

FORTY-FIFTH DAY

Thursday, March 27, 1980

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Roy G. Sapp of the First Assembly of God Church, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Forty-Fourth Day.

At this time, the following introductions were made to the members of the Senate:

Senator Carroll introduced Mr. Tom Lunn and Captain Howard Geiger of Hawaiian Air Lines.

Senator Hara introduced fifteen students from various high schools on the island of Hawaii, who are participating in the Legislative Experience Program, and Ms. Marsha Oato, their escort.

Senator Kuroda then introduced seven cub scouts from Den 3, Pack 51, from Makakilo, together with their den mothers, Mrs. Maggie Wubbenhorst and Mrs. Kay Davis.

Senator Anderson introduced a group of senior citizens from Waimanalo.

Senator Cayetano introduced the following students from Moanalua High School: Kelly Byrnes, Alan Shafer, Laurie Morita and Hiromi Ogawa, who were accompanied by their teacher, Mrs. Mito.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 240), transmitting a report prepared by the Executive Office on Aging in response to House Resolution No. 390 (1979) which requested the development and implementation of a food advisory service for the elderly, was read by the Clerk and was referred to the Committee on Human Resources.

HOUSE COMMUNICATION

A communication from the House (Hse. Com. No. 312), transmitting House Concurrent Resolution No. 113 which was adopted by the House of Representatives on March 25, 1980, was read by the Clerk and was placed on file.

On motion by Senator Mizuguchi,

seconded by Senator George and carried, H.C.R. No. 113, entitled: "HOUSE CONCURRENT RESOLUTION CONGRATULATING STATE SENATOR D.G. 'ANDY' ANDERSON UPON HIS SELECTION AS BUSINESSMAN OF THE YEAR", was adopted.

At 11:45 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:47 o'clock a.m.

SENATE CONCURRENT RESOLUTION

A concurrent resolution (S.C.R. No. 44), entitled: "SENATE CONCURRENT RESOLUTION CONGRATULATING AND EXTENDING BEST WISHES TO MR. AND MRS. TOMITARO IIDA ON CELEBRATING THEIR GOLDEN ANNIVERSARY", was jointly offered by Senators Ajifu, Young, Yim, Mizuguchi, Soares, Saiki, Toyofuku, Machida, Carroll, Anderson, Ushijima, Wong, Yamasaki, Hara, Kawasaki, Campbell, Cayetano, George, Chong, Cobb, Kuroda, O'Connor, Carpenter, Abercrombie and Yee, and was read by the Clerk.

On motion by Senator Ajifu, seconded by Senator Young and carried, S.C.R. No. 44 was adopted.

SENATE RESOLUTIONS

The following resolutions (S.R. No. 222 to 225) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 222), entitled: "SENATE RESOLUTION CONGRATULATING MRS. FLORENCE (HOGA) CHINEN ON THE 35TH ANNIVERSARY IN THE TEACHING OF THE ART OF IKEBANA", was jointly offered by Senators Chong, Carroll, George, Yamasaki, Soares, Campbell, Kawasaki, Abercrombie, Kuroda, Yim, Carpenter, Mizuguchi, Wong, Hara, Machida, Saiki, Toyofuku, Cayetano, Ajifu, Young, Cobb, Ushijima, Yee, O'Connor and Anderson.

On motion by Senator Chong, seconded by Senator Carroll and carried, S.R. No. 222 was adopted.

Senator Chong introduced to the members of the Senate Mrs. Florence (Hoga) Chinen and her husband, Reverend Theodore Chinen; and the General Chairperson of the 35th anniversary celebration of the teaching of the art of Ikebana, Mrs. Elaine Arita.

Senator Chong presented Mrs. Chinen with a certified copy of the resolution and Senator Carroll presented her with a lei.

At 11:50 o'clock a.m., the Senate stood

in recess subject to the call of the Chair.

The Senate reconvened at 11: 57 o'clock a.m.

A resolution (S.R. No. 223), entitled: "SENATE RESOLUTION REQUESTING THE STATE DEPARTMENT TO INTERCEDE ON BEHALF OF DEXTER CATE TO SECURE HIS IMMEDIATE RELEASE AND RETURN TO HAWAII", was jointly offered by Senators Chong, Abercrombie and Carpenter.

By unanimous consent, S.R. No. 223 was referred to the Committee on Intergovernmental Relations.

A resolution (S.R. No. 224), entitled: "SENATE RESOLUTION CONGRATULATING FLEETWOOD MAC ON THEIR CONTRIBUTIONS TO POPULAR MUSIC", was jointly offered by Senators Abercrombie, Carroll, George, Cayetano, O'Connor, Young, Ushijima, Yim, Carpenter, Soares, Toyofuku, Machida, Chong, Hara and Campbell.

Senator Abercrombie moved that S.R. No. 224 be adopted, seconded by Senator George.

Senator Abercrombie then spoke for the resolution as follows:

"Mr. President, I have had the extreme good fortune to have a young lady from Punahou School, Jamie Brown, working with me on a volunteer basis. I consider her as a member of my staff. As a matter of fact, in respect of the tremendous amount of work that she has done, not just on my behalf, I might say, but on behalf of people throughout the State by virtue of the absolute fidelity that she has to public service, I'm hoping that at some point in the future, she'll be able to turn the energy and intelligence she has to public service, perhaps even in this body.

"And, Mr. President, in the process of events, she informed me that she is extremely excited about the fact that the most popular musical group in the world, Fleetwood Mac, whose members are most-time residents in the State of Hawaii. When they are not traveling on the road, which they are most of the year, they reside in the State of Hawaii on the Island of Maui, as a matter of fact.

"They were coming to town and she was good enough to draft up the resolution we have before us this morning. I would ask the members of the Senate to read over the resolution, and recognize that the members of the Fleetwood Mac group have committed themselves to a great deal of public

service including the United Nations Fund for Children, and that I'm very pleased, as Miss Brown is, to have them here in town.

"I might say that, in addition, this group is not only the most popular group in the world since the Beatles, I expect, but that they have now set a record here in Honolulu for having three sell-out concerts in a row. There's not a ticket to be found in town. I understand that they're 'scalping' for the price of \$25 each right now, and if we as legislators could only get the same kind of enthusiasm from our constituents, we'd all be very happy, I'm sure.

"So, with that in mind, Mr. President, I ask that we pass this resolution."

The motion was then put by the Chair and carried, and S.R. No. 224 was adopted.

Senator Abercrombie then introduced to the members of the Senate Miss Jamie Brown, a member of his staff and those who accompanied her, Ms. Kathy Ledesma, Ms. Diane Pinkoe and Ms. Lisa Robertson, who are students at Punahou School.

A resolution (S.R. No. 225), entitled: "SENATE RESOLUTION CONGRATULATING AND EXTENDING BEST WISHES TO MR. AND MRS. TOMITARO IIDA ON CELEBRATING THEIR GOLDEN ANNIVERSARY", was jointly offered by Senators Ajifu, Young, Yim, Mizuguchi, Soares, Saiki, Toyofuku, Machida, Carroll, Anderson, Ushijima, Wong, Yamasaki, Hara, Kawasaki, Campbell, Cayetano, George, Chong, Cobb, Kuroda, O'Connor, Carpenter, Abercrombie and Yee.

On motion by Senator Ajifu, seconded by Senator Young and carried, S.R. No. 225 was adopted.

STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 843-80) informing the Senate that Senate Resolution Nos. 213 to 221 have been printed and are ready for distribution.

On motion by Senator Yamasaki, seconded by Senator George and carried, the report of the Committee was adopted.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 844-80) recommending that House Bill No. 1816-80 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chong and carried, the report of the Committee was adopted and H.B.

No. 1816-80, entitled: "A BILL FOR AN ACT RELATING TO TRUST COMPANIES", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 31, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 1816-80.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 845-80) recommending that House Bill No. 1817-80 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chong and carried, the report of the Committee was adopted and H.B. No. 1817-80, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 31, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 1817-80.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 846-80) recommending that House Bill No. 1989-80, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chong and carried, the report of the Committee was adopted and H.B. No. 1989-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRACTICING PSYCHOLOGISTS", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 31, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 1989-80, S.D. 1.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 847-80) recommending that House Bill No. 2318-80, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chong and carried, the report of the Committee was adopted and H.B. No. 2318-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

DENTAL HYGIENISTS", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 31, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 2318-80, S.D. 1.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 848-80) recommending that House Bill No. 2319-80, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chong and carried, the report of the Committee was adopted and H.B. No. 2319-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF VETERINARY EXAMINERS", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 31, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 2319-80, S.D. 1.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 849-80) recommending that House Bill No. 2322-80, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Cobb, seconded by Senator Chong and carried, the report of the Committee was adopted and H.B. No. 2322-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF PRIVATE DETECTIVES AND GUARDS", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 31, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 2322-80, S.D. 1.

Senator Toyofuku, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 850-80) recommending that House Bill No. 1961-80, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, the report of the Committee was adopted and H.B. No. 1961-80, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VACATION OF PUBLIC OFFICERS AND EMPLOYEES", passed Second Reading

and was placed on the calendar for Third Reading on Monday, March 31, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 1961-80, H.D. 2, S.D. 1.

ORDER OF THE DAY

MATTERS DEFERRED FROM MARCH 19, 1980

Standing Committee Report No. 679-80 (S.B. No. 1829-80, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 679-80 and S.B. No. 1829-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII BUSINESS CORPORATION ACT", was deferred until Friday, March 28, 1980.

Standing Committee Report No. 695-80 (S.B. No. 1828-80, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 695-80 and S.B. No. 1828-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII NONPROFIT CORPORATION ACT", was deferred until Friday, March 28, 1980.

MATTER DEFERRED FROM MARCH 24, 1980

Standing Committee Report No. 721-80 (H.B. No. 1983-80):

By unanimous consent, Stand. Com. Rep. No. 721-80 and H.B. No. 1983-80, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS", were recommitted to the Committee on Economic Development.

THIRD READING

House Bill No. 1801-80, S.D. 1:

Senator O'Connor moved that H.B. No. 1801-80, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Abercrombie then spoke as follows:

"Mr. President, this is one of eight bills that is going to appear before us today, all of which have to do with gender change. I think these bills are a complete waste of effort on the part of the legislature. They are also piecemeal in nature.

"I find it rather interesting that

at least one of the people supporting these bills coming over from the House objected vehemently to so-called piecemeal legislation and then proceeded to go about introducing as many bills as she could in this area, apparently trying to pile up some kind of record for doing the same thing over and over again.

"It seems to me the way to handle these things is very simple, and I will be putting forward a resolution to that effect, to simply have the Revisor of Statutes go through the Statutes and find out where gender changes are involved and do it, as opposed to having people come through and I suppose waving bills around in the air, or laws, or acts after the session is over, indicating that they've succeeded in getting a gender change, no doubt at the same time indicating against overwhelming opposition at something like that in the legislature.

"I know it's election year and people like to have their bills passed, but this seems to me to be a rather foolish way of doing things, and a rather idiotic way of going about something which is important and should be done, and should not be subject to this kind of piecemeal and one-at-a-time situation. I hope we can have that in mind in respect to the Revisor of Statutes."

Senator O'Connor then responded as follows:

"Mr. President, in brief response to the previous speaker, I might say that some twenty-five of these bills were referred to the Judiciary Committee. The previous speaker will be happy to know that we are only reporting out about three or four.

"The reason that most of them failed technically is because you can't make gender changes or simple changes to some of the more complicated sections of our Hawaii Revised Statutes which are there for specific purposes; to amend the common law or to create certain kinds of property rights. We have had a tremendous amount of difficulty with some of the so-called simple gender change bills in that committee, and I for one who would not like to see anyone go through the Hawaii Revised Statutes simply for the purpose of making of what some people might consider simple changes in that highly technical and long-standing sections of the law are involved which cannot be changed or should not be changed.

"For that reason, we are simply not reporting out a large number of bills of this nature which were referred to the Committee. These are just a few that don't have any other great technical problems."

Senator Abercrombie then spoke as follows:

"Mr. President, perhaps I didn't make it clear enough in my previous remarks. I heartily agree with that assessment by the Judiciary Chairman, and that's why I don't like to see these bills coming forward.

"I think what we need is a recommendation, a comprehensive study and recommendation in the areas where we can make these changes in a straight-forward manner and in those areas in which there are difficulties and in which there are complications which need to be addressed in order to see that the intent of the law is carried forward.

"We should have that kind of recommendation before us, as well. Otherwise, I think we are going to face this kind of thing and the Judiciary Committee will take it up year after year after year."

The motion was put by the Chair and carried, and H.B. No. 1801-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO POLICE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1821-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1821-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL BONDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2062-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2062-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2174-80, H.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2174-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EXPUNGEMENT OF ARREST RECORDS", having been read throughout, passed Third Reading on the following showing

of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2191-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2191-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OWNERSHIP AND POSSESSION OF FIREARMS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 12:07 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:09 o'clock p.m.

House Bill No. 2258-80, H.D. 1, S.D. 1:

Senator O'Connor moved that H.B. No. 2258-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Abercrombie then rose to speak against the bill as follows:

"Mr. President, this bill mandates the revocation of probation or suspension of sentence and re-sentence following a hearing if defendant has inexcusably failed to comply with probation or suspended sentence requirements.

"I believe this is misguided, and particularly because the judge is required to revoke suspension of probation if convicted of a felony.

"I understand very clearly how that might be interpreted in the sense that we use the word 'inexcusably.' But that is a prejudgment in respect of the judge, and in terms of disposition of what happened where someone has been brought before the court in respect of whether probation and/or suspended sentence requirements should be involved.

"And I think that if we have had a constitutional convention which had as its motivation the increased capacity of our judges in the sense of our people's confidence in them, regardless of whether we think that the particular system that's been adopted through the constitutional convention process is all that workable or all that amenable to what the Senate might or might not desire, regardless of that, the motivation is quite clear that there was an attempt to put the judiciary in circumstances in which people might

rely on the judgment of the men and women who are there.

"And yet we come up with a bill that says that we want to take the discretionary judgment that they have away from them. The reason they are judges is to exercise precisely that kind of intellectual and emotional license, if you will, on behalf of justice and public interest.

"In effect what we do when we take away the discretion of judges is to say to them that we do not trust them to do their job and more particularly what happens is that we say that the individual before the bar of justice is not in fact an individual but a category.

"To be sure, they are categories of kind, but individuals commit crimes in this country. We have all too much evidence, I'm afraid, of what happens in other countries when people are treated as categories, and all too often we have before us the evidence of the kind of sentences, if you will, that are carried out when people are treated as categories.

"I realize that at a time when emotions are high in respect of crime and what it is and its effect on our people, individually and collectively, that it is a difficult decision to make to say that judges should retain their discretionary powers, but I think it is one that is essential in terms of reaffirmation, if we are to give the judiciary not only the respect it deserves, but to encourage the judiciary to make the kinds of decisions that it should make on behalf of justice individually and collectively."

The motion was put by the Chair and carried, and H.B. No. 2258-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUSPENSION OF SENTENCE AND PROBATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Abercrombie and Cayetano). Excused, 1 (George).

House Bill No. 2265-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2265-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STRIKING NAMES OF DISQUALIFIED VOTERS FROM THE REGISTER", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused,

1 (George).

House Bill No. 2558-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2558-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL", was deferred until Friday, March 28, 1980.

House Bill No. 2163-80, H.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2163-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOLIDAYS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (George).

At 12:15 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:17 o'clock p.m.

House Bill No. 2845-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B. No. 2845-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIMARY ELECTIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (George).

House Bill No. 1804-80, H.D. 1:

On motion by Senator Yim, seconded by Senator Carpenter and carried, H.B. No. 1804-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (George and Soares).

House Bill No. 1977-80, S.D. 1:

On motion by Senator Hara, seconded by Senator Abercrombie and carried, H.B. No. 1977-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL QUALITY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (George and Soares).

House Bill No. 1313, H.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 1313, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT FAMILY BOARDING HOMES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (George and Soares).

House Bill No. 1685, H.D. 1:

Senator Toyofuku moved that H.B. No. 1685, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Yamasaki.

Senator Abercrombie then spoke against the measure as follows:

"Mr. President, I think this is what is known as the 'broad brush' kind of approach that again does not take into consideration individual cases.

"I think that at least in part, this bill is a reaction to accusations, which have been found in some cases to be accurate, of people taking advantage of public assistance. But because we have individuals who have taken advantage of public assistance is not a good reason, then, in my judgment to punish or penalize people who may have had availed themselves of public assistance as a last resort, especially in circumstances which we know all too well in Hawaii relate to the purchase and ultimate ownership of housing.

"People may have worked very, very hard all their lives and in the process have acquired a home and then with circumstances having little or nothing to do with their own volition, find themselves in circumstances of public assistance. I think you would agree that many people, if not most people, turn to public assistance as a very last resort.

"If someone is in such a category, in effect tell them that we are going to take that property away from them or take any of that property away from them, in order for them to be able to remain qualified or to conduct the remainder of their lives with a measure of dignity which should accrue to any individual in our society--to do that it seems to me is an unwarranted action on our part, and I would request the members to think whether we are trying to take some kind of revenge on those who are taking advantage of us as opposed to prosecuting them and stopping them from doing it.

"If we are doing that, rather than finding ourselves by passing this bill, punishing people who are good citizens, who have worked or are still working and contributing to society as best they can, and then find themselves in effect being told at least \$20,000 of their lives is going to be taken back or taken away from them by the State because they found themselves in unfortunate circumstances over which they had little or no control. This, I think, is what we are doing here.

"I think it amounts in the end to what might be seen on the surface as a laudable attempt to recover at least partially for the State that part of its treasury which it has put forward. But when one examines it a little deeper, one finds that it in fact puts a burden upon the innocent individual which is in fact not fair. I think that this issue or this area deserves attention and deserves meticulous attention. But this is not the way to do it.

"I suppose the principal reason that it offends my sense of fairness is that it becomes more apparent day by day in our state how difficult it is to acquire the ownership of one's home and how hard people have to work in order to achieve it. I have an idea that what we will find with the passage of this bill is that the people who will be most affected by it will be those who are aging, those who find themselves at the end of a long life of hard work, faced with circumstances they cannot address in any other fashion because their earning capacity simply is not there any longer.

"There may be other problems that accrue, health problems. What we are saying to them is that as you reach the end of your life, we are going to group you with people whom we distrust or whom we feel are taking advantage of us, and we are going to see to it that at least a portion of your property and that which might go to your heirs is going to be taken from you.

"In a very real sense, Mr. President, this could be seen as a Marxist bill because anyone who is familiar with Marxist literature or with the theory of communist ideology, one of the fundamental precepts is that you are disenfranchised from being able to pass property on to your heirs. That may or may not be a good idea in the overall discussion of things, but in the American scheme of things we have opted in general to say that rich or poor, whatever treasure you possess, you have at least that right, no matter how meager your circumstances, to pass on to your kin or to those whom you choose to have that property, as humble as it might be.

"Here we are saying that again we are

going to categorize people, group them, and not allow that to take place. I think in certain respects this is almost an ultimate indignity for people under those conditions.

"Thank you."

Senator Carroll then spoke in favor of the measure as follows:

"Mr. President, first of all, under the current law, the people, whom the previous speaker has referred to, would not even be eligible for the kind of assistance we are talking about now, and they would be forced to sell whatever they have before they can be given the assistance which we are able to give under the current standards.

"What this bill does is simply permit the DSSH to allow the people who are in the circumstance where they have got to get some kind of relief, to retain the property that they have built up over a period of years. At the time that they either die or transfer or sell the property, presumably with substantial profit if the course of things continue, then they must pay back the citizens of this state for that assistance which they have been given.

"I tend to agree with a portion of the comments of the previous speaker, and I did not rise in rebuttal to his comments, but I think the alternative to not having this bill is to keep these people who do own property off of the assistance, or away from the assistance which we can give them now. On the other hand, to allow anyone who has accumulated property for whatever purposes to be able to go on the welfare rolls, we certainly do not want.

"I think that this is indeed a humane measure. I think it is an economically sound measure; and I think, most importantly, it will help the people who are not able to pay back this money during their lifetime. If they want to burden the estate of their heirs as they would for any other debts that they might have, then I think that's a choice that these people who are unfortunate enough to have been put in this position must make for themselves.

"So I do not think of this impact on the group in the sense that it has been referred to by my learned colleague from Manoa, but I think of it in the sense that it will be a most beneficial measure to them. I think we would do an unkind or inhumane thing to vote against this bill and I certainly urge that we all vote 'aye'."

Senator Abercrombie then responded as follows:

"Mr. President, I'm afraid I must stand in rebuttal of the previous remarks. If I thought for a moment that someone in a \$200,000 condominium or a \$500,000 piece of property was going to come under these circumstances, I certainly would not have risen and spoken as I did.

"I understand again the motivation of the previous speaker and I commend it, but I certainly do not believe that the people who are going to come under this kind of situation are going to have property which accrues substantial profit over the years.

"I think we both know who's going to get hit with them and some of these houses we're talking about are just ten minutes from this Capitol and you wouldn't have to get Tajiri Lumber Company to come in to knock them down; you could do it with your fists.

"And we know that a lot of this property is probably not even 2,000 square feet; it might even be less. We know that there is a lot of families that can use the housing no matter how old and dilapidated it is, and we know how people try to keep up their property as best they can. We know what kind of dignity they try to maintain. Just because it's old, you know, it doesn't mean that it doesn't have its measure of value to the people that are in it.

"I remember when an executive with one of the hotels came around one time and talked about the particular side of the island, saying it was nothing but a lot of shacks out there anyway. I think that particular person misunderstood a lot of the situation that exists here in Hawaii; just because a dwelling is humble, it doesn't mean that it doesn't have value. It may not have monetary value in the sense of selling and reselling--that kind of thing--but it most certainly has value in terms of housing and in terms of the housing that might be available to heirs of the particular individual.

"What I'm speaking about is that this is going to impact on precisely those families in those areas of our state that are in the oldest kind of housing that has been there in some instances the longest, and we're going to suffer a penalty because they haven't been fortunate enough in life and I don't think it's a question of hard work.

"I say fortunate enough in life to at the end of that life of hard work, have been in a position to have the kinds

of places that I was talking about previously--the \$200,000 condominium, the \$500,000 piece of property. We don't have to worry about those folks.

"I'm standing up here and talking for those people who are going to get hit in those places that are never going to see that kind of money their entire lives no matter how long they work. And I'm not trying to make some kind of soft soap speech for the work ethic and the dignity of poverty, either. I don't think there's any dignity in poverty. I can assure you that I'm not trying to do that kind of thing.

"I'm simply stating that in those cases which will be numerous, I assure you, given the health care circumstances and inflation that is taking place right now, we are in effect saying that we are going to go into those areas of our state (I know on this island; I couldn't speak with certainty about the other islands), but I imagine there are communities, at least from my observation that would fall into the same kind of situation in which people who acquired their homes some time ago under more humble circumstances or under circumstances in which inflation was not raging the way it is now, will find themselves with this kind of situation where the State is going to come in and take \$20,000.

"I think some of these homes couldn't be worth \$20,000 total, and yet someone is going to be kicked out of their house, someone who may have been born there and raised there and now living there with their kids because they can't get other kinds of housing.

"I don't know exactly what is to be accomplished by this, other than to be able to say to people, perhaps in an election year, 'Oh, we did something about these welfare bums.' Well, I'm for doing that too, believe me I am, but is this the way to do it?

"I think that if this bill passes, it will threaten every man and woman in those circumstances that I have outlined with the possibility of being hit with this kind of a lien, \$20,000, which in fact may be more than what their property is worth altogether.

"I think that's a very unfortunate way to go about trying to catch wrongdoers and people who take advantage of others in our society. I think those people should be prosecuted; if necessary, put in jail. Examples can be made of them.

"I don't think it sets a good example for us to take someone's property

away from them because they had the misfortune to find themselves, especially at the end of their life, in circumstances where they required public assistance."

Senator Chong then asked if the Chairman of the Committee on Human Resources would yield to a question, to which Senator Toyofuku replied that he would.

Senator Chong then queried: "Before I ask the question, I'd like to point out that I am not a member of the Committee and I did not have the benefit of your hearings. I just would like to ask, during your hearings on this particular bill, did you uncover or was it brought forth that any person on welfare was actually living in expensive type property and still collecting welfare?"

Senator Toyofuku replied: "Mr. President, I don't think there are people in such situations receiving welfare. This bill is a permissive bill; it provides that the Department may require, and there are many safeguards within this bill. For instance, I direct your attention to page 3. It says that 'the lien shall not be enforced against the home of a beneficiary while it is being occupied by the beneficiary or by any surviving spouse who has not remarried,' and so forth. There are general safeguards in this bill and we are satisfied with this bill."

Senator Chong then proceeded: "To follow up on that question, then, Mr. President, did the DSSH which I assume introduced this bill, feel a compelling need that we pass this kind of a bill now? I mean, if you said that they did not bring out any specific instances or facts of the matter, I was wondering other than that it may be a good idea, why they felt that at this time we should do something when there appeared to be no urgency to act now?"

At 12:35 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:47 o'clock p.m.

Senator Abercrombie then concluded: "Mr. President, I would just say, in conclusion, that there's merit here all around, but my point here is that we're coming at it from the wrong end. We should come at it from the qualifying point of view. I think we can arrive at that, and quite frankly I think this is depriving someone from due process. I really do believe that that's what it is."

Senator Carroll stated as follows:

"Mr. President, I really hesitate to rise when we've been here so long, but I feel that one example must be cited

as to the impact of this bill.

"I have had constituents--one woman who had cancer and who owned property worth probably \$40-\$50,000--who were unable to qualify for assistance. This woman had an income of somewhere around \$250 a month and owned her property outright. The only solution under the present law would have been for her to sell that property, or else take a mortgage on it which she would have been unable to pay, and therefore would have ended up having to sacrifice the property anyway.

"We do not have a perfect solution, perhaps, in this bill, and often we do not. But I believe that to defeat this particular measure would be to do a tremendous disservice to some of the most needy people, to some of the people who have worked the hardest, and who are now in a position of virtual despair. Some of these are retired teachers; others are people who have worked very hard during their lifetime.

"I share the concerns of my fellow Senator from Manoa, but I think that to defeat this measure at this time would be to do a very wrong thing, and I urge that we all vote 'aye'."

Senator Toyofuku then stated: "Mr. President, under the existing laws, if a person owns property of more than \$40,000, he or she would be denied public assistance. This bill here would broaden the eligibility so people like those referred to by the Senator from Sixth District would be covered, and of course, this bill would permit the Director of DSSH to call for a lien on that particular property, so that this person would qualify.

"Of course, we have many safeguards in this bill that if there is a beneficiary, the surviving widow, for instance, would be permitted to remain there and the lien cannot be called.

"This bill also provides many, many safeguards, but this really is an attempt to take care of many problems we have where people with too much interest in property, more than \$40,000, would be permitted to qualify."

The motion was put by the Chair and carried, and H.B. No. 1685, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Abercrombie).
Excused, 4 (Ajifu, George, Soares and Yee).

House Bill No. 1805-80:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 1805-80, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FORESTER", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused,
4 (Ajifu, George, Soares and Yee).

House Bill No. 1813-80, H.D. 1, S.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 1813-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused,
4 (Ajifu, George, Soares and Yee).

House Bill No. 1826-80:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 1826-80, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused,
4 (Ajifu, George, Soares and Yee).

House Bill No. 1957-80:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 1957-80, entitled: "A BILL FOR AN ACT RELATING TO THE CERTIFICATION OF CIVIL SERVICE ELIGIBLES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused,
4 (Ajifu, George, Soares and Yee).

House Bill No. 1997-80:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 1997-80, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF SOCIAL SERVICES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused,
4 (Ajifu, George, Soares and Yee).

House Bill No. 2178-80, H.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B.

No. 2178-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LIMITATION OF FEES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Ajifu, George, Soares and Yee).

House Bill No. 2179-80, H.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 2179-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SAFETY OF BOILERS, ELEVATORS AND AMUSEMENT RIDES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Ajifu, George, Soares and Yee).

House Bill No. 2362-80, H.D. 1, S.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 2362-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DOMICILIARY CARE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Ajifu, George, Soares and Yee).

House Bill No. 1802-80:

Senator Ushijima moved that H.B. No. 1802-80, having been read throughout, pass Third Reading, seconded by Senator Kuroda.

Senator Chong then spoke for the

measure as follows:

"Mr. President, I would just like to make a brief comment on this bill. The bill points out what authority the Governor has in case of a state of war, insurrection, rebellion, or of resistance to the execution of the laws of the United States, or of the State, and it mentions of course, the National Guard.

"I just would like to point out that it's my opinion that there is nothing in there that says that going around pulling out marijuana plants is within the purview of this law. Thank you."

The motion was put by the Chair and carried, and H.B. No. 1802-80, entitled: "A BILL FOR AN ACT RELATING TO THE MILITIA", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Ajifu, George, Soares and Yee).

House Bill No. 1803-80:

On motion by Senator Ushijima, seconded by Senator Kuroda and carried, H.B. No. 1803-80, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE GUARD", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Ajifu, George, Soares and Yee).

ADJOURNMENT

At 12: 58 o'clock p.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11: 30 o'clock a.m., Friday, March 28, 1980.