

HAWAII STATE SENATE
COMMITTEE ON JUDICIARY

Testimony of
Professor Jon M. Van Dyke
William S. Richardson School of Law

on S.B. 2778
Relating to Jurors

February 1, 1994
9 a.m.

This testimony does not represent an institutional position of the University of Hawaii, but is based on my professional expertise based on teaching Constitutional Law for 25 years and undertaking several studies of jury selection and jury behavior. I regret that I am not able to deliver this testimony in person because of a conflict in my schedule.

I recommend strongly that S.B. 2778 be rejected by this committee. The one-day/one-trial system was introduced into Hawaii's courts in order to try to ensure that Hawaii's juries represent the diversity of Hawaii's communities. Prior to the introduction of this system, jurors had to be on call for up to 30 days. Many jurors--especially those whose salaries would not be paid while they served--found this to be an economic hardship and were excused from jury duty. As a result, Hawaii's juries did not adequately represent Hawaii's poorer communities and those economic groups who are at the lower end of our socio-economic spectrum. Surveys of jurors conducted during this period indicated that government workers and other white collar employees--whose salaries are paid during jury duty--were dramatically overrepresented on our juries. Because of this factor, members of our community of Japanese ancestry and Caucasians were overrepresented on the jury panels, while persons of Filipino and Hawaiian ancestry were sharply underrepresented.

The one-day/one-trial approach is designed to reduce the economic burden of jury service dramatically, thus eliminating the economic hardship imposed on persons asked to serve. I am not aware of any systematic studies that have been done recently, but court observers have reported that our juries tend to be more representative now because of this change. If we adopt a one-week/one-trial approach, the economic burden will increase and many citizens--particularly the poorer members of our community--will once again seek to be excused from jury service. This change will thus interfere with the important goal of impaneling juries that represent a cross-section of our community. Achieving this goal is essential if we are to meet the mandate of the Sixth Amendment of the U.S. Constitution, which requires us to impanel "impartial" juries. Because of these concerns, I strongly recommend that this committee reject S.B. No. 2778.