

THIRTY-NINTH DAY

Wednesday, March 27, 2013

The Senate of the Twenty-Seventh Legislature of the State of Hawai'i, Regular Session of 2013, convened at 11:40 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

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

At this time, Senator Keith-Agaran introduced Anthony Edington, a constituent from Maui and executive chef at The Westin Ka'anapali Ocean Resort Villas.

Senator Kouchi introduced State Representative Derek Kawakami, a Kawakami family member from Kaua'i who was seated in the gallery.

Senator Kouchi then honored Edith Kawakami, founder of 'Iolani Sportswear, on her 92nd birthday.

Senators Galuteria, Taniguchi, and Kim recognized and congratulated 'Iolani Sportswear on its 60th anniversary, noted that they were an icon of the fashion industry, commended them for their immeasurable contributions to the economy, and extended best wishes for many more years of prosperity, innovation, and business success. Representing 'Iolani Sportswear were founder Edith Kawakami; her son Lloyd and his wife Carla; her grandsons Nick and Alex; and 'Iolani Sportswear's current fashion designer Grace Tsutahara. Also recognized were supporters, friends, and family who were seated in the gallery.

Senator Taniguchi also recognized 'Iolani Sportswear and MānoaDNA as long-time residents and community supporters of the Eleventh Senatorial District.

At 11:52 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:02 p.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 248 and 752 to 756) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 248, dated March 20, 2013, transmitting proposed changes to the FB 2013-15 Biennium Budget for the Departments of Budget and Finance; Business, Economic Development and Tourism; and the University of Hawaii, was placed on file.

Gov. Msg. No. 752, submitting for consideration and confirmation to the Hawai'i Community Development Authority (Kalaeloa District), the nomination of STEPHEN KELLY, term to expire June 30, 2016, was referred to the Committee on Economic Development, Government Operations and Housing.

Gov. Msg. No. 753, submitting for consideration and confirmation to the Hawai'i Community Development Authority (He'eia District), the nomination of MAHEALANI CYPHER, term to expire June 30, 2016, was referred to the Committee on Economic Development, Government Operations and Housing.

Gov. Msg. No. 754, submitting for consideration and confirmation to the Hawai'i Community Development Authority (Kaka'ako District), the nomination of BRIAN LEE, term to expire June 30, 2015, was referred to the Committee on Economic Development, Government Operations and Housing.

Gov. Msg. No. 755, submitting for consideration and confirmation to the Hawai'i Community Development Authority, the nomination of KAMAKI KANAHELE III, term to expire June 30, 2016, was referred to the Committee on Economic Development, Government Operations and Housing.

Gov. Msg. No. 756, submitting for consideration and confirmation to the Hawai'i Community Development Authority (Kaka'ako District), the nomination of LOIS MITSUNAGA, term to expire June 30, 2016, was referred to the Committee on Economic Development, Government Operations and Housing.

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 381) was read by the Clerk and was disposed of as follows:

Hse. Com. No. 381, returning S.B. No. 870, S.D. 1, as amended in H.D. 1, which passed Third Reading in the House of Representatives on March 25, 2013, was placed on file.

By unanimous consent, action on S.B. No. 870, S.D. 1 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO USE OF FORCE BY PERSONS WITH SPECIAL RESPONSIBILITY FOR CARE, DISCIPLINE, OR SAFETY OF OTHERS," was deferred until Thursday, March 28, 2013.

ORDER OF THE DAY

THIRD READING

H.B. No. 430, H.D. 1, S.D. 1:

On motion by Senator Ige, seconded by Senator Kidani and carried, H.B. No. 430, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 31, H.D. 1, S.D. 1:

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, H.B. No. 31, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISORDERLY CONDUCT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 815, H.D. 2, S.D. 1:

On motion by Senator Baker, seconded by Senator Galuteria and carried, H.B. No. 815, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC COOPERATIVES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25; Ayes with Reservations (Ihara). Noes, none.

H.B. No. 999, H.D. 2, S.D. 1:

On motion by Senator Baker, seconded by Senator Galuteria and carried, H.B. No. 999, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 848, H.D. 2, S.D. 1:

On motion by Senator Baker, seconded by Senator Galuteria and carried, H.B. No. 848, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24; Ayes with Reservations (Ihara). Noes, 1 (Slom).

H.B. No. 425, H.D. 1:

On motion by Senator Ige, seconded by Senator Kidani and carried, H.B. No. 425, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OFFERS IN COMPROMISE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 915:

On motion by Senator Ige, seconded by Senator Kidani and carried, H.B. No. 915, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

RE-REFERRAL OF A HOUSE BILL

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

H.B. No.: Re-referred to:

H.B. No. 399, H.D.1 Jointly to the Committee on Health and the Committee on Judiciary and Labor

Senator Baker rose to announce that delivery of the Easter baskets for the Institute for Human Services would take place the following day, and thanked the members for their participation.

Senator Green rose to note that he was wearing a light blue ribbon in honor of Traumatic Brain Injury Awareness Day and relayed that individuals struggling to recover from brain injury were touched by the Senate certificate presented to them recognizing March as Traumatic Brain Injury Awareness Month.

At 12:08 p.m., on motion by Senator Espero, 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. 25, 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-Seventh Legislature of the State of Hawai'i, Regular Session of 2013, was called to order at 2:04 p.m. by the Honorable Donna Mercado Kim, President of the Senate.

The President then addressed the Chamber, stating:

"On behalf of the House Speaker and all the members of the Hawai'i State Legislature, 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.

"At this time, please rise for the Hawaiian blessing by Ms. Hinaleimoana Wong-Kalu."

The Hawaiian Blessing was then invoked by Kumu Hula Hinaleimoana Wong-Kalu.

The President then said:

"Thank you, Ms. Wong-Kalu. Please remain standing 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 Danny Kaleikini."

At this time, the Joint Service Color Guard, and the Hawai'i Air National Guard Royal Guard enacted the Posting of the Colors before the Joint Session of the Twenty-Seventh Legislature.

The members of the Legislature and guests remained standing for the singing of the National Anthem and *Hawai'i Pono'i* by Mr. Danny Kaleikini.

At this time, the President thanked the Joint Service Color Guard, Hawai'i Air National Guard Royal Guard, and Mr. Danny Kaleikini for their participation in today's ceremony.

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

"Good afternoon, honored guests, ladies and gentlemen.

"On behalf of the members of the Hawai'i Senate and House of Representatives, I extend to all of you our warmest aloha and welcome, and a special aloha to the families of those we honor today. Many of you have traveled a long way to be here, and we are humbled and honored by your presence to join us for this ceremony.

"The Medal of Honor is Hawai'i's expression of gratitude to those who gave their lives in the service of our nation. These citizens volunteered to carry the flag of the United States, to uphold the ideals and principles of a free and democratic nation, to put themselves in harm's way to fulfill their military missions, and to represent our people and country with pride, honor, and distinction. We admire them immensely for their courage and willingness to make tremendous personal sacrifices for the greater good.

"The Medal of Honor is awarded posthumously. As such, this day is one of sorrow, of heartbreak. The families of our servicemen and women endured great suffering and hardship, and we convey our deepest condolences to all the families and loved ones.

"At the same time, in honoring these heroes, let us celebrate their lives and what they stood for. They are sons, brothers, husbands, fathers, comrades in arms, friends, and neighbors. They represent all the good things in life. They stood for those qualities we admire in our fellow citizens: honor, loyalty, courage, sacrifice, patriotism, and a commitment to putting the needs of others above their own. And they symbolized the values and traditions that have made our country a place of freedom, equality, and opportunity.

"To the families of our honorees, please accept this Medal of Honor Ceremony as a small token of our appreciation and admiration, which we present with our heartfelt and lasting aloha. Mahalo."

The President then stated:

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

Please hold your applause until all of our distinguished guests are recognized.”

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

The Honorable Neil Abercrombie, Governor of the State of Hawai‘i;

The Honorable Shan S. Tsutsui, Lieutenant Governor of the State of Hawai‘i;

The Honorable Tulsi Gabbard, United States Congresswoman;

Representing the Honorable Brian Schatz, United States Senator – Mr. Chuck Freedman;

Representing the Honorable Mazie Hirono, United States Senator – Ms. Lauren Montez-Hernandez;

Representing the Honorable Colleen Hanabusa, United States Congresswoman – Mr. Kamakana Kaimulua;

Lieutenant General Francis Wiercinski, United States Army Pacific, and Mrs. Jeannine Wiercinski;

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

Major General Darryll D.M. Wong, Adjutant General, Hawai‘i Department of Defense;

Representing the United States Pacific Fleet and Admiral Cecil Haney – Rear Admiral Patrick Driscoll;

Major General James Walton, Commanding General, 311th Signal Command (Theater);

Major General Gary M. Hara, Commander, Hawaii Army National Guard, and Mrs. Dianne Hara;

Brigadier General Stanley J. Osserman, Jr., Commander, Hawaii Air National Guard;

Brigadier General Joseph Kim, Deputy Adjutant General, Hawai‘i Department of Defense, and Mrs. Kimberly Kim;

Representing the United States Pacific Air Forces and General Herbert Carlisle – Brigadier General James Post, and Mrs. Susan Post;

Rear Admiral Fernandez Ponds, Commander, Navy Region Hawaii, and Mrs. Carolyn Ponds;

Representing the United States Marine Forces Pacific and Lieutenant General Terry Robling – Colonel Jeffrey Davis, and Mrs. Kathy Davis;

Representing the United States Coast Guard District 14 and Rear Admiral Charles Ray – Captain Meredith Austin;

Representing the 8th Theater Sustainment Command and Major General Stephen Lyons – Colonel Glenn Grothe;

Representing the 25th Infantry Division and Major General William Fuller – Colonel Frank Tate;

Representing the Hawaii National Guard Chief of Joint Staff – Colonel Joe Logan; and

Command Chief Master Sergeant Robert Lee, Senior Enlisted Officer, Hawaii National Guard.

The President then stated:

“Let us acknowledge these fine state, congressional, and military leaders and all other military personnel who are here today.”

At this time, the President called upon the Honorable Neil Abercrombie, Governor of the State of Hawai‘i.

The Governor addressed the Joint Session and guests as follows:

“Ladies and gentlemen, aloha. Friends, the purpose of the act, designated as Act 21, Session Laws of Hawai‘i 2005, states, ‘The purpose of this Act is to provide for a Hawaii medal of honor that would help express the deep appreciation and gratitude of the people of Hawaii to the loved ones of members of the military who sacrificed their lives in defense of our nation and our freedoms.’

“It’s a position of gratitude. It is an honor for those of us who are privileged to occupy elective office to be able to represent to you, not only those who are gathered here to my immediate right, as family of those who are to be honored as a result of the passage of Act 21, but for all those assembled here today and who may see at least a portion of the results either in the newspapers or throughout the media. We do this, a public ceremony, because we wish to express, in more than just a symbolic way, what it is we regard as most fundamental to a recognition of what it takes to enable us to be a free people.

“In some respects, as I have indicated in previous remarks on another occasion – where this opportunity was provided for – that this involves, inevitably then, if it’s to be described, a ritual: Why are we gathered in such a manner, in such solemn regard for what it is we are about to undertake? It’s because we understand that in ceremonies such as this, we are engaged in a public expression of what constitutes our fundamental values: a public expression of what it is that we believe. We are trying to put three dimensions and a human context onto what might otherwise be considered an academic exercise; that is to say, the recitation of a philosophy, or the verbal expressions associated with what we say we believe.

“It’s one thing to take an oath – everyone here has taken an oath of office – everyone who is to be honored today took an oath of office. It’s a verbal expression, a particularly and peculiarly human endeavor in which we verbalize in front of our fellows what it is that we say we’re about to embark upon, in terms of our commitment to it, our fidelity with regard to it. And what we say is an extension of who we are as human beings and as free men and women in this democracy.

“I carry with me today a book that I brought with me the last time I did this because it’s a constant reminder to me, and it’s something that I read and re-read. It’s *Guard of Honor* by James Gould Cozzens, written in the wake of World War II. And it was an expression of Cozzens’s ideas in a fictional sense of what it was to be involved in WWII, and by extension, what was involved with us as human beings in expressing not just to ourselves, but to the nation and the world, what it meant to make an ultimate sacrifice. The quote that formulated the foundation for Cozzens’s work was from *The Tempest* and Shakespeare:

I and my fellows
Are ministers of Fate: the elements
Of whom your swords are temper’d, may as well
Wound the loud winds, or with bemocked-at stabs
Kill the still-closing waters, as diminish
One feather that’s in my plume: my fellow-ministers
Are like invulnerable.

“All those we honor today have embodied in their sacrifice, in their commitment, in their determination, to be as fellow ministers of each other’s fate. A sense, not that they were invulnerable: what was invulnerable was their commitment. What was invulnerable was their fidelity and loyalty to each other. What was invulnerable was their dedication to the proposition that freedom had to be defended, and that they were

willing to put themselves forward to accomplish that. None of us know, at any given moment, how we would be able to respond, how we would react, whether we would be able to carry through on that to which we pledged ourselves. Who knows, among us at this moment, whether we, too, could have met that challenge?

"But we know that we are ministers of our own fate, and that as ministers of that fate, we know that our own vulnerabilities are known only to us and known to God. What we do know is that sacrifices were made. What we do know is that we can acknowledge those sacrifices and that we can make certain that those who have had to bear the brunt of what those sacrifices meant know that they are not forgotten, know that all those honored today are carried in our hearts, and that we are brothers and sisters for and with and to each other. And with that sure knowledge, we hope that some small measure of comfort will be extended from us to you, not just this day, but in the days to come; and that you'll carry with you from this ceremony our commitment and our pledge, not just to remember, but to try to fulfill the promise that was made ultimately and with complete sacrifice by those whom you loved."

The President thanked Governor Abercrombie, then presented to the members of the Twenty-Seventh Legislature and special guests Major General Darryll D.M. Wong to deliver his remarks.

Major General Wong addressed the Joint Session and guests as follows:

"Governor Abercrombie, Lieutenant Governor Tsutsui, Senate President Mercado Kim, Speaker Souki, members of our State Legislature, and especially family and friends of our honored heroes: good afternoon and aloha.

"We are honored and privileged to be in the presence of the families of our fallen heroes. There is no honor higher that our state can bestow upon a member of our armed forces than the Hawai'i Medal of Honor, but the price of that honor is far too high. To receive that medal means a member of our military with Hawai'i ties has given up his or her life in the service of our nation. The burden imposed on the families and friends is heavy beyond measure. This is not an honor that we bestow with joy; rather, we do so with heavy hearts and solemn resolve.

"Collectively, as a state, we have made it our mission to express our deepest appreciation to these brave men and women. We resolve to ensure that the families of our servicemen shall always be a part of our Hawai'i 'ohana, and that the ultimate sacrifice made by their loved ones will always be remembered. As evidenced by these brave men who sit up in the gallery there, you know our nation has been at war for 11.5 years, and the burden of that war has been carried on the shoulders of a select few. Some two million men and women who currently wear the uniform, or who are now war veterans, have deployed since September 11, 2001. Of those, more than 6,600 have given their lives, which Hawai'i has lost 327 service members. Our grateful state best honors and remembers the sacrifices of those who have served our nation by living our lives with deep appreciation for our freedom. While the Hawai'i Medal of Honor cannot take away the pain of losing a loved one, it symbolizes that Hawai'i will never forget. We'll never forget them, nor will we ever forget their families.

"During World War II, gold stars denoting that a service member from a family had died in action were all too commonly displayed on the windows of apartment buildings, farmhouses, and in the communities that mourned the loss of these fallen heroes. The gold star on the Hawai'i State Medal Coat of Arms that will be presented to each family today represents the star of the 50th State on the American flag. It

also is a reminder of the gold stars displayed on the windows of American homes from past conflicts. The type of device in red and yellow is a rendering of ancient puela, or flag, that Hawaiians raised above the sails of their canoes. Anyone who saw the puela from afar knew that a person of the highest rank was coming. Today, the service ribbon and its puela reminds us that these families are of the highest rank and honor. The kalo, or taro, leaves in the middle symbolize the embrace of the people of Hawai'i as one 'ohana. There is no community in the United States that embraces and loves its military members more than we here in Hawai'i.

"To the family, friends, and comrades-in-arms that are here with us today, there may be times when you feel all alone, that no one understands your pain, or that few appreciate the ultimate sacrifice that your husband, father, son or daughter has made on our behalf. In those times, please remember this: It doesn't matter whether a sailor, soldier, airman, or marine grew up in Hawai'i or called Hawai'i home for only a short period of time: their warrior spirit will always be a part of our islands. And it doesn't matter whether the families of our heroes from Hawai'i were from here or the mainland; your loss is our loss.

"It is with great humility that we present these Medals of Honor to these families who are, and always will be, a part of our 'ohana and will always have a place of honor in our islands."

The President thanked Major General Wong and stated:

"Madam Clerk, please begin the announcements 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 Marine Corps Captain Daniel B. Bartle;
United States Marine Corps Corporal Joseph D. Logan;
United States Marine Corps Captain Nathan R. McHone;
United States Marine Corps Corporal Kevin J. Reinhard;
United States Marine Corps Master Sergeant Travis W. Riddick;
United States Marine Corps Corporal Jessie W. Stites;
United States Army Chief Warrant Officer 2 Nicholas S. Johnson;
United States Army Chief Warrant Officer 2 Don C. Viray;
United States Marine Corps Staff Sergeant Scott E. Dickinson; and
United States Army Chief Warrant Officer 3 Brian D. Hornsby.

The President then stated:

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

"Mr. Clerk, please begin the announcement of the names of 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 Army First Lieutenant Clovis T. Ray;
United States Army Sergeant Dean R. Shaffer;
United States Army Sergeant Chris J. Workman;
United States Marine Corps Lance Corporal Gregory T. Buckley;
United States Marine Corps Corporal Richard A. Rivera, Jr.;
United States Army Sergeant Richard A. Essex;

United States Army Chief Warrant Officer 2 Suresh N.A. Krause;
United States Army Sergeant Luis A. Oliver Galbreath; and
United States Army Sergeant Sapuro B. Nena.

Speaker of the House of Representatives Joseph M. Souki then gave his closing remarks as follows:

“Before proceeding on with the 3-Volley Salute and playing of Taps, I would like to thank all of you for being here today to join with the members of the Hawai‘i State Senate and the House of Representatives as we pay our respect to these fallen servicemen and women, and their families, their friends, and fellow soldiers who served beside them.

“I am sure I can speak for all of us here, as well as the communities we represent, and indeed our state and our nation, when I say we honor you, our fallen heroes. And we offer our deepest gratitude to you for answering the call to duty and for making the ultimate sacrifice.

“Freedom is not free. We hear this phrase so often, and yet it is in ceremonies such as this that its truth is deeply felt when we pause to appreciate our freedom and our liberties that we too often take for granted, and when we are reminded that each of us, in our own way, also has a duty and responsibility to protect and uphold these basic human rights, at home and abroad.

“And to the families, the friends, the brothers and sisters in arms, please know that the people of this state, this community, stand with you in remembering and honoring your loved ones – heroes, each of them. May God bless them, and may God bless the United States.”

At this time, the Speaker made the following announcement:

“And now, members of the Senate and House, our special guests and audience, please rise as I turn your attention outside to the Capitol Rotunda for the 3-Volley Salute and the playing of Taps, which will be followed by a moment of silence in honor of our fallen heroes.”

“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 stated:

“Thank you. Please remain standing for the retiring of the colors.”

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

The Speaker stated:

“Members, guests, family, and friends: Thank you all for your participation here today. There being no further business, I now declare this Joint Session adjourned.”

At 2:57 p.m., the Speaker declared the Joint Session adjourned.

ADJOURNMENT

At 2:57 p.m., the Senate adjourned until 11:30 a.m., Thursday, March 28, 2013.