

SEVENTEENTH DAY

Monday, February 10, 1992

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, convened at 11:35 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Tom Van Culin, Division of Corrections, Department of Public Safety, after which the Roll was called showing all Senators present with the exception of Senators Chang and McMurdo who were excused.

The President announced that he had read and approved the Journal of the Sixteenth Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 147 to 151) were read by the Clerk and were placed on file:

Gov. Msg. No. 147, dated February 4, 1992, transmitting a special report, "Unlicensed Contracting: Everyone's Problem, Everyone's Fight," prepared by the Department of Commerce.

Gov. Msg. No. 148, dated January 21, 1992, transmitting the "Report of the Insurance Commissioner of Hawaii 1991," prepared by the Department of Commerce and Consumer Affairs in response to Section 431:2-211, HRS.

Gov. Msg. No. 149, dated January 27, 1992, transmitting the "Tax Credits Claimed by Hawaii Residents - 1989" prepared by the Department of Taxation.

Gov. Msg. No. 150, dated January 13, 1992, transmitting the Annual Report of the Commission on Persons with Disabilities, FY 1990-1991.

Gov. Msg. No. 151, dated February 4, 1992, transmitting a report of the Commissioner of Financial Institutions on Interstate Banking in Hawaii, in response to Act 128, SLH 1990.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 24 and 25) were read by the Clerk and were placed on file:

Dept. Com. No. 24, from the Department of Agriculture dated February 4, 1992, transmitting a report on the agricultural market development program for calendar year 1991.

Dept. Com. No. 25, from the Office of the Auditor dated February 7, 1992, transmitting a report "Study of Transportation Services for Persons with Disabilities" (Report No. 92-7).

STANDING COMMITTEE REPORTS

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1628) recommending that S.B. No. 2543 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2543, entitled: "A BILL FOR AN ACT RELATING TO FOSTER PARENTS AS

VOLUNTEERS," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 12, 1992.

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1629) recommending that S.B. No. 2551, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2551, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," passed Second Reading and was referred to the Committee on Judiciary.

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1630) recommending that S.B. No. 2395 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2395, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A DAY CARE CENTER ON THE WAIANAE COAST, OAHU," passed Second Reading and was referred to the Committee on Ways and Means.

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1631) recommending that S.B. No. 2474 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2474, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE WAIANAE ADOLESCENT HEALTH NETWORK," passed Second Reading and was referred to the Committee on Ways and Means.

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1632) recommending that S.B. No. 2544 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2544, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PEOPLE ATTENTIVE TO CHILDREN," passed Second Reading and was referred to the Committee on Ways and Means.

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1633) recommending that S.B. No. 2553 pass Second Reading and be referred to the Committee on Consumer Protection and Business Regulation.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2553, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Consumer Protection and Business Regulation.

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1634)

recommending that S.B. No. 1528 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 1528, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 12, 1992.

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1635) recommending that S.B. No. 2210 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2210, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 12, 1992.

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1636) recommending that S.B. No. 2381, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2381, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," passed Second Reading and was referred to the Committee on Ways and Means.

Senator McMurdo, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1637) recommending that S.B. No. 2550, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 2550, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RESPITE CARE FOR FOSTER PARENTS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Crozier, for the Committee on Housing and Hawaiian Programs, presented a report (Stand. Com. Rep. No. 1638) recommending that S.B. No. 3247, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Housing and Hawaiian Programs.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and S.B. No. 3247, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Second Reading and was recommitted to the Committee on Housing and Hawaiian Programs.

Senator Yamasaki, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1639) recommending that H.B. No. 72, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Solomon, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. 72, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC FUNDS," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 11, 1992.

ORDER OF THE DAY

RE-REFERRAL OF SENATE BILLS

The President re-referred the following Senate bills that were introduced:

Senate Bill	Referred to:
No. 1659	Committee on Transportation and Intergovernmental Relations, then to the Committee on Ways and Means
No. 1698, S.D. 1	Committee on Ways and Means
No. 3011	Committee on Ways and Means
No. 3059	Committee on Transportation and Intergovernmental Relations, then to the Committee on Ways and Means
No. 3211	Committee on Ways and Means
No. 3302	Committee on Ways and Means

MISCELLANEOUS COMMUNICATION

Misc. Com. No. 3, dated February 10, 1992, a report to the Senate of the Sixteenth Legislature, Regular Session of 1992, from the Ad Hoc Committee on the Qualification of Senator Andrew Levin with Exhibits I to VI, was read by the Clerk and was placed on file. (See ATTACHMENT "A")

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

"Mr. President, two short points.

"Last week, I spoke against HAPA's criticism of the auto insurance reform package and, although I stand by every word that I said, there were two words that I used that were judgmental words. Being a follower of Him who has said, 'Do not judge, lest ye be judged,' I would like to take back the two words, 'sneaky' and 'deceptive' and humbly apologize to HAPA for those two words.

"My second point of personal privilege, Mr. President, is about our helmet law. I've been getting several calls about that bill and I got a real interesting call from a good friend of mine, former Representative Ed Bybee. He said that riding a bike with a helmet actually may be more dangerous because it would limit your peripheral vision and limit your hearing. So, he challenged me to drive my car with the helmet on and I accepted.

"Mr. President, now do you see why I have problems with attorneys? He states a crazy premise that helmets may make driving a motorcycle more dangerous and I accept his even crazier challenge. My peripheral vision was not hindered at all. My hearing was not appreciably hindered. I drive with my windows up so a bike rider actually hears more than I hear. There is really just one objection that I would have to wearing a helmet. (Senator Koki put on a maroon-colored helmet.) It's the way I look. Dorky, yeah?" (Laughter.)

Senator Fernandes Salling, chair of the Transportation Committee, responded:

"Mr. President, I thought the Senator from Kaneohe looked great in it. I think he should wear it everyday and report to us at the end of the session just what the peripheral vision is like, and any other problems he might have encountered here on the floor with that helmet on."

Senator Matsuura added:

"Mr. President, as an additional comment, talking about the hearing. I've always wanted to pass legislation to ban the use of Sony Walkman on your ear while you are driving. That bill never passed. But you can imagine the difference between having a Walkman and a helmet. Thank you."

Senator Cobb, on a point of personal privilege, then stated:

"On that very subject, in response to the Senator from Hilo, I recall a Transportation Committee hearing when then Senator Cayetano was the chairman of that particular committee and there was a bill to prohibit people from wearing Walkmans or ear pieces while driving and our distinguished Minority Leader asked the question, 'Do we prohibit deaf people from driving?' The answer was 'no.' Whereupon, the chairman said, 'Thank you, Mary, you saved us a lot of trouble.' And that was the reason why."

Senator Nakasato, on a point of personal privilege, then said:

"Adding on to Senator Koki's trial with the helmet. The preferred type of helmet that the motorcycle guys use is like the Darth Vader type helmet now. That helmet is very, very restrictive. You can't hear a thing and you can't see anything. Maybe that is what Mr. Bybee was speaking about. We use that helmet when we race cars and that helmet is very, very restrictive. There is a big difference with that helmet."

Senator McCartney, also on a point of personal privilege, stated:

"I hope to see the Senator from Kaneohe wearing that helmet when he walks door-to-door in his newly reapportioned district."

ADJOURNMENT

At 11:46 o'clock a.m., on motion by Senator Solomon, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 11, 1992.

ATTACHMENT "A"

REPORT TO THE SENATE OF THE AD HOC
COMMITTEE ON THE QUALIFICATION OF
SENATOR ANDREW LEVIN

Honolulu, Hawaii

February 10, 1992

MISC. COMM. NO. 3

The Senate
Sixteenth State Legislature
Regular Session of 1992
State of Hawaii

Members of the Senate:

Your Ad Hoc Committee on the Qualifications of Senator Andrew Levin hereby submits this report for adoption by the Senate.

The purpose of this report is to respond to a letter from Mr. Jared Jossem, chairman of the Republican party of Hawaii. Although news accounts of the letter appeared on January 17, 1992 and the letter is also dated that same day, it was not actually received by the Senate until January 31, 1992. A copy is attached as EXHIBIT I. The letter raises questions as to whether Senator Levin resides in the first senate district which he represents.

The issue posed for determination for this Committee is whether Senator Levin is a resident of the first senate district. The constitution requires that he be a qualified voter of that district. To be a qualified voter, he must be a resident of that district.

Briefly, the background of this matter is that on October 11, 1991, State Representative Whitney Anderson wrote a letter to the Department of the Attorney General requesting an opinion on this issue. Pursuant thereto, the attorney general issued a response letter and a copy is attached as EXHIBIT II.

On January 17, 1992, when these matters came to light, Senator Levin spoke on the floor on a point of personal privilege stating that: (1) he and his wife own a house in Hilo; (2) his wife resides in that house; (3) he resides in a rental apartment in the first senate district; (4) he spends most of his time home in his apartment; and (5) his only residence is his apartment. A copy of the senate journal proceedings is attached as EXHIBIT III. That afternoon and without yet having received Mr. Jossem's letter, the President directed sua sponte that research and an investigation be undertaken.

MISC. COMM. NO. 3

REPORT OF THE AD HOC COMMITTEE Page 2

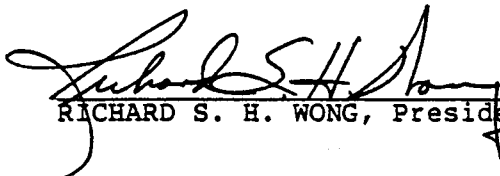
For further clarification and verification in response to Mr. Jossem's letter, Senator Levin submitted a written letter dated February 3, 1992, a copy is attached as EXHIBIT IV. The election section of the Office of the County Clerk for the County of Hawaii provided a copy of Senator Levin's voter registration form, which confirms that he is a registered voter in the first senate district. See EXHIBIT V. He does not claim a home exemption for the house in Hilo owned jointly with his wife. The exemption is claimed only by his wife. See EXHIBIT VI.

Under Article III, Section 12 of the State Constitution, the senate is to judge the qualifications of its own members. Article III, section 6 requires that the senator be a resident of the State, the age of majority, and a qualified voter of the senatorial district to which elected. Section 11-13, Hawaii Revised Statutes, on voter registration, considers residency as where the person's habitation is fixed and to where he intends to return whenever he leaves.

In view of the foregoing, and upon the consideration and deliberation by the Committee on this matter, the Committee finds that Senator Levin is in compliance with the requirements for legal residency in the first senate district, and concludes that he is qualified to serve as a senator representing that district.

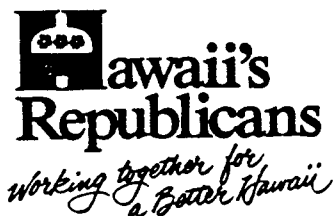
The Committee recommends adoption of this report and that this report be entered into the Journal of the Senate upon its acceptance.

Respectfully submitted,


RICHARD S. H. WONG, President


GERALD T. HAGINO, Majority Leader


MARY GEORGE, Minority Leader



MISC. CORRESP. No. 3

Jared H. Jossem
Chairman

Richard R. Clifton
1st Vice Chairman

Elwin Spray
2nd Vice Chairman

Phillip Hellreich, MD
3rd Vice Chairman

David Ellis
4th Vice Chairman

Adele Rugg
Secretary

Walt Decker
Treasurer

January 17, 1992

President Richard Wong
State Office Tower, #507
23 North Beretania Street
Honolulu, Hawaii 96813

Dear Senator Wong:

I have been asked to request that you investigate the propriety of Senator Andrew Levin's being seated to serve in the legislature, in view of his lack of residence status in the district he purports to represent.

Please review the enclosed materials and advise us accordingly.

Very truly yours,

Jared H. Jossem 1/17/92
Jared H. Jossem
Chairman

Enclosures:

0013470.WF

1188 Bishop St. □ Suite 2012 □ Honolulu, Hawaii 96813 □ FAX (808) 545-4039 □ Phone (808) 526-1755

EXHIBIT I

Request: SHOW FULL
 Request:
 How many (ALL):

MISC. COMM. NO. 3

3-2-1- 19- 14- 31 Addr: 2405 KALANIANA'OLE ST, Apt 501
 Lessor: ARMSTRONG, OSCAR L / ETAL Lessee: LEVIN, ANDREW
 Tax Payer: LEVIN ABNER/FLORA/ANDREW Tenure: L Semi-Annual Tax: 1
 Tax Bill: 116 KAMEHAMEHA AVE, HILO, HI 96720 USA
 Assessed value Exemption Size Buildings: 1 Zoning: RS-5-1
 Land: 2,000 2,000 Dwellings: 1 PITT: 100
 Bldg: 71,610 71,610 720 sq ft Use: 0 Nbhod: C204
 Condo name: HALE KAHAKAI
 Condo type: Floor: 5 Condo interest: 1.1627%
 Style: Highrise View: Both Parking spaces: 1
 Common property: Pool, Sauna/spa, Lounge

== SALES ==
 3/05/79 AL \$41,000 B/P 13559/250

===== RESIDENTIAL BUILDING DETAILS =====
 3-2-1- 19- 14- 31 Bldg: 1 of 1 Card: 1 of 1 Class: Dwelling
 Roof Design: Gambrel Structure: Wood Material: Corr iron
 Attic: None Ceiling: Plaster

== ROOMS == == BATHS == Framing: Concrete
 Family Rms: 0 Full Baths: 1 Exterior Wall: Other
 Bedrooms: 1 Half Baths: 0 Interior Wall: Masonry /Hollow tile
 Rec rooms: 0 Add'l Fixt: 2 Rec Room area: 0 (0X 0)
 Total Rms: 4 Total Fixt: 5 Central AC/Heat: None
 Flooring: Carpet Floor Construction: Concrete sl
 Foundation: Concrete Basement: None

FLOOR AREAS == Year Built: 1973 Style: Condo
 LLA 0 Effective year built: 0 Stories: 1.0
 1st story 720 Physical condition: AV Shape: Recta
 2nd story 0 Cost & Design Factor: 0% Bldg Type: 622 HRse Condo
 3rd story 0 Economic Factor: 0% Occupancy: HPR
 4th story 0 Per cent complete: 0%
 OT LIVING 720 Gross building value: 71,610 88-M/V
 Attic 0 Total building value: 71,610
 Infin Bsmt 0

===== BUILDING ADDITIONS =====

Lower Level	1st Story	2nd Story	3rd Story	Area
	Uncl'd w/bnstr			7

No sketch available from tax office !

ATT	Tax INFO	Exempt
10 - 401	2000 74,600	50,000
9	2000 68200	50,000
8	2015 68200	50,000

Request: 3-2-3-29-4
Request:
How many (ALL):

MISC. COMM. NO. 3

3-2-3- 29- 4 Addr:1626 WAIANUENUE AVE
Owner: LEVIN, ANDREW C/NICHOLETTE M
Tax Payer: LEVIN, ANDREW C Tenure: F Semi-Annual Tax: \$16
Tax Bill : 116 KAMEHAMEHA AVE, HILO, HI 96720 USA
Assessed value Exemption Size Buildings: 1 Zoning: RS-15
Land: 41,600 1,900 20,000 sq ft Dwellings: 1 PITT: 100
Bldg: 38,100 38,100 1,620 sq ft Use: 0 Nbhod: 2331

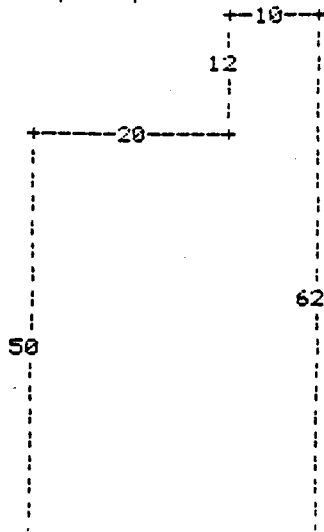
=== SALES ===
07/01/75 \$63,500

===== RESIDENTIAL BUILDING DETAILS =====
3-2-3- 29- 4 Bldg: 1 of 1 Card: 1 of 1 Class: Dwelling
Roof Design: Gable Structure: Wood Material: Corr iron
Attic: None Ceiling: Canec

=== ROOMS === === BATHS === Framing: Wood/single wall
Family Rms: 0 Full Baths: 1 Exterior Wall: Fir/Pine
Bedrooms : 3 Half Baths: 0 Interior Wall: Single wall/Wood
Rec rooms : 0 Add'l Fixt: 2 Rec Room area: 0 (0X 0)
Total Rms : 6 Total Fixt: 5 Central AC/Heat: None
Flooring : Pine Floor Construction: Wood joist
Foundation: Wood piers Basement: None

= FLOOR AREAS = Year Built: 1933 Style: Ranch
ALLA 0 Effective year built: 1954 Stories: 1.0
1st story 1620 Physical condition: AV Shape: Recta
2nd story 0 Cost & Design Factor: 0% Bldg Type: 113 Wood House
Addl story 0 Economic Factor: 0% Occupancy: Single-family
Half story 0 Per cent complete: 0%
TOT LIVING 1620 Gross building value: 0
Attic 0 Total building value: 38,100
Jnfin Bsmt 0

----- OTHER BUILDING IMPROVEMENTS -----
Type Description Qty Year Size Area Grade Condition
C2 Open opt enc flr 1 1933 0 X 0 800 A



MISC. COMM. NO. 3

PRESS PF2 FOR MORE PAGES OR PF1 TO BACKPAGE
 REM ~~PROPERTY~~ ASSESSMENT INFORMATION SCREEN 9L OPT
 DATE 08/23/91 TIME 15:03:11 TERM H271
 PAGE: 00001

10/07/87-----
 OWNERSHIP: NAME F TC V-OWNER TITLE-DESC
 F 0011 LEVIN, ANDREW C H TE
 F 0012 LEVIN, NICHOLETTE M S

FOR ASSESSMENT YEAR 1991
 -PITT: 100 AREA: 20000 F VALUE: 41400 EXEMPT: 1000
 -BLDG: 0001 CODE: 113 Y3: 1954 VALUE: 38100 EXEMPT: 38100
 BLDG TOTALS--> VALUE: 38100 EXEMPT: 38100

FOR ASSESSMENT YEAR 1990
 -PITT: 100 AREA: 20000 F VALUE: 41500 EXEMPT: 20000
 -BLDG: 0001 CODE: 113 Y3: 1954 VALUE: 35400 EXEMPT: 20000
 BLDG TOTALS--> VALUE: 35400 EXEMPT: 20000

FOR ASSESSMENT YEAR 1989
 -PITT: 100 AREA: 20000 F VALUE: 41400 EXEMPT: 20000
 -BLDG: 0001 CODE: 113 Y3: 1954 VALUE: 34500 EXEMPT: 20000
 PRESS PF2 FOR MORE PAGES OR PF1 TO BACKPAGE

[illegible]

MISC. COMM. NO. 3

1: Andy Levin has been representing the First Representative District since 1981. He has been a Senator for the First Senatorial District since 1988.

2: Andy Levin and his wife own a home in the Second Senatorial District. Andy Levin and his parents rent a one bedroom apartment in the First Senatorial District.

3: For the years 1981 through 1984 Levin took a homeowners exemption on his Hilo (2nd District) home while he claimed he lived in the 1st District, which he represented. His taxes were adjusted when this fact came to light. He did not take a homeowners exemption for the following five years on the Hilo home. For tax years 1990 and 1991 he has again taken a homeowners exemption on his Hilo home (homeowner exemptions are for principle residence) while at the same time claiming he lived at the apartment in the First District which he represents, and in which he votes.

4: Andy Levin's parents have been claiming the First District apartment as their principle residence at the same time and have claimed a double exemption as senior citizens. (net taxes paid 0.00)

? Does Andy Levin indeed live in a one bedroom apartment with his parents?

? If his parents don't share the apartment with him why are they taking a homeowners exemption?

? If Andy lives with his wife how can he represent the First District, or do all four of them live in the apartment? *or is a co-dwelling = residency?*

? Is the Hilo house vacant? If so how can he get a home owners exemption?

9/22 from Herald
H:

8:48 p.m. today
7:18 a.m. tomorrow
SUNRISE
6:03 a.m. tomorrow
SUNSET
Real time today
RAINFALL
(Yesterday/year/normal)
High 80.00/81.13/113.16
Low 65.00/65.00
TEMPERATURES
(Yesterday's high/low)
High 85.00
Low 65.00
Kashida 8871

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Man sentenced for burglarizing Levin

☐ FIVE years prison for entering state Senator's home twice

By Gordon Y.K. Pang

A Hilo man was sentenced to five years in prison by Third Circuit Judge Shunichi Kimura for twice breaking into a home owned by state Sen. Andrew Levin.

Also, 29-year-old Franklin Grammer Jr. of Hilo was sentenced to another five years for stealing a white wicker buffet from a Sears store in September 1990.

Grammer must also spend the next five years on probation on the counts of second-degree burglary and second-degree theft. According to court

records, Grammer was arrested in May 1990 after he stole a video record television set, clothing and other items from the Levin home.

A second-degree theft charge that he stole a video record television set, clothing and other items from the Levin home was dropped by prosecutors.

Grammer, a recent convict, had a record that he played a role in Kimura's sentencing in March 1991.

Grammer was sentenced to 30 days in jail after being found guilty of first-degree burglary, second-degree burglary and second-degree theft.

Levin was on the main

MISC. COMM. NO. 3

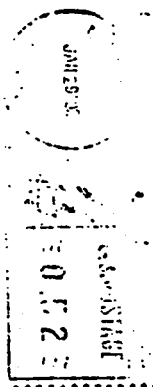


Hawaii's
Republicans

*Working together for
a better Hawaii*

1188 Bishop St., Suite 2012 Honolulu, Hawaii 96813

PRESIDENT RICHARD WONG
STATE OFFICE TOWER, #507
23 NORTH BERETANIA STREET
HONOLULU, HAWAII 96813



JOHN WAIHEE
GOVERNOR



MISC. COMM. NO. 3

WARREN PRICE, III
ATTORNEY GENERAL

CORINNE K. A. WATANABE
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1256
FAX (808) 586-1372

November 7, 1991

The Honorable Whitney T. Anderson
Representative, Eighteenth District
The Sixteenth Legislature
State of Hawaii
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 1107
Honolulu, Hawaii 96813

Dear Representative Anderson:

Re: Legislator Residing In a District Other
Than One in Which He/She Was Elected

This memorandum is in response to your letter of October 11, 1991, in which you requested an opinion as to whether an individual may continue to serve as a state senator or representative if that individual moves and resides in a district other than the one from which the individual was elected, and secondly, if the individual were disqualified from holding office how would such a vacancy be filled. More specifically, you asked whether a person may serve as a state senator or representative in a district other than one in which he or she claims a home owner's tax exemption.

We conclude that there would be serious basis for challenging a legislator's continued eligibility as a state senator or representative if he or she claimed a home owner's tax exemption for a home located outside the district from which he or she was elected.

Article III, section 6, of the Hawaii State Constitution provides:

No person shall be eligible to serve as a
member of the senate unless the person shall

EXHIBIT II

The Honorable Whitney T. Anderson
November 7, 1991
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have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the senatorial district from which the person seeks to be elected. No person shall be eligible to serve as a member of the house of representatives unless the person shall have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the representative district from which the person seeks to be elected. (Emphasis added.)

Thus in order to serve as a member of the senate or house of representatives an individual must be a qualified voter in the senatorial or representative district which the individual seeks to represent.

Pursuant to section 11-12, Hawaii Revised Statutes, to vote in a particular district an individual must be a resident of a precinct within that district. Section 11-12 provides in pertinent part:

No person shall register or vote in any other precinct than that in which the person resides except as provided in section 11-12.
(Emphasis added.)

Section 11-13, Hawaii Revised Statutes, describes the various tests for determining an individual's residency for election purposes. In Attorney General Op. No. 86-10, we stated that "residence when used in defining electoral rights has been said to be essentially synonymous with 'domicile', which denotes a permanent, as distinguished from a temporary dwelling place."

Under section 246-26, Hawaii Revised Statutes, a home owner's tax exemption is available only for the taxpayer's principal home. It would appear that a state senator or representative seeking such an exemption for a home located in a district other than the one from which he or she was elected is indicating an intention to establish residence other than in the district he or she represents.

The Honorable Whitney T. Anderson
November 7, 1991
Page 3

Based on the foregoing we would conclude that a state senator or representative claiming a home owner's tax exemption in a district other than the one to which he or she was elected has in fact indicated an intention to establish residence outside the district to which he or she was elected and, therefore, would be ineligible to maintain office.

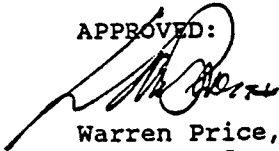
As to your second question of how such a vacancy would be filled, Article III, Section 5 of the Hawaii State Constitution and Sections 17-3 and 17-4, Hawaii Revised Statutes, would be applied. Essentially, the governor would fill the vacancy for the unexpired term with an appointee who is a member of the same party or non-partisanship as the individual being replaced.

Sincerely yours,



Chelun Huang
Deputy Attorney General

APPROVED:



Warren Price, III
Attorney General

CH:ai
5731S

DRAFT OF REMARKS - POINTS OF PERSONAL PRIVILEGE, 3RD DAY, JANUARY 17,
1992

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

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

"In the news this morning, the Republican Party is questioning my residence in the First Senatorial District. The request is apparently being made to you, Mr. President, and to the attorney general to investigate. If appropriate, Mr. President, I would like to ask you to please accept that request because an investigation will show that, in fact, I do live in my legislative district and this issue can be put to rest quickly. If the Republican Party had contacted me I could have given them this information too but they did not choose to ask me.

"For the record, I do own a house in Hilo outside of my district. About three years ago, when our tenant moved out, my wife moved into the house to make repairs and to fix the place up. She has made a lot of sacrifices over the years to allow me to continue in public service and when she decided to stay there longer than expected, I could not object. When I am home, I spend the week in my apartment and on some but not all weekends, I stay in the House. My one and only residence is my rented apartment and that apartment is at 77 Keokeo Loop in the First Senatorial District.

"I would welcome your efforts or those of the attorney general or anyone else to verify this matter so that my constituents and colleagues can be assured that there is no legitimate basis for questioning my residence. Thank you, Mr. President."

The Chair responded:

RICHARD S. H. WONG
PRESIDENT

JAMES AKI
VICE-PRESIDENT

GERALD T. HAGINO
MAJORITY LEADER
CHAIR, LEADERSHIP COMMITTEE
ON LEGISLATIVE MANAGEMENT

MALAMA SOLOMON
MAJORITY FLOOR LEADER

BERTRAND KOBAYASHI
MAJORITY POLICY LEADER

ANDREW LEVIN
MAJORITY CAUCUS LEADER

RANDY IWASE
MAJORITY WHIP

ANN KOBAYASHI
CHAIR, LEADERSHIP COMMITTEE
ON EXECUTIVE APPOINTMENTS

MARY GEORGE
MINORITY LEADER

RICK REED
MINORITY FLOOR LEADER

FIRST DISTRICT
ANDREW LEVIN

SECOND DISTRICT
RICHARD M. MATSUURA

THIRD DISTRICT
MALAMA SOLOMON

FOURTH DISTRICT
SAMORU YAMASAKI

FIFTH DISTRICT
RICK REED

SIXTH DISTRICT
RANDY IWASE

SEVENTH DISTRICT
GERALD T. HAGINO

EIGHTH DISTRICT
MIKE MCCARTNEY

NINTH DISTRICT
STANLEY T. KOKI

TENTH DISTRICT
MARY GEORGE

ELEVENTH DISTRICT
DONNA R. WEDA

TWELFTH DISTRICT
STEVE COBB

THIRTEENTH DISTRICT
BERTRAND KOBAYASHI

FOURTEENTH DISTRICT
ANN KOBAYASHI

FIFTEENTH DISTRICT
MARY-JANE MCMURDO

SIXTEENTH DISTRICT
RUSSELL BLAIR

SEVENTEENTH DISTRICT
ANTHONY K. U. CHANG

EIGHTEENTH DISTRICT
MILTON MOLT

NINETEENTH DISTRICT
DENNIS M. NAKASATO

TWENTIETH DISTRICT
RICHARD S. H. WONG

TWENTY-FIRST DISTRICT
NORMAN MIZUGUCHI

TWENTY-SECOND DISTRICT
ELOISE YAMASHITA TUNGPALAN

TWENTY-THIRD DISTRICT
MIKE CROZIER

TWENTY-FOURTH DISTRICT
JAMES AUI

TWENTY-FIFTH DISTRICT
LEHUA FERNANDES SALLING

CHIEF CLERK
T. DAVID WOO, JR.

The Senate
The Sixteenth Legislature
of the
State of Hawaii

STATE OFFICE TOWER
235 S. BERETANIA ST.
HONOLULU, HAWAII 96813

MISC. COMM. NO. 3



February 3, 1992

The Honorable Richard Wong
President
Hawaii State Senate
Room 507 - HMT Bldg.
Honolulu, Hawaii 96813

Dear President Wong:

Thank you for sharing with me a copy of Mr. Jared Jossem's letter to you dated January 17, 1992. Thank you also for agreeing to investigate his charges as I requested when they were first publicized.

The documents Mr. Jossem provided you are accurate to the best of my belief, but his typewritten set of statements and questions contain several inaccuracies. Allow me to respond to them.

I have represented the First District in either the House or the Senate since 1981. It is also correct that my wife and I own a home in the Second Senatorial District.

I also own a condominium unit in the First Senatorial District with my parents (Apartment 501, 2405 Kalaniana'ole Street, Hilo.) My parents own a life estate in that condominium unit and I own the remainder interest. (The condominium happens to be on leasehold land, although I do not think that is relevant to the issues here.)

My parents live in that condominium unit, and have since approximately 1976 when it was first purchased. I have never lived in that unit, nor have I ever claimed to. There was a time when my wife and I rented a separate unit in the same condominium, and that was our residence for a substantial period of time, but my parents live in unit 501 and, as I said before, I have never claimed that unit as my residence.

Because my parents own and live in that First District condominium unit, they claim it as their principal residence and obtain a homeowner's exemption as a result. Further-

The Honorable Richard Wong

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February 3, 1992

more, my father is 80 years old and my mother is 79 years old, and therefore they claim a double exemption as senior citizens.

In paragraph 3, Mr. Jossem raises questions about my residence going back to the year 1981. To respond, I will go back even a year further. In 1980, I decided to run for the First District House seat. I moved into a rental in Hilo in the First District and resided there during the summer and early fall. Around October, I rented a house in Kurtistown and lived there until the end of 1984 or early 1985. My wife moved with me to Kurtistown, but she did not want to be in an isolated area, especially because I was in Honolulu so much. We had rented out the house we own in Hilo (at 1626 Waianuenue Avenue) in 1981; sometime after the tenants moved out, she went back to live in that home. We had a homeowner's exemption on that house from the time we purchased it in the mid-1970's and we never cancelled the homeowner's exemption. In 1984, I realized that we had improperly claimed the homeowner's exemption for the calendar year 1981, because we had rented out the house to another party. I wrote to the County of Hawaii Finance Director and informed him of the error. The Tax Office, in turn, responded that I owed back taxes for 1981 and for 1982, 1983, and 1984 as well, because the break in residence in 1981 meant that we had to file a new homeowner's exemption request in order to get the tax break. Although I disagreed with that ruling, and appealed the case to the Tax Court, the Court ruled in the County's favor, and the back taxes were paid.

In 1984 or early 1985, my wife and I moved to a house in the First District, at 2296 Kalaniana'ole Street in Hilo. We lived in that house until 1986, when we moved into a condominium unit at 2405 Kalaniana'ole Street, the same building (but a different unit) as is occupied by my parents. We lived in that unit in 1986 and 1987 and part of 1988, when the unit was reclaimed by its owner. We then moved to a different unit in the same building and lived there for part of 1988 and 1989.

During those years, neither my wife nor I claimed a homeowner's exemption on the house we owned on Waianuenue Avenue, because neither one of us resided there.

The Honorable Richard Wong

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February 3, 1992

In 1989, the second condominium unit which we had rented was reclaimed by its owner.

When we were forced to vacate that apartment, my wife moved back into the home we owned on Waianuenue Avenue. She has resided there since 1989, and has rightfully claimed a homeowner's exemption effective the 1990 tax year. I moved into a studio apartment in the First District at 77 Keokea Loop. I have resided in that unit, as a tenant, since approximately August 1989.

With respect to Mr. Jossem's four questions, then, I would summarize as follows. I do not live in the one-bedroom apartment with my parents, nor have I ever claimed to do so. My parents do not share the apartment with me, and they are rightfully taking a homeowner's exemption on their residence. The Hilo house is not vacant; my wife lives there all the time. I go back and forth, but make it a point not to stay at Waianuenue Avenue for more than 2-3 nights a week. The only Code-A-Phone my wife or I have ever owned is on my law office number at 116 Kamehameha Avenue in Hilo, where no one lives and where no one has ever claimed any residency.

I hope that the above is comprehensive enough to fully explain my residence from 1980 to the present. If it is not, or if there are any questions I can respond to, I would be very pleased to meet with you in any forum that you deem appropriate.

Thank you for taking on this task.

Very truly yours,



ANDREW LEVIN
Senator, First District

AL:CSY

WARNING: Any person who knowingly furnishes false information for voter registration and signs the affidavit on the affidavit may be guilty of a misdemeanor and fined not more than \$1,000 or imprisoned not more than one year or both.

(Ch. 194 & 2, Revised Revised Statutes)

STATE OF HAWAII

County of Hawaii

County of Kauai

County of Maui

City and County of Honolulu

SECTION I. TYPE OR PRINT LEGIBLY IN INK all information. Failure to print legibly or complete all items may prevent acceptance of the application.

1. SOCIAL SECURITY NO. 080-36-5431	2. LAST NAME LEVIN	3. FIRST NAME ANDREW	4. MIDDLE NAME C
5. My legal residence in Hawaii is (House Number & Street Name) 77 KEOKEA LOOP		6. Apt. No. 720	7. City or Town HILO
8. My Mailing Address in Hawaii is (If different from item 5, please print complete address) 116 KAM AVE		9. Apt. No. 720	10. City or Town HILO
11. Date of Birth 05 04 1946 <small>month day year</small>	12. Telephone Numbers Home 961-2584 Business 935-0071		

SECTION II. This section is to be sworn to and signed before an official authorized to administer oaths.

<p>9. FEDERAL STATE & COUNTY ELECTIONS</p> <p>I hereby swear (affirm) that:</p> <ol style="list-style-type: none"> (1) I am the person named above; (2) I am a citizen of the United States; (3) I claim legal residency in the State of Hawaii and not any other state in the United States; (4) my legal residence in Hawaii is as designated on this affidavit; (5) the residence stated in this affidavit is not empty because of my presence in the state, but that the residence was acquired with the intent to make Hawaii my legal residence with all the accompanying obligations therein; (6) I understand the penalties for fraudulent registration; and, (7) ALL INFORMATION ON THIS AFFIDAVIT IS TRUE AND CORRECT. <p>Signature: <u><i>Andrew Levin</i></u></p>	<p>10. FEDERAL STATE, COUNTY & OFFICE OF HAWAIIAN AFFAIRS ELECTIONS</p> <p>I hereby affirm (swear) that:</p> <ol style="list-style-type: none"> (1) I am the person named above; (2) I am a citizen of the United States; (3) I claim legal residence in the State of Hawaii and not any other state in the United States; (4) my legal residence address in Hawaii is as designated on this affidavit; (5) the residence stated in this affidavit is not empty because of my presence in the state, but that the residence was acquired with the intent to make Hawaii my legal residence with all the accompanying obligations therein; (6) I further swear (affirm) that I am a Hawaiian citizen as defined in Sec. 11-1, HRS, which states that a Hawaiian is "any descendant of aboriginal people inhabiting the Hawaiian Islands which existed immediately and continuously in the Hawaiian Islands in 1778, and which people thereafter have continued to reside in Hawaii"; (7) I understand the penalties for fraudulent registration; and (8) ALL INFORMATION ON THIS AFFIDAVIT IS TRUE AND CORRECT. <p>Signature: _____</p>
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SECTION III. This section is to be completed by a voter registrar or an official authorized to administer oaths.

<p>11. Signed and sworn to personally before me on 06 06 1990 A.D. by <u><i>John Bennett</i></u> STATE OF HAWAII _____ Clerk or Deputy Registrar or any official authorized to administer oaths</p> <p>_____ Title and Department Agency or Rank and Branch of Service</p>	<p>12. ID No. L9-37 License Code L9</p> <p>13. Language Assistance Code _____</p> <p>14. REPRESENTATIVE DISTRICT _____ ELECTION FILE/DIST _____</p> <p>_____ Notifications of your district, precinct and polling place shall be mailed to you.</p>
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NOTICE: A Social Security Number is required for registration purposes by Sec. 11-15, Revised Revised Statutes. It is used to prevent fraudulent registration and voting. Failure to furnish the information may prevent acceptance of the application. Your registration affidavit is for use public record.

ORIGINAL TO CLERK. COPIES PLEASE RETAIN AS PROOF OF REGISTRATION. BRING WITH YOU TO POLLING PLACE ON ELECTION DAY.

MISC. COMM. NO. 3

RP FORM P-3X (2/88)
DEPT OF FINANCE

COUNTY OF HAWAII
REAL PROPERTY TAX DIVISION
DEPARTMENT OF FINANCE
865 PILANI STREET
HILO, HAWAII 96720

Tie w/Andrew

Get 10/11/89

CLAIM FOR HOME EXEMPTION
(INCLUDING OWNERS 60 YEARS AND OLDER)

I. Exemption is hereby claimed from Real Property Tax on: (Please check)

1 (a) ☒ Home ☐ Condominium ☐ Cooperative (b) ☐ Fee or ☐ Leasehold

2 NICOLETTE LEVIN 575-88-6913
(Print Claimant's Name) (Social Security Number)

3 Street Address 1626 WAIAHIANUI AVE. HILO 96720
(Print Claimant's Name) (Social Security Number)

4 Mailing Address 162 KAHUA ST. HILO 96720

5 Is any portion of your home used as a rental or business? Yes ☐ No ☒

6 If yes, designate floor area used for home _____ square feet

Designate floor area used for rental and/or business _____ square feet

7 The total number of owners occupying property 1

8 Do you claim home exemption elsewhere? (including outer islands and mainland)

Yes ☐ No ☒ If Yes, indicate tax key no _____

NOTICE: Show plot plan on of this form if there is more than one building on the subject parcel

Claimant's Name Month Day Year
NICOLETTE 3 21 48

1 Date of Birth
2 Date of Birth

Effective 1990 Tax Year

SEE NOTICE OVER

188

(For Official Use)	
TEN #	
BLDG. #	<u>1</u>
BLDG. #	
BLDG. %	<u>100</u>
LAND %	<u>100</u>

TAX KEY				
Z	S	PLAT	PARCEL	HPR
<u>2</u>	<u>3</u>	<u>029</u>	<u>004</u>	<u>4</u>

APT. No. _____

CERTIFICATION

I certify that I own and occupy my home, that all statements in this return are true and correct to the best of my knowledge. I understand that any misstatement of facts will be grounds for disqualification and penalty

Date 9/24 19 89

Claimant's Signature Nicolette Levin

Claimant's Signature X

Business Phone 561-2544

Home Phone 9/27 19 89

Date 9/27 19 89

Received by Cheryl

For Tax Office

EXHIBIT VI