stress that. Class A felonies carry a punishment of up to 20 years.

If we look at the specific crimes - murder, assault in the first degree - although it sounds very neutral at this point in the bill itself, Mr. Speaker, if you look at the definition of assault in the first degree, it says that a person who commits the offense of assault in the first degree, if he intentionally or knowingly caused serious bodily injury to another; serious bodily injury, Mr. Speaker, and knowingly or intentionally done to another person. And, again, the Penal Code says that this is a Class A felony.

If we look further, Mr. Speaker, and I think you will agree with me as well as the other speakers, that

if you look at each of the crimes involved, these are very heinous types of crimes, Mr. Speaker - rape, sodomy in the first degree, robbery in the first degree, promoting a detrimental drug in the first degree. And if you look at the statute under these two sections, Mr. Speaker, you will find that in essence what the statute deals with, the Penal Code section deals with, is the pusher; it's not the user, the pusher. And this is the spirit of our society - they live on the handicap of others, those who are addicted to certain types of drugs. It's always been my position, Mr. Speaker, that this is the worst kind of crime that could ever happen in our society, and that's why if we take a close look at each one of the felonies - Class A felonies - Mr. Speaker, again, I stress that these are very heinous types of crimes.

I would also like to comment on some of the previous speakers' comments, Mr. Speaker. They talk about the mushrooming effect in our prisons. Well, if that's the case, Mr. Speaker, should we condition our sentences based on whether there's going to be enough room in the prisons or not? Is that what justice is, availability of space like in a hotel? I don't think it should be, Mr. Speaker.

That speaker also suggested that punishment ought to fit the crime. Well, we're doing that, Mr. Speaker, just that. As far as the ten to fifteen years that they suggested earlier, that we're going to create animals, Mr. Speaker, well, it lies in the face of our correctional system, the theories of correction. We're supposed to rehabilitate, and if we take the suggestion of the speaker that we ought not to incarcerate them for ten to fifteen years, well, Mr. Speaker, should we release all of our criminals? The idea of corrections is rehabilitation. And, especially where heinous crimes are involved, the length of incarceration should be longer, and that's the problem that this bill faces and addresses.

So, on the whole, Mr. Speaker, I think the bill is a good one, and I'd like to make this last comment, that same speaker also suggested that it's going to make it hard on the poor. Now, Mr. Speaker, I'm sure you'll recognize, and so will the rest of this body, that we have given great sums of money to the public defender's office. The attorneys who are involved in the public defender's office are very sharp. As a matter of fact, Mr. Speaker, at times, I would think that they're better than the attorneys in the prosecutor's

office. Mr. Speaker, with that kind of attorneys available, any individual, whether he is poor or rich, is going to get a good representation in court by attorneys. If that's the case, Mr. Speaker, I think we ought to pass this bill."

Representative Abercrombie then rose and asked:

"Would the previous speaker yield to two questions?"

Representative K. Yamada replied:

"Mr. Speaker, no."

Representative Abercrombie then asked:

"Mr. Speaker, will the chairman of the Judiciary Committee yield to a question in respect of the dangerous drug and harmful drug?"

Representative Garcia replied:

"Yes, I will."

Representative Abercrombie then asked:

"Could you ask the chairman of the Judiciary what is the minimum that it takes to be convicted for promoting a dangerous drug in the first degree, and what is or are a dangerous drug in the first degree?"

Representative Garcia replied:

"I believe there are classifications of three drugs in Schedule One - heroin, cocaine, and another drug."

Representative Abercrombie then asked:

"I asked what is the minimum it takes to be promoting this dangerous drug?"

Representative Garcia answered:

"Mr. Speaker, any amount."

Representative Abercrombie then asked:

"Any amount? Now, Mr. Speaker, could we have a recess so that the chairman of the Judiciary can find out what the other drug is?"

At 8:00 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 8:07 o'clock

p.m., the Vice Speaker assumed the rostrum.

Representative Garcia then rose and stated:

"Mr. Speaker, according to Section 712, Hawaii Revised Statutes 1241, the other compound that's included in that is morphine."

The Chair then asked:

"Representative Abercrombie, does that answer your question?"

Representative Abercrombie replied:

"No, I want to make sure I understand that in respect of morphine, heroin and cocaine - is selling it in any amount constitute promoting in the first degree?"

Representative Garcia then replied:

"Mr. Speaker, if you're selling any amount to a minor, who is at least three years your junior. In other words, the seller who sells it to a person who's three years his junior, any amount, that is correct. It would be considered promoting a dangerous drug in the first degree."

Representative Abercrombie queried:

"Minor?"

Representative Garcia replied:

"According to the statute, any to a minor who is at least three years his junior, yes."

Representative Abercrombie then asked:

"Now, Mr. Speaker, would the Judiciary chairman yield? I believe he did say he'll yield to the second question on a harmful drug."

The Chair then asked:

"Representative Garcia, will you yield?"

Representative Garcia replied:

"Mr. Speaker, I will if I can answer the question, sure."

Representative Abercrombie then asked:

"I would like to know the same question: What constitutes a harmful drug under this section, and what constitutes promoting it in the first degree?"

Representative Garcia replied:

"Mr. Speaker, he can easily find this out by looking at the Hawaii Revised Statutes, page 44 - it's spelled out very clearly on pages 44 and 45 for him to look at. It spells it out in detail."

Representative Abercrombie asked:

"Is that the answer?"

The Chair replied:

"I believe so, Representative Abercrombie."

Representative Abercrombie then stated:

"Very well, I'll ask for a recess."

At 8:10 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 8:16 o'clock p.m., the Chair recognized Representative Abercrombie, who rose and stated:

"Yes, the reason for the recess was. . . I requested for the recess was that, perhaps during that time, the Judiciary chairman could answer the question I had asked, and I believe he has graciously consented to do so,"

Representative Garcia then stated:

"Mr. Speaker, the definition of a harmful drug, under Section 712-1240 of the Hawaii Revised Statutes, means 'any substance or immediate precursor defined or specified as a 'Schedule III substance' or a Schedule IV substance' by Chapter 329, or any marijuana concentrate except marijuana'."

Representative Abercrombie then stated:

"And the promoting is the same, I understand."

Thank you."

Representative Larsen, upon being recognized, stated:

"Mr. Speaker, I'd like to rise to speak against this bill, with reservations."

Mr. Speaker, I know that there is a problem in this State. We've all recognized it. We've been talking about it - about guys walking around who have gotten out of prison with the prospect of maybe committing an additional crime. And this bothers everyone. It bothers me also. When

we have a statute like this come before us, which includes rape, murder, sodomy, and all the rest of these things, and you have also in the same category of mandatory ten year sentences and so forth of promoting drugs, some of which I know my two children have used, this bothers me a great deal. I also know that many people in my area, a very wealthy area, living out on that side of the island, also use these drugs on a regular basis. And I'm sure that many of those people wouldn't fit too well into a prison system for ten or twenty years.

Talk about rehabilitation, or anything else, the two problems that we're faced with of locking up criminals who should be locked up - okay, that's fine, but when we mix that in with a socially denigrated, but a socially participatory thing like taking cocaine throughout the major part of our community right now . . . now, whether we want to admit it or not, it's going on, and this is the thing that bothers me, to the point where I don't see how we can pass a bill like this.

Now, I'm sure we'll get an argument - well, the judge will use discretion and he will not lock up somebody who just uses cocaine and maybe sells one snuff or two snuffs to some of his friends. This is where we get into a problem with this Act. On this basis, Mr. Speaker, I have to vote 'no' on this, and I think everyone in this room who also has friends, who have friends who use cocaine, should think about this a great deal before they vote this bill up.

Thank you."

Representative Abercrombie, speaking against the bill, stated:

"Mr. Speaker, the reason that the government of the State in particular is looked upon with disdain by many young people, the reason that when one goes to a school to speak with the students there that they are often disinterested in the fact that a legislator is coming, is because for years and years now, right up to the present moment, the utilization of marijuana and other mind altering drugs, as opposed to alcohol and barbiturates that are common to diets, that marijuana and other drugs mentioned in the area of dangerous drugs, is not a legitimate political issue. Not only is it not a legitimate political issue, but when it is cited, it is cited in terms of revenge and punishment for its utilization.

We have been unwilling, on the other hand, when we go to the other

end of the scale, to the senior citizens, we have been unwilling to grant utilization of heroin, utilization of marijuana for people who may be dying. That is also illegal - both ends of the scale it is not a legitimate issue - because we have been mesmerized by invested interests in narcotics agents, many of whom drafted these laws, these schedules, so-called schedules. I think that's an appropriate word, by the way - schedules - because I well remember in the middle '60's being at meetings where narcotics officers were discussing the schedule that they would make, put together, to present to legislators, scaring people half to death, as to what was involved in order to make their jobs more secure, to give them more power, to build the administration in the narcotics office divisions locally and federally.

Everybody knows - the reason I'm going to say 'everybody knows' is because over and over again this evening, in defense of this bill, the broadest references have been made to criminals on the street, screaming bloody murder, the whole; people on the streets wandering around; no relationship has been made to such incidences, such incidence as may have occurred, and are notorious, therefore, and the relationship of such incidence to the conviction and imprisonment of criminals in the same category; no relationship on this floor nor in this bill.

It may be that such a relationship may be developed. It may be that such an argument could be made. I do not believe that such an argument could be made. My experience, I grant, is limited, but it is experience nonetheless. I began three years of my life at a booking desk in the morning when I went to work, so I think I have at least some knowledge of what is involved in law enforcement and the difficulties, especially where probation, or jail, or prison sentences, or condition of probation are imposed, having recommended prison sentences for people whom I judged, as an officer of the court when I was a probation officer, to be violent, so violently assaultive, that they could not be allowed to remain on the streets, in conditions of probation where I, or any other probation officer, could take responsibility before the judge to say, yes, these people can be supervised. Having made recommendations to sentence people to prison, and having had those prison recommendations accepted by a judge, I think I can speak with some assurance that I am not trying to remove myself from the arguments that have been made, nor the passionate,

shall we say, feelings, that may be all too real in the populace today. After all, it sells a lot of newspapers.

But, when you take Class X felonies, perhaps we should say the Brand X felonies, and pop into that everything from murder, to 18 year olds, or 19 year olds, selling. I believe the word 'pushing' was used tonight, and I believe also the phrase 'in essence'. I wasn't aware that the law talks about 'in essence'. When someone talks about, or when one considers that if this passes, that a young person selling a marijuana concentrate or cocaine to a friend, having gotten it from someone else as an intermediary, will be put in the same category as the sodomist in the first degree, a rapist in the first degree, a kidnapper for ransom or reward in the first degree, murder, and assault in the first degree.

I think I understand where the Judiciary Committee wanted to go. They want to get to determinate sentencing, and I'm for that. My experience has led me to believe that indeterminate sentencing is one of the worst things that can be done, whether in terms of rehabilitation or exacting retribution, or both, whatever your stand. I have seen criminals, and by the word 'criminals', I mean those convicted under our system and are judged guilty for sexual offense, for example, sent to hospitals for sexual offenders, in which they might never leave because of the indeterminate sentence thought at one time to be a progressive step. What happens, in fact, is that you get with the program under those circumstances, that you do what needs to be done in order to get yourself out.

Now, with this bill, which I think revolves around the idea of getting more in the way of determinate sentences, which has been recommended by penologists of every persuasion, including people who have studied it from the Friends Committee, the Quakers, who I think can be adjudged to be reasonably peaceable people and whose interest has always been the rehabilitation of anyone, especially those who have acted with violence towards another human being, inasmuch as the Quakers do not practice it.

The indications over the past years have been to move to determinate sentences. If this was what the Judiciary Committee wished to do, then, why didn't they do it? There are ample precedents. There is ample precedent in England, for example, in which convicted criminals are sentenced to specific periods of time if they are well behaved. If

they carry out the conditions set for them in prison, they receive what is called remission, good time, I suppose, is what it would be called here, and they are released if they are judged, in terms of possible psychopathy, sociopathy, or some other disabling factor of mental disease, in the absence of such, are released. These determinate sentences are not so lengthy as to become revengeful sentences and defeat the purpose of determinate sentences.

So, we have two factors operating which I believe should cause us to recommit this bill. I am perfectly willing to vote, and I believe others in this chamber who have spoken against this bill, not against the concept, against this bill, and we are admonished all the time on this floor to speak directly to the bill. I believe there are others here who spoke against it who would be willing to consider another bill, or the same bill, if it was worked over a bit, to move into what really is what is being aimed at - protection of society and not revenge of society in the name of protection of society. These are not determinate sentences. These, in fact, become indeterminate sentences because, as other speakers who have spoken against the bill have pointed out, the hopefulness in the sense of people actually being able to see the end of the line will disappear if this bill passes and becomes law. They will enter into a society from which they will, in all likelihood, believe they will never, never come out of, and their attitude will be such that they will probably engage in or be involved in or have an attitude much like the very circumstances as are outlined on page one of the bill."

The Chair then stated:

"Representative Abercrombie, you have one minute."

Representative Abercrombie continued, stating:

"Thank you.

We are committing two wrongs in this bill in an attempt to commit a right: first, hauling in the drug situation when it has no business with those other crimes; second, confusing determinate sentencing with what, in fact, amounts to indeterminate sentencing even though the numbers are specific, because the numbers are specific in the degree

that it becomes virtually useless in terms of the good effects possible through determinate sentencing.

Therefore, I think this bill should be recommitted, that those two aspects should be worked on, and that the bill could be possibly brought forward again in a different manner, and then I think that you would find a great deal more support for the idea.

Thank you."

Representative Garcia, upon being recognized, stated:

"Mr. Speaker, I'd like to make several observations that perhaps may clarify the position of the Committee relating to dangerous drugs.

Dangerous drugs, as defined under the Hawaii Revised Statutes, does not include possession of any amount or sale of any amount of any marijuana or marijuana derivative. So the example that was used by the previous speaker about the classification of these young people, in comparison to those other serious charges that were mentioned in the bill, is irrelevant. Whenever we talk about promoting a dangerous drug in the first degree, we're talking about very dangerous drugs, as defined by the Hawaii Revised Statutes. These drugs include those three that I mentioned earlier - cocaine, morphine and heroin.

Mr. Speaker, the representative from the Kahala district had mentioned an example of putting a person in jail who perhaps takes one or two snuffs. Mr. Speaker, under this bill, the person who takes one or two snuffs would not be the person who would be sentenced. The person who would be sentenced would be the person who distributes it to that particular minor. Now, if that representative is trying to tell me that he would tolerate a situation where a person who sells cocaine or morphine to a minor should be tolerated, then I think he's in the wrong boat. Mr. Speaker, those who would be classified in this particular promotion of a dangerous drug in the first degree are those people who would sell one or more ounces of heroin, morphine or cocaine.

I'm sure all of you know what the effects are of the injection of a small amount of heroin in the United States, especially those who misuse that particular type of drug.

Mr. Speaker, it's becoming very real to many people and parents that the use of dangerous drugs is a very

real problem, though there may be legitimate situations that have been brought up by the previous speaker, where these drugs are used for additional purposes. These drugs may be used by hospitals to try and alleviate some of the pain suffered by patients in hospitals.

But under this bill, what we're trying to do is try to correct some of the impressions people have about the administration of justice. And this was brought home to me very, very clearly in a visit that I made to Hilo when I visited a prison facility. And it was brought home to me when a question was asked to one of the inmates by one of the corrections officials while I was standing next to him. In a half-heartedly jokingly way the prison official asked the prisoner, 'Hey, what are you doing here again?' And when that prisoner gave that answer, it brought home to me the impact of what it's like to be in prison and how it works. And you know what his answer was, Mr. Speaker? One of the most profound, quite frankly, that I came across. He said, 'Brother, you commit the crime, you pay the price'."

Speaking in favor of the bill, Representative Carroll stated:

"Mr. Speaker, sometimes I wonder who the real criminals are in our community. Sometimes, I think, as I look over what's happened in the past eight years, that it may be us, or at least we're involved.

The indeterminate sentence which the representative from Nuuanu has mentioned has led to some of the problems that other members speaking in favor of this measure are concerned about. And what is actually happening is we already have the types of things that are set forth in the Class X felony provision. It's really not that radical of a thing. For instance, for any of the charges that are set forth here, the punishment under our present Penal Code, and it's been this way since about 1971 or 1972, is exactly that, 20 years, 10 years, and so forth. So there's nothing new being added here tonight.

The only thing that is being done tonight, and hopefully this measure does become the law, is that the uncertainty for the criminal is going to be taken out and certainty will be inserted in its place.

Now, we've had the Warren court, we've had the Burger court, and the

effect that that has had, and we've got judges coming from all different directions and trying to make determinations as far as sentencing is concerned. Under our present system, generally speaking, they'll issue the maximum under the indeterminate sentence provision and then they turn it over to the correctional division for further determination. And it is this very thing that is causing the public to be up in arms when we see people who are committing heinous crimes, convicted, sentenced, and a year later, eighteen months later, they're back on the streets committing another crime.

Now, Mr. Speaker, it happens that a number of us here tonight have been offering exactly the kind of sentencing provisions that have been mentioned by the representative from Nuuanu and others, and that is a shorter term determinate sentence. But these have not come to pass. What is happening today is that the public cry is so loud that we are now going to put an extremely big band-aid on this particular problem. I, personally, have no qualms, and if I were judge, would have no qualms in issuing a ten or twenty year sentence to people committing this type of crime, and particularly in the area of drugs. The promotion of a harmful drug in the first degree, and the promotion of a dangerous drug in the first degree, those two classifications of crime, in my mind, are as bad or worse than murder because of the impact that they have on the lives of the children in our community. And I have had a personal, firsthand experience in seeing this. And I have absolutely no sympathy, whether the person is 18, 19, 45 or 60 years old. I think that the sooner we get that message across to those people, the better off this entire community is going to be.

Now, Mr. Speaker, this bill addresses the problem. Many of the people involved in the drug traffic business, and it is a business, and we know it's a business, and we even joke about it, if they know that this kind of sentencing is coming down, and they know that they are going to be removed from the community for a period of time, that this kind of a chance is not going to pay off, then we are going to see a decrease in this type of crime. And I have absolutely no doubt about it.

To say that our prisons are overcrowded, to say that we're going to create hard core convicts, to say that society really isn't going to be enhanced by allowing

these gentlemen back on the streets again, that we're not giving them a fair chance, I see some merit to those comments. Not a lot of merit, but I can see at least where the speakers who say these things are coming from.

But I think we have a much larger duty here, Mr. Speaker, and that's to protect this community that we live in. For many years our whole thrust has been in the area of what we're going to do in the institution of programs and so forth, and the citizens are the last ones that we consider. I've heard this time and again tonight, Mr. Speaker, and frankly, I'm really sick of it. I'm glad to see this measure here, and I hope that we all vote 'aye'.

Thank you."

Representative Abercrombie, on a point of order, asked:

"Mr. Speaker, when the last speaker was speaking, he mentioned the gentleman from Nuuanu at least twice, and yet the remarks being made seemed to be directed towards remarks that I was making, and I wish to understand if it was to be towards Representative Sutton or towards myself, in respect of rebuttal."

Representative Carroll then replied:

"I'm sorry, I said the learned representative from Nuuanu, and, in fact, I meant Manoa."

Representative Cayetano then rose to speak against the bill, stating:

"Mr. Speaker, other speakers before me have stated their arguments why this bill should not pass. I will attempt to avoid repeating their arguments, all of which I believe are well taken and which I adopt as my own. But let me, instead, focus on one part of the bill which I believe may pose some constitutional and philosophical problems.

Mr. Speaker, the bill provides in part that in cases of convictions for murder, the mandatory minimum sentence of ten years, but with a maximum of life, would continue to be imposed. However, Mr. Speaker, this bill then goes on to impose, or to create, a special category where a mandatory life sentence is imposed. For example, the bill provides for mandatory life where a peace officer is the person who has been murdered.

Now, Mr. Speaker, this raises two problems. The first is a constitutional

problem which, in my view, raises the question of equal protection under the law. Members of this body need only go back to yesterday, or last night, to remember that on the docket there was a bill, and that bill came out of the same committee, provided that in cases of assault in the first degree, where the victims are senior citizens, the penalty would be higher or greater. Mr. Speaker, that bill was recommitted, and the reason given for the recommitment was that the equal protection argument or problem was a serious one, and what we were doing then would be to set up a special category for senior citizens. Now, it seems to me that we are doing precisely the same thing that we said we shouldn't do last night, this evening, with this bill. I think we should ask ourselves whether it is fair or whether philosophically it makes much sense to provide for special categories of punishment where the victims come from certain classes. I know that most, or all, of the members of this House certainly do not put the life of a peace officer above the health and well-being of a senior citizen.

Now, for that reason and for the other reasons stated by earlier speakers, I believe this bill should not pass.

Thank you."

Representative Kunimura then rose to speak in favor of the bill, stating:

"Mr. Speaker, originally, if we had voted on this measure last night, I would have voted against this measure. But I'm very happy this was delayed until tonight, because the arguments made pro and con have given me a little more light now.

I've been, or would have been in office 24 years come November, 16 of which would have been in this House. I have seen the continual erosion of the respect for law and order and the increasing cry by the citizens of statements like, 'What the hell are you people doing?' And my canned answers have always been, 'We pass the laws and the courts pass judgment', administer the law.

Well, it's gotten to a point that I can see we have left a wide gap of some discretionary decision-making by other than legislators, where some people get it heavy, some get it light. Now, tonight, we're going to have to finally put the vote where our mouth is. And I'm glad for this, because we can no longer, if we fail to pass this measure, we can no longer point

to the courts or to the probation authority, but point to ourselves that we have failed.

I would like to see, because we've done everything to try and rehabilitate. We spend millions and millions to build new prisons, intake centers and what have you. I'm almost convinced that the ones more guilty than the criminals are the sociologists continually telling us that everybody's good, basically good, they only made a mistake. How many mistakes do you want people to make?

The constitutional question raised by the previous speaker - I believe this measure is constitutional because as I read it a peace officer, while in the performance of his duties, is very narrow and not all policemen on or off duty is going to be covered. But we must afford our peace officers some protection, because if you're the spouse of a peace officer, every morning or every night, when that fellow goes on to duty, you gotta kiss him good night and goodbye, because many times he never returns. And I'd like to see that anybody who takes a shot at the policeman and kills a policeman should have a very high price.

Mr. Speaker, I have been guilty of blaming even the policeman for not upholding the law, and I've come to a point now where I don't blame them. Why should they struggle and do their best, and then see those that are apprehended and go through the criminal justice system, six months, a year later, chasing the same birds.

So, Mr. Speaker, may I request that once and for all, let us try this new way. I put it for the record that if anybody sold my minor daughter dangerous drugs, I don't think I would report it to the police, because right now I'd take care of it myself. Under the present laws it would be almost useless; it's only been crying over and over again about the life destroyed. Sometimes it's more merciful to ask the criminal to kill that daughter instead of having her mind, body and spirit destroyed, living that kind of life for the rest of her natural life.

I'd like to ask everybody here to let us re-examine our conscience and support this bill.

Thank you."

Representative Takamura then

rose to speak against the bill, stating:

"Mr. Speaker, listening to the many arguments made tonight, I think I was probably most profoundly affected by the speaker that just finished speaking, because it seemed to me it kind of focused for me some of the concerns I have about this particular bill.

We can talk a lot, I guess, about some of the provisions and the penalties and all this, but I think fundamentally, you have to go to, I think, the philosophical basis that underlines this, and essentially what we're saying is that you're removed from parole, you're removed essentially from what I think is any sort of hope. And, basically, you're talking about changing a basic philosophical underlined concept of ours to a criminal justice system from one of rehabilitation to one of vagueness. I think we change it from accepting the possibility that a person can be changed and can be rehabilitated and therefore there should be some motivation for that change to come about, or you just accept the fact that anybody who commits a crime is some sort of different category of human being for whom there is no hope.

Now, in listening to the previous speaker, it occurred to me that under certain circumstances all of us are capable of committing some of these crimes that are listed here. You know, when we talk about criminals, we're not talking about 'they'. When we talk about criminals, we're talking about 'us', people, all of us. You know, people are frail; people are human; we're all capable of making mistakes. You know, nobody's perfect. And anyone of us, you know, as we've just heard, under certain circumstances, is capable of committing any of these crimes.

How do we then accept the fact that therefore, you know, all of us are criminals; all of us have the potential to be criminals; therefore, we accept the fact that we can't be changed. I mean, if we accept the fact that we think we're good people, but then on certain circumstances we can commit heinous crimes, then we should accept the converse of that, which is people who have committed heinous crimes could also become good people.

You know, we ought to look at this thing as a totality. And I think that it's important for us to look at some of the basic philosophical and ethical concepts that underline this whole issue. I, for one, accept the fact

that I'm not perfect, that there is a possibility I could commit one of these crimes. I would hope that if that happens, then I would be given the opportunity to somehow have the help I would need to perhaps overcome that defect and become again, you know, a valuable and contributing member of society. I think, you know, there is, beyond all of the points that have been brought up, there is a basic philosophical and very important argument underlying this whole bill and this whole issue that I think needs to be recognized. I think we all have to think about that before we vote on this issue. I would urge all of us to do that."

Representative Abercrombie then rose and addressed the Chair, who then asked him, "For what reason do you rise?"

Representative Abercrombie replied:

"To speak a second time. Mr. Speaker, may I?"

The Chair then asked:

"Do you speak in rebuttal?"

Representative Abercrombie answered:

"Yeah, I speak a second time."

Upon being directed to "proceed", Representative Abercrombie stated:

"Thank you.

Mr. Speaker, in the justification, and this is what I want to emphasize as we move toward this, because, you know, I've cited over and over again, and other people have cited over and over again, the Constitution and philosophical rules.

The previous speaker is exactly correct, what we're talking about is the philosophy of life. We're trying to manifest that philosophy of life into an institution, a legal institution - law, the passage of laws. And what we have is a quotation. The Judiciary chairman has been kind enough to show me the quotation here, that one of the speakers did not know the reference and tried not to show it to me, and I quite agree. As a matter of fact, it moved toward the point that I wanted to make of determinant sentencing. But if you look in the middle of it, it says: 'The amorphousness of the criminal justice system is often the object of public outrage'. That is precisely the point, isn't it, that there is an amorphousness in the criminal justice

system, and is often the object of public outrage?

Now, since I have been in the Legislature, we've established a parole board circumstance here; we've established a correctional master plan; we've spent millions of dollars; and yet, and this is why I can't vote for it in the end, I can't understand why we're going to vote for it with a parole board. The parole board, remember is right on Channel 11, on public television right now - the public television station explaining why we have a parole board under the circumstances that we altered so that we have precisely the kind of thing, the opposite, that this last paragraph states: 'Your Committee finds that it would be in the best interests of society to limit or control discretion:'. Now, think what that means. I tell you, we keep going down the line on this American, a kind of an administrative chaos, and we move, consciously or not, towards an American facism. It is in the best interest of society to limit or control discretion. It is not in the best interest of society to limit or to control discretion! That's precisely why we have prisoners in the Soviet Union. It's precisely why we have psychiatric political prisoners. Because they have no choice and discretion.

In my Webster's, it's a noun, the freedom or power to make choices. The freedom or power to make choices. The power to make choices. That's the whole idea of the United States of America.

I am not arguing against the fact that people who are violent, assaultive and so on ought to be put away where they can't do harm to other people. But we're doing harm to ourselves in the process. Do we solve our criminal problem by taking on the trappings of the person that we wish to have away from us? Power, that's where, the power of choices, is what it says here.

Second, the quality of being discreet, prudent. How can there be prudence when there's choices? There's no prudence.

If the argument is that the axe fell for someone else - murder, kidnapping and so on, as I've stated before - that's when it's most important, most important that we as human beings, we as citizens in this country not let ourselves slide into this revengeful situation. It is in the best interest of society to limit or control discretion. I do not accept that. I will vote against

this bill. I wish it would be recommitted. I really wish it would be recommitted so it could be judged in terms of some other concerns raised tonight. But if it isn't, I cannot vote for it on that line in the committee report alone. I could never vote for such a phrase: ' . . . that: The discretion of prosecutors to choose charges and plea bargain'. I understand that. It could be abused. Everything can be abused. The Constitution gives us only the right of opportunity. It does not command us, in terms of talent, only we can do that. The discretion of judges to choose any sentences within a broad range of time. I have addressed that this evening.

I think there should be determinant sentences and that the judges can make decisions in terms of what kinds. For example, murder. Everyone knows here, and I most certainly have dealt with it, I've dealt with murder of a wife of her husband, and there's only one sentence. Murder in this State is murder, period. Whether it's a crime of passion or anything else, it's a murder and it's ten years, and so you end up with manslaughter, because people recognize, because judges and prosecutors have choices that a crime of passion involves a circumstance that alters what the raw definition in the law is.

The discretion of prison administrators is assigned what kind of treatment a prisoner needs to make him law abiding. Just think what we're saying when we're taking away. Then what the hell are we building the intake center for? Why do we have the master plan? I don't know how many million dollars - I think it's reaching \$20 million. And the three modules left off are the work furlough modules, the only ones they really need. That's the ones where the prisoner would be earning a living and paying room and board to the State for being in prison. And I've run a program like that, and it worked. They paid room and board to the county, their bills were paid and they had money in the bank and they worked. And they had a normal sex life.

Now, if you think it's funny about a normal sex life in prison, because you have wolves and you have lambs, and the wolves are the ones who control the homosexual relationship and the lambs are the ones who suffer it. Now, that's not to come

in and say because someone goes to jail that we shouldn't put anybody in jail because that prevails. I'm talking about a rational system of incarceration that does not dehumanize people.

The last part: ' . . . the discretion of parole boards to release'. Then why is the parole board on Channel 11 right now? Why did we pass it? Why do we have a full-time chairman? I think many people in here voted for that on the basis that a full-time chairman was necessary. Why? And we wanted to do it on a full-time basis. That's why we chose it, or to render consistent their decisions. That's precisely why we have the parole board, so we can be consistent in the decisions. So people do not think it's capricious. There will be mistakes, in the newspapers, especially, when they are controlled by one agency, the Hawaii Newspaper Agency, will make damn sure that the mistakes come forward. There's no question of that.

I do not recall in the legislation that we passed in the four years that I have been here, in respect to this area, that we ever passed legislation, nor is it in the law that it says there shall be no mistake; there shall be no time in which it can be brought back to haunt us, what we did in respect of any given individual. But at the same tonight, I see nothing in the justification, in terms of the committee report, of any statistical evidence, anything except this broad philosophical quotation which I myself can even find myself in agreement with. Other than these generalizations about criminals all over the street and murderers walking around, etc., etc., this doesn't solve a problem. It contributes to the problem.

I ask, if we do not want to have a full-time parole chairman, dump him. Let's get rid of parole. That's easy enough to do. No problem. It will save Mr. Suwa a whole lot of expense money. If we don't want to have discretion with a full-time parole chairman, dump him. Let's get rid of the parole thing. If you don't want to have probation, dump it. The fact that it works - I'll bring my studies down and you'll see - I'll cite the studies in detail as to who was studied in different countries, here and abroad.

If we don't want the administrators in the prison to decide what kind of treatment a prisoner needs to make him law-abiding, are we going to

do it? I want to know who in the room is going to go out to Oahu prison to conduct the law-abiding session that will take place while this is on? It says that's what we're going to do here - we're going to limit the power of choice of prison administrators - about treatment of a prisoner needed to make him law-abiding. But I suppose we can put everybody in stock.

The discretion of the judge, finally back to the prosecutors, and then back to the first point: 'Your Committee finds that it would be in the best interest of society to limit or control discretion'. Maybe the Committee did not mean to say that in voting this bill out. But when we pass this bill, that's what's going to go on. That's what's going to be in the Journal. That's what we're going to say.

If we recommitted it and reconsidered this, even the language of this committee report, if nothing else, I think people would be more inclined to try and find an accommodation with those who would vote for it. But in the absence of it, I don't think that we can really support this.

I don't know if it's in order or not, Mr. Speaker, but I would like to move to recommit this bill."

Representative Larsen seconded the motion.

At 9:04 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:08 o'clock p.m., the Speaker assumed the rostrum and stated:

"The motion before the House is for the recommitment of House Bill No. 2469-78, HD 1, to your Committee on Judiciary. Any discussion?"

Representative Abercrombie then asked:

"May we have a Roll Call vote, Mr. Speaker?"

Representative Cayetano, upon being recognized, asked:

"Did you call for discussion on this motion?"

The Chair replied:

"I did."

Representative Abercrombie then stated:

"I withdraw my motion, then."

Representative Larsen then stated:

"I don't withdraw my second, Mr. Speaker."

Representative Abercrombie then stated:

"Hold it, not the motion, on the request for Roll Call of this, if you're going to call for discussion."

Representative Larsen, upon being recognized, stated:

"I'm not sure if it's appropriate on the recommitment, but I wanted to discuss a point that was made when you were out of the room, Mr. Speaker, by the Judiciary chairman inferring that I was denuding the. . . ."

The Chair ruled Representative Larsen "out of order at this time", and then asked:

"The request for Roll Call has been made, all in favor of the motion?"

Representative Cayetano, at this time, asked:

"Did you call for any further discussion, Mr. Speaker? It's still going on, isn't it?"

The Chair then asked:

"Any discussion on the motion to recommit?"

Representative Larsen then rose and stated:

"Mr. Speaker, I feel that I cannot let the record stand as it has been recorded in the Journal, and I feel personally aggrieved and I would like to make a statement in that regard."

The Chair replied:

"Whether the motion prevails, the bill will be recommitted. If the motion is defeated, you'll have your chance."

Representative Cayetano then rose "to speak against the motion to recommit", stating:

"Mr. Speaker, I just want to make a short statement. My position may seem strange in view of my feelings on the bill, but as far as recommitment is concerned, I feel the bill is here before this body, fair and square, and I'd like to just vote on it."

Representative Abercrombie then rose and stated:

"Mr. Speaker, the reason I made the move to recommit the bill is because the bill as it is, as the representative just stated, is before us, but the reason it is before us that which leads us to believe it is necessary to pass, is embodied in the committee report.

As I have hopefully analyzed the committee report, I think that it is so defective in terms of justification, in terms of what will appear in the future as to the reasons why we did these things, whether you believe them or whether you believe some alternative set of contentions, the reason is that to justify this very, very important bill, after all, you can see it was discussed at great length by many people from many sides, with this as the justification for it in terms of what the Legislature will do, is not to be acceptable, and to recommit the bill or offer the opportunity to work this over and come back with a different rationale."

The Chair then asked:

"There has been a request for a Roll Call vote on the recommittal. Show of hands? Insufficient votes.

All in favor, say 'aye', all opposed, say 'no'. The no's have it."

Representative Dods then stated:

"Mr. Speaker, I make a motion to call for the previous question."

The Chair then asked:

"Are we prepared to vote?"

Representative Carroll then asked:

"We're back on discussion now on the main bill - is that correct?"

The Chair replied:

"That is correct."

Representative Carroll, upon being recognized, stated:

"I rise again to speak in favor and to make certain remarks in rebuttal."

Representative Garcia, on a point of order, stated:

"I believe there was a motion made on the floor and he was properly recognized."

The Chair then stated:

"The Chair recognized Representative Dods, and the Chair failed to hear

a second."

Representative Say then rose and stated:

"I second it, Mr. Speaker."

At 9:14 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:16 o'clock p.m., Representative Dods stated:

"Mr. Speaker, I reluctantly withdraw my request."

Representative Say then stated:

"Mr. Speaker, I withdraw my second", and the Chair "so ordered."

Representative Larsen, upon being recognized, asked:

"Mr. Speaker, before we voted on the recall motion, I mentioned a personal grievance, and if that's not the appropriate motion right now, I would like to rebut the Judiciary chairman's comments?"

Upon being directed to "proceed", Representative Larsen stated:

"Coming out of the discussion from him, one could lead very strongly to the conclusion that I am out there taking care of all the young people by pushing drugs on them. That is not what I was talking about.

Under Section 712-1241, which is in this bill, we're talking about promoting a harmful drug in the first degree. There's a whole list of A through E - possesses one ounce; distributes one eighth of an ounce, which gets you locked up for a ten year minimum sentence, Mr. Speaker.

I'm talking specifically to a lot of people in my district who distribute among themselves. They're not pushing it on young kids or anything else. They have reached an agreement and they want to sit down and use cocaine. Now, a lot of folks don't believe that, but there are a great number of people in this State and in the United States who use this drug, and I don't believe they should be locked away for ten years just because they do that.

Thank you."

Representative Abercrombie then rose on "a point of clarification", and was asked by the Chair:

"Are you rising on a point of information?"

Representative Abercrombie replied:

"Point of information, yes."

The Chair then asked Representative Abercrombie to "state your point", and he stated:

"Would you ask the previous speaker whether he has any knowledge as to whether or not there are members of this Legislature who would also qualify as felons under the statutes that he just cited."

The Chair then asked:

"Representative Larsen, will you yield?"

Representative Larsen replied:

"I will yield, Mr. Speaker, but I can't give him a positive answer on that. I do not know of anyone in this Legislature who uses cocaine or heroin, no, or distributes it among other members of the Legislature or other friends."

Representative K. Yamada then rose "to speak a second time in favor of the bill", stating:

"Mr. Speaker, when the gentleman from the Manoa and Makiki districts got up and he said, 'Well, you know, there are people who pay room and board and get paid by the State', I thought for a minute he was talking about me, until he mentioned the second part . . ."

Representative Abercrombie, on a point of order, stated:

"I have never stated that the work furlough program involved people being paid by the State. They worked regular jobs."

Representative K. Yamada continued, stating:

"In any case, Mr. Speaker, when the gentleman from the Manoa-Makiki district got up and mentioned the second part of it, I knew that I was excluded. He said they pay room and board, get paid by the State and have a normal sex life. Since the Legislature started, Mr. Speaker, I've been deprived. In any case, Mr. Speaker. . . ."

Representative Abercrombie interrupted, stating:

"I'll agree to that."

Representative K. Yamada then continued, stating:

"Apparently he's been checking on me, Mr. Speaker."

There are a couple of truisms which were mentioned which I can't rebut; that is, it deals with the philosophy of life. That's true, Mr. Speaker, it does deal with the philosophy of life. We're talking about those that commit crimes and those who don't.

The second truism which was mentioned was that people are frail and it's possible that we could commit some of the heinous crimes. That's true, Mr. Speaker. But, then again, too, when we do commit those crimes, we ought to suffer the consequences like everybody else.

In any case, Mr. Speaker, a great deal of mention has been made about the parole board, that there would be no motivation to change. I disagree with that. There is a great deal of motivation still written into the statute. The bill before us deals with a minimum sentence of ten years. Under Class A felonies, today, the possible punishment is up to 20 years - we've got that gap between ten and twenty years. I feel, Mr. Speaker, the parole board's function between that time period is still applicable, and there is sufficient motivation for change as it exists in the statute today.

What I would really like to rebut, however, Mr. Speaker, is the constitutional problem that was raised. The gentleman from the Pearl City district mentioned that there was a violation of the equal protection of the law - equal protection clause"

Representative Cayetano interrupted on a point of order and stated:

"I said no such thing. I said there may be."

Representative K. Yamada continued, stating:

"Mr. Speaker, I'm trying to say that there isn't. He suggested that there was a bill that was before this House yesterday which had that problem, and I do agree. Mr. Speaker, the bill that was before the House may have had that problem, but that bill is not before us, and the conditions and the situations are different. We are trying to set up a different category of individuals - senior citizens. Although no matter how meritorious that bill may have been, we recognized that

problem. But that problem doesn't exist here. We're talking about different categories of crime, different categories of people. So, the equal protection clause does not apply in the situation.

Besides, Mr. Speaker, the situation which he suggested, that is the murder of a police officer while in the performance of his duties and so forth, are already in existence in the statute. We're not changing that. That already exists today. Furthermore, Mr. Speaker, the attorney general's office has issued a ruling on the constitutionality of the bill before us, and he upheld the constitutionality of it.

Thank you, Mr. Speaker."

Representative Carroll then rose "to speak again in favor of this measure and also to rebut certain comments", stating:

"The question of constitutionality was raised, and I agree with the previous speaker that the class that is being talked about certainly has equal protection of the law. I would like to also point out that that class is one that they're joining voluntarily and, as such, certainly does not qualify them for any special protection.

Another point was made, Mr. Speaker, regarding murder and crimes of passion, and I think that was a misstatement. I think for those members who are not aware of it, we do have one classification of murder in this State, under the Penal Code, and that is where one knowingly and intentionally takes a life of another. Crimes of passion, negligent homicide, vehicular homicide, all of those types of crimes would not be covered in this bill, or are not covered in this bill."

Representative Abercrombie, on a point of order, said:

"I do not see the misstatement. Where did I make a misstatement? I never said anything like that at all."

The Chair then stated:

"Representative Abercrombie, I'll have to rule you out of order. That's his interpretation."

Representative Abercrombie again rose on a point of order and stated:

"I made a statement as to what a murder was, that there was only a murder statute, and that a crime of passion, if it was judged that way,

was a crime of passion. Murder was murder. That's all I said. If there is a choice, if you have to choose between one or the other, that only serves the point that I was raising. I never made a misstatement."

The Chair then stated:

"Representative Abercrombie, you're out of order. You've made your point. Proceed, Representative Carroll."

Representative Carroll continued, stating:

"Yes, Mr. Speaker.

In any event, typically, the prosecutor analyzing that fact situation where there has been a crime of passion, would be foolish indeed to bring a charge of murder. I wasn't certain that everyone understood that particular matter.

The thing that I wanted to speak to most importantly, Mr. Speaker, is that our parole board will not be put out of business by this bill. When people come up for parole, they're still going to be in need of the parole board services. And we certainly do need a parole board that's going to be doing a job.

As far as the correctional master plan is concerned, much has been said about the problems that the prisoners are going to be facing while they're in the prison, and stating in effect that this is an impossible situation. I submit that the exact opposite is true. Many of us, including people who have spoken against this measure, have been highly critical of the correctional master plan. That is not before us and I do not intend to address it. But, I think that for any of us to say here that we're going to abandon the correctional master plan because of the fact that this bill is going to create prisons with a lot of prisoners in them, is simply to avoid the question.

I think the most important thing, with respect to this entire matter, Mr. Speaker, is the fact that there have been tremendous changes, even by the most liberal penologists in their determinations in respect to the ability to rehabilitate. And we're stuck with the fact that many of these people, particularly the recidivists, are not going to be rehabilitated and we have to take care of them within the purview of the correctional master plan.

But, we had this much more important

duty to protect the community. For that reason, I still ask that we vote for this measure."

"At this time, Representative Kamalii requested for a Roll Call vote.

Representative Peters then rose to speak against the measure, stating:

"Mr. Speaker, I was hoping that my amendment would be here by now.

I think every person in society, particularly in Hawaii, should have an opportunity of being informed of their rights about the kinds of laws that are to be passed by the Legislature. This impact upon their lives, their friends' lives and their relations, whatever, that's basically the kind of amendment that I had to offer. I think when we pass a law that expects to impose prohibitions, fines and penalties on the lives of people, then those laws should be written in every possible ethnic language that we have in this State. That's the only way in which most of the immigrants, newcomers from other countries, reside here, come here in hopes of finding utopia, the so-called aloha spirit that so many of you folks toss around so loosely. I know, very sure, as sure as I stand here, that the media, and I've talked about them yesterday - Star Bulletin, Advertiser, whatever - is not going to put in the languages, ethnically speaking, and give details in terms of this law's impact on the lives of the people who reside in this State.

I know one of my colleagues talked about the outcry, the general populace, relative to criminal activities existing in this State and elsewhere, sometimes I think that outcry, not I think, I know, is nurtured and crystallized by the media. They never talk about the good things that happen in this State. But I tell you, you and I know that they go out of their way to sensationalize every damn bad thing that happens in this State. And so it trickles down and conditions the minds of people throughout this State, right? They're the ones that elected us to office. I see some of you bending, bending to perhaps the most influential force in this world; not perhaps, I know, it is the most influential force in this world, the media, because that's the direct link to your constituency. You don't care if the bill is right or good. You only care that whatever is said on behalf of the media comes

out great in your behalf. That's important to everyone of you. Sure, it's important to me too.

When we're dealing with lives, and I mean lives, in a measure like this, I'm asking you to consider the kind of adverse impact that you're going to have on the lives of the people in this State.

You know, Mr. Speaker, there were some remarks made about two nights ago, I guess, no three days ago, when we tried to deal with the question of residency, something to the effect that, you know, it had ethnical implications, charges of racism, things of this nature were generated. Then I think back in terms of the kinds of things that we do in this process here, the positive, the meaningful, never get back to our constituents, because who the hell wants to hear about the good things, right? The media can't sell their damn papers if you report about all the good things. People are negatively conditioned already, and that's where the action is. That's where the big bucks are. That is where the volume of papers, advertisements and everything else come into play. And that's basically my position, Mr. Speaker, we write this law in Hawaiian, Samoan, Japanese, Filipino, and the other ethnical groups that are residing here, and I'd be happy to give it some consideration. If not, forget it."

Representative Narvaes, upon being recognized, stated:

"Mr. Speaker, the honorable brother from Waianae has got my curiosity up. He has mentioned that he has wished that his amendment was here so that"

The Chair interrupted, asking:

"Representative Narvaes, are you speaking for or against the motion?"

Representative Narvaes answered:

"Mr. Speaker, I rise on a point of information."

Representative Narvaes was then asked to "state your point", and he said:

"The previous speaker has stated that he had wished that his amendment was already prepared and ready to be presented to this body. If that amendment is in the process of being made, I'd like to see that amendment, because if it will improve the bill, I'd like to vote on that amendment."

The Chair then stated:

"The Chair rules that that was not a point of information."

At 9:34 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:43 o'clock p.m., Representative Peters rose and stated:

"Mr. Speaker, thank you for your indulgence. I have an amendment to offer at this time."

The Chair then asked:

"Mr. Clerk, has the proposed amendment been distributed to the members?"

To which the Clerk replied:

"It has been distributed."

Representative Peters offered the following amendment to H.B. No. 2469-78, HD 1:

1. A new SECTION 6 is added to read as follows:

'SECTION 6. Any law to the contrary notwithstanding, all provisions relating to penalties imposed for class X felony as set forth in chapters 706, 707, 708 and 712, Hawaii Revised Statutes, shall also be printed and set forth in the same languages as are required for this State under the federal Voting Rights Act Amendments of 1975.'

2. SECTION numbers designated 6 and 7 on page 9 thereof are renumbered to read 7 and 8 respectively."

Representative Peters moved that the amendment be adopted, seconded by Representative Narvaes.

The Chair then stated:

"The motion before the House is for the adoption of the proposed amendment. Any discussion?"

Representative Blair then rose on a point of information and asked:

"As I understand it, the language is required. I would like to request that the introducer inform me as to which languages are to be covered by this proposed amendment."

The Chair then asked:

"Representative Peters, will you yield?"

Representative Peters replied:

"Yes, I will, Mr. Speaker. It covers those languages that appear on the ballots. I'm sure that you had a chance to vote and you saw that breakdown."

Representative Blair, on a point of clarification, asked:

"First of all, I voted on the English ballot. But, as I understand it, it would include Filipino, Chinese and Japanese. Those, as I understand it, are the three languages that are required, and I wonder if I'm correct in my belief?"

Representative Cobb, upon being recognized, stated:

"Mr. Speaker, on behalf of Brother Peters from Waianae, it would be Filipino, Japanese in most areas, Chinese in most areas, and any other language where 10% or more of the population spoke that as the native tongue. So, in some areas it would also include Samoan or Hawaiian."

Representative Peters then rose and asked:

"Thank you. Does that answer the question, Mr. Speaker?"

The Chair then asked:

"Any further discussion? All in favor of the motion, say 'aye'; all opposed, say 'no'. No prevails. Motion fails."

Representative Abercrombie then rose and stated:

"I'd like to appeal a ruling of the Chair."

Representative Cobb, on a point of order, stated:

"If the result is doubted, it's not an appeal of the ruling of the Chair. It's rather a request of a Roll Call vote."

Representative Kunimura, on a point of order, stated:

"The person requesting that may request the division of the House."

Representative Abercrombie then

asked:

"Mr. Speaker, I'd like to withdraw my previous statement and request a division of the House."

The Chair then directed the Clerk to "call the roll."

Representative Kunimura then rose and stated:

"Division of the House is, 'All those in favor, rise or go on the other side, and those opposed, come on this side'."

The Chair then stated:

"That is correct. All in favor of the motion, please rise."

It's quite obvious the motion fails. Roll Call has been requested on this vote. Mr. Clerk, call the roll."

House Bill No. 2469-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING", having been read throughout, passed Third Reading by a Roll Call vote of 38 ayes to 8 noes, with Representatives Abercrombie, Cayetano, Larsen, Naito, Peters, Say, Stanley and Takamura voting no, and Representatives Baker, Campbell, Fong, Kawakami and Poepoe being excused.

The Chair directed the clerk to note that H.B. No. 2469-78, HD 1, had passed Third Reading at 9:51 o'clock p.m.

UNFINISHED BUSINESS

Stand. Com. Rep. No. 592-78 on H.B. No. 1838-78, HD 2 (Deferred from March 7, 1978):

The Chair, at this time, stated:

"Before entertaining the motion for the passage of House Bill No. 1838-78, House Draft 2, the Chair would like to remind all members that when a member wishes to make a motion or a second, he or she must be first recognized; that anyone standing up making a motion or second, does not mean that the motion is recognized or the second is recognized."

Representative Aki moved that the report of the Committee be adopted and that H.B. No. 1838-78, HD 2, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Aki then asked:

"I have some comments in support of this measure. May it be inserted in the Journal?"

The Chair "so ordered", and the following is Representative Aki's comments in favor of the bill:

"Mr. Speaker, I would like to take this opportunity to address this distinguished body and to speak in favor of H.B. No. 1838-78, 'A BILL FOR AN ACT RELATING TO PUBLIC HEALTH AND MORALS'.

Due to recent wide-range coverage by all segments of the media the people of our State and our country have been made acutely more aware of the problem of child pornography. The majority of us have been shocked, and understandably so, by recent startling revelations regarding the use of children as young as three (3) years of age in the production of pornographic magazines and films.

According to the Chicago Tribune there are upwards of 260 child pornography magazines in circulation in the United States, some of which 'advise child molesters how to pick up children from playgrounds; tell parents how to have incest with their children; and describe the joys of sexual gratification that comes from beating the young'. Some children are even being sold into prostitution and pornography by their parents.

Mr. Speaker, these reports and others make clear that the child pornography business is a problem of considerable magnitude. Until recently pornographic materials involving children have been almost exclusively imported into this country from abroad. This is no longer the case, however.

Production of such material is now being carried out in this country. There are estimates that the gross proceeds from this business are in excess of one-half billion dollars annually and involves many thousands of impressionable youngsters - many of whom are penniless runaways from unhappy homes and easy targets for those seeking 'performers' for pornographic movies or magazines.

At present there is no Hawaii State statute which addresses itself specifically to the issue of child pornography, that is pornography involving the use of minors in pornographic material or performances. State legislation

now in effect (Section 712-1215, HRS) makes criminal the dissemination or showing of pornography to minors. But no section of the State Penal Code imposes punishment on the child abusers — the unspeakable people who lead children into sexual acts for pornographic profit.

I believe that the single most important issue which we must address ourselves to is the welfare of our children, the potential victims of this new 'disease'. We must all be sensitive to the potential serious and long-lasting psychological and physical impacts that the involvement of our children in the production of pornographic materials can have on the youngsters themselves. According to Dr. Herbert Freudenberger, a New York psychoanalyst, 'Children who pose for pictures begin to see themselves as objects to be fully responding like objects rather than people'.

Mr. Speaker, the legislation before us now will be an important tool in our efforts to stamp out child pornography in Hawaii. This bill is designed to fill a very serious gap in the State law regarding the production of pornographic material involving children. At present there does not appear to be any effective means of reaching those persons who would abuse children by employing them in the production of such materials.

This bill would remedy this situation by making it a Class A felony for any person to use, or permit to be used, any child in the production of any pornographic materials and by providing appropriate penalties for any violation of the Act.

I believe that we must act now. If we fail to face up to this very serious problem, many of our young people may be irreparably harmed. Don't we already have enough problems with crime, juvenile delinquency, neglected and abused children? Do we want to risk adding the results of this new form of child abuse to the staggering list of problems we already face? I think not.

If we act now to ban production of these materials through the power of the Legislature, we will be taking a very large step forward toward preventing the further abuse of our children.

Thank you, Mr. Speaker."

Representative Kunimura then rose and stated:

"I do not have a copy of House Draft

2."

At 9:53 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:54 o'clock p.m.

The motion was put by the Chair and carried and the report of the Committee was adopted and H.B. No. 1838-78, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HEALTH AND MORALS", having been read throughout, passed Third Reading by a vote of 46 ayes, with Representatives Baker, Campbell, Fong, Kawakami and Poepee being excused.

The Chair directed the Clerk to note that H.B. No. 1838-78, HD 2, had passed Third Reading at 9:54 o'clock p.m.

DEFERRED MATTERS FROM EARLIER ON THE CALENDAR

H.B. No. 2434-78, HD 1:

Representative Garcia moved that H.B. No. 2434-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative K. Yamada.

Representative Garcia then rose to speak in favor of the bill, stating:

"Mr. Speaker, I'm going to have to ask the indulgence of the members of the House because the speech that I have prepared for this bill is 45 pages long. The reason why it's long, Mr. Speaker, is because of the importance of this bill. I want to be sure that what I have to say is incorporated into the record, so that in the implementation of the statute, the courts and the prosecutors will exercise as little discretion as possible in implementing the statute."

The Chair then asked:

"Representative Garcia, have you made arrangements for yielding of time?"

Representative Garcia replied:

"Mr. Speaker, I have."

Upon being directed to "proceed" by the Chair, Representative Garcia stated:

"Mr. Speaker, at the outset I'd like to thank the members of the Judiciary Committee for their extreme patience, for their understanding in developing a statute like this. This bill did not come upon the Committee very lightly. This bill is a product of over thirty hours of decision-making in committee. This bill is a product of months of study on the part of attorneys, the Crime Commission and various interested individuals. This bill took a lot of time, simply because it's a bill that's going to be very controversial. But even more important, this bill does not intrude on personal liberty, and I'm not going to make any bones about that. But, the criminal laws of this State and nation result from a constant balancing of the preservation of individual rights and the need for social order and safety. And it's this balance that we're trying to address ourselves to in developing this particular bill.

When the Hawaii Commission on Crime held a public hearing on the wiretapping statute on November 22, 1977, at the State Capitol, sixteen persons testified, in addition to seven written testimonies. The witnesses included representatives of law enforcement agencies and the prosecutor's office, both in the State and Federal, from Oahu and the neighbor islands, from the University of Hawaii School of Law, Legal Aid, the public defender's office, members of the Hawaii Legislature, State Judiciary, the attorney general's office, and many others.

Mr. Speaker, the Commission held a decision-making meeting on December 15th of last year and decided to recommend the adoption of a State wiretapping statute by the Legislature. The Commission further decided on the provisions of a model statute designed to allow court ordered wiretapping while protecting the privacy of individuals to the fullest extent possible. And this statute was formally adopted by the Commission on January 16th of last year.

The Judiciary Committee, in working up the various points within the bill, made several changes to the bill. But before going into the changes, what I'd like to talk about is the history of wiretap in Hawaii, the history of wiretap in this nation.

The interception of spoken conversations by a person not a party to the conversation is as old as history itself. The common law of England, on which American law is based, recognized eavesdropping as a public nuisance. The use of electronic or mechanical devices to

eavesdrop became very common in the United States during the Civil War when opposing forces tapped telegraph lines for military intelligence. During the 1920's and early 1930's the Federal Bureau of Prohibition, at that time, found the practice of wiretapping useful in apprehending bootleggers.

Today, Mr. Speaker, organized crime no longer operates in horse and buggy fashion, and if law enforcement is required to operate in that fashion, society then becomes the loser. Law enforcement must be able to use techniques and technology at least as sophisticated as those used by the criminal elements it seeks to combat.

Now, the Supreme Court first considered the legality of wiretapping in the case of *Olmstead vs. United States* in 1928. The Court decided that the United States Constitution's Fourth Amendment ban against unreasonable searches and seizures was not violated by wiretapping. The reasoning of the Court was that there was no physical invasion of a home or office by wiretapping and that there was no seizure of tangible items. The Court also concluded that the Fifth Amendment ban against compulsory self-incrimination was not violated because no person was being compelled or forced to be a witness against himself.

Prior to 1969, certain electronic surveillances approved by the Department of Justice in the course of organized crime investigations provided intelligence information; however, this information could not be used as evidence. The need then for court approved wiretaps by federal law enforcement authorities was obvious. The Congress of the United States perceived that such a capability, strictly controlled, was essential to proper and effective enforcement of criminal laws. In 1968 the Congress passed the Omnibus Crime Control Act, which provides under its Title III for court approved electronic surveillances.

Now, many people are going to question the effectiveness of wiretapping. I'd like to show some statistics which you may find interesting on the national level. From 1969 to 1976, out of a total of 993 court ordered electronic intercepts, 2,456 persons were convicted of criminal violations under the FBI's jurisdiction. Four million dollars in fines were imposed and evidence was developed from these surveillances which made possible the seizure of almost \$8.5 million in cash and gambling paraphernalia.

We're not going to be the only state that has a wiretap statute. In fact, today twenty-three states and the District of Columbia have enacted statutes which allow court ordered wiretapping in criminal investigations. The general purpose of a state wiretap statute is the same as that of the federal statute, to combat organized crime. The state statutes attempt to accomplish this purpose by setting strict standards for court ordered wiretapping and prohibiting other unauthorized wiretaps. Most state statutes are modeled after, and are almost identical to, the federal statute.

The federal law also authorizes states to enact state laws allowing court ordered wiretapping.

Now, why is this bill needed? Mr. Speaker, I'd like to refer to testimony given by Mr. Paul DeSilva, prosecuting attorney for Hawaii County, before the Crime Commission last year. Mr. DeSilva was asked, 'What is the extent of organized crime in Hawaii?' To which he replied: 'There are several factions in organized crime that are engaged in taking their tax from widespread gambling activities throughout the State, taking their tax from prostitution, and is becoming more sophisticated and more of a threat to the community. That, in a nutshell, is the problem'. He further continued by saying: 'The second question as to whether or not wiretapping will be useful in each of the counties, I would say definitely, yes. I don't think we'll be able to do anything about serious gambling without wiretapping. It would be worth the expense. It would be a deterrent to gambling activities. The existence of a wiretap law in itself will to some degree slow down bookmaking and to some degree influence the income that people are getting out of it. Extortion and gambling are one of the most heinous parts of organized crime, because it is from that particular activity that they are able to fund the buying, distributing and selling of narcotics'.

Lt. Gov. Doi then further pursued this by asking Mr. DeSilva: 'Is it true that people who are organized and engage in gambling skim off the top a certain tax as you call it; that now and then, it does result in killing?' Mr. DeSilva replied: 'Very definitely'.

It's been shown over and over

again, not only through the media and the prosecuting attorney's office but the studies done by the Crime Commission, who, by the way, I felt have done an excellent job in trying to pinpoint the problem in crime, that organized crime in this State is here. And, quite frankly, the State has done very little to combat organized crime.

Now, Mr. Speaker, why is a wiretap statute considered to be the most effective method by which to catch these individuals? Because, Mr. Speaker, the adoption of a state wiretap statute will provide authorities with the evidence necessary for prosecution. I'm going to explain this a little later as to why this is important.

But, there's another reason for the adoption of a statewide wiretap statute is that the State cannot and should not only rely on a federal wiretap statute. We're going to hear arguments tonight, I'm sure, that the federal government now has the authority to step into Hawaii and prosecute individuals involved in organized crime. Mr. Speaker, the existence of a federal wiretap law does not guarantee safety and security to the citizens of Hawaii.

It has been judicially determined that evidence lawfully obtained by federal officers pursuant to a lawful federal wiretap authorization cannot be used in a state court proceeding. For example, if the federal government obtained evidence through a lawful wiretap that an organized crime leader committed murder, that evidence cannot be used to prosecute that suspect in the State murder trial because Hawaii does not authorize wiretapping."

At this time, Representative Kondo yielded his time to Representative Garcia.

Representative Garcia continued, stating:

"Mr. Speaker, in addition, if a State official administers lawful federal wiretap order, the evidence obtained would not be admissible even in a federal trial because the State does not have a wiretap statute.

The adoption of a state wiretap statute would clearly alleviate the above impediments to a successful prosecution of these kinds of organized criminals.

I'd like to go into detail regarding the provisions of the bill, Mr. Speaker, because this bill is very similar to

the federal statute but incorporates what I think is some very fundamental safeguards that are not found in other bills. The most significant difference between the model statute and the federal statute and most other state wiretapping statutes are the complete prohibition of court ordered bugging, is one. Two, the use of an appointed attorney to oppose the wiretap application (the so-called 'challenger' provision). Three, the limitation of wiretap orders to very serious crimes or to other specific serious offenses when the involvement of organized crime is shown. And, four, the rigorous notices, disclosure, and destruction provisions, and a sunset provision that requires the reenactment of the statute after six years.

This bill complies with the guidelines established by the United States Supreme Court regarding electronic surveillance and is patterned after Title III. Regarding the constitutionality of Hawaii adopting such a statute, I'd like to turn to the Hawaii State Constitution, Article I, Section 5, which states: '... no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted'.

Mr. Speaker, it is apparent then that our own Constitution authorizes the interception of communications by means of a warrant based upon probable cause. The bill follows stringent federal guidelines in the manner in which law enforcement officials may seek such a warrant to intercept communications. One of the most important features in this bill is that a neutral, impartial judge must approve the use of such electronic surveillance.

The scope of this bill is identical to the federal statute except that court ordered bugging is prohibited. The prohibition of court ordered bugging is designed to limit invasion of privacy. Although bugging is very similar to wiretapping in that both intercept private spoken conversations, bugging may involve a greater invasion of privacy. Because bugging usually requires the placement of the bug inside or adjacent to the place being bugged, to the extent this involves a physical trespass, it may be considered more of an invasion of privacy than wiretap. Wiretapping can be achieved by the use of telephone company facilities at telephone company offices.

Additionally, minimizing invasions of privacy is much more difficult in

bugging than in wiretapping. Usually, only two persons are involved in a telephone conversation, and the persons involved usually identify themselves at the beginning of the conversation. Thus, it may be easier to determine the subject matter of a telephone conversation than that of oral conversations in a room where the parties to a conversation may change rapidly. Thus, the deletion of bugging from this bill, unlike many other statutes throughout the nation, exemplifies the Judiciary Committee's concern for the need to protect individual rights, such as privacy, and the need to limit the intrusion on one's privacy at the same time recognizing that organized crime must be combatted by the use of a wiretap statute.

Another provision in the bill is that of consensual wiretapping. The consensual exception for wiretapping as found in the federal and most state statutes is included in the bill. Consensual wiretapping is allowed without a court order, with the consent of one or more parties to a conversation. However, bugging requires the consent of all parties entitled to privacy in the place being bugged as under present law. If one-party consensual bugging were allowed, extensive consensual bugging might make the prohibition of court ordered bugging meaningless.

Mr. Speaker, for practical purposes also, exceptions for wiretapping by use of extension phones or party lines by telephone companies, and by the Federal Communications Commission, are retained in the bill.

The bill also does not prohibit wiretapping authorized by federal law. This is considered necessary to avoid state interference with federal supremacy.

The bill also allows court ordered wiretapping by state officials with very strict regulation of the situations in which wiretap orders can be issued. The procedures and requirements for application, issuance, and execution of orders, and the protection of the privacy of intercepted conversations after wiretap is in it.

Since the primary purpose of the wiretapping statute is to fight organized crime, the bill requires that court ordered wiretapping be allowed only in cases where organized crime is involved, except for a few very serious offenses. Additionally, the bill allows court ordered wiretapping to be used only in the investigation of felony offenses which may involve the use of telephone conversations. These

severe restrictions are considered necessary since wiretapping is considered a substantial invasion of privacy and an extraordinary investigative tool to be used only in extraordinary cases. Thus, under the bill, the judge issuing the order must determine both (1) that organized crime is involved and (2) that a particular offense enumerated in the statute is being committed, except in the case of murder, kidnapping, and criminal property damage involving the danger of serious bodily injury.

Under the bill, the application would usually be required to include facts which make it probable that organized crime is involved. The bill includes a definition of organized crime.

Wiretap orders may be issued in cases of murder, kidnapping and criminal property damage without a showing of organized crime involvement. The bill allows the use of wiretapping to investigate the following offenses when they are felonies and when organized crime is involved: bribery of a juror, witness or police officer; extortion; criminal coercion; receiving stolen property (fencing); gambling; and drug sales.

The Committee selected these specific provisions because they are thought to be characteristic of organized crime and may involve telephone communication. The offenses were limited to felony offenses in which organized crime is involved to ensure that wiretapping would only be used for serious offenses and to distinguish between small-time occasional gamblers, drug distributors, and fences and those likely to have connections with organized crime. In the case of small-time occasional offenses, the cost of wiretapping may not be justified and other investigative means will be effective. Bribery of a public official, Mr. Speaker, was not included in the offenses because of the potential for abuse of wiretap power for political purposes. Fencing or receiving stolen property under Hawaii law was added as a crime that is both characteristic of organized crime and may involve the use of the telephone.

This bill adopts an application procedure similar to that of the federal statute. The attorney general or the chief prosecuting attorney of each county may apply for wiretap orders. The bill contemplates that the county prosecuting attorney or the attorney general would apply in person for the wiretap order unless they are absent from the state or incapacitated. Allowing application by deputies with the authorization

of the prosecuting attorney or the attorney general might result in 'rubber stamp' approval. Wiretapping is designed for infrequent use in extraordinary situations so that requiring the A.G. or the prosecuting attorney in each county to appear in person when not absent from the state or incapacitated should not be an undue burden.

The bill also allows that a designated circuit court judge in each circuit issue a wiretapping order. The Chief Justice of the Supreme Court is required to appoint a judge in each circuit to hear wiretap applications. This provision is designed to prevent 'forum shopping' for favorable judges.

Mr. Speaker, two of the most important provisions in the bill include (1) the standards for issuing the order, and (2) the basis upon which the order is approved.

Now, the standards for issuing the orders are outlined and detailed in the bill and I want to go over each one."

The Chair interrupted, asking:

"Representative Garcia?"

At this time, Representative Kihano rose and yielded his time to Representative Garcia.

The Chair then directed Representative Garcia to "proceed".

Representative Ajifu, on a point of order, stated:

"Mr. Speaker, the speaker has used up time that has been allotted under the rules, and, Mr. Speaker, you should rule him out of order at this stage. There's others that would like to debate the question. I'd suggest that the balance of his speech be inserted in the Journal."

The Chair then stated:

"The Chair rules you out of order. Proceed, Representative Garcia."

Representative Ajifu then asked:

"May I have an explanation as to your ruling?"

The Chair stated:

"Under the rules of the House, any member is allowed to speak ten minutes on a motion, and subsequently another ten minutes. But, also, the House rule provides that any member may yield his time to the person speaking on a particular motion, and there's no limitation

on it."

Representative Ajifu then asked:

"May I ask who had yielded the time?"

The Chair replied:

"Representative Kondo and Representative Kihano."

Representative Ajifu then asked:

"Mr. Speaker, was Representative Kihano recognized?"

The Chair replied:

"That is correct."

Representative Ajifu then stated:

"Mr. Speaker, I would challenge that. I'm not so sure whether he was recognized. He had stood up and said that he would yield his time, but I don't think he was recognized, Mr. Speaker. I think, under the rules of the House, Mr. Speaker, a speaker can speak twice up till ten minutes and as much as another member may yield his time. Unless that member has the floor, Mr. Speaker, he has no right to yield without first having the floor."

The Chair then stated:

"The Chair indicated to you that the Chair recognized Representative Kihano for that specific purpose. The Chair interrupted Representative Garcia for that purpose, for someone to yield his time. It's quite obvious."

Representative Ajifu, on a point of inquiry, asked:

"Is this the third time that he will then be speaking? Evidently there was a break in time. He had lost the floor. The first speaker had lost the floor when Representative Kondo was recognized. Is that correct?"

The Chair then stated:

"Representative Ajifu, the Chair has ruled."

Representative Ajifu then asked:

"My question, Mr. Speaker, is this going to be the third time he will be speaking? Because the first time he was on his first ten minutes; the second ten minutes he was on Representative Kondo's time . . ."

The Chair interrupted, stating:

"He is on his first time."

At 10:19 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 10:21 o'clock p.m., Representative Garcia continued, stating:

"Mr. Speaker, there are, as I was saying earlier, the two most important provisions in the bill include the standards for issuing the order, the guidelines by which the order is enforced. I'm going to incorporate the reasons why these are important for the record at a later time and go into detail in some other areas."

Mr. Speaker, in summary, regarding this particular area, the judge will issue a wiretap order only if he finds, based upon the facts presented, that there is probable cause that an individual has committed, is committing, or is about to commit an offense. Communications concerning that offense will be obtained by surveillance, and those communications will occur at a specified location.

Additionally, Mr. Speaker, the judge must find that normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous, is a consideration.

In other words, Mr. Speaker, the court has imposed, through the use of an application and through the findings, that the judge must make sure that there is no other alternative other than to use wiretap. This particular bill does not allow emergency wiretaps as does the federal statute.

The most important, regarding the challenger provision, is that it provides for an adversary hearing on an application for a wiretap order. And in an adversary hearing, opposing attorneys present facts and argue different sides of an issue before a judge. We felt that because of the consequences involved in the issuance of a wiretap, that truth and justice is best accomplished through the use of this mechanism. I'd like to add that this mechanism will be the only one if this statute is passed and signed by the governor in the United States.

The bill, like the federal statute, allows wiretaps to be conducted for a maximum of 30 days and allows extensions of 15 days each.

I have several detailed pages regarding the use of minimization and reports to the judge and the notice of the wiretap that has to be made to individuals that I'd like to have incorporated into the record after my speech.

The disclosure portion of the application and the order and a person's intercepted conversations are made mandatory upon request of any person whose conversations are intercepted. The importance of this disclosure provision is that those individuals who are involved in the tapping of their lines will be given notice by the proper authorities that it has taken place.

We have sections in the bill that deal with appeal procedures on the part of the applicant. We have statutes within the statute that provide for criminal liability, civil suits, exclusion of evidence and the annual reporting of the number of wiretaps that have taken place.

This bill also provides a sunset provision that this statute will automatically expire in six years. Make no mistake about it, Mr. Speaker, this bill is designed to allow court ordered wiretapping to fight organized crime in Hawaii, while trying to protect the privacy to the fullest extent possible without crippling law enforcement efforts. In order to do this, this bill includes more rigid procedures and protections of privacy than any other state or federal statute.

In addition to the safeguards already mentioned in this bill, there are numerous other provisions which provide safeguards against abuse which are outlined and detailed in the bill.

But, Mr. Speaker, as I mentioned earlier in my speech, the use of legally obtained wiretap evidence is very important, because such evidence can be used at trial to establish guilt directly, or to corroborate, impeach, or refresh the recollection of witnesses. For use by any person in a criminal proceeding, a judge has to find that a subsequent application that the interception was proper.

The evidentiary value in presenting intercepted communications involved in the planning or conspiracy of criminal violations is enormous. The actual voice of the defendant engaged in incriminating statements to a confederate is far more reliable and trustworthy than the testimony

of a witness who, from memory, attempts to relate such a conversation. The tape recording speaks for itself, and when the proper foundation has been made for its introduction into evidence, the jury will be provided with the best evidence possible of the particular conversation in question. This type of evidence has a decided advantage over human testimony. It cannot be threatened, it cannot be bribed or it cannot be murdered.

How effective will wiretapping be in Hawaii? There were two cases three years ago that were instrumental in convicting or putting into jail major Hawaii crime figures. The first case involved 37 subjects, of whom 27 were convicted, 20 of whom pleaded guilty. It is hard evidence and good evidence, court approved evidence, when the success rate can be as high as this example. And, Mr. Speaker, in the second instance, 24 out of 24 either entered guilty pleas or were found guilty. These two cases involved gambling here in the islands.

When you deal with organized crime, you have to realize that they make their bread and butter from fear and intimidation.

The American Bar Association has also come out in favor of limited use of electronic surveillance under strict judicial scrutiny.

If enacted, this bill will provide an invaluable tool to local law enforcement agencies and organized crime units in gathering evidence where traditional methods have failed. The use of electronic equipment, under carefully prescribed guidelines by an impartial judge has been utilized in Hawaii in recent years by the United States Attorney's Office with great effectiveness. It is equally important for local law enforcement officials to be allowed the use of the same tools the U.S. Attorney is permitted to use in the fight against organized crime. There is no question that organized crime has flourished and has grown since 1969 in Hawaii, and it will continue to grow unless local prosecutors, county attorneys, and law enforcement agencies are given the same opportunities as their federal counterparts, to make use of the latest technological advances in securing evidence for courtroom use."

The Chair, at this time, asked:

"Representative Garcia?"

Representative Garcia, continuing,

stated:

"Mr. Speaker, in summary, if we want to do the job"

Representative Ushijima then rose and stated:

"Mr. Speaker, I yield my time to Representative Garcia."

Upon being directed by the Chair to "proceed", Representative Garcia continued, stating:

"Mr. Speaker, in summary, if we need to do the job correctly, we need to give them the tools to do it correctly.

Thank you."

Following is the portion of Representative Garcia's speech on 'minimization':

"The federal and Hawaii Constitutions and all wiretap statutes require that wiretapping be done in such a way as to minimize the invasion of privacy. The bill includes this general requirement and also specifies some methods of minimization. The first method of minimization recognized by federal and other state law enforcement officials is monitoring fully only those conversations likely to contain incriminating conversations. Other conversations may be monitored intermittently. The bill also sets out some factors to be considered in determining whether a conversation is likely to result in incriminating statements. These factors are the parties involved; the subject matter of the conversation; the particular offense under investigation; the subject matter of previous conversations between the same parties and whether incriminating statements were made; and the time and day of the particular conversation.

Because it is difficult to determine in advance whether a particular conversation will contain incriminating statements, involving at least one person who is named or described in the wiretap application, an order may be monitored. This limits the invasion of privacy to persons about whom there is probable cause that they are committing a crime and those who converse with them by telephone. It may still result in guilt by association, as does all wiretapping where probable cause is not required for each party to a conversation. However, with this requirement persons about whom there is no probable cause

who happen to use a telephone that is wiretapped do not have their privacy invaded.

The final method of minimization expressly included in the statute is the protection of privileged conversations, such as conversations between a person and his spouse, doctor, attorney or clergyman. The law of evidence has traditionally recognized these conversations as being very important and confidential. Since these conversations would not usually be admissible in a court proceeding, there is no justification for intercepting this type of conversation except when the conversations are not privileged, when both parties to the conversation are involved in the commission of a crime. Thus, the bill would allow interception of these conversations only when there is probable cause to believe that both parties are involved in the commission of the named offense.

The bill allows the issuing judge to determine if and when reports on the progress of the wiretap should be made by the officers conducting the tap. The challenger may make it likely that a judge will require such reports. However, it is considered unwise for the statute to require periodic reports in every wiretap since it may be burdensome for law officers to prepare and for judges to review several days of recorded conversations while the wiretap is still being conducted.

The bill requires that notice be given to all known persons whose conversations were intercepted and to any person(s) named in the wiretap order. Notice to everyone whose privacy is invaded is considered fair and necessary to deterring illegal wiretapping. Without such notice, a person may not know of the invasion of privacy and cannot further investigate to determine its legality, consider a civil suit, or urge prosecution by the State if the wiretap appears to have been an illegal one. Because notice is required only to known parties, the burden on the courts or law enforcement should not be too great. The parties must be identified anyway before the conversations can be useful to law enforcement.

The bill requires notice to be given within 90 days, but allows a judge to extend the time if there is a good reason for doing so. Because wiretap investigations may be complex and may require additional follow-up investigation after the wiretap is completed, the bill follows the federal and most state statutes in allowing 90 days and

possible extensions.

The notice must contain the fact that a wiretap was conducted, the dates and duration of the wiretap, whether any conversations were monitored and whether incriminating statements were obtained. The federal statute also requires notice of whether an application for wiretap order was denied. The bill does not require notice of this since no invasion of privacy results when an application is denied, and since law enforcement may again apply for a wiretap involving the same person when additional evidence is obtained. Notice to a person of a prior unsuccessful application might make a subsequent wiretap on that person ineffective, since he could purposefully avoid incriminating conversations."

Representative Cayetano then rose to speak against the bill, stating:

"Mr. Speaker, before getting into details with the specific provisions of this bill, I'd like to give an overview of the remarks made by the previous speaker. I really don't have a prepared speech as he had, but I hope the members will listen to my remarks just as intently.

Mr. Speaker, the previous speaker gave the impression that 23 states had the same kind of wiretap contained in this bill. I think it's important that we define wiretap and the different kinds of wiretap. And I think it's important, also, that we look into the reasons why certain states have one kind of wiretap and other states do not have the kind of wiretap that is embodied in this bill.

Mr. Speaker, one form of wiretap is a form where one party consents. The kind of wiretap that I'm concerned about in this bill would allow government to monitor conversations between two parties without the consent of either party.

Now, there are good philosophical reasons why wiretap, in the case where one party consents, should be allowed. The basic reason in the trust of that philosophy is this: One cannot argue about an invasion of privacy in a case where one party to the conversation agrees to let another party listen. Why? Because during the course of the normal and ordinary events of life, we take the chance; one takes the chance in speaking to another that that other person will disclose what

he has said to a third party. This is not the case where no party consents to the wiretap.

Now, the previous speaker made reference to the philosophy that is at issue here. Indeed, I agree with him. This is a balancing of the interests. What we are weighing here is the privacy of the individual versus the interest of the State in combating crime.

The previous speaker made reference to wiretap on the federal level and how effective it has been. Let me say at the outset that my own belief is that wiretap at the federal level may be justified, and for this reason: The very nature of federal crime is different from crime which is limited to within a state. Federal crime or interstate crime, by its very nature, relies very heavily on communications because organized crime on that level will have to communicate from state to state. This is not the case on the state level. Moreover, Mr. Speaker, on the federal level we have other more sophisticated kinds of crimes and offenses. For example, during war time, espionage, and other things like that; securities, security problems. Those kinds of offenses, those kinds of dangers, I think, provide a compelling reason why federal wiretaps should be allowed on the federal level.

Now, let's look at the problem of organized crime in Hawaii. Now, what kind of crimes are we talking about and will wiretap provide a solution to the apprehension of people who are involved in these crimes? The speaker before me gave that impression. At least, he gave me the impression that wiretap will be effective against all the crimes enumerated and specified in the bill. The evidence does not support that.

I have here, Mr. Speaker, before me, a report to the Hawaii State Legislature by the Hawaii Commission on Crime. The title of this report is 'Wiretapping', and I would like to quote for all of the members of this body the general conclusion on page 79. This is what the Commission found: 'Wiretapping is useful in the investigation of gambling and narcotics, but is seldom used against other crimes. . . .' Let me go on. Addressing itself to the effectiveness of wiretap on the federal and the state level with respect to narcotic violations and gambling, this is what the Commission report says: 'Federal agencies have a far better record of success than state agencies in using wiretaps against narcotics. Indeed there are blaring

examples of state jurisdictions that have been unable to use wiretaps effectively against narcotics even though they use them successfully against gambling. The federal experience in narcotics is somewhat different from that of state agencies because the distances involved in arranging certain interstate and many international narcotic deals occasionally make it necessary for criminals to rely on telephone communications'. The report goes on to say again: 'Even then, the telephone is used infrequently or not at all. Or, if used, it is often a public telephone which is difficult to wiretap'. Quoting the report further, on page 81: 'Many law enforcement officials concede that organized crime bosses are too sophisticated to rely on the telephone to convey important information and are also cautious about conducting incriminating conversations in places where bugs can be installed'.

Now, what we're talking about here in this bill, Mr. Speaker, is a wiretap. This bill does not provide electronic bugs, which is a different matter. And it is true, Mr. Speaker, that 23 of the 50 states do have wiretap; however, of the states that do have wiretap, New York and New Jersey together count for 80% of all state wiretaps installed.

Now, Mr. Speaker, let me address myself specifically to some of the provisions of the bill. Mr. Speaker, the problem that I'm most concerned about in this bill is that it allows the monitoring of a telephone conversation between two parties who have not given their consent. Now, this may lead to some very, very sticky problems, and I would like to present some examples to this body for consideration. The previous speaker's remarks have been focused, or have been concentrated primarily on the suspect involved. My concern focuses primarily on the rights of privacy on third parties who may be totally innocent of any wrongdoing involving the reasons for wiretap. For example, let me give this example: Let us suppose a doctor is accused of dispensing drugs to organized crime; the police under this statute makes an application to the court; the application is granted; the doctor's home and business phones are tapped. Now, what does that mean? That means that under this statute the doctor, of course, is not aware that his phone is being tapped and neither are any of the patients who call in. This means, and this gives an opportunity to the police or to the authorities who are listening in, who are tapping the phone, to

listen to every kind of conversation that goes on between a doctor and his patient. Ordinarily, Mr. Speaker, that kind of conversation is privileged.

Now, it is true that the bill tries to address this problem by including a section which is entitled: 'Minimization'. The principle behind this is that in cases where the police or authorities tap a telephone conversation, and the conversation is not relevant to the particular crime that is being alleged, the police have the duty to stop listening."

The Chair interrupted at this point and asked:

"Representative Cayetano?"

Representative Toguchi then rose and stated:

"I'll yield my time."

The Chair then directed Representative Cayetano to "proceed", and Representative Cayetano stated:

"Thank you.

As I said, Mr. Speaker, in such cases, the police have the authority, during the wiretap, to stop listening. But this is more form than substance, because the bill goes on to provide that in such conversations, the authorities may conduct what is called intermittent monitoring. What this means is that, for example, a conversation begins and the discussion may be about a particular non-relevant event, for example, a wedding, the policeman may hang up. A few minutes later, or maybe a few seconds later, he'll pick the phone up again. Are they still talking about the wedding? And on and on and on and on. And the statute, Mr. Speaker, when it comes to minimization, in my view, is practically unenforceable. What it does is more form than substance. It really gives, I think, the authorities all or carte blanche authorization to listen to an entire conversation.

Now, let me address my remarks, Mr. Speaker, to this principle of minimization again. Let us suppose, another example, let us suppose the authorities suspect Mr. X of being involved in some crime. The phone is tapped, and Mr. X's teenage daughter receives a telephone call from her boyfriend. Again, this kind of conversation can be monitored. And I think this body has to consider, after weighing all of these. . . ."

Representative Abercrombie interrupted

on a point of order and asked:

"Is there a quorum?"

The Chair replied:

"It has been a quorum."

Representative Abercrombie, on a point of order, stated:

"If there's a quorum, I see . . ."

At 10:42 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 10:43 o'clock p.m., Representative Abercrombie stated:

"Yes, I hear your rule. I hear you saying that once the meeting starts, it doesn't matter whether the members are on the floor before they vote."

The Chair then stated:

"It's not required that the quorum be present at all times."

Representative Abercrombie thanked the Chair, and Representative Cayetano continued, stating:

"Addressing myself to the first . . . the court order. Now, Mr. Speaker, I think the same problem that we face, in terms of the courts granting warrants of arrest or search warrants, will be faced here. Now, I won't deal with this at length.

The second proposal, the opposing attorney. This is a very novel approach, and I have to credit the Judiciary chairman and his committee for coming up with this idea. But under the provisions of this bill, that attorney will be severely handicapped. My recollection of the statute is that the attorney or the authorities who make the application for the wiretap need only give this attorney 24 hours notice of the hearing. My recollection of the statute also indicates that the only material that the authorities need provide to the opposing attorney will be (1) the application, and (2) the statute makes reference to supporting documents, whatever that may be. I would suggest that this court, first of all, that no attorney or defense attorney worth his salt would undertake a case and present any kind of opposition with only that kind of material available to him.

Now, addressing myself to the third safeguard. Now, this wiretap is limited to only serious types of crimes. Well, Mr. Speaker, as I made clear, or I tried to make clear in my previous remarks, the only kinds of crimes this statute would, for all practical purposes, apply to would be narcotics and gambling. Incidentally, it's interesting that the crime of bribery of elected officials is not included here, although I do understand the concerns of abuse for political abuse for political purposes, the fact remains, Mr. Speaker, that there's one thing that organized crime and law enforcement agents or agencies agree on is that organized crime could not exist, could not exist without some cooperation from some sector, irrespective of how small the police or the elected official. Now, J. Edgar Hoover has said that time and time again. Interestingly enough, Alema Leota just said that a little while ago, although I'm not saying here that he is a member of organized crime. Excuse me, Alema.

Now, there's also been some reference made to the success of the federal wiretap in Hawaii, and three cases have been mentioned. It is true, but I think those cases have to be analyzed under the situation in which they occur. For one thing, I'm certain that none of those people who were apprehended were aware that there was any kind of a wiretap in this State. When we pass a State law stating that there is a wiretap, I submit that organized crime, at least those who know what they're doing or a bit more sophisticated than the two-bit criminal, will take the same kinds of steps to avoid wiretap as organized crime has on the mainland; namely, again, the use of public telephone and staying away from the use of the private telephone.

So, then what we come down to, I believe, is a balancing of interest. Do we want a wiretap in which the consent of either party to a conversation is needed? I say no. I say there's reason for a wiretap if one of the parties involved in that conversation gives his consent. Second, we should consider and keep in mind that the kinds of crime that wiretap will be effective against are really very, very few; namely, narcotics and gambling. And when it comes to narcotics, the success rate of the state's, and the use of state wiretaps, has been very, very poor.

Finally, Mr. Speaker, I think that the primary issue here is the weighing of interest. And what I'm concerned about is the right to privacy of innocent

third parties who may have no reason or no connection to any kind of suspected criminal activity. These are the people whose interest, whose rights to privacy are going to be violated, and we have to weigh that. In my view, I feel that there is no compelling need for the wiretap brought up in this statute and I'm asking my colleagues to vote against it.

Thank you."

Representative Abercrombie then rose to speak against the bill, stating:

"Mr. Speaker, mention was made by the Judiciary chairman of the Olmstead decision. I have before me the Olmstead decision - Olmstead et al vs. the United States, etc., October Term 1927 of the Supreme Court. Mentions were also made in effect of the Department of Prohibition - I believe it existed at that time. It was illegal to drink, I believe. There may have been people put in prison for a long, long time because they had a drink. In the process of ruling in this case, the interesting thing about it is, is that the decision itself, while recognizing the wiretap situation and constantly being cited as very specific applications from which is not possible, in my judgment, to draw a connection to electronic eavesdropping.

On the other hand, the dissents by Mr. Justice Holmes and Mr. Justice Brandeis have been marked by the legal profession itself and people all over the world as monuments to the cause of freedom - the articulation of the cause of freedom. And I would believe they are directed, some of the remarks there, are directly applicable to the bill before us inasmuch as the purpose of the bill is to make available to state and county law enforcement agencies an indispensable and invaluable tool to aid the enforcement of criminal laws of our state against the growing menace of organized crime.

Quoting Mr. Justice Holmes, he states: 'But I think as Mr. Justice Brandeis says, that apart from the Constitution, the government ought not to use evidence obtained and only obtainable by a criminal act. There is no body of precedence by which we are bound and which confines us to logical deduction from established rules; therefore, we must consider the two objects of desire, both of which we cannot have, and make up our minds which to choose. It is desirable that criminals should be detected, and to that end that all available evidence should be used. It is also desirable

that the government itself foster and pay for other crimes when they are the means by which the evidence is to be obtained. If it pays its officers for having gotten evidence by crime, I do not see why it may not as well pay them for getting it in the same way. And I can attach no importance to protestations of disapproval if it knowingly accepts and pays and announces that in the future it will pay for the fruits. We have to choose, and for my part, I think it is a less evil that some criminal should escape than that the government should play an ignoble part. For those who agree with me, no distinction can be taken between the government as prosecutor and the government as judge'. Interrupting the quoted remarks, Mr. Speaker, I think this is one of the key elements, and I would like to repeat it. 'For those who agree with me, no distinction can be taken between the government as prosecutor and the government as judge.'

This is fundamental to the issue involved here. It is not whether some gamblers may be caught, some middle level gamblers. It is not whether a few narcotics traffickers will be caught. It is a question as to whether we give over the opportunity to the government, to executive agencies, to police agencies to be both prosecutors and judges at the same time.

I will quote evidence later to you from a study done by Professor Harry Schwartz, University of Buffalo Law School, to indicate that this is exactly the kind of thing that was going on in the administration under Mr. Nixon, and I have no doubt that it was going on in previous administrations as well. We can document it here.

I will document for you, Mr. Speaker, and for the members the fact that the cost effective of this kind of eavesdropping is incredibly bad. The fact that this bill was not addressed to the Finance Committee, I believe, is deliberate in the sense that no one wants to really take up what the costs of this are going to be. There is no financial consideration here. And what you will find is a situation in which an incredible amount of money will be spent for very, very little. We will deal with it after the law has been passed and then we will find to our great regret that we have done so. And I expect what will happen is, is that the bill will float in every year, and what I mean by bill is the cost, and I expect we're supposed to pay it every year, as if it was the rent. 'If the existing code. . .', going

back to quote Mr. Justice Holmes: 'If the existing code does not permit district attorneys to have a hand in such dirty business, it does not permit the judge to allow such inequities to succeed'. I would like to move on, Mr. Speaker, to the conclusion of Mr. Justice Holmes: 'But if we are to confine ourselves to precedent and logic, the reason for excluding evidence obtained by violating the Constitution, seems to me, logically, to lead to excluding evidence obtained by a crime of the officers of the law'.

Mr. Justice Brandeis, then dissenting said, 'The defendants were convicted of conspiring to violate the National Prohibition Act'. I think, Mr. Speaker, that it is very easy to transpose in today's situation the National Prohibition Act. We may, in fact, as I shall later do also, quoting from Richard Harris in his book, 'The Fear of Crime', which is an analysis of the Federal Omnibus Crime Controlling Safe Streets Act of 1968, upon which this electronic eavesdropping bill is ostensibly based. There has been an analysis of the Federal Omnibus Crime Control Bill, and I do not believe it was addressed by the Committee. I will apprise the body of its contents. Mr. Justice Brandeis stated: 'The government makes no attempt to defend the message employed by its officers'. Under this bill, it shall not have to. Quoting again, 'That if wiretapping can be deemed the search and seizure within the Fourth Amendment, such wiretapping, as was practiced in the case, was an unreasonable search and seizure and that the evidence thus obtained was inadmissible, but it relies on the language of the amendment. And it claims that the protection given thereby cannot properly be held to include telephone conversations.' Mr. Justice Brandeis then goes on to quote Mr. Chief Justice Marshall in *McCullough versus Maryland*, and I quote Chief Justice Marshall: 'We must never forget that it is a Constitution we are expounding'. It is from this admonition that Justice Brandeis makes his dissent. I'm quoting Justice Brandeis again, 'Since then, this court has repeatedly sustained the exercise of power by Congress under various clauses of that instrument over objects of which the fathers could not have dreamed'. And he then cites several cases, including telegraph and telephone companies. 'We have likewise held the general limitations on the powers of government like those embodied in the due process clauses of the Fifth and Fourteenth Amendments do not forbid the United States or states from meeting modern conditions by regulations

which, a century ago, even half a century ago, probably would have been rejected as arbitrary or oppressive.' Mr. Justice Brandeis recognized full well the circumstances then that the Chairman of the Judiciary Committee was making, that we are indeed in a modern circumstance. He understood that, at that time, and directs his remarks to whatever the time is. He is directing his remarks to the proper conduct of the citizens of the United States in respect to the Constitution. He then goes on to say, 'Subtler and more far-reaching means of invading privacy have become available to the government'. This is the key. The Judiciary Committee Chairman consistently refers to criminals and consistently directs our attention to those activities, in terms of gambling, especially prostitution, etc., focusing on the criminals and not focusing on the government that will do the focusing.

This is the great danger to freedom in the United States. It is a great danger all over the world. I have cited before on this floor today the situation that exists of political prisoners in the Soviet Union. There are political prisoners all over the world, and these political prisoners, in many instances and in most instances, I should say, are there under the guise of constitutional law. That is to say, the government has utilized its Constitution; it has utilized its form of administration to suppress and oppress freedom. This is what Justice Brandeis is addressing himself to — the government. That's what we should address ourselves to, I believe, if we are to truly judge the merits or demerits of this bill.

Discovery and invention have made it possible for the government by means far more effective than stretching upon the rack to obtain disclosure in court of what is whispered in the closet. Moreover, in the application of a Constitution, our contemplation cannot be only of what has been, but what may be. The progress of science, 1927, the progress of science in furnishing the government with means of espionage is not likely to stop with wiretapping. The Chairman of Judiciary, in caucus, indicated to us that it has not stopped with wiretapping; it has not stopped with electronic eavesdropping. We are well aware that there are even more sophisticated methodologies available to the government and to other individuals to overhear conversations, to utilize what people say to one another against them. Ways may some day be developed by the government without removing papers from secret drawers if they can reproduce them in court, and by which it will enable to expose

to a jury the most intimate occurrences of the home. Advances in the psychic and related sciences may bring means of exploring unexpressed beliefs, thoughts and emotions."

At this point, the Chair interrupted and said:

"Representative Abercrombie, the Chair invokes the rule of your ten minutes."

Representative Say then rose and yielded his time to Representative Abercrombie.

The Chair then stated:

"Representative Say yields, proceed."

Representative Sutton, on a point of order, stated:

"I would like to address your attention to the rules of this House. Mr. Speaker, this gentleman spoke, and he ran out of time. Then the gentleman over here rose and said, 'I yield my time'. He was not recognized. How can he yield time when he's not recognized? The Chair must recognize first before you can yield time. You're out of order yourself, Mr. Chairman, because you did not, in any way, shape, or manner, recognize the person who yielded the time."

The Chair then stated:

"I recognized Representative Say by my acknowledgement of his yielding his time, and asked Representative Abercrombie to proceed."

Representative Abercrombie continued, stating:

"That's what I will try to do, Mr. Speaker. Thank you."

I cannot commend the members' attention to the entire dissent by Justice Brandeis. I think you have the flavor of it. I think that you can see that he anticipated in 1927 this exact circumstance and he asked the people of the United States not to focus their attention on the government that might be utilizing it.

Moving then, Mr. Speaker, to a report on the costs and benefits of electronic surveillance by Professor Herman Schwartz, State University of New York at Buffalo, New York, 1972, Citation. I do not make quotes without citations, generally, trying to convince people to my side. I want you to know exactly where it comes

from so that if there is any question as to its veracity, that the citation may be obtained. Professor Schwartz, in this report on the cost and benefits of electronics surveillance concludes: 'It would of course be foolish to contend that electronic surveillance is of no value. Any investigative technique, particularly one which relies on serptiousness and secrecy is bound to produce some useful information, especially when used instead of other devices.'

But that is quite a different matter from a claim that it is, in Frank Hogan's word, being a district attorney in New York City: 'The single most valuable weapon of law enforcement'. I find it rather amusing that the district attorney of the city of New York, in which crime flourishes, to the best of my knowledge, would find this to be the simple most valuable weapon in law enforcement. I do not believe that the record of law enforcement in New York City is so outstanding with the advantage of electronic or any other kind of eavesdropping or wiretapping.

Quoting again from Professor Schwartz: 'Or that those investigations in which it is used could not have been conducted successfully without it'. The minimum costs, on the other hand, are quite clear. The privacy of at least tens of thousands of people have been invaded, often in a deliberate effort to chill free speech and association. Where national security surveillances are concerned, many, many millions of dollars are being spent at a time when social services, which might help to get at the roots of the forces that breed crime, are being starved. And, with what result? A handful of convictions of gamblers, pushers and the like, and 'a war against crime', that can probably never be won by law enforcement methods. Surely, we have a less pernicious way to spend our scarce dollars.

Mr. Speaker, I would like to contend to you, had I the time, and to the members, that Professor Schwartz indicates in detail that there are hundreds of thousands of conversations that have been overheard at tens of millions of dollars worth the cost. And I would like to cite very briefly, that, before I go to my concluding remarks by Mr. Harris on the Act which produced this bill, the figures, when this first began in 1968, and I think it's very important for us to recognize this, 1968 is when this bill and the safe streets came into existence. The amount of money that has been spent has moved into the astronomical.

In 1970, state eavesdropping (state, I will leave the federal out) produced 103 convictions, 1,261 arrests, 71,069 incriminating conversations. The percentage of convictions for people overheard is so small to be virtually, and I take this to be a legal term, *deminimus*.

There is also pointed out from Professor Schwartz, and I will not detail that, that the recording of these things, of course, leaves much to be desired, in terms of the actual costs, and I will just cite the cost of this surveillance as reported, unreported and misreported. If anyone cares to find exactly how that was arrived at, I shall be happy to make it available to him.

In 1968, state surveillance figures were too incompletely reported to derive useful cost figures. In 1969, the cost was \$265,000 to the Federal government and \$415,000 to the state surveillance. In 1971, at the projected rate of 375 to 400 such surveillances per year, the federal surveillance cost alone would be \$5 million.

The enormous amount of manhours by lawyers, judges and investigators to prepare applications, to keep records, and to handle court challenges, is enormous. The appropriate cost figure for this electronic surveillance effort may be many times the 1970 figure of \$3 million. Now, you project that on to our State; you project it on to our budget. If someone is desirous of moving ahead in this situation, you're going to find an enormous cost. And at what cost to us? May I cite it as I conclude my remarks?"

Representative Suwa interrupted on a point of order and asked:

"I hate to interrupt, but may we take a short recess so that my Journal steno can stretch her fingers a little bit?"

Representative Abercrombie stated:

"That's perfectly alright with me."

At 11:09 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:11 o'clock p.m., the Vice Speaker assumed the rostrum and stated:

"Representative Abercrombie, before you begin, let me remind you that you have two minutes."

Representative Abercrombie then stated:

"Thank you very much, Mr. Speaker."

Mr. Speaker, I cannot detail, therefore, in the two minutes available, the indications by Professor Schwartz as to how the Justice Department of the United States abused this privilege. The same thing will be available to an attorney general in this State. And I do not refer to it as the present attorney general or any individual. I'm talking about the institution. Once this comes into being, that means the political figures that control this kind of power can utilize it against anybody for any reason.

Now, this book by Mr. Harris was written in response to the citation by the Judiciary chairman of the Omnibus Crime Bill. I would like to state just two or three instances from it. And the reason that I'm going to cite it, Mr. Speaker, and conclude my remarks in this fashion is that I think that the remarks quoted in here and the argument made in Congress, at this time, about eavesdropping are especially pertinent to the people of the State of Hawaii. The man who fought the hardest against this in the Congress has a son sitting here in the Legislature. Representative Hiram Fong, Jr.'s father was the leader of the fight against electronic eavesdropping in the United States of America when he was Senator of the United States from the State of Hawaii. And I think it is an honor for the Senator, who has now retired from his position, to have been a leader in this fight for freedom. I should like to quote, very briefly then, from Senator Fong in respect of what he thought of electronic eavesdropping."

The Chair then interrupted, reminding Representative Abercrombie that he had thirty seconds left.

Representative Abercrombie continued, stating:

"Thank you."

Senator Fong, charging that the bill should have been properly called, not the 'Right of Privacy Act', but the 'End of Privacy Act', for if it passed, and I quote Senator Fong, 'It would not be long before the authoritarianism of police rule would be substituted for the authority of law and the majesty of due process'. And he concluded, 'Fighting at the end as the battle was

waged on the floor of the Congress of the Senate, hoping to get it amended', Fong tried, and I'm quoting now, Harris: 'Fong tried to get the Senate to cut the 30-day surveillance period to 7 days and lost a lopsided voice vote'. It's easy to lose on a lopsided voice vote, no question to that, but Senator Hiram Fong, upon losing, stated, and I quote this to all members of this House who contemplate voting for this bill today: 'The practical effect of all this is to render official eavesdropping very nearly universal'.

I am fearful that if these wiretapping and eavesdropping practices are allowed to continue on a widespread scale, we will soon become a nation in fear of a police state. I rest my case because I guess I made a case, as such, on the words of Senator Hiram Fong. I do not want a police state, nor the opportunity for it, and I ask that you please vote down this bill."

Representative Dods then rose to speak in support of the bill, stating:

"I speak in favor of this bill, and I don't want to quote monetary statements like our brother from Manoa, who I consider a lot more learned than I am. And, I'd like to speak as the son of a police officer who served the City and County of Honolulu for 28 years and for the fellow officers on the Police Department who have been totally frustrated by the lack of support from the Legislature in granting them the additional tools that they need to fight crime, and I think, Mr. Speaker, we should give them all the support that we can.

Thank you very much."

Representative Garcia then rose and stated:

"Just a few points in rebuttal because I know that a lot of the members are tired.

The speaker from the Manoa area and the speaker from the Pearl City area both read out very candid and lucid points relating to the effects of this bill. I'd like to point out several things that were brought out in the discussion that perhaps can be exemplified or clarified.

One of the previous speakers quoted Professor Schwartz quite a few times in his discussion. Professor Schwartz also suggested that we include the adversary proceedings that's in the bill. Professor Schwartz also suggested the minimization provision that we

have in the bill. Professor Schwartz also criticized in the federal statute the emergency provisions for wiretap which we eliminated.

. Mr. Speaker, that justice was in the minority in that particular report.

The previous speaker also referred to the Olmstead case — the Olmstead rule. I referred to it from a historical perspective. But for our identification, I'd like to remind people here that Olmstead was overruled at a later time.

Also, Mr. Speaker, it was brought into question as to whether or not wiretapping could be effective in Hawaii since it seemed to imply that other states were not effective in combating organized crime. We're never going to know how effective it's going to be in Hawaii on the state level unless we try it. The Federal government has used wiretaps in three instances in Hawaii, and in every instance, it resulted in convictions of major organized crime figures.

One of the other speakers also said that when these guys find out that we have a state wiretap statute, they're going to wise up and use other means of communication. Well, Mr. Speaker, the federal wiretap statute has been in law since 1968. I would assume that these individuals who engage in organized crime activities knew that the federal statute was in effect, but it still remains a fact that we were able to, not only in Hawaii, but on the federal level, prosecute organized crime figures. So, that reasoning doesn't prevail.

Mr. Speaker, I pointed out that this bill contains more safeguards than the federal statute. This bill also contains more safeguards than any other state statute in the United States.

Another point that was brought out by one of the other speakers is that wiretapping allows law enforcement officials to become both prosecutors and judges. Mr. Speaker, the way the bill is written, the judicial system in this bill exercises control over every stage of the wiretap, from the time that the application is made, from the time in which the order is granted by the judge, and all the way to the time in which the evidence is used in the prosecution of that individual.

A reference was also made to prostitution. The crime of prostitution cannot be covered under this bill. It is not one of the felonies upon which a wiretap order can be issued.

The previous speaker also mentioned many cases of abuses on the federal level. He said that these abuses were a result of the federal wiretap statute. Mr. Speaker, that's the precise point why the State is trying to define those particular crimes in which wiretap should be justified in the bill. The abuses that he's referring to, many of them, not all, I grant, refer to those abuses where the Federal government felt, on the basis of national security, these wiretaps should be instituted.

This bill does exactly the opposite. It specifies those instances that wiretaps can be issued, and outlaws every other one.

Mr. Speaker, what it boils down to, and both speakers have mentioned it, and it's very true, the main issue here is the balance of interest. What we are contending with is that there is a compelling State interest in the use of wiretaps here in Hawaii. Organized crime does business here in narcotics and gambling. It's true that wiretaps may not be effective in extortion, bank robberies, or those other offenses that are listed in here. But if you will recall what I've said earlier in my speech, narcotics and gambling are the major sources of income for organized crime. If we can provide some kind of weapon for prosecutors to make a dent on this area, then, I think it's worth it.

Thank you."

Representative Say, on a point of information, asked:

"Will the speaker yield to a question?"

The Chair asked:

"Will you state your point of information?"

Representative Say stated:

"The question I have in mind is, we talked about the federal level getting involved in three major cases these past five years, and the three cases had three major convictions. Has it deterred any type of organized crime at this present time?"

Representative Garcia replied:

"Mr. Speaker, there are two answers to that. One, there are more than three convictions involved in those three instances where the federal government intervened the use of wiretap. In one stance, there were 27 convictions; in the other, there were 24 convictions. As to whether

or not it served as a deterrent for the further growth of organized crime in Hawaii, obviously, the federal government hasn't stepped in enough times. And that is the reason why we feel that a state statute is necessary because, then, our State prosecutors and our State attorney general will then have the enforcement tool to proceed with what we think will be a successful and, hopefully, successful battle against organized crime."

The Chair then asked:

"Does that answer your question?"

Representative Say replied:

"Yes, Mr. Speaker. May I follow up another question which is in regards to the first question?"

Upon being directed to "proceed", Representative Say asked:

"Okay, the question I have in mind is the question of permanency. Do you see a permanency of the wiretap law in itself after six years?"

Representative Garcia replied:

"Mr. Speaker, the bill in itself has a six year provision. Those lawmakers after, I will assume that will be in 1984, will have to make a determination, and I'm pretty sure I'm not going to be here, will have to make a determination at that time whether or not they want to reinstitute wiretapping. So, I really can't answer that question directly, Mr. Speaker, because I don't know at that time how that Legislature will feel toward wiretap. As a matter of fact, I'm not so sure how this Legislature feels about wiretapping yet."

Representative Dods then rose and asked:

"Mr. Speaker, can I ask that previous speaker another question?"

The Chair then stated:

"Representative Dods, I believe you're out of order."

Representative Cayetano, on a point of information, asked:

"Will the chairman of the Judiciary Committee explain what the words 'supporting documents' mean in the bill?"

Representative Garcia replied:

"Mr. Speaker, the 'supporting documents'

will include all of the other investigations that have taken place and the notes of the police officers involved in the investigations - the information that were obtained through other means other than wiretap."

Representative Cayetano then stated:

"The reason I asked that question, Mr. Speaker, in the event this becomes law, I think most of the attorneys would like to know exactly what they can get their hands on.

I have another question for the chairman: What does notice to parties . . . in the chairman's speech, he made reference to the fact that the bill requires that notice to parties whose lines are tapped will be given. I would like to know if such notice will be given to third parties?"

Representative Garcia replied:

"Yes, Mr. Speaker, every person who is known in the wiretap, after they type the transcript, will be given a notice. All third parties involved will receive a notice."

Representative Cayetano then stated:

"Mr. Speaker, I take it, then, in the example that I gave in my remarks regarding the doctor whose telephone would be tapped, I assume that notice will be given to every patient who calls into that office?"

Representative Garcia asked:

"If the doctor's line is being tapped?"

Representative Cayetano replied:

"That is correct."

Representative Garcia answered:

"Yes."

Representative Sutton, on a point of order, stated:

"There is no conversation between individuals of this body. They may converse only through you, and they're conversing back and forth."

The Chair then stated:

"You're out of order, Representative Sutton. They're addressing the Chair."

At 11:28 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:44 o'clock p.m., the Chair assumed the rostrum.

Chair: "Representative Ikeda."

Representative Ikeda: "Mr. Speaker"

Representative Cayetano: "Mr. Speaker, I believe I had the floor."

Representative Ikeda: "Mr. Speaker, I believe I was recognized."

Chair: "Representative Cayetano."

Representative Cayetano: "Did I have the floor before we recessed?"

Chair: "My understanding is that the point of information was answered. Representative Garcia had the floor."

Representative Cayetano: "He was answering my question. Is that correct?"

Chair: "It's my understanding the question was answered."

Representative Abercrombie: "Recess. I request a recess."

Chair: "Representative Garcia, is that true?"

Representative Garcia: "Mr. Speaker, I answered the question."

Representative Cayetano: "And, Mr. Speaker, I have one final question. Will he yield to one final question?"

Representative Ikeda: "Mr. Speaker, I believe you recognized me."

Chair: "Representative Ikeda, the Chair recognizes Representative Cayetano for one question."

Representative Cayetano: "Mr. Speaker, would you ask the chairman"

Chair: "Representative Garcia, will you yield?"

Representative Garcia: "Yes, I will, Mr. Speaker."

Representative Cayetano: "Thank you, Mr. Speaker. Would you ask the chairman what do the words, 'subject to intermittent monitoring' mean on pages 19 and 20 of the bill?"

Representative Garcia: "Mr. Speaker, intermittent monitoring means that the agent, at the time at which the wiretap is being intercepted, if he finds that the first two or three minutes

of the conversation is that of a personal nature, he will then click off the machine. Then he will tune in to the conversation at a later time, maybe in about four or five minutes; that's left at the discretion as to when he feels that perhaps some incriminating information will be forthcoming."

Representative Cayetano: "Thank you."

Representative Ikeda: "Mr. Speaker, it's fairly obvious that we're running out of time, and since I don't want to see the bill die for lack of time, I would like to express that my remarks be inserted in the Journal."

Representative Abercrombie on a point of order, stated:

"Mr. Speaker, I believe that the bill before us is defective."

Chair: "The Chair rules you out of order."

Representative Abercrombie: "Mr. Speaker, the bill starts, Section 803-41 . . . when the Penal Code ends 803-38."

Chair: "The Chair rules you out of order, Representative Ikeda."

Representative Ikeda: "Mr. Speaker, may I continue?"

Chair: "Proceed."

Representative Ikeda: "Since I don't want to see this bill die because of lack of time, as I stated earlier, I would respectfully request that my remarks be inserted in the Journal; my remarks in favor of the bill."

Chair: "So ordered."

Representative Kamalii: "I likewise am concerned about the running out of the clock and would like very much to have my comments inserted in the Journal in favor of House Bill 2434-78. And, Mr. Speaker, I move for the previous question."

Representative Ajifu: "Second the motion."

Chair: "I don't believe . . . are we ready to vote?"

Representative Abercrombie: "Point of information."

Chair: "State your point, Representative Abercrombie."

Representative Abercrombie: "Mr. Speaker, you announced, as you said before, I'm out of order. Now, Mr. Speaker, did you look at the statute when you ruled me out of order? I think I'm entitled to that."

Chair: "The Chair had ruled you out of order, Representative Abercrombie, on that point. The motion before the House . . ."

Representative Abercrombie: "Did the Chair look at the statute in respect to my question?"

Chair: "It's not necessary for the Chair to look at the statute. The Chair rules you out of order."

Representative Abercrombie: "You rule me out of order whether I'm right or wrong?"

Chair: "The Chair has ruled."

Representative Abercrombie: "I'll appeal. I'll appeal that, then."

Representative Kamalii: "Mr. Speaker, there is no conversation needed. I have moved for the previous question and debate is finis."

Chair: "That is correct."

As "so ordered" by the Chair, the following speeches are hereby inserted into the Journal:

Representative Ikeda's remarks are as follows:

"Mr. Speaker, I rise to speak in favor of House Bill No. 2434-78, relating to electronic eavesdropping.

This bill directly and negatively impacts the problem of organized crime in our State. Presently, organized crime makes extensive use of wire communications in criminal activities. By passing this measure, we are providing law enforcement officials with an effective tool against such crimes as extortion, criminal coercion, bribery of jurors, witnesses or police officers, gambling and the sale of dangerous drugs. In short, wiretapping is an indispensable aid to law enforcement officials and greatly facilitates the administration of justice.

This bill contains many provisions to safeguard against abuse. It sets out the exact procedures and situations for obtaining a wiretap order. In every case, an application for electronic wiretapping requires an adversary hearing before a judge and an appointed

attorney who opposes the order. During this hearing, the identity and authority of the investigative or law enforcement officers is presented along with a detailed statement of facts and circumstances surrounding the request. In addition, a description of the particular offense and type of communication sought is required.

I do not want to belabor the point of safeguards, but a bill of this nature is necessarily complex and requires many protective provisions. Mr. Speaker, your Committee thoroughly reviewed this bill and I am satisfied that it provides maximum protections of personal privacy while fighting organized crime.

I submit to you that House Bill No. 2434-78 is a good piece of legislation and reflects a thorough and comprehensive solution to one of Hawaii's major problems. Although I am realistic enough to know that organized crime will not go away, this type of legislation goes a long way in making it an unattractive and dangerous activity.

My fellow Representatives, I urge you to vote in favor of this bill.

Thank you."

Representative Kamalii's remarks are as follows:

"Mr. Speaker, members of the House, I rise to speak in favor of this bill.

Let me make two brief points.

First, I would like to remind the Legislature that while rights to privacy must be carefully protected, we must also protect the rights of citizens to be free from crime.

Federal requirements and the additional safeguards of this bill contain sufficient guarantees to protect the right to privacy. On the other hand, federal and state laws do not appear to contain sufficient safeguards in controlling crime, especially organized crime. I note that criminal activity in Hawaii is on the increase. We have all read the newspaper accounts of gangland-like slayings taking place on Oahu and on the Neighbor Islands. It is my belief that we should not totally forsake one right of the people to assure the total protection of another right.

The making of laws almost inherently involves the striking of a balance in public interests, and it is my firm conviction that the passing of wiretapping legislation is necessary and poses no undue burden on the right to privacy.

With proper procedures, the right to privacy can be guarded and maintained as an important right of every American.

Secondly, I would like to refute those who claim wiretapping is not cost-effective. Considering the enormous economic drain put on society by organized crime, the costs involved in wiretapping are insignificant.

The availability of wiretapping, the mere fact that such a law is on the books will, to a certain degree, put a damper on criminal activities. Like any business, organized crime must depend on constant communication. Obstruct that communication, and you make it difficult for 'business' to be carried on. Ask any businessman what his day would be like without easy access to the telephone. I am simply making the point that the threat of wiretapping alone, without the spending of large amounts on implementation, will deter criminal activity.

We must also remember that federal law enforcement units have carried out successful wiretapping operations in Hawaii, and local units could turn to these federal people for advice in utilizing electronic surveillance in the most efficient and cost-effective way possible.

In conclusion, let me urge the Legislature to take a positive stance toward electronic surveillance. Let us all join in doing whatever possible to strongly resist the growing element of organized crime in Hawaii.

Thank you."

Representative Uwayne's remarks are as follows:

"Mr. Speaker, I rise to speak against House Bill No. 2434-78.

Mr. Speaker, this bill would authorize, upon application and by court order, the interception of wire communications by investigative or law enforcement officers. Some safeguards for the protection of innocent people and for the prevention of abuse by the police in violating the rights of the people have been included.

I believe that although the problems of organized crime are significant, there is a constitutionally recognized right of the people to be free from unreasonable invasions of their privacy. This right of privacy, a freedom from fear of being seen or listened to by the government within the confines of one's own home and elsewhere,

is one of the cornerstones of democracy and is interwoven with other rights guaranteed under the Bill of Rights. For example, freedom of speech, press, religion, and association guaranteed by the First Amendment of the United States Constitution and by section 3 of Article I of the Hawaii Constitution, could be effectively curtailed through abuses in wiretapping. The bill itself recognizes the dangers of wiretapping in providing that generally wiretapping is prohibited and them making certain exceptions to it.

Mr. Speaker, I recognize that wiretapping is allowed in federal law enforcement investigations, but I question the use of such a program at the State level. I concur with former U.S. Attorney General Ramsay Clark's statement on wiretapping: 'Public safety will not be found in wiretapping. Security is to be found in excellence in law enforcement, in courts and in corrections. Nothing so mocks privacy as the wiretap and electronic surveillance. They are incompatible with a free society. Only the most urgent need can justify wiretapping and other electronic surveillance. Proponents of authorization have failed to make a case - much less meet the heavy burden of proof our values require. Where is the evidence that this is an efficient police technique? Might not more crime be prevented and detected by other uses of the same manpower without the large scale, unfocused intrusions on personal privacy that electronic surveillance involves? (Emphasis added.)'

Mr. Speaker, I believe that the rights of privacy and the detrimental effect that wiretapping could have on these rights are so great that any safeguards provided in the bill would be insufficient to prevent abuse.

I believe that, weighing the possible benefits of combatting crime against the detrimental effect abuses in wiretapping could have on peoples' constitutional rights, and considering that there are other alternatives to combatting crime, wiretapping should not be allowed in this State.

Mr. Speaker, in conclusion, I reiterate my dissent and opposition to this bill on wiretapping, and therefore do not recommend the passage of House Bill No. 2434-78 on Third Reading."

Representative Sutton's statement follows:

"Mr. Speaker, the necessity for this Bill for an Act relating to electronic

eavesdropping is evident from all the evidence addressed by the Crime Commission.

There are forty-eight other states that have comparable bills. These bills have withstood the tests of a constitutional challenge.

The Hawaiian Islands are a unique jurisdiction. The granting of statehood meant a new state jurisdiction. This state jurisdiction desperately needs the tool of law enforcement embodied in this bill.

I urge all my fellow legislators to vote in favor of this bill."

Representative Kunimura's remarks are as follows:

"Mr. Speaker, I rise to speak in favor of this bill. Perhaps my remarks will help clarify some of the grave concerns I know many of my colleagues have regarding any law allowing the use of wiretapping in our criminal justice system. I know because I too have had many of these same concerns. But I've reflected on the circumstances we are dealing with in this bill, and I would like to share my thoughts with my fellow members of the House.

As you know, Mr. Speaker, I have always been a champion of our constitutional right to privacy. I have argued strongly on this House floor against any encroachment by anyone or any institution on our private lives, and against any inhibition of our right to personal expression. And, Mr. Speaker, I can cite my many personal experiences on this issue. During World War II here in Hawaii, I was an unfortunate witness to the consequences of martial law. We here in Hawaii had martial law, and at that time, individual rights were not worth having.

I experienced unlawful search and seizure along with many other of Hawaii's citizens of Japanese ancestry. We were victims of an over-reaction of the United States and the hysteria of our then provisional government to Japan's attack upon the United States. The tactics used upon the Japanese community were unnecessary and stemmed from an inability to distinguish between the loyalty of Americans of Japanese ancestry and the actions of the nations of Japan. Hardly a difficult distinction to make, Mr. Speaker. The abuses inflicted upon those of us living in Hawaii of Japanese ancestry even went as far as violation of our right to religious freedom, because I witnessed the defiling of temples

and shrines by government authorities.

Therefore, Mr. Speaker, if there is anyone who should be against this bill, it should be me. But I stand here speaking in favor of this measure. This is because of the large difference between the circumstances of Hawaii's post Pearl Harbor period, and the circumstances this bill is addressing. We are now enlightened people, Mr. Speaker - at least I hope that we are enlightened. We should be able to distinguish, based on our own experiences, when our rights are being abused by scare tactics and over-reaction, and when our rights are not being abused by the need to provide our enforcement agencies with the tools to effectively do their job. This bill gives them the leverage they need to accomplish the effective pursuit and prosecution of those who flagrantly violate our laws.

To me, Mr. Speaker, what we are dealing with today is very different from those years I have described. Today we are demanding that the illegal profits of narcotics, prostitution, and the numbers racket be stopped. We are demanding action against a powerful and evergrowing evil in our community. We cannot handcuff police officers by not giving them the necessary equipment for the job. We are asking our law enforcement agencies to deal with criminal forces who have a full artillery of the latest cannons and howitzers. We want them to do this and all we are willing to give them is a pop gun.

Mr. Speaker, today's crime fighters need to have the same level of technological devices and advantages that the forces they are up against have. Mr. Speaker, we are dealing with organized crime which uses sophisticated business techniques that would make our top corporate leaders look like amateurs.

I have had many requests from constituents on Kauai, especially our Police Department, to support this measure. I have had long discussions with our Kauai police. They explained to me that the very activities that I have been getting after them to pursue with greater effort, like gambling and drug traffic, they cannot do because of the almost impossible task of getting evidence that will stand up in court.

This has made me realize that I must put aside my own personal biases and consider the facts and arguments involved here. I've given a lot of thought to this issue, and have had to remind myself that we are here

not to legislate on the basis of our own experiences, but rather for others. The role of a representative is to represent the people. And this is the kind of issue which requires thoughtful consideration of all sides rather than a hasty, gut-level decision.

For this reason, Mr. Speaker, I have changed my stand which was originally against the bill, and I hope my arguments today will be enough to at least start others thinking about what we really need to do to eliminate crime in our community.

Thank you."

The motion was put by the Chair and H.B. No. 2434-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC EAVESDROPPING", having been read throughout, passed Third Reading by a Roll Call vote of 30 ayes to 15 noes, with Representatives Abercrombie, Caldito, Cayetano, Lunasco, Mizuguchi, Morioka, Peters, Say, Shito, Stanley, Takamine, Takamura, Uechi, Uwaine and D. Yamada voting no, and Representatives Baker, Campbell, Fong, Kawakami, Naito and Poepoe being excused.

The Chair directed the Clerk to note that H.B. No. 2434-78, HD 1, had passed Third Reading at 11:51 o'clock p.m.

Representative Uwaine, on a point of personal privilege, stated:

"Mr. Speaker, I just wanted to . . . I have no . . . my intention was sincere here. I just wanted to insert a speech into the Journal and I think it's common courtesy in this House that if another representative wants to say something concerning the bill and just have it inserted into the Journal, I think that right should prevail."

Chair: "The Chair will allow you to insert your remarks into the Journal."

Representative Uwaine: "Thank you, Mr. Speaker."

Representative Sutton: "Mr. Speaker, may I insert my remarks too, in favor of the bill?"

Chair: "The Chair has so ordered."

Representative Cobb: "I'd like to incorporate the remarks of the Judiciary chairman as my own to be inserted in the Journal with that notation."

Chair: "So ordered."

Representative Kunimura: "May I also insert my remarks in the Journal?"

Chair: "So ordered."

Representative D. Yamada: "I've refrained from speaking on this bill because of the limited time constraint. I would like to adopt the speech made by the chairman of the Judiciary Committee as my own on this bill."

Chair: "So ordered."

Representative Cayetano, on a point of personal privilege, asked:

"Mr. Speaker, may I request you and the other members of the majority to meet in the caucus room for a short family discussion after session?"

Representative Uwaine, on a point of information, asked:

"As far as the ruling, as far as inserting our remarks into the Journal, does it go before the vote or after the vote in the Journal?"

Chair: "I believe there are times before and there are times after, depending on the situation and circumstances."

Representative Uwaine: "In this situation, would it go before?"

Chair: "I beg your pardon?"

Representative Uwaine: "In this situation, would the remarks be inserted before the vote as far as the Journal is concerned?"

Chair: "In this instance, the individuals who wished to have their remarks inserted into the Journal before the vote was taken, the Chair will so order."

Representative Uwaine: "Mr. Speaker, may I have my remarks inserted in the Journal before the vote was taken?"

Chair: "So ordered."

Representative Kunimura: "Likewise."

Chair: "So ordered. Shall we have all the remarks inserted into the Journal before the vote was taken?"

Representative Abercrombie, on a point of inquiry, asked:

"Why don't we just take the vote

and then insert our inquiries and all we have to say afterwards? Would that suit you?"

Chair: "When the time comes, make your suggestions and the Chair will consider it."

Representative Abercrombie: "Very well, Mr. Speaker, a point of inquiry. Yes, I think that's it. I'm very glad to see that happening here and it will be in the record in the way this has been done. Mr. Speaker, in the future, when a member of the Legislature asks you a question in respect to the statutes, will you continue to rule without looking at them?"

Chair: "When the time it happens, the Chair will then decide. The Chair cannot forecast the future."

Representative Abercrombie: "You mean you don't know whether or not you will look at the statute and give an answer based on the statute?"

Chair: "That is correct."

Representative Abercrombie: "Mr. Speaker, that is as asinine a statement as I have ever heard in my life."

Chair: "One man's opinion. The Chair will accept it."

Representative Sutton, on a point of order, stated:

"Mr. Speaker, there is no need for this House to receive language like that - abusive language - where something is called asinine. I believe that is completely out of order and should be stricken from the record."

Representative Abercrombie: "As long as you're inserting things after the fact, why don't you insert what the representative just asked?"

Chair: "It has been recorded in the Journal."

At 11:55 o'clock p.m., upon the request of Representative Peters, the Chair declared a recess, subject to the call of the Chair.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, Thursday, March 9, 1978.

THIRTY-SIXTH DAY

Thursday, March 9, 1978

The House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by the Reverend Roy K. Sasaki of the Kahuku United Methodist Church, after which the Roll was called showing all members present with the exception of Representatives Abercrombie, Baker, Evans, Fong, Garcia, Kunimura, Mina, Morioka, Peters, Stanley, Toguchi, Uwaine and K. Yamada, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Thirty-Fifth Day.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, reading of the Journal was dispensed with and the Journal of the Thirty-Fifth Day was approved.

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 73 to 90) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 73) transmitting copies of a report prepared by the Department of Health in response to S.R. No. 224 (S.C.R. No. 82), urging extension of the Community Physician Program to North Kohala, Hawaii, was placed on file.

A message from the Governor (Gov. Msg. No. 74) transmitting copies of a report prepared by the Department of Health and the Department of Social Services and Housing, in response to H.R. No. 520, HD 1, requesting review of cost factor in extended term care, was placed on file.

A message from the Governor (Gov. Msg. No. 75) transmitting copies of a report prepared by the University of Hawaii in response to H.R. No. 65, HD 1, requesting review of policies and practices relating to planning and development of campuses within the University of Hawaii system, was placed on file.

A message from the Governor

(Gov. Msg. No. 76) transmitting copies of a report prepared by the Department of Health, pursuant to Section 321-176, Hawaii Revised Statutes, was placed on file.

A message from the Governor (Gov. Msg. No. 77) transmitting copies of the Final Compensation Plan, and the cost thereof, in compliance with the provisions of Sections 77-4 and 77-5, Hawaii Revised Statutes, as amended, regarding the compensation plans for blue collar and all other classes, was placed on file.

A message from the Governor (Gov. Msg. No. 78) transmitting copies of a report entitled: "Hawaii State Y.C.C. 1977", prepared by the Department of Land and Natural Resources, was placed on file.

A message from the Governor (Gov. Msg. No. 79) transmitting copies of a final report prepared by the University of Hawaii in response to S.R. No. 35, SD 1, relating to the University of Hawaii, School of Public Health, and its development of planning information systems, was placed on file.

A message from the Governor (Gov. Msg. No. 80) transmitting copies of a report entitled: "Vocational Education in Hawaii", prepared by the State Commission on Manpower and Full Employment to fulfill the requirements of Public Law 90-576, the Vocational Education Amendments of 1968, was placed on file.

A message from the Governor (Gov. Msg. No. 81) transmitting a new Statewide Transportation Plan, prepared by the State Department of Transportation, under the mandate of Chapter 279A, Hawaii Revised Statutes, was placed on file.

A message from the Governor (Gov. Msg. No. 82) transmitting copies of a report prepared by the University of Hawaii in response to S.R. No. 386, relating to developmental and remedial education, was placed on file.

A message from the Governor (Gov. Msg. No. 83) transmitting copies of a report prepared by the University of Hawaii in response to H.R. No. 61, HD 1, requesting review of educational options available in higher education, was placed on file.

A message from the Governor (Gov. Msg. No. 84) transmitting copies of

the Annual Report for the State Department of Labor and Industrial Relations, prepared as required by Hawaii Revised Statutes, Sections 371-7 and 26-20, was placed on file.

A message from the Governor (Gov. Msg. No. 85) transmitting copies of the Annual Report for the Public Utilities Commission, was placed on file.

A message from the Governor (Gov. Msg. No. 86) transmitting copies of the Annual Report prepared by the State Commission on Manpower and Full Employment, pursuant to Section 202-2, Hawaii Revised Statutes, was placed on file.

A message from the Governor (Gov. Msg. No. 87) transmitting copies of the Department of Personnel Services' Annual Report for Fiscal Year 1976-77, was placed on file.

A message from the Governor (Gov. Msg. No. 88) transmitting copies of the Annual Report prepared by the Agriculture Coordinating Committee, was placed on file.

A message from the Governor (Gov. Msg. No. 89) transmitting copies of a report prepared by the Department of Planning and Economic Development, entitled: "The Feasibility and Potential Impact of Manganese Nodule Processing in Hawaii", pursuant to S.R. No. 307 and S.C.R. No. 119, requesting continued efforts to encourage the development of ocean mineral resources, was placed on file.

A message from the Governor (Gov. Msg. No. 90) informing the House that on March 7, 1978, he signed the following bills into law:

House Bill No. 264 as Act 2, entitled: "RELATING TO CONSTRUCTION AND MAINTENANCE OF SIDEWALKS";

House Bill No. 216 as Act 3, entitled: "RELATING TO PREPAID HEALTH CARE",

was placed on file.

SENATE COMMUNICATION

A communication from the Senate (Sen. Com. No. 73) transmitting Senate Concurrent Resolution No. 46, requesting the active participation of state and county governments in the training of the general public in cardiopulmonary resuscitation,

which was adopted by the Senate on March 8, 1978, was read by the Clerk and was placed on file.

By unanimous consent, further action on S.C.R. No. 46 was deferred until tomorrow, March 10, 1978.

At 11:05 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:09 o'clock a.m., the Chair directed the Clerk to note the presence of Representatives Evans, Fong, Mina, Morioka and K. Yamada.

At this time, the following introductions were made to the members of the House:

Representative Kondo introduced 95 sixth grade students from Kam III School in Lahaina, Maui. They were accompanied by their teachers, Mr. Harold Stone, Mr. Teruo Aoki and Mr. Lane Fujii, and parents, Mr. and Mrs. Ho, Mr. and Mrs. Basco, Mrs. Moffett, Mrs. Jerome Gerble, Mrs. Martinez and Mrs. Shibao.

Representative Morioka introduced 23 fourth and fifth grade students from Hokulani School. They were accompanied by their teacher, Mr. Nagaishi, and parents, Mrs. Grossi, Mrs. Bailey and Mrs. Hoopili.

Representative Morioka then introduced 4 students from Kalani High School: Lori Akana, Diana McKenzie, Lynette Lee and Nanette Lee, a student intern in his office.

Representative Segawa then introduced a group of people from Hilo "who have come to participate in the Big Island Basketball State Tournament." They were seated in the gallery.

Representative Kawakami introduced the following:

Mr. Robert Rask, President of the Kauai Contractor's Association.

A group of 13 senior citizens who are participating in the Fourth Annual Hawaii County Senior Legislative Program. "They have arrived here on Monday of this week to observe the legislative process, as well as to observe the different branches of government in our State. These people are: Joseph Harris, Ernest Victorino, Santos Barbasa, Ichio Okumura, Mrs. Mary Ventura, Robert Riola, Miss Florence Morinaga, Mrs. Irene Luzon and Jack Honda. They were accompanied by their chaperones, Yukichi Gushiken,

Alice Wedemeyer, Mrs. Ellie Lloyd and Reverend Richard Chun."

Thirty-two fourth grade students in the American Problems Class from Waimea High School. They were accompanied by their advisers, Mrs. Frances Moriguchi and Ms. Mitsue Ibara.

Representative Yuen introduced 7 students from Castle High School and King School who are members of the Kahaluu Ki Projects Program. They were accompanied by their teachers, Mr. Bill Kato and Mr. Glenn Martin.

Representative Ajifu introduced Dr. Leon Blackman, Retired, "who is house-sitting for one of our former Methodist superintendents, and Dr. Blackman has come to Hawaii many times in the past to help the Methodist churches in their fund-raising activities."

Representative Ajifu then introduced his cousin from Okinawa, Mrs. Yoshiko Afuso. She was accompanied by his wife, Mrs. Ajifu.

Representative Carroll then introduced a former colleague and presently a councilman in Hilo, Joseph Garcia, "lurking in the background in the press box."

The Chair remarked:

"You Republicans always lurk."

ORDER OF THE DAY

DEFERRED RESOLUTIONS

The following resolutions (H.R. Nos. 433 to 437) and concurrent resolutions (H.C.R. Nos. 87 and 88) were disposed of as follows:

<u>H.R. Nos.</u>	<u>Referred to:</u>
433	Committee on Public Employment and Government Operations, then to the Committee on Finance
434	Committee on Health, then to the Committee on Education
435	Committee on Higher Education
436	Committee on Water, Land Use, Development and Hawaiian Homes
437	Committee on Water, Land Use, Development and Hawaiian Homes, then to the Committee on Finance

H.C.R. Nos.

87 Committee on Higher Education

88 Committee on Water, Land Use, Development and Hawaiian Homes, then to the Committee on Finance

SUSPENSION OF RULES

On motion by Representative Yuen, seconded by Representative Kamalii and carried, the rules were suspended for the purpose of considering certain resolutions.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 438 and 439) were read by the Clerk and were disposed of as follows:

A resolution (H.R. No. 438) honoring Ung Soy (Beans) Afook for his unequaled achievements in coaching and for his years of dedicated service to athletics, education and the welfare of the young people of Hawaii was jointly offered by Representatives Segawa, Mizuguchi, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Evans, Fong, Garcia, Ikeda, Inaba, Kamalii, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Medeiros, Mina, Morioka, Naito, Nakamura, Narvaes, Peters, Poepoe, Say, Shito, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima, Uwaine, D. Yamada, K. Yamada, Yuen and Wakatsuki.

On motion by Representative Segawa, seconded by Representative Mizuguchi and carried, H.R. No. 438 was adopted.

Representative Segawa then rose and stated:

"Mr. Speaker, I am one of the players that have had the pleasure of being one of 'Beans' Afook's boys. I played for 'Beans' in 1945, 1946 and 1947. I am proud to say that we took the State championship for those three years.

Besides the achievements that have been read out in the resolution, Mr. Speaker, I would like this body, as well as the people in the gallery, to know that this man has been more than a coach. He has been a very compassionate person and has influenced many, many lives in the past that have crossed his path.

Last night, we had a gathering of people with little advertising. We had 79 people who came out to honor him at the Flamingo. If we had advertised and worked harder, I am sure we would have had 400 to 500 people at that gathering.

I revere this gentleman as I would my Lord. Really, he is that terrific, and so, it really is an honor for me to have been one of his boys."

Representative Mizuguchi then rose to say a few words in behalf of the resolution, stating:

"Coach 'Beans' Afook is certainly a legend in his own time. Coach Afook produced his greatest triumphs and victories during a time in Hawaii when equal educational opportunity was a very elusive dream. His players came from plantation communities with little opportunities or recognition and success. However, Coach Afook was a very fair person, a tremendous coach, as the resolution states, and he did give all of his players the opportunity and recognition, and also provided them with a feeling of success, accomplishment, and a feeling of self worth.

With this tremendous record, I think, came a great deal of pride, a great deal of reputation, and a tradition that is richly Hilo's own.

I was fortunate to play under Coach Afook, and he did leave me with a tremendous amount of inspiration to continue in life, so it is a great honor for this body to honor such a compassionate man as Coach Afook.

Thank you."

Representative Ushijima then rose and stated:

"Mr. Speaker, many, many students have walked through the halls of Hilo High School during the years when Ung Soy 'Beans' Afook was a teacher at Hilo High School, and for the many, Mr. Speaker, much of their development as better human beings has been due to the unselfish deed, good advice and words of encouragement provided by 'Beans' Afook.

Mr. Speaker, Mr. Afook, or Coach Afook, or 'Beans' Afook, served as a pillar to many of us and, Mr. Speaker, I am eternally grateful that I have been one of the beneficiaries of Mr. Afook's unselfish deeds.

As the resolution had indicated, Coach Afook's record is unparalleled in this State of Hawaii, and I am happy of that although after his years of retirement, we, today, are honoring this compassionate and great, great person.

In addition to his record as a basketball coach, Mr. Speaker, Coach Afook was also our track coach. For those of us who couldn't make the basketball team, we all had to turn out for track. For those of us who were too slow, we had to carry weights and concentrated on weights. Coach Afook had this ability to instill challenges to all of our lives and, certainly, I benefitted from that experience.

Earlier, Representative Segawa had made reference to the fact of a banquet honoring Coach Afook last evening. I would like to take this time, Mr. Speaker, to elaborate some of the little things that had happened at the banquet which certainly reflect the outstanding person that Coach Afook is. Tommy Kaalakukui came up last evening to say that all that he had learned, and owe so much, was due to Coach Afook. Red Rocha stepped up, indicating that he became a better person, that he had learned the important things in life as a result of Coach Afook. Tom Pedro, Ah Chew Goo, and many others followed in line, and these are great people whom we all recognize and respect.

For all of them to recognize this great person and owe so much, it is certainly a credit to the compassionate heart of Coach Afook and, as a result, Mr. Speaker, I know that all of you join me in extending our best wishes to Coach Afook during his years of retirement.

Thank you very much."

Representative K. Yamada then rose to say a few words, stating:

"Mr. Speaker, I, too, came through the halls of Hilo High School. I am a former Vikings, but unfortunately, unlike the gentleman who spoke before me, I came much later so I didn't know him as Coach Afook. When it came to my turn, he was a counselor and was a very strict disciplinarian. I remember him very well for that, Mr. Speaker, and I think you should also be grateful since my good behavior here is largely determined by Mr. Afook in the years when I went to Hilo High School."

The Chair remarked:

"I will have to speak to him later on that."

Representative K. Yamada then said:

"I think you should take him out to dinner, Mr. Speaker. In any case, I think I owe him a public apology since I couldn't attend the dinner last night since my oratory abilities were required here in defending some of the Judiciary bills debated on last night, but I, too, would like to wish Mr. Afook best wishes in his retirement years."

Representative Segawa then introduced the honoree, Mr. Ung Soy 'Beans' Afook; his wife, Mrs. Elizabeth Afook; his sisters and their husbands, Mr. and Mrs. Masao Tsugawa and Mr. & Mrs. Sam Wong.

Representative Kamalii presented a lei to Mr. Afook and Representative Mizuguchi presented Mrs. Afook a lei. Representative Shito presented the honoree with a certified copy of the resolution.

A resolution (H.R. No. 439) congratulating the Hilo High School Vikings basketball team for winning the Big Island Interscholastic Federation basketball title was jointly offered by Representatives Segawa, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cobb, Dods, Evans, Fong, Garcia, Inaba, Kamalii, Kawakami, Kihano, Kunitura, Larsen, Lunasco, Machida, Mizuguchi, Morioka, Nakamura, Narvaes, Poepoe, Say, Shito, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Ueoka, Ushijima, Uwayne, D. Yamada and K. Yamada.

On motion by Representative Segawa, seconded by Representative K. Yamada and carried, H.R. No. 439 was adopted.

Representative Segawa then rose and stated:

"Mr. Speaker, we are happy to present to you the Hilo High Vikings of 1978, and this team whose record may not be the most illustrious, were long in coming up to be the champions of the Big Island Interscholastic Federation. I can say that they are not short in their determination and desire to win, and I have a feeling that they are going to take the State championship."

Representative Segawa then introduced

the following: Mr. Larry Manlingus and Mr. Billy Moore, Assistant Coaches; and players, Uwao Satran, Jesse Shimabukuro and Craig Shikuma, who were seated on the floor, and the rest of the basketball team who were seated in the gallery.

Certified copies of the resolution were presented by Representative K. Yamada.

The Chair then said:

"On behalf of the members of this House, the Chair would like to extend to the Hilo High School Vikings the best in the State tournament."

At 11:42 o'clock a.m., the Chair declared a recess, subject to the call of the Chair, "to extend our personal greetings to our honored guests."

Upon reconvening at 12:11 o'clock p.m., the Chair directed the Clerk to note the presence of Representatives Stanley and Uwayne.

At this time, Representative Kawakami introduced Mr. Manuel Gonsalves from Kauai to the members of the House.

STANDING COMMITTEE REPORTS

Representative Segawa, for the Committee on Health, presented a report (Stand. Com. Rep. No. 623-78) recommending that H.R. No. 17 be referred to the Committee on Education.

On motion by Representative Shito, seconded by Representative Ueoka and carried, the report of the Committee was adopted and H.R. No. 17, entitled: "HOUSE RESOLUTION REQUESTING THE IMPLEMENTATION OF THE SCHOOL HEALTH EDUCATION STUDY", was referred to the Committee on Education.

At 12:12 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:13 o'clock p.m.

Representative Say, for the Committee on Culture and the Arts, presented a report (Stand. Com. Rep. No. 624-78) recommending that S.B. No. 2599-78 pass Second Reading and be referred to the Committee on Finance.

Representative Say moved that Stand. Com. Rep. No. 624-78 and S.B. No.

2599-78 be recommitted to the Committee on Culture and the Arts, seconded by Representative Stanley.

The motion was put by the Chair and carried, and notwithstanding the report of the Committee that S.B. No. 2599-78 pass Second Reading and be referred to the Committee on Finance, Stand. Com. Rep. No. 624-78 and S.B. No. 2599-78 were recommitted to the Committee on Culture and the Arts.

Representatives Naito and Garcia, for the Committees on Corrections and Rehabilitation and Judiciary, presented a joint report (Stand. Com. Rep. No. 625-78) recommending that H.R. No. 97, as amended in HD 1, be adopted.

On motion by Representative Sutton, seconded by Representative Naito and carried, the joint report of the Committees was adopted and H.R. No. 97, HD 1, entitled: "HOUSE RESOLUTION RELATING TO RESTITUTION OF CRIME VICTIMS", was adopted.

Representative Say, for the Committee on Culture and the Arts, presented a report (Stand. Com. Rep. No. 626-78) recommending that H.R. No. 76, as amended in HD 1, be adopted.

Representative Say moved that the report of the Committee be adopted and H.R. No. 76, HD 1, be adopted, seconded by Representative Stanley.

Representative Kamalii then requested that her remarks in favor of the resolution be inserted into the Journal, and the Chair, noting that there were no objections, so ordered.

Representative Kamalii's remarks are as follows:

"Mr. Speaker, I rise to speak in favor of House Resolution No. 76, HD 1.

One day in 1970, I left my house knowing that if anyone asked me my racial extraction, I would say, 'I'm part-Hawaiian.' When I came home that day, there was a headline and a long interview with State Statistician Robert Schmidt saying, 'No, we don't recognize part-Hawaiians anymore.' I don't think I was alone in feeling bereft, feeling as though something very important in my life had somehow been formally taken from me.

I am part-Hawaiian. There is

truly no way to take that from me. I am a 'keiki o ka 'aina', a child of the land.

Mr. Speaker, the pride which we part-Hawaiians have is not dependent on Census recognition for it is a matter of the heart and mind. There are formal reasons for wanting the category 'part-Hawaiian' reinstated formally.

Congress is now considering the inclusion of Hawaiians within the definition and special programs of 'native Americans' and there is the future possibility of reparations. For these reasons, I urge the passage of this resolution.

Fundamentally, I and every other part-Hawaiian will be so proudly - regardless of the Census."

The motion was put by the Chair and carried, and the report of the Committee was adopted and H.R. No. 76, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A CATEGORY CHANGE IN THE 1980 CENSUS", was adopted.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 440 to 442) were read by the Clerk and were disposed of as follows:

A resolution (H.R. No. 440) congratulating Stanislaus K. Condon Jr. and Evan H. Esaki for their achievement of the rank of Eagle Scout was jointly offered by Representatives Ajifu, Abercrombie, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Evans, Fong, Garcia, Ikeda, Inaba, Kamalii, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Medeiros, Mina, Mizuguchi, Morioka, Naito, Nakamura, Narvaes, Peters, Poepoe, Say, Segawa, Shito, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Uwaine, D. Yamada, K. Yamada, Yuen and Wakatsuki.

On motion by Representative Ajifu, seconded by Representative Evans and carried, H.R. No. 440 was adopted.

A resolution (H.R. No. 441) congratulating Mr. Yoshio Kobayashi and Mr. Dewey Kobayashi on their outstanding achievement and success in producing the best potato chip in the world "Kitch'n Cook'd" was jointly offered by Representatives Ueoka, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Evans, Fong, Garcia, Ikeda, Inaba, Kamalii, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Medeiros,

Mina, Mizuguchi, Morioka, Naito, Nakamura, Narvaes, Peters, Poepoe, Say, Segawa, Shito, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ushijima, Uwaine, D. Yamada, K. Yamada, Yuen and Wakatsuki.

On motion by Representative Ueoka, seconded by Representative Kondo and carried, H.R. No. 441 was adopted.

A resolution (H.R. No. 442) congratulating Baldwin High School on its championship basketball team was jointly offered by Representatives Caldito, Machida, Abercrombie, Aki, Blair, Carroll, Cayetano, Cobb, Dods, Fong, Inaba, Kawakami, Kihano, Kiyabu, Kondo, Larsen, Lunasco, Morioka, Naito, Nakamura, Narvaes, Peters, Say, Shito, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Uwaine and D. Yamada.

On motion by Representative Caldito, seconded by Representative Machida and carried, H.R. No. 442 was adopted.

By unanimous consent, the following resolutions (H.R. Nos. 443 to 445) were referred to the Committee on Legislative Management and further action was deferred until tomorrow, March 10, 1978:

A resolution (H.R. No. 443) requesting civil service examination exemptions for SCET and CETA employees was jointly offered by Representatives Caldito, Campbell, Carroll, Cayetano, Kiyabu, Machida, Mina, Morioka,

Naito, Narvaes, Peters, Say, Shito, Stanley, Sutton, Toguchi, Uechi, Ueoka, Uwaine, D. Yamada and K. Yamada.

A resolution (H.R. No. 444) urging the public to participate in the "Three M Celebration and Health Fair" was jointly offered by Representatives Takamura, Uwaine, Aki, Caldito, Campbell, Carroll, Cobb, Dods, Inaba, Kihano, Kiyabu, Larsen, Lunasco, Machida, Mizuguchi, Morioka, Nakamura, Narvaes, Peters, Segawa, Shito, Stanley, Sutton, Suwa, Takamine, Uechi and Ueoka.

A resolution (H.R. No. 445) requesting an interim study on the status of the 1995 Honolulu Harbor Master Plan's implementation was jointly offered by Representatives Cayetano, Takamura, Dods, Evans, Ikeda, Kiyabu, Machida, Peters, Say, Stanley, Suwa and Uwaine.

THIRD READING

H.B. No. 3039-78, HD 1

Representative Suwa requested that action be deferred one day and the Chair, noting that there were no objections, so ordered.

ADJOURNMENT

At 12:25 o'clock p.m., on motion by Representative Yuen, seconded by Representative Kamalii and carried, the House of Representatives adjourned to 11:00 o'clock a.m. tomorrow, Friday, March 10, 1978.

THIRTY-SEVENTH DAY

Friday, March 10, 1978

The House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by the Reverend Donald J. Cavey of St. John Vianney Church, after which the Roll was called showing all members present with the exception of Representatives Baker and Kamalii, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Thirty-Sixth Day.

On motion by Representative Yuen, seconded by Representative Ajifu and carried, reading of the Journal was dispensed with and the Journal of the Thirty-Sixth Day was approved.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 74 to 170) were read by the Clerk and were disposed of as follows:

A communication from the Senate (Sen. Com. No. 74) transmitting Senate Bill No. 782, SD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR-BIKES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 75) transmitting Senate Bill No. 1347, SD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PLANNING", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 76) transmitting Senate Bill No. 1673-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTING ITEMS PURCHASED FOR RESALE BY THE UNIVERSITY OF HAWAII BOOKSTORES FROM THE REQUIREMENTS OF PUBLIC ADVERTISEMENT FOR SEALED TENDERS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 77) transmitting Senate Bill No. 1773-78, SD 2, entitled:

"A BILL FOR AN ACT RELATING TO COUNTIES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 78) returning House Bill No. 1998-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 79) transmitting Senate Bill No. 1811-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO AN INTERISLAND FERRY SYSTEM AND MAKING AN APPROPRIATION THEREFOR", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 80) transmitting Senate Bill No. 1946-78, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY LEASES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 81) transmitting Senate Bill No. 1985-78, entitled: "A BILL FOR AN ACT RELATING TO THE STATE PROGRAM FOR THE UNEMPLOYED", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 82) transmitting Senate Bill No. 2190-78, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL-AID HIGHWAYS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 83) transmitting Senate Bill No. 2208-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO EXCEPTIONAL TREES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 84) transmitting Senate Bill No. 2220-78, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HEALTH", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 85) transmitting Senate

Bill No. 2386-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE COMPREHENSIVE MEDICAL SERVICES SYSTEM", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 86) transmitting Senate Bill No. 2414-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO RETIREMENT SYSTEM INVESTMENTS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 87) transmitting Senate Bill No. 2455-78, entitled: "A BILL FOR AN ACT RELATING TO COUNTY OPERATIONS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 88) transmitting Senate Bill No. 2463-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROSECUTION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 89) transmitting Senate Bill No. 2464-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO NOISE POLLUTION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 90) transmitting Senate Bill No. 2469-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO VEHICLE LENGTH", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 91) transmitting Senate Bill No. 2489-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 92) transmitting Senate Bill No. 2520-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INHERITANCE AND ESTATE TAXATION OF PENSIONS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 93) transmitting Senate Bill No. 2525-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO REGULATION OF MOVABLE SIGNS ALONGSIDE PUBLIC HIGHWAYS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 94) transmitting Senate Bill No. 2622-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTEMPT OF COURT", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 95) transmitting Senate Bill No. 2620-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 96) transmitting Senate Bill No. 71, SD 3, entitled: "A BILL FOR AN ACT RELATING TO HOUSING", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 97) transmitting Senate Bill No. 389, SD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING PLANNING", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 98) transmitting Senate Bill No. 566, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC DEFENDER", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 99) transmitting Senate Bill No. 596, SD 2, entitled: "A BILL FOR AN ACT RELATING TO DEFERRED COMPENSATION PLANS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 100) transmitting Senate Bill No. 673, SD 1, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL LEASES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 101) transmitting Senate Bill No. 780, SD 2, entitled: "A BILL FOR AN ACT RELATING TO

THE EMPLOYEES RETIREMENT SYSTEM OF THE STATE OF HAWAII", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 102) transmitting Senate Bill No. 897, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SICK LEAVES FOR GOVERNMENT EMPLOYEES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 103) transmitting Senate Bill No. 1533-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO IN-SERVICE TRAINING PROGRAMS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 104) transmitting Senate Bill No. 1555-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO WELFARE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 105) transmitting Senate Bill No. 1568-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO GEOTHERMAL ENERGY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 106) transmitting Senate Bill No. 1570-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF THE HAWAII LABORATORY FOR RIFT ZONE GEOTHERMAL RESERVOIRS AND MAKING AN APPROPRIATION FOR INITIATING RESEARCH THEREUPON", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 107) transmitting Senate Bill No. 1572-78, SD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A STUDY OF THE NON-ELECTRICAL APPLICATIONS OF GEOTHERMAL ENERGY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 108) transmitting Senate Bill No. 1573-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO BIOMASS ENERGY PLANTATIONS",

which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 109) transmitting Senate Bill No. 1578-78, SD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR STUDY ON AN UNDERWATER CABLE SYSTEM INTERCONNECTING ISLANDS FOR THE TRANSMISSION OF ENERGY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 110) transmitting Senate Bill No. 1579-78, SD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A STUDY ON A HYDROELECTRIC SYSTEM FOR MOLOKAI", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 111) transmitting Senate Bill No. 1581-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO AN APPROPRIATION FOR RESEARCH, DEVELOPMENT, DEMONSTRATION, AND UTILIZATION OF ALTERNATE ENERGY SOURCES FOR HAWAII", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 112) transmitting Senate Bill No. 1597-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX INCENTIVES FOR ENERGY CONSERVATION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 113) transmitting Senate Bill No. 1622-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 114) transmitting Senate Bill No. 1646-78, entitled: "A BILL FOR AN ACT RELATING TO VITAL RECORDS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 115) transmitting Senate Bill No. 1654-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO VACANCIES IN CIVIL SERVICE POSITIONS",

which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 116) transmitting Senate Bill No. 1658-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MOTOR VEHICLE ACCIDENT REPARATIONS ACT", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 117) transmitting Senate Bill No. 1682-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO UNLAWFUL SUSPENSION OR DISCHARGE FROM EMPLOYMENT", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 118) transmitting Senate Bill No. 1698-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PAYMENT OF WITNESS EXPENSES BY THE PUBLIC PROSECUTOR OR COUNTY ATTORNEY, AND BY THE PUBLIC DEFENDER", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 119) transmitting Senate Bill No. 1782-78, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 120) transmitting Senate Bill No. 2617-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ESTABLISHMENT OF A CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM WITHIN THE DEPARTMENT OF LAND AND NATURAL RESOURCES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 121) transmitting Senate Bill No. 1786-78, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 122) transmitting Senate Bill No. 1787-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT",

which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 123) transmitting Senate Bill No. 1797-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY TAXATION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 124) transmitting Senate Bill No. 2609-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 125) transmitting Senate Bill No. 1812-78, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 126) transmitting Senate Bill No. 1820-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO STANDARDS OF CONDUCT, INCLUDING DISCLOSURE OF FINANCIAL INTERESTS BY LEGISLATORS AND STATE EMPLOYEES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 127) transmitting Senate Bill No. 1824-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO COUNSELING SERVICES FOR MINORS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 128) transmitting Senate Bill No. 1855-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 129) transmitting Senate Bill No. 1919-78, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF DEFENDANTS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 130) transmitting Senate Bill No. 1925-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO A CRIME COMMISSION", which passed

Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 131) transmitting Senate Bill No. 1936-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TUITION WAIVERS FOR UNIVERSITY OF HAWAII MUSIC MAJORS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 132) transmitting Senate Bill No. 1950-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 133) transmitting Senate Bill No. 1979-78, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS OFFENSES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 134) transmitting Senate Bill No. 2005-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO FARM LOANS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 135) transmitting Senate Bill No. 2036-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING FOR VIOLATIONS OF HAWAII'S LITTER LAWS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 136) transmitting Senate Bill No. 2046-78, entitled: "A BILL FOR AN ACT RELATING TO THE PROCUREMENT OF PUBLIC CONTRACTS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 137) transmitting Senate Bill No. 2602-78, entitled: "A BILL FOR AN ACT RELATING TO INACTIVE STUDENT ACTIVITY ACCOUNTS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 138) transmitting

Senate Bill No. 2063-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 139) transmitting Senate Bill No. 2080-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL OBLIGATION BONDS OF COUNTIES OF THE STATE OF HAWAII", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 140) transmitting Senate Bill No. 2084-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 141) transmitting Senate Bill No. 2086-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 142) transmitting Senate Bill No. 2100-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 143) transmitting Senate Bill No. 2146-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL LEASEHOLD HORIZONTAL PROPERTY REGIMES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 144) transmitting Senate Bill No. 2147-78, entitled: "A BILL FOR AN ACT RELATING TO MINORS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 145) transmitting Senate Bill No. 2148-78, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 146) transmitting Senate Bill No. 2154-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO

COSMETOLOGY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 147) transmitting Senate Bill No. 2188-78, entitled: "A BILL FOR AN ACT RELATING TO CORPORATION DIRECTORS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 148) transmitting Senate Bill No. 2279-78, entitled: "A BILL FOR AN ACT RELATING TO FARM LOANS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 149) transmitting Senate Bill No. 2287-78, entitled: "A BILL FOR AN ACT RELATING TO THE LIMITATION OF ACTIONS FOR DAMAGES TO REAL PROPERTY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 150) transmitting Senate Bill No. 2302-78, entitled: "A BILL FOR AN ACT RELATING TO BONDS ISSUED BY THE COUNTIES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 151) transmitting Senate Bill No. 2332-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO EXPENDITURE OF PUBLIC MONEY AND PUBLIC CONTRACTS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 152) transmitting Senate Bill No. 2436-78, entitled: "A BILL FOR AN ACT RELATING TO LITTER CONTROL", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 153) transmitting Senate Bill No. 2448-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGRICULTURE COORDINATING COMMITTEE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 154) transmitting Senate Bill No. 2470-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING FOR THE ELDERLY", which

passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 155) transmitting Senate Bill No. 2476-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE IMPORTATION OF BEER FOR PRIVATE CONSUMPTION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 156) transmitting Senate Bill No. 2478-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPROVEMENT BY ASSESSMENT", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 157) transmitting Senate Bill No. 2480-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO RIGHTS OF SUBROGATION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 158) transmitting Senate Bill No. 2483-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ATTACHMENT", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 159) transmitting Senate Bill No. 2485-78, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 160) transmitting Senate Bill No. 2490-78, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 161) transmitting Senate Bill No. 2494-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY DISABILITY INSURANCE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 162) transmitting Senate Bill No. 2523-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO HOTELS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 163) transmitting Senate Bill No. 2545-78, entitled: "A BILL FOR AN ACT RELATING TO PROBATION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 164) transmitting Senate Bill No. 2556-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 165) transmitting Senate Bill No. 2559-78, entitled: "A BILL FOR AN ACT RELATING TO THE CONSTITUTIONAL CONVENTION", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 166) transmitting Senate Bill No. 2581-78, SD 2, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 167) transmitting Senate Bill No. 2590-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTAKE SERVICE CENTERS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 168) transmitting Senate Bill No. 2591-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTAKE SERVICE CENTERS", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 169) transmitting Senate Bill No. 2595-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO OBSTRUCTION OF JUSTICE", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 170) transmitting Senate Bill No. 2596-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO WITNESS IMMUNITY", which passed Third Reading in the Senate on March 8, 1978, was placed on file.

On motion by Representative Yuen, seconded by Representative Ajifu and carried, the above-mentioned Senate Bills passed First Reading by title and further action was deferred until Monday, March 13, 1978.

At this time, the following introductions were made to the members of the House:

Representative Aki introduced sixty 8th grade students from Waianae Intermediate School, who had performed in the morning in the rotunda in conjunction with School Band Week. They were accompanied by their instructor, Mr. Dennis Suzuki.

Fifty students from Waialua High School were introduced by Representative Lunasco. They were accompanied by their teachers, Mrs. Akimoto and Mr. Richard.

Representative Morioka introduced the following relatives of Representative Suwa: Mr. Stanley Ebata from Los Angeles, Roy Ebata and Tad and Dickson Suzuki from Palolo.

The hundred member Hilo High School band was introduced by Representative Segawa.

Representative Say introduced seventeen 4th and 5th grade students from Palolo Elementary School who were accompanied by their teachers, Mr. Kimura, Mrs. Segawa, Mrs. Ginoza, and parent, Mrs. Yamauchi.

At 11:10 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:12 o'clock a.m., the Chair directed the Clerk to note the presence of Representative Kamalii.

ORDER OF THE DAY

DEFERRED RESOLUTION

The following concurrent resolution (S.C.R. No. 46) was disposed of as follows:

<u>S.C.R. No.</u>	<u>Referred to:</u>
46	Committee on Health, then to the Committee on Finance

COMMITTEE REASSIGNMENT

The following were re-referred as follows:

S.B. Nos. Re-referred to:

1799-78 Committee on Public
Employment and Government
Operations

2599-78 Committee on Culture
and the Arts

H.R. Nos.

140 Jointly to the Committees
on Judiciary and Corrections
and Rehabilitation

437 Committee on State
General Planning, then to the
Committee on Finance

H.C.R. No.

88 Committee on State
General Planning, then to the
Committee on Finance

SUSPENSION OF RULES

On motion by Representative Yuen,
seconded by Representative Ajifu
and carried, the rules were suspended
for the purpose of allowing members
to offer resolutions.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R.
Nos. 446 to 456) and concurrent
resolution (H.C.R. No. 89) were
read by the Clerk and were disposed
of as follows:

A resolution (H.R. No. 446) honoring
the Farden family was jointly offered
by Representatives Kamalii, Ajifu,
Aki, Blair, Caldito, Campbell, Carroll,
Cayetano, Dods, Evans, Fong, Ikeda,
Inaba, Kawakami, Kondo, Kunimura,
Larsen, Lunasco, Machida, Medeiros,
Morioka, Naito, Narvaes, Peters,
Poepoe, Say, Shito, Stanley, Sutton,
Suwa, Takamine, Toguchi, K. Yamada,
Yuen and Wakatsuki.

On motion by Representative Kamalii,
seconded by Representative Poepoe
and carried, H.R. No. 446 was
adopted.

Representative Kamalii then rose
and stated:

"Mr. Speaker, there was never
a time in the Hawaiian experience
when music was not important.
There are songs which praise the
land, glorify the chiefs and honor

particular families. Today, with our
resolution, we have offered our legislative
version of a song in praise of the beauty
of the Farden family. Unfortunately,
our praise is not set to music. For
this family, however, their music,
which is their fame, it is therefore
more than appropriate that they should
provide the melody.

It is my pleasure to introduce the
Farden family: Margaret, Irmgard,
Rudolph, Annie, Edna, Llewellyn,
Emma, Carl, Daine and Bernard."

At this time, Representatives Poepoe,
Medeiros, Sutton, Fong, Yuen, Say,
Ushijima, Evans, Ikeda and Kamalii
presented the honored guests with
leis, and Representative Carroll presented
them with certified copies of the resolution.

Representative Kamalii then introduced
other members of the Farden family
who were seated in the gallery.

The Chair then stated:

"The Chair, at this time, will declare
a recess for the purpose of receiving
a few renditions from the Farden family,
who have graciously consented to
do so, and also to extend our personal
greetings and best wishes to our honored
guests."

At 11:30 o'clock a.m., the Chair
declared a recess, subject to the call
of the Chair.

Upon reconvening at 11:45 o'clock
a.m., the Chair stated:

"On behalf of each member of this
House, the Chair would like to extend
deep appreciation to the Farden family
for entertaining this morning with
such beautiful melody, beautiful words,
which has come at a most appropriate
time. We needed this entertainment
after such strenuous hours. Thank
you very much.

Before the Chair declares a recess,
the Chair would like to welcome and
acknowledge the presence of our colleague
who spent two nights in the hospital
after the strenuous hours that we
had. Welcome back, Representative
Kunimura."

Representative Ajifu then rose and
stated:

"Mr. Speaker, before we recess,
may I say a few words?

Mr. Speaker, I think as we enjoyed
the very harmonious music here,

and we've seen the harmonious family here, I would like to make one mention, that amongst the family members here, we have in the group one of the few registered parliamentarians, and I had my parliamentary training under Carl Farden. Carl, would you stand and get a special recognition?"

The Chair then remarked:

"The Chair would like to make one request of Mr. Carl Farden, that if he would retrain his student, we would all appreciate that."

Representative Kamalii, at this time, introduced the Farden family musicians.

Representative Dods introduced a group of students from Haihaione Elementary School.

At 11:50 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 12:01 o'clock p.m., the Vice Speaker assumed the rostrum.

A resolution (H.R. No. 447) welcoming and thanking the Hilo High School band for performing at the State Capitol was jointly offered by Representatives Segawa, Ajifu, Aki, Caldito, Campbell, Carroll, Cayetano, Dods, Evans, Fong, Inaba, Kamalii, Kiyabu, Kondo, Mina, Nakamura, Narvaes, Peters, Say, Sutton, Suwa, Takamine, Takamura, Toguchi, Ueoka, Ushijima, K. Yamada and Yuen.

On motion by Representative Segawa, seconded by Representative K. Yamada and carried, H.R. No. 447 was adopted.

House Resolution No. 442, congratulating Baldwin High School on its championship basketball team, which was adopted on March 9, 1978, was read by the Clerk.

At this time, Representative Caldito introduced the following members of the Baldwin "Bears" team: assistant coach, Angel Kalowehi, Mark Elf, Edgar Tesoro, Reef Alo, Harris Murakami and Kawika Akana. He also introduced the nucleus of the Baldwin team members and assistant coaches who were seated in the gallery.

Representatives Kondo, Ueoka and Machida presented the members with certified copies of the resolution.

The Chair then extended his best wishes, saying:

"The Chair, on behalf of every member of this House, wish to extend to the Baldwin High School Bear team the very best, and much success in the State tournament."

Captain Frank Silva, Sr., was introduced by Representative Caldito.

A resolution (H.R. No. 448) congratulating the Pearl City High School Chargers on winning the 1978 OIA girls softball championship was jointly offered by Representatives Mizuguchi, Aki, Blair, Caldito, Campbell, Cayetano, Dods, Kihano, Kiyabu, Lunasco, Machida, Mina, Morioka, Nakamura, Peters, Say, Segawa, Shito, Stanley, Suwa, Takamine, Ueoka, Ushijima, Uwayne, D. Yamada and Yuen.

On motion by Representative Mizuguchi, seconded by Representative Peters and carried, H.R. No. 448 was adopted.

A resolution (H.R. No. 449) congratulating Noly Hipolito for being selected the Outstanding Filipino Small Businessman for 1977 was jointly offered by Representatives Kihano, Ajifu, Caldito, Campbell, Carroll, Cayetano, Cobb, Fong, Garcia, Ikeda, Inaba, Kawakami, Kiyabu, Lunasco, Machida, Mina, Mizuguchi, Naito, Nakamura, Narvaes, Peters, Say, Shito, Stanley, Takamine, Toguchi, Uechi, Ueoka, Uwayne, D. Yamada, K. Yamada and Yuen.

On motion by Representative Mina, seconded by Representative Lunasco and carried, H.R. No. 449 was adopted.

A resolution (H.R. No. 450) congratulating Priscilla Bratland for being selected as Outstanding Filipino Professional for 1977 was jointly offered by Representatives Kihano, Ajifu, Caldito, Campbell, Carroll, Cayetano, Cobb, Evans, Fong, Garcia, Ikeda, Inaba, Kawakami, Kiyabu, Lunasco, Machida, Mina, Mizuguchi, Naito, Nakamura, Narvaes, Peters, Say, Segawa, Shito, Stanley, Takamine, Toguchi, Uechi, Ueoka, Uwayne, D. Yamada, K. Yamada and Yuen.

On motion by Representative Segawa, seconded by Representative Lunasco and carried, H.R. No. 450 was adopted.

A resolution (H.R. No. 451) congratulating Juan Dionisio for being selected the Outstanding Filipino in Community Service for 1977 was jointly offered by Representatives Kihano, Ajifu, Caldito, Campbell, Carroll, Cayetano, Cobb, Evans, Fong, Garcia, Ikeda, Inaba, Kawakami, Kiyabu, Lunasco,

Machida, Mina, Mizuguchi, Naito, Nakamura, Narvaes, Peters, Say, Shito, Stanley, Takamine, Toguchi, Uechi, Ueoka, Uwaine, D. Yamada, K. Yamada and Yuen.

On motion by Representative Lunasco, seconded by Representative Caldito and carried, H.R. No. 451 was adopted.

A resolution (H.R. No. 452) congratulating Shirley Libarios for being selected Outstanding Filipino Educator for 1977 was jointly offered by Representatives Kihano, Ajifu, Caldito, Campbell, Cayetano, Cobb, Evans, Fong, Garcia, Ikeda, Inaba, Kawakami, Kiyabu, Lunasco, Machida, Mina, Mizuguchi, Naito, Nakamura, Narvaes, Peters, Say, Shito, Stanley, Takamine, Toguchi, Uechi, Ueoka, Uwaine, D. Yamada, K. Yamada and Yuen.

On motion by Representative Lunasco, seconded by Representative Caldito and carried, H.R. No. 452 was adopted.

A resolution (H.R. No. 453) commending Gabby Pahinui for his outstanding contributions to music in Hawaii was jointly offered by Representatives Yuen, Peters, Say, Abercrombie, Aki, Caldito, Campbell, Cayetano, Cobb, Dods, Inaba, Kiyabu, Kondo, Lunasco, Mina, Morioka, Naito, Nakamura, Segawa, Shito, Stanley, Suwa, Takamine, Takamura, Ueoka and Uwaine.

On motion by Representative Yuen, seconded by Representative Peters and carried, H.R. No. 453 was adopted.

A resolution (H.R. No. 454) honoring the coaches and officials of the Palolo Little League for their dedicated service to the youth of the community was jointly offered by Representatives Morioka, Blair, Caldito, Campbell, Carroll, Cobb, Dods, Evans, Fong, Garcia, Inaba, Kamalii, Kawakami, Kiyabu, Kondo, Kunimura, Lunasco, Machida, Medeiros, Mina, Mizuguchi, Naito, Nakamura, Narvaes, Peters, Say, Shito, Stanley, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima, D. Yamada, K. Yamada and Yuen.

On motion by Representative Morioka, seconded by Representative Say and carried, H.R. No. 454 was adopted.

A resolution (H.R. No. 455) congratulating the members of the Advertiser's 1978 All-Maui Interscholastic League team was jointly offered by Representatives

Kondo, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Inaba, Kihano, Kiyabu, Larsen, Lunasco, Machida, Mina, Mizuguchi, Naito, Nakamura, Narvaes, Say, Segawa, Shito, Stanley, Sutton, Suwa, Takamine, Uechi, Ueoka, Ushijima, Uwaine, D. Yamada, K. Yamada and Yuen.

On motion by Representative Kondo, seconded by Representative Ueoka and carried, H.R. No. 455 was adopted.

A resolution (H.R. No. 456) congratulating George Ragaza for being selected Outstanding Filipino Artist for 1977 was jointly offered by Representatives Kihano, Ajifu, Caldito, Campbell, Carroll, Cayetano, Cobb, Evans, Fong, Garcia, Ikeda, Inaba, Kawakami, Kiyabu, Lunasco, Machida, Mina, Mizuguchi, Naito, Nakamura, Narvaes, Peters, Say, Shito, Stanley, Takamine, Toguchi, Uechi, Ueoka, Uwaine, D. Yamada, K. Yamada and Yuen.

On motion by Representative Lunasco, seconded by Representative Caldito and carried, H.R. No. 456 was adopted.

A concurrent resolution (H.C.R. No. 89) commending Gabby Pahinui for his outstanding contributions to music in Hawaii was jointly offered by Representatives Yuen, Peters, Say, Abercrombie, Aki, Caldito, Campbell, Cayetano, Cobb, Dods, Inaba, Kiyabu, Kondo, Lunasco, Mina, Morioka, Naito, Nakamura, Segawa, Shito, Stanley, Suwa, Takamine, Takamura, Ueoka and Uwaine.

On motion by Representative Yuen, seconded by Representative Peters and carried, H.C.R. No. 89 was adopted.

By unanimous consent, the following resolutions (H.R. Nos. 457 to 460) were referred to the Committee on Legislative Management and further action was deferred until Monday, March 13, 1978:

A resolution (H.R. No. 457) requesting the development of a videotape package on the history of Iolani Palace was jointly offered by Representatives Say, Aki, Caldito, Campbell, Dods, Inaba, Kiyabu, Kondo, Lunasco, Mina, Takamine, Takamura and K. Yamada.

A resolution (H.R. No. 458) requesting a study on the sale of Hawaiian artifacts was jointly offered by Representatives Say, Aki, Caldito, Campbell, Dods, Inaba, Kiyabu, Kondo, Lunasco, Mina, Takamine, Takamura, K. Yamada and Yuen.

A resolution (H.R. No. 459) urging the establishment of public radio in the State of Hawaii was offered by Representative Evans.

A resolution (H.R. No. 460) requesting a feasibility study concerning a multi-purpose slaughterhouse complex for Oahu was jointly offered by Representatives Peters, Caldito, Dods, Inaba, Kiyabu, Lunasco, Machida, Morioka, Shito, Stanley, Suwa, Uechi, Ushijima, D. Yamada and K. Yamada.

A resolution (H.R. No. 461) expressing the most profound mahalo and aloha for his exemplary work and deepest best wishes of the Hawaii State House of Representatives to Richard "Buffalo" Keaulana for success in the "Second Annual Big Board Surfing Classic" and other endeavors was jointly offered by Representatives Peters, Aki, Caldito, Campbell, Carroll, Cayetano, Dods, Ikeda, Inaba, Kamalii, Kihano, Kiyabu, Kondo, Kunimura, Machida, Mina, Morioka, Say, Shito, Stanley, Suwa, Toguchi, Ueoka, Ushijima, Uwaine, D. Yamada, K. Yamada, Yuen and Wakatsuki and was read by the Clerk.

On motion by Representative Peters, seconded by Representative Aki and carried, H.R. No. 461 was adopted.

At 12:06 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 12:10 o'clock p.m., Representative Abercrombie rose on a point of personal privilege and stated:

"Mr. Speaker, many members have been kind enough to comment to me today about the bleeding scrape that I have here in the middle of my forehead, and I wanted to assure all of them that I'm all right and that I got it battering my head against the legislative wall. Thank you very much."

The Chair then remarked:

"Maybe the wall wasn't hard enough."

Representative Peters, upon being recognized, stated:

"Just by way of an addendum to that remark, I admit I didn't do anything about that. I had nothing to do with it."

UNFINISHED BUSINESS

H.B. No. 3039-78, HD 1, on Third Reading (Deferred from March 9, 1978):

Representative Suwa moved that H.B. No. 3039-78, HD 1, having been read throughout, pass Third Reading, seconded by Representative Peters.

Representative Segawa rose to speak in favor of the bill, stating:

"I would like to restrict my comments to the area of health.

I would first of all like to commend Representative Suwa and his hard-working committee for the time and efforts they have put into this measure and, I know, the many difficulties they faced in trying to come up with a budget which would be balanced as well as receivable and satisfying to all parties involved; however, I am sure that no subject measure can be satisfying to all parties involved.

I would like to talk about certain items that have been placed there. I believe these are many of the very important and urgent items we have been addressing ourselves to during the interim as well as into part of the session.

The budget responds with funding to the County/State hospital system with funding for additional positions to staff these neighbor island hospitals, who for many years have been understaffed because of changing health care services. To give an example, I believe Maui Memorial Hospital had requested 142 positions, and the budget did not allow for any positions. Now it allows for several positions which will be worked out with the department.

It also addresses several grants-in-aid to private agencies who are involved in providing health care services to the communities. Some of these are the Sex Abuse Treatment Center, Children's Hospital for the continuation of the Poison Information Center, funds to supplement books for the Hawaii Medical Library, funds for pre-marital serological testing for rubella, and funds for various services to the handicapped. It is still a question of how much these private agencies will receive. These amounts will have to be carefully scrutinized and worked into the budget when it is considered in conference committee.

The House Committee on Health sees many of these private agencies as

providing a service which is an important and integral part and as an extension of our total health care services to the people of our State. In this regard, I urge the Finance Committee to consider funding of these agencies to the maximum needs possible, and I urge all members to vote 'aye' on this measure.

Thank you."

Speaking in favor of the passage of the bill, Representative Carroll stated:

"Mr. Speaker, I am addressing my remarks in favor of this bill to the subject matter which is contained on pages 75 and 76 of House Draft 1, noting House Bill 3039-78, which refers specifically to legal aid.

Mr. Speaker, all of us are, I think, deeply concerned about the condition of the poor in our community, and the Legal Aid Society using funds that were appropriated by the Legislature in the past, to the best of my knowledge, has oftentimes done an excellent job. Over the years I have had occasion of people coming to me as a private attorney and, for their interest, I have sent them to Legal Aid and they have been rather well taken care of. But as time has gone on, I have found that that situation has changed.

I was alarmed yesterday when I heard that the Family Unit had been closed. The Family Unit being that section of Legal Aid which takes care of the orders to show cause where a wife is battered by her husband or where she is not being given enough money to get along, etc.

So, last night, I instructed my aides, Ms. Linda Nagatori and Mrs. Kit Landry - Ms. Nagatori being a public accountant and Mrs. Landry being an attorney, not licensed to practice in the State of Hawaii, but nonetheless, both efficient and intelligent persons - and had them call Legal Aid with problems. Well, I am going to read to you the transcripts with what resulted.

Yesterday, calling at 4:09, the appointment number was not in service. So the number, 5364921, was called and the person answering there said to call back the appointment desk tomorrow.

The next day, which was this morning, at 9:06, the appointment

desk was called, and again it was not in service.

At 9:15 we were able to establish a connection; it rang many times. Then, Ms. Nagatori, stating in what was something similar to pidgin English, stated, I need help. She was told, I cannot give legal advice on the phone. You need to make an appointment to see a lawyer. That was the end of that conversation. She rang back many times. She said, I want to make an appointment to see a lawyer, and was told the appointment desk is busy, call back.

At 10:15 she finally got to the appointment desk. She said, I want to see a lawyer. They said, what is your problem? She said, my husband doesn't give me money. I don't know what to do. I want advice. Then she was asked, to the effect, that we need to know what you want done. She said, I guess then I want a divorce. She was told, call a Divorce Clinic. She says, but my husband sometime he beat me up. I don't know what to do. Does Divorce Clinic cost money? Then they said, there is a fee. How much? The answer was, attorney's fees. Then she said, but I don't have money. What can I do? She was told, I don't know. I can't answer legal questions. Then she said, what are the phone numbers of the Divorce Clinic and the other place mentioned - which happened to be the Lawyer's Referral Service - and doesn't that place cost money? And they said, Yes. That was the termination of the conversation.

Mrs. Landry, who has a slight southern accent, called at 9:20. Again the phone rang many times, said she wanted to speak to an attorney. Answer: the appointment desk is busy. She held. Five minutes later the person hung up. Then no one came on the line during the second five minute interval.

She called back again. The phone rang many times. She told the person she had waited for five minutes. Then she was told the line was still busy. Then the same question: Can you help me? No. And she said she talked to her for a while, haggling with her, trying to figure out why the appointment desk wasn't answering her. She said: I asked if someone could help me? I'm desperate and I'm in despair. I want a lawyer. I went to a lawyer and he told me to go to Legal Aid because I could not afford his fees. Then the lady she

was speaking to told her to 'hold'. She didn't come back. She pushed the hold button to see if she was there, but didn't say anything when she was still holding on. She hung up and she got the dial tone. She called back, and the lady answering said: Oh, it's you again. She finally put her through to the appointment desk. She said she wanted an appointment with a lawyer. She said, I must tell her my problems first. She told her that she had two problems: she needed a divorce, to which she again referred her to the Divorce Clinic. Then she asked if there was a fee. She said there might be. She told her that she was served with an eviction notice, and she asked her her husband's gross salary and the number of children she had. Then they went on through some more falderal, and the net result was that they could not help her.

Now, Mr. Speaker, this is not what I would call a definitive analysis of Legal Aid. But, what I do know is that there is something very rotten going on in the Legal Aid administration at the present time and I know that this is before the general public. But this is something that happened within the past three hours.

At 11:56, just after we were listening to the Fardens, I called a number, and within two minutes I was talking to an attorney who gave me an analysis of where their attorneys were working and the types of cases they were on. I used my name and position in order to get through.

But, Mr. Speaker, I submit we need to fund this, and I think that every penny of taxpayers' money that's being spent on Legal Aid, and I realize that they have funds from other than here, must be watched with a magnifying glass, because I think these monies are not being properly used. I think it is our responsibility and I, as well as the rest of us here, have got to see that these monies are properly expended. I think that the people who are most defenseless and the people who are intimidated by a brutal husband, intimidated economically, are not being served by this.

I think the continuation of closing the Family Unit, which was confirmed by the staff attorney that I talked to, cannot be allowed to go on. And I don't think we can sit two or three weeks to get a change here. I think it needs immediate attention.

I certainly urge that we pass this measure and that everyone of us take a look at this to see that these really deplorable conditions can be changed at the soonest possible time.

Thank you."

Representative Mizuguchi then rose to speak in favor of the bill, stating:

"Mr. Speaker, last year the Legislature adopted a new perspective in viewing the public school system. This new perspective placed emphasis on the individual school as the basic management unit of the educational system. In an effort to strengthen the individual school as the basic management unit of the public school system, the Legislature changed its focus from that of seeking improvements and applying resources to the Department of Education, as a whole, to that of encouraging improvements and applying resources to the individual public school. Funds were channeled directly to individual schools so that they would have a positive impact in stimulating the individual school's learning environment.

Mr. Speaker, before us, in this bill, is an educational budget which continues our focus on the individual school, giving it the flexibility to spend some of its resources to respond to the needs and the special needs of our students. A total of \$1.64 million has been provided to continue 'Special Needs' funds to individual schools. These 'Special Needs' funds are additional school funds to meet the needs of the individual schools, as determined by the principal, in consultation with faculty, parents and students.

We heard from the Hawaii State Teachers Association, and it reported that it undertook a school-by-school survey of the implementation of special needs and found: (1) a high degree of teacher participation in determining how special needs funds were to be expended; and (2) 'an overwhelming acceptance' of the concept of special needs funding as well as an 'extremely high rate' of satisfaction with the implementation of special needs funds. Superintendent Clark, as well as his other superintendents, were likewise strong in support of the continuation of special needs funding. Suggestions for improving special needs funding centered on allowing funds to be used to meet school needs other than regular instruction.

Therefore, the provisos contained in this bill for special needs funding has been expanded to allow funds to be used to meet needs outside of

the regular instruction program. Also, the formula in which the funds are distributed among the individual schools has been expanded to count special education students in the total enrollment of the school. The new formula provides each school with \$2,000 plus \$7 per regular and special education student enrolled in the school.

Mr. Speaker, also contained in this bill are appropriations for an additional 129 teachers, 37 educational assistants, and 46 speech therapists, including necessary equipment and supplies; to provide educational services for handicapped children who are currently not being served in our public schools. Equal educational opportunity for the handicapped is mandated by State and federal law, court agreement and Board of Education policy; therefore, this appropriation is part of the State's pursuit to meet these legal mandates.

We have 35 elementary counselor positions. We are continuing contract services to identify students suspect of being handicapped, and to cover increases in utility costs.

Mr. Speaker, I feel that the Education budget contained in this bill is a responsible one and provides for the immediate needs of our schools.

Therefore, Mr. Speaker, I encourage all members of this body to vote in favor of this bill.

Thank you."

Speaking in favor of the bill, Representative Ushijima stated:

"Mr. Speaker, I rise to speak in favor of H.B. No. 3039-78, HD 1, and will confine my remarks to the Higher Education portion of the budget.

House Bill No. 3039-78, HD 1, provides the University of Hawaii with a \$2.5 million increase to the \$105.7 million provided in Act 10, Session Laws of Hawaii 1977, for the FY 1978-79. This means, Mr. Speaker, that we have provided nearly \$1 million more than the University's supplemental request and brings the total UH budget for FY 1978-79 to nearly \$108.2 million. Mr. Speaker, this figure does not include the numerous programs reflected in Part V of the budget.

Last year, the Higher Education Committee expressed grave dissatisfaction with the University of Hawaii budget presentation and demanded better planning and prioritization with supporting justification for its programs. Subsequently,

the University established budget policy guidelines for 1978-81 which were adopted by the Board of Regents on October 14, 1977 and, accordingly, proceeded to develop its 1978-79 supplemental budget request based on these guidelines. The Higher Education Committee has examined them and found that they provide for a systematic budget development process within a realistic time-frame. But what is even more important, Mr. Speaker, these guidelines allow for meaningful input by UH faculty, staff, students and administrators. However, Mr. Speaker, in this regard, we are not totally satisfied. But at any rate, it is a step in the right direction.

Mr. Speaker, the UH reallocated budget was the base of the Higher Education budget. This is logical because it reflects the University's, and not the Department of Budget and Finance's, analysis of its financial needs and priorities. Mr. Speaker, I believe that in all fairness to the University, we need to recognize their efforts to reallocate the budget, thereby giving them the opportunity to demonstrate the effectiveness of their new planning process which promises to provide more fiscal accountability, which we are so concerned about.

Using the reallocated budget as the base, the Higher Education Committee added funds for such programs as: the marine option program; the Center for Labor Education and Research; the extended degree program; student-help increases to meet new minimum wage requirements; the maintenances of the new swimming pool complex; and funds for women's athletics.

Mr. Speaker, it should be noted that the Finance Committee has also recognized the UH reallocated budget as the base line and made only minor changes to the budget request approved by the Higher Education Committee. These adjustments include the deferment of new equipment and furniture and the denial of a few new position authorization requests.

The budget includes numerous capital improvement projects reflecting the needs of the University of Hawaii.

Mr. Speaker, I believe that the budget reflects the earnest efforts of the Higher Education and Finance Committees to be equitable and fiscally responsible.

I urge all of my colleagues to vote in favor of House Bill No. 3039-78,

HD 1.

Thank you."

Representative Abercrombie then spoke in favor of the bill, stating:

"Mr. Speaker, I not only agree with the remarks of the chairman, but I think the work that has been done is outstanding and I want to indicate that I believe that our committee will continue to strive, after this bill is passed, as the conference comes up, to see that the most equitable treatment possible for everyone connected with the University, especially the students, will be pursued. Thank you."

Representative Campbell, speaking in favor of the bill, stated:

"I share the feelings expressed by others that the committee has done a marvelous job. It's a difficult assignment, but the committee has done a fine job in putting together a budget, taking into account the resources which our State has.

I have some concerns about the budget, however. I will speak to just one of those concerns at this point. The budget has made, in my judgment, some far-reaching changes in H.B. No. 2239-78, HD 1, which passed this body. At least two of these changes should be scrutinized to determine the impact on prevention, detection and successful prosecution of crime in our State. One of these changes deals with the life of the Crime Commission. The other has to do with funding.

The budget reduces the life of the Commission by twelve months, and it reduces the funding of the Commission from \$500,000 to \$100,000.

Now, here are a few compelling reasons, in my judgment, that we should stand firm for an expanded Crime Commission. Through the General Plan, this body said that we are going to support law enforcement programs aimed at curtailing criminal activities. We said that we are going to issue public safety and adequate protection of life and property for all of our Hawaiian people.

Mr. Speaker, in my judgment, we cannot achieve the noteworthy goals that we have committed ourselves to achieve if we do not support the expanded Crime Commission. Crime in our State is serious and, I think, there is no debate on that

question among our members. A survey conducted by the Crime Commission found that 73% of those surveyed felt that crime was a very serious problem in our State. The survey also showed that 70% felt that organized crime was a serious problem. In spite of these sobering revelations, the Crime Commission, in its report to the Legislature, said, 'owing to the severe lack of manpower' the information which this Commission had gathered dealing with criminal activity, had to be referred to other agencies, federal and local agencies.

Now, the House Judiciary Committee funded the Commission with \$500,000 to come up with concrete measures for fighting crime in our streets and organized crime. And, of course, this body concurred.

The report of the Crime Commission states that it was able to accomplish more than its appropriated funds would have allowed because it had generous support and aid from volunteers. The Commission stated that the quality of the Commission's service will be determined by the funding available to it.

Now, our Judiciary Committee said, and this body concurred, that crime is a problem of such proportions that the activities of the Commission should be encouraged and the life of the Commission should be extended to 1980.

So, Mr. Speaker, it is my hope that when this document does get to conference, it will return to us with a condition strengthened with extended life and expanded funding, ready to do battle with one of the most serious problems facing our Hawaiian people today, and that's crime.

Thank you very much."

Representative Naito rose to speak in favor of the bill, stating:

"The Finance Committee, in its wisdom, entered something into the budget which I think is very important. The Department of Social Services and Housing and the governor's supplemental budget came down without any funding for one of the major, in fact one of the few houses, Halfway Houses, for work release programs. There was no funding at all for them. They knew that this particular program would just be out the window.

What I did was I asked the Department of Social Services and Housing to present to me a list of priorities after a supplemental budget hearing. They

presented a list of priorities of things that were not in their budget, and this was the last on their list of priorities. I think they were just trying to please me by putting it there.

At any rate, I spoke with the Finance Committee chairman and with the Finance Committee, and very, very happily they restored the money for funding of this particular agency. This, incidentally, will be the only place for women now to be on a work release program. We have no work release program for women, and this is going to be it.

I want to thank, personally, every member, in particular the chairman, and I certainly urge passage of this bill.

Thank you."

Representative Blair, speaking in favor of the bill, stated:

"Mr. Speaker, I just would briefly like to note for the record that I have serious reservations about the size of Item 3 on page 178. Thank you."

Speaking in favor of the bill, Representative Suwa stated:

"Mr. Speaker, the bill before us is for accommodating the governor's supplemental budget request, reordering budgetary priorities and amending appropriations previously made.

The governor's supplemental budget request amounts to \$24 million in general fund, the bulk of it for the expected deficit in the economic assistance programs of the Department of Social Services and Housing. The bill before you proposes to incorporate \$20 million of the governor's \$24 million request, the major difference being due to funding of the State's employment programs through separate legislation.

In addition to incorporating the governor's supplemental request at a slightly reduced level, the bill proposes to reduce existing appropriations by \$14.6 million. Where it seemed reasonably clear that caseload or workload levels will not reach the levels originally anticipated, or where other revenue sources are likely to exceed previous estimates, reductions in existing general fund appropriations are proposed in order to accommodate the executive branch's request

and to reorder other priorities, despite beginning the year with a \$35 million carry-over balance from last year, the revenue experience in the current year has been erratic, and there is little basis for making confident estimates of even short-term tax collections, because understand the collection for February was down. But understand because of a system changing computerization matter, it seems that there's millions of dollars still not accounted for revenues for February. Therefore, while the bill before you is probably the most reasonable supplemental appropriations bill which can be passed at this time, I caution everyone that new revenue information or changing conditions might require further revisions of the budget before the close of the legislative session.

I wish to thank all of my colleagues and their staff for participating in this budget. I also want to extend a special mahalo to the Finance Committee members and the staff who worked hard to bring this budget before us.

House Bill No. 3039-78, as amended, is a reasonable bill and I urge all of you to support it.

Thank you."

Representative Dods then rose to speak in favor of the bill, stating:

"First of all, I would like to congratulate Finance Chairman Jack Suwa for the tremendous job he did on this budget and thank all of the fellow members for their dedication. I would also like to recognize all the Finance staff for the behind-the-scenes work they did, which I feel makes all of us look good.

I wholeheartedly agree with Representative Suwa's previous comments. No one, this year, can accuse us of being irresponsible for the type of budget we are about to approve. We have all worked many long hours and held many heated discussions on various parts of this budget, and I feel that the budget reflects our labor and responsible efforts.

This year's budget is not full of inflated items but truly reflects the needs of the people of this State. I, for one, am proud of the budget and proud that I had the opportunity to work with the Committee on it.

Mr. Speaker, I urge all of my colleagues to vote for this bill."

Representative Say, speaking in

favor of the bill, stated:

"I rise to speak in favor of H.B. No. 3039-78, HD 1, and I would like to say congratulations to the Finance Committee and its chairman.

Secondly, I would like to say that I hope the House Draft will prevail in the conference committee with the legal counsel from Nuuanu, who will try to really defend the overall budget in the legal aspect. However, last year he didn't do a very good job. I hope he will do a terrific job.

Thank you."

At 12:44 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:47 o'clock p.m.

The motion to pass H.B. No. 3039-

78, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR THE FISCAL BIENNIUM JULY 1, 1977 to JUNE 30, 1979" on Third Reading was put by the Chair and carried by a Roll Call vote of 46 ayes, which was not less than two-thirds of all the members to which the House is entitled, with Representatives Baker, Fong, Garcia, Takamura and Wakatsuki being excused.

The Chair directed the Clerk to note that H.B. No. 3039-78, HD 1, had passed Third Reading at 12:50 o'clock p.m.

ADJOURNMENT

At 12:50 o'clock p.m., on motion by Representative Yuen, seconded by Representative Kamalii and carried, the House of Representatives adjourned until 11:00 o'clock a.m. on Monday, March 13, 1978.

THIRTY-EIGHTH DAY

Monday, March 13, 1978

The House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by the Reverend William Hopper of the Honolulu Bible Church, after which the Roll was called showing all members present with the exception of Representatives Abercrombie, Baker, Caldito, Fong, Garcia, Inaba, Kunimura, Larsen, Mizuguchi, Narvaes, Peters, Stanley and D. Yamada, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Thirty-Seventh Day.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, reading of the Journal was dispensed with and the Journal of the Thirty-Seventh Day was approved.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 171 to 173) were read by the Clerk and were disposed of as follows:

A communication from the Senate (Sen. Com. No. 171) returning House Bill No. 490, HD 2, which passed Third Reading in the Senate on March 9, 1978, in an amended form, was placed on file.

By unanimous consent, H.B. No. 490, HD 2, as amended by the Senate, was placed on the Clerk's desk and, in accordance with Article III, Section 16, of the Constitution of the State of Hawaii, printed copies of H.B. No. 490, HD 2, SD 1, were made available to the members of the House at 11:00 o'clock a.m.

A communication from the Senate (Sen. Com. No. 172) returning House Bill No. 1912-78, HD 1, which passed Third Reading in the Senate on March 9, 1978, in an amended form, was placed on file.

By unanimous consent, H.B. No. 1912-78, HD 1, as amended by the Senate, was placed on the Clerk's desk and, in accordance with Article III, Section 16, of the Constitution of the State of Hawaii,

printed copies of H.B. No. 1912-78, HD 1, SD 1, were made available to the members of the House at 11:00 o'clock a.m.

A communication from the Senate (Sen. Com. No. 173) transmitting Senate Bill No. 2202-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS AND AUTHORIZING THE ISSUANCE OF BONDS", which passed Third Reading in the Senate on March 10, 1978, by not less than two-thirds vote of all the members to which the Senate is entitled, was placed on file.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, S.B. No. 2202-78, SD 1, passed First Reading by title and was referred to the Committee on Finance.

At this time, the following introductions were made to the members of the House:

Representative Sutton introduced Fraser MacKenzie from Winnipeg, Canada.

Representative Naito, prior to introducing her cousin, stated:

"By way of this introduction, there is a little preface. Most young children have heroes in their lives. Lately, little boys and little girls have had people like Kikaida. When I was a little girl, it was Frank Sinatra. But, in my case, it wasn't Frank Sinatra. I had a hero in my own family. There was only one other person who is into music in my family and he was a fantastic drummer. I carry his picture around like everyone else carries Frank Sinatra's picture around and he is, I am very happy to say, with us today. He is still a hero of mine."

Representative Naito then introduced her cousin, Fred Berger, and his wife, Pat, to the members of the House.

ORDER OF THE DAY

COMMITTEE REFERRALS

The following Senate Bills were disposed of as follows:

<u>S.B. Nos.</u>	<u>Referred to:</u>
71	Committee on Housing, then to the Committee on Finance

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|---------|--|---------|--|
| 389 | Committee on Housing,
then to the Committee on Finance | 1581-78 | Committee on Energy
and Transportation, then to the
Committee on Finance |
| 566 | Committee on Public
Employment and Government
Operations, then to the Committee
on Finance | 1597-78 | Committee on Energy
and Transportation, then to the
Committee on Finance |
| 596 | Committee on Public
Employment and Government
Operations, then to the Committee
on Finance | 1622-78 | Committee on Judiciary,
then to the Committee on Finance |
| 673 | Committee on Housing | 1646-78 | Committee on Health |
| 780 | Committee on Public
Employment and Government
Operations, then to the Committee
on Finance | 1654-78 | Committee on Public Employ-
ment and Government Operations |
| 782 | Committee on Energy
and Transportation, then to the
Committee on Judiciary | 1658-78 | Committee on Consumer
Protection and Commerce |
| 897 | Committee on Public
Employment and Government
Operations, then to the Committee
on Finance | 1673-78 | Committee on Higher
Education, then to the Committee
on Finance |
| 1347 | Committee on Health,
then to the Committee on Finance | 1682-78 | Committee on Employment
Opportunities and Labor Relations |
| 1533-78 | Committee on Public
Employment and Government
Operations, then to the Committee
on Finance | 1698-78 | Committee on Judiciary,
then to the Committee on Finance |
| 1555-78 | Jointly to the Committees
on Consumer Protection and Commerce
and Public Assistance and Human
Services | 1773-78 | Jointly to the Committees
on Energy and Transportation and
Public Employment and Government
Operations |
| 1568-78 | Committee on Energy
and Transportation, then to the
Committee on Water, Land Use,
Development and Hawaiian Homes,
then to the Committee on Finance | 1782-78 | Committee on Public Assis-
tance and Human Services, then
to the Committee on Finance |
| 1570-78 | Committee on Energy
and Transportation, then to the
Committee on Higher Education,
then to the Committee on Finance | 1786-78 | Committee on Agriculture,
then to the Committee on Finance |
| 1572-78 | Committee on Energy
and Transportation, then to the
Committee on Finance | 1787-78 | Committee on Public Employ-
ment and Government Operations,
then to the Committee on Finance |
| 1573-78 | Committee on Energy
and Transportation, then to the
Committee on Water, Land Use,
Development and Hawaiian Homes,
then to the Committee on Finance | 1797-78 | Jointly to the Committees
on Agriculture and Water, Land
Use, Development and Hawaiian
Homes, then to the Committee on
Finance |
| 1578-78 | Committee on Energy
and Transportation, then to the
Committee on Finance | 1811-78 | Committee on Energy
and Transportation, then to the
Committee on Finance |
| 1579-78 | Committee on Energy
and Transportation, then to the
Committee on Finance | 1812-78 | Committee on Judiciary |
| | | 1820-78 | Jointly to the Committees
on Public Employment and Government
Operations and Judiciary |
| | | 1824-78 | Committee on Judiciary |
| | | 1855-78 | Committee on Judiciary |
| | | 1919-78 | Committee on Judiciary |
| | | 1925-78 | Committee on Judiciary,
then to the Committee on Finance |

1936-78	Committee on Higher Education, then to the Committee on Finance	2287-78	Committee on Judiciary
1946-78	Committee on Housing	2302-78	Committee on Finance
1950-78	Committee on Housing	2332-78	Committee on Consumer Protection and Commerce
1979-78	Committee on Judiciary	2386-78	Committee on Health, then to the Committee on Finance
1985-78	Committee on Employment Opportunities and Labor Relations, then to the Committee on Finance	2414-78	Committee on Finance
2005-78	Committee on Agriculture, then to the Committee on Finance	2436-78	Committee on Ecology and Environment
2036-78	Committee on Ecology and Environment, then to the Committee on Judiciary	2448-78	Committee on Agriculture
2046-78	Jointly to the Committees on Public Employment and Government Operations and Energy and Transportation, then to the Committee on Finance	2455-78	Committee on Water, Land Use, Development and Hawaiian Homes
2063-78	Committee on Judiciary	2463-78	Committee on Judiciary, then to the Committee on Finance
2080-78	Committee on Finance	2464-78	Committee on Ecology and Environment
2084-78	Committee on Water, Land Use, Development and Hawaiian Homes, then to the Committee on Finance	2469-78	Committee on Agriculture, then to the Committee on Energy and Transportation
2086-78	Committee on Judiciary	2470-78	Jointly to the Committees on Youth and Elderly Affairs and Housing, then to the Committee on Finance
2100-78	Committee on Employment Opportunities and Labor Relations	2476-78	Committee on Consumer Protection and Commerce
2146-78	Committee on Consumer Protection and Commerce	2478-78	Committee on Finance
2147-78	Committee on Judiciary	2480-78	Committee on Consumer Protection and Commerce
2148-78	Committee on Consumer Protection and Commerce	2483-78	Committee on Judiciary
2154-78	Committee on Consumer Protection and Commerce	2485-78	Committee on Judiciary
2188-78	Committee on Consumer Protection and Commerce	2489-78	Committee on Water, Land Use, Development and Hawaiian Homes
2190-78	Committee on Energy and Transportation, then to the Committee on Finance	2490-78	Committee on Consumer Protection and Commerce
2208-78	Jointly to the Committees on Ecology and Environment and Water, Land Use, Development and Hawaiian Homes	2494-78	Committee on Employment Opportunities and Labor Relations
2220-78	Jointly to the Committees on Consumer Protection and Commerce and Health	2520-78	Committee on Finance
2279-78	Committee on Agriculture, then to the Committee on Finance	2523-78	Committee on Tourism, then to the Committee on Consumer Protection and Commerce
		2525-78	Jointly to the Committees on Energy and Transportation and Judiciary
		2545-78	Committee on Judiciary

2556-78 Committee on Employment
Opportunities and Labor Relations

2559-78 Committee on Public
Employment and Government
Operations, then to the Committee
on Finance

2581-78 Committee on Consumer
Protection and Commerce

2590-78 Jointly to the Committees
on Corrections and Rehabilitation
and Judiciary

2591-78 Jointly to the Committees
on Corrections and Rehabilitation
and Judiciary

2595-78 Committee on Judiciary

2596-78 Committee on Judiciary

2602-78 Committee on Education,
then to the Committee on Finance

2609-78 Jointly to the Committees
on Public Assistance and Human
Services and Judiciary, then
to the Committee on Finance

2617-78 Committee on Water,
Land Use, Development and Hawaiian
Homes, then to the Committee
on Finance

2620-78 Committee on Public
Assistance and Human Services,
then to the Committee on Finance

2622-78 Committee on Judiciary

DEFERRED RESOLUTIONS

The following resolutions (H.R.
Nos. 457 to 460) were disposed of
as follows:

<u>H.R. Nos.</u>	<u>Referred to:</u>
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457	Jointly to the Committees on Culture and the Arts and Water, Land Use, Development and Hawaiian Homes, then to the Committee on Finance
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458	Jointly to the Committees on Consumer Protection and Commerce and Culture and the Arts, then to the Committee on Legislative Management
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459	Committee on Consumer Protection and Commerce, then to the Committee on Finance
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460	Jointly to the Committees on Agriculture and Higher Education, then to the Committee on Finance
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STANDING COMMITTEE REPORTS

Representative Kunimura, for the
Committee on Legislative Management,
presented a report (Stand. Com. Rep. No.
627-78) informing the House that House
Resolution Nos. 422 to 431, and House
Concurrent Resolution Nos. 85 and 86,
have been printed and distributed.

On motion by Representative Lunasco,
seconded by Representative Morioka and
carried, the report of the Committee was
adopted.

Representative Kunimura, for the
Committee on Legislative Management,
presented a report (Stand. Com. Rep.
No. 628-78) informing the House that
House Resolution Nos. 432 to 445,
House Concurrent Resolution Nos.
87 and 88, and Standing Committee
Report Nos. 622-78 to 626-78, have
been printed and distributed.

On motion by Representative Lunasco,
seconded by Representative Morioka
and carried, the report of the Committee
was adopted.

At 11:05 o'clock a.m., the Chair
declared a recess, subject to the call
of the Chair.

Upon reconvening at 11:15 o'clock
a.m., the Chair directed the Clerk
to note the presence of Representatives
Abercrombie, Caldito, Fong, Kunimura,
Larsen, Mizuguchi, Narvaes, Peters
and Stanley.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following
resolutions (H.R. Nos. 462 to 464)
were referred to the Committee on
Legislative Management and further
action was deferred until tomorrow,
March 14, 1978:

A resolution (H.R. No. 462) respectfully
urging the President of the United
States to complete the process of normalizing
relations between the United States
and the People's Republic of China
was jointly offered by Representatives
Takamura, Abercrombie, Aki, Blair,
Caldito, Carroll, Cayetano, Fong,
Inaba, Kiyabu, Larsen, Lunasco,
Machida, Mizuguchi, Morioka, Nakamura,
Say, Segawa, Shito, Stanley, Suwa,
Takamine, Ueoka, Ushijima, Uwaine
and Yuen.

A resolution (H.R. No. 463) requesting
the University of Hawaii and other
involved agencies to give the highest

possible priority in constructing facilities for the College of Agriculture, University of Hawaii-Hilo was jointly offered by Representatives K. Yamada, Caldito, Dods, Inaba, Kiyabu, Lunasco, Machida, Morioka, Shito, Stanley, Suwa, Uechi, Ushijima and D. Yamada.

A resolution (H.R. No. 464) requesting the Department of Transportation to conduct a feasibility study for a beach park adjacent to Coconut Island, Hilo Bay, Hawaii was jointly offered by Representatives K. Yamada, Caldito, Campbell, Cayetano, Larsen, Mizuguchi, Narvaes, Poepoe, Say, Segawa, Shito, Stanley, Takamine, Takamura, Toguchi, Ueoka and Yuen.

The following resolution (H.R. No. 465) was read by the Clerk and was disposed of as follows:

A resolution (H.R. No. 465) wishing the Hokule'a and her crew "Aloha" and "Na na 'akua e malama 'oukou" (May the gods protect you all) was jointly offered by Representatives Kamalii, Peters, Yuen, Poepoe, Caldito, Ajifu, Aki, Campbell, Carroll, Cayetano, Cobb, Garcia, Ikeda, Inaba, Kondo, Kunimura, Larsen, Lunasco, Machida, Medeiros, Mina, Morioka, Naito, Narvaes, Say, Segawa, Shito, Stanley, Takamine, Takamura, Toguchi, Ueoka and K. Yamada.

On motion by Representative Kamalii, seconded by Representative Peters and carried, H.R. No. 465 was adopted.

Representative Kamalii then proceeded to introduce the crew members of the Hokule'a, stating:

"Mr. Speaker and members of this House, there are Hawaiian myths which record what seems to be several centuries of active sailing between Hawaii and Tahiti. The channel which Hokule'a will use as she sails from these islands is called 'Kealakehiki', the road to Tahiti.

The modern re-enactment of these mythical voyages is more than Hollywood excitement. The recovery of Hawaiian celestial navigational methods and the study of native diets does much to add to our knowledge of ancient Hawaiian life. It also does much to add to our present Hawaiian identity.

The Hokule'a and her crew are a source of pride and a model of courage which inspire and instruct us all."

Representative Kamalii then introduced the crew of the Hokule'a as follows: Leon Paoa Sterling, first mate; John Kruse, Snake Ah Hee, Eddie Aikau, Wedemeyer Au, Bruce Blankenfeld, Sam Ka'ai, Curt Sumida, Tava Ta'upu, Charles Babayan and Jo Ann Kahanamoku Sterling. Both Mr. and Mrs. Sterling are the liaison between Hawaii and Tahiti.

Representatives Evans, Ikeda, Naito and Stanley presented leis to the crew members, and Representatives Caldito, Peters, Poepoe and Yuen presented them with certified copies of the resolution.

At 11:23 o'clock a.m., the Chair declared a recess, subject to the call of the Chair, "for the purpose of expressing our personal good will and best wishes to our guests."

Upon reconvening at 11:26 o'clock a.m., the Chair directed the Clerk to note the presence of Representative D. Yamada.

By unanimous consent, the following resolutions (H.R. Nos. 466 and 467) and concurrent resolutions (H.C.R. Nos. 90 to 93) were referred to the Committee on Legislative Management and further action was deferred until tomorrow, March 13, 1978:

A resolution (H.R. No. 466) expressing legislative endorsement for the establishment and operation of a mass fruit fly rearing laboratory on Oahu for research relating to the eradication of fruit flies and implementation of an eradication program was jointly offered by Representatives Uechi, Caldito, Campbell, Carroll, Cayetano, Dods, Inaba, Kiyabu, Larsen, Lunasco, Machida, Mina, Mizuguchi, Morioka, Naito, Peters, Poepoe, Say, Segawa, Shito, Stanley, Suwa, Takamine, Toguchi, Ushijima, Uwaine, D. Yamada, K. Yamada and Yuen.

A resolution (H.R. No. 467) requesting the provision of additional federal resources to strengthen federal agricultural related inspection requirements at selected major airports in the State of Hawaii was jointly offered by Representatives Uechi, Caldito, Campbell, Carroll, Cayetano, Dods, Inaba, Kiyabu, Larsen, Lunasco, Machida, Mina, Mizuguchi, Morioka, Naito, Poepoe, Say, Segawa, Shito, Stanley, Suwa, Takamine, Toguchi, Ushijima, Uwaine, D. Yamada, K. Yamada and Yuen.

A concurrent resolution (H.C.R. No. 90) requesting a feasibility study

concerning a multi-purpose slaughterhouse complex for Oahu was jointly offered by Representatives Uechi, Caldito, Dods, Inaba, Kiyabu, Lunasco, Machida, Morioka, Shito, Stanley, Suwa, Ushijima, D. Yamada and K. Yamada.

A concurrent resolution (H.C.R. No. 91) respectfully urging federal, state, and county agencies responsible for water resource programs to develop a comprehensive concept plan for adequate flood control and related water resource utilization systems in Waimanalo, Oahu was jointly offered by Representatives Yuen, Caldito, Dods, Inaba, Kiyabu, Lunasco, Machida, Morioka, Shito, Stanley, Suwa, Uechi, Ushijima, D. Yamada and K. Yamada.

A concurrent resolution (H.C.R. No. 92) requesting the provision of additional federal resources to strengthen federal agricultural related inspection requirements at selected major airports in the State of Hawaii was jointly offered by Representatives Uechi, Campbell, Carroll, Cayetano, Larsen, Lunasco, Mina, Mizuguchi, Naito, Peters, Poepoe, Say, Segawa, Shito, Stanley, Takamine, Toguchi, Uwayne, K. Yamada and Yuen.

A concurrent resolution (H.C.R. No. 93) expressing legislative endorsement for the establishment and operation of a mass fruit fly rearing laboratory on Oahu for research relating to the eradication of fruit flies and implementation of an eradication program was jointly offered by Representatives Uechi, Caldito, Campbell, Carroll, Cayetano, Dods, Inaba, Kiyabu, Larsen, Lunasco, Machida,

Mina, Mizuguchi, Morioka, Naito, Poepoe, Say, Segawa, Shito, Stanley, Suwa, Takamine, Toguchi, Ushijima, Uwayne, D. Yamada, K. Yamada and Yuen.

The following resolution (H.R. No. 468) was read by the Clerk and was disposed of as follows:

A resolution (H.R. No. 468) congratulating Mr. David S. De Luz on his selection as a recipient of the TIME Magazine Quality Dealer Award was jointly offered by Representatives K. Yamada, Caldito, Campbell, Cayetano, Larsen, Mizuguchi, Narvaes, Poepoe, Say, Segawa, Shito, Stanley, Takamine, Takamura, Toguchi, Ueoka and Yuen.

On motion by Representative K. Yamada, seconded by Representative Takamine and carried, H.R. No. 468 was adopted.

At this time, Representative Abercrombie made the following announcement:

"I would like to announce that the Board of Water Supply has finally acted on what the Life of the Land had told them a year and a half ago, and decided about private wells, and I congratulate them for it."

ADJOURNMENT

At 11:29 o'clock a.m., on motion by Representative Yuen, seconded by Representative Kamalii and carried, the House of Representatives adjourned to 11:00 o'clock a.m. tomorrow, Tuesday, March 14, 1978.

THIRTY-NINTH DAY

Tuesday, March 14, 1978

The House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by the Reverend Curtis Askew of the Olivet Baptist Church, after which the Roll was called showing all members present with the exception of Representatives Baker, Medeiros and K. Yamada, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Thirty-Eighth Day.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, reading of the Journal was dispensed with and the Journal of the Thirty-Eighth Day was approved.

GOVERNOR'S MESSAGE

A message from the Governor (Gov. Msg. No. 91) transmitting copies of a report prepared by the Department of Planning and Economic Development on its loan programs, as required by the following: Section 210-8, HRS, requires an annual report on the progress made under Chapter 210, the Hawaii Capital Loan Program; Section 189-26, HRS, requires an annual report on the progress made under Chapter 189, Part II, the Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Program; Section 189-46, HRS, requires an annual report on the progress made under Chapter 189, Part IV, the Hawaii Small Fishing Vessel Loan Program; Section 209-5, HRS, requires an annual report from the Rehabilitation Coordinator; however, since DPED administers the Disaster Commercial and Personal Loan Program, an annual report on its progress is presented. The separate reports are consolidated into a single presentation and cover the calendar year ending December 31, 1977, was read by the Clerk and was placed on file.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 5 to 14) were read by the Clerk and were disposed of as follows:

A communication from Wayne Minami, Director of the Department of Regulatory Agencies (Dept. Com. No. 5) transmitting copies of a report in compliance with Act 70, Session Laws of Hawaii 1977, on the impact statement relating to the Board of Barbers, Board of Massage, Escort Agencies, Board of Examiners in Naturopathy, Board of Photography and Podiatry, was placed on file.

A communication from Lt. Gov. Nelson Doi (Dept. Com. No. 6) transmitting copies of the report on wiretapping of the Hawaii Commission on Crime, was placed on file.

A communication from Rev. Darrow L. K. Aiona, Chairperson of the Board of Education (Dept. Com. No. 7) acknowledging receipt of House Resolution Nos. 163, 164 and 209, was placed on file.

A communication from Hideto Kono, Director, Department of Planning and Economic Development (Dept. Com. No. 8) transmitting copies of a report entitled: HAWAII TUNA FISHERY DEVELOPMENT PLAN, prepared in 1977 by the Department of Planning and Economic Development, was placed on file.

A communication from Chancellor Douglas S. Yamamura, UH Manoa (Dept. Com. No. 9) acknowledging receipt of House Resolution No. 323, was placed on file.

A communication from Rev. Darrow L. K. Aiona, Chairperson of the Board of Education (Dept. Com. No. 10) acknowledging receipt of House Resolution No. 254, was placed on file.

A communication from Chancellor Douglas S. Yamamura, UH Manoa (Dept. Com. No. 11) acknowledging receipt of House Resolution No. 322, was placed on file.

A communication from Rev. Darrow L. K. Aiona, Chairperson of the Board of Education (Dept. Com. No. 12) acknowledging receipt of House Resolution Nos. 317, 318, 319, 320 and 358, was placed on file.

A communication from Chancellor Douglas S. Yamamura, UH Manoa (Dept. Com. No. 13) acknowledging receipt of House Resolution No. 362, was placed on file.

A communication from Chancellor Douglas S. Yamamura, UH Manoa (Dept. Com. No. 14) acknowledging

receipt of House Resolution No. 410, was placed on file.

MISCELLANEOUS COMMUNICATIONS

The following communications (Misc. Com. Nos. 5 to 12) were read by the Clerk and were disposed of as follows:

A communication from the Honorable Thomas P. O'Neill, Jr., Speaker of the U.S. House of Representatives (Misc. Com. No. 5) acknowledging receipt of House Resolution No. 57, was placed on file.

A communication from David M. Peters, Executive Assistant for Senator Daniel K. Inouye (Misc. Com. No. 6) acknowledging receipt of House Resolution No. 253, was placed on file.

A communication from the Honorable Daniel K. Inouye, U.S. Senator, Hawaii (Misc. Com. No. 7) acknowledging receipt of House Resolution No. 57, was placed on file.

A communication from the Honorable Mark O. Hatfield, U.S. Senator, Oregon (Misc. Com. No. 8) acknowledging receipt of House Resolution No. 253, was placed on file.

A communication from Yukio Naito, Chairperson, Citizens Advisory Committee on Basic Skills and Real-Life Skills (Misc. Com. No. 9) transmitting copies of a report of the committee's findings and conclusions, was placed on file.

A communication from Dennis K. Ikehara, President, Hawaii Association of County Agricultural Agents (Misc. Com. No. 10) acknowledging receipt of a copy of House Resolution No. 362, was placed on file.

A communication from Mayor Elmer F. Cravalho (Misc. Com. No. 11) acknowledging receipt of House Resolution No. 227, was placed on file.

A communication from the Honorable Cecil Heftel, Congressman, Hawaii (Misc. Com. No. 12) acknowledging receipt of House Resolution No. 57, was placed on file.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 174 and 175) were read by the Clerk

and were disposed of as follows:

A communication from the Senate (Sen. Com. No. 174) returning House Concurrent Resolution No. 89, which was adopted by the Senate on March 13, 1978, was placed on file.

A communication from the Senate (Sen. Com. No. 175) returning House Bill No. 1802-78, HD 1, which passed Third Reading in the Senate on March 13, 1978, was placed on file.

At this time, the following introductions were made to the members of the House:

Representative Larsen introduced seventy-six 5th and 6th grade students from Kahala Elementary School. They were accompanied by their teachers, Mrs. Iwamoto, Mrs. Carol Campbell, Mrs. Carol Miyahara and Mrs. Evelyn Ueoka.

Seventy-five students from Gus Webling School, accompanied by their teachers, Mrs. Tanoue, Mrs. Okaji and Mrs. Kiyonagi, were introduced by Representative Uechi, who said: "Students, the man that is standing over there in the front is the Speaker of the House of Representatives; he is your other representative. If he can't answer your questions or problems in this House, I don't think anybody can. So, any time you have any questions or problems, you just call on the Speaker over there."

The Chair remarked:

"The Chair appreciates your remarks, Representative Uechi."

Representative Aki introduced several Makaha Elementary School students, who were accompanied by their teachers, Mrs. Eve Hines and Ms. Julie Smith; and parents, Mrs. Smith, Mrs. Andrade and Mrs. Childer. "These students are part of a group of 50 gifted and talented grade school students, under the guidance of Mrs. Eve Hines at Makaha Elementary School."

Representative Aki also introduced twenty students from the Honolulu Community College.

Representative Abercrombie introduced Mr. Sam Caldwell from the Hawaii Sugar Planters' Association and Mrs. Haunani Ching.

A group of ladies studying "Women in Hawaii" at the Leeward Community College, were introduced by Representative Naito.

ORDER OF THE DAY

DEFERRED RESOLUTIONS

The following resolutions (H.R. Nos. 462 to 464, 466 and 467) and concurrent resolutions (H.C.R. Nos. 90 to 93) were disposed of as follows:

<u>H.R. Nos.</u>	<u>Referred to:</u>
462	Committee on Judiciary
463	Committee on Higher Education, then to the Committee on Finance
464	Committee on Water, Land Use, Development and Hawaiian Homes, then to the Committee on Finance
466	Jointly to the Committees on Agriculture and Higher Education, then to the Committee on Finance
467	Committee on Agriculture

H.C.R. Nos.

90	Jointly to the Committees on Agriculture and Higher Education, then to the Committee on Finance
91	Jointly to the Committees on Water, Land Use, Development and Hawaiian Homes and Ecology and Environment, then to the Committee on Finance
92	Committee on Agriculture
93	Jointly to the Committees on Agriculture and Higher Education, then to the Committee on Finance

COMMITTEE REASSIGNMENT

Senate Bill No. 2114-78 was re-referred jointly to the Committees on Education and Public Employment and Government Operations, then to the Committee on Finance.

STANDING COMMITTEE REPORTS

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 629-78) recommending that H.R. No. 273, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the

Committee was adopted and H.R. No. 273, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A FEASIBILITY STUDY OF COMPUTER-BASED EDUCATION AT THE UNIVERSITY OF HAWAII-MANOA", was referred to the Committee on Finance.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 630-78) recommending that H.R. No. 314 be referred to the Committee on Finance.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and H.R. No. 314, entitled: "HOUSE RESOLUTION REQUESTING THE 1978 CONSTITUTIONAL CONVENTION TO PROVIDE FOR HAWAII'S CONTINUED PARTICIPATION IN THE STATE STUDENT INCENTIVE GRANT PROGRAM", was referred to the Committee on Finance.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 631-78) recommending that H.R. No. 49 be referred to the Committee on Finance.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and H.R. No. 49, entitled: "HOUSE RESOLUTION DIRECTING THE UNIVERSITY OF HAWAII TO DEVELOP COMMUNITY PROGRAMS TO INVOLVE STUDENTS IN PROFESSIONAL SCHOOLS", was referred to the Committee on Finance.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 632-78) recommending that H.R. No. 240, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and H.R. No. 240, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE MAXIMIZATION OF VOCATIONAL EDUCATION FUNDS FOR DISPLACED HOMEMAKERS AND OTHER SPECIAL GROUPS", was referred to the Committee on Finance.

Representatives Uechi and Kawakami, for the Committees on Agriculture and Water, Land Use, Development and Hawaiian Homes, presented a joint report (Stand. Com. Rep. No. 633-78) recommending that H.R. No. 393, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Uechi, seconded by Representative Caldito and carried, the report of the Committees

was adopted and H.R. No. 393, HD 1, entitled: "HOUSE RESOLUTION REQUESTING GOVERNOR GEORGE R. ARIYOSHI TO DECLARE THAT THE ISLAND OF HAWAII IS A NATURAL DISASTER AREA WITH REGARDS TO CHAPTER 234, HAWAII REVISED STATUTES, TAX RELIEF", was referred to the Committee on Finance.

Representative Uechi, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 634-78) recommending that H.R. No. 43, as amended in HD 1, be referred to the Committee on Energy and Transportation.

On motion by Representative Uechi, seconded by Representative Inaba and carried, the report of the Committee was adopted and H.R. No. 43, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A STUDY ON SHIPPING", was referred to the Committee on Energy and Transportation.

Representatives Machida and Kiyabu, for the Committees on Tourism and State General Planning, presented a joint report (Stand. Com. Rep. No. 635-78) recommending that H.R. No. 339 be adopted.

On motion by Representative Machida, seconded by Representative Kiyabu and carried, the report of the Committee was adopted and H.R. No. 339, entitled: "HOUSE RESOLUTION REQUESTING THE INCLUSION OF HONOKAA ON TOURIST DESTINATION AREA MAPS", was adopted.

Representative Kunimura, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 636-78) informing the House that House Resolution Nos. 422 to 431 and 446 to 461, and House Concurrent Resolution Nos. 85, 86 and 89 have been printed and distributed.

On motion by Representative Kunimura, seconded by Representative Lunasco and carried, the report of the Committee was adopted.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 469 and 470) were read by the Clerk and were disposed of as follows:

A resolution (H.R. No. 469) extending congratulations to Randy Lee on being named Hawaiian Businessman of the Year was jointly offered by

Representatives Yuen, Abercrombie, Aki, Caldito, Cayetano, Dods, Evans, Fong, Inaba, Kamalii, Kihano, Kiyabu, Kondo, Lunasco, Machida, Medeiros, Mina, Mizuguchi, Morioka, Nakamura, Narvaes, Peters, Poepoe, Say, Segawa, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima and Uwaine.

On motion by Representative Yuen, seconded by Representative Say and carried, H.R. No. 469 was adopted.

Representative Yuen then introduced the honoree, Randy Lee; his wife, Sonny; Kane Fernandez, president of the Hawaii Businessman's Association and the first recipient of the O'o award; and Buster Shim, chairman of the awards banquet. He also introduced some of the other officers of the Association who were seated in the gallery.

Representatives Kamalii, Dods, Caldito, Abercrombie and Peters presented maile leis and copies of the resolution to the Randy Lee, Kane Fernandez and Buster Shim, while Representative Yuen presented Mrs. Lee with a pikake lei.

A resolution (H.R. No. 470) commending Audrey Meyers for her successful achievement in the entertainment field was jointly offered by Representatives Narvaes, Mina, Sutton, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Evans, Fong, Garcia, Ikeda, Inaba, Kamalii, Kawakami, Kiyabu, Kunimura, Larsen, Lunasco, Medeiros, Morioka, Poepoe, Say, Segawa, Shito, Takamine, Takamura, Toguchi, Uechi, Ueoka and Uwaine.

On motion by Representative Narvaes, seconded by Representative Mina and carried, H.R. No. 470 was adopted.

Representative Narvaes then rose and stated:

"Mr. Speaker, before introducing the honoree and her guests, I would like to say a few words about Audrey, especially since she's from the town of Kalihi, which really makes me proud.

Mr. Speaker, there was an article, not too long ago, in the newspaper by Wayne Harada, who is from the Advertiser - he's the entertainment editor - wrote quite a substantial article. Let me quote what he says here: 'It's downright encouraging, when a star emerges - via hard work and dedication - as a headliner in her own vehicle. And Audrey Meyers, formerly with the Al Harrington Show, has settled into doing her own thing

nightly at the House of Lono at 1270 Ala Moana. I have seen her mature and grow over the years; a petite, chipper chorus liner is blossoming into a modest, pertinent Waikiki attraction.' I feel that says it all."

Representative Narvaes then introduced Mr. and Mrs. Herman Meyers, Audrey's parents; her husband, George; Mrs. Verna Keyes, her aunt who was sitting in the gallery; and the honoree, Audrey Meyers. Leis were presented to Mr. and Mrs. Meyers, George (husband), and the honoree, by Representatives Evans, Sutton, Ikeda and Mina. Representative Narvaes presented them with certified copies of the resolution.

At 11:25 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:30 o'clock a.m.

By unanimous consent, the following resolutions (H.R. Nos. 471 and 472) were referred to the Committee on Legislative Management and further action was deferred until tomorrow, March 15, 1978:

A resolution (H.R. No. 471) requesting the United States Congress to enact appropriate legislation which will transfer total responsibility for administering and financing public assistance programs to the federal government was jointly offered by Representatives Ushijima, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Cayetano, Cobb, Dods, Evans, Garcia, Inaba, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Mizuguchi, Morioka, Naito, Nakamura, Narvaes, Peters, Say, Segawa, Shito, Stanley, Sutton, Suwa, Takamura, Toguchi, Ueoka, Uwaine, D. Yamada, K. Yamada and Wakatsuki.

A resolution (H.R. No. 472) requesting the Department of Health to establish a Hawaii State Veterans Home was jointly offered by Representatives Sutton, Carroll, Dods, Evans, Inaba, Kamalii, Larsen, Lunasco, Mina, Narvaes, Say, Shito, Takamine, Toguchi and Yuen.

The following resolutions (H.R. Nos. 473 to 475) were read by the Clerk and were disposed of as follows:

A resolution (H.R. No. 473) offering condolences to the family of Eleanor K. Heavey was jointly offered by

Representatives Yuen, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cobb, Dods, Kamalii, Kiyabu, Kondo, Larsen, Mina, Mizuguchi, Morioka, Nakamura, Peters, Poepoe, Say, Segawa, Shito, Suwa, Takamura, Toguchi, Ueoka and Ushijima.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, H.R. No. 473 was adopted by a rising vote.

A resolution (H.R. No. 474) honoring Arthur Y. Akinaka and congratulating him upon being selected Outstanding Engineer of the Year by the Hawaii Society of Professional Engineers was jointly offered by Representatives Shito, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Medeiros, Mina, Mizuguchi, Morioka, Naito, Nakamura, Peters, Poepoe, Say, Segawa, Stanley, Suwa, Takamine, Takamura, Toguchi, Ueoka, Ushijima, K. Yamada and Yuen.

On motion by Representative Shito, seconded by Representative Mina and carried, H.R. No. 474 was adopted.

A resolution (H.R. No. 475) extending best wishes to Terri Mondoy on being selected as one of several student achievers by the Honolulu Advertiser was jointly offered by Representatives Shito, Ueoka, Kondo, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Cayetano, Cobb, Dods, Kihano, Kiyabu, Kunimura, Larsen, Machida, Medeiros, Mina, Mizuguchi, Morioka, Naito, Nakamura, Peters, Say, Segawa, Stanley, Suwa, Takamine, Takamura, Ushijima, Uwaine, Yuen and Wakatsuki.

On motion by Representative Shito, seconded by Representative Ueoka and carried, H.R. No. 475 was adopted.

By unanimous consent, the following resolution (H.R. No. 476) and concurrent resolutions (H.C.R. Nos. 94 and 95) were referred to the Committee on Legislative Management and further action was deferred until tomorrow, March 15, 1978:

A resolution (H.R. No. 476) requesting a hearing concerning the recent ban ordered by the State Department of Agriculture on the sale of hog viscera on Oahu was jointly offered by Representatives Say, Uechi, Caldito, Cayetano, Garcia, Inaba, Kiyabu, Kunimura, Lunasco, Mina, Morioka, Peters, Segawa, Shito, Suwa, Toguchi, Uwaine and D. Yamada.

A concurrent resolution (H.C.R. No. 94) requesting the Department of Transportation review the potential benefits of a highway load condition advisory system was offered by Representative Blair (by request).

A concurrent resolution (H.C.R. No. 95) requesting the United States Congress to enact appropriate legislation which will transfer total responsibility for administering and financing public assistance programs to the federal government was jointly offered by Representatives Ushijima, Abercrombie, Aki, Blair, Caldito, Campbell, Cobb, Dods, Evans, Garcia, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Larsen, Lunasco, Machida, Mizuguchi, Naito, Nakamura, Narvaes, Peters, Segawa, Shito, Stanley, Sutton, Suwa, Takamura, Toguchi, Ueoka,

Uwaine, D. Yamada, K. Yamada and Wakatsuki.

At 11:32 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:35 o'clock a.m.

ADJOURNMENT

At 11:38 o'clock a.m., on motion by Representative Yuén, seconded by Representative Kamalii and carried, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, Wednesday, March 15, 1978, in honor of the late Mrs. Eleanor K. Heavey.

FORTIETH DAY

Wednesday, March 15, 1978

The House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by Reverend Olin Pendleton of Kokokahi Church, after which the Roll was called showing all members present with the exception of Representatives Abercrombie, Baker, Cobb, Fong, Inaba, Kihano, Kunimura, Larsen, Morioka, Stanley, Uechi, Uwaine and D. Yamada, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Thirty-Ninth Day.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, reading of the Journal was dispensed with and the Journal of the Thirty-Ninth Day was approved.

At 11:07 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:10 o'clock a.m., the Chair directed the Clerk to note the presence of Representatives Cobb and Uwaine.

At this time, the following introductions were made to the members of the House:

Representative Campbell introduced Ms. Theresita Lagunero Sanchez, "a very close friend of my family and former student at Leeward Community College, and who is now living in California."

Representative Ajifu introduced Representative and Mrs. Neil Clark. Representative Clark, a Republican, is the Majority Floor Leader in the South Dakota State Legislature.

The Chair then remarked:

"The Chair is not certain whether Representative Clark assumes in the majority in South Dakota, but for this morning, I want to assure him and his wife that they are now in the minority."

SUSPENSION OF RULES

On motion by Representative Yuen, seconded by Representative Kamalii and carried, the rules were suspended for the purpose of considering certain resolutions.

INTRODUCTION OF RESOLUTIONS

At this time, the Clerk read House Concurrent Resolution No. 84, saluting the 32nd Anniversary of Aloha Week and urging fullest community support for the upcoming Aloha Week Festival, and which was adopted by the House on March 2, 1978.

Representative Machida then introduced to the members of the House the King of the Festival, Stanton Kapolilauwaeomakana Pa, and Queen, Helen Pamaieulu Sham. Accompanying them was Ms. Elaine P. Mullaney, President of Aloha Week, Inc.

Representative Kamalii then presented a lei to the King and the Queen was presented a lei by Representative Dods. Representative Machida presented them with certified copies of the resolution.

At 11:16 o'clock a.m., the Chair declared a recess, subject to the call of the Chair, to extend personal best wishes and aloha to the guests.

Upon reconvening at 11:20 o'clock a.m., the Chair directed the Clerk to note the presence of Representatives Abercrombie, Inaba, Kihano, Kunimura, Morioka, Stanley, Uechi and D. Yamada.

The following resolutions (H.R. Nos. 477 to 484) and concurrent resolutions (H.C.R. Nos. 96 and 97) were read by the Clerk and were disposed of as follows:

A resolution (H.R. No. 477) congratulating and extending best wishes to the Hawaii Visitors Bureau on its 75th Anniversary was jointly offered by Representatives Machida, Dods, Aki, Blair, Caldito, Cayetano, Evans, Fong, Garcia, Inaba, Kiyabu, Kunimura, Lunasco, Mina, Mizuguchi, Morioka, Naito, Nakamura, Peters, Say, Segawa, Stanley, Suwa, Takamine, Takamura, Toguchi, Uechi, Uwaine, D. Yamada, K. Yamada, Yuen and Wakatsuki.

Representative Machida moved that H.R. No. 477 be adopted, seconded

by Representative Dods.

Representative Machida then introduced two officers of the Hawaii Visitors Bureau: Mr. John Nielsen, Chairman of the Board, and Mr. Jack Simpson, President.

Red carnation leis were presented to Messrs. Nielsen and Simpson by Representatives Naito and Ikeda, respectively, and Representative Dods and Machida presented them with certified copies of the resolution.

Representative Kunimura was recognized and he stated:

"Thank you, Mr. Speaker.

This is not an attempt to detract from the good work that has been done by Mr. Simpson and the HVB, the biggest manager for the biggest department store in the State of Hawaii, but if I may add to the beautiful and wonderful record of the HVB, we must also remember some of the old-timers that have been, or are still around with us, and I must confess here today that I thought this man was crazy when he talked about the HVB when he was the owner/publisher of Kauai's only newspaper, 'The Garden Isle', and Kauai's only radio, KTOH, at that time, and he is still with us, and still supporting, not only HVB, but this man, I must say, whose background is different from my background - I was so far left, I used to fall off the table. This gentleman was so far right, he, too, used to fall off the table, but now, we have met in the middle - we are more center - sometimes we are left of center, sometimes we are right of center.

I must say that, last year, when we were circulating the petition for the Reinecke's, this gentleman signed the petition without any hesitation and on his own free will. I didn't even talk to him about it, and I almost dropped dead.

May I insert for the record the gentleman who is sitting there in the press box - Kauai's oldest citizen and also senior citizen because, although he lives here in Honolulu, he'll always be from Kauai, and his name is Mr. Charles Fern.

This is how far we have come, and if I may add, Mr. Speaker, he came to Kauai by accident. He was one of the early pilots and he used

to, I think, have a stunt flying and joy-riding type of World War I vintage, and he ran out of gas and he landed, I think, in Kilauea, in the kiawe trees, or something like that, but I can honestly say that this man dropped from Heaven."

The Chair remarked:

"The Chair is pleased to learn that both of you have recovered remarkably well."

Representative Abercrombie then rose and stated:

"Mr. Speaker, Representative Kunimura was much too modest to indicate to the members that Mr. Fern is one of my constituents and staunchest supporters in the First Precinct of the 13th District."

The motion was put by the Chair and carried, and H.R. No. 477 was adopted.

A resolution (H.R. No. 478) commending Mr. Albert Foo for his outstanding and admirable civic services and contributions to the Ewa Beach residents, organizations, and the State of Hawaii was jointly offered by Representatives Aki and Peters.

On motion by Representative Aki, seconded by Representative Peters and carried, H.R. No. 478 was adopted.

Representative Aki then introduced Mr. Albert Foo and his wife, Cynthia, to the members of the House.

Representative Ikeda then presented a carnation lei to the honoree, Mr. Foo, and Mrs. Foo received a carnation lei from Representative Aki. A certified copy of the resolution was presented by Representative Peters.

At 11:31 o'clock a.m., the Chair declared a recess, subject to the call of the Chair, "for the purpose of extending aloha and best wishes to our guests on the floor."

The House of Representatives reconvened at 11:41 o'clock a.m.

A resolution (H.R. No. 479) congratulating June C. Takase upon being selected one of Hawaii's delegates to the 16th Annual United States Senate Youth Program was jointly offered by Representatives Nakamura, Aki, Garcia, Ikeda, Kamalii, Lunasco, Shito, Takamura, Toguchi, Uechi, Ueoka, D. Yamada and Yuen.

On motion by Representative Nakamura,

seconded by Representative Lunasco and carried, H.R. No. 479 was adopted.

A resolution (H.R. No. 480) extending congratulations to Keith Ah Yuen upon his determination to become a member of the University of Hawaii Rainbows Football Team was jointly offered by Representatives Yuen, Ajifu, Aki, Blair, Caldito, Carroll, Evans, Garcia, Inaba, Kiyabu, Kondo, Larsen, Lunasco, Machida, Medeiros, Nakamura, Narvaes, Poepoe, Say, Segawa, Shito, Stanley, Takamine, Toguchi, Ueoka, Ushijima, Uwaine and K. Yamada.

On motion by Representative Yuen, seconded by Representative Toguchi and carried, H.R. No. 480 was adopted.

A resolution (H.R. No. 481) extending condolences and deepest sympathy to the family of Mr. Anthony R. Paul was jointly offered by Representatives Segawa, Abercrombie, Caldito, Campbell, Cayetano, Dods, Evans, Fong, Ikeda, Inaba, Kamalii, Kawakami, Kihano, Kondo, Kunimura, Lunasco, Machida, Medeiros, Morioka, Nakamura, Narvaes, Say, Shito, Sutton, Suwa, Takamine, Toguchi, Ueoka, Ushijima, D. Yamada, K. Yamada, Yuen and Wakatsuki.

On motion by Representative Segawa, seconded by Representative K. Yamada and carried, H.R. No. 481 was adopted by a rising vote.

A resolution (H.R. No. 482) extolling the virtues of the culinary arts in Hawaii and urging full community support for the 1978 Culinary Arts and Suppliers Exposition was jointly offered by Representatives Kunimura, Peters, Suwa, Ushijima, Abercrombie, Aki, Blair, Caldito, Campbell, Cayetano, Cobb, Dods, Garcia, Ikeda, Inaba, Kawakami, Kiyabu, Kondo, Lunasco, Machida, Mina, Morioka, Naito, Nakamura, Say, Segawa, Shito, Stanley, Takamine, Takamura, Toguchi, Uechi, Ueoka, Uwaine, K. Yamada, Yuen and Wakatsuki.

On motion by Representative Kunimura, seconded by Representative Peters and carried, H.R. No. 482 was adopted.

Representative Abercrombie then rose and remarked:

"I think it is particularly appropriate that this resolution was introduced by Representative Kunimura."

A resolution (H.R. No. 483) congratulating Janice Kim, 1977 Miss Koreana was jointly offered by Representatives Kunimura, Ikeda, Abercrombie, Aki, Blair, Campbell, Cayetano, Cobb, Dods, Kawakami, Kiyabu, Lunasco, Machida, Mina, Morioka, Nakamura, Peters, Say, Segawa, Stanley, Suwa, Takamine, Toguchi, Ueoka, Uwaine and Wakatsuki.

On motion by Representative Kunimura, seconded by Representative Ikeda and carried, H.R. No. 483 was adopted.

A resolution (H.R. No. 484) congratulating the University High Junior Bows for their superlative performance in winning the 1978 State High School Basketball Championship was jointly offered by Representatives Kunimura, Ushijima, Abercrombie, Aki, Blair, Campbell, Cayetano, Cobb, Dods, Ikeda, Inaba, Kawakami, Kiyabu, Kondo, Lunasco, Machida, Mina, Morioka, Peters, Say, Segawa, Shito, Stanley, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Uwaine, K. Yamada, Yuen and Wakatsuki.

Representative Kunimura moved that the resolution be adopted, seconded by Representative Ushijima.

Representative Abercrombie then rose and stated:

"Mr. Speaker, I think it is particularly inappropriate that this resolution was introduced by Representative Kunimura."

Upon being recognized, Representative Kunimura stated:

"Mr. Speaker, I adopted the University High School basketball team a few months back, and the reason for the adoption was that the manager of this team is the son of my very, very dear friends, Mr. and Mrs. Uyeda. I would like to say, in speaking for this resolution, that back in about July of last year, this young gentleman, Glenn Uyeda, predicted that the University High School team will be the State champion, and I would like to say that I am going to believe that boy from now on because I think he has the natural ability, like a soothsayer, and it is such a delightful, you know, experience for most of us when here in the State of Hawaii and in America that such a small school as the University High School can be number one, so it shows that this system works, and it works very well."

Representative Abercrombie then rose and stated:

"Perhaps I should make my remarks more clear in reference to the inappropriateness of Representative Kunimura's introduction. It had more to do with the size of both of us than it had to do with the basketball team and, at this time, I must also ask for a ruling on conflict."

The Chair asked Representative Abercrombie to "state your potential conflict", to which Representative Abercrombie replied:

"The son of my Precinct Chairman in the 9th Precinct is a member of the basketball team that is being awarded."

The Chair ruled, "no conflict."

The motion to adopt the resolution was put by the Chair and carried, and H.C.R. No. 484 was adopted.

A concurrent resolution (H.C.R. No. 96) commendation and congratulations to all the members of the Liliuokalani Protestant Church on the construction and completion of Emerson Hall was jointly offered by Representatives Nakamura, Aki, Garcia, Ikeda, Kamalii, Lunasco, Shito, Takamura, Toguchi, Uechi, Ueoka, D. Yamada and Yuen.

On motion by Representative Nakamura, seconded by Representative Lunasco and carried, H.C.R. No. 96 was adopted.

A concurrent resolution (H.C.R. No. 97) commending the Keehi Lagoon Memorial Management Committee of the Disabled American Veterans, Department of Hawaii, for its outstanding accomplishment in completing the third phase of the Memorial project was jointly offered by Representatives Kunimura, Suwa, Peters, Caldito, Abercrombie, Aki, Blair, Campbell, Cayetano, Cobb, Dods, Ikeda, Inaba, Kawakami, Kiyabu, Kondo, Lunasco, Machida, Mina, Morioka, Nakamura, Say, Segawa, Shito, Stanley, Takamine, Toguchi, Uechi, Ueoka, Uwaine, K. Yamada, Yuen and Wakatsuki.

On motion by Representative Kunimura, seconded by Representative Suwa and carried, H.C.R. No. 97 was adopted.

ORDER OF THE DAY

DEFERRED RESOLUTIONS

The following resolutions (H.R. Nos. 471, 472 and 476) and concurrent

resolutions (H.C.R. Nos. 94 and 95) were disposed of as follows:

H.R. Nos. Referred to:

471 Committee on Public Assistance and Human Services, then to the Committee on Finance

472 Jointly to the Committees on Health and Youth and Elderly Affairs, then to the Committee on Finance

476 Committee on Agriculture, then to the Committee on Legislative Management

H.C.R. Nos.

94 Committee on Energy and Transportation, then to the Committee on Finance

95 Committee on Public Assistance and Human Services, then to the Committee on Finance

STANDING COMMITTEE REPORTS

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 637-78) recommending that S.B. No. 1598-78, SD 1, as amended in HD 1, be referred to the Committee on Consumer Protection and Commerce.

Representative Cayetano moved that the report of the Committee be adopted and S.B. No. 1598-78, SD 1, HD referred to the Committee on Consumer Protection and Commerce, seconded by Representative Takamura.

Representative Cobb then rose and asked for a conflict ruling inasmuch as he works for a firm that will be adversely affected.

The Chair ruled "no conflict."

The motion was put by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1598-78, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BANNING OF PILOT LIGHTS ON GAS APPLIANCES", was referred to the Committee on Consumer Protection and Commerce.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 638-78) recommending that S.B. No. 1596-78, SD 1, pass Second Reading and be referred to the Committee on

Finance.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and S.B. No. 1596-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO A STUDY ON THE DEVELOPMENT OF AN EFFECTIVE USED OIL RECYCLING PROGRAM", passed Second Reading and was referred to the Committee on Finance.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 639-78) recommending that H.R. No. 110, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.R. No. 110, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO PROVIDE SAFE PASSAGE FOR PEDESTRIANS CROSSING HALEAKALA HIGHWAY IN THE VICINITY OF PUKALANI STREET", was referred to the Committee on Finance.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 640-78) recommending that H.C.R. No. 32, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.C.R. No. 32, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO PROVIDE SAFE PASSAGE FOR PEDESTRIANS CROSSING HALEAKALA HIGHWAY IN THE VICINITY OF PUKALANI STREET", was referred to the Committee on Finance.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 641-78) recommending that H.C.R. No. 63 be referred to the Committee on Finance.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.C.R. No. 63, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE FEASIBILITY OF UTILIZING ELECTRIC MOTOR VEHICLES IN

HAWAII", was referred to the Committee on Finance.

Representative Mizuguchi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 642-78) recommending that H.R. No. 184 be adopted.

Representative Mizuguchi moved that the report of the Committee be adopted and H.R. No. 184 be adopted, seconded by Representative Campbell.

Representative Abercrombie then rose to speak against the resolution, stating:

"Mr. Speaker, I have signed this report free and clear because I believed that the Committee did its work and that what is contained in here is the situation as the Committee saw it and that was well covered. However, the Department of Education is well aware of what the Committee has done and has done nothing about it, so my vote is a protest against the Department of Education and its lack of response to the Legislature, especially the Committee on Education, which has done its best over and over again in the time that I have been in the House to try to address the questions of students, teachers, and parents and taxpayers and has constantly run into a stonewall of the Department of Education. It is my sincere hope that in the Constitutional Convention to come up that the structure of the Department of Education will be revamped considerably, so I want it understood that my 'no' vote is a protest against the Department of Education."

The motion was put by the Chair and carried, and the report of the Committee was adopted and H.R. No. 184, entitled: "HOUSE RESOLUTION REQUESTING THE COMMITTEE ON EDUCATION TO REVIEW AND TO SUBMIT ITS RECOMMENDATIONS ON THE REPORT OF THE INTERIM SUBCOMMITTEE ON STUDENT NUTRITION AND PHYSICAL WELL-BEING", was adopted.

Representative Mizuguchi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 643-78) recommending that H.R. No. 183 be adopted.

Representative Mizuguchi moved that the report of the Committee be adopted and H.R. No. 183 be adopted, seconded by Representative Campbell.

Representative Campbell then rose to speak in favor of the resolution, stating:

"Mr. Speaker, one of the most serious problems facing our schools today is school violence and vandalism. School violence and vandalism have a serious negative effect upon the entire learning process and House Resolution 183 makes some crucial recommendations to the Department of Education in this whole area of school violence and vandalism and, Mr. Speaker, if the Department of Education implements these recommendations, we could see a very significant change in the nature and the scope of violence and vandalism in our schools.

I urge my colleagues to vote 'aye' on the resolution.

Thank you."

Representative Abercrombie then rose to speak against the resolution, stating:

"I have signed this resolution with a 'W/R' with reservations. The reasons have nothing to do again with the work of the Committee, as such, but rather, the advantage that the Department of Education takes of our committees and our subcommittees, and the efforts that they make.

It is my considered judgment that the Department of Education has done absolutely nothing to deal with the circumstances that were revealed in the Committee Report. They are well aware of the circumstances of violence and causations in dealing with them, as the previous Representative has just mentioned. They have done nothing about it. To the best of my judgment, they intend to do nothing about it. If the hearings that I have attended recently are any indication of the attitude of the Superintendent and the Department of Education, they look upon the Legislature as some kind of interference; they look upon the Legislature as some kind of a funding agency that should push them on the out and keep its mouth shut. They do not intend, in the best judgment that I am able to make, to pay any attention whatsoever, except when it suits their convenience, to whatever this Legislature, in particular the Committee on Education, is doing. Despite the Committee's best efforts, and despite the Committee's capacity, it seems to me, we are zeroing in on precisely the areas that the Department of Education should spend the most attention on. They do not do it. As I say, they look upon it as an interference.

I do not look upon my position on the Education Committee, nor upon its Chairman, Vice Chairman, nor any of the other members, as being an interference in the educational system of this State. I look upon us as being fundamental in the process as elected officials, and I resent, and I will once again vote in protest, 'no' — not against the Committee, but against the Department of Education as an example, I hope, as some kind of a flagging out, if you will, for the public and for the Constitutional Convention upcoming, that unless something drastic, and I mean drastic, is done about the conduct or affairs inside the Department of Education and its structure, and that includes the Board of Education, and by that I want to say, members of that Board who are personal friends of mine, not just acquaintances — personal friends — and I have lost faith in an elected Board, and I have lost faith in the system that we now operate under. I feel that there is no question that the Legislature is not only being ignored, but it is mandating the Constitution when it is trying to cooperate with the elected Board and with the Superintendent, that this cooperative attitude that we try to display is not only being ignored, but it is being insulted and assaulted by the Department of Education.

The Superintendent of Education has contempt for this body; he has contempt for our Committee; he has contempt for the people that work under him. He engages in behavior with the people who work for him that is outrageous, is punitive, and amounts to little more than being a bully. He does this because it is no longer clear in the State of Hawaii as to what the relationship with the Legislature, Board of Education, and the Department of Education is. Despite the best efforts of our Committee, at least in the House, on which I can speak knowledgeably; despite our best efforts under both chairmen that I have served under, the Majority Floor Leader and Representative Mizuguchi; despite our best efforts to cooperate with the Department of Education, we have been rebuffed at every turn except when it suits their convenience.

I do not believe the situation can go on much longer because the taxpayers not only will not stand for it, but that our children are going to suffer irreparably from the kind of situation that now prevails, so I wish to indicate again that my vote is a protest, not against the report nor against the Committee, but against the Department of Education, so that as the Constitutional

Convention convenes, it may have before it a situation well described, I hope, not just by me, but by others who will come forward, well described in such a way that the Department of Education will be completely revamped, and we will have a revision of how the educational affairs of this State are conducted for the benefit of our children and the children to come.

Representative Evans then rose to speak in favor of the resolution, but with very serious reservations, stating:

"Mr. Speaker, I utter much of the same concerns expressed by the previous speaker. I believe, and I have disagreed with the Committee Chairman occasionally, but I respect his judgment, and I believe that, in this case, the Committee should have gone further and mandated in legislation the recommendations that were made. It means that another year goes by for vandalism and arson to continue and the Department of Education seems reluctant to come up with any kind of mandate, and as I said, I speak for the resolution, but with deep concerns.

Thank you."

Representative Say then rose to speak in favor of the resolution, stating:

"Being part of the Subcommittee of the Education Committee on school violence, it was interesting to note that during the public hearings which we conducted at McKinley High School and Radford High School, plus at the State Capitol, that these school violence that occur in the State of Hawaii and the public schools are primarily due to the emotional aspects of students who are very young and on the verge of getting into the period of maturity and so on, and as far as the program that the Department of Education has provided, there are a great deal of programs in trying to curb school violence. Some of these programs are the student awareness programs, the school beautification programs, and other programs that are being initiated by the Department of Education and the Hawaii State Teachers' Association. It was very exciting for me and an experience one afternoon when a mother of a child who was abused at one of the schools in the country, came and testified about school violence. All of us here today know for ourselves that we

cannot be God for everyone. We cannot oversee the whole school playground of every individual school we have in the State.

As far as school violence goes, there has been school violence between same ethnic groups fighting over a young wahine. There has been school violence in terms of getting back at the teachers because of their approaches or methods in educating the young ones of today.

As far as I can see, I think the Subcommittee and the overall educational committee has done a lot in trying to research this matter of school violence, and the recommendations we have in here is a beginning for a foundation for all of us to follow up on, and I do hope that we all do come back, maybe next year, so that we can follow up on this report we have here this morning. So, as far as not rebutting what the previous speakers have said, we are moving in the right direction, and I want to compliment the Education Committee."

Representative Cayetano then rose to speak in favor of the resolution, stating:

"Mr. Speaker, although I favor this resolution, I just have one reservation about some wording in the Committee Report. The Committee Report, on page 7, first paragraph, makes reference and holds out as typical of violence the incident involving or arising from the Farrington/Kaiser High School football game in November, 1977. I object to this because I was present at that game. I was right in the midst of this so-called violence. As far as I could see, there was no way that you could really tie this in into the students of the schools. Also, the people that I saw who were doing violence were, or seemed to be, non-students or older people.

With that reservation, I urge my colleagues to vote for the resolution."

Representative Sutton then rose and stated:

"Mr. Speaker, I rise to speak in favor of this resolution, but with reservations.

Mr. Speaker, I was a member of the interim committee that you appointed, and I religiously attended all the meetings. Our Chairman will tell you. We found out that we served as a conduit - almost a lightning pole. They have not had any opportunity to communicate. I fail to see anything in this report

that shows a necessity for having some confidential post where these children could communicate. They came up and we had a magnificent bit of repartee, particularly at Radford High School.

The second thing, Mr. Speaker, that came to my mind was this: I went to a school where every single thing was honor system — every single thing. You took a girl out on a Saturday night; you supposed to be in at 12:00; you came in at 12:30; you made your own report that we came in at 12:30, and the following Saturday, you had to be in at 10:00. Everything was done. You put yourself on report — the honor system. If you took an examination, you walked into the room; you're your own timekeeper, and you had to report with your own time and nobody monitored anything.

It seems to me that once you get an honor system, it becomes very contagious, and I feel that these schools do not have an honor system, and I would like to see the Superintendent study that concept; see if he could try out because there is something about honor that is contagious.

Thank you."

Representative Ikeda then rose to speak in favor of the resolution, stating:

"The purpose of this resolution, as I see it, is to have the Committee on Education review this report, review the problem of violence in the schools and, unfortunately, Mr. Speaker, this is very necessary. I have to concur with the last paragraph of the Standing Committee Report, on page 6, that says: 'The Subcommittee discovered that prior to the violent Stadium incident of November, 1977, no definitive long-range procedures had been devised to handle violence at school athletic events.'

Mr. Speaker, I have to concur with some of the statements of the previous speakers that this problem has been ignored by the Department for too long, and I really believe that review by the Committee on Education, regardless of whether members of the Department of Education, or the Board, or anybody affiliated with the schools, feel that it is not within the purview of the Legislature to discuss these matters relating to the schools. I have to disagree because of the fact that apparently, until the Legislature does focus

in on these problems, nothing seems to happen, and so, I encourage the Committee to really look at the problem in depth, and I hope that we come up with very constructive recommendations so that incidents like the Kaiser/Farrington game and other things that have been occurring in our schools throughout the State, recently and in the past, will subside finally.

Thank you, Mr. Speaker."

Representative Campbell then rose and stated:

"Mr. Speaker, I'd like to respond to some of the comments by Representatives who supported, or who are supporting the resolution, but with reservations.

One of the Representatives indicated that he was supporting the resolution, but with reservations, because at the Stadium, where we had the rather unpleasant and violent incident, there was no proof that students were involved, and to that extent, I think he is correct. But, as another Representative has already stated, a Subcommittee of which I was Chairman, found out that the Department of Education did not have any definitive procedures for meeting violence of this nature at the Stadium or any other athletic event, and what was disturbing to our Committee. . . our Subcommittee, was the fact that there were some indicia prior to that game that there could be problems, but there was no planned action to meet those problems. Therefore, the Committee felt that when it comes to any high school or any athletic event, whether it is high school or below that level, that the Department should be prepared to meet the kind of violence we had at the Stadium.

Thank you."

Representative Lunasco then rose and stated:

"Mr. Speaker, I rise to speak in favor of this resolution, but with some reservation.

Mr. Speaker, when I think back when I first came in the Legislature eight years ago, when school violence was something that nobody wanted to talk about, and more and more, we develop programs to assist youngsters in coping with, hopefully, what's in the future for them, but are we really getting at the real problem, Mr. Speaker?

Today, our youngsters are graduating

from school. They have no sense of responsibility. And how are you going to teach an individual who is not accountable to anybody but his parents, something that is wrong and right?

Mr. Speaker, we, in the Legislature, have never really addressed the problem of anything that happens in school. For example, nobody has criticized the family unit for what is happening in our school system, or our State, today. In fact, a lot of things that do happen is not because of the State's inability to provide services. In fact, I think we have provided more than our share. I think it is about time that families get involved.

Mr. Speaker, for example, a youngster who gets in trouble in school, in many cases, are supported by the parents when he goes home. He might tell a lie, or whatever the case may be, in explaining his story and, indirectly, the family will support him to the hilt and, indirectly, Mr. Speaker, we are caught with the aftereffects of trying to help the student along in being a good and productive citizen. But I think, Mr. Speaker, that the family has the responsibility also, and these youngsters have to be accountable to somebody, not only to the parents, but to society in general, and I don't think by these kinds of programs, we are going to eliminate problems that we do have in the schools today. I think it is about time that some of the parents are told the facts of life that they are part of the cause, too, and it is not the State's fault.

Thank you."

Upon being recognized, Representative Abercrombie stated:

"Thank you. Mr. Speaker, I can quite agree with some of the judgments and observations made by the other Representatives, but I think that if you recall the commentary made here, review recommendations, I think one of the speakers even mentioned the time span - the last speaker - eight years. His comments also were well taken - these would be the parents. I have heard that too.

The fact of the matter is that there are teachers now in the schools who are threatened -today! The fact of the matter is that there are students in the schools who are being beaten up and hijacked today.

Recommendations won't solve that. When teachers call me from Roosevelt High School and say they're afraid to the point of reporting an incident to the principals because their ties will be slashed, their windows will be broken, or they will be beaten up, and they are not sure whether the Honolulu Police Department can be brought into a situation, it seems to me that we've got to move from recommendations to laws, and this was my point of protest about the Department of Education.

The Department of Education has taken our recommendations and used them when it suited their purpose. When it doesn't suit their purpose, they don't pay any attention. It is beyond me why a school principal should not be mandated by policy in the Department of Education to report any incidence of violence to the Honolulu police.

Now, the situation as it is is that it is optional, as I understand it, and as it is worked out in the incidents that have been reported to me, that these situations are actually encouraged because of the fact that the teachers and the students have no confidence that the principals will, in fact, act on their behalf. Now, if it was mandated in policy by the Department of Education that the principal, as a matter of course, when being informed of a violent situation transpiring, say, at King Intermediate - it doesn't have to be in a high school, you don't have to talk about seventeen year olds or eighteen year olds or people coming off campus, or to the campus, and so on - where you clearly have a situation of assault, if it was mandated in policy that the principal must report it to the proper authorities, no threat as such; well, if you don't report it, we will let you go. If you do, we are going to get you; that there is no choice in the matter so that the individuals who are involved would know that it is not a question of discretion at all. I've heard that on this floor - this session! I've heard it on this floor and seen it on reports that discretion is suppose to be limited. We have passed bills with Committee Reports that say that -that discretion is to be limited in respect to violence; yet, when it comes to violence against children, we are giving them all the leeway - all the leeway possible - to the people who are doing the beating up, to the people who are doing the stealing, to the people who are pushing other people around, or who are destroying the atmosphere of learning in the schools. They are going to get the widest possible leeway, but woe be

the person who has some marijuana in their pocket. If you beat somebody up at Roosevelt High School, that's okay, because you not only can beat them up, but you have the pleasure of threatening the principal and everybody else with what you are going to do to everybody else's cars and their families, at the same time.

I think that the discussion that has just taken place here is a good reason for passing laws, not making recommendations to the Department of Education - passing laws which the Department of Education will follow - and one of them might be just as a starter that principals be required to report to the proper authority any incidents of violence that takes place on his or her campus. That's just a starter, and I could think of a good deal more.

In the absence of this kind of action by the Legislature, recommendations about people being beaten up in schools is all that will come forward. Meanwhile, we will be putting people in Oahu Prison for whatever it is that will rate the headlines. The reason that you do not have the headlines in the ADVERTISER and the HONOLULU STAR-BULLETIN about these incidents in the high schools is because the people that are involved are scared witless of bringing them forward. The teachers, students, even the principals, and the reason for that is they get absolutely no backing whatsoever from the DOE Administration. You talk privately with the students or the principals, vice-principals, or teachers, in the high schools and elementary schools now, let alone the intermediate schools, you will find virtually universal agreement that the building across the street from here does not want to hear about it. That's what policy is doing and recommendations are doing for us in respect of school violence.

I think we need laws. I've stated on the floor before - I do not hesitate to vote laws in terms of voting for laws, in terms of prison sentences, recommendations for prison, and the like, where I think it just and appropriate. But, if we are, in fact, going down the line on a law and order situation here, then it seems to me, at the least, a bit hypocritical that we move in the area which is easiest to get the headlines and don't move in the area for the people that require our assistance

the most, because they are the most defenseless - the children, the teachers, and the principals, who are subject to this violence.

So, again, I am going to vote no. It may be a protest - a singular protest. I don't mean that either when I say a singular protest. That's not what I mean in a sense of personal. I use the word singular in a sense of a Representative's protest - a symbolic protest. I understand that and what it means, but I can't conceive that there will be a Representative who would oppose that sentiment, in terms of children being beaten, and so on, and that we do something about it. My protest then, my symbolic protest, if you will, is on behalf of those children and against the policy of the Department of Education that encourages this kind of thing, and the principals and the students and the teachers so they reign supreme and virtually every school in the State."

The motion was put by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 183, entitled: "HOUSE RESOLUTION REQUESTING THE COMMITTEE ON EDUCATION TO REVIEW AND TO SUBMIT ITS RECOMMENDATIONS ON THE REPORT OF THE INTERIM SUBCOMMITTEE ON VIOLENCE IN THE SCHOOLS", was adopted.

Representatives Uechi and Blair, for the Committees on Agriculture and Ecology and Environmental Protection, presented a joint report (Stand. Com. Rep. No. 644-78) recommending that H.R. No. 42, as amended in HD 1, be adopted.

On motion by Representative Uechi, seconded by Representative Blair and carried, the joint report of the Committees was adopted and H.R. No. 42, HD 1, entitled: "HOUSE RESOLUTION URGING SUPPORT FOR THE CONTINUED USE OF ETHYLENE DIBROMIDE FOR USE IN PAPAYA, PINEAPPLE, AND OTHER AGRICULTURAL PRODUCTION", was adopted.

Representatives Uechi and Blair, for the Committees on Agriculture and Ecology and Environmental Protection, presented a joint report (Stand. Com. Rep. No. 645-78) recommending that H.C.R. No. 8, as amended in HD 1, be adopted.

On motion by Representative Uechi, seconded by Representative Blair and carried, the joint report of the Committees was adopted and H.C.R. No. 8, HD 1, entitled: "HOUSE CONCURRENT

RESOLUTION URGING SUPPORT FOR THE CONTINUED USE OF ETHYLENE DIBROMIDE FOR USE IN PAPAYA, PINEAPPLE, AND OTHER AGRICULTURAL PRODUCTION", was adopted.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 646-78) recommending that H.R. No. 313, as amended in HD 1, be adopted.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and H.R. No. 313, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A REVIEW OF THE MASTER PLAN FOR POSTSECONDARY EDUCATION IN HAWAII" was adopted.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 647-78) recommending that H.R. No. 75 be adopted.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and H.R. No. 75, entitled: "HOUSE RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII COLLEGE OF EDUCATION TO STUDY WHETHER SPECIAL EDUCATION COURSES SHOULD BE MADE A REQUIREMENT IN THE BACHELOR OF EDUCATION DEGREE GRANTING PROGRAM", was adopted.

Representatives Naito and Garcia, for the Committees on Corrections and Rehabilitation and Judiciary, presented a joint report (Stand. Com. Rep. No. 648-78) recommending that H.R. No. 140, as amended in HD 1, be adopted.

On motion by Representative Naito, seconded by Representative Garcia and carried, the joint report of the Committees was adopted and H.R. No. 140, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A STUDY OF SENTENCING", was adopted.

Representative Naito, for the Committee on Corrections and Rehabilitation, presented a report (Stand. Com. Rep. No. 649-78) recommending that H.R. No. 280, as amended in HD 1, be adopted.

Representative Naito moved that the report of the Committee be adopted and H.R. No. 280, HD 1, be adopted, seconded by Representative Blair.

Representative Carroll then rose

to speak in favor of the resolution, stating:

"Mr. Speaker, the resolution being House Resolution No. 280, HD 1, is an excellent measure. I think it is unfortunate that it comes before this House so late. It probably should have arrived here two or three years ago. Nonetheless, it is an excellent measure and rather than go into great details about what it will do, I would simply like to state that one of the 'Resolves' which appear on page 3 really tells the story and it says there that this task force which is mandated by the resolution shall perform a complete re-evaluation of the philosophical basis and implementation of the Hawaii Correctional Master Plan and how it relates to the current needs of the people of the State of Hawaii and their criminal justice system.

The study is going into questions of overcrowding of our facilities of impact of minimum mandatory sentencing, questions of the absence of work programs within the prison, defects, hopefully, with respect to current architectural plans that are already abuilding, and it is quite noteworthy, Mr. Speaker, that this task is asked to be completed before the session convening in 1979. I think it is long overdue.

I have additional remarks that I would like to have inserted into the Journal, and I urge all to vote 'aye'."

The Chair, noting that there were no objections, "so ordered."

The following remarks of Representative Carroll, which appeared in the HONOLULU STAR-BULLETIN, on March 5, 1976, are hereby inserted as follows:

"The State Legislature is considering the Correctional Master Plan. The State administration seems to favor implementing the plan. In testimony before the House Judiciary Committee, major citizen groups which have taken the time to study the problem opposed the plan.

Initial implementation of the plan, including past and proposed budget appropriations, will cost taxpayers approximately \$24 million. Ten million dollars of this will go towards the destruction of the current Hawaii State Prison site and construction of the proposed modular complex on the present prison site.

A basic premise underlying the Correctional Master Plan is that most prison inmates can be rehabilitated. Massive physical structures are considered non-essential under this concept. Recent

studies, however, including those by leading liberal penologists, indicate that, frequently, rehabilitation is ineffective.

Rehabilitation is the primary goal of sentencing in the Correctional Master Plan. The proposed Correctional Master Plan provisions for the Dillingham facility are based on this highly questionable premise.

The Correctional Master Plan can be substantially modified to the benefit of society and the taxpayer. The current prison buildings can be made humane and suitable for detention of prisoners. Refurbishing can be done by the prisoners themselves with skilled supervision.

There are many prisons older than the Dillingham site which contain prisoners and from which escapes rarely occur. There is no reason why the Dillingham site cannot be made secure if the Legislature appropriates the money for this purpose. For example, the state prisons in New South Wales, Australia, San Quentin in California, and Sing Sing in New York are all the same general age as the State Prison here.

(During a recent visit to the State Prison, 111 of approximately 230 prisoners were admittedly idle during the normal work day. In Australia, in the state of New South Wales, the prison which provides for maximum and medium security is older than the Hawaii State Prison. In spite of that, because of the discipline and supervision within the prison, the building is maintained in excellent condition as far as general maintenance and repair are concerned.)

During the legislative interim, plans could be produced for a minimum security facility on the same grounds as, but separate from the State Prison. After substantially all of the term of sentence has been served, inmates could apply for transfer to this facility.

If a prisoner was released from the minimum security complex back into society and was subsequently convicted of another crime, he would then be returned to the old prison site and kept there until the termination of his sentence for the subsequent crime.

A major defect in the Correctional Master Plan is that it does not take into consideration work programs for institutionalized prisoners. While there are provisions for additional

counseling and psychological services, there are very few provisions for vocational training.

Generally, penologists hold that the institutionalization of prisoners is bad in and of itself. The general public, on the other hand, seems to be of the opinion that many offenders, particularly murderers, persons committing crimes with dangerous weapons causing grave bodily injury to the victims, rapists, burglars, and so forth, should be jailed for long periods without the benefit of parole.

Minimum mandatory sentences and inroads into the current parole practices are apparently the order of the day. The effect of this approach to sentencing is bound to increase the inmate population of our prisons. This cost can be diminished by allowing prisoners to work and produce within the institutional walls.

In the past, prisoners in this State and in other states have been able to produce food, furniture, hobbycraft products and book-binding and printing services of high quality and low but reasonable cost.

A clear incentive for prisoners is the opportunity to earn reasonable wages while serving their sentences. This could enable the prisoner to accumulate a financial base upon which entry into society would be eased.

Reparations legislation has been introduced. Some judges have been including reparations to injured parties in conjunction with or in lieu of jail sentences. Reparation payments could be satisfied with monies earned while incarcerated. The effect of engaging in meaningful remunerate work should be most beneficial if not in rehabilitation, at least in establishing consistent work habit patterns.

Assuming that the work done while in prison was economically beneficial to the community, it would not be inconsistent to pay the prisoners enough to be able to support their families, and at the same time, build up savings to be used upon their eventual release. Arrangements could be made for conjugal visits which could be beneficial to both the prisoners and the administration.

My purpose in preparing this comment is to focus public attention on a different point of view in order that the public may question the terribly costly and possibly ineffective Correctional Master Plan."

Representative Carroll's statement,

critical of the Correctional Master Plan, which appeared in the HONOLULU ADVERTISER on April 14, 1976, is hereby inserted as follows:

"A plan which is weak and inadequate is very close to becoming law in this State. The State Administration favors implementing the Correctional Master Plan as do many legislators.

Ten million dollars of taxpayers money will be wasted and misused if the plan is implemented. This money will go toward the destruction of the Hawaii State Prison and construction of the proposed modular complex on the present prison site.

The plan also calls for a range of 'well-placed activities' - sports and athletics, indoor games, TV, library, writing, music, handicrafts, painting and an education program through the University of Hawaii.

Rehabilitation of prison inmates is the basic premise underlying the plan. Most recent studies by leading penologists, however, indicate that, frequently, rehabilitation is ineffective. The proposed plan provisions for the Dillingham facility are based on this highly questionable premise.

Generally, penologists hold that the institutionalization of prisoners is bad in and of itself. On the other hand, the general public seems to be of the opinion that many offenders, particularly murderers, persons committing crimes with dangerous weapons causing grave bodily injury to the victims, rapists, burglars, and so forth, should be jailed for long periods without the benefit of parole. Minimum mandatory sentences and inroads into the current parole practices are apparently the order of the day. The effect of this approach to sentencing is bound to increase the inmate population in our prisons. If prisoners are allowed to work and produce within the institutionalized walls, this cost can be greatly diminished.

State prisons in New South Wales, Australia, San Quentin in California, and Sing Sing in New York are the same general age as the State Prison here. There is no reason why the Dillingham site cannot be secure if the Legislature designates funds for this purpose.

During a recent visit to the State Prison, 111 of approximately 230 prisoners were admittedly idle during

the normal work day. In Australia, in the state of New South Wales, the prison which provides for maximum security is older than the Hawaii State Prison. Despite that, because of the discipline and supervision within the prison, the structures are maintained in excellent condition. There have been no riots or escapes from this site for many years.

A major defect in the Correctional Master Plan is that there are no real work programs for institutionalized prisoners. A clear incentive for prisoners is the opportunity to earn reasonable wages while serving their sentences. The prisoner would then be able to accumulate a financial base upon which re-entry into society could be based.

Reparations legislation has been introduced. Some judges have been including reparations to injured parties in conjunction with or in lieu of jail sentences. Reparation payments could be satisfied with monies earned while incarcerated. The effect of engaging in meaningful remunerative work should be most beneficial if not in rehabilitation, at least in establishing consistent work-habit patterns.

Assuming that the work done while in prison was economically beneficial to the community, it would not be inconsistent to pay the prisoners enough to be able to support their families, and at the same time, build up savings to be used upon their eventual release. Arrangements could be made for conjugal visits which could be beneficial to both the prisoners and the administration.

In the past, prisoners in this State and in other states, have been able to produce food, furniture, book-binding and printing services of high quality at low but reasonable cost.

The Correctional Master Plan can still be substantially modified so that society and the taxpayer will benefit. Current prison buildings can be made humane and suitable for the detention of prisoners. The prisoners themselves, with skilled supervision, can refurbish the existing buildings.

During the legislative interim, plans can be produced for a minimum security facility on the same grounds as, but separate from the State Prison. Inmates could apply for transfer to this facility after substantially all of the term of sentence has been served.

If a prisoner is released from the minimum security complex back into

society and is subsequently convicted of another crime, he should be returned to the old prison site and kept there until the termination of his sentence for the subsequent crime and his prior criminal activity.

My purpose in preparing this commentary is to focus public attention on this terribly costly and, in my opinion, totally defective plan."

Representative Kamalii then rose to speak in favor of the resolution, stating:

"Mr. Speaker, this resolution speaks directly and articulately to the delicate, but necessary, social balancing of community and individual needs which provides a context for our correctional system and policies. The community demand for protection from fear can only be met if violent individuals are imprisoned. Swift and severe punishment for career criminals is a must. However, it must be tempered by a community concern for the well-being of the prisoner. At no time were our efforts to impose the mandatory and maximum sentences meant to imply bread and water mentality. Our social values would suffer greatly, or greater harm from our own actions than that of the convicted if that attitude were to prevail. In a matter of speaking, we must have the courage of our convictions.

Justice is a difficult term to define. We recognize injustice more easily, and to prison individuals, even those we consider dangerous and a threat to us all, without a regard for their basic humanity would be an injustice.

Thus, I am very much in favor of vocational training and the funding opportunities for aesthetic and religious development. I hesitate to call such programs, however, rehabilitation. Rehabilitation implies that we have a set notion of what kind of in-product we expect from our prisons. Certainly, this expectation is ill-defined at best and there can be no social justification for thinking of prisons as a human factory and assembly line where the parts of a personality are reassembled and pushed out accordingly into some benevolent Dr. Frankenstein decision. We want productive, contributing individuals and the primary considerations is for the preservation of that sense of that individual.

Thus, I am in accord with some

of the planned physical changes in the prison environment. A sense of privacy and facilities provide for time to be with yourself and others. It is fundamental, in my estimation, to the individual. Our intent, however, is not to inadvertently create or foster an individual who is well adjusted only to a prison environment. There have been a significant number of national examples of those who have served long terms either requesting to be kept in prison, or deliberately breaking the law again in order to return to what is generally their home. The way the Correctional Master Plan is now, the 41,000 condominium suites are definitely a home and if we add \$10 million operating cost to that, we would be spending \$61,000 per inmate. I believe that provisions for work programs and the possibility of accumulating a nest egg and appropriate counseling will do much to convince the prisoner that he is being prepared for re-entry and to have the necessary orientation to view himself as a member of our community.

One final point, Mr. Speaker, I believe that the composition of the proposed task force is an explicit assurance of our intentions to balance correction with caring. The choice of the University of Hawaii Law School professors and constitutional and criminal law has a selection mechanism for the task force and their cooperation will necessitate the consideration of prisons from the perspectives of punishment and the maintenance of social and individual rights. These perspectives and their incorporation into on-going programs of correction will truly represent a Correctional Master Plan.

I wish to congratulate the Chairman of the Corrections Committee for her courageous stand in asking for this review of the Correctional Master Plan. After many hearings, she has come to the conclusion that this is needed, and I hope that the members of this body will also see that this is indeed a need rather than to continue to spend millions of dollars and the end product is zero.

I urge my colleagues to vote 'aye'. Thank you."

Representative Abercrombie then rose to speak in favor of the resolution, stating:

"Mr. Speaker, the only reservation I have about it is that the 'Whereases' do not directly relate to the problem of sexuality in the prison. I think that one of the principal problems

that must be addressed by review of the correctional system is a rational and enlightened view of how the sexual drives of the prisoners, male and female, should be taken into account in respect of being able to deal with the prisoners while they are there and when they come back into society. Failing to do so, I think, will undercut and undermine much of the work that is outlined in this resolution, so I urge that the resolution be voted upon favorably, and I hope that those people who may become involved in it in a future time, in terms of task force, will direct their attention to the problems of sexuality in prison."

Representative Kunimura then rose to speak in favor of the resolution, stating:

"I agree with the Minority Floor Leader that this should have been done a long time ago, but it is better late than never, and we have different kinds of ethnic makeup in Hawaii and, therefore, we should not have experts from the mainland tell us what our answers to our prayers should be, and a careful review of the Master Plan is in order at this time, and one question that I would like to request the Speaker ask of the Chairman of the Committee if she would yield to a question."

Representative Naito replied in the affirmative.

Representative Kunimura then asked:

"Mr. Speaker, I would like to, at this time, have you ask the Chairman of this Committee if there is any cost involved during this study so we can be prepared."

Representative Naito answered:

"Mr. Speaker, I have touched bases with the Dean of the Law School and asked the very same question, and they feel that if there are any cost implications, they will be able to get Federal funding, and I have also touched bases with Senator Dan Inouye. In fact, it was his suggestion, frankly, that we do put it in the Law School. We were having great difficulties and problems in determining just where to put the selection process. We decided that if we were going to go into the Governor's Office, the selection might possibly have political implications since, after all, it's their correctional master plan. If it were in the Lieutenant

Governor's Office, it would have political implications also. We felt that the most objective place and the place with the most expertise would be the Law School and as I said, the Dean of the Law School said that if there are financial implications, and Senator Inouye agreed, that the Federal government would be able to pick up the tab."

Representative Kunimura then asked:

"On page 3, the fifth paragraph, the 'BE IT FURTHER RESOLVED' section, it states that the '... State Legislators with expertise or experience in corrections. . .' - I am very serious about this because if it is taken literally, many of us, I am pretty sure, would be automatically disqualified, but will this mean only a few people in the halls of the Legislature would be qualified to advise or talk with the task force?"

Representative Naito answered:

"I believe that everyone will, certainly on the Finance Committee, would qualify since they have been dealing with this budget and with this problem for a very long time. Certainly, everyone on the Judiciary Committee and that area - corrections area - and so on in this House, including Consumer Protection, would qualify. People who have expertise have been people who have been listening to the arguments, pro and con, on this floor, and as far as I am concerned, fifty-one members of this House would qualify."

Representative Kunimura then thanked the Chair.

Representative Cobb rose and stated:

"A brief observation in favor of the resolution. I think it establishes quite clearly the need to maintain a separate Committee on Corrections and Rehabilitation because looking at it over the long haul, when we first passed the Correctional Master Plan back in 1973, having a separate committee for that time, we were able to mull into very closely some of the assumptions underlying it.

When the Committee was merged with the Judiciary Committee after the 1974 elections, in effect, we did not have a separate committee looking at this as. . . what I think should be a separate and distinct subject matter and that many of the assumptions that were made in 1973 when the original Correctional Master Plan was passed, I don't think are valid today, so the resolution itself is not only timely, or perhaps overdue, but should be

conducted locally, and I am happy that it is going into the Law School rather than to any one of the agencies, or to the Governor or Lieutenant Governor's Office because I do recognize, as a past Chairman of the Committee, many of the jurisdictional disputes that go on between the various agencies, groups and people that are involved in correctional services. Hopefully, we will be able to get some recommendations from the resolution.

Thank you."

The motion was put by the Chair and carried, and the report of the Committee was adopted and H.R. No. 280, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A REVIEW OF THE HAWAII CORRECTIONAL MASTER PLAN", was adopted.

Representative Segawa, for the Committee on Health, presented a report (Stand. Com. Rep. No. 650-78) recommending that S.B. No. 1641-78, SD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Abercrombie then rose and asked whether or not the Chairman of the Health Committee would yield to questions to which Representative Segawa replied in the affirmative.

Representative Abercrombie asked:

"Would you ask the Chairman of the Health Committee in what respect, if any, people who suffer from leprosy would be involved in this bill? These will be the facilities, identification and regulations, generally."

Representative Segawa replied:

"Actually, this bill is not to address that problem but to address the facilities that are now doing surgical procedures in their clinics. We call them surgical centers and they have not been under the Department of Health inspection procedures, and this is to include them as part of the inspection teams."

Representative Abercrombie thanked the Chair.

The motion was put by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1641-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE FACILITIES IDENTIFICATION AND REGULATIONS GENERALLY", passed Second Reading and was placed

on the calendar for Third Reading tomorrow, Thursday, March 16, 1978.

The chair directed the clerk to note that printed copies of S.B. No. 1641-78, SD1, were made available to the members of the House at 11:00 o'clock a.m.

Representative Blair, for the majority of the Committee on Ecology and Environment, presented a report (Stand. Com. Rep. No. 651-78) recommending that H.R. No. 106, as amended in HD 1, be referred to the Committee on Energy and Transportation.

Representative Sutton then rose and stated:

"Mr. Speaker, I just got in in time, didn't I? You know, I am only twenty feet away and that's all it took last night for that final goal."

Directed by the Chair to "proceed", Representative Sutton stated:

"Mr. Speaker, I rise to speak against this resolution. Probably, Representative Ikeda and I are the only ones in this room who recall that when they were going to bring Daisy the Elephant and the African lion to the Kapiolani Zoo, everybody said, oh, it will make such a terrible noise, nobody will be able to live in Waikiki."

The Chair interrupted and said:

"This report recommends the referral of the resolution to your Committee on Energy and Transportation, not for adoption."

Representative Sutton then stated:

"I realize that, but I want these remarks to be passed on to that Committee."

Mr. Speaker, I was given an example of a horse and buggy mentality, and I hope that the referred Committee would recognize that this particular resolution has a horse and buggy mentality.

Mr. Speaker, we have just finished. . . I believe you were at the opening of the reef runway. That reef runway permits planes to exit from this island by way of the sea and to enter without any landfall. That reef runway, therefore, changes the entire picture from what we had two years ago.

Now, Mr. Speaker, the Concorde is just one of the supersonic planes but right today, we have landing at Barber's Point for supersonic planes, and they are not causing any of the difficulties that were anticipated. The decibel noise that is generated is easily controlled if the pilot changes his speed.

We have seen the United States of America go through two large bits of litigation — one at Jack Kennedy Memorial Airport and Idlewild, and we found the courts allowing the planes to land and found that they were not violating the decibel requirements. They come into Houston. There is no problem there.

Mr. Speaker, we are particularly well adapted with our reef runway, not to have this plane pass over any landfall. As a consequence, we are in a position to say that we are the hub of the wheel of the Pacific international commerce; that these planes will come into the Hawaiian Islands without passing over other islands, going totally by sea and exiting by sea. Therefore, Mr. Speaker, if you would pass on to the referring Committee the basic concept that we must not have a horse and buggy mentality; we must get out of the horse and buggy mentality and realize that we are the spot where we had Amelia Earhart, John Rogers, the beautiful airplane, the Southern Cross, that flew into here and then to Australia, and you saw this morning the recognition of our own Charles Fern, one of the pioneer pilots.

Hawaii has always been the forefront of aviation. Let us keep it that way.

Thank you."

Representative Carroll then rose to speak in favor of the referral and to make certain remarks in rebuttal, stating:

"Mr. Speaker, remarking about the fighter pilots in World War II, Sir Winston Churchill made the comment that '...never in the course of human events have so few done so much for so many.' Now, if Sir Winston were alive today and knew about the Concorde, he would probably say something along the lines that '...never in the course of human events will so many be so burdened so heavily for the benefit of so few' and those few being the fortunate passengers who are able to ride the Concorde either by their own means or because of

governmental expenditures.

The Concorde is not the child born of transportation necessity. Rather, the operation in the United States of the Concorde is the ill-begotten child of President Carter's foreign policy.

Economically, the Concorde makes no sense. It will be used only for the transport of an infinitesimal number of people. There is no second generation aircraft. I am fully aware of the fact that Lockheed apparently has a Mark IV prototype. I don't say that it is under construction, but at least on the drawing boards and on its way which may solve some of the problems that we are talking about, but this resolution comments on the Concorde and only that particular type of aircraft.

The United States dropped the SST program years ago, recognizing that economically it was not feasible. There are sixteen aircraft ready for commercial flight of the Concorde. There are no more of this present generation aircraft in the building or in the planning stage.

The governments of Great Britain and France are stuck with this white elephant. They are attempting now to salvage their loss by running these aircraft in the United States marketplace and this is well and good if there were no damage to the American people.

The agents of the government of the State of Hawaii and agents of the Federal government have indicated for a number of years that the Concorde was not going to be allowed here. Several U.S. Secretaries of Transportation, both under the Ford Administration and the Carter Administration, have equivocated on the question of allowing the Concorde to land at all in the United States.

Now, it is commendable, certainly, to help the governments of Great Britain and France, if their crises were caused by external forces such as Hitler and other fascism type of intervenors that are beyond their control, but it is idiocy to help them when they have created the crisis for themselves and it is ultimate idiocy to damage our climate, our environment, and the health of individuals in our State and nation in order to give them assistance because of their national self-indulgence.

Now, the first impact that I am talking about has been addressed by a previous speaker and that was the question

of noise pollution. I am certain that there will be noise impacts, but I doubt if that noise impact, other than perhaps briefly on take-offs on certain types of days; say, a very low wind or no wind day is going to impact in the community.

Another environmental impact is in the area of fossil fuel use. The subsonic aircraft which fly between 34,000 to 45,000 feet are flying at those levels and at subsonic speeds because they are able to achieve maximum fuel conservation. That's the reason the airlines are doing well at this time because of that fact. As any aircraft approaches Mach numbers, that is the percentages of the speed of sound from about .93 on up, the fuel consumption rises dramatically and appears as a spike on the fuel consumption charts.

In order for the Concorde to become supersonic, it has four after-burners it has to light up and keep ignited to maintain supersonic flight. This horrendous fuel consumption goes on to carry at the most a hundred passengers in the cabin, and a hundred passengers, Mr. Speaker, is like one third less than Aloha carries on their 737 or Hawaiian on its DC-9-50 aircraft.

Now, our President speaks almost daily about conservation of fuel. He urges our citizens to conserve. He suggests that they go cold in the winter and be hot in the summer in order to conserve fossil fuel. Yet, this same Administration is willing, not only to allow, but to promote the wholesale wasting of fuel for this tiny group of travelers. Recent figures indicate that the load factors are going to be approximately 61 percent. This means that 60 to 70 people are going to be carried on each flight. Nothing could be more wasteful and no public position could be more hypocritical.

Personally, I don't like the idea of wasting fuel, and I am really not terribly concerned about the noise impact on our environment with the reef runway. I could tolerate either of these, but I think. . . that is, I could tolerate either if there was a substantial benefit to be gained. But in this case, there is none. The worse impact of this is one that still raises controversy, but apparently, there is no question that there will be a decrease in the ozone content of the stratosphere because of the nitrous oxide injection

caused by this particular set of power plant running at 65,000 feet. The magnitude of the decrease has been stated by the National Academy of Science, and I will submit that portion of my testimony so that you won't have to listen to it, but I will transmit that to the Chairman of the Transportation Committee as well.

But, Mr. Speaker, the real issue at hand is not whether or not there will be damage to the environment. The only issue is how much damage. If there were some humanitarian or national security purposes in allowing the Concorde to operate, I would totally reassess the matter, but under the present circumstances, it is unthinkable and intolerable that we do anything in this State to enhance the flight of the Concorde.

Now, if Hawaii is not allowed as a landing point, in these remarks, or in rebuttal, if it is not allowed as a landing point for the Concorde, the Central Pacific area will avoid the degradation that will inevitably be caused by these overflights. The Concorde cannot make the intercontinental passage from the West Coast to the United States to the Far East without stopping in Hawaii for refueling. It will be confined to the Polar routes and travel between North and South American continents and Europe.

In summary then, Mr. Speaker, for the State of Hawaii to favor the Concorde will be tantamount to the State of Hawaii favoring increased noise levels, wasting of fuel, climatic degradation and probably increased cancer for our citizenry. Partisan politics must be forgotten now, and our State, our leaders, must say 'no' to the Carter Administration. Our State must say 'no' to the Concorde and keep the Pacific area free from its damaging impact.

For these reasons, I urge that this matter be referred to Transportation.

Thank you."

Representative Abercrombie then rose and asked if the Representative from the 15th District would yield to a question to which Representative Sutton replied, "I will."

Representative Abercrombie asked:

"As a member of the Committee to which this resolution is to be referred, I am authorized by its Chairman to make the following question inasmuch as the Speaker referred that to the

fact that he believed the Concorde would be exiting by sea, and he wished his remarks to be referred to our Committee for consideration. Does that mean he intends to have skis attached to them?"

Representative Sutton replied:

"Mr. Speaker, when we have our usual tradewinds which blow from your valley at Moanalua down to the airport, there is no need for skis. It will exit gracefully off the reef runway."

Representative Dods then rose and asked if the Representative from the 15th District would yield to a question to which Representative Sutton replied:

"Yes, but would you tell him that I am from Nuuanu, not from Manoa, and that we have a Representative from Manoa that we hear from occasionally, so the identification. . ."

Representative Cayetano interrupted on a point of order and remarked:

"I wish the Representatives who are asking the questions would ask in their own name and not state my name in vain, please."

The Chair then directed Representative Dods to "proceed with your question" and he asked:

"On the sixth 'Whereas' clause on the noise levels, are we to include the Representative's name also?"

Representative Sutton answered:

"Mr. Speaker, I have used a far more significant term than noise levels. I have used what we call 'decibels.'"

Now, decibels was originally a term that was used by the British and it was used to signify that degree of tone loudness, and the degree of tone loudness of a decibel is something that is one of the multiples that we talked about in any type of noise pollution, and the Concorde does not create noise pollution as the Representative from Waikiki who is a pilot himself has admitted. In fact, he started his whole argument by saying there would not be a noise proliferation by way of decibels.

Thank you."

Representative Carroll, in rebuttal, stated:

"Mr. Speaker, my comment as to noise was that under normal conditions - tradewinds, you know, from the north, northeast, running ten to fifteen miles per hour. Generally, there will not be any noise impact under those conditions, but if we have Kona wind or very light wind, then I think there will be noise impact. It's fortunate for us, although looking at this one, I am not sure things are always going to be normal, but that we have the trades as we do. If we have down wind landings that the Concorde will be flying, perhaps directly over Nuuanu, so the Representative from Nuuanu could check for himself to see how high the decibel level is."

The motion was put by the Chair and carried, and the report of the majority of the Committee was adopted and H.R. No. 106, HD 1, entitled: "HOUSE RESOLUTION OPPOSING LANDING RIGHTS FOR THE CONCORDE", was referred to the Committee on Energy and Transportation, with Representatives Naito and Sutton voting no.

Representative Kunimura, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 652-78) informing the House that House Resolution Nos. 462 to 468, House Concurrent Resolution Nos. 90 to 93, and Standing Committee Report Nos. 629-78 to 635-78, have been printed and distributed.

On motion by Representative Kunimura, seconded by Representative Lunasco and carried, the report of the Committee was adopted.

At this time, Representative Kawakami introduced Mr. Ken Nishioka, "a close friend of mine with NASA and who works out of Ames Research Center at Moffett Field in California, and presently the Project Coordinator for the State of Hawaii in developing a resource management program using the satellites." Accompanying Mr. Nishioka were Senator Donald Ching, and Mr. Kato from the Department of Planning and Economic Development.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 485 to 488) and concurrent resolutions (H.C.R. Nos. 98 to 100) were referred to the Committee on Legislative Management and further action was deferred until tomorrow, March 16, 1978:

A resolution (H.R. No. 485) requesting

State and county agencies to utilize the recently completed agricultural lands classification system entitled, "Agricultural Lands of Importance to the State of Hawaii" was jointly offered by Representatives Uechi, Blair, Inaba, Lunasco, Morioka, Peters, Shito and K. Yamada.

A resolution (H.R. No. 486) requesting a study of independent sugar growers was jointly offered by Representatives K. Yamada, Suwa, Takamine, Caldito, Inaba, Toguchi and Uechi.

A resolution (H.R. No. 487) urging adoption of National Association of Broadcasters policies particularly with regard to children's television and nutrition was jointly offered by Representatives Kiyabu, Mizuguchi, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Dods, Evans, Fong, Inaba, Kawakami, Kihano, Kondo, Kunimura, Larsen, Lunasco, Machida, Mina, Naito, Narvaes, Peters, Poepoe, Say, Segawa, Shito, Stanley, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima, Uwaine, D. Yamada, K. Yamada and Yuen.

A resolution (H.R. No. 488) requesting Attorney General and Corporation Counsel to file suit against parents or guardians of minor unmarried children for damages caused to State or city property by torts of minors was offered by Representative Ajifu.

A concurrent resolution (H.C.R. No. 98) urging adoption of National Association of Broadcasters policies, particularly with regard to children's television and nutrition was jointly offered by Representatives Kiyabu, Mizuguchi, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Dods, Evans, Fong, Inaba, Kawakami, Kihano, Kondo, Kunimura, Larsen, Lunasco, Machida, Mina, Naito, Narvaes, Peters, Poepoe, Say, Segawa, Shito, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima, Uwaine, D. Yamada, K. Yamada, Yuen and Wakatsuki.

A concurrent resolution (H.C.R. No. 99) requesting a study of independent sugar growers was jointly offered by Representatives K. Yamada, Suwa, Takamine, Caldito, Inaba, Toguchi and Uechi.

A concurrent resolution (H.C.R. No. 100) requesting State and county agencies to utilize the recently completed agricultural lands classification system entitled, "Agricultural Lands

of Importance to the State of Hawaii" was jointly offered by Representatives Uechi, Blair, Inaba, Lunasco, Morioka, Peters, Shito and K. Yamada.

At this time, Representative Naito made an apology to the members of the Committee on Corrections and Rehabilitation, stating:

"We were scheduled to have a hearing last night. On Saturday or Sunday, this past weekend, I learned that last night was also the night that the Democratic Party precinct meetings were to take place, so early Monday morning, we sent to the Sergeant-at-Arms a change in the meeting schedule, including the new agenda with the change, that was delivered on Monday afternoon.

However, it's all on the same agenda. Perhaps, it wasn't clear when it was sent out, but it is quite easy to have misunderstood. What happened was apparently a number of members thought that the meeting was still scheduled last night and intended to attend the meeting, and so, I do want to apologize to the members of the Committee who didn't get that cleared, and I should have cleared it up much better myself.

At the same time of my apology, I want to commend my Vice Chairman who caught it and did go around and tell people of the Committee that we were not going to have that meeting, and that meeting is going to take place on Friday at 1:30.

Also, by way of another announcement, and perhaps it is a point of personal privilege, but a very brief one. As you may know, I had a very serious traffic accident last week, and part of the problem is very temporary memory loss on a few things, so if you will just perhaps put up with me once in a while with this memory loss. It's going away. It's getting much better and in terms of the memory loss, I would also like to thank those Representatives who came to visit me in the hospital."

The Chair then stated:

"Today is the 40th legislative day. We have only 20 more days left. If all of you Committee Chairmen would review your Senate bills, work on them and get them out, and move them into conference if conference is necessary, work will get much lighter towards the end of the session.

The other is, whenever any of you

wish to have the Sergeant-at-Arms make delivery on an immediate basis, please note that fact on your envelope or on your delivery because the Sergeant-at-Arms office does not make deliveries every time an office sends down correspondence. As I indicated, if you want the notices or mail delivered immediately, make that notation on your batch."

At 12:55 o'clock p.m., the Chair declared a recess, subject to the

call of the Chair.

The House of Representatives reconvened at 1:00 o'clock p.m.

ADJOURNMENT

At 1:01 o'clock p.m., on motion by Representative Yuen, seconded by Representative Kamalii and carried, the House of Representatives adjourned to 11:00 o'clock a.m. tomorrow, Thursday, March 16, 1978, in honor of the late Anthony R. Paul.

FORTY-FIRST DAY

Thursday, March 16, 1978

The House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by the Reverend Charles Beard of the Pearl Harbor Memorial Christian Church, after which the Roll was called showing all members present with the exception of Representative Baker, who was excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Fortieth Day.

On motion by Representative Yuen, seconded by Representative Kamalii and carried, reading of the Journal was dispensed with and the Journal of the Fortieth Day was approved.

SENATE COMMUNICATION

A communication from the Senate (Sen. Com. No. 176) returning House Bill No. 2166-78, HD 2, which passed Third Reading in the Senate on March 15, 1978, in an amended form, was placed on file.

By unanimous consent, H.B. No. 2166-78, HD 2, as amended by the Senate, was placed on the Clerk's desk and, in accordance with Article III, Section 16, of the Constitution of the State of Hawaii, printed copies of H.B. No. 2166-78, HD 2, SD 1, were made available to the members of the House at 11:00 o'clock a.m.

At this time, the following introductions were made to the members of the House:

Representative Takamura introduced ninety-five 5th grade students from Ala Wai Elementary School, who were accompanied by their teachers, Ms. Odo, Ms. Dollar, Ms. Arakaki and Ms. Muranaka, and student teacher, Ms. Tom.

Six students from Palama Settlement were introduced by Representative Campbell.

At 11:05 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:10 o'clock a.m.

ORDER OF THE DAY

DEFERRED RESOLUTIONS

The following resolutions (H.R. Nos. 485 to 488) and concurrent resolutions (H.C.R. Nos. 98 to 100) were disposed of as follows:

H.R. Nos. Referred to:

485 Jointly to the Committees on Agriculture and Water, Land Use, Development and Hawaiian Homes, then to the Committee on State General Planning

486 Jointly to the Committees on Agriculture and Higher Education, then to the Committee on Finance

487 Committee on Youth and Elderly Affairs, then to the Committee on Consumer Protection and Commerce

488 Committee on Judiciary

H.C.R. Nos.

98 Committee on Youth and Elderly Affairs, then to the Committee on Consumer Protection and Commerce

99 Jointly to the Committees on Agriculture and Higher Education, then to the Committee on Finance

100 Jointly to the Committees on Agriculture and Water, Land Use, Development and Hawaiian Homes, then to the Committee on State General Planning

COMMITTEE REASSIGNMENT

House Resolution No. 476 was re-referred to the Committee on Agriculture.

SUSPENSION OF RULES

On motion by Representative Yuen, seconded by Representative Kamalii and carried, the rules were suspended for the purpose of allowing members to offer resolutions.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R.

Nos. 489 to 491) were read by the Clerk and were disposed of as follows:

A resolution (H.R. No. 489) expressing appreciation to Bert T. Kobayashi for his outstanding contributions to the State of Hawaii was jointly offered by Representatives Yuen, Ajifu, Aki, Cayetano, Cobb, Dods, Inaba, Kihano, Kiyabu, Kondo, Larsen, Lunasco, Machida, Medeiros, Mina, Mizuguchi, Morioka, Nakamura, Narvaes, Peters, Poepoe, Say, Segawa, Stanley, Sutton, Suwa, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima, Uwayne, D. Yamada, K. Yamada and Wakatsuki.

Representative Yuen moved that the resolution be adopted, seconded by Representative Kondo.

Representative Yuen then rose to speak in "support of the resolution", stating:

"Mr. Speaker, if you had looked at our honoree while the resolution was being read, you would have noticed the look of surprise. He is surprised, Mr. Speaker. Several of us conspired to deceive our honoree to make it possible for him to be present with us this morning. If we told him in advance that we were honoring him this morning, he would not appear. That's how humble he is.

For those of us who had the privilege to serve under him when he was the Attorney General of the State of Hawaii, we know him as a tough administrator; a tough intellect; and most important of all, a compassionate person. To me, he was not a boss - he was a mentor, a confidant and a friend.

So, Mr. Speaker, this resolution is presented this morning for the benefit of all the many, many people he helped. In a very small way, the resolution is saying, thank you, boss.

Thank you, Mr. Speaker."

Representative Kamalii, speaking in favor of the resolution, stated:

"Mr. Speaker and members of this House, the qualities of a fine man and his contributions to the State of Hawaii are never a matter of partisan politics, especially if that someone is very familiar with the workings of the attorney general's office.

I feel qualified to add my praise to the achievements of Justice Bert Kobayashi, a former attorney general. More importantly, I have aloha for his unofficial capacities. Bert's quiet competence has often been the source of coming together and necessary compromises. This ability is publicly recognized in his successful mediation of labor disputes.

These attributes were also present in Justice Kobayashi while he was in private practice. He was once my mother's attorney, and I know what compassion and care he showed for her.

Perhaps that is the greatest tribute, to say that what is admired in the public man is also true in private. Bert Kobayashi has that integrity and strength of character. It has been my pleasure to know him for all of these years."

Speaking in favor of the resolution, Representative Sutton stated:

"As president of the Federal Bar, we honored Justice Kobayashi ten years ago. So, in a way, you people are ten years late.

Looking at my notes that are ten years old, I think I'm going to be quite frank with this body, because if we just show the glowing things and we don't show how he was able to overcome hurdles . . . all during World War II, this man did everything in his power to volunteer for the military forces of the United States of America, and he was not accepted. But this did not embitter him. He graduated from Gettysburg and then he went on to a very good law school, Harvard Law School; almost as good as Stanford Law School. In fact, it's a Stanford of the East.

This man came out with honors. They recognized that here was somebody who would be a great private lawyer, that his time and his counsel would always be available - not to the fellow with the biggest bank account, but to the man with the roughest problem - and this is how he practiced law privately; then, as attorney general.

I can remember him as justice of that court. He would sit in that court, just in intimidation, waiting for that question to come from the bench.

Now, a couple of weeks ago we had a bill here to remove oral arguments. It got recommitted before I had a chance to talk. But I was going to tell you,

Mr. Speaker, that those penetrating questions that used to come down from Justice Kobayashi would open up all of your briefs and all of a sudden you would find yourself in something you had completely omitted. This man is a really sharp justice. The decisions that he wrote will remain on the books and part of the law of Hawaii for many, many years.

I think that as I close, I would say one other thing. There was a man named Mr. Harris, who was brought down here for consumer affairs. I still correspond with him. He was an attorney who took the bar in Alabama. He was the first one that hired our own attorney, Jann Yuen. Bert Kobayashi meant to Mr. Harris more than anything he ever heard or saw of in Hawaii. Today he is in an elderly senior citizens' center in southern California, and every time he corresponds with me, he says to give my aloha to the finest lawyer I ever met. And so, today, may I give that aloha, Mr. Speaker, to Justice Bert Kobayashi, a truly great attorney at law."

Representative Takamine then rose to speak in favor of the resolution, stating:

"Mr. Speaker, it is with mixed pleasure, but great respect, that I rise to speak in favor of this resolution.

We, who have observed his action and have known him personally, fully recognize his role in making our State a better one for all of us. His unselfish and devoted service to our State is outstanding and it goes beyond his service as State attorney general and advisor to the late Governor John A. Burns during a crucial period in our State's development, or as a justice of the State Supreme Court.

In many ways, he quietly and without fanfare counseled and aided Hawaii's residents enumerable times. In addition, we in the ILWU, and many others, know of the many occasions when labor and management could not resolve their differences, he was called upon to assist in resolving those differences. His knowledge, patience, wisdom and genuine concern achieved not only results but respect for Bert by all concerned.

It is with some regret that we honor his leaving public service, but it is a departure that has been earned and he leaves with a record

that will be indelibly stamped on the pages of Hawaii's history.

So, we say to you Bert, mahalo and God bless you for a long, happy retirement for you and your beloved wife, Victoria.

We will not forget you.

Thank you."

Representative K. Yamada, speaking in favor of the resolution, stated:

"Mr. Speaker, I suppose in many sense, Justice Kobayashi does epitomize the American dream - not one from rags to riches, but one from humble beginnings to great friends and great respect. He worked his way through college, Mr. Speaker, as a busboy - as one of our representatives do - in Gettysburg, Pennsylvania. He later headed one of the greatest law offices in the State, with such notables as Judge Alfred Laureta, who is judge of the Fifth Circuit in Kauai; Judge Russell Kono, who is a District Court judge here; Kwan Hi Lim, who is a great actor with Hawaii 5-0 today; and, I suppose, another slender, tall individual who is not too well known in the State, an individual by the name of George Ariyoshi.

He is known as an intellectual on the Supreme Court, Mr. Speaker. He is also known as the champion of civil rights in the State of Hawaii.

We are indeed sad to see this honest, hard-working and compassionate man retire from the Supreme Court. I would like to extend my best wishes to him.

Thank you."

Representative Kunimura then rose to speak in favor of the resolution, stating:

"I am deeply honored to be able to speak in favor of this resolution this morning.

I entered politics some twenty-four years ago. I came in greener than the greenest banana in Kaneohe. I really didn't know what it was all about, so I had to seek counsel. I can still remember, and I shall always remember, when I went to see Bert and he said, it's not difficult, you only have to do what is right and be honest, because the trust the people placed in your hands is something that you cannot betray.

I saw this man many times after that, but I think one thing that makes Bert Kobayashi ten feet tall in my eyes, and I think he is the tallest man in the State of Hawaii, is that with all the things he had to do and what he went through, he never forgot his family. I remember one weekend, driving through the subdivision in the Kuliouou area, I saw this man playing football with his boys. In the Education Committee, we went through many resolutions and bills trying to improve our school system. If we fathers, and prospective fathers, can be like Bert Kobayashi, our Legislature and the Department of Education wouldn't have any problems, because all of the things that we try to correct in school started from the home. This man, Bert, is a father, the capable attorney, a man that is never too busy for the little people.

I would like to say, Bert, we are going to miss you very much, but I hope you stay here in Hawaii and live for many, many years, because we are going to be coming to you for counsel. I hope you will always be the Bert that we all know.

Thank you."

Representative Ueoka then rose to speak in favor of the resolution, stating:

"Mr. Speaker and members of this House, I rise to speak in support of this resolution.

I join my colleagues, members of the bar, people of the State of Hawaii in paying tribute to a great man, a man who is very humble. He has contributed so much to the State of Hawaii as an attorney, prosecutor, attorney general and as a judge.

I have known Mr. Justice Kobayashi for many, many years - from the time he went into private practice, judge in the District Court, attorney general, and also as a member of the Supreme Court.

Many good things have been said about Mr. Justice Kobayashi here today. Whenever we think about Hawaii, we see a picture of Waikiki, with Diamond Head standing in the background. Like Diamond Head, Mr. Justice Kobayashi stands out in the legal profession. I am especially impressed by his great deal of interest in the young attorneys who have passed the bar, in the belief in strengthening the legal profession. I admire him a great deal for it.

So, today, I join all of you in paying tribute to this great man.

Thank you very much."

Representative Carroll, speaking in favor of the resolution, stated:

"It was my honor to meet Justice Kobayashi at the cocktail party wherein his son, Bert, and I were both honorees for having passed the bar. In those days, they were passing approximately 55% of the persons taking the exam, and it was a huge relief for us to have gotten the information that we passed. And that particular evening, Justice Kobayashi, and I'm sure he doesn't recall the evening, but he said, now you see, it's fair for everybody. The implication was that everyone was being treated fairly - if you passed, you passed; if you didn't, you didn't. I was particularly taken with his interest, not only in the fact that his son, whom I'm sure he was very delighted had passed, but was willing to spend time with other people, of whom he knew nothing, and to impart some of the feeling of aloha that he has for all the people of this State.

Another point, Mr. Speaker, it's been alluded to, is his willingness to care for others in our community. Many of us do this in one way or another. But in his particular case, he has taken into his home, various persons and given them the succor and love and carried them along through their lives. These are people to whom he owed no duty. I think this incredible contribution of the man is not generally known.

I would like to add my best wishes and I would also like to add that I do not see Justice Kobayashi as retiring, but just rather beginning one more successful career.

Thank you."

The motion was put by the Chair and carried and H.R. No. 489 was adopted.

Representative Yuen, at this time, introduced the following: Justice Kobayashi; his wife, Vickie; Bert, Jr., and his wife, Harriet; Gordon and Leilani Kobayashi Chang and their children, Lloyd, James, Joseph and Randy; and Kalani and his friend, Harriet Yamamoto.

Representative Peters then presented Mrs. Kobayashi with a pikake lei

and Representative Kamalii presented Justice Kobayashi with a maile lei, while Representatives Ueoka and Kunimura presented them with certified copies of the resolution.

The Chair then stated:

"Recognizing Justice Kobayashi's prior commitments that he must honor, the Chair, at this time, will declare a recess, subject to the call of the Chair, for the purpose of extending our personal appreciation to Justice Kobayashi and members of his family."

Thereupon the Chair declared a recess at 11:35 o'clock a.m., subject to the call of the Chair.

The House of Representatives reconvened at 11:39 o'clock a.m.

A resolution (H.R. No. 490) recognizing and extending a warm mahalo to Hawaii's native sons in the world of professional football was jointly offered by Representatives Narvaes, Abercrombie, Ajifu, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Evans, Fong, Garcia, Ikeda, Inaba, Kamalii, Kawakami, Kiyabu, Kunimura, Larsen, Lunasco, Medeiros, Mina, Morioka, Poepoe, Say, Segawa, Shito, Sutton, Takamine, Takamura, Toguchi, Uechi, Ueoka and Uwayne.

On motion by Representative Narvaes, seconded by Representative Sutton and carried, H.R. No. 490 was adopted.

Representative Narvaes then stated:

"Mr. Speaker, football is one of Hawaii's favorite sports. Millions of people watch football across the nation, and as they watch as a spectator, they wish they were on the playing field as players instead of spectators.

Mr. Speaker, there is only a very small percentage of people in our nation who attain a level that these people here have attained. Mr. Speaker, there is only a very small percentage of people, of athletes, who attain the level to become a professional in any sport.

Mr. Speaker, if go back when we were kids, we all dreamed and said that some day we would like to be a professional ball player. The end results are that maybe 1/10 of 1% actually attain that goal.

Mr. Speaker, when we take a look at the number of people in our State who have become professional football players and who have represented

our State across the nation on its playing fields and on Monday night football on T.V., I feel proud.

Mr. Speaker, today we have with us two of these people and I would like to have them stand and take a little bow, Charley Ah You and Kale Ane, and Trudy Yoshikawa, Charley's fiance. Also, another one of Hawaii's great athletes, who is sitting in the gallery, Duane Akina. Duane played with Washington and they were the ones who won the Rose Bowl. These men have attained a level of prominence and have set an example for all of the youth of Hawaii to follow.

Mr. Speaker, let me end and say that these are Hawaii's greatest athletes. It's truly an honor for us to recognize them today."

Representatives Kamalii and Ikeda presented leis to Charley Ah You and Kale Ane, respectively, and Representative Narvaes presented them with certified copies of the resolution and a lei to Trudy Yoshikawa.

Representative Mizuguchi was requested to present Arnold Morgado with a copy of the resolution since he couldn't be present for the presentation.

A resolution (H.R. No. 491) congratulating the Kaiser High School wrestling team on winning the State high school wrestling championship was jointly offered by Representatives Ikeda, Dods, Abercrombie, Ajifu, Aki, Caldito, Campbell, Carroll, Cayetano, Cobb, Evans, Fong, Inaba, Kamalii, Kawakami, Kihano, Kiyabu, Kunimura, Larsen, Lunasco, Machida, Medeiros, Mina, Morioka, Naito, Nakamura, Narvaes, Poepoe, Say, Segawa, Shito, Stanley, Sutton, Takamine, Takamura, Toguchi, Uechi, Ueoka, Ushijima, K. Yamada and Yuen.

On motion by Representative Ikeda, seconded by Representative Dods and carried, H.R. No. 491 was adopted.

Representative Ikeda then rose and stated:

"Mr. Speaker, as the resolution stated, the wrestling team is only four years old, yet it has captured the OIA championship of the State and they will be leaving on Wednesday for seventeen days in Japan. I couldn't be prouder."

Representative Ikeda then introduced the co-captains: Derek Kaneshiro, Kent Nakachi and Paul Yamamoto; and coach, Stephen Kim. Representative Evans then presented Mr. Kim with a lei and Representatives Dods and Ikeda presented the above-mentioned with certified copies of the resolution.

Representative Ikeda also introduced the other members of the team, who were seated in the gallery: Willie Kamakana, John Kim, Brian Muranaka, Derek Hong, Duane Agena, Michael Dias and Ron Johnson.

House Resolution No. 484, which was adopted on March 15, 1978, was read by the Clerk.

Representative Ushijima then introduced assistant coach, Roger Watanabe, and the co-captains of the University High School championship basketball team: Kirk Hottendorf, Leroy Lutu and Nathan Spencer, who represented the team on the floor of the House. They were presented with leis by Representatives Evans, Stanley, Ikeda and Kamalii, respectively.

Representative Ushijima then introduced "the equally talented members of the basketball team", who were seated in the gallery, as follows: Eric Morales, Evan Morales, Andy Simpson, Guy Seto, Gerald Stevens, Craig Bell, Earl Bissen, Scott Kaulukukui, Neal Miyashiro and Billy Powell; Glenn Uyeda, student manager. Accompanying the team were Mrs. Loretta Kraus, principal, and Dr. Arthur King of the University of Hawaii School Curriculum Center. They were presented with leis from staff members.

At 11:59 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:02 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 653-78) recommending that S.C.R. No. 2, SD 1, be referred to the Committee on Water, Land Use, Development and Hawaiian Homes.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee

was adopted and S.C.R. No. 2, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEVELOPMENT OF A CLOSER BOND BETWEEN ALASKA AND HAWAII TO FOSTER INTERACTIONS THAT WILL BE OF MUTUAL BENEFIT TO BOTH STATES", was referred to the Committee on Water, Land Use, Development and Hawaiian Homes.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 654-78) recommending that H.R. No. 386 be referred to the Committee on Finance.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.R. No. 386, entitled: "HOUSE RESOLUTION REQUESTING THE STATE DEPARTMENT OF TRANSPORTATION TO REPLACE THE YELLOW-ORANGE RANGE LIGHTS MARKING THE ENTRANCE OF ALA WAI HARBOR WITH BLAZE ORANGE RANGE LIGHTS", was referred to the Committee on Finance.

Representative Blair, for the Committee on Ecology and Environment, presented a report (Stand. Com. Rep. No. 655-78) recommending that H.C.R. No. 55, as amended in HD 1, be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Lunasco, seconded by Representative Larsen and carried, the report of the Committee was adopted and H.C.R. No. 55, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO BAN PLASTIC CONTAINERS", was referred to the Committee on Consumer Protection and Commerce.

Representative Segawa, for the Committee on Health, presented a report (Stand. Com. Rep. No. 656-78) recommending that H.R. No. 71 be referred to the Committee on Finance.

On motion by Representative Segawa, seconded by Representative Shito and carried, the report of the Committee was adopted and H.R. No. 71, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO SEEK FUNDS FOR PREVENTIVE MENTAL HEALTH PROGRAMS", was referred to the Committee on Finance.

Representative Segawa, for the Committee on Health, presented a report (Stand. Com. Rep. No. 657-78) recommending that H.R.

No. 204, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Segawa, seconded by Representative Shito and carried, the report of the Committee was adopted and H.R. No. 204, HD 1, entitled: "HOUSE RESOLUTION URGING FURTHER DEVELOPMENT OF THE ALTERNATIVES FOR WOMEN PROGRAM", was referred to the Committee on Finance.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 658-78) recommending that H.R. No. 301 be referred to the Committee on Finance.

On motion by Representative Peters, seconded by Representative Takamura, the report of the Committee was adopted and H.R. No. 301, entitled: "HOUSE RESOLUTION RESPECTFULLY URGING THE STATE DEPARTMENT OF TRANSPORTATION TO GIVE THE HIGHEST POSSIBLE PRIORITY IN REMOVING OR CORRECTING NUMEROUS ROADWAY HAZARDS ON OR ADJACENT TO FARRINGTON HIGHWAY ON THE WAIANAE COAST", was referred to the Committee on Finance.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 659-78) recommending that H.C.R. No. 61 be referred to the Committee on Finance.

On motion by Representative Peters, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.C.R. No. 61, entitled: "HOUSE CONCURRENT RESOLUTION RESPECTFULLY URGING THE STATE DEPARTMENT OF TRANSPORTATION TO GIVE THE HIGHEST PRIORITY IN REMOVING OR CORRECTING NUMEROUS ROADWAY HAZARDS ON OR ADJACENT TO FARRINGTON HIGHWAY ON THE WAIANAE COAST", was referred to the Committee on Finance.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 660-78) recommending that H.R. No. 395 be referred to the Committee on Finance.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and H.R. No. 395, entitled: "HOUSE RESOLUTION REQUESTING A STUDY INTO THE FEASIBILITY OF A NAVAL RESERVE OFFICER TRAINING PROGRAM AT THE UNIVERSITY OF HAWAII", was referred to the Committee on Finance.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 661-78) recommending that S.B. No. 2380-78 pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and S.B. No. 2380-78, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII", passed Second Reading and was referred to the Committee on Finance.

Representative Say, for the Committee on Culture and the Arts, presented a report (Stand. Com. Rep. No. 662-78) recommending that S.B. No. 2599-78 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Say, seconded by Representative Stanley and carried, the report of the Committee was adopted and S.B. No. 2599-78, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FOUNDATION ON CULTURE AND THE ARTS", passed Second Reading and was placed on the calendar for Third Reading tomorrow, March 17, 1978.

Representative Segawa, for the Committee on Health, presented a report (Stand. Com. Rep. No. 663-78) recommending that S.B. No. 1660-78, SD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Segawa, seconded by Representative Shito and carried, the report of the Committee was adopted and S.B. No. 1660-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SPEECH PATHOLOGY AND AUDIOLOGY", passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Evans and Sutton voting no.

Representative Segawa, for the Committee on Health, presented a report (Stand. Com. Rep. No. 664-78) recommending that S.B. No. 1643-78, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Segawa, seconded by Representative Shito and carried, the report of the Committee was adopted and S.B. No. 1643-78, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CERTIFIED COPIES OF VITAL RECORDS", passed Second Reading and was placed on the calendar for Third Reading tomorrow, March 17, 1978.

The Chair directed the Clerk to

note that printed copies of S.B. Nos. 2599-78 and 1643-78, HD 1, were made available to the members of the House at 11:00 o'clock a.m.

Representatives Blair, Kawakami and Toguchi, for the majority of the Committees on Ecology and Environment, Water, Land Use, Development and Hawaiian Homes and Ocean and Marine Resources, presented a joint report (Stand. Com. Rep. No. 665-78) recommending that H.R. No. 123, as amended in HD 1, be adopted.

Representative Blair moved that the report of the majority of the Committees be adopted and that H.R. No. 123, HD 1, be adopted, seconded by Representative Kawakami.

Representative Carroll then rose to speak against the resolution, stating:

"Mr. Speaker, at the present time, the federal government is looking into continuing the maintenance of the leeward islands in their current state. A brief examination of the history of the leeward islands will indicate what the impact of man is on those islands. We have, over the past . . . I think the first executive order was signed by Theodore Roosevelt in the early 1900's, and they have been of concern of the United States government for this period of time.

At the present time, there is no doubt that these islands are a rich treasure in terms of fisheries and resources, but they are only that way because of the fact that they have been protected.

I fully understood our parochial interest in these islands, but I think this particular measure goes directly against the best interest of this State. On that basis, I urge we vote against this resolution."

The motion was put by the Chair and carried and the report of the majority of the Committees was adopted and H.R. No. 123, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A MORATORIUM ON FEDERAL ENCROACHMENT UPON STATE WATERS IN THE LEEWARD ISLANDS", was adopted.

Representative Suwa, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 666-78) recommending that H.C.R. No. 43 be adopted.

On motion by Representative Suwa, seconded by Representative Peters and carried, the report of the Committee was adopted and H.C.R. No. 43, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES DEPARTMENT OF HEALTH, EDUCATION AND WELFARE TO CONSIDER FAVORABLY THE HAWAII DEPARTMENT OF EDUCATION APPLICATION FOR A FISCAL YEAR 1978-79 COMMUNITY EDUCATION FEDERAL GRANT UNDER THE COMMUNITY EDUCATION ACT", was adopted.

Representative Suwa, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 667-78) recommending that H.C.R. No. 78 be adopted.

On motion by Representative Suwa, seconded by Representative Peters and carried, the report of the Committee was adopted and H.C.R. No. 78, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO PREPARE AND SUBMIT A PROPOSED CONSTITUTIONAL AMENDMENT REQUIRING A BALANCING OF THE FEDERAL BUDGET OR TO CALL A CONSTITUTIONAL CONVENTION UPON THE APPLICATION OF TWO-THIRDS OF THE VARIOUS STATES FOR THE SAME PURPOSE", was adopted, with Representative Abercrombie voting no.

Representative Suwa, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 668-78) recommending that H.R. No. 67 be adopted.

Representative Suwa moved that the report of the Committee be adopted and that H.R. No. 67 be adopted, seconded by Representative Peters.

Representative Sutton then rose to speak against the resolution, stating:

"Our economy is very dependent on the military dollar. They are our neighbors. When you and I were in the military and went to various bases throughout the United States, we received no discrimination. This takes a form of a discrimination that is not existent in any State in the union, any territory or any U.S. possession.

I feel that we are all going out Monday to be guests of Admiral of the Fleet, Maurice Weisner, and I think that we would have difficulty in accepting his hospitality after we've just passed a resolution of this nature.

So, I would urge my colleagues to vote against it."

Upon being recognized, Representative Cobb stated:

"Mr. Speaker, I rise to speak in favor of the resolution and I do so as a member of the military community, although a resident of the State.

The important thing is that this resolution is not addressed to just the State of Hawaii, but is addressed to the Congress of the United States to ask them to enact nation-wide provisions that would apply to every single State.

I think the Congress has been quite active, over the last ten to fifteen years, in providing for increases in military pay to the point now where it is quite comparable to the civilian pay scale in private industry. And I think if it is going to apply to all fifty states, we are not going to be involved in a question of single state discrimination.

Furthermore, Mr. Speaker, when an automobile is used on the highway, it contributes to the wear and tear of that highway and should be required to contribute to the maintenance of that highway.

All this resolution is asking is that the same standards be applied to those in the military that are applied to those in the civilian community.

Thank you."

The motion was put by the Chair and carried, the report of the Committee was adopted and H.R. No. 67, entitled: "HOUSE RESOLUTION REQUESTING CONGRESS TO AMEND THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT", was adopted, with Representative Sutton voting no.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 669-78) recommending that H.R. No. 112 be adopted.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.R. No. 112, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO GIVE PRIORITY TO THE WAIMEA-KAWAIHAE HIGHWAY PROJECT", was adopted.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 670-78) recommending that H.C.R. No. 28, as amended in HD 1, be adopted.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.C.R. No. 28, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESSIONAL ACTION", was adopted.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 671-78) recommending that H.R. No. 109 be adopted.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.R. No. 109, entitled: "HOUSE RESOLUTION REQUESTING PLANNING AND CONSTRUCTION OF A NEW ROAD CONNECTING HIGHWAYS 31 AND 37 NEAR MAKENA, MAUI", was adopted.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 672-78) recommending that H.C.R. No. 33 be adopted.

On motion by Representative Cayetano, seconded by Representative Takamura and carried, the report of the Committee was adopted and H.C.R. No. 33, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING PLANNING AND CONSTRUCTION OF A NEW ROAD CONNECTING HIGHWAYS 31 AND 37 NEAR MAKENA, MAUI", was adopted.

Representative Cayetano, for the Committee on Energy and Transportation, presented a report (Stand. Com. Rep. No. 673-78) recommending that S.C.R. No. 28, SD 1, be adopted.

By unanimous consent, action was deferred for one day.

Representative Suwa, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 674-78) recommending that H.R. No. 372 be adopted.

On motion by Representative Suwa, seconded by Representative Peters and carried, the report of the Committee was adopted and H.R. No. 372, entitled: "HOUSE RESOLUTION REQUESTING FAVORABLE ACTION ON PROPOSED FEDERAL LEGISLATION TO EXEMPT STATE AND LOCAL PUBLIC PENSION PLANS FROM FEDERAL TAXATION AND REPORTING REQUIREMENTS", was adopted.

Representative Suwa, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 675-78) recommending that H.R. No. 33 be adopted.

On motion by Representative Suwa, seconded by Representative Peters and carried, the report of the Committee was adopted and H.R. No. 33, entitled: "HOUSE RESOLUTION REQUESTING A STUDY AND ASSESSMENT OF THE NEED FOR AFTER-SCHOOL PROGRAMS", was adopted.

Representative Shito, for the Committee on Housing, presented a report (Stand. Com. Rep. No. 676-78) recommending that H.R. No. 325, as amended in HD 1, be adopted.

On motion by Representative Shito, seconded by Representative Nakamura and carried, the report of the Committee was adopted and H.R. No. 325, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE HAWAII HOUSING AUTHORITY TO REPORT TO THE LEGISLATURE CONCERNING SECURITY PROBLEMS AT MAKUA-ALII HOUSING", was adopted.

Representatives Mizuguchi and Segawa, for the Committees on Education and Health, presented a joint report (Stand. Com. Rep. No. 677-78) recommending that H.R. No. 182 be adopted.

On motion by Representative Mizuguchi, seconded by Representative Segawa and carried, the report of the Committees was adopted and H.R. No. 182, entitled: "HOUSE RESOLUTION REQUESTING THE COMMITTEE ON EDUCATION AND THE COMMITTEE ON HEALTH TO REVIEW AND MAKE RECOMMENDATIONS ON THE REPORT OF THE JOINT HEALTH AND EDUCATION INTERIM SUBCOMMITTEE ON DIAGNOSTIC TEAMS AND HEALTH SERVICES TO STUDENTS", was adopted.

Representative Ushijima, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 678-78) recommending that H.R. No. 337, as amended in HD 1, be adopted.

On motion by Representative Ushijima, seconded by Representative Abercrombie and carried, the report of the Committee was adopted and H.R. No. 337, HD 1, entitled: "HOUSE RESOLUTION RELATING TO THE UNIVERSITY OF HAWAII WOMEN'S ATHLETICS PROGRAM", was adopted.

Representative Stanley, for the Committee on Public Employment and Government Operations, presented a report (Stand. Com. Rep. No. 679-78) recommending that S.B. No. 1129, as amended in HD 1, pass

Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 679-78 on S.B. No. 1129, HD 1, was deferred until tomorrow, March 17, 1978, and in accordance with Article III, Section 16, of the Constitution of the State of Hawaii, printed copies of S.B. No. 1129, HD 1, were made available to the members of the House at 11:00 o'clock a.m.

Representative Stanley, for the Committee on Public Employment and Government Operations, presented a report (Stand. Com. Rep. No. 680-78) recommending that S.B. No. 1772-78 pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Stanley, seconded by Representative Uwaine and carried, the report of the Committee was adopted and S.B. No. 1772-78, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII", passed Second Reading and was referred to the Committee on Finance, with Representative Ajifu voting no.

Representative Kunimura, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 681-78) informing the House that House Resolution Nos. 469 to 476, House Concurrent Resolution Nos. 94 and 95, and House Standing Committee Report Nos. 637-78 to 651-78 have been printed and distributed.

On motion by Representative Kunimura, seconded by Representative Lunasco and carried, the report of the Committee was adopted.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 492 to 494) were read by the Clerk and were disposed as follows:

A resolution (H.R. No. 492) extending condolences to the family of Joe Ruiz Garcia was jointly offered by Representatives Ajifu, Aki, Blair, Carroll, Evans, Fong, Ikeda, Kamalii, Kunimura, Larsen, Lunasco, Medeiros, Morioka, Narvaes, Poepoe, Sutton, Takamine, Uechi, Ushijima and Yuen.

On motion by Representative Ajifu, seconded by Representative Kamalii and carried, H.R. No. 492 was adopted by a rising vote.

A resolution (H.R. No. 493) congratulating Denise Leialoha Hill upon being selected

one of Hawaii's delegates to the 16th Annual United States Senate Youth Program was jointly offered by Representatives Ueoka, Abercrombie, Aki, Blair, Caldito, Campbell, Carroll, Cayetano, Cobb, Dods, Garcia, Ikeda, Inaba, Kawakami, Kihano, Kiyabu, Kondo, Kunimura, Lunasco, Machida, Medeiros, Mina, Mizuguchi, Morioka, Naito, Nakamura, Narvaes, Peters, Poepoe, Say, Segawa, Shito, Stanley, Sutton, Toguchi, Uechi, Ushijima, Uwaine, D. Yamada, K. Yamada and Yuen.

On motion by Representative Kondo, seconded by Representative Machida and carried, H.R. No. 493 was adopted.

A resolution (H.R. No. 494) congratulating Baldwin High School on their basketball champions was jointly offered by Representatives Caldito, Kondo, Machida and Ueoka.

On motion by Representative Caldito, seconded by Representative Machida and carried, H.R. No. 494 was adopted.

By unanimous consent, the following resolutions (H.R. Nos. 495 to 497) and concurrent resolution (H.C.R. No. 101) were referred to the Committee on Legislative Management and further action was deferred until tomorrow, March 17, 1978:

A resolution (H.R. No. 495) requesting the incorporation of provisions in zoning and other appropriate ordinances and rules to protect the sunrights of property owners was jointly offered by Representatives Caldito, Abercrombie, Cayetano, Dods, Inaba, Kamalii, Kawakami, Kihano, Kiyabu, Kunimura, Larsen, Machida, Medeiros, Mina, Narvaes, Peters, Say, Segawa, Sutton, Takamine, Toguchi, Ueoka, D. Yamada, K. Yamada and Yuen.

A resolution (H.R. No. 496) requesting the State highway safety coordinator to adopt rules for the replacement of lost, damaged, or defaced safety stickers under the certificate of inspection program for motor vehicles was jointly offered by Representatives Cayetano, Stanley and Blair.

A resolution (H.R. No. 497) providing for the operation of a committee to study governmental tort liability during the interim between the adjournment of the regular session of 1978 and the convening of the regular

session of 1979 was jointly offered by Representatives K. Yamada, Campbell, Carroll, Cobb, Evans, Fong, Ikeda, Kihano, Lunasco, Medeiros, Mina, Poepoe, Say, Segawa, Stanley, Takamine, Toguchi and Uechi.

A concurrent resolution (H.C.R. No. 101) requesting a review of the Hawaii Correctional Master Plan was offered by Representative Naito.

SUSPENSION OF RULES

On motion by Representative Yuen, seconded by Representative Kamalii and carried, the rules were suspended for the purpose of taking up bills on Third Reading on the basis of a modified consent calendar.

THIRD READING

S.B. No. 1641-78, SD 1:

On motion by Representative Segawa, seconded by Representative Shito, S.B. No. 1641-78, SD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE FACILITIES IDENTIFICATION AND REGULATIONS GENERALLY", having been read throughout, passed Third Reading by a vote of 50 ayes, with Representative Baker being excused.

The Chair directed the Clerk to note that S.B. No. 1641-78, SD 1, had passed Third Reading at 12:14 o'clock p.m.

At this time, Representative Kamalii introduced General (Ret.) William Fairbrother and his wife, Patti.

At 12:16 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:20 o'clock p.m.

ADJOURNMENT

At 12:21 o'clock p.m., on motion by Representative Yuen, seconded by Representative Kamalii and carried, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, March 17, 1978.