

THIRTY-NINTH DAY

Tuesday, March 31, 2009

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2009, convened at 11:40 a.m. with the President in the Chair.

The Divine Blessing was invoked by Ms. Joanne Nakashima, Office of the Honorable Gary L. Hooser, Hawai'i State Senate, after which the Roll was called showing all Senators present with the exception of Senators English, Hee, and Taniguchi who were excused.

The President announced that she had read and approved the Journal of the Thirty-Eighth Day.

MESSAGE FROM THE GOVERNOR

The following message from the Governor (Gov. Msg. No. 539) was read by the Clerk and was placed on file:

Gov. Msg. No. 539, dated February 12, 2009, transmitting the Hawaii Ignition Interlock Implementation Task Force Report, prepared by the Department of Transportation pursuant to Act 171, SLH 2008.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 353 to 355) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 353, informing the Senate that on March 30, 2009, the House disagreed to the amendments proposed by the Senate to H.B. No. 319, H.D. 1 (S.D. 1), was placed on file.

Hse. Com. No. 354, transmitting H.C.R. No. 4, H.D. 1, which was adopted by the House of Representatives on March 30, 2009, was placed on file.

By unanimous consent, H.C.R. No. 4, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION DESIGNATING THE FIRST WEEK IN FEBRUARY AS HAWAII TEEN DATING VIOLENCE AWARENESS AND PREVENTION WEEK," was deferred.

Hse. Com. No. 355, transmitting H.C.R. No. 69, which was adopted by the House of Representatives on March 30, 2009, was placed on file.

By unanimous consent, H.C.R. No. 69, entitled: "HOUSE CONCURRENT RESOLUTION WHEREAS, RECOGNIZING MARCH AS ADULT RESIDENTIAL CARE HOME AND ADULT FOSTER HOME OPERATORS MONTH," was deferred.

STANDING COMMITTEE REPORT

Senator Gabbard, for the Committee on Transportation, International and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1088) recommending that the Senate advise and consent to the nomination of CARLOS WARTER MD to the Medical Advisory Board, in accordance with Gov. Msg. No. 278.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1088 and Gov. Msg. No. 278 was deferred until Thursday, April 2, 2009.

ORDER OF THE DAY**RE-REFERRAL OF HOUSE BILL**

The Chair re-referred the following House bill that was received:

H.B. No. Re-referred to:

H.B. No. 1741, H.D. 1 Committee on Ways and Means

MISCELLANEOUS COMMUNICATION

The following communication (Misc. Com. No. 2) was read by the Clerk and was placed on file.

Misc. Com. No. 2, from the Hawaii State Teachers Association, dated March 27, 2009, transmitting the HSTA Voluntary Employees Beneficiary Association Trust (VEBA) Annual Report pursuant to Section 87D-5.5, HRS.

At this time, Senator Slom rose on a point of personal privilege as follows:

"Madam President, let them eat cake. Tomorrow, even though it's a recess day and it's April Fool's Day, please don't be a fool. Come to my office between 11:00 and 1:00. We will be having a Let-Them-Eat-Cake Extravaganza for the Hawai'i Foodbank.

"And by the way, Madam President, poor, poor Marie Antoinette; because of translation errors, she got a bum deal and lost her head. She reportedly had said, 'Let them eat cake,' and people took that as a slur against the people that were unemployed and did not have money for food. In fact, the actual statement that Marie made was, 'Let them buy cake at the same price as bread.' And while Marie's reputation was that of an indulgent socialite, it's difficult to shake that definition, but it appears to be unwarranted and is a reminder that history was written by victors. She was known to have said, 'It is quite certain that in seeing the people who treat us so well despite their own misfortune, we are more obliged than ever to work hard for their happiness.' So, please don't lose your head. Don't be a fool. Come and help the Foodbank tomorrow. Aloha. Thank you, Madam President."

At this time, the Chair made the following announcement:

"The Hawai'i Medal of Honor ceremony will begin promptly at 2:00 p.m. this afternoon. Please report to the Senate chamber at 1:45 p.m."

At 11:46 a.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate stood in recess subject to the call of the Chair to meet in Joint Session with the House of Representatives, in accordance with Senate Concurrent Resolution No. 2, to award the Hawai'i Medal of Honor to United States military service members with Hawai'i connections who were killed in action while serving in dangerous, volatile, and unstable areas of the world, including Iraq and Afghanistan.

JOINT SESSION

The Joint Session of the Senate and the House of Representatives of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2009, was called to order at 2:04 p.m. by the Honorable Colleen Hanabusa, President of the Senate.

The President addressed the Chamber, stating:

"This is indeed a momentous occasion. We honor members of the Armed Forces of the United States, with ties to Hawai'i, who fought and died bravely, in a combat zone designated by presidential order.

"On behalf of House Speaker Say and all of the members of the Hawai'i State Legislature, I convey our deepest condolences to our very special guests—the family, friends, and colleagues of loved ones who have lost their lives overseas in the Middle East. Our prayers are with you, and we are honored by your presence.

“Please rise for the posting of colors by the Joint Service Color Guard and the Hawai‘i Air National Guard, Royal Guard, and remain standing for the singing of the National Anthem and *Hawai‘i Pono‘i* by Mr. Eric Wahilani, which will be followed by the invocation by Master Sergeant Raymond Ganotise (ret.).

“Joint Service Color Guard and Royal Guard, please present the colors.”

At this time, the members of the Twenty-Fifth Legislature and special guests rose for the Posting of Colors by the Joint Service Color Guard and the Hawaii Air National Guard, Royal Guard.

The members of the Legislature and guests remained standing for the singing of the National Anthem and “*Hawai‘i Pono‘i*” by Mr. Eric Wahilani.

The Divine Blessing was then invoked by Master Sergeant Raymond Ganotise (ret.).

At this time, the President thanked the Joint Service Color Guard, Royal Guard, Mr. Wahilani, and Master Sergeant Raymond Ganotise (ret.) for their participation in today’s ceremony.

The President then addressed the members of the Legislature and guests as follows:

“As a citizen of this great land, born with the freedom to speak, to believe and to dream, free to express personal thoughts without fear of recrimination or reprisal, to protest and participate in government, I am thankful to be a part of this ceremony in honor of our fallen heroes.

“In protecting all we treasure, in defending all we hold dear, and in preserving those values which distinguish us as proud Americans, no man and no woman stands sentry alone. We stand as a nation and a community, beside them in spirit and with them in a shared commitment.

“And just as surely as we will not see them stand alone, we will not allow them to fall alone. We stand together in their name, by pausing to reflect on the unshakable duty and unquenchable bravery that have marked their passage among us. We share the pride of countrymen, and share the tears of brothers, sisters, mothers, fathers and friends.

“Today, we gather in joint session to honor those who have made a sacrifice for which we cannot ask, and shall not forget. We honor the family, friends and colleagues who have also sacrificed...who have themselves paid a price...and who helped make today’s honorees the brave, strong individuals that we called on and counted on to serve our nation.

“We offer this honor as a small token that can never in itself repay the honor that has been given us. An honor borne of courage, driven by duty, and paid for in loss.

“The roll of heroes that we call today is more than a list of names. It is an acknowledgement of community.

“The Hawai‘i Medal of Honor is reserved for those who have touched our islands, and have felt the touch of our people. And in offering it to those gathered here, in memory of those who have fallen, we recognize that they are a part of us. For each and every one of you, your tears are our tears. Your loss, our loss. Your pride, our pride. Wherever each of these medals finds its final home, a piece of our hearts goes with it. You will always be a part of our *‘ohana*, our family, because you have brought us honor, and allowed us to share these lives.

“These medals symbolize our *aloha*. Our farewell to those we have lost. But also our love for those who have lived among us, touched us, and sacrificed for us. And our enduring

welcome for all represented here today, the fallen and their families, who will be counted among us forever.

“A grateful state best honors and remembers the sacrifices of these who have served our nation by living our lives in deepest appreciation of our freedom. That is what they defended. That is what they fought and died for.

“In reflecting on another day marked with great bravery and great sacrifice, Shakespeare wrote, ‘This story shall the good man teach his son.’ We owe no less a duty to our honorees and to future generations. These names and deeds shall remain etched in our state’s shared history. And we will each say to a companion, young or old, at a moment of great pride or great sadness, ‘I have heard a story of brave Americans.’

“Today, we remember, in moments of quiet reflection, each and every one of these heroes. We stand united to honor their memory and express our profound gratitude for their ultimate sacrifice. *Mahalo*.”

The President then stated:

“Before proceeding any further, I would like to acknowledge the presence of our state, congressional, and military leaders.”

At this time, the President welcomed and introduced the following distinguished guests to the members of the Twenty-Fifth Legislature:

The Honorable Linda Lingle, Governor of the State of Hawai‘i;

The Honorable James R. Aiona, Jr., Lieutenant Governor of the State of Hawai‘i, and Mrs. Vivian Aiona, who was not able to attend;

Representing the Honorable Daniel K. Inouye, United States Senator—Colonel Walter Kaneakua (ret.);

Representing the Honorable Daniel K. Akaka, United States Senator—Mr. Kekoa Kaluhiwa;

Representing the Honorable Neil Abercrombie, United States Congressman—Ms. Lee-Ann McClain;

Representing the Honorable Mazie K. Hirono, United States Congresswoman—Mr. John White;

Mr. Allen Hoe, Civilian Aide to the Secretary of the Army;

Ms. Christina Kemmer, Civilian Aide to the Secretary of the Army;

Lieutenant General Benjamin Mixon, Commanding General, United States Army Pacific;

Major General Robert G. F. Lee, the Adjutant General, Hawai‘i Department of Defense;

Major General Darryl D. M. Wong, Commander, Hawai‘i Air National Guard;

Major General Raymond V. Mason, Commanding General, 8th Theater Sustainment Command, and Mrs. Patti Mason;

Representing the Pacific Air Forces—Major General Mike Hostage;

Representing United States Pacific Command—Major General Vernon Miyagi;

Representing the 25th Infantry Division and Major General Robert L. Caslen, Jr.—his wife Mrs. Shelly Caslen;

Brigadier General Stephen L. Jones, Commander, Tripler Army Medical Center;

Rear Admiral Dixon R. Smith, Commander, Navy Region Hawai'i, and Mrs. Kiki Smith;

Brigadier General Gary M. Ishikawa, Deputy Adjutant General, Hawai'i Department of Defense;

Representing the Hawai'i Army National Guard—Brigadier General Gary M. Hara, Assistant Adjutant General, and Mrs. Dianne Hara;

Representing the 9th Mission Support Command—Colonel Michael Phipps;

Representing the 14th Coast Guard District—Captain Steve Mehling and Mrs. Terrie Mehling; and

Representing the Hawai'i Army National Guard—Colonel Joe Logan and Mrs. Gaylene Logan.

The President then said:

“Let us again acknowledge these fine military and congressional leaders and all of the other military personnel here today.”

At this time, the President presented to the members of the Twenty-Fifth Legislature and special guests the Honorable Linda Lingle, Governor of the State of Hawai'i.

The Governor addressed the Joint Session and guests as follows:

“Lieutenant Governor Aiona, President Hanabusa, Speaker Say, legislators, Major General Lee, and all of our special guests here today, *Aloha*.

“We are gathered for a somber purpose. These soldiers who are no longer with us represent a profound loss for their families, for our state, and for our nation. However, I am grateful for this opportunity to recognize these soldiers who died for our freedom and to express my personal and our collective gratitude to their loved ones. It's a privilege to help present the Hawai'i Medal of Honor to families of these 23 heroes.

“Honor is a rare and precious quality. Honor is something that's earned. As Calvin Coolidge said, ‘No person was ever honored for what he received. Honor has been the reward for what he gave.’ These soldiers gave their country their very best. They paid the ultimate price, and the Hawai'i Medal of Honor represents just a very small token of our very deep appreciation.

“The military has a long history here in our community. Soldiers have protected our people and our shores. They've also defended democracy abroad. This legacy of service is epitomized by Nisei soldiers in the 442nd Regimental Combat Team, the 100th Battalion, and the Military Intelligence Service. In October of this past year, I was privileged to visit members of today's military training at Fort Hood. This included National Guard soldiers from our 29th Brigade Combat Team and the Army Reserve's 442nd Infantry. It's important that soldiers know how much the people of Hawai'i respect their service, that we will continue to support their families until their safe return. When soldiers don't return, our responsibility to their families is even greater. I was very touched recently by a ceremony in my office by an organization called the Home of the Brave Quilt. They made a presentation to Deyson Cariaga's mother, Theresa Inouye. You all remember that we honored Deyson here with a Hawai'i Medal of Honor in 2006. I was there that day, and I was with Deyson's mother right after he died, and I was with her when she received the quilt. And it was incredibly meaningful to her because she said it showed that the community hadn't forgotten about her son or about her loss.

“Every service member we are honoring today, regardless of where he was born, was a beloved member of our ‘*ohana*. I appreciate that many of you have travelled from the neighbor islands and from the mainland United States to be with us today. You are part of our ‘*ohana* as well. The people of Hawai'i join you in sorrow and in praise for your loved one's courage and bravery.

“The poet Henry Wadsworth Longfellow wrote movingly of fallen soldiers. In poem he wrote: ‘Your silent tents of green we deck with fragrant flowers; yours has the suffering been, the memory shall be ours.’ I know that each of you consider it a privilege to have known these soldiers during your lives whether as a wife, a mother, a father, a brother, a sister, a cousin, a friend, or a fellow soldier. Our collective privilege as a state and as a nation is that we were able to benefit from their service. Their memories will live on through you, and they will live on in the proud tradition of service that they perpetuated. The rights and freedoms we enjoy are precious gifts that your loved ones gave their lives to protect, and we will never forget. *Mahalo*, God bless you all, and God bless America.”

The President thanked the Governor for her insights then called upon Major General Robert Lee to deliver his remarks on behalf of the military.

General Lee addressed the Joint Session and guests as follows:

“Good afternoon and *aloha*. I want to take this opportunity to recognize a key individual who can't be here today, a person instrumental in establishing this award and this ceremony: State Representative Mark Takai. Representative Takai is currently Major Mark Takai, United States Army, serving in Camp Arifjan, Kuwait. So, Mark, I hope you're watching through the internet. It's only 3:30 in the Middle East; it's time to get up anyway. Mark immobilized this past February and is currently serving as a civil affairs officer on the staff of the 29th Infantry Brigade Combat Team, and we look forward to his return and all of the soldiers of Hawai'i's 29th Brigade this summer.

“This ceremony has been held annually since 2006 to honor the ultimate sacrifice of our heroes with ties to Hawai'i. This is the time when the civilian and military community in Hawai'i can bond together in a spirit of shared sacrifice and recognition. From the thousands who have answered our nation's call to duty, we honor today 23 members of the United States Army and the United States Marine Corps who gave their last full measure. While it may be difficult for civilians to understand the world in which the military inhabits, I certainly appreciate very much how our civilian community in Hawai'i supports our troops. From the many care packages sent to our troops overseas to the genuine appreciation expressed to our troops at the airports and restaurants across the state... *Mahalo*.

“Everyone who puts on the uniform and takes the oath to support and defend our Constitution knows that he or she may be called upon to put their life on the line. There is an inherent risk involved in service to our nation. It is one of the few professions where prospective employees are told they will be challenged to the limits of their physical and mental stamina. They may be asked to perform their jobs in dangerous locations, and maybe they might not come back. In spite of the risk, we are just so fortunate that thousands volunteer to serve in the Armed Forces of the United States. And I have personally witnessed in Iraq, Afghanistan, and trouble spots throughout the world the finest sons and daughters America has ever produced, so we are most saddened when we lose one of our own.

“The State Medal of Honor is Hawai'i's way to remember their ultimate sacrifice: to show our appreciation to their families, to share in their loss, and to assure them they will always be part of this state's ‘*ohana*, of this state's family. The

kalo, or taro, leaves in the medal is emblematic of the embrace of the people of Hawai'i; whether the fallen soldier, marine, sailor, airman or coastguardsman grew up in Hawai'i or were members of units based in Hawai'i, he is still embraced as part of our *'ohana*. Following America's tradition in past wars, a gold star was often displayed in the window to let the entire neighborhood know that the life of a hero who had grown up here had been taken. Today, the gold star in the middle coat of arms represents the 50th state star on the American flag and also represents the person who's being honored today. The attachment device in the red and yellow ribbon is a rendering of the ancient puela, or flag, that Hawaiians raised at sea above the sail of their canoes. All who saw the puela from afar knew that a person of the highest rank or honor was coming. Today, this service ribbon and its puela will remind us that these families are of the highest rank and honor. There is no greater sacrifice a family can make than the loss of their soldier, sailor, marine, airman, or coastguardsman while in service to our nation. And there is no greater honor that the people of Hawai'i can bestow upon them to symbolize their sacrifice. So to the families of our fallen heroes, I humbly ask that you accept this Hawai'i Medal of Honor on behalf of the people of Hawai'i who are today and forever shall be your devoted *'ohana*. May God bless all of you, and may God bless the United States of America."

The President then stated:

"Thank you, Major General Lee for your leadership. Madam Clerk, please begin the announcement of the Hawai'i Medal of Honor recipients."

At this time, the Senate Clerk proceeded to read the names of the following individuals who were represented by family members, friends and colleagues to receive their medals and certificates:

United States Army Sergeant Timothy P. Martin;
United States Army Sergeant First Class David L. McDowell;
United States Army Sergeant John K. Daggett;
United States Army Corporal William L. McMillan, III;
United States Army First Lieutenant Jonathan P. Brostrom;
United States Army Sergeant Kenneth B. Gibson;
United States Army Staff Sergeant Solomon T. Sam;
United States Army Private First Class Christopher W. Lotter;
and
United States Army Private Sean P. McCune,

At this time, President Hanabusa stated:

"Members of the Senate and members of the House, please applaud the recipients' family members, friends and colleagues who have joined us in the Chamber today."

President Hanabusa continued:

"Madam Clerk, please begin the announcement of the names of the other recipients of the Hawai'i Medal of Honor whose families could not be present for today's ceremony."

The House Clerk proceeded to read the names of the following individuals whose families were not able to attend today's ceremony:

United States Marine Corps Sergeant Phillip A. Bocks;
United States Army Sergeant Ireneo S. Lacerna;
United States Army Sergeant Gary D. Willett;
United States Army Sergeant First Class Jerald A. Whisenhunt;
United States Army Corporal Michael T. Manibog;
United States Army Specialist Gregory B. Rundell;
United States Army Specialist Jeremiah C. Hughes;
United States Army Private Eugene D. M. Kanakaole;
United States Marine Corps Captain Philip J. Dykeman;
United States Marine Corps Corporal Marcus W. Preudhomme;
United States Marine Corps Lieutenant Colonel Max A. Galeai;

United States Army Staff Sergeant Julian F. A. Manglona;
United States Army Private First Class Christopher A. McCraw;
and
United States Marine Corps Corporal Thomas Reilly, Jr.;

At this time, Speaker Say made the following announcement:

"Members of the House and Senate and special guests, please rise and turn your attention to the rotunda level for the 21-gun Salute and the playing of 'Taps'. Following this will be a moment of silence. Members of the Hickam Base Honor Guard, please proceed."

A 21-gun Salute and Taps were then carried out by the U.S. Air Force and the U.S. Navy.

The Speaker then gave his closing remarks:

"On this most hallowed day, I am reminded of the eloquent Memorial Day remarks offered by the late Supreme Court Justice Oliver Wendell Holmes in 1884 that continue to ring true today:

'Such hearts were stilled twenty years ago; and to us who remain behind is left this day of memories. Every year—in the full tide of spring, at the height of the symphony of flowers and love and life—there comes a pause, and through the silence we hear the lonely pipe of death...Year after year the comrades of the dead follow, with public honor, procession, and commemorative flags and funeral march—honor and grief from us who stand almost alone, and have seen the best and noblest of our generation pass away.'

"The pain of losing the best and the most valiant is raw and unrelenting. I hope you will find some consolation in understanding that our young men and women of the United States armed forces died a noble death. They died to ensure that no further harm may reach our shores. They sacrificed their lives to protect their loved ones at home. They perished defending the American ideals of democracy, liberty, and justice.

"There is a high cost that comes with conflict. Over 200 servicemen and women with Hawai'i ties have been lost in Iraq and Afghanistan. Many more have returned wounded, both in body and in spirit. Their survivors bear emotional and physical scars that most of us can never fully feel or know.

"It is often said that nothing that is of value in this world comes without a price. Well, our soldiers have paid that price a hundredfold. And for those who are still paying for the wages of war, the people of the State of Hawai'i are in your debt

"How do we turn our collective sorrow into positivity? How do we honor them? We can commit ourselves to remain true to the spirit of the deceased. Be involved in the activities he or she enjoyed that are greater than our self-interest. Put family and community above personal gain. Live a life enriched with the *'aloha spirit'*...of *pono* (balance), with *maika'i* (goodness/wellness) and *ho'okipa* (hospitality).

"Live life as if it were a gift.

"Finally, with the recent announced troop reductions in the Middle East, we can rededicate our efforts to do whatever we can to make sure that all of our sons and daughters are brought home as quickly as possible. For where we love is home...home that our feet may leave, but not our hearts. Ultimately, all the soldiers should be home, with their loved ones. And for those who did not find their way home, please take some solace in knowing that their hearts and spirits are at home, where they have always belonged, with you.

"It is my greatest hope that one day soon, it will no longer be necessary for us to come together every spring to memorialize

the fallen. My greatest wish is for the Hawai'i Medal of Honor to retire quietly into history, a poignant but obsolete relic of a past that no longer burdens us.

"I conclude with the final passage from Justice Holmes' speech. His words echo my own hope for a brighter future replete with peace, harmony, charity, respect, and love.

"But grief is not the end of all... Our dead brothers [and sisters] still live for us, and bid us think of life, not death... As I listen, the great chorus of life and joy begins again, and amid the awful orchestra of seen and unseen powers and destinies of good and evil, our trumpets sound once more a note of daring, hope, and will.' To all of you, *Aloha*."

The Speaker then stated:

"Members of the House and Senate, and special guests, please rise for the retiring of colors."

At this time, the members of the Twenty-Fifth Legislature and special guests rose for the Retiring of the Colors by the Joint Service Color Guard and the Hawai'i Air National Guard, Royal Guard.

The Speaker stated:

"There being no further business, I declare this Joint Session adjourned."

At 2:58 p.m., Speaker Say declared the Joint Session adjourned.

ADJOURNMENT

At 2:58 p.m., the Senate adjourned until 11:30 a.m., Thursday, April 2, 2009.