

FORTY-SEVENTH DAY

Monday, March 31, 1980

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, convened at 9:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Mr. David Fraser of the World-wide Church of God, after which the Roll was called showing all Senators present.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 241 and 242) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 241), transmitting a report prepared by the Department of Accounting and General Services in response to Senate Resolution No. 23, H.D. 1 (1979) which requested the development and implementation of an energy conservation plan for all State agencies, was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 242), transmitting a report on the Aloha Tower Plaza which was prepared by the American City Corporation and noting that the report includes three elements:

- (1) Analysis of market potential of the Aloha Tower site;
- (2) Economic feasibility of the project in terms of private sector and public accounts; and
- (3) Evaluation of the conceptual master plan by Charles R. Sutton & Associates, Inc., in light of the findings of the market analysis and economic feasibility,

was referred to the Committee on Economic Development.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 24 to 26) were read by the Clerk and were disposed of as follows:

A communication from the Office of the Director, Department of Planning and Economic Development, (Dept. Com. No. 24), transmitting the comments

of the members of the State Plan Policy Council on the State Health Plan in accordance with Section 226-54, Hawaii Revised Statutes, was referred to the Committee on Health.

A communication from the Office of the Director, Department of Planning and Economic Development (Dept. Com. No. 25), transmitting the Status Report - Activities Conducted in Furtherance of The Hawaii State Plan in accordance with Section 226-63, Hawaii Revised Statutes, was referred to the Committee on Economic Development.

A communication from the Office of the Auditor (Dept. Com. No. 26), transmitting the report entitled, "County of Hawaii, Accountants' Report for the Year Ended June 30, 1979," which was conducted by the firm of Peat, Marwick, Mitchell & Co., Certified Public Accountants, for the County of Hawaii, was referred to the Committee on Ways and Means.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 336 to 338) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 336), returning Senate Concurrent Resolution No. 44, which was adopted by the House of Representatives on March 28, 1980, was placed on file.

A communication from the House (Hse. Com. No. 337), transmitting House Concurrent Resolution No. 117, which was adopted by the House of Representatives on March 28, 1980, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.C.R. No. 117, entitled: "HOUSE CONCURRENT RESOLUTION EXTENDING CONDOLENCES AND DEEPEST SYMPATHY TO THE FAMILY OF THE LATE DR. ALLAN H. H. LEONG", was adopted.

A communication from the House (Hse. Com. No. 338), transmitting House Concurrent Resolution No. 118, which was adopted by the House of Representatives on March 28, 1980, was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Kawasaki and carried, H.C.R. No. 118, entitled: "HOUSE CONCURRENT RESOLUTION EXTENDING THE MOST PROFOUND MAHALO OF THE PEOPLE OF HAWAII TO JACK LORD, A LIVING LEGEND IN HIS OWN TIME, FOR HIS INNUMERABLE AND LASTING CONTRIBUTIONS TO HAWAII AND ITS PEOPLE", was adopted.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 228 to 230) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 228), entitled: "SENATE RESOLUTION COMMENDING AND EXPRESSING APPRECIATION TO MACKAY YANAGISAWA ON HIS IMPORTANT CONTRIBUTION TO HAWAII ATHLETICS AND THE SUCCESS OF THE 1980 PRO BOWL AT ALOHA STADIUM", was jointly offered by Senators Kuroda, Carpenter, Hara, Machida, Yee, Saiki, Wong, Mizuguchi, Kawasaki, Young, Soares, Yamasaki, Ushijima, Carroll, Campbell, Chong, Cobb, George, Cayetano, Yim, Toyofuku, Anderson, Ajifu, O'Connor and Abercrombie.

By unanimous consent, action on S.R. No. 228 was deferred until later in the calendar.

A resolution (S.R. No. 229), entitled: "SENATE RESOLUTION CONGRATULATING HAWAII PACIFIC COLLEGE ON ITS FIFTEENTH ANNIVERSARY", was jointly offered by Senators Saiki, Ajifu, Chong, Mizuguchi, Yamasaki, Soares, O'Connor, Toyofuku, Cayetano, Ushijima, Machida, Kuroda, Yee, Wong, Cobb, Hara, Campbell, George, Carroll, Kawasaki, Young, Carpenter, Abercrombie, Anderson and Yim.

By unanimous consent, action on S.R. No. 229 was deferred until later in the calendar.

A resolution (S.R. No. 230), entitled: "SENATE RESOLUTION HONORING THE VISIT TO HAWAII OF COLGATE UNIVERSITY PRESIDENT GEORGE LANGDON", was jointly offered by Senators Chong, Carpenter, Cobb, Anderson, Campbell, Mizuguchi, Kuroda, Yim, Ajifu, Hara, Wong, Young, Machida, Toyofuku, Yamasaki, Cayetano, Ushijima, O'Connor, Kawasaki, Soares, Saiki, Carroll, George and Abercrombie.

On motion by Senator Chong, seconded by Senator Carpenter and carried, S.R. No. 230 was adopted.

Senator Chong in introducing the honoree, stated as follows:

"Mr. President, the ideal of higher education is to broaden our intellectual outlook, strengthen our character, nurture our sense of integrity, expand our awareness of social responsibility, share the knowledge gained from this for the betterment of the world. Colgate University, one of the finest educational institutions in the United States, has over the past 161 years striven to impact these qualities in their graduates.

"Colgate is a four-year liberal arts institution located in Hamilton, New York, with an enrollment of 2,415 men and women, with a faculty numbering 168.

"Mr. President, the President of this University is George Langdon, who graduated from Harvard, earned an M.A. from Amherst College, a Ph.D. at Yale, taught history at California Institute of Technology and Vassar College, served as an administrator and teacher at Yale, and authored the award-winning book 'Pilgrim Colony, A History of New Plymouth 1620-1691.'

"Mr. President, I was fortunate enough to be a recipient of the Colgate Trevor Scholarship. And now, it is my distinct pleasure to introduce to you the first President of Colgate University to ever visit this honorable body, Mr. George Langdon, and his wife, Agnes. Accompanying the Langdon's is William Bigelow, II, a Colgate alumnus and a Vice President of the Sheraton Hotel chain."

Senator Chong then presented a certified copy of the resolution to Mr. Langdon, while Senators Young and Carpenter presented Mr. and Mrs. Langdon with leis.

At 10:01 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:15 o'clock a.m.

STANDING COMMITTEE REPORT

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 1013-80) informing the Senate that Senate Concurrent Resolution No. 45, Senate Resolution Nos. 226 and 227 and Standing Committee Report Nos. 852-80 to 1012-80 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.

ORDER OF THE DAY

MATTERS DEFERRED
FROM MARCH 28, 1980

Senate Bill No. 1827-80, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 1827-80, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII RULES OF EVIDENCE", was deferred until Tuesday, April 1, 1980.

Senate Bill No. 2093-80, H.D. 1:

By unanimous consent, action on S.B.

No. 2093-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF BARBERS", was deferred until Tuesday, April 1, 1980.

Senate Bill No. 2097-80, H.D. 1:

By unanimous consent, action on S.B. No. 2097-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF COSMETOLOGY", was deferred until Tuesday, April 1, 1980.

Senate Bill No. 2120-80, H.D. 1:

By unanimous consent, action on S.B. No. 2120-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MINORS", was deferred until Tuesday, April 1, 1980.

Senate Bill No. 2186-80, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2186-80, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NUMBER PLATES", was deferred until Tuesday, April 1, 1980.

Senate Bill No. 2208-80, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2208-80, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS", was deferred until Tuesday, April 1, 1980.

Senate Bill No. 2358-80, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2358-80, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AUDIT AND ACCOUNTING", was deferred until Tuesday, April 1, 1980.

Senate Bill No. 3145-80, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 3145-80, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRADE REGULATION", was deferred until Tuesday, April 1, 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 Tuesday, April 1, 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 Tuesday, April 1, 1980.

At 10:17 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:27 o'clock a.m.

THIRD READING

House Bill No. 1816-80:

By unanimous consent, action on H.B. No. 1816-80, entitled: "A BILL FOR AN ACT RELATING TO TRUST COMPANIES", was deferred until Tuesday, April 1, 1980.

House Bill No. 1817-80:

By unanimous consent, action on H.B. No. 1817-80, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE", was deferred until Tuesday, April 1, 1980.

House Bill No. 1989-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 1989-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRACTICING PSYCHOLOGISTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2318-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2318-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL HYGIENISTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2319-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2319-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF VETERINARY EXAMINERS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2322-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B.

No. 2322-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF PRIVATE DETECTIVES AND GUARDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1961-80, H.D. 2, S.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, 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", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2132-80, S.D. 1:

By unanimous consent, action on H.B. No. 2132-80, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1979-80, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Campbell and carried, H.B. No. 1979-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL ENTRY EXAMINATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2698-80, H.D. 1, S.D. 1:

On motion by Senator Abercrombie, seconded by Senator Ushijima and carried, H.B. No. 2698-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2703-80, H.D. 1, S.D. 1:

On motion by Senator Abercrombie, seconded by Senator Ushijima and carried, H.B. No. 2703-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2351-80, H.D. 1:

By unanimous consent, action on H.B. No. 2351-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES", was deferred until Tuesday, April 1, 1980.

House Bill No. 1976-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1976-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII ADMINISTRATIVE PROCEDURE ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

House Bill No. 1911-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1911-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION; AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES FOR THE PURPOSE OF CORRECTING ERRORS, CLARIFYING LANGUAGE, AND CORRECTING REFERENCES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2091-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2091-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT PROCEEDINGS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2162-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2162-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2167-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2167-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS", having been read throughout, passed Third Reading on the following

showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2810-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2810-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTION REGISTRATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 864-80 (H.B. No. 584, H.D. 1, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 864-80 was adopted and H.B. No. 584, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH SERVICES FOR CHILDREN AND YOUTH", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 865-80 (H.B. No. 1762-80, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 865-80 was adopted and H.B. No. 1762-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF CERTAIN PERSONS UNDER THE CRIMINAL INJURIES COMPENSATION ACT AND PROVIDING APPROPRIATIONS THEREFOR", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Anderson).

Standing Committee Report No. 866-80 (H.B. No. 1991-80, H.D. 1, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 866-80 was adopted and H.B. No. 1991-80, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MASSAGE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 867-80 (H.B. No. 1992-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 867-80 was adopted and H.B. No. 1992-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF REGULATORY AGENCIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 868-80 (H.B. No. 2059-80, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 868-80 was adopted and H.B. No. 2059-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GRAND JURY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2071-80, H.D. 1, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2071-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSURE OF INDEPENDENT GROUP RESIDENCES FOR ELDERLY, HANDICAPPED OR DISABLED PERSONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2131-80, S.D. 1:

By unanimous consent, action on H.B. No. 2131-80, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2361-80, H.D. 1, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2361-80, H.D. 1, S.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, 25. Noes, none.

Standing Committee Report No. 872-80 (H.B. No. 2634-80, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 872-80 and H.B. No. 2634-80, H.D. 2, S.D. 2 was deferred

to the end of the calendar.

Standing Committee Report No. 873-80 (H.B. No. 2647-80, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 873-80 and H.B. No. 2647-80, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 874-80 (H.B. No. 366, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 874-80 was adopted and H.B. No. 366, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INITIAL APPOINTMENTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 875-80 (H.B. No. 1945-80, H.D. 1, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 875-80 was adopted and H.B. No. 1945-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY DEVICES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 876-80 (H.B. No. 1981-80, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 876-80 was adopted and H.B. No. 1981-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RECORDING FEES IN THE STATE BUREAU OF CONVEYANCES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Anderson).

House Bill No. 2074-80, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2074-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SIGNING AND FILING OF RETURNS FOR TAXATION PURPOSES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 878-80 (H.B. No. 2093-80, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 878-80 was adopted and H.B. No. 2093-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WITNESS FEES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2133-80, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2133-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2134-80, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2134-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2135-80, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2135-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COPIES OF TAX RETURNS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Anderson and Saiki).

House Bill No. 2219-80, H.D. 1, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2219-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 883-80 (H.B. No. 2357-80, S.D. 2):

On motion by Senator Cayetano, seconded

by Senator Kawasaki and carried, Stand. Com. Rep. No. 883-80 was adopted and H.B. No. 2357-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD INFORMATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 884-80 (H.B. No. 2454-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 884-80 was adopted and H.B. No. 2454-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO POLITICAL SUBDIVISION POLLUTION CONTROL BONDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 885-80 (H.B. No. 2496-80, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 885-80 and H.B. No. 2496-80, H.D. 2, S.D. 2, was deferred to the end of the calendar.

House Bill No. 2577-80, S.D. 1:

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, H.B. No. 2577-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

Standing Committee Report No. 887-80 (H.B. No. 2822-80, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 887-80 and H.B. No. 2822-80, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 888-80 (H.B. No. 2889-80, H.D. 2, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 888-80 was adopted and H.B. No. 2889-80, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AUTHORIZING COMPENSATION OF WITNESSES BY

THE DIRECTOR OF THE OFFICE OF CONSUMER PROTECTION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 890-80 (H.B. No. 3045-80, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 890-80 was adopted and H.B. No. 3045-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PROCEDURE WHEN TITLE OF VEHICLE TRANSFERRED; DELIVERY OF CERTIFICATE MANDATORY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1606, H.D. 2, S.D. 1:

By unanimous consent, action on H.B. No. 1606, H.D. 2, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 892-80 (H.B. No. 1610, H.D. 1, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 892-80 was adopted and H.B. No. 1610, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 893-80 (H.B. No. 1607, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 893-80 and H.B. No. 1607, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 894-80 (H.B. No. 1684, H.D. 1, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 894-80 was adopted and H.B. No. 1684, H.D. 1, S.D. 2, 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, 25. Noes, none.

Standing Committee Report No. 895-80 (H.B. No. 2633-80, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand.

Com. Rep. No. 895-80 was adopted and H.B. No. 2633-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JOB SHARING PILOT PROJECT IN THE DEPARTMENT OF EDUCATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Carroll)..

Standing Committee Report No. 896-80 (H.B. No. 2660-80, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 896-80 was adopted and H.B. No. 2660-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 897-80 (H.B. No. 159, H.D. 1, S.D. 2):

On motion by Senator Cobb, seconded by Senator Chong and carried, Stand. Com. Rep. No. 897-80 was adopted and H.B. No. 159, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 721, H.D. 1:

By unanimous consent, action on H.B. No. 721, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER TRANSACTIONS", was deferred until Tuesday, April 1, 1980.

House Bill No. 1422, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 1422, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO QUORUM OF REAL ESTATE COMMISSION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1806-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 1806-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII INSURANCE LAW", having been read throughout, passed Third Reading on the following showing

of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1827-80:

By unanimous consent, action on H.B. No. 1827-80, entitled: "A BILL FOR AN ACT RELATING TO PARTNERSHIPS", was deferred until Tuesday, April 1, 1980.

House Bill No. 1829-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 1829-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BANK EXAMINER", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 1871-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1871-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1880-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 1880-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 905-80 (H.B. No. 1969-80, H.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 905-80 and H.B. No. 1969-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROPERTY", was deferred until Tuesday, April 1, 1980.

House Bill No. 1993-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 1993-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COLLECTION AGENCIES BOARD", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2026-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2026-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2284-80:

By unanimous consent, action on H.B. No. 2284-80, entitled: "A BILL FOR AN ACT RELATING TO FROZEN FOOD PRODUCTS", was deferred until Tuesday, April 1, 1980.

House Bill No. 2555-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2555-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEALERS OF SOLAR ENERGY DEVICES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2572-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2572-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PEST CONTROL OPERATORS LAW", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2666-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2666-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RETAIL INSTALLMENT SALES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2733-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2733-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTY LICENSES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2795-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2795-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NURSING HOME ADMINISTRATORS", having been read throughout, passed Third Reading on the following showing

of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2892-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2892-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII BANK ACT OF 1931", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ushijima and Yee).

House Bill No. 2367-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2367-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2058-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2058-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

At 10:42 o'clock a.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate stood in recess until 11:30 o'clock a.m., this morning.

The Senate reconvened at 11:50 o'clock a.m.

Senator Anderson introduced to the members of the Senate forty members of the Paradise Senior Citizens Club from Moiliili, Oahu.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

Senate Resolution No. 228:

On motion by Senator Kuroda, seconded by Senator Carpenter and carried, S.R. No. 228 was adopted.

Senator Kuroda in introducing the honoree, spoke as follows:

"Mr. President, the honoree doesn't really like this kind of formal occasion because, as he says, he doesn't like anyone to make a big fuss over him. However, Mr. Mackay Yanagisawa is someone who has contributed so much to sports in Hawaii that we should honor him as we are doing today.

"Today is Mackay's last day on the job as Director of Aloha Stadium, and we want Mackey to know that we felt it

was an appropriate time for us to honor him as the House of Representatives did earlier.

"Mr. President, it was through the untiring efforts and unsurpassed negotiating skills of Mackay, together with the Aloha Stadium Authority members, Frank Valenti and Herman Clark, that the precedent-breaking decision was made to hold the 1980 Pro-Bowl in Hawaii.

"Also, Mr. President, Mackay and the Hula Bowl Committee were in large measure responsible for the successful staging of this major sporting event at Aloha Stadium involving complex logistical and organizational support.

"At this time, Mr. President, I would like to introduce the honoree, Mackay Yanagisawa. Accompanying Mackay on the floor are Herman Clark, the Stadium Authority Chairman, and Frank Valenti, a member of the Stadium Authority, who were instrumental in planning the Pro-Bowl which was held at the Aloha Stadium."

Senator Kuroda then introduced the following who were present in the gallery: Members of the Stadium Authority, "Major" Hideo Okada, Ed Toma, and ex-officio members, Charles Clark and Dr. Fujio Matsuda; and members of the Hula Bowl Committee, Carl Barrea, Thomas Hugo, Henry Lukela, Pat Kahler, Walter McGuire, Edith Tanida, William Buck Lum, Abe Kauhane, Charles Leahey, Masa Nishizaki, Robert Suzuki and Charles Bessette, who will be replacing Mr. Yanagisawa as the Director of Aloha Stadium. Also in the gallery was Bob Fishman, the former deputy director of Aloha Stadium and now the Special Assistant to the Governor.

Senator Kuroda then presented certified copies of the resolution to the honoree and those named.

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

The Senate reconvened at 11:58 o'clock a.m.

Senator Soares then introduced to the members of the Senate Mr. Jyun "Curly" Hirota, who has written many records and ran many miles for the University as well as being an outstanding baseball catcher in the Hawaii League and for the University, and who coached baseball in Japan for a number of years.

Senate Resolution No. 229:

On motion by Senator Saiki, seconded by Senator Ajifu and carried, S.R. No. 229 was adopted.

Senator Saiki then introduced the honoree of the resolution as follows:

"Mr. President, as we celebrate the 15th anniversary of Hawaii Pacific College, we must congratulate its President Chatt G. Wright for his many years of devotion to the school. It has been mainly through President Wright's efforts that the college has blossomed in the midst of downtown Honolulu, and the impact of the college within the educational community is widespread.

"President Wright is an alumnus of the University of Hawaii graduate program in economics and he has contributed to the college's financial viability in a time when many institutions across the nation are experiencing economic hardship.

"His personal energy and an understanding of students' needs have led to the design of many innovative training programs to help our students achieve their career expectations.

"Don't let President Wright's youthfulness distract us; he has a wealth of administrative and public service experience. In addition to his duties as President of Hawaii Pacific College, he has served our community in many capacities, including service on City and County and State boards and commissions.

"President Wright is a man whose accomplishments in helping Hawaii Pacific College achieve academic excellence are truly worthy of our recognition. So, this morning, Mr. President, it is with great pleasure that I present to you, President Chatt Wright.

"Also with President Wright is Mr. Jim Hochberg, who is the vice president of Hawaii Pacific College."

Senator Saiki then presented a copy of the resolution to President Wright and Senator George presented him with a lei.

At 12:03 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

Standing Committee Report No. 919-80 (H.B. No. 2183-80, S.D. 1):

On motion by Senator O'Connor, seconded

by Senator Cobb and carried, Stand. Com. Rep. No. 919-80 was adopted and H.B. No. 2183-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOREST AND WATER RESERVE ZONES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2241-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2241-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2646-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2646-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Abercrombie, Cayetano, Chong, Ushijima and Yamasaki).

House Bill No. 2259-80:

By unanimous consent, action on H.B. No. 2259-80, entitled: "A BILL FOR AN ACT RELATING TO CRIMES", was deferred until Tuesday, April 1, 1980.

House Bill No. 2215-80, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Campbell and carried, H.B. No. 2215-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH SERVICES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2324-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2324-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RESTRAINING ORDERS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2448-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2448-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ABUSE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2809-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2809-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDUCT OF ELECTIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2086-80, H.D. 1, S.D. 1:

On motion by Senator Mizuguchi, seconded by Senator Yim and carried, H.B. No. 2086-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PILOTAGE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2127-80:

By unanimous consent, action on H.B. No. 2127-80, entitled: "A BILL FOR AN ACT RELATING TO THE IMPOUNDMENT OF VESSELS", was deferred until Tuesday, April 1, 1980.

House Bill No. 2195-80, S.D. 1:

By unanimous consent, action on H.B. No. 2195-80, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 930-80 (H.B. No. 2328-80, H.D. 2, S.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 930-80 and H.B. No. 2328-80, H.D. 2, S.D. 1, was deferred to the end of the calendar.

House Bill No. 3046-80, S.D. 1:

On motion by Senator Mizuguchi, seconded by Senator Yim and carried, H.B. No. 3046-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CERTIFICATE OF REGISTRATION; CERTIFICATE OF OWNERSHIP; CONTAINERS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 933-80 (H.B. No. 2263-80, H.D. 1, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 933-80 was adopted and H.B. No. 2263-80, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITED PARTNERSHIPS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 12:20 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:21 o'clock p.m.

Standing Committee Report No. 934-80 (H.B. No. 25, H.D. 1, S.D. 3):

By unanimous consent, action on Stand. Com. Rep. No. 934-80 and H.B. No. 25, H.D. 1, S.D. 3, was deferred to the end of the calendar.

Standing Committee Report No. 935-80 (H.B. No. 1222, H.D. 1, S.D. 3):

By unanimous consent, action on Stand. Com. Rep. No. 935-80 and H.B. No. 1222, H.D. 1, S.D. 3, was deferred to the end of the calendar.

House Bill No. 1429, S.D. 1:

By unanimous consent, action on H.B. No. 1429, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 937-80 (H.B. No. 1758, H.D. 2, S.D. 3):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 937-80 was adopted and H.B. No. 1758, H.D. 2, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSFER OF PROGRAMS AND ORGANIZATIONAL SEGMENTS IN THE STATE GOVERNMENT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 938-80 (H.B. No. 2029-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 938-80

was adopted and H.B. No. 2029-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 939-80 (H.B. No. 2196-80, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 939-80 and H.B. No. 2196-80, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 940-80 (H.B. No. 2458-80, S.D. 1):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 940-80 was adopted and H.B. No. 2458-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCEDURE WHEN TITLE OF VEHICLE TRANSFERRED; DELIVERY OF CERTIFICATE MANDATORY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 941-80 (H.B. No. 2672-80, H.D. 1, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 941-80 and H.B. No. 2672-80, H.D. 1, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 942-80 (H.B. No. 2720-80, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 942-80 be adopted and H.B. No. 2720-80, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Abercrombie then spoke against the measure as follows:

"Mr. President, I wish to speak against this bill. I do not believe that this settlement is in the interest of the State of Hawaii. This has nothing to do with the ostensible politics which surrounds it.

"The Ways and Means Committee met in executive session to go over the circumstances surrounding this particular case. I had never heard those circumstances addressed prior to this. I had heard of the case and the various discussions that had surrounded it in respect of whether or not it should be settled, and the reason I gave the preamble to my remarks that I did about the politics of it is as with so many bills or measures

under discussion, that this one in particular, political implications, ostensible or otherwise, are discussed.

"However, the decision reached in the Ways and Means Committee was not based upon that. Regardless of whatever interpretation anyone wants to put on it the conclusion that I reached and that other members reached, at least in terms of their reservations and/or their outright nonconcurrence, was based strictly on presentation in that executive session that we had, and I think the executive session was an appropriate one.

"I think the public interest was well served by having such a session and I appreciate the fact that it was arranged for and the presentation was so ably handled.

"My demur is not based on any feelings that I have that the Attorney General's Office has not sufficiently prepared a case. On the contrary, I was very impressed in that discussion and presentation by the Attorney General's Office that the work that had been done by the deputies, by the understanding that they had, by their ability to present the circumstances so that it was understandable and so that it could be presented comprehensively yet at the same time in a concise way.

"My objections are based on the fact that I believe the circumstances are such that they should be examined and that the relative culpability of the State and the contractor should be established.

"I also recognize when I stand to say this that that would probably involve a considerable amount of time and effort and expenditure in order to establish it, but I think it would have a salutary effect on how contracts were handled in the future, especially in the areas under dispute.

"I don't care to go into the details of it, but I believe that that would be a violation of the circumstances of the executive session; however, it is already on the public record from the short trial period already held that this was an argument concerning whether or not there was compensation due the contractor because the elements of the construction effort were not fully available, or should have been more fully available to him, and I think this is something that we will experience over and over again in the islands because of the terrain which we face in many, many instances where major construction is involved.

"There is an attitude, I think, in the past which has been a little too lax in respect of this area and as a result the State has found itself over and over again in circumstances where change orders were necessary in order to accommodate the necessary construction to see that the safety and welfare of the people who would utilize the projects would be maintained.

"Therefore, Mr. President, I think it would be in our interest to pursue this not as a way of trying to prolong the reception of justice, if you will, economic justice for the Mark Construction Company, because as you know, Mr. President, I very much believe that the State should not come down on individuals because we have the power of the Attorney General on our side; that is to say, force someone into lengthy and expensive legal proceedings to try and beat them down because we have the Attorney General available to us -- that is not just in my mind.

"In this particular instance, I think there are some major questions involved on both sides and they should be pursued so that the State will be on notice, that is to say, that members of various departments in the State who have contracts will be on notice that they should not take a casual attitude in the awarding of construction contracts and, on the contrary, they should be much more meticulous in detailing and delineating for potential bidders on major contracts exactly what might be expected in the way of difficulties and more exactly in what might be expected in the way of time sequences and possible obstruction that might take place.

"In this instance, I don't think that that necessarily was done and it should be explored, therefore, in a court of law regardless of whether it is time-consuming and regardless of whether there are expenses involved. It will have a salutary effect on all future contracts, and in my judgment, could therefore be saving the taxpayers of the State many, many millions of dollars in future contracts to be let."

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

The Senate reconvened at 12:31 o'clock p.m.

Senator Cayetano then spoke in favor of the bill as follows:

"Mr. President, I have reservations about the manner in which this case was handled by the office of the Attorney General. However, after considering all of the facts presented to us by the

Attorney General's Office through its special counsel, Mr. Richard Hirai, in executive session, I believe it is in the best interest of the State to settle for the amount stated in this bill.

"Mr. President, there is no way we are going to find out what happened in this case, if this case is tried. All estimates lead me to conclude that it would take over a year to try this case, a year resulting in hundreds of thousands, if not millions, of dollars in legal cost and also lending the State to possible exposure of up to \$12 million because no one really knows what is going to happen in a lawsuit.

"Under the circumstances, I believe, \$2 million is a reasonable settlement. The case is a very complicated one. There appears to be fault on both sides, and I think that we are going to have to put some faith in our counsel and I refer to the Attorney General's Office and the Special Deputy Attorney General, who tried very hard to explain to us in two hours what transpired in six weeks at trial. Mr. President, during those six weeks at trial, only the plaintiff got to testify. The State didn't even have a chance to put its case on.

"If the legislature would like to look into this case to prevent, as one of the previous speakers said, these kinds of mistakes from happening again, then I suggest that we do so via the legislative route, namely that we introduce legislation or we hold hearings to that effect.

"However, if this case is tried, whoever loses will probably appeal, and it is very unlikely that the legislature would be able to dig into or investigate what's going on in this case, at least for a long, long time--in fact some of us may not be in office when the time for investigation is ripe and ready, so for that reason I'm urging the members of the Senate to vote for the bill.

"I might add, Mr. President, that the appropriation of \$2 million is \$1.5 million less than the House proposed."

Senator Carpenter then spoke against the measure as follows:

"Mr. President, I appreciate the comments by the Chairman of the Ways and Means Committee, but I would like to echo the sentiments expressed earlier by the Senator from Manoa.

"I believe that the public interest would indeed be better served if this case were to go to trial to determine

the true culpability even though the possibility may exist that it is shared.

"I believe a nuisance value of \$2 million indicated by the Ways and Means Chairman, being \$1.5 million less than that which was proposed, is too high a price to pay for something that does not determine the ultimate cause of this kind of a suit before the State. I believe that even though it might go to a possible \$12 million assessment that once and for all we've got to clear the air on a great many things that happen in and around us seemingly without anyone's control. I support the move to reject this bill."

Senator O'Connor then spoke for the bill as follows:

"Mr. President, I'm going to vote in favor of this bill, but I do so with very sincere and grave reservations.

"In the first place, the trial of this measure began in 1977. The attorney who conducted the trial was retained by the Attorney General's Office only four months before the trial when the matter had been in litigation for approximately two years before that time.

"The plaintiff in the case was able to retain a major expert witness firm from Denver, Colorado, that computerized the entire project and had an expert on the witness stand as the first witness. There were some 25 causes of action and in the six weeks of trial, only two of those 25 had any testimony given to them.

"It was primarily because of our ill-prepared status that that was allowed to go the way that it went and because of that circumstance, the trial judge called the trial to a halt and asked the parties to attempt to settlement.

"I am extremely concerned, Mr. President, that this kind of thing occur in the future where our Attorney General's Office has a major case in litigation, waits for the last minute to get a trial attorney capable of trying the case and then doesn't have an expert witness who's capable of advising our side of exactly of the parameters that are involved in such litigation. To this day we do not have, in this case, an expert witness who is as qualified as the expert witness for the plaintiff.

"It bothers me that we took the time we did, we took the tax that we did and we wind up essentially having to settle the case because we were ill-prepared.

"I vote in favor of the measure because after extensive briefings, it is evident that there are approximately \$1.5 million

of what we call special damages or easily defined liquidated damages in this case for which there is a better than fifty percent possibility that the State is liable, and particularly under the framework of the case.

"I am more appalled by this, Mr. President, that two years ago in 1977, the same complex of attorneys and representatives from the Attorney General's Office came to this Senate and asked us to settle this case in the amount of \$3.5 million and we told them at that time to go back and try this lawsuit. For two years they sat on their thumbs and did nothing and did not try the lawsuit and then came back again this year seeking the same amount of settlement.

"I think personally that that's appalling, particularly when they did nothing in trial preparation or in any matter at all in the interim period while the plaintiffs in the case changed attorneys and beefed up their case considerably.

"All in all, I wish this case had been tried. It appears that we have to settle it. Under the circumstances, I am going to vote for the bill."

Senator George then inquired if the Chairman of the Ways and Means Committee would yield to a question, to which Senator Cayetano replied that he would.

Senator George then asked: "I am puzzled by a word on line 16 of the bill and that word is 'defining'. It says 'the evaluation included considerations of the projected cost of defining the claims and the potential exposure to liability.' I am wondering if the word might better read as 'defending'."

Senator Cayetano answered: "No, I believe the word is used correctly. The case as I stated earlier is a very complex case and 'defining' the claims was a major issue in the case, so I do believe that word is properly used."

Senator Carroll then stated: "Mr. President, I'd like to have the remarks of Senator Abercrombie, Senator Carpenter and the remarks in favor of the measure of Senator O'Connor incorporated by reference and adopted as my own in a vote for the measure. Thank you."

The motion was put by the Chair and carried and Stand. Com. Rep. No. 942-80 was adopted and H.B. No. 2720-80, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PAYMENT OF SETTLEMENT BETWEEN THE STATE OF HAWAII AND MARK CONSTRUCTION, INC.",

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

Ayes, 19. Noes, 6 (Abercrombie, Campbell, Carpenter, Chong, Kuroda and Yim).

Standing Committee Report No. 943-80 (H.B. No. 2729-80, H.D. 3, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 943-80 was adopted and H.B. No. 2729-80, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF THE HAWAII FISHERIES COORDINATING COUNCIL", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Abercrombie).

Standing Committee Report No. 944-80 (H.B. No. 2897-80, H.D. 3, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 944-80 and H.B. No. 2897-80, H.D. 3, S.D. 2, was deferred to the end of the calendar.

House Bill No. 2292-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2292-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2388-80; S.D. 1:

On motion by Senator Campbell, seconded by Senator Young and carried, H.B. No. 2388-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT SCHOOL ADVISORY COUNCILS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2487-80:

By unanimous consent, action on H.B. No. 2487-80, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION", was deferred until Tuesday, April 1, 1980.

House Bill No. 2532-80, S.D. 1:

By unanimous consent, action on H.B. No. 2532-80, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1775-80, H.D. 2, S.D. 1:

On motion by Senator Yim, seconded by Senator Carpenter and carried, H.B.

No. 1775-80, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE PLANNING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Anderson and Soares).

Standing Committee Report No. 950-80 (H.B. No. 1947-80, H.D. 2, S.D. 2):

On motion by Senator Yim, seconded by Senator Carpenter and carried, Stand. Com. Rep. No. 950-80 was adopted and H.B. No. 1947-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICITY GENERATED FROM NON-FOSSIL FUELS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2645-80, H.D. 2:

By unanimous consent, action on H.B. No. 2645-80, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION", was deferred until Tuesday, April 1, 1980.

House Bill No. 2533-80, H.D. 1:

By unanimous consent, action on H.B. No. 2533-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW", was deferred until Tuesday, April 1, 1980.

House Bill No. 2168-80, H.D. 1, S.D. 1:

Senator Toyofuku moved that H.B. No. 2168-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

Senator Yamasaki then spoke against the measure as follows:

"Mr. President, I rise to speak against this bill on collective bargaining which expands the meaning of the word strike by public employees by including the prohibition to observe bona fide picket lines established by public employees. It also defines essential employees and position.

"However, this bill places the right to designate the employee and position solely on the employer or the board and it does not allow any opportunity for the employees through their collective bargaining agent to have any voice as to who should report for work as

an essential employee and to which position for the purpose of maintaining health and safety.

"Mr. President, we are amending a collective bargaining law, a law covering two parties to a dispute, and every effort should be made to make our laws fair to the extent possible.

"The Senate draft of House Bill No. 2168-80, amended the House draft to prohibit the right of public employees to a jury trial in any proceedings brought under section 89-12. The committee report states that the right to a jury trial is inconsistent with this measure's intent to provide speedy resolutions of legal matters in public employee strike situations.

"Chapter 380-11 is titled 'Contempt; speedy and public trial,' and it states: 'In all cases arising under this chapter in which a person is charged with contempt in a court of the State, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the circuit wherein the contempt has been committed; provided, that this right shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.' Chapter 380 was written into law as Act 200 in 1963 as the 'Little Hawaii Norris-LaGuardia Act.'

"Mr. President, the Hawaii State Constitution as amended in 1978 provides in Section 14 that 'in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the district wherein the crime shall have been committed.' It further provides that the accused shall have the right to be informed of the nature and cause of the accusation, to be confronted with the witnesses against the accused, to have compulsory process for obtaining witnesses in the accused's favor, and to have the assistance of counsel for the accused's defense.

"The language of the Hawaii State Constitution in Section 14 is almost identical to the Sixth Amendment to the United States Constitution. And this follows the First Amendment which prohibits the abridging of freedom of speech, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

"For these reasons, Mr. President, I believe that we are treating our public employees as second class citizens in this Senate draft of House Bill No. 2168-80, H.D. 1, by stripping them off of one

of the basic constitutional rights which is the right to a trial by jury and I cannot in good conscience take away a constitutional right of any individual.

"Therefore, Mr. President, I urge the members of this body to give serious consideration to the contents of the bill we are about to vote on, and my vote will be a 'no.'

"Thank you, Mr. President."

Senator Toyofuku then spoke for the measure as follows:

"Mr. President, I think we must recognize and remember a few things here that under the United States Constitution, the private sector employee does not have an express right to strike but because of certain declarations by the U.S. Supreme Court declaring the private sector employees do have an inherent right to organize and therefore to strike, because of such declarations by the court, we now have Chapter 380, sometimes referred to as the Little Norris-LaGuardia Act. This would permit the private sector employees certain rights and certain protections under our law.

"However, the courts at that point in time did declare that the public workers do not have a right to organize and strike. Therefore, Chapter 89 which refers to the collective bargaining act for public sector employees was enacted.

"At that point in time, there was great concern about giving public sector employees the right to strike, and of course understanding at the same time that the right to strike was the only weapon or the only advantage that the public sector employee union would have against the employers. For the right to strike, the union was compelled to support the essential worker provision -- sort of like a tradeoff -- and of course with the essential worker provision, the public employees are compelled to abide by that particular provision.

"As evidenced by the recent Unit 1 strike, there was much confusion, varying interpretations by HPERB, the courts, the employer to his own advantage and the employees to their advantage.

"HPERB really created the problem by first declaring that essential employees cannot strike, and secondly, by giving the unions the right to assign work, which was strictly reserved to management as management rights. The courts compounded the problem by granting

the employees the right to a jury trial in the contempt proceedings, after the injunction, when the employees refused to report to work.

"The right to jury trial under the essential worker provision is really a policy decision that must be made by this legislature. It is not a constitutional one as alleged by the previous speaker. Your Committee feels that jury trial should not apply to such contempt proceedings.

"Chapter 89-12 spells out the procedural aspect of how to designate essential employees; Chapter 12, item (a) spells out who can strike and who cannot. Those who cannot strike are expressed in this item as being excluded employees, firefighters because of their compulsory arbitration law, and of course essential employees.

"Item (b) spells out the impasse proceedings, the fact finding, and the ten-day notice to strike. Item (c) clarifies that any strike which may endanger the health or safety of the public, which is about to occur or is in progress, that the employer may petition the HPERB and have HPERB investigate and establish specific requirements like designating essential positions and any other requirement that is deemed to be necessary to remove any danger to the health and safety of the public. Additionally, it provides for notice to the essential employee to report to work. And (d) provides for the declaration by HPERB whether a strike is legal or illegal and this is where the injunction requires consent. And (e) of course provides for the contempt proceedings.

"In all of these sections, (a), (b), (c), (d) and (e), your Committee feels that a right to a jury trial should be prohibited, and as I mentioned earlier, this is of course a policy decision that must be made by this legislature.

"It is not the question of injustice or discrimination, as implied, but rather a question of equity, and of course so that the strike may not be prolonged and be time consuming in order to protect the health and safety of the public.

"In addition, Mr. President, the essential worker provision basically spells out a very deep concern and a real desire to protect the health and safety of the public in our community. And if you examine the philosophy embodied therein, we must prohibit sympathy strikes because it may very well affect the health and safety of the public.

"This is a policy decision, as I mentioned earlier, and I think the legislature must make this policy decision. Your Committee feels that this bill here, the provisions in this bill, are necessary and desirable.

I'd like to ask my colleagues to vote for this bill. Thank you."

Senator Abercrombie in opposition thereto, spoke as follows:

"Mr. President, I have to speak against the bill. I appreciate the previous speaker's remarks; in fact I appreciate that it was delineated as clearly as it was by the Chairman and I think that a good portion of what the Chairman said is in argument against the bill.

"I have watched with some trepidation and have noted on this floor and when I had the opportunity in the other house, I did the same, that there is an eroding of what I believe to be hard won liberty in respect of our Constitution and in respect of, as the Chairman puts it, policy.

"There is no question about it that there are certain policies that derive from abstract principles. In fact, one might state and probably could with some justification that not only myself, but others could be referring to abstract principle and find refuge in it and therefore be able to take a righteous stand, if you will, on behalf of something without really having to bear the consequences when that principle is translated or transposed in a specific circumstance.

"But if one grants them the proposition as put forward by the Chairman that we are trying to transpose essential principles here and without comprising them or doing violence to them place a policy decision then before the body, then let us consider what the effect of that would be and whether in fact the principles, which I'm sure we all believe and adhere to, are actually being followed.

"Now, is it the policy that we do not want people to have a jury trial? Quite frankly, all the adverse circumstances that I can find in the strike which was alluded to recently by the UPW, I find was the fault of judges, not with the jury.

"The fact that the judge is unwilling (we had some judges in this state unwilling) to carry out the logic of the rulings that they either made or which were before them is not an argument against the jury trial. It's one of the arguments I have tried to put forth in other circumstances here because we find some circumstance which offends us. Instead of directing our attention to that which offends us we are attacking it from a different direction, and in the process are taking away one of the essential freedoms or one of the resources,

if you will, that any individual in the community would wish to have at his or her command because we are in fact and do have before us in terms of our literature and in terms of our history and in terms of our psychology of free society. Why are we attacking a jury trial because we are upset with what happened in terms of our feelings of frustration over the inadequacies of the ability of certain judges or boards to carry through on what is already their right, already their obligation, and already their duty in the law as it's already written.

"How can there possibly be any justification for getting rid of a jury trial under circumstances which are completely and totally focussed on an entirely different matter?

"What this is really saying is that jury trial, if you had it before twelve citizens or six citizens or whatever constitutes the jury, might come to a different conclusion than that reached by sources of power over the employee. Why is it the employee who has to suffer from a situation of not having a jury trial?

"Most of us in life are going to be employees in one form or another; very few of us in life are in the situation of being able to dominate a situation and control it in such a way that we do not find ourselves in a position where we would not like or need to have a jury trial, that is to say a judgment made by our peers.

"And you'll notice one of our previous speakers mentioned a speedy trial. There's no question that this can be done. Are we so fearful, are we so fearful that a jury of peers will find that the State is in fact in the wrong that we do not want any of our public employees to come before them to present their case?

"Now I think that there was all kinds of things wrong with the previously mentioned strike in terms of the way it was conducted, in terms of the way it was reported. In fact, I suppose I could make an argument, Mr. President, that one is better off in front of the judge rather than a jury because certain elements in the press had so distorted the realities of the strike that there was a prejudice in the community that would prevent a fair trial in a sense of coming before a jury.

"But I happen to have a little more faith in the jury system than perhaps some others do. I happen to believe that jurors take themselves very, very seriously in that jury box, and would try to judge on the evidence presented to them, not what some newspaper editor says and not the way a story is presented. I have great faith in that and I think we

need to have that.

"We are getting rid of the jury trial here because it's convenient to condemn the employee apriori of being in the wrong and we are thinking that if we do this, it will be easier to convince the judge. After all, if you get twelve citizens, maybe they don't understand the fine points; maybe they won't see it the way they really should see it. Because if you extend the logic of this bill, what we're really saying is that we should get rid of jury trials altogether for everything because after all people might not understand the way it's supposed to work.

"But, Mr. President, if that's the case, then we're going against the struggle that I have maintained here and other circumstances have succeeded only over centuries, only over centuries, not decades, but centuries, so people can have the freedom which we would all wish to have for ourselves individually.

"So, on that point alone, the jury trial alone, I think this bill should be voted down. Just look at the way it's written on page 6: 'the right to a jury trial shall not apply to any proceedings brought under this section.' Boom, that's it!

"I can find countries in the world right now where that kind of a circumstance is written into it too. We talk about freedom and differentiating ourselves from other countries, other people, other societies, because you do not have a right to the trial or its summary. Other than the assertion of the committee report that the jury trial is not necessary, there's nothing to indicate anywhere in the report that this is the case at all

"I would like for someone to point out to me anywhere in this committee report where a jury trial is something that is not warranted. The Constitution isn't there for the immediate convenience of anybody in a strike situation or anything else. It is to protect our liberties precisely at those times when the emotional quotient is such that we would be likely or more likely to want to give up those constitutional procedures which are so close to defending our freedom.

"I would indicate one other thing that bothers me a great deal because it's an open-ended circumstance. And I refer to page 4, line 2, and this is in connection with Section (c) on the previous page, that 'if a strike, which may endanger the health or safety of the public, is about to occur or is in progress'...that's the context

within which this takes place.

"On page 4, it states, 'any other requirement it deems necessary in order to avoid or remove any imminent or present danger to the health or safety of the public'; I repeat, any other requirement.

"Now it seems to me that that is a blank check that literally has no bounds. If that's going to be the case, we might as well throw out Chapter 89; we might as well throw out the collective bargaining law entirely, because we in fact did not want to have it.

"If we do not want to have collective bargaining for public employees, let's just say so. Let's put it in law; let's do it. Let's have the courage of our convictions.

"I may dispute that with someone on this floor, but I'm certainly not going to argue with their right to present it nor with the logic of what they're going to say in the sense of it being internally consistent. If they believe that there should not be this right to strike, then say so. But don't say, 'yes, you can strike, however, we're going to put it in such a way that we don't really mean it.'

"This 'any other requirement it deems necessary' is to me anathema to what is ostensibly the object of this bill, so on those grounds, the lack of a jury trial and the open-ended invitation, if you will, to the board to designate onerous, in fact triable conditions, and I want to point out that we've just settled something on the basis that we might go to court for a long time if you can imagine a situation in which the only other requirement then comes up as being unconstitutional because it was cruel and unusual punishment or it violated due process.

"We're going to be right back in court as to what this means, which will prolong the situation even further and cause even more expense because we have over-shot completely what we wanted to accomplish.

"We should not react to emotional pleas in the newspaper or sensationalist documentation in the media when it comes to the passage of law, especially when it comes to something as sensitive in the sense of maintaining people's rights as the public employment collective bargaining law.

"I think that we're opening up ourselves here if we pass this to a complete overreaction and what we are doing is excusing the incapacity of the courts to act on the law as it is already before them, which is, in my point of view and my estimation, a judgment completely adequate to the task at hand."

Senator O'Connor speaking in favor of the measure, stated as follows:

"Mr. President, I rise to speak in favor of this measure, and in rebuttal of the eloquent oratory of the gentleman from Manoa who I am sure, one of these days, will take advantage of the fact that there's a law school in Manoa.

"Mr. President, the measure that we are discussing and the point raised by the earlier speaker was the right to jury trial and a proceeding as is envisioned by the section on pages 5 and 6 of this measure. I hate to give a historical review of the law to this body, however, in our system of laws, there are two sections of law; one in equity and one in law which pertain to civil actions.

"The section on equity pertains to a myriad of things but included in that area are the injunctive measures for injunctive relief whereby a court orders specifically that certain people shall or shall not comply with law.

"Since the days of King Charles II, there has been no jury trial in the equity section of the law. The technical aspects of this bill which is stated on page 6 which simply says 'the right to a jury trial shall not apply to any proceedings brought under this section' are simply to re-emphasize and clarify something which has been historically well-known to those scholars of the law that have anything to do with handling injunctive measures for a long, long time. All this pertains to is that section which states that 'there shall be appropriate proceedings in a circuit court to enjoin the performance of any act or practice forbidden in this section.' And then it talks in terms of 'orders and decrees, by way of injunction, mandatory injunction, or otherwise, as may be appropriate to enforce this section.'

"This is an area of the law in which historically, practically, logically and simply there should never be a jury trial. Jury trials are reserved for those matters of grave, constitutional rights, which I think is what the gentleman from Manoa was earlier speaking about. And this section in no way has anything to do with those constitutional rights which mandate a jury trial, or allow a jury trial.

"This whole area has to do with the injunctive order of the court which should be handled only by the judge and in a manner in which ready, able and expeditious justice is meted out in the circumstances. If there was anything else required in this circumstance,

or by this section, it should be spelled out in much greater detail. As long as we stick only to those areas which the section in the law pertain. then there should be no jury trial.

"Now, on the practical side of the matter, the reason that this amendment is suggested is that in the middle of this last strike an attorney, in order to delay the matters in court, suggested that there should be a jury trial, and the whole proceeding was placed into recess for a week or so while that legal issue was debated.

"Mr. President, it's ridiculous to debate a legal issue of this situation and of course, it turned out that there was no jury trial allowed in the final essence in that matter and there should be none under this law.

"Therefore, in order to ease and simplify the administration of this area of the law and to conform to the historic and the present practical aspects of the law, it should be clearly stated that there should be no jury trial."

Senator Abercrombie then stated as follows:

"Mr. President, I thought I concluded my remarks but with the mention of King Charles I am forced to rise and point out to the members that the reason King Charles was not around to argue before a jury was that failure to provide him with a jury resulted in having him beheaded.

"Subsequent to his beheading, however, Cromwell became the Lord Protector of Great Britain and Ireland, which meant that there was a dictatorship in England and the very issues that had been before Commons concerning the rights of people were subsumed in civil war and terror, murder and pillage throughout Great Britain and particularly in Ireland.

"Religious protection disappeared, tolerance disappeared, the various circumstances under which Commons found itself needing in order to come into confrontation with King Charles became the very rationale upon which the Commons disemboweled itself in terms of protecting the rights of anyone in Great Britain or in Ireland.

"King Charles, I think is a very good example of someone who needed a jury trial. He was presented with a situation in which he was unable to protect himself in which he had no appeal. I think that it is a grave constitutional right where juries are concerned and I think in this circumstance, if one reads the bill, you will see we're talking about when someone is violating or failing to comply with the requirements. Nothing prevents the judge from issuing an injunction under

these circumstances. It's quite the opposite. But if such a thing takes place and there is a disagreement, that's where I think there should be a jury trial. We've already had a good example in history of what happens when that kind of thing isn't available."

The motion was put by the Chair and carried, and H.B. No. 2168-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Abercrombie, Campbell, Machida, Yamasaki and Young). Excused, 1 (Yee).

At 1:10 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:15 o'clock p.m.

House Bill No. 2372-80, H.D. 1, S.D. 1:

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, H.B. No. 2372-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SELECTIVE EMPLOYMENT AND THE CIVIL SERVICE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 955-80 (H.B. No. 850, H.D. 1, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 955-80 was adopted and H.B. No. 850, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 956-80 (H.B. No. 1853-80, S.D. 3):

By unanimous consent, action on Stand. Com. Rep. No. 956-80 and H.B. No. 1853-80, S.D. 3, was deferred to the end of the calendar.

House Bill No. 1772-80, H.D. 2, S.D. 1:

On motion by Senator Cayetano,

seconded by Senator Kawasaki and carried, H.B. No. 1772-80, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE PROGRAM FOR THE UNEMPLOYED", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Anderson, Carroll, George, Saiki and Soares). Excused, 1 (Yee).

Standing Committee Report No. 958-80 (H.B. No. 1865-80, H.D. 1, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Mizuguchi and carried, Stand. Com. Rep. No. 958-80 was adopted and H.B. No. 1865-80, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY BUDGET", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Kawasaki). Excused, 1 (Yee).

House Bill No. 1912-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1912-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 960-80 (H.B. No. 2193-80, H.D. 1, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 960-80 was adopted and H.B. No. 2193-80, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSFER OF ALL FUNCTIONS, POWERS AND DUTIES INVOLVING THE TAXATION OF REAL PROPERTY TO THE COUNTIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Cobb and Wong). Excused, 1 (Yee).

Standing Committee Report No. 961-80 (H.B. No. 2344-80, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 961-80 and H.B. No. 2344-80, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 962-80 (H.B. No. 2723-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 962-80 was adopted and H.B. No. 2723-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY", having been read throughout, passed Third Reading on the following showing of

Ayes and Noes:

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

At 1:20 o'clock p.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate stood in recess until 3:00 o'clock p.m., this afternoon.

The Senate reconvened at 3:20 o'clock p.m., with all Senators present with the exception of Senators Hara, Kuroda, O'Connor and Yee, who were excused.

House Bill No. 2773-80, H.D. 1, S.D. 1:

Senator Cayetano moved that H.B. No. 2773-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Anderson then spoke for the measure as follows:

"Mr. President, this is one of the bills you might say got away from me; I'm marked 'excused'; I must have missed signing the committee report, but if my interpretation of the bill is accurate, it retains the 8% interest limitation on state bonds.

"I'm in kind of a dilemma. This probably should have been amended the other night, but I know what the committee is doing and I am aware of the conference committee process.

"But, Mr. President, I'd like sometimes to have the committee chairmen and the members remember that the public out there is not aware of the little games that we play between houses and sometimes may not realize or be aware of what a conference means.

"With all of this talk about interest being lifted in the usury question, interest rates throughout lifted in here for the City and County but hampering the State administration, I don't think it's a responsible action but a 'no' vote really defeats what I'm trying to accomplish.

"So you're kind of caught between the devil and the deep blue sea, but I would only hope that when the Ways and Means Committee goes into conference, that the measure comes out with a more realistic percent other than 8%."

Senator Cayetano in response thereto, spoke as follows:

"Mr. President, in response to the previous speaker, I think the points he raised were really of minor significance.

The reason the ceiling which is set at 8% at the present was not lifted for the State is because the State has a surplus, whereas the counties do not have a surplus.

"Moreover, Mr. President, the State has indicated that it probably will not be going to the bond market between now and next session. Furthermore, the former Director of Budget and Finance indicated also that this would not be a very judicious time to go to the bond market, so we saw no need to lift the ceiling for the State, if in fact the State does not intend to go to the bond market."

The motion was put by the Chair and carried, and H.B. No. 2773-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BONDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 1915-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1915-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS AND AMMUNITION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 1918-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1918-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes 2 (Abercrombie and Cayetano). Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 1919-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1919-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO YOUNG ADULT DEFENDANTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

Standing Committee Report No. 967-80 (H.B. No. 2063-80, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 967-80 was adopted and H.B. No. 2063-80, S.D. 2, 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, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 2064-80:

By unanimous consent, action on H.B. No. 2064-80, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING", was deferred until Tuesday, April 1, 1980.

House Bill No. 2166-80, H.D. 1:

By unanimous consent, action on H.B. No. 2166-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY", was deferred until Tuesday, April 1, 1980.

Standing Committee Report No. 970-80 (H.B. No. 2590-80, H.D. 1, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 970-80 was adopted and H.B. No. 2590-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ADMINISTRATIVE PROCEDURE ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 2668-80, H.D. 2, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2668-80, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRADE REGULATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 2826-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2826-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LIABILITY OF DOG OWNERS", having been read throughout, passed

Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 2 (Abercrombie and Carpenter). Excused, 4 (Hara, Kuroda, O'Connor and Yee).

Standing Committee Report No. 973-80 (H.B. No. 2850-80, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 973-80 was adopted and H.B. No. 2850-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Abercrombie). Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 2929-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2929-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF DEFENDANTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 2 (Abercrombie and Cayetano). Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 1655, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Cobb and carried, H.B. No. 1655, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 2286-80, H.D. 1, S.D. 1:

Senator Carpenter moved that H.B. No. 2286-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Campbell.

Senator Saiki then spoke against the measure as follows:

"Mr. President, I have really no objections to the concept of providing residential housing for the developmentally disabled. However, I am going to have to vote 'no' on the basis that the Senate is superseding the County power."

The motion was put by the Chair and carried, and H.B. No. 2286-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEVELOPMENTAL DISABILITIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 5 (Anderson, Carroll, Cayetano, George and Saiki). Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 3048-80, H.D. 1, S.D. 1:

On motion by Senator Carpenter, seconded by Senator Campbell and carried, H.B. No. 3048-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PLANNING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 1975-80, S.D. 1:

On motion by Senator Machida, seconded by Senator Mizuguchi and carried, H.B. No. 1975-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MEAT INSPECTION ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Chong). Excused, 4 (Hara, Kuroda, O'Connor and Yee).

House Bill No. 2172-80, S.D. 1:

Senator Machida moved that H.B. No. 2172-80, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

Senator Anderson then spoke against the measure as follows:

"Mr. President, I'm not certain whether the members realize what's in this and I'm not for importing snakes, but this bill has been amended to provide that any person 'receiving for transportation, bringing or causing to be brought into the State any live snake for the purpose of debarkation or entry thereinto shall be guilty of a misdemeanor, fined \$5,000 and sentenced to a mandatory term of imprisonment of one year.'

"That's kind of a stiff penalty. It could be a pet snake; it could be a snake that's not poisonous; it could be a snake that some young serviceman could be bringing to play a trick on a person here in Hawaii and not being made aware of, most innocently done.

And we're talking about a mandatory one-year imprisonment and a \$5,000 fine. I don't think that's the intent of it.

"We have laws now that make it illegal to import snakes. We never catch anybody; we always find the snakes running around. I really don't know whether we want to go this far in this mandatory sentencing. I would ask that we vote 'no' on this measure."

Senator Abercrombie then stated as follows:

"Mr. President, the previous speaker's remarks reflect my own thinking on this, much to the wonderment of all, I'm sure. But, probably as a matter of fact when we go through a lot of these bills, we find that there's probably nine out of ten things that we do agree on and that one-tenth makes it all so interesting. But I think that the last part of his remarks are the ones that are particularly in order.

"This is where you end up going with your mandatory sentencing kind of situation. It's absurd. I really think that we will, if we worry about what people will think, and I don't think we should where it is a question of principle and all the rest on those kinds of things we all like to think we uphold.

"It's quite another matter when we turn around in the name of 'we're going to show them' or some such designation or some such motivation, talk about sentencing someone to a year in jail to bring a snake in.

"It seems to me that under those circumstances we mock ourselves and we most certainly mock the judicial process. A mandatory sentence under these circumstances with no differentiation in terms of the motivation of the person as was indicated by the previous speaker is more than absurd, more than ludicrous; it's a disservice to this body to pass it."

Senator Cayetano spoke in opposition thereto as follows:

"Mr. President, I find myself disagreeing with Senators Abercrombie and Anderson, and it's a wonderment to myself.

"As I read this bill, there is a notice provision and really for the State to prove its case in order to mandatorily sentence the violator to jail, it will have to prove that the Department of Transportation met its burden in terms of giving notice.

"If you turn to page 3, line 19, you can see that the Department of Transportation has a duty to distribute a list of the

prohibited species to each passenger on every aircraft or water vessel arriving in the State and inform each passenger of the penalty for importing prohibited plants or animals.

"Now, that is a 'helluva' burden that one will have to prove in court, and if they are able to prove that, despite this warning, a snake was brought in, then I'm for mandatory sentencing.

"I might add that on two previous bills regarding mandatory sentencing, I voted against it, but not this one."

Senator O'Connor then spoke for the measure as follows:

"Mr. President, I rise to speak in favor of the bill. First, I will point out that the bill in its present form duplicates a Senate bill which passed this body without a dissenting vote. Secondly, I would point out that we are benefitted in this state by several wonderful things. One of them is, and I brought this to the attention of all on St. Patrick's Day, that like Ireland, we have no snakes.

"In order to keep these islands without snakes, 'which can in fact be a bane' on people's existence, we must continue to police that area and insure with mandatory sanctions, if necessary. This is one of them that people do not bring snakes into Hawaii and that we keep our reptilian population to zero, if that's earthly possible.

"Therefore, I would disagree with some of the earlier speakers and agree with one of them and urge all to vote in favor of this measure.

"As Senator Cayetano points out, it does place a large burden on the Department of Transportation to give notice, but once the notice is given, if one chooses to break the law and bring a snake in, then the sanction is strict and it should be."

At 3:35 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:39 o'clock p.m.

Senator Carroll then commented: "Mr. President, I think that after the discussion that we've heard here, it's apparent that we don't really need this bill, but rather we need the resurrection of St. Patrick."

Senator Kawasaki, speaking in favor of the measure, spoke as follows:

"Mr. President, I'm glad that some of the members of this body are reading the committee reports. I think some of the objections raised by both Senator Anderson and the self-proclaimed sex symbol from Manoa, Senator Abercrombie, are well taken.

"I discussed that same point of view with the Chairman of the Senate Health Committee and I take it and trust that the mandatory feature will be eliminated, possibly in the conference committee deliberations. I do support this bill."

Senator Abercrombie commented as follows:

"Mr. President, leaving aside some of those personal remarks that were directed to me; the Chairman of the Judiciary Committee kindly informs me that a copy of the list has already been forwarded to the various chiefs of airports and harbor divisions, and so on, which include this admonition about snakes, and he also informs me that it is in several languages. I don't know if they are in all the languages of the visitors who come here, but I daresay that if someone was in a position, regardless of how they happen to find themselves there, it would be facing a year in jail.

"It would be well worth their while to go and fight it in court which would involve of course our attorneys as well. And one of the things we worry about is whether we are going to get into situations which involve a great deal of expense.

"If you are going to put someone in jail for a year, you can bet that they are going to fight it, and if they don't happen to have a lot of money, you can bet they are going to fight it with our money because a year in jail is no joke, and if someone is not capable of providing their own counsel I think, then that our Judiciary would appoint counsel for that person.

"So, you know I suppose in a way it would seem to be frivolous in that some of the objections raised would have a tendency of undermining the idea of keeping snakes out of the islands, but I think there are ways and ways, and in this particular instance, I think we've gone in with, pardon my analogies in terms of their complication, but we've got the elephant gun in here, and we most definitely have a mouse that we're trying to do away with."

The motion was put by the Chair and carried, and H.B. No. 2172-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANT AND NONDOMESTIC ANIMAL QUARANTINE", having been read throughout, passed Third Reading on the following

showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Abercrombie, Anderson and George). Excused, 1 (Hara).

House Bill No. 2745-80, H.D. 1, S.D. 1:

On motion by Senator Machida, seconded by Senator Mizuguchi and carried, H.B. No. 2745-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MILK CONTROL", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Abercrombie, Anderson, Campbell and Chong). Excused, 1 (Hara).

House Bill No. 2035-80, H.D. 2, S.D. 2:

Senator Cayetano moved that H.B. No. 2035-80, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Kawasaki then commented on the measure as follows:

"Mr. President, I will vote in support of this bill, but I do hope that somewhere in the conference committee, we could perhaps refine the bill so that those people on pension, formerly government workers on pension, who are fortunate enough to receive pension compensation in excess of a certain figure--let's say, \$1500 a month or so--that some language could be incorporated into the final version of the bill that these people would not qualify for a bonus.

"Any person who is retired and earning in some cases as much as \$2,000 a month pension, I don't particularly bleed for, and I think we should give relief to the lower category of employees. I just hope the language could be clarified in some way to take care of this."

The motion was put by the Chair and carried, and H.B. No. 2035-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PENSIONERS BONUS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 982-80 (H.B. No. 1864-80, H.D. 1, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 982-80 be adopted

and H.B. No. 1864-80, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator O'Connor then asked for a ruling of the Chair as to a possible conflict of interest as there is a client of his law firm involved in this bill.

The Chair ruled that there was no conflict and Senator O'Connor was allowed to vote on the bill.

Senator Cayetano then spoke for the bill as follows:

"Mr. President, I'm in favor of this bill but I would like for the record to note my disagreement and concern in the manner in which one case was handled by the office of our Attorney General. This is the case that is listed on page 5, Montague vs. our Governor.

"Mr. President, the original appropriation called for \$40,000. Those who are familiar with the authority granted to our Attorney General's office in terms of handling cases know that the Deputy Attorney Generals are authorized to settle cases at their discretion, that is, without legislative approval, cases up to \$2,500.

"I have here a copy of a stipulation for settlement agreement and final order. This is entered and filed in the United States District Court, District of Hawaii, filed on November 7, 1979, and it is a stipulated agreement and final order approved by Federal Judge Martin Pence for a settlement of \$40,000.

"Nowhere in this stipulation does it say that this settlement is contingent upon the ratification by this legislature. Someone made a mistake in this case, and it is a burden that falls right on the Attorney General's office. We cannot have this kind of practice continue. It's \$40,000 for this case; frankly, it could have well been \$3.5 million for the Mark Construction case.

"I just want to point this out because I think the members of this body have to realize that when our attorneys, the Attorney General makes a mistake and enters into this kind of agreement in court, we don't have much recourse, as a practical matter. We have the same recourse that people who hire attorneys in the private sector can do. They can sue their attorney for malpractice. That's about it.

"So, with those words I'd like to urge passage of the bill, but note my concern with respect to the Montague case. Apparently, it's going to be a matter that we will have to fix up in conference, and the Attorney General will be made to answer to our

committee."

(The following is the Stipulation for Settlement Agreement and Final Order as requested by Senator Cayetano that it follow his remarks on the measure:

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

NOV 7, 1979
at 7 o'clock and 30 minutes a.m.
WALTER A.Y.H. CHINN, CLERK

MARK S. DAVIS (1442)
1386 Pacific Trade Center
190 S. King St.
Honolulu, Hi 96813
Phone: 524-1186

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

GEORGE MONTAGUE,
Plaintiff,

vs

GEORGE ARIYOSHI,
et al.,
Defendants.

Civil No. 77-0208

STIPULATION FOR SETTLEMENT
AGREEMENT AND FINAL ORDER

STIPULATION FOR SETTLEMENT
AGREEMENT AND FINAL ORDER

IT IS HEREBY STIPULATED by and between the parties hereto, by and through their respective attorneys, that the above-entitled action is settled for the sum of Forty Thousand Dollars (\$40,000), inclusive of all costs and attorneys' fees, which sum shall be paid by defendants to plaintiff.

This settlement is not predicated on any admission of liability or on any admission of any fact alleged in the Complaint.

IT IS FURTHER STIPULATED that this agreement shall be the full and final settlement of this case and deemed a final order.

DATED: Honolulu, Hawaii,
November 1, 1979.

/s/ Mark S. Davis

MARK S. DAVIS
Attorney for Plaintiff

/s/ Kenneth P. H. Nam

KENNETH P. H. NAM
MARIA SOUSA
Deputy Attorneys General
Attorneys for Defendants

APPROVED AND SO ORDERED:

/s/ Martin Pence

Judge of the above-entitled court)

Senator O'Connor then spoke for the passage of the measure as follows:

"Mr. President, I join the comments of Senator Cayetano.

"We have discussed this matter at some length. I believe that it will be mandatory in the next or one of the shortly forthcoming sessions of this legislature to look carefully at the Attorney General's handling of various pieces of litigation and to mandate certain method of handling so that as long as the legislature is required to appropriate monies to settle each of the cases, that specific language is required of the Attorney General in each of the cases which is well-known, laid out, maybe in the statutes, to insure that this kind of thing doesn't happen."

Senator Cobb then asked for a ruling of the Chair as to a possible conflict of interest as follows: "Mr. President, there is an item involving a subsidiary of a firm that I work for as listed on page 2, line 20 of the measure."

The Chair ruled that there was no conflict and Senator Cobb was allowed to vote on the measure.

Senator Kawasaki then spoke for the measure with some reservations as follows:

"Mr. President, I too want to enter into the records of the Senate Journal some concerns that I have.

"Apparently, the recommendation by the Attorney General for us to pay this bill in an out-of-court settlement, the primary reason I think that was set forth, was that they estimated that to have this litigation continue in courts over a period of time is going to be costly and that our Attorney General's office further felt that they had a good case, possibly they could win the case.

"I would hate to have us set a precedent with the approval of this bill, if this

is how it is going to be interpreted, that we do settle cases out of court anytime when we think it's going to take a long period of time and there's going to be litigation costs.

"There's going to be litigation costs, particularly in cases that the A.G.'s office feels that the State is in the right. It's going to cost for legal expenses; it's going to cost the plaintiff just as much money as the State; at least we have in-house attorneys, the deputies in the Attorney General's office, so I would hate to set a precedent to say that we settled out of court primarily to obviate the necessity of our having to go into expenses that are involved in a long litigation.

"I would certainly not want to have the approval of this bill interpreted in that fashion we may be setting a bad precedent. I would hope that the A.G.'s office would take note of our concern here."

Senator Abercrombie then spoke for the measure as follows:

"Mr. President, in respect to the last comment, Mr. President, I also would then like to have it noted in the Journal that we do not want to have it taken that we felt that this case was going to be won, or that there was no consideration that the State might be in the wrong.

"You will notice that the amount here is \$25,000 and not \$40,000, and I'll be frank with you, Mr. President, to why I'm voting for it is that I want to see whether this man means it or not.

"If there was not a stipulation, such as the Chairman of the Ways and Means Committee has brought up, it would be then a question as to whether the person involved would accept the \$25,000. And I voted for it not knowing anything about a stipulation at that time.

"I agree with Chairman Cayetano's remarks about what we will have to do in order to take care of this situation, but I wouldn't want anyone thinking that this case is merely one of that. If this person, from my point of view, accepts the \$25,000, it's a phony claim, as far as I am concerned. I'm not convinced in the least that the State would survive litigation on this should it go to court and I have my own opinions as to why it is before us as \$40,000 and why it's already stipulated to, and perhaps that could be looked at."

The motion was put by the Chair

and carried, and Stand. Com. Rep. No. 982-80 was adopted and H.B. No. 1864-80, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 1986-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 1986-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MOTOR VEHICLE ACCIDENT REPARATIONS ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2151-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2151-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2321-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2321-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL AGENCIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Ajifu, Anderson and Soares). Excused, 1 (Hara).

House Bill No. 2334-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2334-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 987-80 (H.B. No. 2589-80):

By unanimous consent, action on Stand.

Com. Rep. No. 987-80 and H.B. No. 2589-80, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR", was deferred until Tuesday, April 1, 1980.

House Bill No. 2732-80, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2732-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Anderson then spoke against the measure as follows:

"Mr. President, I guess this is one of those bills that can be cleaned up in conference, but we find a conflict.

"One of the sections provides that any towing company may sell any vehicle which is towed by the company, provided that the company notifies the registered and legal owners of the vehicle that the vehicle will be disposed of if not claimed within 20 days of the date of the notice received.

"Then another provision, number 11, provides that when a vehicle is towed, the owner of the towing company, after one public advertisement in a newspaper of general circulation, may negotiate a sale of the vehicle or dispose of it as junk. The two aren't tied together and we aren't sure whether they should be, or which one comes first.

"Now, I might also add that registered mail should be registered mail so that the addressee or the owner signs for. It is very common in this town for a registered letter to be signed by a secretary, a housekeeper, an in-law, or anybody who receives the registered letter in a particular office on behalf of the person, and that if he or she as the particular owner of that car happens to be out of town for a couple of months on a trip and is not aware of somebody receiving this registered mail, that car is going to be sold. I don't think this bill is as tight as it should be."

Senator Abercrombie then spoke against the bill as follows:

"Mr. President, I agree with the remarks of the previous speaker. These people get away with murder, as it is right now; in fact it's a wonder that more murder hasn't occurred in relation to this towing business.

"They're around like vampires. It is amusing until it happens to you, or happens to you under circumstances

in which someone, yourself or others, can't get the cash up and you're confronted with it; people in many instances are intimidating, threatening, or they keep people around to do exactly that.

"I've had it happen to me; I've had it happen to friends. There's no rhyme or reason in this; the amount of money that's involved is way out of line to what is actually involved. I don't know how the fix got in on this thing with towing companies, but it's there somehow.

"If I ever saw a political deal which stinks in my life, it's this whole towing company situation. I'm in no position in this body to do anything about it; it takes place principally at the level of the city and county and there's no doubt in my mind that some kind of scam is working in there in it. And now what we're doing is whoever is behind this, what I consider a conspiracy, is now saying that they're going to sell cars off in 20 days. I can see how this number comes down.

"Just as the previous speaker said the registered letter thing is meaningless, and the return receipt is only requested. If you look at page 4 of the bill, it says that the return receipt is requested; it's not mandatory, so anybody can sign for it. It might get lost and in the process in 20 days, it goes.

"Now you know what's going to happen; they're going to nail somebody; they'll work it out and somebody is all lined up to get that car. And it may be a very expensive automobile and there's nothing in page 5 that I can find that's going to prevent some kind of scam being worked again, and who gets the car and how much money changes hands and all the rest of it.

"I don't know how this worked its way all the way through. It may be that it was voted upon as well as mentioned by the bill; that's no big news to me and I don't see that's an argument against it.

"We're passing it now on third reading here; that's all that counts; I don't care how many times it passed through before or whatever the circumstances for it. It's been flagged out now. But these people already have an arm and a leg on virtually everybody in any county and now we want to give them heart and soul, as well.

"You know, Mr. President, that many of us find ourselves in circumstances where we must be out of the islands for more than 20 days at a time and to take this kind of attitude, especially when you see junk cars sitting all over the streets with their windows smashed and tires

stolen and such and nobody gets them off the streets or are doing anything about it; now, being, oh, so careful, to make sure that we don't remove those cars; then at the same time saying that if we can tow a car away and manage this to blow it by somebody in terms of being able to get the car back, why let's go ahead and sell it. It seems to me just this side of a racket."

Senator O'Connor speaking against the measure, stated as follows:

"Mr. President, I'm going to vote against this measure, primarily because it is an unwarranted breach of a person's property rights to say that a towing company, to imply that a towing company can tow away an unattended vehicle and then put the burden on the owner to do anything about it.

"In a situation where unattended or unclaimed are the categories for which the bill would have a towing company be able to tow, and then on top of that put essentially the burden of the entire towing circumstances upon the owner is to my way of thinking reinforcing a breach of the law of theft.

"When one takes another's property knowingly, even though it be unattended and unclaimed, he is stealing it. And I don't believe we should sanction it in our statutes.

"This is one of the huge debates that we had over the same towing section when we first enacted the measure which the apartment owners in Waikiki wanted when they wanted to have the ability to tow from their private property, and that debate raged for a long time before we finally passed a highly tailored, technical bill requiring notice, signs, sanctions, and a bill which I understand at this time is being simply violated by the apartment managers in Waikiki. The towing is going on willy-nilly, and there's no restraint.

"I believe that this is a bill which takes us past the circumstance where one's private property, one's vehicle, is protected, and for that reason I will vote against it."

Senator Cobb spoke for the measure as follows:

"Mr. President, this bill was intended originally to address the problem of both the legal and registered owner not being notified when a vehicle had in fact been towed, and if there appear to remain some objections relative to the provisions on the last page,

I am perfectly willing to take the matter to conference.

"We discovered during the course of testimony on the measure that in most cases where a vehicle is towed, both the legal and registered owner were not notified, and in most cases, those were two different parties; let's say, financial institutions on the one hand as well as the private individual on the other. Both need to be notified so that the vehicle can in fact be reclaimed.

"There's another measure that sets up a notification mechanism on the part of the towing companies through either the Department of Motor Vehicles or the State Department of Transportation so as to avoid invading the right of privacy in order to get this type of information to notify both the legal and registered owner. Unless that notification is in fact given, there's a forfeiture of the rights on the part of the towing company.

"And I reiterate, if the last section is objectionable, then certainly we can address that in conference, but I think that is the background and the need for the bill for the notice of both owners, registered and legal."

Senator Abercrombie then inquired if the previous speaker would yield to a question, to which Senator Cobb replied that he would.

Senator Abercrombie asked: "Did you just indicate then that you took two different bills and put them together?"

Senator Cobb replied: "No, there was a separate bill that went over on the subject of notification not involving invasion of privacy."

Senator Abercrombie continued: "And is the language then in this bill from one bill and one bill only?"

Senator Cobb stated: "It's from this particular bill. In fact, we had put out an identical bill, Senate Bill No. 3107-80, that involved a number of these provisions. That was recommitted when the House bill came first."

Senator Abercrombie continued: "Well then, Mr. President, what I can see happening here under Chapter 290, 'vehicles abandoned in public and private property generally,' that is the part that's discussed here. The Chairman of the Judiciary Committee said that he felt that there was a taking of property here and the chapter here says that vehicles abandoned on public and private property, generally. I don't think we can assume that these vehicles have been abandoned by any means.

"I think that if you see something out on the street, as I've mentioned before, for four or five months with everything all smashed in and all the rest of it, if it hasn't been abandoned, it might as well be, because it has been virtually destroyed.

"What you have here is the makings of a gigantic kick-back operation, a beautiful kick-back operation, an invitation to it.

"You see on page 5, 'towing company shall only be entitled to the proceeds of the disposition to the extent that compensation is due the company.' Is anybody in here so naive as to believe that that's the way it's going to work? Once you made the ad, down on the disposition side down there, authorized representative and in the paper and so on and so forth, what happens if somebody comes in and they make a deal on the car and they kickback the money to you on the side. That's all.

"Surely, you're supposedly just getting the compensation for your towing or whatever it is, but that's not the way it's going to work because the towing company is going to do it, the owner of the towing company or his authorized representative, after one public advertisement.

"If there's not a kickback operation to come out of this bill then I think that... I don't know, we might as well be buying land on the moon next, because the certainty should be just about 100%."

At 4:05 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:07 o'clock p.m.

By unanimous consent, action on H.B. No. 2732-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2789-80, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2789-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Anderson and Campbell). Excused, 1 (Hara).

House Bill No. 1784-80, H.D. 1, S.D. 1:

On motion by Senator Young, seconded

by Senator Cobb and carried, H.B. No. 1784-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 8 (Ajifu, Anderson, Carroll, Saiki, Soares, Toyofuku, Ushijima and Yee). Excused, 1 (Hara).

House Bill No. 2537-80, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Cayetano and carried, H.B. No. 2537-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EVICTION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2629-80, H.D. 1:

By unanimous consent, action on H.B. No. 2629-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING", was deferred until Tuesday, April 1, 1980.

At 4:09 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:11 o'clock p.m.

House Bill No. 2661-80, H.D. 1, S.D. 1:

On motion by Senator Young, seconded by Senator Cayetano and carried, H.B. No. 2661-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hara and Kuroda).

House Bill No. 2842-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2842-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 995-80 (H.B. No. 452, H.D. 1, S.D. 1):

On motion by Senator Cobb, seconded by Senator Chong and carried, Stand. Com. Rep. No. 995-80 was adopted and H.B. No. 452, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF CONTROLS TO REGULATE BURGLARY AND HOLDUP

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

Ayes, 19. Noes, 4 (Abercrombie, Ajifu, Anderson and Soares). Excused, 2 (Hara and Kuroda).

House Bill No. 1985-80, H.D. 1; S.D. 1:

By unanimous consent, action on H.B. No. 1985-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2161-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2161-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hara and Kuroda).

House Bill No. 2164-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2164-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL TAMPERING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hara and Kuroda):

Standing Committee Report No. 999-80 (H.B. No. 2551-80, H.D. 2, S.D. 2):

By unanimous consent, Stand. Com. Rep. No. 999-80 and H.B. No. 2551-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION", were recommitted to the Committee on Judiciary.

Standing Committee Report No. 1000-80 (H.B. No. 2669-80, H.D. 1, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 1000-80 was adopted and H.B. No. 2669-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hara and Kuroda).

House Bill No. 2674-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2674-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL REMEDIES AND DEFENSES AND SPECIAL PROCEEDINGS, LIMITATION OF ACTION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Abercrombie). Excused, 2 (Hara and Kuroda).

Standing Committee Report No. 1002-80 (H.B. No. 2680-80, H.D. 1, S.D. 2):

Senator O'Connor moved that Stand. Com. Rep. No. 1002-80 be adopted and H.B. No. 2680-80, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Cobb.

Senator Kawasaki then inquired if the Chairman of the Committee on Judiciary would yield to a question, to which Senator O'Connor replied that he would.

Senator Kawasaki then asked: "Could you rather briefly discuss the reasons for this bill being introduced in the Constitutional Convention? What were the concerns of the proponents at the Constitutional Convention and their reasons for proposing this?"

Senator O'Connor answered: "Mr. President, the reason that this bill is before us is that the Constitutional Convention proposed and the voters adopted the new right to privacy. As a result of the adoption of the new right to privacy, Mr. President, our Attorney General's office issued an opinion barring all inquiries into the State registration of vehicles rolls.

"Earlier one could, for example, call up and find out to whom a certain car was registered for purposes of finding out who was in an automobile accident or who was involved in any kind of situation with a vehicle.

"The Attorney General's Office had rendered an opinion saying that that registration system was in fact an extension of the right of privacy and therefore it could not be invaded. That opinion has only been in effect about a year and it has really fouled up the expeditious handling of many matters that require the public knowledge of registration.

"We considered this bill to determine

whether or not in fact this matter looking at all the research and all the information available to us should properly be handled under the right to privacy and it was the determination of the committee that it should not be handled under the right of privacy and that motor vehicle registration should be for good purpose available to those requiring it in the community so long as they would stand forward and admit to desiring the information and register in order to obtain it. Therefore there wouldn't be any of this nefarious finding out who owned a car simply to harrass them or for some reason like that.

"For those reasons this measure is before the body, simply to change a ruling of the Attorney General which upon close scrutiny does not really do the job it was intended to do."

Senator Kawasaki then asked: "This is not the same bill, then, that the media was so alarmed about that they formed little council meetings of all kinds to oppose the bill?"

Senator O'Connor replied: "No, this is not that bill."

The motion was then put by the Chair and carried, and Stand. Com. Rep. No. 1002-80 was adopted and H.B. No. 2680-80, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC RECORDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Campbell).
Excused, 2 (Hara and Kuroda).

House Bill No. 2816-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2816-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hara and Kuroda).

House Bill No. 2930-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2930-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused,

2 (Hara and Kuroda).

House Bill No. 501, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 501, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1873-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1873-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO JUVENILES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Abercrombie).
Excused, 2 (Hara and Kuroda).

House Bill No. 2061-80, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2061-80, 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, 23. Noes, none. Excused, 2 (Hara and Kuroda).

Standing Committee Report No. 1008-80 (H.B. No. 2359-80, S.D. 1):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 1008-80 was adopted and H.B. No. 2359-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PARTNERSHIPS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Abercrombie and Anderson). Excused, 2 (Hara and Kuroda).

Standing Committee Report No. 1009-80 (H.B. No. 2175-80, S.D. 2):

On motion by Senator O'Connor, seconded by Senator Cobb and carried, Stand. Com. Rep. No. 1009-80 was adopted and H.B. No. 2175-80, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO NAMES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Abercrombie).
Excused, 2 (Hara and Kuroda).

House Bill No. 2443-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 2443-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 1011-80 (H.B. No. 1782-80, H.D. 2, S.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 1011-80 and H.B. No. 1782-80, H.D. 2, S.D. 1, was deferred to the end of the calendar.

House Bill No. 1925-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1925-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

House Bill No. 422, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 422, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PENAL CODE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Abercrombie). Excused, 2 (Hara and Kuroda).

Standing Committee Report No. 889-80 (H.B. No. 2944-80, H.D. 2, S.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 889-80 and H.B. No. 2944-80, H.D. 2, S.D. 2, was deferred to the end of the calendar.

Standing Committee Report No. 909-80 (H.B. No. 2339-80):

By unanimous consent, action on Stand. Com. Rep. No. 909-80 and H.B. No. 2339-80, entitled: "A BILL FOR AN ACT RELATING TO PORT PILOTS", was deferred until Tuesday, April 1, 1980.

House Bill No. 2368-80, H.D. 1, S.D. 2:

By unanimous consent, action on H.B. No. 2368-80, H.D. 1, S.D. 2, was deferred to the end of the calendar.

House Bill No. 2853-80:

By unanimous consent, action on H.B. No. 2853-80, entitled: "A BILL FOR AN ACT RELATING TO HARBORS", was deferred until Tuesday, April 1, 1980.

At 4:20 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:35 o'clock p.m., with all Senators present with the exception of Senator Carroll who

was excused.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

House Bill No. 2132-80, S.D. 1:

By unanimous consent, action on H.B. No. 2132-80, S.D. 1, was deferred to the end of the calendar.

House Bill No. 2162-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2162-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ABSENTEE VOTING", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

House Bill No. 2131-80, S.D. 1:

Senator Cayetano moved that H.B. No. 2131-80, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator O'Connor spoke against the bill as follows:

"Mr. President, I'm going to vote against this bill. This is an Administration bill which evidently is structured to take into account that there are certain people who reside in other locales, other states, or other countries, that acquire residences in Hawaii and then sell them and take advantage of the roll-over of gain on sale of principal rather than provision of the State tax law by acquiring a residence in their own home state or in another country.

"For that purpose it may serve a good measure; however, I am also aware that there are an awful lot of Hawaii residents who upon retirement sell their homes of many years in Hawaii and buy homes in other areas primarily those that are suited for retirement and can fit their income. This would have direct impact upon those people and would cause them to lose the benefit in the state tax situation of capital gains treatment of acquiring a retirement home somewhere else, in a retirement park in Southern California or Arizona or in some country around the Pacific Basin. We have many people who returned even to their own homes in other countries, other nationalities, that utilize the benefit of this capital gains treatment. I think this would have a direct impact on those retirees, and for that reason, I'm going to vote against it."

Senator Cayetano then stated:

"Mr. President, like all tax measures which are drafted so they apply generally, this tax measure is not the answer to all of our problems. The crux of this measure is to derive some revenue from the out-of-state or non-resident who comes to Hawaii, purchases a condominium or a home, derives a nice capital gain, and takes his money and leaves. That's what it's addressed to."

The motion was put by the Chair and carried, and H.B. No. 2131-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (O'Connor and Saiki). Excused, 1 (Carroll).

Standing Committee Report No. 872-80 (H.B. No. 2634-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 872-80 was adopted and H.B. No. 2634-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF PUBLIC OFFICERS AND EMPLOYEES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 873-80 (H.B. No. 2647-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 873-80 was adopted and H.B. No. 2647-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Standing Committee Report No. 885-80 (H.B. No. 2496-80, H.D. 2, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 885-80 be adopted and H.B. No. 2496-80, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Anderson then spoke against

the measure as follows:

"Mr. President, I'd like to support this measure and I think an explanation is due on this one. I happen to believe very strongly that the procedures established in this particular bill will do nothing but further complicate and delay the actual establishment of agricultural parks in this particular state.

"I don't think the intent of the legislature or the legislation originally was to delay, but anytime you bring in the actual real estate in exchange or acquisition into the legislative boundaries with the politics involved, the formation or the timetables of the ag parks are going to be extremely delayed.

"I've been assured by the Chairman of this particular committee that it was not the intent to delay, but to put the bill into conference and to work out the timetables and compromises there.

"My fear at this particular time is that the House just may agree to the set of amendments because it's just a deletion of one paragraph and they may feel that half a loaf of bread is better than nothing and that it may not go to conference. And I could not in all clear conscience support a bill that would further delay establishment of needed ag parks, legitimate ag parks throughout the state and therefore I ask that the bill be voted down."

At this time, the Chair directed the Clerk to note the presence of Senator Carroll.

Senator Machida then spoke for the bill as follows:

"Mr. President, just some brief remarks in favor of the bill. The House draft that came over to the Senate requires the legislature to look into all proposed ag parks. The expenditure of funds, even after the funds are appropriated, is not permitted in the House draft. They will have to come to the legislature and the expenditure would have to be approved by concurrent resolution.

"This was the 'guts' of the bill, and what we did was to eliminate that provision and just leave the provision for the Department of Land and Natural Resources to come to the legislature for any proposed park.

"The other concern that the Department of Land and Natural Resources and the Department of Agriculture had was that those parks that are now proposed numbering about nine and which they are working on would be exempt from the provisions of this bill. So we intend to discuss the concerns expressed by Senator Anderson

in conference because the 'guts' of the bill have been deleted."

Senator Cayetano remarked: "Mr. President, just in support of the measure and the Chairman of the Agriculture Committee. I believe this is a good bill because the way we have been budgeting for ag parks is via the lump sum method, and I think the ag parks should stand the same kind of scrutiny as all of our other capital improvement projects do."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 885-80 was adopted and H.B. No. 2496-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL PARKS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Anderson, Carroll, George, Saiki and Soares).

Standing Committee Report No. 887-80 (H.B. No. 2822-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 887-80 was adopted and H.B. No. 2822-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT ESTABLISHING A UNIVERSITY OF HAWAII SYSTEMWIDE STUDENT ACTIVITIES REVOLVING FUND", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Yee).

House Bill No. 1606, H.D.2, S.D. 1:

Senator Cayetano moved tht H.B. No. 1606, H.D. 2, S.D.1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Anderson then stated: "Mr. President, my remarks actually are directed at this bill and the one that follows--House Bill No. 1607, S.D. 2, and they have been somewhat habitual. I hope the day comes when the legislature in its wisdom puts these items in the collective bargaining arena so that when the unions come in for negotiation, they can truly sit down and negotiate all of their benefits and not be piecemeal between the legislature and the collective bargaining table."

Senator Abercrombie then noted that he would like to agree with the previous speaker's remarks.

The motion was put by the Chair

and carried, and H.B. No. 1606, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND", having been read throughout, passed Third Reading, on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 893-80 (H.B. No. 1607, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 893-80 was adopted and H.B. No. 1607, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES' HEALTH FUND", having been read throughout, passed Third Reading on the following showing of Ayes and noes:

Ayes, 25. Noes, none.

House Bill No. 1871-80, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 1871-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Kawasaki then asked if the Chairman of the Committee on Consumer Protection and Commerce would yield to a question, and Senator Cobb replied that he would.

Senator Kawasaki then queried: "Does this bill directly have to do with the lifting of the usury ceiling from industrial loan companies?"

Senator Cobb replied: "This does not deal directly with that question and provides that when there are exemptions granted under Chapter 478 that would apply in Chapter 408 also. If we pass a bill to in effect lift the ceiling on the industrial loan companies, that will be done by a separate bill. This was applied to other exceptions that are allowed under Chapter 478. The question of industrial loan usury rates is entirely a separate matter."

Senator Abercrombie then asked if Senator Cobb would yield to another question and Senator Cobb replied that he would.

Senator Abercrombie then inquired: "Does this bill in any way affect the circumstances of the \$12,000,000 fund that was made available in the recent past in the legislature?"

Senator Cobb replied: "No, it does not; it's entirely a separate issue."

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

"Mr. President, these exemptions, as far as I can see, will create circumstances that will allow us to do the kind of thing that in the recent past, if my assessment of the late night television is in order, I think where they used to try to get Frank Netti and other members of the Mafia. On television, I think Mr. Stack was the man who was catching them every week, and if my understanding of the loan shark racket is such that it hasn't changed from when I was a child, it seems to me that what we're doing here and what we're going to do if we should vote favorably for bills that involve themselves with changes in usury and other exemptions for other financial institutions, what we're going to do is create circumstances that we used to think people should be arrested for, we used to think people ought to be put in jail for. We used to think in this country that hijacking people, strong-arming them by way of taking advantage of their perhaps desperate need for loans was something that was reprehensible.

"We just witnessed recently the failure of this body to enact a measure to create a moratorium for the conversion of rental property into condominiums so that we might have sufficient time to see tax circumstances be put together, if not only to encourage people to keep their property in rental circumstances, but perhaps even to create more of it.

"We rushed right along and said, 'No, we don't need to do that.' Now, what we're doing here is taking probably some of the same people who are going to be affected by that and we're going to put them into the hands of industrial loan companies who ostensibly now need the relief here and elsewhere so that these companies can continue to exist at the expense of our own people.

"I just think that it's a sad day in this State when we have come to a point where we're going to in my judgment begin to break the back of the working and middle classes in this State and I think that as we move along on this usury business and all the rest of it today, there's going to be a day of reckoning in this State and I hope it will be a day of political reckoning. I hope the people of the State will remember how it worked when they were in desperate need and what we did as a result."

Senator Kawasaki asked if Senator Cobb would yield to another question, to which Senator Cobb replied that he would.

Senator Kawasaki then queried: "To phrase the question another way, without the passage of this bill tonight the industrial loan companies would not be able to have legally, their interest ceilings lifted, is that correct?"

Senator Cobb answered: "No, that is not correct. The bill in question that he is addressing to will come up later in House Bill No. 1925-80."

Senator Kawasaki then questioned further: "And that bill can take effect if we voted this particular bill down?"

Senator Cobb replied: "Yes, that is correct."

The motion was put by the Chair and carried, and H.B. No. 1871-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Abercrombie, Campbell and Kawasaki).

House Bill No. 2026-80, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 2026-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Anderson, in support of the measure, stated as follows:

"Mr. President, I rise to support this piece of legislation, however hard I find to swallow it. I fail to see how a private business, away and apart from government with all the expenses and the regulations of government, still has to come to the Department of Labor and ask permission and put on file for permission and grant a fee for service.

"Maybe it's my business background, but I happen to believe that some competition in the business field is important. If an employment agency were to abuse the right to charge a particular fee, no matter how high or how low, pretty soon that particular individual would in fact be driven out of business, it would grow to be a very substantial business.

"A bill like this somewhat monopolizes and dictates price across the state for all employment agencies. And if for instance, I happen to be the employment agency that in fact can find members of the legislature for example jobs that are well-paying and suited to their qualification, and I wanted to charge x-number of dollars and you were satisfied in paying

that fee because I could place you, then I think I am entitled to that fee.

"And if I were an employment agency that should be driven out of business because I in fact was being kept open by some sort of government controlled prices, then I should be allowed to die a natural death and the free, competitive market should exist.

"The employment agencies are in support of this measure because it is something better than nothing. But I would really hope that someday this body, in the spirit of free enterprise, would take away setting the fees from these people and let them, based on their ability, their qualifications, their capabilities, and the competitive market establish and create fees that they feel are appropriate amongst each other.

"This kind of legislation, I think, hampers and further disallows the free enterprise spirit and true competition between the various companies and I think really defeats the purpose. Thank you."

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

"Mr. President, like the Senator from Manoa, I'm in agreement with the previous speaker in this particular case. However, I think that the original intent of placing the regulation of fees chargeable by employment agencies to the Department of Labor was well intended. I think the basic intent was to make sure that the fees charged by the employment agencies were not exorbitant, working a hardship on people out of a job looking for jobs and going to these employment agencies. I think the basic intent was good, however, I do agree with the comments made by the previous speaker.

"As added piece of information, the jurisdiction over the employment agencies is now going to be transferred from the Department of Labor and Industrial Relations to the Department of Regulatory Agencies. It's contained in the bill that was reported out of Ways and Means Committee.

Senator Cobb then stated:

"Mr. President, if that bill has been reported out of the Ways and Means Committee, I'd like to see a copy of it because this particular measure addressed the problem and the complaints that the employment agencies had relative to getting a decision from the Director of the Department of Labor to whether or not in fact raise their fees.

"We had some conflicting testimony on this particular measure before my committee. In fact we had two hearings on it on both the Senate and House bills, and part of the reason that we decided to keep it under some form of regulatory aspect was the danger that was alluded to and cited in several cases of where an employment agency could charge advance cash payments for the placement of a job.

"The bill has been changed to provide for a 60-day approval or disapproval on the part of any employment agency that files a new fee schedule. A new fee schedule is limited to a filing of once a year.

"By giving this kind of approval to the Director, we are in effect telling the Labor Department, 'you shall make a decision within the 60-day period whether or not a fee is justified.'

"I'd like to think that we have the capacity and understanding to see how well this system works before deciding whether or not a complete deregulation with some of the attendant abuses that were cited before my committee is in order. Accordingly, I would like to ask the members' support of this measure."

The motion was put by the Chair and carried, and H.B. No. 2026-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT AGENCIES FEES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2367-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2367-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE IMPORTATION, PURCHASE AND SALE OF INTOXICATING LIQUOR", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Hara).

House Bill No. 2058-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2058-80, H.D. 1, 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. 2241-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 2241-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPOUSE ABUSE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2195-80, S.D. 1:

On motion by Senator Mizuguchi, seconded by Senator Yim and carried, H.B. No. 2195-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AERONAUTICS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 930-80 (H.B. No. 2328-80, H.D. 2, S.D. 1):

On motion by Senator Mizuguchi, seconded by Senator Yim and carried, Stand. Com. Rep. No. 930-80 was adopted and H.B. No. 2328-80, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 934-80 (H.B. No. 25, H.D. 1, S.D. 3):

On motion by Senator Cayetano, seconded by Senator Kawasaki and carried, Stand. Com. Rep. No. 934-80 was adopted and H.B. No. 25, H.D. 1, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE", having been read throughout, passed Third Reading by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 935-80 (H.B. No. 1222, H.D. 1, S.D. 3):

Senator Cayetano moved that Stand. Com. Rep. No. 935-80 be adopted and H.B. No. 1222, H.D. 1, S.D. 3, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

Senator Chong spoke against the bill as follows:

"Mr. President, I feel like I am about to step in front of a railroad train that is already moving along its greasy tracks at top speed. I commented extensively on this bill on March 28th when I tried to amend it to a more acceptable form. On March 24, I also commented at length on the differences between Senate Draft 1 and Senate Draft 2. We are now into Senate Draft 3, the full text of which was only made available late in the afternoon last Friday, and I would like to add further comments to this particular draft.

"Let me first focus on the question of eminent domain. In the past the legislature has provided for the possibility of state and county operation of public utilities. As now provided in Senate Draft 3, the restrictions of eminent domain would impede any municipalization for the life of the bonds. Since the projects funded by the special purpose revenue bonds will be central to the operation of many of the facilities, the prohibition or restraint will mean that for the term of the bonds, the counties and the state will be foreclosed from instituting any state or county operations. This is a clever device and strategy to avoid what the executives of Hawaiian Electric have said as the biggest threat of the next decade--namely state operation of the electric company. Throughout the country, there is a growing movement to begin state and local operations of public utilities; the provisions against eminent domain or operation is a devious method to head off any public operations.

"Mr. President, there are very adequate, iron-clad protective measures for bondholders already. For instance, if the property is condemned and the city or state decides to take over Hawaiian Electric or its subsidiaries, bondholders would have first call on the proceeds anyway, and Mr. President, the bondholders, instead of holding 'special purpose revenue bonds', would hold the 'municipal bonds', at the same bond rating and with its advantageous tax-free features.

"The language on page 7, lines 1 to 6 should be struck and exposed for what they are; a trick on the public, tying the hands of future Hawaii State legislatures for decades and depriving the people of the option of taking over the utilities in the public interest. And I might add we have removed it in Senate Draft 2.

"With regard to sections 18 and 19, I stand by my comments of last Friday evening's session when we tried to amend this bill.

"In summary, Mr. President, this bill's eminent domain provision puts a total bar on the State to exercise its sovereign right to operate its own public utilities, a right which has long been established in this state; Section 18 massively inflates the 'rate base' upon which the consumers must pay an allowed rate of return of almost 15%. This wipes out any possible 'financing savings' resulting from the special purpose revenue bonds; and finally Section 19 allows the utility to procure the extraordinary tax benefits and pass them on to the stockholders without any risk to the stockholders.

"In conclusion, Senate Draft 3 as it reads now, is one of the biggest 'grabs' ever perpetrated on the people of Hawaii comparable to the worst legislatures of the territorial period when the railroads and utilities ran the government.

"This bill, in its present form, should be deferred and a detailed study into its tremendous impact on consumers should be launched."

Senator Kawasaki then stated: "Mr. President, I believe the previous speaker is exactly correct on the concern that he expressed for the deletion of the condemnation rights that was contained I believe in Senate Draft 1."

Senator Kawasaki then inquired if the Chairman of the Judiciary Committee would yield to a question, to which Senator O'Connor replied that he would.

Senator Kawasaki queried: "As I recall in our hearing in the Judiciary Committee on this bill, expressions were articulated regarding the necessity to retain our condemnation rights even on facilities that are purchased and financed by the use of the revenue bonds. Am I correct in this assumption?"

Senator O'Connor replied: "In answering that question let me explain where the language comes from. It appears on the top of page 7 and what it does, contrary to statements made by earlier speakers so that we can get the record precisely clear for anyone who desires to use this in the future, first the language is directly from the State bond counsel, Mr. Sam Hellman, who aided the executive departments and the legislature in drafting several portions of this bill.

"The reason for this language is to take care of the security problem which exists because public utilities have the right of condemnation in this State. Were the facilities which might be funded by these bonds allowed

then later to be acquired by eminent domain by the State and leased back to the project parties, it would defeat entirely the purpose of the bond.

"I might point out that this language on the top of page 7 only goes to a situation where the State exercises its power of eminent domain to acquire a project funded and leases it right back to the utility which would be absolutely ridiculous. This language prohibits that, and I trust that it shall always be prohibited, now and in the future, less the entire intent of this law could go right down the drain.

"This language does not prohibit, nor should it ever be interpreted to prohibit the State from acquiring the entire project or the entire utility by eminent domain for its own purpose, because that right is constitutional and must be retained by the State. All this does is to prevent the State from then leasing it right back to the public utility."

Senator Kawasaki then questioned further: "The question I posed to you was that when the draft came out of the Judiciary Committee was the language on page 7 incorporated in it?"

Senator O'Connor replied: "From my reading of it, I think it's the exact language that was incorporated, yes."

Senator Kawasaki then proceeded to speak against the bill as follows:

"Mr. President, I speak against the bill for other reasons, but I would think that the State's right of eminent domain proceedings, condemnation rights should be paramount. Whatever the State decides to do, whether it wants to lease it back to the same utility, whether the State wants to continue operation of the utility, I think condemnation rights should be untouched in the public interest.

"I had intended to speak against the bill for many reasons, but let me just touch on one point. Allowing the use of State 'blessed' special revenue bonds is going to save the Hawaiian Electric Company, in this case, by their own admission and their testimony, some \$244 million, a gigantic amount of money. And I understand they intended to in due time purchase or expand their facilities to a tune of about \$350 million, unless my memory serves me incorrectly.

"Allowing the electric company to use this \$350 million of assets, facilities to their rate base is a tremendous financial advantage to the utility company. Now they very glibly say that 'we want these revenue bonds because by having State "blessed" revenue bonds we're gonna save approximately 5-1/2 to 6 percent

interest, and this interest we want to pass on to the consumers'.

"There is some language that I think reasonably seems to assure this is going to happen, providing the Public Utilities Commission does their homework very judiciously and very conscientiously and monitor very closely the savings effectuated by the use of these revenue bonds.

"I would hope also, consonant with the language contained in this bill, that the Public Utilities Commission would use their utmost efforts to make sure that any other savings that come about by the \$350 million worth of equipment purchased by the revenue bonds. That savings also is very adequately calculated into their decisions in allowing rate increase requested by the utility company.

"I would like to make sure that all of these things intended in this bill are very strictly adhered to in effect giving some savings to the users of electric power.

"I just hope that this will take place, but I do want to say again having the eminent domain condemnation rights in the bill, whatever the State or the County wants to do with the utility company after its acquisition, I think is important. We should not limit by some language, their ability to exercise their eminent domain rights because they are going to lease it back to the company."

Senator Yee then spoke in favor of the bill as follows:

"Mr. President, I was not going to speak on this matter but by the comments of the two previous speakers, I speak in favor of the bill.

"One is that whenever there is savings in interest rates and especially if you are a regulated industry, I don't think there's any question that the State is looking over your shoulder to be sure that the low interest rate is part of the overall cost of doing business.

"I think even when we do little borrowings at our own little family homes, we notice that if we pay a little less interest, we have a little bit more to spend or save in the banks or savings and loans or whatever thrift account.

"The one point that disturbs me most by the speaker from Manoa who indicated that he would like to see that the utility companies turn over towards ownership by the State, bothers me because I have seen one example

in Guam where the telephone company is being operated by the government of Guam, and for the past 20 years to this day, they have had nothing but trouble.

"They had a bad hurricane about a year and a half ago and if you try to call Guam today, you still have difficulty in reaching anyone there.

"This is the result of government control of utilities because every other facet of the community is competing for the dollars to survive and the people in Guam that I have talked to would like, and they are begging, for private industry to come over and take over the telephone system.

"They want to get away from government regulation, government red tape, government labor and government bureaucracy. And for us to think in this direction, I think, really defeats the purpose of what public utilities are created for."

Senator Chong stated as follows:

"Mr. President, I stated that I was bothered by the wording of that particular section regarding eminent domain because it in effect puts a bar on the State for exercising its sovereign right. I didn't say that this is what I felt should happen. I just said by passing this kind of language which is somewhat vague, you'd be closing that additional option in the event that in the public interest the State or City and County feels it should operate that public utility.

"Also I would like to add, Mr. President, that the bill in its present form massively inflates the rate base upon which consumers must pay an allowed rate of return of about 15%, and this wipes out any possible financial savings resulting from the special purpose revenue bonds.

"Finally, Section 19 of the bill as it now reads allows the utility to procure the extraordinary tax benefits and pass them on to the stockholders without any risk to the stockholders."

Senator Cayetano then spoke in favor of the bill as follows:

"Mr. President, I had not intended to speak but not wanting to be identified with the party who's up for the greatest scandal since the land grab, as stated by the Senator from Manoa, I want to explain why I'm voting for this bill.

"I have opposed this kind of a bill since 1975, ever since I served in the House. My thinking at that time was there was really no incentive on the part of the utility company to conserve energy in terms of seeking alternate forms of energy and as far as I was concerned the

efficiency of the PUC as it existed in those days was practically nil.

"However, facts and circumstances have changed. Today, we have a full-time PUC; today the price of oil is no longer the \$8 it was per barrel in 1975; we're talking about \$36 a barrel.

"And so, Mr. President, I think there is great incentive just in terms of the market conditions for the utility to pass on savings or structure its cost and expenses and administrative costs in such a way that savings will indeed be passed on to the consumer. Whether 100% of the savings will in fact be passed on is questionable, but I think even the attorney from the Department of Regulatory Agencies, Mr. (Bill) Milks, did admit that there will be some savings."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 935-80 was adopted and H.B. No. 1222, H.D. 1, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO STATE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS (CONSTITUTIONAL AMENDMENTS OF ARTICLE VII, SECTION 12)", having been read throughout, passed Third Reading by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Abercrombie, Chong and Kawasaki).

House Bill No. 1429, S.D. 1:

Senator Cayetano moved that H.B. No. 1429, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Kawasaki then spoke for the measure as follows:

"Mr. President, I'm voting for this bill primarily because of the Senate position of allowing 5% of our surplus funds to be deposited in the nine savings and loan institutions here. This amounts to roughly \$20 million; if 10% is allowed, then \$40 million, etc. I always felt that the amount of surplus funds of the State deposited in the banks amounting to approximately \$400 million annually and hardly anything two years ago in the savings and loan was not quite an equitable situation considering the liquidity of the savings and loan company assets, etc.

"I vote for this particularly because I am concerned about moves in a bill to lift the interest rates payable by

the mortgagees on mortgage loans made with the savings and loan companies. This bill enables the savings and loan companies in effect to receive about \$20 million at the least if the Senate position prevails. And I hope this will ameliorate to a certain extent the vigor with which the savings and loan companies have been coming around here through the back doors to try to have the interest rates lifted on mortgage rates."

Senator Cobb then remarked as follows:

"Mr. President, I'm a little surprised by the previous remarks and I feel that it deserves a response. The latest understanding I had with respect to the bill alluded to, that the savings and loan people are not exactly in favor of it; in fact there is a real division of opinion between types of financial institutions.

"I'd like to point out also that in the hearing we had on the subject of usury and the cost of mortgages that the idea was broached in my committee and it received considerable support from all parties present, that we should actively explore the idea of linking the State's deposits to those financial institutions that grant the greatest number of low interest loans to our consumers. As a result, I regard this bill as an important first step, and I think more of it will be coming."

Senator Abercrombie then spoke in favor of the bill as follows:

"Mr. President, you'll notice I had reservations; I think the amount should be higher.

"One of the reasons why we're being touted to raise the usury rates is because there are ostensibly no funds for loaning, and yet we notice that hundreds of millions of dollars of State funds are concentrated in the banks and not in the savings and loan institutions. It seems to me that, given the financial circumstances where we seem on the one hand to be crying inflation and the other are happy as we can be that inflation is pumping all this phony dollars into our treasury so that we can flash numbers, large numbers, at the populace where we find ourselves in circumstances in which people are being told that interest rates have to be in effect lifted beyond anything that presumably the Bible would approve of, let alone anyone else connected with it since the past few thousand years of recorded history.

"Mr. President, we find ourselves in a situation where we might put more funds into institutions which might make those funds available at reasonable interest rates to our people and we are reluctant to do so. Therefore, I vote for it not because

I am so much in love with the 5%, but because I think it should be higher."

Senator Kawasaki then responded: "Mr. President, a brief response to the Senator from the Seventh District. He just alluded to or he just said that savings and loans are not now very much interested, in favor of the bill to lift the ceiling on the interest chargeable by the savings and loan; that's only because they found out that the Congress just passed the law much more liberal to them, so now they've got a change of heart. They're not so interested in the Hawaiian law being passed because that's a little more restrictive, quite a reversal of attitude all of a sudden."

Senator Cobb then concluded: "Mr. President, I would regard that as an outstanding argument in favor of the bill to come later tonight."

The motion was put by the Chair and carried, and H.B. No. 1429, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEPOSITS OF PUBLIC FUNDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 7:20 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 7:31 o'clock p.m.

Standing Committee Report No. 939-80 (H.B. No. 2196-80, H.D. 2, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 939-80 be adopted and H.B. No. 2196-80, H.D. 2, S.D. 2, pass Third Reading, seconded by Senator Kawasaki.

Senator Campbell then spoke in favor of the bill as follows:

"Mr. President, there's been some considerable concern about the safety and the adequacy of the transportation of our school children, and our present system leaves something to be desired.

"There are three primary departments of State government that are responsible for the transportation of our youngsters--the Department of Education, which handles student safety rules, the Department of Transportation which is responsible for vehicle safety, and the Department of Accounting and General Services which handles bus contracts.

"This bill, Mr. President, gives

the Department of Education the responsibility of coordinating this whole program. The other agencies that I enumerated will continue to carry out their respective responsibilities.

"Now, let me simply pinpoint the main issue of this entire bill by reading the last paragraph of the bill. It simply says this: 'The Department of Education will have the responsibility for coordinating the school bus transportation program and shall carry out this responsibility in a manner which is consistent with Section 286-161. The Departments of Transportation, Accounting and General Services and such other departments or agencies as may be involved in the program shall cooperate with the Department of Education in its efforts.' And in light of that explanation, Mr. President, I urge everyone to vote in favor of this bill."

Senator Mizuguchi in support of the measure, stated as follows:

"Mr. President, I would just like to clarify that since the bill will give the Department of Transportation the responsibility and authority for school vehicular maintenance and safety programs, your committee inadvertently omitted a \$91,000 appropriation to the Department of Education for the purposes of determining and executing safety rules and safety standards for school bus safety. We would hope that in the conference committee, the Ways and Means Chairman can place the \$91,000 in so that the DOT can operate this program. Thank you."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 939-80 was adopted and H.B. No. 2196-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUPIL TRANSPORTATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Anderson, Carroll, George, Saiki, Soares and Yee).

At 7:35 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 7:43 o'clock p.m.

Standing Committee Report No. 941-80 (H.B. No. 2672-80, H.D. 1, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 941-80 be adopted and H.B. No. 2672-80, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Kawasaki then spoke for the measure as follows:

"Mr. President, I would hope that in the conference committee deliberations or in subsequent sessions, that we can do something about the language that's contained in this bill, not in the amendment underlined, but in the language where a party who has a bus company entered into a contract with the State, got a contract going now, has a right for a two-year extension and then another two-year extension for a total of at least five or six years.

"I think this kind of extension which is automatically granted is not in the best public interest. I would hope that in the conference committee we could do something about the latter two years of extension so that the total number of years under a contract could be limited to lesser period than five or six years to allow other people if they want to enter into this business to be able to negotiate with the State by way of a bid so that they can get into it, too."

Senator Cayetano then stated: "Mr. President, since the previous speaker looked at me when he said that, I think I should clear the record a bit. The issue in this bill did not relate to the issues he mentioned. They only spoke to unanticipated inflationary increases in the cost of fuel and we, the committee dealt with it accordingly."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 941-80 was adopted and H.B. No. 2672-80, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE STUDENT TRANSPORTATION PROGRAM", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Standing Committee Report No. 944-80 (H.B. No. 2897-80, H.D. 3, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 944-80 be adopted and H.B. No. 2897-80, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

Senator Kawasaki then spoke against the measure as follows:

"Mr. President, I speak against this bill as well expected around here because I consider this to be a very, very special piece of legislation, very specifically designed, written and authored by Matson Navigation Company, which in itself is all right, except that I am disappointed in not having

the proviso written into the language that specifically insures that the so-called savings that are brought about by the use of these special revenue bonds are in effect passed on to the consumer.

"We have this kind of a provision, this kind of language guarantees in the Hawaiian Electric bill; we have this in the hospital revenue bonds, but interestingly enough, it's completely deleted in this really special piece of legislation for one company and I would hope that that matter could be discussed in the conference committee."

Senator Chong then commented as follows:

"Mr. President, I just would like to point out that the safeguards mentioned for the Hawaiian Electric bill by the previous speaker unfortunately did not get into that bill either. That's why I urge that this honorable body vote against it.

"I would like to point out on page 3 of the current bill, however, that line 10 is clear; it says that 'the department may with the approval of the Governor and without public bidding,' (and I repeat without public bidding) 'enter into a special facility lease...', etc. That when you are talking about an amount up to \$20 million, I think that the public interest is not served if you don't allow public bidding."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 944-80 was adopted and H.B. No. 2897-80, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL FACILITY REVENUE BONDS", having been read throughout, passed Third Reading by not less than two-thirds vote of all the members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Abercrombie, Chong and Kawasaki).

House Bill No. 2292-80, H.D. 1, S.D. 1:

On motion by Senator Campbell, seconded by Senator Young and carried, H.B. No. 2292-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL ATTENDANCE", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2532-80, S.D. 1:

By unanimous consent, action on H.B. No. 2532-80, S.D. 1, was deferred to the end of the calendar.

Standing Committee report No. 956-80 (H.B. No. 1853-80, S.D. 3):

On motion by Senator Cayetano, seconded by Senator Mizuguchi and carried, Stand. Com. Rep. No. 956-80 was adopted and H.B. No. 1853-80, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

House Bill No. 1912-80, H.D. 1, S.D. 1:

By unanimous consent, action on H.B. No. 1912-80, H.D. 1, S.D. 1, was deferred to the end of the calendar.

Standing Committee Report No. 961-80 (H.B. No. 2344-80, H.D. 2, S.D. 2):

On motion by Senator Cayetano, seconded by Senator Mizuguchi and carried, Stand. Com. Rep. No. 961-80 was adopted and H.B. No. 2344-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kawasaki).

House Bill No. 2732-80, H.D. 1, S.D. 1:

Senator Cobb stated as follows: "Mr. President, the motion was made earlier on this measure, but I have checked with the House and there is an almost identical bill coming over. Rather than try to address some of the concerns of the members of the Senate by taking a chance and letting the House put the matter into conference, I think it's better that we deal with it from our end. So at this time, I'd like to request that this measure be recommitted in favor of the House bill."

By unanimous consent, H.B. No. 2732-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOWING COMPANIES OR REPAIR BUSINESSES", was recommitted to the Committee on Consumer Protection and Commerce.

House Bill No. 2842-80, H.D. 1, S.D. 1:

On motion by Senator Hara, seconded by Senator Mizuguchi and carried, H.B. No. 2842-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISH AND GAME", having been read throughout, passed Third Reading

on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Abercrombie and George).

House Bill No. 1985-80, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 1985-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Anderson and Kawasaki).

House Bill No. 501, H.D. 1, S.D. 1:

On motion by Senator O'Connor, seconded by Senator Cobb and carried, H.B. No. 501, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL RECORDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

House Bill No. 2443-80, H.D. 1, S.D. 1:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2443-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE CHARTERED CREDIT UNIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Abercrombie and Kawasaki).

Standing Committee Report No. 1011-80 (H.B. No. 1782-80, H.D. 2, S.D. 1):

Senator Cobb moved that Stand. Com. Rep. No. 1011-80 be adopted and H.B. No. 1782-80, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Kawasaki then spoke against the measure as follows:

"Mr. President, I rise to speak very vehemently against this particular bill.

"Mr. President, I think we should be aware of the impact of the passage of this bill. You know the President of the United States and his administration very recently ordered, if you will, the Federal Reserve Board to raise the prime rate. I think it's about 19-1/2% right now. This is a prime rate figure unprecedented in the history of our country. A 19-1/2

percent prime rate -- nobody could have predicted this a year ago. And I think the President did this primarily because he was concerned about the impact of inflation on the lives of the people of this country, and he had the prime rate raised primarily to discourage borrowing.

"Now the prime rate is that rate of interest chargeable by the banks to their best credit customers, the big corporations, the big companies, the best clients in their portfolio of borrowers. This, of course, has the effect of ameliorating the effects of inflation because many companies could not afford to expand, to buy new facilities, to enlarge their companies because the cost of money is too great.

"This same intent, however, is not what is contained in the motivation for the three bills that we have before us here to raise the interest ceilings. In fact, if we do that by voting 'aye' on the three bills, the first one is this, we are only going to add to the problem of inflation because I can't think of any factor that's going to add to inflation as much as raising the cost of borrowing to that category of our population who because of their financial means cannot borrow money cheaply at the banks or they don't have the savings. They of necessity will have to go to some of these institutions, industrial loan companies and pay the kind of high interest rate they are forced to pay today.

"In the case of industrial loan companies, they are able to charge up to 18% interest on these loans that are used by literally thousands of our taxpayers. Interestingly enough, the reasons they're asking to lift the interest rate payable on deposits is that they want to have more money come into their deposits. This is the same argument used by the banks, by the savings and loans, by the industrial loan companies. They say, 'look we have this limit,' in the case of the banks, a ceiling imposed by the Federal government that they can't pay their depositors on their deposits more than 5-1/4%. In the case of savings and loans, they can't pay interest on deposits of more than 5-1/2% interest.

"The Congress recently in their deliberations said, 'Fine, we're going to lift the ceiling payable to depositors for you people.' However interestingly enough, the institutions testified against lifting the ceilings to too great an extent. They said, 'Just limit it to our ability to pay a higher rate of interest to no more than 2-1/4% in a six-year time frame.' This is the limitation they wanted. The Congress asked them,

'Why do you want to do that?' They said because it's going to affect their earnings. They probably have some earnings today even at the 5-1/4% interest that they can pay.

"On the other hand they said to the Congress, 'Lift all ceiling, lift the ceiling completely on the interest we can charge to borrowers.' This is quite interesting.

"Today I am happy to have been informed by the Chairman of the Consumer Protection Committee that Congress did not listen to the financial institutions. They did not restrict the interest payable by these institutions to depositors to being able to raise the interest rate no more than 2-1/4% of a six-year time frame. They completely lifted the interest that these institutions can pay to its depositors, which means that now the institutions are going to be able to get more money, attract more money so depositors would be willing, depending on the interest that the institutions are going to pay, they'd be more willing to put deposits, their extra money into the financial institutions--the banks, the savings and loans, etc.

"In the case of the industrial loan companies, today they pay I think a maximum of 16% on the time certificates. They are able to charge under the present laws up to 18% interest rate. There's a 2% spread roughly. And probably many of the industrial loan companies are able to make do with this. Interestingly enough, 2% spread seems to be something that they can live with.

"If you were to put \$10,000 in the International Savings and Loan or some of these savings and loan group, they'll pay you up to 5-1/2% interest today. You can borrow from them another \$10,000 to offset the deposit you put in by just paying a 1% higher interest rate or 6%, and probably with the savings and loans, they're able to make do with a 1% spread; this 1% to pay for the cost of administering loans, their overhead, etc.

"So my point here is that in the case of savings and loans, they'd be willing to lend you the exact amount of money you put into their account by charging you 1% more than they are paying you. In the case of the industrial loan companies today, they are able to make do with a 2% spread.

"The point here is that if they can live with an 18% maximum interest rate that they can charge, then they can do with this. But what are they asking in one of these bills before us tonight? They're asking for the State to lift the ceilings so that they could charge up to 24% interest on borrowings by the ordinary consumer. This, I think, is just unthinkable.

"You know we've gotten quite used to these high rates of interest. Two years ago if you said to someone the duly constituted institutions here will be able to charge 24% interest or even a 20% interest, nobody would have believed you. But I think we've got conditioned to accepting this kind of hardship in the way of interest charges to our consumers.

"The primary thrust of the argument that we should pass these laws to allow the State here to let the institutions charge a higher rate of interest is that Congress just passed the law, and the President is going to sign it, that completely lifts all ceiling on interest charges. They're saying that at least at the State level we're only going to allow the industrial loan companies a maximum of 24%. I think this is a very specious argument because allowing interest rates to go up as high as 24% is really a hardship that we are going to impose on many of our consumers here.

"Now, I am really concerned about the people who have to go out to campaign this year. They knock on the door and the homeowner is going to say, 'It's you people in the legislature that changed the laws that now allow these loan companies to charge us the kind of interest rate they are charging.'

"If we do not pass these bills before us today, at least the State Legislature does not get blamed for adding to inflation by the lifting of interest rate ceilings. At least we can say, 'The Federal government did that; the Congress did that; we had no part in it.'

"Mr. President, I think this is quite important to the people who expect the consumers to believe that in this session we did something for the consumers because I don't think we are doing very much for the consumer.

"Assuming that Senator Cayetano's tax bill does pass with the savings that he calculates into the language of his bill, that might be a piece of legislation we can point to the consumers and hopefully he'll accede to the concern that some of us have that the excise tax rate be kept at 4% or at the minimum 4-1/4%. But in any case, as I said, the consumers are going to be concerned at the end of this session as to what the Senate of the State of Hawaii did for them and if there's any item that's going to hit them in the pocketbooks (and they're going to feel it; it's going to affect the people running for reelection, many of whom I want to see come back to this body), it

is going to be the added cost to them of interest rates on loans that they must of necessity, of necessity, get. Let us at this point consider the inflationary effects, and inflation is a major concern today, let us remember always the inflationary effects that the lifting of these interest rates is going to have on the lives of the people of this State.

"For this reason, Mr. President, I will have to say 'no' to every single piece of bill here that is going to lift interest rates to a higher ceiling than what it is today."

Senator Yee then commented on the bill as follows:

"Mr. President, I rise to speak briefly on the three measures that the former speaker spoke about and I'd like to convey to many of the members of the Senate here because many of you were not at these hearings.

"It's rather complicated and before I speak I want to clarify that I am associated with an industrial loan company, but my primary responsibility is that of running the life insurance company--happy to say we're the biggest in the State; secondly, I also serve as a director of a bank.

"The problem that we face today is what do we do and how do we compete for money that is needed in the State of Hawaii when the Federal government has preempted all states in establishing ceilings on credit. I too in the financial business was concerned about this and I introduced two resolutions. One is for wage and price control and the other is for credit control, the very thing that Senator Kawasaki is concerned, which concerns me as well.

"But, Mr. President, if we don't do anything, then the rest of the 49 states is going to pass us by. And this is what bothers me.

"You take, for example, industrial loan companies. There are many that do not have thrift deposits, many of them have to borrow money from the banks and your prime rate today is 19-1/2%, and if they normally borrow from the banks, they pay either 1% or 2% above prime. Their cost of money then is around 21-1/2%. Now if you don't give them the opportunity to borrow money at 21-1/2% which they have to pay the banks and they can charge only 18%, you'll put an awful lot of small business people out of work.

"Now industrial loan companies were formed historically because the poor people were not able to get loans from banks and savings and loans, and as

a result the type of credit that goes to industrial loan companies are people that the banks and savings and loans turned down. As a result, the legislation provided them an opportunity so that they could find some way to get credit to buy their first automobile, their first refrigerator, their first TV, their first home. This is the means that many of parents, many of our grandparents were able to get money not through the banks, not through the savings and loans, but they had to pay a higher rate of interest to industrial loan companies.

"Now, we talk about what's happening. We just passed a bill to allow the State chartered credit unions to raise their rates from 15% to 18%. The reason they want this is because they say that if we cannot offer our people a better deposit, better interest on their deposit, they will take their money out of the credit unions and go to other institutions. This is what is happening. This is what scares me.

"We've been pretty lucky so far because of rather normal circumstances of credit, but this has come down very suddenly, let me tell you not only on us, but on the entire financial community throughout the United States, not only the State of Hawaii. Pardon the French, but they're 'screwing' the whole thing up. But you can't help it because the Federal government has taken action whether we like it or not.

"We're either going to be without money to help the people here because it's all move; money is mobile; and our money comes from major companies to the islands because they find it's an excellent place for investment. They get a fair return for what they invest here and if they find that the money cannot earn them a proper return they will go to the other states where they're so offered. And this is what scares me.

"Mr. President, I'm happy to see that President Carter today signed the bill allowing savings and loan institutions to pay whatever interest rate they want on their deposits. It's great, it keeps the money in the State; it keeps the money at the savings and loans. But you know what happens at the same time? The home-buyer takes the shellacking.

"The saver gets more income on his savings, but in order for the savings and loan companies to stay alive, whether they make a 1% margin of profit, 2% margin of profit, they have to charge that higher rate because

they have to pay that interest to the depositor; they have to pay taxes to the State; they have to pay for their overhead; and they have to pay to many of their stockholders a fair dividend on their investment in the company. So believe me it's complicated.

"I don't know the answers, really, I don't know the answers. I'm just explaining some of the problems that we're all faced with and I feel we have no choice at this time but to support these two bills."

Senator Cobb then spoke in favor of the bill as follows:

"Mr. President, I rise to speak in favor of the measure before us, laterally the other one as well. But in doing so, I'd like to point out to the members of the body that we've been operating in a so-called market environment without a ceiling, since December 28, 1979 when Congress passed Public Law 161 which in effect lifted rates on residential first mortgages, and since we began considering this bill, in fact both of these bills, and we looked very carefully at ramifications of the federal statute which was just signed into law today and which was passed by the Congress last Friday. And through a process of a two hour briefing in the committee we saw how broad and comprehensive was the federal preemption in so many areas.

"It really became a choice of attempting to keep an artificial and very low State ceiling or to adopt a partial preemption with a cap in some areas, no cap in others, creating a hodgepodge of attempted regulation, where at least in the residential first mortgage area incorporating the federal statute providing them to the lift.

"The federal law was very clear in the sense that it gave the states only three years to act. In the dilemma that we faced, a cruel and agonizing choice that was made, and had to be faced, is essentially a choice between some money available at higher rates or no money available at artificially low rates because if we opted for a cap below what the market is prevailing today, that's in effect what we'll be doing, Mr. President, we'd be cutting off quite effectively whatever money supply was coming into Hawaii.

"When we look at the effect of this or the next measure, we have to consider and ask ourselves a question, do we want a person to have the ability to get a loan at a higher rate based on today's conditions, or do we cut that person off completely? Because if we opted out from these bills or we imposed in fact a cap that was below 17, 16 or 15 percent, whatever is being paid on market certificates

today, that too is exactly what we will be doing. The choice is not whether money is going to be lent at 12% or 18%; the choice is really, is money going to be lent at all, and if so at what rate.

"Because as pointed out previously, money is a highly mobile quantity; it moves according to market conditions where the rates are. I note also a previous concern that was addressed that perhaps we should not adopt this measure and blame the Federal government. Mr. President, I think we should perhaps go into little details or ramifications of that action.

"If we opt for that course of action, then we will have first of all lost one of the three years in which to legislate on this subject, and secondly, we would have 'copped out,' if you will, as a matter of legislative policy, by saying that 'it's too hot to handle; we don't want to touch it; we don't want to have to make the difficult, agonizing decision. Just blame the 'Fed', and go out and campaign against the bad guys in Washington.'

"That doesn't solve the problem, it doesn't even begin to address it. All it does is allows the federal preemption to continue in toto with no ceiling whatsoever, not only a lack of a ceiling in residential mortgages, but lack of a ceiling in industrial loans, the so-called small consumer loans. That too is part of the choice that had to be faced.

"And as we went through the federal bill, we found that there are a number of areas that were completely exempted from any type of state action, and there too we faced the choice. Do we want to create a hodgepodge regulatory administration addressing some areas and not addressing others, or do we want to attempt to legislate on this matter and incorporate the provisions of the federal statute as state law so that we can continue to legislate on this matter in the near future.

"I know it was also a concern both in the committee as well as the floor of the Senate relative to the time period in which these measures would be in effect. Each of the measures in question has a three year drop-dead clause. Contained in the committee report on this measure is explicitly stated the declaration that we would legislate on this again next year, but it would be my position if we go into conference based on the concerns that I have, that we seek a one year drop-dead clause to force the legislature to address this question after we've

had a year of experience of trial and error of discerning if there are abuses, where they are, if there are successes, where they are, and to legislate again on this subject.

"We've had three months and three days of such experience under Public Law 161. Unfortunately the difficult but yet responsible action is to attempt to legislate on this subject however complex it might be, however agonizing the decision might be. I prefer to do that, Mr. President, than to 'cop out' and blame our Representatives and Senators in Washington for what has been done, because we are really attempting to address inflation.

"Let's keep in mind that less than ten days ago, the President of the United States imposed the requirement that any new credit that is extended has to require a 15% deposit of the amount of credit extended in a non-interest-bearing account. That's one anti-inflation measure.

"This intent of the federal lift on usury is to slow down credit purchases, to slow down borrowing, and the forces within the marketplace of higher interest would work to do exactly that. Painful and agonizing as it may be, it will slow down purchases; it will slow down the number of people that can qualify.

"And so it comes back again to the original choice that was really positive before my committee; either some money available at higher rates reflecting what is happening nationally in our economy, or no money available to anyone at an artificially low rate.

"I would ask the members' support of this measure not that it's in final form because I do expect a conference committee on most if not all of these measures, and I note that when the House sent over the second of the two bills we are considering, they took no position on it; they said, 'it's up to you, Senate; legislate as you see fit; you guys be the ones to take the jerks.' And that's what we're doing tonight, difficult as it may be.

"On the second of these two measures which I would address myself to later on, we are in effect imposing a cap because we have only three years under the federal statute to do so. I would ask the members' support on this. Thank you."

Senator Abercrombie then spoke in opposition thereto as follows:

"Mr. President, I'm speaking against the bill. If I could be convinced as the previous speaker indicated as to whom the cruelty was being applied other than the consumer, I might have more sympathy

for the commentary but as far as I can see among other things, the side effects of this bill which has not been addressed at all or scarcely at all in the various and sundry commentary, rentals are going to increase, cost of building materials will increase, construction costs are going to increase. Let's be frank about what we're talking about here in terms of inflation.

"I don't think you need to be an expert in economics, I don't think you need to have a degree in economics to understand the shorthand version of what constitutes inflation, and that's too much money chasing too few goods.

"This is the State of Hawaii, this is not California, this is not New York, Michigan or Wisconsin; this is the State of Hawaii and we know what the too few goods are. That's your luxury condominiums; that's your investment, your time-sharing investment. We know where the money is going to go.

"Is anyone under the illusion that the lifting of the usury rate is suddenly going to make more money available for the consumers to buy homes here. We're already being smashed flat on that. There's an investment market here that is not even remotely been touched yet in terms of whether or not it's 15% or 18% or whatever it is. People would make money at that.

"The loopholes that exist in the tax laws, the advantages to be gained even under these circumstances, by the kind of people who are going to sink their money into the \$300, \$400, \$500, \$600 thousand and now it approaches million-dollar condominiums and other kinds of development in these islands; those kinds of people, that kind of investment, that's what this is going to move toward; that's where the money is going.

"I haven't heard anybody stand up yet to show me that one single house is going to be built, one single house in the entire State is going to be built, within the means of any single person who works to build that home as a result of lifting this usury rate. Can anyone stand on this floor and guarantee me that a single house will become available under those circumstances?"

"Loans would do it; it might become available to you if you have some kind of inheritance that can get you the kind of money that you need, or perhaps that if you work two or three jobs, or if a family works four or five jobs between them, then maybe if they devote 85% of their income, 80% of their income,

75% of their income, maybe possibly then they might be able to do it. Of course, they won't know where their children are; of course, they won't be good parents because they'd be too tired to pay any attention to them.

"Let's face the facts of life in this State. Too much money is going to chase too few goods and that's what inflation is and what we're saying we're going to do is we're going to pour gasoline on that particular fire in this State.

"We just defeated an opportunity to at least have a moratorium on condominium conversions of rental property so that we could at least take up the factors that we might put forward about how we could get landlords and property owners to have some kind of tax advantages, some kind of circumstances to keep the rental property we already have and encourage people to put property into rentals.

"We have here the Comptroller General's report to Congress on Rental Housing - 'A National Problem Needs Immediate Attention,' and I go into some of the circumstances here that apply not only nationally, but even more so on our State.

"That's what this change is going to do, and as long as more than one bill is being addressed and probably rightly so because they're all connected in terms of the industrial loan companies and so on, the very people who are going to be the hardest hit by these circumstances, they're going to find themselves probably involved in going to industrial loan companies and probably get hit with even more interest, even higher interest. In the end what are we doing? We're running counter to the federal policy.

"Whether the federal policy is right or wrong, whether or not that this inflationary circumstance should be addressed in that manner is immaterial to the question at hand. It runs counter to the federal policy. We know that by trying to lift the interest rate, we're trying to encourage spending. One of the previous speakers mentioned, get the car, get the television set, get whatever, get the home--that I think is beyond the pale; maybe the television set, I don't know, forget the home.

"It will do nothing to alter the federal policy; on the contrary it acquiesces to it and allows the illusion that the federal policy is working. This puts the whole burden on the consumer and only postpones the day when the Federal government will push its policy even higher.

"Does anybody want to contend on the floor this evening that the Federal response would be not to push the prime

rate higher, then, try to offset the kind of thing that we're doing here. I scarcely doubt it. I scarcely doubt that someone can stand and contend that and give any kind of proof, submit any kind of logic, that that will take place. The squeeze on the consumer especially in agreements of sale will amount to extortion.

"You know on the agreement of sale situation, we're at a crisis circumstance in this State. This isn't going to alleviate it, not a bit, especially with the three year's situation in here. I couldn't see an argument even for a year under those circumstances, but one would think that one wants to examine it in a year's time but now it's three years.

"It's obvious to me what this is all about. This is to give a blank check not to the consumer, but a blank check to write against the consumer. This is a bill coming to the consumer.

"This country is on the verge of a financial breakdown, not because the usury rates haven't been raised, but because by trying to raise them we delude ourselves that somehow we're dealing with inflation instead of feeding into it, most especially in this case. We are going to be colonized in our own state. We are going to become serfs, modern day versions of serfs in our own state through national and international finance.

"This is not some kind of hyperbole that has nothing to do with reality; on the contrary, you can see it now. People wonder why there is no discipline in school; people wonder why these circumstances of juvenile delinquency take place; people wonder why the divorce rate is so high; people wonder why there's a sense of social disorganization prevailing in the state.

"Among other things people have to work two or three jobs just to make ends meet, and paying the interest on the loans is the kind of things that put people right up against the wall, the financial wall.

"I believe very sincerely, Mr. President, that we are at the verge and point of indigenous colonialism, the phenomenon now so unfortunately familiar in countries supposedly free from colonial imperialism of pre-World War II and post-World War II days. The masters from without have been replaced with the masters from within. I've seen it in other countries, the countries I have traveled and I've watched that kind of phenomena and I see it happening now right here in our own nation.

"Quite frankly, Mr President, not even the Mafia pushes its victims beyond the final capacity to pay; yet this is what is being proposed. We're already in a noose; the financial hangman is standing by."

Senator Kawasaki then responded:

"Mr. President, a response to the good Senator from the Sixth District. He said that he doesn't know the answer. It's scary; it's really scary as to what can happen. As a finance officer, as a director of financial institutions, I would agree that it would be scary.

"My God, with the passage of this bill and inflation that takes place, the hardship imposed on very needy families, families that absolutely have to go these high interest rate loan companies because the need to exist. I just am afraid the horrendous effect of mortgage foreclosures, loan defaults, and all that entails.

"Now one of the things that the Congress did in passing their recent ruling to lift ceilings on interest rates is that they now allow a \$200 exemption from the payment of taxes to each taxpayer on all the income derived from dividends received from corporations, if you own stocks in any company, and a \$200 exemption also on all interest rate earnings that a person who is fortunate enough to have deposits in these institutions; \$200 per person or for a married couple \$400 exemption from taxes.

The Federal government just did that to encourage more people to deposit their extra funds into these institutions and because, as I said, the Congress just passed a bill lifting the restrictions they had on the financial institutions to pay a higher rate of interest than 5-1/4% for the bank, 5-1/2% for the savings and loans, etc. They lifted this restriction. It means now they have the ability to attract more deposits into these institutions.

"Now, this alters greatly the availability of money. Please keep this in mind. This is a new development that has taken place in the last 48 hours. This changes the urgency for lifting interest rate ceilings on loans.

"The labor unions here for a change agree with me, apparently, because they too are opposed to the lifting of our usury ceiling. I think you have some communications to that effect.

"Now can you imagine, for example, the teachers' union with the average of 9,000 members in their organization and whose members earn an average of \$18,000 per annum, this kind of income,

if they're concerned that their membership is going to be suffering a great hardship if the interest ceiling is lifted, these people who earn on the average of \$18,000 a year, can you imagine the effect on a citizen here that has to borrow money of necessity and who doesn't earn quite \$18,000 a year? Can you imagine the effect on this person, this citizen?

"These are things I'd like you to keep in mind, but in closing my argument against this bill, please keep in mind within the last two days, there has been a dramatic change in the availability of money to these institutions simply because Congress has lifted the ceiling on the interest institutions can pay to depositors. This changes things dramatically, keep this in mind. Thank you."

Senator Anderson then asked if the Chairman of the Committee on Consumer Protection and Commerce would yield to a question to which Senator Cobb replied that he would.

Senator Anderston queried: "Do I understand correctly that if we were to vote this bill down tonight that the federal law that was passed, and I think it's going to be signed tomorrow or the next day if it has not been signed yet, would in fact preempt the first mortgage residential and there would be no ceiling?"

Senator Cobb answered: "That would be the effect."

Senator Anderson continued: "That would be the effect so no action in effect does not keep a ceiling on the first mortgage market as the Senator from Manoa remarked."

Senator Cobb replied: "No action is a course of action regardless because Congress has acted on this matter."

Senator Anderson then proceeded to speak in favor of the measure as follows:

"Mr. President, while I agree wholeheartedly with the Senator from Manoa, and as a matter of fact, when invited to a breakfast meeting of the bankers association and lending institutions earlier this year, I was somewhat in total opposition to the lifting of the usury when we were talking about a couple of percent above 12%. My arguments were the same as I left that breakfast meeting that I could see nowhere where this lifting of the usury did in fact help the house mortgage market and I thought it was contradictory to the federal intent to stop inflation.

"Since that time, the President in his flip-flop way, supported the 90-day contradictory position to his intent to stop inflation of the 90-day grant and now of course, he's going to sign the legislation passed by the Congress this past week. On one side he's telling us to stop credit; on the other side, he is open-ending the credit in all areas.

"I have come to the position after many hours of hearings, and I have sat in the Consumer Protection hearings even though I am not a member because I have been concerned over this measure, but usury per se isn't limited to housing in mortgages. It's also confined to business, condominiums, hotels and of course the side effects if in fact no money does come to this market or does not come to this market, is a tremendous impact on thousands of construction workers that would be unemployed with the rippling effect in our economy on the unemployment compensation and other areas of social impact.

"I don't know who is going to be able to borrow money at 22, 23, 24 and 25% as they are rumoring--very few projects. I think this is an area where we are talking about people of certain types building, but these kinds of interest rates, Mr. President, I think are going to just by the very nature of it almost bring to a halt reasonable condominiums. It's going to stop all types of housing. I don't know of many businesses and including myself that can afford the types of businesses that we're in, to borrow money at these kinds of rates. And while there may be a lifting and while it may be available at 22, 23 or 24%, I don't think many of us in this community are going to be able to afford those kinds of dollars and be able to pass them on to the ultimate consumer or user.

"I would like very much to vote 'no' tonight on this measure. I do not think it's the responsible thing to do. I like the position of the Chairman and the committee. The bill is in a form that will keep it open for another week or two so that we can gauge and measure any federal impact for the next week or two. It's the Chairman's position with the committee to gauge this and measure it daily as the federal impact and more information comes forward to us.

"I do not think a 'no' vote is the right vote for this community. While it's going to be hard maybe for some of us to knock on the door to ask for a vote, what we might have done... I think it's going to be equally hard to explain to the thousands of people who are unemployed in the area where we might have salvaged a few jobs, why we put them out of work.

"So, it's not that clear cut, it's not

black and white, and I think the measure should be kept alive and every effort should be devoted to keeping it alive for the next two weeks to measure and gauge the federal program as it proceeds. Thank you."

Senator Kawasaki in response to the previous remarks, stated as follows:

"Mr. President, I just feel that the importance of this and the impact of it on consumers is so important that I've got to respond to some points made by the good Senator from the Third District.

"First of all, regarding the lifting of the ceiling for mortgage rates, I have learned through reading of mortgage rates situation that there is a resistance, apparently nationally, on the part of borrowers when your mortgage rate goes 13-1/4%, 14%, there is a natural resistance.

"People saying, 'according to my family's income cash flow, I simply can't cut it'; so as a consequence, mortgage rates charging 13-3/4%, 14% at this level, are finding resistance. So, Mr. President, whether we lift the ceiling up to 15, 16 or 17%, I think at this point is actually irrelevant, so you know that is controlled to a measure.

"Regarding the banks and savings and loans, you know the banks are making record profits today. Apparently they are not hurting from quote 'their lack of depositors' funds', and as I said because Congress has changed the law lifting the interest they can pay, it changes the availability of money dramatically in the last 48 hours. Now, they are not hurting in profit; they are making record profits.

"As to savings and loans, are they hurting? When you examine the number of branch banks, the growth of banks, additional banks in all districts, the additional savings and loan companies opening up all over the state, I don't know that they can show me that they are hurting.

"The only people, I think, that are going to be hurt by the passage of bills that allow people to charge 24% extortion rates are going to be the thousands of consumers who in the first place are in bad financial circumstances. That's the only reason why they borrow at these kinds of rates. Let us not work any additional hardship on them."

Senator O'Connor then spoke for the measure as follows:

"Mr. President, I'd like to attempt a very practical and simple approach to House Bill No. 1782, Senate Draft 1, which hopefully will put to one side some of the rhetorical oratory we have heard tonight concerning usury and interest rates.

"First of all, the section of purpose, which appears on page 1 of the bill simply addresses two sections of the federal act which became law today with the signature of the President. That federal act is called 'The Depository Institution Deregulation and Monetary Control Act of 1980' and is the measure to which all speakers tonight have addressed themselves and has to do with many, many aspects of monetary control across the United States both federally and in the state governments.

"The first section of House Bill No. 1782-80, Senate Draft 1, which is on page 2, is a direct lift from Section 501-a-(1) of that federal act. In other words, your Committee has picked up identical language, having identically the same impact on this state as the federal act would have on the United States, generally. And generally that is to allow no usury rate to cap first liens on residential real property when those loans are made by financial institutions which qualify generally in this state to act as financial institutions. And all of those institutions are delineated.

"This is a statement of current federal policy, so any comments concerning federal policy, the policy of the executive or anything else are capped in one form by that section having to do with first liens on residential property. In other words there is no usury rate in the United States today nor shall there be in Hawaii in that area.

"The second section of this bill which starts on page 4 has to do with other rates for certain contracts and generally it talks in terms of a higher interest rate for other contracts not exceeding 18% a year in the case of any loan or mortgage which is not covered by the first section, and with the other conditions outlined on page 5.

"These are the kinds of measures which are generally addressed in other parts of the federal law or which are not addressed. If they are addressed in the federal law, they are addressed in Part b, Section 511-a, having to do with business and agricultural loans. That is the section which is addressed in the purpose clause of this bill. That section of the federal law would allow today for those kinds of loans between any persons, not by national institutions, but anyone.

"If I made a loan to you, Mr. President, or you made a loan to me, which is a business or agricultural loan, we could charge one another 21% interest under the provisions of the federal act. The House Bill before you simply allows 18% cap in this area which is less in the opinion of your Committee than the federal amount and which is more logical in this state where we have existed with 18% interest in many of these areas for a long time.

"Other exempt contracts covered under House Bill No. 1782-80 include the provisions for the ERISA approved retirement plans and these are on page 5. In other words the application of this measure is today as we vote on it limited, and it's limited and structured by the federal act which has already become law.

"Some of the speakers earlier talked about such things as driving the agreements of sale in the real estate market out of sight and causing a blank check to be issued in the community in the area of usury. Well, first of all, agreements of sale are not covered by this measure at all. Agreements of sale will stay with the same usury law that we have had in this jurisdiction for the past 50 years, 12%; and there is no blank check across the board in the area of usury created by this bill because the basic usury law is still in existence; it has not changed.

"The exemptions which I have talked to specify narrow areas of exemption which are addressed solely because they were addressed in the federal law or because they need other clarification in our law.

"Now, I am not talking about the other two bills before us tonight, but solely this measure, House Bill No. 1782-80. Because we have been preempted because the Federal Congress has acted, because this is the federal policy that we are now facing, I would urge all to vote for this measure in the narrow confines that it represents. Thank you."

Senator Kawasaki then stated: "Mr. President, before we vote on this, can you rule on the possible conflicts of some of us who are connected with these institutions, some as employees, some as directors, and conversely, many of us here not quite in that fortunate circumstance, may be borrowers of loans from these institutions, all of which I think constitutes conflict of sorts."

The President answered: "The individual Senators can address the

Chair to make rulings on conflicts of interest."

Senator Cayetano then asked if the Chairman of the Committee on Consumer Protection and Commerce would yield to a question, to which Senator Cobb replied that he would.

Senator Cayetano then queried: "In my informal discussions with the Chairman of the Committee on Consumer Protection and Commerce, he assured me that the Senate would be going into conference taking with it a position that we would have a one year drop-dead clause on all of these bills. Is that correct?"

Senator Cobb then answered: "That is my strong preference; of course I do point out in all fairness that it's definitely a matter of negotiation between the conferees. I understand the House position to be five years and I would no way agree with that."

Senator Cayetano then stated: "Mr. President, for the record, I'll vote for these bills; however, if they come out of conference with a period longer than that I will vote against them."

Senator Kawasaki then commented further: "Mr. President, a comment on the possibility of adjusting the language in conference committee. As I recall the House apparently took a position that is even more wild than the Senate position. They are for lifting all ceilings on all types of interest, so as a matter of fact, I think the Senate position is a more conservative one.

"I can't imagine that under this sort of climate how we expect the House to buy even our Senate version much less improve on some of the language as suggested by some of these people. So I don't have the great enthusiasm and the optimism some of these people have around here about having things corrected in conference committee."

Senator Cobb stated: "Mr. President, I would point out that the House did not specifically address whether or not it was going into a federal preemption of the law passed by Congress. The Senate has taken that position not only in terms of narrowing the bill, but on page 1, 'using the language specifically required by Congress to declare this to be a state preemption,' thus making it a matter of state law and thus enabling the state to legislate on this at any time."

Senator Ajifu then requested a ruling of the Chair as to a possible conflict of interest as he is an employee of a bank.

The Chair ruled that there was no conflict

and Senator Ajifu was allowed to vote on the bill.

The Chair announced that Senators Ushijima and Yee would be excused from voting on this measure.

Senator Chong requested a ruling of the Chair as to a possible conflict of interest as he is employed at a savings and loan institution.

The Chair ruled that there was no conflict and Senator Chong was allowed to vote on the bill.

The motion was then put by the Chair and carried, and Stand. Com. Rep. No. 1011-80 was adopted and H.B. No. 1782-80, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTEREST AND USURY", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 5 (Abercrombie, Campbell, Carpenter, Kawasaki and Yamasaki). Excused, 2 (Ushijima and Yee).

House Bill No. 1925-80, H.D. 1, S.D. 1:

Senator Cobb moved that H.B. No. 1925-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Abercrombie then spoke against the measure as follows:

"Mr. President, I think the industrial loan companies are going to have a lot of business real soon to try and take care of what we've done already this evening and I wish well to everyone who goes into that shark pool. I don't think they are going to come out with much of the meat."

Senator Kawasaki speaking against the measure, stated:

"Mr. President, of all the three bills before us, I find this the most unpalatable, primarily because now we are going to impose almost immediately a 24% extortionist type of interest charges to people who can ill afford to pay this. I predict a rash of loan defaults and I must say that I urge all people to vote against this particular bill, especially."

The motion was put by the Chair and carried, and H.B. No. 1925-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL LOAN COMPANIES", having been read throughout, passed Third Reading on the following showing of Ayes and

Noes:

Ayes, 21. Noes, 4 (Abercrombie, Campbell, Kawasaki and Yamasaki).

Standing Committee Report No. 889-80 (H.B. No. 2944-80, H.D. 2, S.D. 2):

Senator Cayetano moved that Stand. Com. Rep. No. 889-80 be adopted and H.B. No. 2944-80, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kawasaki.

Senator Saiki then spoke against the measure as follows:

"Mr. President, this bill addresses amendments to Act 148 which creates a statewide emergency medical services system. The law became effective only last July and has not yet been fully implemented. Rules and regulations have not yet been adopted and coordinative activities have not yet been realized.

"One of the intents of the law was to upgrade neighbor island emergency medical services and provide top quality training for our people preferably our county people who wish to work in the system.

"To do this, the law reads that 'in the event any county shall apply to the Department to operate emergency medical ambulance services within the respective county, the Department of Health shall contract with the county for the provision of such services.'

"The first portion of the section gives the county the option to contract with the State or with private ambulance firms. This is home rule, the counties should have this choice, that's the way it should be. The second portion says that if the state is selected over private firms for possible contract, then negotiations should take place and a contract must be finalized.

"This bill before us changes the word 'shall' to 'may' and where some may think that this word change puts the state in an equal bargaining position, it does exactly the opposite. It puts the counties at a distinct disadvantage.

"The county has already made its selection and chose to contract with the state. Changing the 'shall' to 'may' puts a hammer in the hands of the State. This is made even more obvious, Mr. President, when the Department of Health requested that the effective date of this measure be May 1, 1980, which is just a month away.

"Negotiations for contracts between the counties and the State are now going on, and they are going on in good faith. For us to legislatively change the rules

of the game in the last inning because our team isn't good enough is just not fair play. And for all you sports fans, if the managers of your team can't do the job, what do you do? You change the managers because you shouldn't and can't change the rules.

"On the Big Island, matters are even more sensitive. This change from 'shall' to 'may' could affect labor negotiations involving the fire-fighters-paramedics and the County of Hawaii. Those negotiations are going on right now, and I've just learned that things are moving very well and there is a possibility of an offer of a settlement very shortly. I doubt whether we want the legislature sitting here tonight to affect the efforts at this eleventh hour.

"Mr. President, Act 148, because it is a statewide system and because it is based on a medical model, has received much positive recognition. For these reasons, the federal agencies responsible for funding have looked favorably on our law.

"The state at this time has a grant application, pending review and approval by the Secretary of the HEW. This grant would solely benefit the neighbor islands.

"The bill that I am talking about this evening on page 2, lines 6 and 20 infer that the Department of Health may contract for services with other than professional medical organizations. The Department probably, if they use good sense, would select to retain the medical model for various reasons. So why are we looking at this bill seriously, why do we need to tinker with the language?

"I personally would not want to put the grant application in question because of legislative language change, the significance of which could be misinterpreted. The grant, involving \$1.6 million, if approved, would benefit the neighbor island Emergency Medical Services systems. This is where we need to put the money.

"Mr. President, I feel this bill is premature, it's untimely and unnecessary. Before any changes are made to Act 148, let's give the law a chance to work; let's give the principals involved a fair chance to make it work. I think it is an excellent model on which we can base quality emergency medical services for all of the people in our State. I would like to ask everyone here to vote 'no' on the measure."

Senator Carpenter then spoke in

favor of the measure as follows:

"Mr. President, I rise to speak with some trepidation in favor of this measure.

"I do concur with the previous speaker in terms of the change of language from 'shall' contract in the existing Act 148 to 'may' contract on page 2, line 1, and argued vehemently against this change taking place at this point in time with the full recognition that indeed two counties, the City and County of Honolulu and the County of Hawaii, are in serious contract discussion.

"I am given to understand as Senator Saiki indicated that as far as the Big Island is concerned that indeed an agreement in principal has been reached. One of the things that was determined in the Health Committee was that compensation for the City and County of Honolulu was not being paid as compared to the private entrepreneurs, they were indeed being paid on a very timely manner. For this reason the insertion on the last section calling for reimbursement on a timely basis by the Department of Health, at least quarterly, was inserted into the language.

"Additionally, I might point out that on page 2 as determined by discussion with some of the medical advisors in the various counties, particularly the County of Maui, emergency medical ambulance service was indeed being used as free transportation or taxi service for some of the hospitals and for some of the providers of service within the community in contradiction to the stated purpose for emergency medical. Consequently, language was inserted to preclude non-emergency service being made available, and that is on page 2, lines 9 through 11.

"I do agree with the previous speaker in her initial concern but I really fail to see where the grant appropriation that considers the neighbor island grants for the amount of money which, as I understand, is about \$400,000 will be in jeopardy. I don't think there is any problem with the Department of Health and assuring the Federal Region 9 personnel of proper use of these funds.

"The additional change that is made in page 4 speaks to the advisory committee in a role which appeared to make it mandatory that the Department of Health had to first check or consult with the advisory committee prior to entering into a contract. That language has been changed from 'shall' to 'may' to make it indeed an advisory committee.

"So while I agree, Mr. President, with the speaker's concern in terms of the 'shall/may' in the original part

of the section which might have put the several counties, in this particular case the City and County of Honolulu and the County of Hawaii, in some untenable position as they had indicated in their previous testimony, I do believe the other concerns iterated at this juncture over-ride and thus call for the passage of this bill at this time. Thank you."

Senator Cayetano then spoke for the measure as follows:

"Mr. President, I, like the previous speaker, fully favor the change from 'shall' to 'may' for this reason. It seems clear to me that as the present law stands where in the event a county makes an application to the Department of Health to operate emergency ambulance services within the respective county, the Department 'shall' contract with the county puts the Department at a disadvantage. I apply this situation to the private sector and it seems to me a very foolish position for one party to get into.

"The party that shall contract with the party that makes the application is in a distinct bargaining disadvantage. If there is a disagreement in terms of the contractual terms proposed by the county as opposed to the Department, one can assume under ordinary circumstances that reasonable people would get together and something will be negotiated, but if one is forced to contract with the other party, then the other party has the distinct advantage of puffing up its proposal, if you will, and waiting the other party out. That's what this amendment was meant to address. So, for that reason I'm asking everyone to vote for the bill."

Senator Anderson spoke against the measure as follows:

"Mr. President, when we discussed this bill in Ways and Means in the first draft that moved out of that committee, we discussed at some length the 'shall' and 'may' and I don't think that there was much argument in the committee at that time. I think we all supported that the word 'may' did put the two parties at a better position for bargaining in the future. However, the question is that the parties are in negotiation right now and where we had put the effective date as 1981 in the Senate version, this bill calls for an effective date of May 1st.

"Number one, if the bill were even passed with the May 1st effective date, there's no way that it could clear the Attorney General's Office and the Governor's Office and everybody else by this particular date. So it's not

so much the 'may' and the 'shall'; it's the 'may' and the 'shall' as it affects the effective date of this bill. It's not a realistic date and while the people are in negotiation today and this week, putting an almost immediate date is unfair.

"Maybe in the lack of wisdom, the legislature put the 'shall' in several years ago when it was a statewide system, but the costs are pretty much negotiated. The cost while you shall contract doesn't mean the county has to win and it doesn't mean that the State has to yield to any unreasonable figure. When you force two parties to negotiate, you have to justify the presentation of both sides and after arguing and bickering and negotiating, only then do you come out with a contract.

"I don't think the hammer over the counties' heads at this particular time is going to be that much of an effect, and if the State did get unreasonable and it's a statewide program, and knowing some of the mayors in these counties, I would say to take your program and implement it yourself, which means that you might have a county program and a state program contracted with the private group, which might end up with two mediocre programs rather than one that is pretty good.

"I speak as a senator from this county and I think the City and County of Honolulu does a very fine job in this area. I talked to Ed Hirata last year on this subject. I'm pretty confident of the Department of Health that the proposal and the budget approved and requested and negotiated is fair and reasonable. I would not like to see this bill hamper my particular county from a fair contract. Thank you."

Senator Cayetano then commented: "Mr. President, since I represent a substantial portion of the same county, I too am concerned. The matter of the effective date of the act, I think, is a genuine issue which can be addressed in conference."

The motion was put by the Chair and carried, and Stand. Com. Rep. No. 889-80 was adopted and H.B. No. 2944-80, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 8 (Anderson, Carroll, George, Hara, Saiki, Soares, Ushijima and Yee). Excused, 1 (Kawasaki).

House Bill No. 2368-80, H.D. 1, S.D. 2:

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 2368-68, H.D. 1, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO DISCRIMINATORY PRICING IN SUPPLYING LIQUOR", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

At 9:00 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:25 o'clock p.m.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

House Bill No. 2132-80, S.D. 1:

Senator Cayetano moved that H.B. No. 2132-80, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

Senator Anderson then offered the following amendment to H.B. No. 2132-80, S.D. 1:

"SECTION 1. Part II, Section 4 of H.B. No. 2132-80, S.D. 1, is amended to read as follows:

1. By amending line 17 on page 25 to read: 'equivalent to four per';
2. By amending line 23 on page 29 to read: 'four per cent of the gross';
3. By amending lines 8, 9 on page 34 to read: 'public, the tax shall be equal to four per cent of the gross income of the';
4. By amending lines 17, 18 on page 34 to read: 'assessed and collected a tax equal to four per cent of the commissions and other';
5. By amending line 1 on page 35 to read: 'a tax equal to four per cent';
6. By amending line 16 on page 35 to read: 'the rate of four per cent.';
7. By amending line 4 on page 36 to read: 'four per cent of the gross';
8. By amending line 9 on page 37 to read: 'a tax equal to four per cent';
9. By amending line 5 on page 38 to read: 'the rate of four per cent which is';
10. By amending lines 13, 14 on

page 38 to read: 'activities, as set forth in subsection (a), equal to four per cent of the gross proceeds of sale or'; and

11. By amending line 22 on page 38 to read: 'to exceed four per cent.'

SECTION 2. Part III, Section 6 of H.B. No. 2132-80, S.D. 1, is amended to read as follows:

1. By amending line 19 on page 42 to read: '(3) In all other cases, four per''

Senator Anderson moved that the amendment be adopted, seconded by Senator Yee.

At this time, the Chair remarked as follows:

"I would like to say at this time that I find myself in a difficult position in that I thought there was an agreement with the minority that all amendments were to have been made on Friday evening. Now Senator Anderson has offered this amendment. I think there is no one in this body that would dispute his right to offer an amendment. However, I just wanted the record to reflect an understanding which I thought existed and evidently that understanding was not so."

Senator Anderson then spoke for the amendment as follows:

"Mr. President, if there were an understanding on the subject and I misrepresented or misstated it, I apologize, of course.

"As my memory serves me and it usually serves me pretty well, the decision to review in some depth the second reading, was also a Republican position that we asked for and were granted so that we could review all particular bills and measures so that if and when an amendment or an alternative was presented we would have that opportunity.

"On two occasions now we have, I guess, delayed the proceedings of the Senate to some degree so that our members could have a chance to review all the measures. At no time during this process did we ever mean to imply or state that our option was to cut off amending along the way. And if I so stated or was misunderstood, I certainly apologize.

"This is a question, Mr. President, of self-imposed deadline versus the people of Hawaii. I checked with the Minority Leader tonight when you questioned me on the amendment, to find out whether or not we participated in any way as minority leadership in the deadlines imposed between the House and the Senate, and the Minority Leader Senator Yee

advised me that at no time in the discussions earlier in the year was he ever asked to participate or consulted as to whether these deadlines were practical, feasible or realistic.

"I happen to believe and I stated, and the record will reflect, Mr. President, on many times that I believe that these self-imposed deadlines that the House and the Senate imposes on each other is unrealistic and unfair. I cannot believe that major legislation with tremendous impact should be denied consideration and hearings to the people of the State because of some sort of self-imposed deadlines.

"I also do not agree with the concept of sitting here all day long trying to understand and comprehend 175 measures from a to z. I do not believe any man or woman here is capable of understanding in every detail the complexities of these kinds of measures and trying to act on them in one day.

"On this particular measure, we discussed amending it Friday night in great depth. At that time, we thought perhaps not, that maybe in conference the question of whether or not a tax increase of this type or relief through the so-called Senator Cayetano's bill was in fact the way to do. After much deliberation over the weekend and many discussions today, the Republicans in caucus decided that the issue was too important and that a self-imposed deadline should not stand in the way of trying to afford some sort of tax relief to the people of this State.

"This measure as we are proposing to amend is another alternative to the many in the hopper. This body passed last week Senator Cayetano's tax measure which increased the excise tax to 5% in this State and did all the things that this particular bill does in relief and other measures.

"The Governor in his policy and his legislation proposed a \$42 million, I believe, tax rebate over one type or another, and the House has taken the position of ordering some kind of relief to the people of this State in a tax relief. The Administration is on record of giving back some \$42 million to the people, and the House is in position of giving some \$42 million back to the people of this State. It's apparent that the measure that we passed here last week was Senator Cayetano-sponsored and the body passed it and it went over to the House where now it is apparently buried. I do not believe that the measure has to be buried; I believe that this body firmly believed in its intent.

"If this body fully committed itself to bring the relief and the transition of tax reform that it contained to bare and to a vote, this body has that opportunity, but we have accepted evidently to let some group or some committee in the House bury that bill.

"So in an effort to keep that discussion alive, the Ways and Means Chairman has amended the House draft to include the same content, but this time eliminating the 5% to 4-1/2% with the same benefits.

"This amendment, Mr. President, does very little else. It just reduces the 4-1/2% to 4%, a long-time standing Republican proposal that the people of this State should not bear the cost of a 4% or any excise tax on food and drug. Now argument will be given that we can't afford to provide these benefits contained in this bill with the 4% tax increase.

"Well, that's a matter of judgment and it's a matter of question. It's a question of how we spend the anticipated \$165 million anticipated surplus; do we go into land banking; do we go into 'pork'; do we go into CIP; do we go into floating bonds on a cash basis, or do we just give it back to the people by exempting the food and drug.

"The second amendment here that I will offer, Mr. President, makes the exemption on the food and drug effective July 1, the same effective date of the bill, but it takes the other parts of it where there is a financial impact and takes it to July 1, 1981 so that the economic impact on the State would not be all at one time and the next year's legislature would have in fact an opportunity to review the impact and whether or not we can afford it. I believe that this bill amended would put into the hopper another alternative for the conferees to discuss.

"I have seen on many pieces of campaign literature, Democrats and Republicans alike, repeal of the 4% on food and drug. I have never see on any of these campaign pieces of literature, Mr. President, by raising the taxes to 4-1/2% or 5% or by increasing the taxes in another area, but I have seen in many areas this Republican long-time standing position picked up by Democrats and now championed.

"I believe, Mr. President, as my colleagues do here that the repeal of the 4% on food and drug is long, long overdue. The State budget can afford it. We are fat with surplus. Eileen Anderson, the prior Director of Budget and Finance, has anticipated that through inflation and other inflationary measures that the State coffers are going to be extremely fat.

"I do not believe that we can stand by and have the Administration propose to give back \$42 million to the people. I do not believe that we can stand by and have the House propose to give back \$42 million and we take a position of a tax increase or no relief to the people of this State.

"Mr. President, I have seen the UPW workers in Unit 1 on the street for \$10 a month more. That's all they wanted, Mr. President, \$10 a month more in their paychecks and they chose to strike and walk the streets for many weeks.

"This measure, Mr. President, as the Ways and Means proposal has demonstrated will bring tax relief and assistance to many people in the low and certainly the fixed income, people who are on fixed income and having a hard time making ends meet.

"I would like to see, Mr. President, this measure go in amended, and I do not believe that the self-imposed deadline and the argument that if this amendment passes, the bill is in fact dead. I would like very much to see this amendment passed, Mr. President.

"I would like to see this lay for 48 hours and passed to the House, and I would like to see the House deny accepting it because of some self-imposed deadline. Mr. President, I urge my colleagues to consider this gravely. I think it's an alternative. I'm not sure what conference will bring out but it's another approach to some kind of relief for the people of this State. Thank you, Mr. President."

Senator Mizuguchi then spoke in opposition to the amendment as follows:

"Mr. President, my opposition is not based on the merits of this particular bill, but my opposition is one of procedure. As the Minority Floor Leader has stated, there are self-imposed deadlines which the Senate and House must follow.

"There's nothing much we can do about the two-house system, Mr. President. We are a bicameral legislature. We have a 60-day session and work must commence and must be completed within the 60 days, and this is why we have deadlines.

"This is not the first time that we've seen this tax reform package. The Chairman of the Ways and Means Committee has proposed this tax reform package in a form of a Senate Bill. Because of inaction on the part of the House, the Chairman has seen fit to propose

tax reform in House Bill No. 2132-80. So this is not the first time, Mr. President, that the minority has had an opportunity to propose alternatives.

"They've had opportunities for the last 42 days. I think we need to follow our deadlines; we need to follow procedures, and in speaking for the majority, we're not voting on the merits or demerits of this particular amendment--only that it violates the procedures that are set up by both the House and Senate. Thank you."

Senator Anderson then continued:

"Mr. President, just for further clarification, I might add that as a member of Ways and Means, this possible reduction to 4-1/2% consideration was discussed, was offered by the minority members, and I might add that the Chairman of the Ways and Means Committee and his staff did consider this approach to reducing the excise tax to 4-1/2% as a realistic approach.

"After some discussion and some deliberations of a 24-hour period, it was reported back that it did not think it was feasible at that time, that in fact the cost impact of this could be afforded by only a 1/2% increase. So, it's not like it's been offered for the first time, Mr. President. We did pursue this route in Ways and Means and I will compliment the Chairman and the Committee that they did discuss it. It was rejected.

"I cannot in all good conscience stand here and go back to my constituency and tell them that I could not consider a tax relief measure or some kind of relief in a tax system; that where they're extremely over-taxed, I cannot go back and tell my senior citizens in my district on a fixed income that I couldn't consider some sort of relief on food and drug because of a self-imposed deadline. I don't think the public much gives a damn, Mr. President, about our self-imposed deadlines.

"My pay as a legislator today is the same as it's going to be tomorrow; they expect the same from me today that they do tomorrow, after the deadline and next week. I think as long as we are in session, Mr. President, this body and the one across the hallway have every responsibility up until the 60th day to exercise every option to seek out every opportunity to pass legislation, major legislation.

"Now I agree with the deadlines and I agree with the self-imposed guidelines (I'd rather call them deadlines) to effectuate an orderly transition of business, that's understandable; but major legislation, when you tell me that you're going to vote on it, not on the merits, but because

of a self-imposed deadline, we cannot accept that.

"We think this is far reaching, we think this has a tremendous impact on the State of Hawaii, and on the many people that would benefit, and I cannot accept that the merits of it are going to be denied because of a self-imposed deadline. Thank you, Mr. President."

Senator O'Connor then spoke against the amendment as follows:

"Mr. President, the previous speaker's pay was the same Friday as it is today and will be tomorrow. On Friday certain amendments were offered to various bills; one I remember in particular had to do with changing two words in the middle of the liquor supply bill. Any effective amendment to be passed by this body was to be issued and voted upon on Friday, not today.

"Therefore, Mr. President, we can only conclude that any amendment offered today is not offered with the wholesome integrity that one would expect from one who sincerely and honestly desires to have an amendment offered, but it's only offered for political reasons. And therefore, I would urge all to vote this amendment down."

Senator Cobb speaking against the amendment stated:

"Mr. President, one irony of the amendment if it is successful, the bill is dead, because like it or not the so-called deadlines or guidelines or whatever you want to call them had been agreed upon by two houses of a bicameral legislature. And the House would have every right to refuse to accept the bill after that deadline, as we would one of theirs.

"The irony is, of course, if we agreed with the amendment, we would in effect be killing the amendment by supporting it; if we disagree with the amendment because of the deadline we at least give the bill a further chance for discussion in a conference committee."

Senator Cayetano spoke against the amendment as follows:

"Mr. President, I'm really saddened to see the minority present this amendment at this time. I'm very disappointed that somehow this bill has become so identified with me that it becomes 'Senator Cayetano's bill.' The earlier bill could not have passed if it did not receive a majority vote from members of the Senate.

"What saddens me about the proposal of this amendment is that the proponents of the amendment know too well that all of this talk about self-imposed deadline is really very hollow. As Senator Cobb and Senator O'Connor pointed out, the effect of this amendment is to kill the bill. The death of the bill, Mr. President, is not the tragedy here tonight, if the bill in fact dies. What is tragic, I think is the games that are being played.

"There is one thing that I value here and that is the fact that I can look into another senator's eyes, be he a majority or minority member, and say on any issue that we dealt fairly with each other. If there is anything more that I cherish, it is a senator here being intellectually honest with himself, with his fellow senators and with his constituency. I think we owe this duty to the people of this State.

"This bill, as it stands right now, is the result of many hard and long hours of work, taking into consideration the concerns of many of the members here. As you may know, Mr. President, when the concept first started out, it was far different than what it is now.

"We took into consideration some of the concerns senators had, both minority and majority, and the bill was massaged and amended until finally Senate Bill No. 2813-80 passed. Taking into further consideration the concerns voiced by the minority members, especially the person who is now proposing this amendment, this bill was further massaged, further modified, and we did our very best to accommodate him, a member of the minority. This was done, dealing on a one to one, man to man, intellectually honest level of legislation.

"This amendment is not sincere; it's meant not for members on this floor; it's meant for the people in the press box and in the gallery, and it saddens me that that is the case.

"I hope the members of the majority and even the minority can see this amendment for what it is and deal with it accordingly."

Senator Anderson then responded:

"Mr. President, there seems to be some question and comments made that I was accommodated in this bill and therefore part of it sitting on my desk shares some of my concerns.

"Yes, the Chairman discussed the bill with me as it was presented; yes, it was explained to me in detail; yes, I did not agree with the 5% and the compromise with maybe 4-1/2%, what do you think-- but no part of this bill is Andy Anderson's; none of it.

"I enjoyed and respect the courtesy extended me to explain it to me and what the intent was and I don't argue with the intent or the merits, but that concept that the Ways and Means and this body acted on is across the hall already. The idea, the philosophy and the concept is there across the hall. This, as amended, is not, and I'm saying, let's put that into consideration along with the rest as an alternative.

"I might add that if there is any question, if there is any question among any of you on my sincerity, I would ask the President if he would entertain a motion to recess this body until 5 minutes of midnight now and I'll filibuster out House Bill No. 1912-80, House Draft 1, Senate Draft 1, which is the budget. I'll stand here and stake my reputation, Mr. President. You give me 5 minutes to 12:00 so I could spend my time talking and I'll filibuster that bill out beyond the 12:00 o'clock self-imposed deadline, and let's see if this so-called bicameral legislature will in fact extend the rules, extend the agreement so that it could be considered again.

"Now, I'm willing to gamble my political reputation; I'm willing to stand here and filibuster this bill out if you believe I'm not legitimate in my offer of amendments, if you will grant me the courtesy of recessing this body until 5 minutes of 12:00 and then I will see how rules and self-imposed deadlines can be changed."

The motion to adopt the amendment was put by the Chair, and Roll Call vote having been requested, the motion failed to carry on the following showing of Ayes and Noes:

Ayes, 6. Noes, 17 (Abercrombie, Ajifu, Campbell, Carpenter, Cayetano, Cobb, Hara, Kuroda, Machida, Mizuguchi, O'Connor, Toyofuku, Ushijima, Yamasaki, Yim, Young and Wong). Excused, 2 (Chong and Kawasaki).

Senator Anderson then spoke against H.B. No. 2132-80, S.D. 1, as follows:

"Mr. President, I was accused of, somewhat implied that there was a series of politics being played, that the amendment wasn't meaningful because it was offered in the late days and I say that's a lot of hogwash.

"I might add that it's not right for Senator Anderson, a Republican, to play politics, but it's okay for a majority member to amend and 'gut' a House bill to keep his concept or his philosophy alive. If that's not politics, I'm not sure what is.

"I would urge that this body vote this measure down; the bill is still a tax increase on the public and the people of the State.

"While it has of course some good merits, as I say this philosophy or the contents of this bill are already contained in the measure before the House and I would participate and I would do all I could to move and massage that bill in conference if in fact this house and this body were committed to doing something positive. Thank you."

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

"Mr. President, I would like to just refer the members to page 6 of the Standing Committee Report which I think contains the essence of the measure before us. The second paragraph, 'The net effect of the proposal contained in this is to increase the disposable income of resident taxpayers.'; I repeat, 'increase the disposable income of resident taxpayers.' Thus, it can be anticipated that residents will have more money available to spend in the consumer market.

"Furthermore, since Hawaii is an ocean-locked state, it is improbable that consumers will journey to a neighboring state where there is no excise or sales tax to make purchases solely to avoid the local tax."

"After all the things that have been done tonight to the consumer, it's about time we did something for the consumer."

The motion was put by the Chair and carried, and H.B. No. 2132-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 8 (Anderson, Carroll, George, Hara, Saiki, Soares, Ushijima and Yee). Excused, 2 (Chong and Kawasaki).

House Bill No. 2532-80, S.D. 1:

Senator Campbell moved that H.B. No. 2532-80, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Young.

Senator Cobb then spoke against the measure as follows:

"Mr. President, I'm going to vote against this measure and one of the principal reasons why is because of the lack of any kind of plan or intention as to where to relocate the Liberty Bell that I and other members of this legislature spent almost five years trying to get legislation for and to locate it.

"I've seen a lot of other bills involving site locations that always and always consider an analysis of alternatives, site locations and even alternate site locations. I find that consideration totally lacking in this bill. If it can't be addressed in conference, it ought to be addressed here."

Senator Kuroda then stated as follows:

"Mr. President, I rise to speak against the bill, but after I do, I'm going to vote 'aye' in order that I will be eligible to be assigned to the conference committee."

"The proposed Liliuokalani sculpture is an excellent idea, befitting the memory of the beloved Queen of Hawaii Nei; however, to preempt a national symbol, the replica of the Liberty Bell, is a proposal I cannot support."

"At first I would have risen to speak in anger when I first became aware of this Senate Draft to House Bill No. 2532-80 which states that it will replace the Liberty Bell, but now I speak in sadness."

"What is disturbing about this present draft is that it also does not make any mention as to where they will put the Liberty Bell. This afternoon I made several inquiries, over the telephone and learned that the plan was to move the Liberty Bell to another part of the Capitol mall."

"I trust the man who gave me that information; however I do not have faith in government bureaucracy and its foot-dragging inasmuch as the Liberty Bell was stuck in a warehouse for many, many years and it took the effort of many legislators and one Joe Morocco and his Retired Federal Workers' Association who finally were able to convince enough people to have the money appropriated and eventually have the Liberty Bell placed where it is. The Legislature appropriated \$10,000 for that purpose."

"I serve on the Senate Education Committee and if I had the opportunity to sign the Standing Committee Report, I would have then approached the Committee Chairman to state my objections; however I did not have a chance to, so therefore my signature is not on the committee report. We have several senators who oppose this bill because it specifically places a site."

"My personal desire is to vote 'no'; however, I plan to vote 'aye' so I can go to conference committee, and, ladies and gentlemen, I think it should go to conference committee. Thank you."

Senator Anderson commented: "Mr. President, I share the feelings, but I'm going to vote 'no.'"

Senator Abercrombie then spoke in favor of the bill as follows:

"Mr. President, a little background on this is necessary I think to understand why the designation is there."

"The designation of the site is as a result of the efforts made by the Queen Liliuokalani Sculpture Jury, a committee of some 25 or 30 people appointed by the Governor, to precisely take this business out of politics. The bill was passed."

"I'm not in conflict, I'm very happy the bill was passed; it was a bill that I sponsored, and as a result of this sponsoring or in the discussion, we deliberately left out of the bill the circumstances of who would do the sculpting and what it would look like and all the rest of it, to separate the legislature as far as possible from being involved in any kind of possible conflict of interest, the personal choices in likes or dislikes of any legislator."

"We felt that the subject of the Queen was and the statue was such that it should not get involved in that kind of thing. And I think that that kind of integrity, if you will, has been maintained. There has been no taint or hint of any kind of favoritism or anything of that sort involved in it."

"I myself although obviously very interested in the outcome attended only the first meeting for purposes of expressing my gratitude and thanks to the committee for the task it was about to undertake. I never met the artist that was finally selected; never even saw the brochure that went to the potential artist, assiduously avoided being connected in any way with the subject matter. I have given to the senators a few of the memorandums and a bit of the background and so on. The choice of the site then was made by the committee with the cooperation and consultation of the Comptroller who has the power in this instance and we have given over to the Comptroller in previous times the designation circumstances in respect of the placement of statutes and art in State buildings and so that is where it rests."

"The reason that this bill is before us and chosen is that the artist has now virtually completed her work and had to have instructions as to the pedestal; had to have instructions in terms of the final sculpting of the face especially because it is very important in order to get the proper effect of the statue (and I have obtained some of the photographs

from the artist, if anyone would care to see them) after the site was chosen. It's very important to have that because the angle of the head and everything else will be entirely dependent upon how one will arrive at that statue, so it's absolutely necessary that there be a site designated in order to have the proper landscaping. In this instance, it's going to be in respect to the banyan tree there, all the rest of it. And this has been chosen entirely devoid of any consideration other than the aesthetic aspects necessary to best display this statue, this addition to our Capitol complex.

"There was never any intent of any kind under any circumstances to thwart off any senator who might consider to be the legitimate efforts, to find a place for the Liberty Bell which had been in the State since 1950, and despite being used in various bond drives, and so on, nonetheless had not found a place to rest, a place of honor, if you will, to rest, and so when it was placed in the area where the Liliuokalani statute is to be now, it was not considered at least by the people who were in charge of its placement that this was to be necessarily a final resting place.

"Obviously, if they had thought so, it would have been brought to our attention because I don't think anyone connected with this in the Department of Land and Natural Resources or in the Department of Accounting and General Services, the State Foundation of Culture and the Arts nor with the many people associated with the committee appointed by the Governor and the Sculpture Jury, ever considered for a moment that they were doing anything out of line in that respect.

"I personally do believe that it should be there because this is the choice of the people who had the duty of carrying forward on this. And I do hope that it will be considered in that light. Most certainly I would be more than happy to try to accommodate anyone in terms of a placement of the Liberty Bell which would do it honor."

Senator Campbell spoke in favor of the measure as follows:

"Mr. President, as Chairman of the subject matter committee which dealt with this issue, I never did realize that the Liberty Bell could create such a problem. I tell you frankly, my personal feeling when this issue was raised before our committee that a citizens' committee would be involved in selecting the location of the Liberty Bell once the Queen would occupy this

space that the Liberty Bell now rests. Of course that's my own personal opinion.

"I would certainly hope that this legislature would not become the final body to select the site of the Liberty Bell and it's my hope that the kind of citizen committee that participated in the selection of the present site for the Liberty Bell be either reactivated or added to by additional citizens so that we could have citizen input. Thank you very much."

The motion was put by the Chair and H.B. No. 2532-80, S.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE PLACEMENT OF THE SCULPTURE 'THE SPIRIT OF LILIUOKALANI' AT THE STATE CAPITOL COMPLEX", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 8 (Anderson, Cobb, George, Saiki, Soares, Toyofuku, Yee and Young). Excused, 2 (Chong and Kawasaki).

House Bill No. 1912-80, H.D. 1, S.D. 1:

Senator Cayetano moved that H.B. No. 1912-80, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

Senator Carroll then inquired if the Chairman of the Committee on Ways and Means would yield to a question, to which Senator Cayetano replied: "Mr. President, in the six years I've been in the legislature, I have never refused to answer a question; I will tonight."

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

"Mr. President, I'd like to indicate to the Senate that I have three serious concerns that I'd like to make sure will be considered in the conference committee both by the Ways and Means Committee and the House Finance Committee.

"Two of them particularly regarding my own Seventh Senatorial District -- the funding for the Kalaniana'ole Highway Improvements and the Ft. Ruger community college site--and also thirdly, the consideration being given by the Ways and Means Committee so far regarding the budget for the Hawaii Visitors Bureau.

"We have talked at length in the Ways and Means Committee about these programs and I feel comfortable that we'll address this in conference, and therefore, I'll be voting for the budget with these concerns in the record."

Senator Carroll then spoke in favor

of the bill as follows:

"Mr. President, I rise to speak in favor of this measure with certain reservations. First of all, there's an item, No. 7-a, which addresses itself to a replacement heliport for the Ala Wai helipad, and it states that it will construct the helipad with parking apron, vehicle access road, parking perimeter fencing, and other appurtenance facilities. And the question that I had was that the use of the word 'replacement' does not indicate that it will be replaced elsewhere, and I was hoping to get assurance from the Chairman of the Ways and Means Committee that it was not going to be replaced at its present site or elsewhere in or near the Sixth Senatorial District.

"This has been my one reservation with respect to this budget measure. I've been assured by the Chairman of the Transportation Committee that this would not happen, but having seen some politics played over the past ten years with respect to numbers of measures, I did want to express my opinion for the record. I'm in opposition to this item if it's to be anywhere within the Sixth Senatorial District.

"The reasons for this opposition are: number one, there is tremendous noise generated by the helicopters; they create debris; they cause disturbances upon take-off and landing; and most importantly, there's always a chance of an engine failure upon take-off above a crowded beach or above surfers who surf just off where the heliport is. I think the sooner that that heliport is shut down, the better off we'll all be.

"The other item happens to be 7-b in this budget, and that is the appropriation of funds for an Oahu general aviation airport at Dillingham Airfield; this is \$3,600,000 to develop Dillingham Airfield as the first satellite general aviation airport, funds to be expended for runway and improvements, taxiways, holding pads, access roads, utilities and administration buildings, hangars, security fencing and other improvements required for general aviation operation.

"First of all, it would be nice if we had an airfield like that, and I'm sure the glider pilots and the few student pilots who go there, certainly fellows with the pit special--the kind of people we typify as general aviation buffs--would be very happy with an expenditure of that sort, particularly when they've only got an 8,000 foot runway to use at present.

"Unfortunately, according to what

I've been able to determine; Dillingham will reach its capacity even with the type of aviation activities going on there now between 1985 and 1990. It's extremely unwise to approve expansion and upgrading of this field when studies have not even been done to determine the site feasibility for the purposes presently being declared.

"As I've said many times before here in the Senate and in the House, Dillingham is far too removed from the center of business in Honolulu to induce the bulk of general aviation away from Honolulu International Airport.

"Now, Mr. President, this choice is not just bad, but it's moronic in the light of the data available on airports. Assuming that this matter goes into conference, we still have the time to select a site to take care of this major deficiency in our State transportation system. In spite of that deficiency, and in spite of the chairman's unwillingness to answer my question, I urge that we vote 'aye.' Thank you."

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

"Mr. President, inasmuch as one of the previous speakers indicated that his remarks were for the record, I wish mine to be for the record also. As Chairman of the Higher Education Committee, I want to re-emphasize and reiterate for that record that there is no such thing as a district school. We have a university system. If it happens to be in somebody's district, that's fine or that's bad depending on how it works out. But we do not fund schools on the basis of districts; we fund them on the basis of need for the university system. If we were funding them on the basis of districts, Kapiolani Community College is in my district."

Senator O'Connor in speaking for the measure, stated:

"Mr. President, I had not intended to speak, but based upon that last comment, I am compelled to.

"I have read through this bill; it's an excellent measure. I commend the Ways and Means Committee and the Chairman for an awful lot of hard work very well done. However, I also with Senator Soares represent the Seventh Senatorial District and I find that that district is really not too well spoken to in this measure.

"Our schools are well taken care of together with the schools of every other district, but in this new era of capital improvements--and it's rare that I speak on these lines--but on this era of capital improvements, where capital improvements

are going to be those of the State in general and of individual districts, I find very few capital improvements for the Seventh Senatorial District.

"As a matter of fact, paging through this measure I find that we have had our major highway, Kalaniana'ole Highway, removed from the bill; we have had the school to which the previous speaker discussed, removed, and evidently it's going to be retained in another district. In fact, as I was paging through it, I came upon a measure having to do with Diamond Head and I anxiously read the measure because Diamond Head is in our district, and it's the Diamond Head extension to the main terminal at the airport.

"Now, I know that joba nuts are important, and I know that Pierre the Pelican is terribly important, and I know that escheat outlawed once are also equally important, and the orthomolecular medicine machine at Hawaii State Hospital also is important, and I know that all of these things are of vital consequence to the State in toto; however, in being a trifle parochial, I will say I hope that when this measure comes out of conference that somebody looks out for the Seventh Senatorial District and puts something besides the Diamond Head extension to the main terminal for our poor little four-Senator Senatorial District. Thank you very much."

Senator Hara then commented: "Mr. President, just for a point of information, it's not joba, it's 'hohoba' and it'll make the project out toward Aina Haina section fly."

Senator Abercrombie then stated: "Mr. President, I do want to give some comfort to my colleague in the Seventh and indicate to him that Diamond Head is also in the Sixth District, so I'm sure that in the course of events, we'll be able to work out something that's mutually compatible."

Senator Cobb then commented: "Mr. President, I'd like to incorporate Senator O'Connor's remarks as my own in observing that the district that puts the most in taxes gets the least back, and also reflect that I just wish there's been as much concern for the site of the statue that we just voted on as there has been for the Aquarium and Kapiolani Community College and a few other things that involved site selection as well. I'm hopeful that in conference committee, something a little more for the eastern part of the town will come out of conference."

Senator Mizuguchi then spoke as

follows:

"Mr. President, I would like to add my support to the Senate draft of the Supplemental Appropriations bill and urge other members of the Senate to vote for this measure.

"The Chairman and members of the Committee on Ways and Means have developed a fiscally sound approach to the supplemental budget and State finances. In these uncertain times, it is an approach we should all support.

"I especially endorse the principle underlying this bill that we be very cautious in making large new capital improvement commitments which have far-reaching financial implications.

"And, Mr. President, I am especially gratified that in following this principle, the Committee on Ways and Means has supported the Committee on Transportation in deleting the appropriations for a second reliever airport at Poamoho and in deferring the requested appropriations for Kalaniana'ole Highway. I believe that the interest of safety at Honolulu International Airport can best be served by upgrading Dillingham Airfield to its fullest general aviation potential and by seeking further improvements to the Honolulu International Airport.

"And may I assure Senator Carroll that there'll be a lot of room at Dillingham for his heliport that he wants to replace at the Ala Wai.

"I also believe that the Kalaniana'ole project should be deferred pending fuller analysis and this analysis should include (1) the finalization of the design report by the Department of Transportation and approval of this report by the Federal Highway Administration; (2) an update of traffic count data on which the final environmental impact statement was based; and (3) a bus or mass transit commitment from the City and County of Honolulu to the Department of Transportation for the KAL corridor, which is the objective of the proposed action as stated in the final EIS.

"There are many aspects of this bill, Mr. President, which merits the support of all of us. I ask for a strong source of support for this measure. Thank you."

Senator Cayetano then spoke for the passage of the measure as follows:

"Mr. President, before I discuss the bill, I would like to extend my appreciation to the members and staff of the Committee on Ways and Means, who labored many days and nights in developing the measure. I would also like to thank the subject matter committees which contributed to the shaping of this bill. I am confident

that the bill before us--the most important expenditure measure in this session of the Legislature--is one that we can all support.

"An article in this morning's newspaper calls to our attention that most states have surplus revenues, a condition brought about mainly by inflation. But the article also cautions that, with a precarious economy and with inflation unchecked, most states would be well advised to reduce their spending levels.

"In this State, we have a surplus. How long it will last and what its magnitude might be three months from now or a year from now, no one can say for sure. But we do know that we are currently affected by uncontrollable national conditions which have a direct effect on state finances and which dictate pursuing a prudent fiscal course.

"For example, Mr. President, the bond market is in great jeopardy. Approximately, six months ago, the State was able to issue \$75 million in general obligation bonds at only 5-3/4%. Today the State cannot even go to the bond market. Our bond counsel has informed us that the State would have to sell its bonds at 9-1/4% in order to remain competitive. Bond experts predict the interest rates may rise to 10% within the next few months.

"We must exhibit caution in our approach to borrowing for capital improvements. Borrowing, if it can take place at all, must be reserved for all but the most critical projects.

"Indeed, the present condition of the bond market and the upward spiral in bond interest rates compels us to reassess and reevaluate our entire capital improvement program. Obviously, the steep increase in interest rates will add to the cost of capital improvements. We should determine what those increases are before we proceed. We must look before we jump.

"Unfortunately, the other body of this Legislature seems oblivious to the conditions of the national financial market. In its draft of the Supplemental Appropriations Bill and in the additional House bill for 'pork barrel' appropriations, the House has mindlessly assumed that we can proceed with 'business as usual', that we can go to even higher levels of cash spending and borrowing, that we can give away the State's surplus as if there was no tomorrow, whereas a clear and judicious understanding of current events, both local and national, would dictate that we proceed on an opposite course.

"Mr. President, it is bad enough that the Administration and the editorial boards of our two major newspapers have used the State's surplus to needlessly raise the expectations of our citizens. It is doubly tragic that the House has now joined the party and sent over to this Senate a Supplemental Appropriations Bill which can best be described as a 'Yes Check.'

"For example, the House approved nearly \$7.7 million in private grants--more than three times the \$2.5 million in private grants this Legislature appropriated last session. My staff's analysis of the applications for private grants indicate that there are many new applications and that some of the old private organizations are applying for grants two to three times the amount they have applied for in the past. Detailed analysis shows some of these applications contain requests for tremendous and outrageous increases in salaries, travel and other cost items. It is unfortunate that the House did not see fit to scrutinize these applications.

"As another example, last session the Pensioner's Bonus bill required an appropriation of little more than \$500,000 for state and county pensioners. Fueled by excited and frenzied discussions regarding the disposition of the State's surplus, a new Pensioner's Bonus bill was introduced this session, this time requiring a \$10 million appropriation or nearly twenty times the sum asked for in last year's bill.

"The House approved an appropriation of approximately \$7 million, including \$6 million for state employees and \$1 million for county employees. And this is only the direct cost. These bonuses will increase the base from which increases for post-retirement is calculated. And these costs are recurring costs which will be borne by future generations of taxpayers.

"I wonder, Mr. President, if the House has taken these kinds of recurring costs into account when it came up with its supplemental budget and financial plan. The clear evidence is that it did not.

"Obviously, then, the Senate and the House are quite far apart on the fiscal approach to be taken. However, I believe the Senate's approach is a fiscally responsible one, and mindful of our duty to provide a check and balance to excesses by the other branches of government. I am hopeful that in the days ahead, the Senate's approach will prevail.

"The committee report outlines both the important principles behind the Supplemental Budget and the key program decisions which have been made. I want at this time to highlight some of

the major considerations.

"First, as to general fund expenditures and the operating budget, we are setting budgetary levels in the spirit of the constitutional amendment calling for an appropriations ceiling. The only exceptions to the ceiling are for the extraordinary expenditures such as unanticipated electricity costs in public facilities and for energy research and development, for appropriations for land acquisition for parks and recreation, housing, and agriculture, for water development, for an accelerated and expanded repairs and maintenance program, and for the removal of asbestos in our schools to insure the safety of our children. Rather than high levels of spending for ongoing operating programs, we believe that cash for capital investments would be both prudent and productive.

"Second, as to capital improvements and the authorization of bonds, we are drawing these down to lower levels. Where executive budget requests appear to be overly ambitious and are not likely to be encumbered in the near future, we have reprogrammed their implementation phases. We have also assigned certain projects to be financed by special funds rather than by general obligation bonds. And we are also taking a stand in preserving the integrity of the appropriations process and instilling confidence in the capital improvements program by resisting the temptation to include 'pork barrel' projects.

"If we maintain these two basic approaches with respect to general fund expenditures and the capital improvements program, I believe that the State will be able to weather the troublesome financial period that seems to be ahead. But if we adopt the approach that 'anything goes,' which is the approach the House seems to be following, then we may be in for perilous times.

"Mr. President, holding spending down is hardly ever the most popular decision. But this Senate can demonstrate leadership; it can demonstrate that it has both the determination and the

capacity to make difficult decisions which will ultimately prove to be in the best interests of the people.

"I urge all Senators to support this bill, so that we can persuade the House that the course to follow is not the course of easy decisions to satisfy today, but the course of difficult decisions to safeguard tomorrow."

The motion was put by the Chair and carried, and H.B. No. 1912-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR THE FISCAL BIENNIUM JULY 1, 1979 TO JUNE 30, 1981", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Cobb). Excused, 2 (Chong and Kawasaki).

At 10:26 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:27 o'clock p.m.

At this time, the President commented as follows:

"The Chair would like to take this opportunity to thank the senators for staying with us from very early this morning until the wee hours of the evening. I think the discussion was good; that this should be the model for the regular dialogue of the Senate where people have an opportunity to express themselves and to give various viewpoints even though we may not agree on the issues.

"I think we ought to maintain some degree of courtesy such as was extended to every member this evening by fellow members and I'm very proud of this particular session."

ADJOURNMENT

At 10:28 o'clock p.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11:00 o'clock a.m., Tuesday, April 1, 1980.