

SIXTY-FOURTH DAY

Monday, May 6, 1991

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, convened at 11:43 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend James Furman, St. Peter's Episcopal Church, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Sixty-Third Day.

The following introductions of guests seated in the gallery were then made to the members of the Senate:

Senator McMurdo introduced her relatives from Sydney, Australia, Ross and Ann Playfair and Jim and Wendy Williams. Senator McMurdo informed the Senators that Wendy Williams is a well-known movie star in Australia.

Senator Levin then introduced his friends from New York City: Philip Boffey who is deputy editorial page editor of the New York Times; wife Rhonda Billig Boffey, an attorney; and children, Christopher, Ariana and Lara.

Senator Hagino introduced Mrs. Rose Yasuhara and Mrs. Wilma Okazaki of his Senate staff.

At 11:49 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:14 o'clock p.m.

The Chair then stated:

"Members of the Senate, if there be no objections, at this time we will take out of the order of the day, in the sequence printed, House Bill No. 139, H.D. 1, S.D. 1, C.D. 1, with Conf. Com. Rep. No. 75, and move for the final reading of the State Budget.

There being no objections, the Senate took the following action on House Bill No. 139, H.D. 1, S.D. 1, C.D. 1, with Conf. Com. Rep. No. 75:

FINAL READING

Conf. Com. Rep. No. 75 (H.B. No. 139, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 75 was adopted and H.B. No. 139, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Cobb, Nakasato).

CONFERENCE COMMITTEE REPORT

Senator Chang, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.C.R. No. 1, S.D. 1, presented a report (Conf. Com. Rep. No. 155) recommending that S.C.R. No. 1, S.D.1, H.D. 1, as amended in C.D. 1, pass Final Adoption.

On motion by Senator Chang, seconded by Senator Hagino and carried, Conf. Com. Rep. No. 155 was

adopted and S.C.R. No. 1, S.D. 1, H.D. 1, C.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO INITIATE DISCUSSIONS RELATING TO THE ESTABLISHMENT OF COOPERATIVE ASSOCIATIONS AMONG PACIFIC ISLAND STATES, TERRITORIES, AND NATIONS," was Finally Adopted.

STANDING COMMITTEE REPORTS

Senator Chang, for the Committee on Agriculture and Environmental Protection, presented a report (Stand. Com. Rep. No. 1575) recommending that S.R. No. 184, as amended in S.D. 1, be adopted.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.R. No. 184, S.D. 1, entitled: "SENATE RESOLUTION SUPPORTING THE PEOPLE OF GUAM IN THEIR EFFORTS TOWARD SELF-DETERMINATION," was adopted.

Senator Chang, for the Committee on Agriculture and Environmental Protection, presented a report (Stand. Com. Rep. No. 1576) recommending that H.C.R. No. 59, H.D. 1, be adopted.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.C.R. No. 59, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING STATE AGENCIES TO CEASE THE PRACTICE OF TREE TOPPING," was adopted, with the exception of Senator Matsuura who voted "no."

Senators Tungpalan, Ikeda and Matsuura, for the Committee on Culture, Arts and Historic Preservation and the Committee on Consumer Protection and Business Regulation and the Committee on Science, Technology and Economic Development, presented a joint report (Stand. Com. Rep. No. 1577) recommending that H.C.R. No. 353, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Solomon, seconded by Senator Reed and carried, the joint report of the Committees was adopted and H.C.R. No. 353, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING HAWAII'S CABLE TELEVISION INDUSTRY TO REFRAIN FROM RAISING SUBSCRIPTION RATES AS A MEANS OF COMPENSATING FOR ADDITIONAL FRANCHISE FEES IMPLEMENTED TO SUPPORT HAWAII PUBLIC TELEVISION," was adopted.

Senator Chang, for the Committee on Agriculture and Environmental Protection, presented a report (Stand. Com. Rep. No. 1578) recommending that S.R. No. 3, as amended in S.D. 1, be adopted.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.R. No. 3, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO STUDY WHETHER PERMITTING THE USE OF PLASTIC BEVERAGE CARRIERS DESIGNED TO PREVENT HARM TO WILDLIFE IS COST EFFECTIVE AND CONSISTENT WITH STATE ENVIRONMENTAL POLICIES," was adopted.

Senator Chang, for the Committee on Agriculture and Environmental Protection, presented a report (Stand. Com. Rep. No. 1579) recommending that S.R. No. 56, as amended in S.D. 1, be adopted.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.R. No. 56, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO TAKE STEPS NECESSARY TO PERMIT DIRECT LICENSING OF HUMANE SOCIETY SHELTERS BY THE DRUG ENFORCEMENT ADMINISTRATION TO ENABLE THEM TO OBTAIN SODIUM PENTOBARBITAL FOR THE EUTHANASIA OF ANIMALS," was adopted.

At 12:17 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:51 o'clock p.m.

ORDER OF THE DAY

STANDING COMMITTEE REPORTS

MATTERS DEFERRED FROM FRIDAY, MAY 3, 1991

Stand. Com. Rep. No. 1459 (H.C.R. No. 332):

By unanimous consent, action on Stand Com. Rep. No. 1459 and H.C.R. No. 332 was deferred to the end of the calendar.

Stand. Com. Rep. No. 1568 (H.C.R. No. 147, H.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 1568 and H.C.R. No. 147, H.D. 1, was deferred to the end of the calendar.

At 3:52 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:59 o'clock p.m.

FINAL READING

S.B. No. 248, S.D. 1, H.D. 1:

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 248, S.D. 1, and S.B. No. 248, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE INSTALLATION OF ENERGY EFFICIENT LIGHTING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 115, S.D. 1, H.D. 1:

On motion by Senator Yamasaki, seconded by Senator Matsuura and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 115, S.D. 1, and S.B. No. 115, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII UNDERSEA RESEARCH LABORATORY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 339, H.D. 2:

On motion by Senator Yamasaki, seconded by Senator Crozier and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 339, and S.B. No. 339, H.D. 2, entitled: "A BILL FOR AN ACT

RELATING TO RENT SUPPLEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 1157, S.D. 1, H.D. 1:

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1157, S.D. 1, and S.B. No. 1157, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF REFUNDING SPECIAL PURPOSE REVENUE BONDS TO ASSIST THE EVANGELICAL LUTHERAN GOOD SAMARITAN SOCIETY IN PROVIDING A HEALTH CARE FACILITY TO THE GENERAL PUBLIC," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 1726, S.D. 1, H.D. 2:

On motion by Senator Yamasaki, seconded by Senator Aki and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1726, S.D. 1, and S.B. No. 1726, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 21 (H.B. No. 1685, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 21 was adopted and H.B. No. 1685, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 35 (H.B. No. 1012, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 35 was adopted and H.B. No. 1012, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVESTIGATIONS BY THE ATTORNEY GENERAL AND THE COUNTY PROSECUTING ATTORNEYS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Levin, McMurdo, Chang, Cobb). Excused, none.

Conf. Com. Rep. No. 53 (H.B. No. 917, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Nakasato and carried, Conf. Com. Rep. No. 53 was adopted and H.B. No. 917, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSFER OF ALL FUNCTIONS, POWERS AND DUTIES INVOLVING THE REGULATION OF OCEAN RECREATIONAL BOATING AND COASTAL

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

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 54 (H.B. No. 515, H.D. 1, S.D. 2, C.D. 2):

Senator Blair moved that Conf. Com. Rep. No. 54 be adopted and H.B. No. 515, H.D. 1, S.D. 2, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Levin.

Senator Blair, in support of the measure, said:

"Mr. President, I would like the record to reflect my thanks to Dr. Stephen Waffach, Mr. Jeff Crabtree and Ms. Barbara Carmen who spent very long hours on this bill. I would also like to thank Senator Levin who came up with a compromise that saved it at the 11th hour, as well as Senators McMurdo and Koki. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 54 was adopted and H.B. No. 515, H.D. 1, S.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LIVING WILLS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 55 (H.B. No. 375, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Levin and carried, Conf. Com. Rep. No. 55 was adopted and H.B. No. 375, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE COORDINATING COUNCIL ON DEAFNESS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 56 (H.B. No. 734, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Levin and carried, Conf. Com. Rep. No. 56 was adopted and H.B. No. 734, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL SERVICES EXCISE TAX CREDIT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 57 (H.B. No. 851, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Hagino and carried, Conf. Com. Rep. No. 57 was adopted and H.B. No. 851, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE CAPITOL TOUR AND INFORMATION PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 58 (H.B. No. 1697, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Holt and carried, Conf. Com. Rep. No. 58 was adopted and H.B. No. 1697, H.D. 2, S.D. 2, C.D. 1, entitled: "A

BILL FOR AN ACT RELATING TO NATURAL AREA PARTNERSHIPS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 59 (H.B. No. 1699, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Holt and carried, Conf. Com. Rep. No. 59 was adopted and H.B. No. 1699, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOREST STEWARDSHIP," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 60 (H.B. No. 1748, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 60 was adopted and H.B. No. 1748, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PUBLIC EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 61 (H.B. No. 955, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 61 was adopted and H.B. No. 955, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATER POLLUTION CONTROL," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 62 (H.B. No. 954, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 62 was adopted and H.B. No. 954, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTEGRATED SOLID WASTE MANAGEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 63 (H.B. No. 1955, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Holt and carried, Conf. Com. Rep. No. 63 was adopted and H.B. No. 1955, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A COOPERATIVE STUDY BETWEEN THE STATE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE UNITED STATES GEOLOGICAL SURVEY FOR THE PURPOSE OF CONDUCTING AN ANALYSIS OF THE STATEWIDE WATER RESOURCES MONITORING PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 64 (H.B. No. 895, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 64 was adopted and H.B. No. 895, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL HAWAIIAN HOME LANDS TRUST CLAIMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 65 (H.B. No. 889, H.D. 1, S.D. 2, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 65 be adopted and H.B. No. 889, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator A. Kobayashi.

Senator Blair rose to speak against the measure and said:

"Mr. President, I've been struggling with whether or not to vote against a bill to promote literacy, and think it's necessary that I put some words in the record so that my intention is not misunderstood.

"I'm very much in favor of literacy but I'm not convinced that a \$400,000 endowment is a fiscally prudent way for us to proceed. There is not an adequate oversight of the expenditures when we fund by endowment. I'm afraid that we may be setting a precedent here, a precedent which should not be set. Therefore, notwithstanding the desirability of greater literacy, I'm forced to vote against the measure. Thank you."

Senator McMurdo rose to speak in support of the bill and stated:

"Mr. President, I rise to speak in favor of this bill.

"This bill establishes a public-private partnership and the money will be met equally by the private citizens. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 65 was adopted and H.B. No. 889, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LITERACY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Blair, Levin, Matsuura). Excused, none.

Conf. Com. Rep. No. 66 (H.B. No. 1038, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 66 was adopted and H.B. No. 1038, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 67 (H.B. No. 1039, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 67 was adopted and H.B. No. 1039, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 68 (H.B. No. 1040, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki seconded by Senator Iwase and carried, Conf. Com. Rep. No. 68 was adopted and H.B. No. 1040, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 69 (H.B. No. 362, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 69 was adopted and H.B. No. 362, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPOUSES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 70 (H.B. No. 1177, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 70 was adopted and H.B. No. 1177, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A TOTALLY ELECTRONIC VOTING SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Reed, Koki). Excused, none.

Conf. Com. Rep. No. 71 (H.B. No. 608, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 71 was adopted and H.B. No. 608, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 72 (H.B. No. 844, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 72 was adopted and H.B. No. 844, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR IMPROVING THE STATEWIDE RAINFALL AND FLOOD INFORMATION SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 73 (H.B. No. 865, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Crozier and carried, Conf. Com. Rep. No. 73 was adopted and H.B. No. 865, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LOW-INTEREST LOANS TO DISASTER VICTIMS AND MAKING AN APPROPRIATION THEREFOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 74 (H.B. No. 24, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 74 was adopted and H.B. No. 24, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 76 (H.B. No. 598, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 76 was adopted and H.B. No. 598, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 77 (H.B. No. 701, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 77 was adopted and H.B. No. 701, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS BUDGET," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 78 (H.B. No. 1021, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 78 was adopted and H.B. No. 1021, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE HIGHWAY FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Reed, Koki, Mizuguchi, Cobb). Excused, none.

Conf. Com. Rep. No. 124 (S.B. No. 1462, H.D. 1, C.D. 1):

By unanimous consent, Conf. Com. Rep. No. 124 and S.B. No. 1462, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MOVING IMAGE PRESERVATION," were recommitted to the Committee on Conference.

Conf. Com. Rep. No. 125 (S.B. No. 1567, S.D. 1, H.D. 1, C.D. 2):

Senator McMurdo moved that Conf. Com. Rep. No. 125 be adopted and S.B. No. 1567, S.D. 1, H.D. 1, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Levin.

Senator McMurdo rose to speak in support of the measure as follows:

"Mr. President, I rise to speak in favor of this bill.

"This bill, in effect, would limit the sale of tobacco products from vending machines. Only bars and other businesses, such as cabarets, that are off-limits to those under 18 years of age are permitted to dispense these products from vending machines under this bill.

"Mr. President, if anything else, this bill makes it more difficult for our youths to purchase cigarettes. As Dr. Lewin, our health director stated, a survey by the Health Department showed that 60 percent of our youngsters who smoke buy cigarettes from vending machines. In the April 21st Sunday Advertiser-Star-Bulletin, it was reported that a 15-year-old girl from Kaimuki Intermediate School buys her cigarettes from machines. I have here an article in which another young man who is a student at Kaimuki Intermediate, a 13-year-old, gets his cigarettes from vending machines.

"Mr. President, these numbers scare me! Especially, in light of the fact that the use of tobacco products is a serious public health problem and that as many as 390,000 Americans die each year from its use. The real tragedy of these deaths is the fact that there are hundreds of thousands of new smokers each year to replace those who have either quit smoking or have died. Ninety percent of these smokers are under 21 years of age and a large percentage are in their very early teens.

"The American Heart Association is appalled by the type of advertisement and promotion used by the tobacco industry to promote the sale of its product. Each year the tobacco industry spends more than \$3.3 billion to advertise and promote cigarettes, making this the most heavily advertised product in the United States. Mr. President, just think what a fraction of this amount could do to enhance the health and human services needs in this country.

"In addition, the association indicated that smoking, high blood pressure, and high levels of cholesterol in the blood are the three major, independent coronary heart disease risk factors. The former Surgeon General referred to smoking as 'the most important of the known modifiable risk factors for coronary heart disease in the United States.'

"In conclusion, Mr. President, for the reasons stated above, I urge my colleagues to pass Senate Bill 1567, S.D. 1, H.D. 1, C.D. 2.

"I would like to add that in deference to the vending machine people, I went and talked to them and concluded that it would be a hardship on them had we made the bill effective as of the 5th of July. So Conference Draft 2, with the consent of the House, gives them now 14 months rather than 2 months, and they evidently felt that they could live with this.

"In passing this bill, we will not only be limiting the sale of cigarettes from vending machines but I dare say that we would be depriving the marketing and the sale of this product to children, minorities, women and the economically disadvantaged, and taking a positive step to

prevent smoking among the young people. Mr. President, 'Out of sight, out of mind.' I urge my colleagues to vote 'yes' on this bill."

Senator George rose to inquire if the previous speaker would yield to a question, and the Chair having posed the question and Senator McMurdo having answered in the affirmative, Senator George asked:

"Mr. President, maybe I should start off by saying I'm a non-smoker. I should further say I'm not only a non-smoker, I'm a reformed smoker. That's the worst kind, I think.

"I find on the first page of the bill toward the bottom, it says, 'The legislature finds also that there are areas from which minors are restricted, and therefore not allowed easy access.' I am a little troubled by this because I am not aware of any legislation which prohibits minors from going into bars in this state. Is the chairman aware of any law which restricts the entrance of minors to bars?"

Senator McMurdo yielded the floor to Senator Blair who responded:

"Mr. President, as chairman of the Judiciary Committee I could address that question.

"If an establishment chooses, on its own, to prohibit minors from entry; then they could have the cigarette machines in there. The Minority Leader is correct. There is no law which prohibits minors from entering bars or cabarets. The prohibition is on the sale of liquor to those minors.

"My understanding of the bill is that cigarette vending machines are prohibited, unless located in one of these bar-cabarets or any establishment for which the minimum age for admission is 18. That is not by way of legislative fiat, but through the management of the establishment. It would be up to them how they chose to handle it. Thank you."

Senator George continued:

"If I may, Mr. President, it seems to me that we're providing some feeling of security that minors will not have access to places where the restriction is for those under 18, but it's only fancied. I don't know of any establishments that are posted, and it seems to me that the reality of the situation would be that the franchisees, if that's what they're called, of the vending machines would then have to persuade bar owners to post 'Nobody under 18 allowed' in order to place their machine. It sounds to me sort of like cutting off the puppy dog's tail an inch at a time so it won't hurt so much.

"I would hate to give the feeling that we were really doing something with this if there is to be no practical effect. Perhaps either one of the two chairs can assure me that there will be some effort to secure posting of the premises."

Senator Blair then remarked:

"Mr. President, I believe some bars prohibit the entry of people under the age of 18. Perhaps they're not of the same nature as the bars that the Minority leader generally patronizes. Thank you."

Senator Cobb rose to speak against the measure and said:

"Mr. President, I will be voting against this bill and just for the record I would like to read into the record a

fax I received from the Hawaii Hotel Association. Quoting in part:

'First, many of our international visitors, particularly the Japanese, smoke more than the residents of Hawaii. They utilize vending machines more than residents since it is more convenient and less of a problem in understanding currency exchange rates.

'The paragraph most important, the bill uses the term bars. There is no reference in Hawaii Revised Statutes to this term. Chapter 281 on intoxicating liquor does not define bar. This chapter defines different licenses and refers to "Licensed Premises." Hotels would have little problem with this bill if bars mean licensed premise. However, if the term means something else, we may have considerable difficulties with the bill.

'We earlier wrote the chairs of the committees requesting clarification, however, no change has been made. Therefore, we urge your vote against this measure as drafted.

'Mahalo and Aloha, Clem Judd, President.'

"Mr. President, I think the fax has hit upon the problem in both respects: (1) the enforceability, and (2) the fact that many of our visitors from Japan who are used to purchasing their cigarettes and who do smoke, proportionately much more than the American population, are used to buying their cigarettes from vending machines. This is also true of visitors from Europe as well as other parts of the world. Unless a concerted public relations campaign is going to be conducted either at state expense or someone else's expense, it's going to be difficult to educate them in advance that that practice is not allowed in Hawaii, particularly making it difficult for them to purchase cigarettes from a vending machine during daylight hours when they're on tours and bars or other licensed premises are not open. Thank you."

Senator Reed rose to speak for the measure and said:

"Mr. President, I rise to speak in support of the bill.

"Perhaps if the vending machines with cigarettes available were harder to find it would simply lend more credence to our image as a health state."

Senator McMurdo, in support of the measure, added:

"Mr. President, when it comes to the Japanese tourists looking for vending machines, that's a poor excuse for not passing a bill which may help prevent minors from getting hold of cigarettes.

"I did point out to the good Senator that people who come here as tourists very quickly learn that we have very liberal laws when crossing the street, and yielding to pedestrians, and that they quickly take advantage of that. And I don't remember ever being in any foreign country where you couldn't find out the laws on certain things. If you want to get cigarettes then you can follow the law.

"If there are problems with the definition, it seems to me that in the Liquor Commission there are laws regulating bars and cabarets. Bars without shows have to close at 2:00 o'clock. Cabarets can remain open until 4:00. I may not be completely correct in the way I've stated that, but I would still urge my colleagues to vote for this measure. Somewhere along the line we have to start taking a stand in tightening up so that we don't have a continuum of the kind of cases of lung cancer and emphysema which we are seeing now from generations which did not have this kind of support. Thank you."

Senator Chang also rose to speak in support of the bill and remarked:

"Mr. President, I rise to express my concern about the legislation and also express my appreciation to the subject matter chairman for acting after I expressed my concerns about the legislation.

"Basically, Mr. President, it has to do with the lead time that we're giving vending machine merchants about the state's plans in this area. I had inquired with vending machine companies and was told that these machines have a value of between three and four thousands dollars and have a useful life of five to seven years. Obviously, a machine purchased in 1990 would still have quite a ways to go before the value of its purchase is recovered.

"Be that as it may, the original legislation emerging from the Conference Committee provided no lead time at all to these merchants and upon being informed about these concerns, the subject matter chairman was good enough to go back into conference and attempt to put a lead time and period of notice for these merchants, and for that I'm very appreciative.

"My hope is that during the next year in a continued discussion with the various businesses that would be affected by the legislation that there may be some appreciation of a need to further refine the legislation and I would hope that the subject matter chairman would be open to these communications by the business community.

"As a small token of my appreciation for her attention, I'd like to point out that there is a definition of 'bar' in Chapter 328K which reads, it 'means a place devoted to the serving of alcoholic beverages for on-site consumption by patrons and where the service of food is only incidental to the consumption of such beverages. A food service establishment may contain a bar, but the term bar shall not include the dining area of a food service establishment.' This is found in Chapter 328K, titled 'Smoking.' Thank you, Mr. President."

Senator McMurdo then said:

"Mr. President, I would like to thank Senator Chang for those kind words and for the reference. We'll have to see that it gets to the Hawaii Hotel Association."

Senator Mizuguchi rose to speak against the measure and stated:

"Mr. President, I'm voting 'no' on this bill because of the concerns expressed by the previous speaker to our business community.

"As chairman of the Employment and Public Institutions Committee, the committee has tried to present a level playing field between business and labor this year and this bill would create a hardship on those businesses that are in the vending machine business. I'd like to see more latitude and time given to these companies so that these machines can be phased out. But because there is only about a 14-month lead time to phase out these machines, I'm voting against the bill. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 125 was adopted and S.B. No. 1567, S.D. 1, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO PRODUCTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Cobb, Mizuguchi, George). Excused, none.

Conf. Com. Rep. No. 126 (S.B. No. 246, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Levin and carried, Conf. Com. Rep. No. 126 was adopted and S.B. No. 246, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 127 (S.B. No. 1340, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 127 was adopted and S.B. No. 1340, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LONG TERM CARE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (George, Reed, Koki). Excused, none.

Conf. Com. Rep. No. 128 (S.B. No. 809, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Hagino and carried, Conf. Com. Rep. No. 128 was adopted and S.B. No. 809, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DESIGN AND CONSTRUCTION OF A BIKE PATH AND WALKWAY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 129 (S.B. No. 1511, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 129 was adopted and S.B. No. 1511, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A CLASSROOM LIBRARY INCLUDING A LIBRARY INVENTORY, MOBILE CARTS, AND SHELVING FOR KAPAA ELEMENTARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 130 (S.B. No. 1962, S.D. 2, H.D. 2, C.D. 2):

On motion by Senator Blair, seconded by Senator Hagino and carried, Conf. Com. Rep. No. 130 was adopted and S.B. No. 1962, S.D. 2, H.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HAZARDOUS WASTE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 131 (S.B. No. 1224, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 131 was adopted and S.B. No. 1224, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF COUNTY TRANSPORTATION SYSTEMS UNDER THE GENERAL EXCISE TAX," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 132 (S.B. No. 1286, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 132 was adopted and S.B. No. 1286, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 133 (S.B. No. 1338, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 133 was adopted and S.B. No. 1338, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SALARIES AND CLASSIFICATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 134 (S.B. No. 8, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Ikeda and carried, Conf. Com. Rep. No. 134 was adopted and S.B. No. 8, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 135 (S.B. No. 113, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 135 was adopted and S.B. No. 113, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CHARACTERIZATION OF NON-CIGUATERA MARINE TOXIN IN REEF FISH AND ALGAE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 136 (S.B. No. 1311, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Nakasato and carried, Conf. Com. Rep. No. 136 was adopted and S.B. No. 1311, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PARKS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 137 (S.B. No. 1718, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 137 was adopted and S.B. No. 1718, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNDERGROUND STORAGE TANKS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 138 (S.B. No. 1797, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 138 was adopted and S.B. No. 1797, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 139 (S.B. No. 1737, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 139 was adopted and S.B. No. 1737, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM FOR THE COMMUNITY-BASED DEVELOPMENT PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 140 (S.B. No. 1792, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 140 was adopted and S.B. No. 1792, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL INDUSTRIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 141 (S.B. No. 1839, S.D. 1, H.D. 1, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 141 be adopted and S.B. No. 1839, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Blair.

Senator Blair spoke in support of the measure as follows:

"Mr. President, I rise to speak in favor of this bill. It targets sex offenders and violent criminals by providing for the creation of a DNA profile, blood type and secretor database. It complements the current police databases of fingerprints and photographs.

"Let me explain by example. When the system is set up, people convicted of sex offenses and certain violent crimes will have samples of their blood and saliva taken, at a hospital or clinic. The sample will be catalogued by detailed blood type, secretor status and DNA profile. This information will then be available for the

investigation of future crimes. For example, the police can analyze a sample of a rapist's seminal fluid which was taken from a victim and match it against the data in their files. If the rapist was previously convicted of a covered offense, there will be a match. It may well connect the suspect to many previously unsolved crimes.

"We know that sex offenders are likely to repeat. Their victims are often highly traumatized by the attack, and sometimes very young. Fingerprints or reliable eye witness identifications are often not available. DNA pattern, blood type and secretor status testing are, however, usually possible. This bill gives the police a new weapon that will be very useful in solving sex offenses and violent crimes."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 141 was adopted and S.B. No. 1839, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BLOOD AND SALIVA TESTING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 142 (S.B. No. 1858, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 142 was adopted and S.B. No. 1858, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF YOUTH SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 143 (S.B. No. 712, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 143 was adopted and S.B. No. 712, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 144 (S.B. No. 2114, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Nakasato and carried, Conf. Com. Rep. No. 144 was adopted and S.B. No. 2114, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ALA MOANA GATEWAY IMPROVEMENT PROJECT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 145 (S.B. No. 1297, H.D. 1, C.D. 1):

On motion by Senator Fernandes Salling, seconded by Senator Aki and carried, Conf. Com. Rep. No. 145 was adopted and S.B. No. 1297, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 146 (S.B. No. 9, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 146 was adopted and S.B. No. 9, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A DEPARTMENT OF ENVIRONMENTAL PROTECTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 147 (S.B. No. 731, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 147 was adopted and S.B. No. 731, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 148 (S.B. No. 1045, S.D. 1, H.D. 1, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 148 be adopted and S.B. No. 1045, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Iwase.

Senator Mizuguchi rose to speak in support of the measure as follows:

"Mr. President, Senate Bill 1045 is an extremely important bill to the University of Hawaii and the Board of Regents. This bill will allow the Board of Regents to set the president's salary for the next five years, up until July 1, 1996. This Legislature would like the University to have the authority, the flexibility, and the discretion to set the salary of the president.

"Mr. President, in essence, this bill is really a message to the Board of Regents and to the president that they need to adopt the master plan of the University and start to create an excellent institution for our citizens of the State of Hawaii. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 148 was adopted and S.B. No. 1045, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 149 (S.B. No. 1167, S.D. 2, H.D. 2, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 149 be adopted and S.B. No. 1167, S.D. 2, H.D. 2, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Blair.

Senator Blair supported the measure and said:

"Mr. President, I rise to speak in favor. This bill establishes a computer based information system, in the department of the attorney general, that will collect and provide up-to-date information on juvenile offenders. Police, prosecutors, family court and the Hawaii Youth Correctional Facility will use this system to assure that

minors are correctly identified and that they are receiving the most appropriate and effective counseling, rehabilitation, education or detention. It will help these agencies to carry out their responsibilities and will help the minors become law-abiding and productive citizens."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 149 was adopted and S.B. No. 1167, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF A JUVENILE JUSTICE INFORMATION SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 150 (S.B. No. 1379, S.D. 1, H.D. 1, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 150 be adopted and S.B. No. 1379, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator A. Kobayashi.

Senator McMurdo rose to speak against the measure and stated:

"Mr. President, I'm sorry to say I will be voting against this bill. I want to thank the chairman and the Ways and Means Committee for attempting to make this a bill which had the appeals process and which I thought was necessary for the providers of purchase of services. At this point, I see too much ambiguity and too many other problems with this bill. The chairman has assured me that he will be looking at the appeals process again, but at this point I don't feel that I can vote for the bill."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 150 was adopted and S.B. No. 1379, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GRANTS, SUBSIDIES, AND PURCHASES OF SERVICE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (McMurdo, Cobb, Crozier, Reed, Levin, Kobayashi, B.). Excused, none.

Conf. Com. Rep. No. 151 (S.B. No. 2101, S.D. 1, H.D. 1, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 151 be adopted and S.B. No. 2101, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator A. Kobayashi.

Senator Cobb rose to speak on the measure as follows:

"Mr. President, with some hesitation I rise to speak on this measure. I'll probably be voting for it unless some compelling reason can be given in advance.

"Just by way of background, over the last four years I have twice requested a breakdown from the staff of the Ways and Means Committee, by memo addressed to the chairman, as to how much executive CIP is released every year versus how much legislative CIP is released every year, and that for an average of at least ten years so that we have some long range picture. Failing receipt of that information, I did some preliminary and I emphasize the word preliminary homework on my own.

"I have found, and I make this as a rather serious charge subject to rebuttal, that over the last ten years in excess of 90 percent of executive CIP is released and implemented. Less than 10 percent of legislative CIP is

ever released and implemented. In effect then, Mr. President, the net result of that is that CIP that we pass, based on input from our communities, based on the hopes of our voters, based on the good work and hard intentions of all legislators present, is in effect nothing more than a fraud perpetrated on the voters because less than 10 percent of it will ever be released.

"As I indicated earlier, that statement stands to be corrected, but corrected with facts, corrected with research, corrected in response to at least two memos over the last four years requesting this kind of information. As my own research has indicated, exactly the figures that I have given you, on average for at least the last ten years, if a person goes back and researches beyond the previous ten years you will find a more compelling ratio that a greater amount of executive CIP and a lesser amount of legislative CIP is ever released. The question then becomes, why should we continue this shell game. Why should we labor forth for three months to bring out a mouse when a mouse doesn't even have teeth? When a mouse doesn't even have language that says 'This project is considered essential and must be spent.' Budgetary process, unfortunately, as reflected in Chapter 37 in both the operating budget and in the capital improvements programs, allows so much discretionary spending as to be virtually meaningless.

"I hope, Mr. President, for a response, a factual response and an answer to the question and the charge that I have raised. Failing that, I want to make it clear that during the course of the session I felt it was important to proceed in an atmosphere of cooperation and not confrontation and therefore to participate in the drafting and the forwarding of relevant CIP documents, as well as other legislation, and I have done so. That still does not address the underlying problem that I have viewed and shared with my colleagues on a historical basis. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 151 was adopted and S.B. No. 2101, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 152 (S.B. No. 2102, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 152 was adopted and S.B. No. 2102, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 153 (S.B. No. 1381, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 153 was adopted and S.B. No. 1381, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CREATION OF A COMMISSION FOR PERFORMANCE STANDARDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Conf. Com. Rep. No. 154 (S.B. No. 1812, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 154 was adopted and S.B. No. 1812, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

THIRD READING

Stand. Com. Rep. No. 1469 (H.B. No. 640, H.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1469 was adopted and H.B. No. 640, H.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST AN INDUSTRIAL ENTERPRISE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1471 (H.B. No. 776, H.D. 3):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1471 was adopted and H.B. No. 776, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO THE PROMOTION OF INTERNATIONAL EVENTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1475 (H.B. No. 890):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1475 was adopted and H.B. No. 890, entitled: "A BILL FOR AN ACT RELATING TO THE YEAR OF THE FAMILY CELEBRATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1480 (H.B. No. 1022):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1480 was adopted and H.B. No. 1022, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL FACILITY REVENUE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1483 (H.B. No. 1049):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1483 was adopted and H.B. No. 1049, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1484 (H.B. No. 1055):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1484 was adopted and H.B. No. 1055, entitled: "A BILL FOR AN ACT RELATING TO RENTAL HOUSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1486 (H.B. No. 1254, H.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1486 was adopted and H.B. No. 1254, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM DEVELOPMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1487 (H.B. No. 1958):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1487 was adopted and H.B. No. 1958, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1569 (H.B. No. 370, H.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1569 was adopted and H.B. No. 370, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE REPATRIATION OF NATIVE HAWAIIAN HUMAN REMAINS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1570 (H.B. No. 1382, H.D. 2):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1570 was adopted and H.B. No. 1382, H.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SCHOOL INSPECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1573 (H.B. No. 953, H.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1573 was adopted and H.B. No. 953, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH AND SUBSTANCE ABUSE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

Stand. Com. Rep. No. 1574 (H.B. No. 2194, H.D. 1):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 1574 was adopted and H.B. No. 2194, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO

ADJUST THE SALARIES OF UNIVERSITY OF HAWAII ADMINISTRATIVE PROFESSIONAL AND TECHNICAL EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

At 4:41 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:54 o'clock p.m.

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

STANDING COMMITTEE REPORTS

Stand. Com. Rep. No. 1459 (H.C.R. No. 332):

By unanimous consent, Stand Com. Rep. No. 1459 and H.C.R. No. 332, entitled: "HOUSE CONCURRENT RESOLUTION REJECTING THE FEDERAL MANDATE THAT REQUIRES STATES TO REVOKE THE DRIVER'S LICENSES OF DRUG OFFENDERS OR SUFFER THE LOSS OF FEDERAL FUNDS," were recommitted to the Committee on Transportation and Intergovernmental Relations.

Stand. Com. Rep. No. 1568 (H.C.R. No. 147, H.D. 1):

Senator Crozier moved that Stand. Com. Rep. No. 1568 be adopted and H.C.R. No. 147, H.D. 1, be adopted, seconded by Senator Fernandes Salling.

Senator Blair rose to speak against the resolution and said:

"Mr. President, I rise to speak against the concurrent resolution. First, let me say that I appreciate the impetus behind the resolution. 1993 looms very large in our future and it behooves us to treat it seriously. If this Legislature can note and take action on an injustice done against one 'shoeless' individual then we certainly would be remiss if we were not sensitive to the injustice done to hundreds of thousands of Hawaiians almost a hundred years ago. In that sense I very much support what I believe to be the spirit and support the chairman in that regard.

"The reason I can't vote for the resolution is because of certain provisions in it. I'll be specific. The second to the last paragraph says that the Legislature supports a particular non-profit group called 'The Hawaii Council for the Year 1993 and Beyond' in its efforts to promote and coordinate activities toward certain ends. The ends that are referenced talk about questioning, and I'm quoting from the resolution, 'questioning the present and future role of people of every race who today constitute the "Hawaii Society".' I think most of us will admit that that's a very broad and open-ended statement.

"Then it talks about encouraging 'the promotion of debate revolving around the future of Hawaii as a Pacific Island society, within or without the United States of America;'

"Those purposes trouble me because as a member of this body I'm sworn to uphold and defend the Constitution of the State of Hawaii and the United States of America. To me Hawaii has no future without the United States of America, only within the United States of America. I know the people in my district are content with being citizens of the United States and protected by the Constitution of the United States and have no desire

for any questioning of that status. Therefore, I can't vote for those provisions.

"I'm even more troubled when it's connected with a group called 'The Hawaii Council for the Year 1993 and Beyond' which the Legislature, by this resolution, specifically supports. To the best that I have been able to ascertain that group is interested in secession or at least some elements of that group appear to want to have Hawaii leave the United States of America.

"So the coupling of these provisions to me goes beyond merely saying that it's time to address the injustice that was done to the native inhabitants of the islands a hundred years ago, which debate I would very much like to see go forward. In fact, I would like to see some sort of a Hawaiian sovereignty over some lands. Other native Americans already have such status. But I think we go too far when we raise the specter of secession, which I think this resolution does. I think we go too far when we talk of our support of a new organization which has no track record that gives me any confidence and which includes, apparently, members who see the world in much different terms than I do.

"For those reasons, while I hope that between now and 1993 we will look towards a greater self governance by our native Hawaii population, I cannot support the resolution. Thank you."

Senator McMurdo also spoke against the resolution and said:

"Mr. President, I agree with the previous speaker that greater governance for the Hawaiian peoples, the native Hawaiian peoples, here is one thing. But the very idea or the very mention of the word secession is anathema to me as an American citizen, and as a legislator of the State of Hawaii which is a part of the United States, and therefore I will be voting against this resolution."

Senator George also spoke against the resolution and stated:

"Mr. President, it would be a betrayal of my constituency if I didn't agree wholeheartedly with a good many of the provisions of this resolution. I admire the thought that went behind it. I just think it leaves an enormous chasm and goes too far when it talks about separation from the United States of America. I am a citizen of the United States and I can't entertain the thought of even entering into debate about secession. Thank you."

Senator Koki added his remarks against the resolution and said:

"Mr. President, I would like to also register my concerns that the previous speakers have expressed. I would like to incorporate their objections as my own. Thank you."

Senator Cobb rose for the resolution and remarked:

"Mr. President, I will be voting for this premised on the understanding that the chairman of the committee in floor remarks is going to be expanding the groups participating in the debate so it does not appear as state sponsorship of only one group or organization.

"I think in the debate it raises a very interesting corollary. Over a hundred years ago this country fought a brutal civil war on the question of secession. And the question was decided that it is not possible to secede once having joined the United States of America. Over half-a-million Americans lost their lives. It's been our most

costly war in our entire history. But that should not preclude debate on the subject. And I know that debate is coming.

"An interesting corollary is that the other world super-power, the Soviet Union, is wrestling with precisely the same question. How to have a mechanism for succession for those nations or indigenous people who wish to secede from the Union of Soviet Socialist Republics. For them to have such a debate and for us not to allow it, I think, would be contradictory.

"More to the point, the date 1993 is going to bring forth a lot of memories, a lot of historical events being opened and we should at least be willing to listen and to accommodate. And I for one appreciate the willingness of the chairman to expand the group beyond that designated in the body of the resolution. And in accordance with that flexibility and willingness to listen and to accommodate I will be supporting this measure. Thank you."

Senator Iwase also rose to speak in support of the resolution as follows:

"Mr. President, I rise to speak in support of the resolution.

"Some concerns have been expressed and I share those concerns, particularly that concern which relates to a focussing on a particular group. I will be supporting this resolution with the understanding that this resolution in no way is to be viewed as a statement of the Legislature's support for that particular group and its activities during the forthcoming year.

"In regard to the question of secession, I do not view the resolution as taking a position by the State Legislature to either urge or support in any other way express state support for the issue of secession. I have just finished reading a book on the American Civil War, 'Cry for Freedom' or something to that effect. Senator Cobb alluded to that civil war which was fought over a hundred years ago and cost more American lives than all wars up through the Vietnam War. And certainly the principle that you cannot secede from the Union has been established.

"I do believe, however, that discussion on the issue of secession and all other issues related to the development of the State of Hawaii through the 21st Century is a relevant topic to be taken up next year. And it is, I think, also an opportunity for the state and for the native Hawaiian population to look at an event which occurred a hundred years ago and to discuss it. It is perhaps a kind of catharsis for the population. If so, perhaps some good will come from that and perhaps we can move forward and create a better society for all of us.

"I will be supporting the resolution for the reason that it will allow for debate and discussion on a matter which is of concern to all of us today and which focuses on an event which occurred in the past. It is a sore which festers, continues to this day, and it must be addressed. It cannot be put away. It cannot be stuck under the rug. It has to be discussed. This provides an opportunity to do so.

"Thank you, Mr. President."

Senator Chang also supported the resolution and stated:

"Mr. President, I would like to echo the sentiments of the Senator from St. Louis Heights and the Senator from Mililani in supporting the resolution.

"One of the great operating concepts in our society is that of democracy, a concept that is derived from Ancient Greece. Another concept that emanated from Ancient Greece are the Socratic ideals, one of the being that an unexamined life is a life not worth living. I believe that this resolution furthers both those concepts; that is the democracy that serves our people so well, and the examination that we so sorely need in order to maintain that democracy. Thank you."

Senator McCartney also supported the resolution and said:

"Mr. President, I rise to speak in favor of the resolution and I would like to echo the remarks of the previous speakers.

"In my mind, Mr. President, speaking as a non-native Hawaiian, I think that we need to address this issue. It's an issue that has been brewing and that we cannot ignore. As the previous speaker said, we cannot sweep it under the rug. We have to confront it as policymakers and it may make all of us feel uncomfortable as policymakers. It may make the entire state feel uncomfortable but it's an issue that we have to face and we have to address and if we do not I think the consequences will be worse than they are today. And I support the resolution and I think debate and discussion is the foundation of our democratic system and that we should promote it and not be afraid of it.

"Thank you, Mr. President."

Senator Crozier also spoke for the resolution and remarked:

"Mr. President, I speak in favor of the resolution, and I appreciate the concerns of my colleagues.

"Mr. President, this year is the bicentennial of the Bill of Rights. How sad we haven't given the Bill of Rights much consideration this year. America is the greatest nation in the world because of the Bill of Rights. It guarantees the right of every individual to the freedom of speech, privacy and so on. The Bill of Rights is there to protect the rights of the minority from the tyranny of the majority.

"Mr. President, this resolution although my colleague have concerns with that one group in there, I can recognize his concern, I think it's more important to get on with the debate. For the last hundred years, the Hawaiian community has grumbled about this. I guess the best word is 'namu namu.' They've always talked about it and they could never get past the overthrow. Maybe it's time that the rest of the community realize what they went through and what they have lost. And the only way we can have that is to have a full debate.

"Nowhere in this document says that we support secession. It talks about self-determination. Right now the Hawaiian Home Lands is controlled by the state government. Why, Mr. President, must we control Hawaiian Home Lands? That is a trust set up for the native Hawaiian people. Why can they not have self-determination and decide for themselves how Hawaiian Home Lands should be operated. Are we afraid of it? Are we so comfortable with our form of government, or are we so terrified that others will come up with valid arguments or concerns that we rather just say, 'Oh no, no, we know what's best and if we know what's best, the rest of you must follow along.' That is not how the democratic process works. We need to have dialogue with the community. I think it would be helpful.

"1993 will be the watershed year. I don't know what's going to happen but the future of Hawaii will make great strides or its direction may turn slightly for the better or for the worse, but we need to confront 1993 in its fullest.

"Regarding 'The Hawaii Council for the Year 1993 and Beyond,' recognized as the only organization interested in 1993 and the future of Hawaii and its governance, let me share with you that the Office of Hawaiian Affairs is already involved in this. I'm not trying to put this one organization above the others. It is just a player. The Hawaiian group called 'Kalahui' is already getting ready for 1993; so is the Hawaiian Civic Club; so is 'Pa Kaukau' and the list goes on and on and on about different Hawaiian organizations already getting set up for 1993. Maybe we should also invite in the children or the missionary societies, the descendants of the missionaries. They should also participate. And I think that the Pacific Club should play a role in deciding in 1993, and, definitely, the Hawaiian Sugar Planters Association has a legitimate role to be part of 1993; also maybe some corporate sponsors like Dole Pineapple, they should be part of this. It is open to all bodies, not just this one organization listed in here.

"With that, Mr. President, I ask my colleagues to support this resolution. Mahalo."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1568 was adopted and H.C.R. No. 147, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING THE YEAR 1993 AS THE 100TH YEAR SINCE THE OVERTHROW OF THE INDEPENDENT NATION OF HAWAII," was adopted, with the exception of Senators Blair, George, Koki and McMurdo who voted "no."

MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 386, dated May 6, 1991, transmitting his statement of objections to House Bill No. 1183 which he has returned to the House of Representatives without his approval and which reads as follows:

"EXECUTIVE CHAMBERS

HONOLULU

May 6, 1991

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1183

Honorable Members
Sixteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1183, entitled 'A Bill for an Act Relating to the Department of Health.'

The purpose of House Bill No. 1183 is to impose a statutory duty upon the Department of Health to ensure that all citizens have access to a reliable telephonic system which responds immediately to emergency calls and which refers such calls to the appropriate police, fire, or emergency medical services.

The bill would require the Department of Health to oversee a system which responds to any type of emergency situation affecting either the police, fire or emergency medical services. The Department of Health, however, as a health agency, does not have any expertise in police and

fire departments dispatch operations. Accordingly, to require that the Department of Health assume the responsibility of a telephonic system directly affecting the daily operations of the police or fire departments, which are under county jurisdiction, would be inappropriate.

Moreover, the EMS-related calls on the current '911' system comprise only approximately 10% of all calls received. Therefore, although the EMS is a user of the '911' system, the primary use of the system is for police and fire department assistance, which are county functions.

Additionally, with the exception of Hawaii County, all counties have operating 911 emergency telephone systems. Each county is in the best position to assess its resources and requirements and, therefore, should be responsible for the development and operation of its own emergency telephone system.

Finally, without a qualifying definition of the word 'ensure,' the scope of the State's potential tort liability should the Department of Health fail to absolutely 'ensure' access to a reliable 911 emergency call system is unclear. Similarly, the use of the word 'reliable' in referring to a 'reliable telephonic system' without a qualifying definition is also troublesome, because the Department of Health has no control over the operation of the telephone companies and the county equipment and personnel necessarily involved in the operation of the emergency call system.

For the foregoing reasons, I am returning House Bill No. 1183 without my approval.

Respectfully,

/s/ John Waihee
JOHN WAIHEE
Governor of Hawaii."

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 420, S.D. 2, H.D. 1:

Senator Yamasaki moved that the Senate reconsider its action taken on April 12, 1991, on S.B. No. 420, S.D. 2, H.D. 1, seconded by Senator McMurdo and carried.

At 5:13 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:20 o'clock p.m.

On motion by Senator Yamasaki, seconded by Senator McMurdo and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 420, S.D. 2, and that S.B. No. 420, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 621, S.D. 2, H.D. 1:

Senator Yamasaki moved that the Senate reconsider its action taken on April 12, 1991, on S.B. No. 621, S.D. 2, H.D. 1, seconded by Senator McCartney and carried.

On motion by Senator Yamasaki, seconded by Senator McCartney and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 621, S.D. 2, and that S.B. No. 621, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PROFESSIONAL DEVELOPMENT," having been

read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 693, S.D. 2, H.D. 2:

Senator Yamasaki moved that the Senate reconsider its action taken on April 12, 1991, on S.B. No. 693, S.D. 2, H.D. 2, seconded by Senator McMurdo and carried.

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 693, S.D. 2, and that S.B. No. 693, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR NURSING HOME WITHOUT WALLS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 1330, S.D. 1, H.D. 1:

Senator Yamasaki moved that the Senate reconsider its action taken on April 12, 1991, on S.B. No. 1330, S.D. 1, H.D. 1, seconded by Senator Tungpalan and carried.

On motion by Senator Yamasaki, seconded by Senator Tungpalan and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1330, S.D. 1, and that S.B. No. 1330, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOLIDAYS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

S.B. No. 2013, S.D. 2, H.D. 2:

Senator Yamasaki moved that the Senate reconsider its action taken on April 12, 1991, on S.B. No. 2013, S.D. 2, H.D. 2, seconded by Senator Blair.

On motion by Senator Yamasaki, seconded by Senator Blair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2013, S.D. 2, and that S.B. No. 2013, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GAMES OF CHANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Ikeda, George, Reed, Koki, Levin, Kobayashi, B.). Excused, none.

Conf. Com. Rep. No. 31 (H.B. No. 1016, H.D. 1, S.D. 1, C.D. 1):

Senator Fernandes Salling moved that the Senate reconsider its action taken on May 3, 1991, on Conf. Com. Rep. No. 31 and H.B. No. 1016, H.D. 1, S.D. 1, C.D. 1, seconded by Senator Tungpalan and carried.

Senator Fernandes Salling then moved that the Conf. Com. Rep. No. 31 be adopted and H.B. No. 1016, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Tungpalan.

Senator Fernandes Salling rose to speak in support of the measure as follows:

"Mr. President, I rise to speak in favor of this bill.

"The bill before us upholds the basic fundamental principle that a person is presumed innocent until proven guilty. This bill allows for an administrative process which will remove drunk drivers from our highways in an

expeditious but fair manner. This bill will allow police officers to take away a person's license on the spot before he takes a breath or blood test. This bill, however, does provide that the determination that a person was driving under the influence be made within 30 days before his license is revoked, thereby providing an arrestee some minimum due process protection under the law. This bill, Mr. President, encourages people to take a breath or blood test by increasing the penalty for refusal to take the test from six months to one year.

"For these reasons, Mr. President, I urge my fellow colleagues to vote in favor of this bill."

Senator Matsuura also supported the measure and stated:

"Mr. President, I rise in support of this bill, but with the gravest, and I really mean gravest, reservation because I have a dilemma. Whether we pass this bill or kill this bill, the State of Hawaii will have the worst DUI law in the whole United States.

"Why? Because come July 1, 1991, the most important DUI provision in our state law will change. Today, if you are arrested for DUI, you have a choice -- submit to a blood test or a breathalyzer test. If you are indeed drunk, and if you fail the test, your driver's license will be revoked for 90 days. If you refuse to take either of the tests, you lose your driver's license for one year.

"All 50 states have this provision in their statutes. It is referred as implied consent. All 50 states agree that getting driver's license is a privilege, and not a right for every citizen. A few people object to this law because it infringes on our civil rights. Our laws favor the guilty by the mere fact that our laws are written to protect the innocent. It is better to let 10 guilty persons go free than to convict one innocent person. That is the basis of our criminal law today.

"We all know the biblical story of King Solomon. When two mothers claimed a child, King Solomon ordered the child to be cut in half, giving one-half to each mother. One Mother agreed; the real Mother said, 'No, give the child to the other.'

"Today, we live in the 20th century. We have the 'A,' 'B' and 'O' blood group tests. We have the Rh blood group test. We have a M-n blood group test to determine parentage. We don't have to cut babies in half. When it comes to rape cases, we have the deoxyribonucleic acid test to determine the guilty one.

"Today we have the breathalyzer test. We have the blood test. If a person is arrested for drunken driving, what better test is there to prove your innocence? If you submit to the test and is found negative, who in his right mind is going to try to convict you? No one! Nobody in his right mind, because that's the strongest defense you can get. So we're taking care of the innocent.

"The other alternative favors the guilty. Any lawyer would advise his client, arrested for DUI, to refuse to take the test after July 1, 1991. I have a brother who looks like me. If I am arrested and if I am really guilty, I am not going to take the tests because I am going to fail. I'll be a dead duck. If I don't take the test and if the police officer happens to misspell my name and just put one 'u' in spelling Matsuura, then I have a chance to beat the arrest. If I were arrested on Papio Street, rather than Ahi Street, I have a chance. If I had three other guys in my car, I have a chance because it will be four against one police officer. No person will take the test, especially if you have a prior drunk driving conviction.

"I would agree to letting the lawyers decide if a person is DUI or not, if the judiciary system can guarantee justice. Our present judiciary system can not guarantee justice because the lawyers are more interested in winning the court case and collecting their legal fees. However, if the judiciary system can guarantee me justice, that the guilty will indeed be found guilty, then I'd say, 'Yes, let the lawyers decide if a person is DUI or not.' In our legal system, our courts are just filled to capacity, so we must keep building these judiciary buildings. This DUI loop hole in the law will increase our court cases after July 1, 1991.

"As far as I am informed, the Attorney General, all the prosecuting attorneys, all the law enforcement agencies, the clergies, everybody I know and I have talked to many, favor retaining the implied consent provision. I doubt if anyone of us who have not lost their loved one, because of a DUI driver, can fathom the loss, the hurt and the feeling of despair, and the feeling of anger that we are doing this. It is useless to apologize after one has killed an innocent person.

"So I ask the public, maybe in vain, but if you drive, do not drink alcoholic beverages. If you drink alcoholic beverages, don't drive, because the life you may be saving may be mine, and I am not yet tired of living. Thank you."

Senator George rose to speak against the measure and said:

"Mr. President, I'm going to confess to carelessness and stupidity. I know the conference draft is not before us but I signed it free and clear. I was under the impression that we had fixed the provision that reinstated implied consent in our administrative revocations statute. Well, we fixed it; but we fixed it

"Since that time, I've had the opportunity to get an opinion which is going to prevail on me to vote against this because I don't think we have a very good situation anyway. Joe Cindrich who was with the National Highway Safety Administration (NHSTA) in the San Francisco office has opined that our administrative revocation proposal, as well as the old one, do not meet the federal criteria for funding that states are entitled to if they pass an adequate administrative revocation statute.

"So in a way I'm in a kind of a dilemma. I'm kind of frustrated. But I'll feel better, maybe sleep better if I vote 'no' on the measure. Thank you."

Senator Koki also rose to speak against the measure and said:

"Mr. President, I rise and speak against this bill.

"I recognize that we do need an administrative revocation bill. But quite frankly the people in my district are really quite fed up with the way we're handling what the attorneys' jargons are in due process that really favors the guilty, as in this case, this bill particularly does. I for one would like to represent my district and go with my previous speaker and vote 'no' on this bill."

Senator Blair rose to speak in support of the bill and stated:

"Mr. President, I rise to speak in favor of the bill but with grave reservations.

"We made a mistake in 1990, when we repealed Section 286-155. As a technical matter we still have implied consent under Section 286-151, but the action-

forcing provisions of the implied consent law, which repeal the license for failure to take the test, were in Section 286-155. That section was repealed as part of the admin revocation law in Act 188-1990.

"In 1990, all the signals from the law enforcement community were that we should vote for Act 188. But in retrospect, Act 188 should have retained 286-155. The situation that was created by Act 188 is not addressed in his bill. Frankly, there's nothing wrong with any of the provisions in this bill, so I'll be voting in favor of it. My problem is that this bill represented our last clear chance, short of a special session, to avoid the the one major negative impact of Act 188.

"Let me explain it a little bit for the benefit of those who don't appreciate what we did. I'll try to be brief because I'm not sure how germane it is to this bill other than some references on page 23, lines 13 to 23, changing from six months to one year the penalty for failure to take the test upon conviction.

"Prior to July 1st of this year, if you refuse to take the test, you lose your license for a year. It is completely independent of the disposition on the drunk driving charge. It's a completely separate basis for revocation.

"Come July 1, 1991, it will no longer be a separate grounds for revocation. If you refuse to take the test, you run a risk. If you are convicted of the underlying offense of drunk driving, you will have your license suspended.

"There are those who believe that this will cause people to take the test and that we'll have pretty much a status quo situation. I hope they're right, but I suspect they're wrong. After July 1, 1991, the refusal to take a breath or a blood test only results in an increased penalty if the state proves the offense of driving under the influence. The new law thus replaces the certain loss under the old law with a gamble that gamble may pay off. You can refuse the test and thereby deprive the state of the best evidence of your intoxication. If the loss of this evidence is fatal to the state's case, you win. If not, you suffer an enhanced penalty. However, even that enhanced penalty is less severe than the current penalty under implied consent because it lacks an absolute revocation.

"Some say that people won't take this gamble. They won't try to suppress the best evidence in hopes of getting off on the underlying offense. But I don't think we should be setting up a system which encourages depriving the state of its best evidence of intoxication in hopes of avoiding any penalty. If a person is stopped, they know they can withhold the best evidence of their guilt, and they also know that if they are nonetheless convicted there will be an enhanced penalty, so they'll have to make a judgment that they didn't have to make under the old law.

"Under the old law you knew, you don't take the test, you lose. Under the new law, you don't take the test, you may win, you may lose. I think that's an unfortunate change in the law. I wish we had utilized this vehicle to correct that situation. But since there's nothing wrong with the bill other than what it doesn't include, I reluctantly urge my colleagues to vote in favor of it."

Senator Iwase also rose to support the measure and said:

"Mr. President, I would like to join the previous speaker, the chairman of the Judiciary Committee, on his comments. I too would like to explain my vote.

"I will be voting in support of S.B. 1016 but like all previous speakers, with the exception of two others, with the greatest reluctance.

"Mr. President, we are all familiar with the results of traffic accidents caused by someone who is drinking while he is driving. We can recall deaths occurring on Kalanianaʻole Highway and other areas of the island.

"In my opinion, a person who is arrested for DUI is not deserving of our pity, our sympathy or even our friendship or goodwill. He or she is however deserving of due process of law. That means you have a fair hearing; that means there is a presumption of innocence until proven guilty.

"Under the present implied consent law, that individual is afforded the full panoply of due process protection. If that were not so, this implied consent law which is in all other states of the union would have been struck down by either the United States Supreme Court or the Hawaii State Supreme Court. It has not been so struck down.

"Unfortunately, on July of this year this law will expire in an untimely death and we have no option but to proceed with this administrative revocation bill because it does seek to address some issues under Act 188 which passed last year. It does not correct the implied consent revocation.

"It is my hope, for the sake of all who believe that we must act to prevent drunk drivers from hitting our roads and to bring them to justice when they are arrested and, if guilty, it is my hope that we will act, restore the implied consent law before July of this year. I do not think an extension of this session is warranted. I think we are all tired but certainly something in the nature of a special session may well be warranted.

"Thank you, Mr. President."

Senator B. Kobayashi also rose to speak for the measure as follows:

"Mr. President, I rise to speak in favor with grave reservations.

"Implied consent does not water in any fashion self-incrimination. As the previous speaker has noted, if so, implied consent would have been struck down earlier by some other court of our land. Implied consent however is a important part of a very difficult battle against drunk driving. Let me remind people that drunk driving is not just any ordinary, innocent event. Combined, all drunk driving cases cause more monetary damages (property loss, medical bills, work days lost, etc.) in the United States than all robbery and theft combined in the United States. Drunk driving causes more deaths in violent form than any other cause of death in the United States and causes more deaths than almost all medical or health causes of death.

"Our fight against drunk driving should be a total war against the evils that drunk driving causes upon our society. I for one am in support of strong drunk driving laws and I believe we are taking a step back when we approve this conference draft 1. Nonetheless, because the conference draft does amend certain technical aspects to the act that we passed last year, I will vote for it. Thank you."

Senator Ikeda spoke against the measure and said:

"Mr. President, I rise to speak against this bill.

"I share the dilemma of the Senator from Hilo however I don't share his conclusion. I'll put it in very simple terms.

"When I voted for the administrative revocation of licenses, I thought I was voting for something that really toughened laws against drunken drivers and I think a number of other people felt the same way. However, I feel that now with this loophole which was created by the accidental omission of implied consent, that we really are not solving anything by passing this bill and, therefore, I am voting against it."

Senator Reed rose to speak against the measure and stated:

"Mr. President, I also rise to speak against the bill for a couple of reasons.

"One, because it fails to put very necessary teeth in the implied consent aspect of the law into the Hawaii Revised Statutes, and also because I believe that if this Legislature were truly serious about combatting the problem of drunk driving that we would not allow this session to end without passing out a bill that truly does what's needed to impact on the drunk driving in the state."

Senator Blair then said:

"Mr. President, it's not often that my mind is changed on the floor but reflecting on what Senator Ikeda said and somewhat on what Senator Iwase said, it occurs to me that there is a possibility that we will be coming back to deal with this issue before July 1, 1991.

"As a procedural matter rather than in a substantive matter, if we keep the matter in conference committee and if we are called back at a later time to come out with a conference draft 2 which addresses the issue that I think the majority of us wish to see addressed, then the subsequent convening of this body, I believe, can be for a shorter time period. In light of that, it would be more expeditious if we had the matter in conference committee rather than to go into six readings. So, for procedural reasons, I will join with Senator Ikeda and urge my colleagues to defeat this matter so that we can take it up expeditiously before July 1st. Thank you."

The Chair interjected:

"As a matter of information from the Chair. The House has adjourned sine die. They have reconsidered action on this bill and have passed it. Therefore, it would be impossible for us to go back to conference. The House has passed conference draft 1 by a vote in the House. We either defeat it or pass it so let's go vote on it."

Senator Blair then rose on a point of parliamentary inquiry as follows:

"Mr. President, if we defeat it, notwithstanding the House having passed it, and are subsequently called back, would we be required to pass a remedial bill on this topic through six readings or could we reconsider and work out a conference draft 2 that is acceptable to both houses? Could the House reconsider its action on final reading, recommit the matter to conference committee, and report it out as a conference draft 2 without the formality of six readings?"

The Chair answered:

"On a matter of parliamentary procedure, the action has already been taken by the House and they have

adjourned sine die. We have one action remaining. If we fail to reconsider our action, the bill die."

Senator Cobb then interjected:

"Mr. President, in further response to the Chair's remarks addressing the question of parliamentary procedure, I believe a reconsideration must be affected in the next business or legislative day. The time for reconsideration has passed since the House has already taken final action on this and presumably any special session or reconsideration of this issue would take place beyond the timeframe just outlined, it would be very unlikely that reconsideration would be an allowable procedure and therefore six readings would be required."

The Chair answered:

"What would be required now would be a special session to meet the number of readings."

Senator Blair then continued:

"Mr. President, I do need a clarification.

"Then you're telling me that if we vote against the bill and defeat it and if we do come back into a special session it will require six readings in any event?"

The Chair responded:

"That is correct."

Senator Blair then said:

"In that case, Mr. President, I will withdraw my remarks and urge my colleagues to vote in favor of the measure. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 31 was adopted and H.B. No. 1016, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (George, Reed, Koki, Ikeda). Excused, none.

Senator Cobb then rose to state:

"Mr. President, in deference to the bill passed just before this one, if any member would like to see how bingo operates before the Governor signs this bill, the Hickam Officers Club which I don't believe is known as any kind of a den of iniquity has bingo every Tuesday or Wednesday night. I went out there a couple of weeks ago and saw over 500 people peacefully, lawfully enjoying bingo because it is a federal military establishment. Ninety percent of those present were families and they seem to be having a good time. Thank you."

Senator Fernandes Salling rose to speak on a point of personal privilege as follows:

"Mr. President, I rise on a point of personal privilege.

"With respect to the bill that just passed out of this hallowed halls, I would like to just take my colleagues back to the last three to four years. We've been dealing with a very tough issue -- how to get drunk drivers off the road and as quickly as possible. Because it's a tough issue we're going to have to face some difficult decisions as we have here tonight.

"Proponents of those who support administrative revocation essentially are asking that we take this out of the court system except for judicial review and handle it administratively. That through the experience throughout different states this has been shown to handle the problem of drunk drivers and to get them off the highways expeditiously.

"For the last two years, we have tried to balance what the proponents are saying as opposed to also people who feel very strongly about protecting other's civil rights. And in this case, the protection of, I believe, our fundamental principle that we are presumed innocent until proven guilty. And it's been tough and I share with some of you and understand your feelings about this. It's not only been tough, it's been confusing because we are dealing with a lot of technical and legal issues here in such a short time frame.

"I'd like to also point out that last year when this bill came up before us, the problem was that we could not provide due process within 30 days, which is what the Senate had proposed to do in order to implement admin revocation. It was said to us at that time that this would cause the bill to be defective, that they could not implement the procedure, and it was essentially a waste of time and hard work to get a good admin revocation bill on the books.

"I find it a bit ironic that this year, after a task force made up of all the proponents of admin revocation other than the House and Senate, never once was that raised as the problem. Instead, after conference committee, when both the House and Senate signed off on the conference draft, suddenly the allegation was that we had made a mistake and had created a huge loophole by repealing implied consent. Mr. President, that really is not so and I believe that the proponents are taking advantage of some statements that may have been made, some confusion here.

"The implied consent law on the books requires some kind of finding that you are driving under the influence. It requires by reasonable grounds by a police officer that you are driving under the influence. The implied consent law on the books is not an automatic revocation of a person's license for refusal. It is a revocation after a full evidentiary hearing to look into the grounds for which you were stopped by a police officer to see whether or not there were reasonable grounds that you were driving under the influence, before a license is revoked by a judge in a court of law. We have essentially provided for that in our bill.

"We also wanted to make it very clear to those out in the public that it's very important that they take the test. Therefore, we agreed to the amendment that we increase the fine from six months to a year. The Senate's last proposal to the House was that we increase this from two years and we also proposed a fine of up to \$5,000 should people refuse to take the test.

"Till this day, Mr. President, I have not been afforded or given any kind of data by the law enforcement agencies, by the Attorney General's office, by the House Judiciary, with respect to how many people are actually convicted under a higher burden of proof beyond a reasonable doubt without a test.

"I'm not here to argue for or against the test. As I've indicated to you, it is our intent that people take the test and I think we have reflected that intent by our last proposal that was given to the House on Friday. The point is merely that we are getting into very legal and technical grounds and, when you cut through all of that, what you have is an administrative revocation bill here

that will allow for a person's license to be revoked, taken away on the spot, before he takes a test. A test isn't all the evidence that is needed to convict. You have to have some evidence before you can stop a person to ask that person to take the test.

"I felt very strongly that these points should be made with respect to the bill, given all of the statements made here today, and that perhaps it might clear up some of the confusion or misleading by proponents for something other than what we have before us. I know that this is an issue that we are going to have to look at again because this is something that's very important to all of us, how to effectively deal with getting the drunk drivers off the road. But I feel very confident that what we have here is a bill that is going to do that and as I said expeditiously, while at the same time protecting the rights of people which is, basically, that they are presumed innocent until proven guilty. Thank you."

Senator Cobb also rose to speak on a point of personal privilege and stated:

"Mr. President, rising on a point of personal privilege, I would like to address what has now become a recurring problem but before doing so, rather than casting any blame or aspersion, I've learned that if you have a problem with relationships or have a problem with the system and you want to look for blame, the best place to do so is to begin by looking at a mirror. So, that's what I'd like to do today.

"I have participated and thus am equally and jointly responsible for the evolution of a system that in effect has prevented floor votes on many vital issues, has seen the evolution of a budget document that basically now has very little meaning because of Chapter 37, and over the last twelve years has seen us adjourn on time in only three of those twelve years. And I feel partially responsible for that and would like to make some observations as well as, hopefully, some constructive suggestions for change.

"Last November 20th I sent to every Democratic member of the Senate a series of proposals based on observation of other legislative bodies not only in the United States, in Eastern and Western Europe and the Soviet Union. I noted in that document that the European Parliament has a system that if 5 percent of committee members request a floor vote on an issue, it must be presented directly to the floor a vote by the full body. This has in general eliminated the problems and you have a clash of interest in a highly diverse political situation, for in Europe in which I might note obtains right here in Hawaii.

"In the Supreme Soviet of Russia 10 percent of the body can ask for a floor vote, any 10 percent, and get it. And it's almost an indictment on us that a greater degree of democracy is being practiced in Russia than it is in Hawaii. I recognize that this would impact on the power and the prerogative of a committee chairman.

"Mr. President, something needs to be done when so many of the issues of concern to so many of our people died early in the session with never a floor vote. My premise is that we are elected to vote on issues and we should be doing so, much more so than we are now.

"I've already touched on the budget and the CIP and the vagrancies of Chapter 37 and how that leads to all sorts of discretionary spending by the administration, most of which we never see until we read the variance report the following January.

"The third issue is perhaps most grating and that is our collective failure. It's not an individual failure or the

fault of any one committee or chairman. It's all of our fault. And that is the failure to adjourn on time. Looking back over the last twelve years, in the years 1979, 1983 and 1984 we adjourned on time. All other years, 1980, '81, '82, '85, '86, '87, '88, '89, '90 and '91, we have had extensions of the Legislature. Part of this may be a systemic problem; part of it may be a lack of regard of deadlines; part of it may be that there's no incentive to get out of here on time; part of it may be in the philosophy of the feeling that we saw expressed in our House counterparts near the end of Friday, last week, when they said, 'There's no real pressure to get out. There's no real deadline. We can take it beyond the following Monday.'

"Mr. President, we need to do one of two, possibly three, things to change this. Either amend the State Constitution to allow one house to adjourn without the consent of the other because right now we are literally tied to each other and neither house can adjourn without the consent of the other. Or, second, to begin to look at a system that would penalize us for failure to complete our work on time, either by withholding of pay or fines. And that may not be very popular.

"Mr. President, the track record of the last twelve years is not something that's very popular. Nine out of twelve sessions have resulted in extensions. That's not including special sessions. That's not including confirmation sessions. It is a systemic failure to adjourn on time.

"As I said, Mr. President, I bear equal responsibility for this and I accept it because I have participated in it. I have acquiesced in it. I've gone along with it. But I think the time has come to raise the issue and to say 'stop,' we need to look at another way of doing it and that we can do better. And I hope in the interim, Mr. President, we will be doing that and take a serious look at providing some real incentives to complete our work on time, to complete our work in a more public manner, and perhaps to build some accountability into the budget process, and some real meaning into the decisions that so many of us worked so hard on for three long months to accomplish. Thank you."

Senator Solomon, Majority Floor Leader, also rose to speak on a point of privilege and stated:

"Mr. President, as session draws to a close it is appropriate to pause and reflect upon our accomplishments and perhaps upon our failures.

"Although there are those who will look upon this session as one of few accomplishments and fewer milestones, I view this session as a window of opportunity. Opportunity, for during this session, for the first time, since I was elected to this generation of lawmakers, we have had to make do with a lot less.

"This session, instead of having money to freely throw at the problems of our state, we had to be innovative and creative in approaching these problems with solutions that will make the most of our constituents' tax dollars. We also realized that while we have talked about tax reform in the past, the 'reforms' we adopted benefited only a select few. As we read in the paper the other day, the poor and the very rich pay less in state taxes as a percentage of their income than the people in the middle income categories. In other words, the heaviest tax burden is being carried by the middle income taxpayer.

"Despite all the rhetoric of having adopted tax reforms in the past years, the number one concern of the people of this state is still taxes.

"Increasingly, we hear of island families who have decided to pull up roots and move to the mainland because it is too expensive to live in Hawaii. The high cost of housing, food, and everyday living is getting more and more difficult, especially for young people to remain here. Hawaii is becoming a place for the very rich and the very poor and the middle class majority that our forebearers left as a legacy to Hawaii's future is being assimilated into the American mainland.

"To lose the children of this 'aina' as they move out of state means we lose the bridge to the past and the multi-ethnic cultures that make Hawaii a unique place to live, the special place that is Hawaii. In losing this bridge to the past, and as our educated young people move out of state, we lose our greatest natural resource, brain power. Unquestionably, this 'brain power drain' over the long term will be destructive to Hawaii.

"As a result, over the past decade more and more people have turned to us to solve the problems of the day, not just the young but also the elderly, and as I stated earlier, the noncreative solution we have come up with was to appropriate money and hope the problem would be satisfied and go away. That has not been the case, having experienced a taste of public funding, they have come back for more and more. A case in point is the POS program which started with \$10 million in the first year and has since mushroomed to the point where this body has appropriated more than \$100 million for the purchase of services.

"In 1987, when the current administration came to office, it was fortunate that the federal income tax law was being changed, which resulted in a substantial windfall of revenues. The administration told us at that time because of the many unknowns about the revenue impact it was proposing to enact temporary credits and a phase in of rate reductions in the income tax. Since that time with the turn of events, those temporary credits became permanent and there was a slight lowering of the rates. It is called a credit to offset the 4% tax on food, a food tax credit and not a credit to offset the broadening of the income tax base.

"Mr. President, in my judgment, this body must focus on tax reform.

"Mr. President, with this mind, last year this Legislature had the chance to address these concerns regarding the tax burden of Hawaii's middle class. Senate Bill No. 2597 contained recommendations of the administration as adopted and modified by the Senate. The bill would have readjusted the income tax brackets and rates and increased the standard deduction to one-half of the federal level. The only provisions of that bill which survived the legislative process was an increase in the food tax credit and the merging of the food tax credit and the excise tax credit.

"Next year, we must continue to work with the respective subject matter committees of both House and Senate so as to complete the state income tax reform started in 1987, and provide the necessary relief to the middle class."

"Thank you."

Senator George, Minority Leader, then made the following closing remarks:

"Mr. President, just a few words on behalf of your Minority members, if I may.

"Because it looks as though we won't be meeting in this chamber for several sessions, any remarks we make today

are bound to be valedictory. Indeed, for some of us this may be the last meeting in this chamber -- ever.

"So it's going to be hard to fend off nostalgia as we say our goodbyes.

"On March 15, 1969, as a very green Honolulu councilman, I was a guest at the banquet that signaled the formal opening of this building. Twenty-two years ago -- that's really not so long, as buildings go. Heck, I have shoes older than this Capitol!

"It was quite an occasion. Everybody who was anybody was there in fancy wardrobe and high spirits for the feast. We were on the fifth floor, with white-clad tables surrounding the atrium square and squads of waiters poised to deliver several gourmet courses.

"Then it poured. I know a rain shower is supposed to be a good-luck Hawaiian blessing, but that deluge was heavenly over-reaction.

"So all the tables were hastily crammed under the overhang, and the guests sat down again in their dampened chairs.

"And it kept on raining. Hard. And the roof leaked. All over the white tablecloths, and the waiters, and the governor, and the soggy dinners, and the diners in their finery.

"Some of my old-timer colleagues may remember that dismal disaster. And my junior colleagues may note that the building still leaks, only it's asbestos coming down on our heads instead of honest rain.

"We'll be leaving it all behind sometime this summer -- goodbye to asbestos and disobedient elevators, to quadriplegic tables whose legs no longer support them, to air conditioning that offers two choices: sweaty or shivering.

"Goodbye to this gracious building.

"Now we have to begin sorting out our chattels; our souvenirs and our lists and our constituent files and our books and our piles and piles (and piles!) of the studies we've asked for plus the ones we didn't especially want. We'll finally have to start throwing things away.

"I have a suggestion. This will be a time for a fresh start. Can we use it as a time to evaluate our legislative process, to leave behind what doesn't work very well?

"A fresh start in a new place would be a nifty time to open our doors wider; to let the sun really shine on our activities. A fresh start would be an opportunity to take a commonsense approach to budget negotiations, so that we don't waste midnight hours chewing over items on which House and Senate are already fully agreed. A fresh start might persuade us to look at the legislative calendar, to reintroduce the old custom of floor amendments, and to institute a practice of joint House-Senate hearings when there is shared subject matter. So many possibilities!

"A fresh start might even coax us into changes in the autocracy of committee chairmanships. I think this change might be the one most applauded by the public we serve.

"Who knows, Mr. President, we might even be able to avoid institutionalizing our unfortunate custom of extending our sessions.

"Just let us know how your Minority members can help, Mr. President.

"Thank you."

Senator McMurdo also rose to speak on a point of personal privilege and said:

"Mr. President, I just want to say that I agree with the good Minority Senator that there are many changes that we could make, but there's one change I don't think any of us wants to make, at least the majority of people don't, and that is the wonderful way that Rick Perkins, our Majority attorney, has handled bills during this session and the previous session. It has been a real pleasure to work with him and the people in his office. I for one say, 'Don't change, Rick. We need you just the way you are.'"

"And while I'm passing out kudos, I would like to give one to the good Senator from Hilo with whom I've had many disagreements but tonight I understand he said he was going to make the best floor speech he'd ever made. I would like to tell you that I think you succeeded tonight. That was a terrific speech and I just wanted to thank you for it."

Senator Holt then remarked:

"Mr. President, I would be remiss if I did not, on behalf of the body, extend our appreciation and thanks to Kevin Kuroda and his Ways and Means staff. Despite the extension, I think they worked hard to represent the Senate negotiations. They did a lot of good for education and a job well done. Thank you."

At this time, the Chair asked Mr. Rick Perkins and Mr. Kevin Kuroda to rise to be recognized.

SENATE RESOLUTIONS

The following Senate resolutions (S.R. Nos. 216 to 223) were read by the Clerk and were disposed of as follows:

Senate Resolution:

No. 216 "SENATE RESOLUTION RECOGNIZING WITH GRATITUDE EACH OF THE MINISTERS OF RELIGION WHO OPENED A DAY OF THE SENATE, SIXTEENTH LEGISLATURE OF THE STATE OF HAWAII, REGULAR SESSION OF 1991, WITH AN INSPIRATIONAL INVOCATION."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 216 was adopted.

No. 217 "SENATE RESOLUTION EXPRESSING DEEPEST APPRECIATION TO THE MEMBERS OF THE VARIOUS MEDIA FOR THEIR COVERAGE OF THE ACTIVITIES OF THE SIXTEENTH LEGISLATURE, REGULAR SESSION OF 1991."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 217 was adopted.

No. 218 "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE SIXTEENTH LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 218 was adopted.

No. 219 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 219 was adopted.

No. 220 "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 220 was adopted.

No. 221 "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 221 was adopted.

No. 222 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 222 was adopted.

No. 223 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTY-FOURTH DAY."

Offered by: Senators Hagino and George.

On motion by Senator Solomon, seconded by Senator Reed and carried, S.R. No. 223 was adopted.

The President then made the following closing remarks:

"Members of the Senate, the moment of adjournment is at hand. Very soon this 1991 Legislative Session will be a part of history.

"The last thing you want right now is a long-winded speech so I will keep my remarks very short.

"I will leave it to the public, the groups and organizations in the community, the lobbyists, the media to evaluate our work this year. Suffice it for me to say that I think we did our best. My fellow Senators, I want to thank you all for your efforts and contributions. All of you, certainly, tried to make a new system of sharing of responsibilities here in the Senate work and for that I am truly grateful. You all had an important part in this session's accomplishments.

"To be sure, there are a number of unresolved issues which we will have to work on over the interim and, hopefully, be prepared to address next year.

"As the distinguished Minority Leader stated, this is a nostalgic moment for me. The Legislature will be moving out of this Capitol building in the weeks ahead. I've spent a good part of my life in this building and I will miss not being here. This place holds a lot of memories for me. Those memories involve you, my fellow Senators. We've shared some good times and some not-so-good times in these hallowed halls and I will always remember them.

"Next year, we'll be in a new building. Let's do our best to create some good new memories and experiences during our stay there.

"In closing, let me just thank our hard working Senate staff for all the support and assistance they've provided us. We couldn't have done our work without them. They did all the nuts-and-bolts work while we politicians got all the headlines. Of course, considering some of the headlines that some of us received, I think we would have been more than happy to share them with anyone who'd be willing to accept.

"All joking aside, I just want to say aloha and best wishes to everyone present - Senators, staff, the media, government officials, members of the public. Thank you for bearing with us. See you all again next year."

"Aloha!"

ADJOURNMENT

Senator Solomon moved that the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, adjourn Sine Die, seconded by Senator Reed and carried.

At 6:20 o'clock p.m., the President rapped his gavel and declared the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, adjourned Sine Die.