THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 5, 2001

3:09 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: In the absence of clergy, may we bow our heads in a moment of silence, please.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Saturday, February 3rd, the Senate met pursuant to adjournment. The Journal of Friday, February 2nd, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: On behalf of Senator Balboni, on page 8 I offer the following amendments to Calendar Number 36, Senate Print Number 853, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you.

Again on behalf of Senator Balboni, on page number 8 I offer the following amendments to Calendar Number 43, Senate Print Number 858, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: So ordered, Senator.

Senator Skelos.

SENATOR SKELOS: Madam President,

there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

SENATOR SKELOS: If we could take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 15, by Senator Volker, Senate Print 208, an act to amend the Penal Law and the Criminal Procedure Law, in relation to term of imprisonment.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside, Senator.

THE SECRETARY: Calendar Number 29, by Senator Goodman, Senate Print 662, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

THE PRESIDENT: Read the last

section.

SENATOR PATERSON: Lay that aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 34, by Senator Balboni, Senate Print 851, an act to amend the Penal Law, in relation to increasing the criminal penalties.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 41, by Senator Marcellino, Senate Print 781, an act to repeal Title 17 of Article 23 of the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 53, by Senator Skelos, Senate Print 404, an act to amend the Social Services Law, in relation to charging of a fee or other form of compensation.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

Senator Kuhl, that completes the reading of the noncontroversial calendar.

SENATOR KUHL: Could we have a controversial reading of the calendar now.

THE PRESIDENT: We may.

SENATOR KUHL: Thank you very much.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

15, by Senator Volker, Senate Print 208, an act to amend the Penal Law and the Criminal Procedure Law, in relation to term of imprisonment.

SENATOR PATERSON: Explanation, please.

THE PRESIDENT: Senator Volker, an explanation has been requested.

SENATOR KUHL: Lay that bill aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 29, by Senator Goodman, Senate Print 662, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

SENATOR PATERSON: Explanation, please.

SENATOR KUHL: Lay that bill aside temporarily, Madam President.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 53, by Senator Skelos, Senate Print 404, an

act to amend the Social Services Law, in relation to charging of a fee or other form of compensation.

SENATOR PATERSON: Explanation.

SENATOR KUHL: Lay the bill aside temporarily, Madam President.

THE PRESIDENT: The bill is laid aside temporarily, Senator.

SENATOR KUHL: And would you return to -

THE PRESIDENT: The Secretary will read Calendar Number 29.

SENATOR KUHL: Correct. Thank you.

THE SECRETARY: Calendar Number 29, by Senator Goodman, Senate Print 662, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

SENATOR PATERSON: Explanation, please.

THE PRESIDENT: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: This legislation relates to the problem of rape and serial rapists, who unfortunately have been running rampant in New York City, certain parts of it in particular. And it seeks to impose a different type of penalty than the law now provides.

Specifically, not just a single sentence for an individual rape or a combination of the same which would run concurrently, but, rather, sentences that would be run consecutively so that it would be possible to hold a rapist for a more extended period of time in the event of conviction.

SENATOR PATERSON: Madam President, would Senator Goodman yield for a question.

THE PRESIDENT: Senator Goodman, do you yield?

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, do

the consecutive sentences apply for the actual first incident, or is this something that occurs after a second charge; in other words, after there have been multiple charges?

SENATOR GOODMAN: If a rapist is involved in multiple rapes, the answer is it would apply to the first instance. The notion being that a series of rapes are more significantly punishable than a single rape.

SENATOR PATERSON: Madam President, if Senator Goodman will continue to yield.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR GOODMAN: I do.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Thank you, Madam President, and to Senator Goodman.

My question, Madam President, relates to a hypothetical that I want to offer to Senator Goodman, whereby an individual has been arrested after a long investigation for a series of rapes, say ten. Would the legislation apply in that particular case?

SENATOR GOODMAN: To a person who allegedly committed ten rapes or who was convicted of ten rapes?

SENATOR PATERSON: A person who was convicted.

SENATOR GOODMAN: Absolutely, sir, it would, yes.

SENATOR PATERSON: Madam President, if Senator Goodman would continue to yield.

SENATOR GOODMAN: Yes, I will, Madam President.

THE PRESIDENT: Thank you.

Senator Paterson, you may proceed.

SENATOR PATERSON: Then, Senator, what I'm understanding is that this is not the same as a kind of predicate felon situation. This is a situation that relates to the acts and separates them because of the multiple pain that the perpetrator has inflicted, and that that the public policy of your legislation is that there has been even greater suffering in the multiple factor of the number of crimes that were committed.

SENATOR GOODMAN: That plus the

concept that clearly relates to this type of a defendant who has been convicted of a series of crimes perpetrated against a number of individuals, thus creating a very great danger that this individual, if permitted to serve a concurrent sentence, would be released much sooner than the seriousness of the crime would warrant.

SENATOR PATERSON: Thank you, Madam President, on the bill.

I find the Senator's -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I find the Senator's explanation to be satisfactory.

However, there are two learned colleagues, Senator Duane and Senator Montgomery, who had considerable questions on this legislation to the effect that they voted in the negative last year. They are both temporarily out of the chamber on other business. Perhaps they will be able to explain for themselves better than I can what their concerns are.

But I would like to make record of the fact that these two Senators voted in the

negative on this legislation last year.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 15, by Senator Volker, Senate Print 208, an act to amend the Penal Law and the Criminal Procedure Law, in relation to term of imprisonment.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Madam President, this bill, which has been around since 1995, is what I call a "three times and you're out" bill.

What it does is that for people who have already committed two violent felony

offenses, if they commit a third violent felony offense, those two become predicate felonies and the person is subject to a sentence of 25 years to life.

It is interesting, very quickly, as I was going through the memo on this, I realized that this is a 1995 memo that talks about "each day our court dockets are filled with greater and greater numbers of cases," and it goes on to talk about we can't find a way to bring down violent crime. Well, we have.

In fact, at the hearing today we pointed out we have had the greatest decline in violent crime in this state's history. We're having right now the greatest decline in inmates in modern history. Nobody can ever remember anything like it.

And I happen to believe -- and I think there's a series of reasons why that is happening in this state, way beyond what's happening in other states. And certainly the Governor has to be commended, because it's since he took office that this has begun to happen, and this Legislature, which has passed

all sorts of legislation to deal with that.

This bill, which was introduced during the period just as we began to get tough here -- let's never forget that in the 1970s, we began to forget about what brought us where we were. We brought down penalties in many areas and forgot what was going on in the criminal justice system.

At any rate, what this bill does, it's a persistent violent felony offense program that says on the third -- and remember, these are people who are pretty bad people. They already had to have committed two violent felony offenses, which means they had to be in jail for a considerable period of time. Because under any circumstances, they certainly would go to jail for at least some time.

So this is the third time. If they commit a very serious crime, they would be subject to 25 years to life. The bill also limits plea bargaining in violent felony offense cases.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: If my distinguished colleague, Senator Volker, would yield for a few questions.

THE PRESIDENT: Senator, do you yield?

SENATOR VOLKER: Certainly.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, you have rather clearly and cogently stated the reasons for why we have to have mandatory minimums. What I'm asking you is, what is the justification for doubling the mandatory minimum from 12 years to 25 years -- more than doubling it -- when there's been an increase in crime and -- well, I'll ask you that and then I'll go to another question.

SENATOR VOLKER: Decrease in crime.

SENATOR PATERSON: I'm sorry, a decrease in crime.

SENATOR VOLKER: That's the question.

SENATOR PATERSON: Thank you.

SENATOR VOLKER: I just wanted to -- I knew what you were saying, so -- well, I think the answer is that yes, there has been a decrease in crime.

But it's my belief and the belief of, I think, many in the criminal justice system that a prime reason for the decrease in crime is that we have got off the streets so many of the people who are repetitive violent felony offenders.

And what this bill does is it takes repetitive violent felony offenders -- and remember, these are not minor felons, obviously. These are people that have previously been convicted. Probably, if they were convicted twice of violent felony offenses, they probably have 25 or 30 arrests. Because that's the normal type of situation. And now they're arrested again, after coming out of jail, for another violent felony offense.

And the question is, what do you do then with a person who is already in a situation? And the answer is the third time, you're out, you go to jail for a period of a

minimum of 25 years.

So I think the answer to that is yeah, crime is down, but I think a major reason why crime is down is because we're sending these type of people to jail. And I think this is a deterrent to those kinds of people who would realize if they commit another one of these offenses, they're going to jail for a long time.

SENATOR PATERSON: Thank you, Senator.

Madam President, if -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: If the Senator would yield for another question.

SENATOR VOLKER: Sure.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, I don't mean this facetiously, I really mean it rather seriously. Wouldn't it be possible to argue both ends of the sword? If crime had gone up, then that would be a good reason to say we need to increase the sentences more; if crime goes down, we say, well, it's working,

so we need to do it some more.

SENATOR VOLKER: Yeah, I think you could make that argument. Except that I think this is the type of situation that seems to be working.

Now, the argument, for instance, on drug offenses is that minor drug offenses - the argument is that too many of them are going to jail. None of this in the violent felony offense area relates to any of these minor people. We're talking the very serious people.

When I was a police officer, we used to say if you could put a high percentage of professional burglars in jail and keep them there for a long time, the burglary rate in this state would go down.

We did, it's happened, the burglary rate went down dramatically after we put a lot of professional burglars in jail for a long period of time. We increased the penalties, judges started getting tougher and so forth.

So my argument is -- I think the argument of a lot of people is that although it is very arguable that since the crime rate

is generally down and the serious offenses are down that on the lower scale, very possibly, that we can consider some situations where we can do treatment and things like that.

But in the areas of the very violent people, the best thing to do with those people is to get them off the streets and get them off the streets as long as possible.

SENATOR PATERSON: Madam President -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: -- on the bill.

THE PRESIDENT: On the bill, Senator. You may proceed.

SENATOR PATERSON: I have been persuaded over the years by this argument, and particularly as it's articulated by Senator Volker, whose approach to things is very lucid and is very reasonable.

And I think that in spite of the fact that I probably voted against this legislation when Senator Volker first tried to implement it, I think that upon hindsight,

with the distinct advantage of hindsight, I can see the purpose for it, and I guess it's borne out by the facts that Senator Volker's certainly cited.

But I don't see a great deal of information that tells me that lowering a minimum sentence -- or raising the time of a minimum sentence from 20 years to 25 years is accomplishing that much good. I don't know that people who come out of prison after 20 years go back to the same types of crimes that they were committing before they went there.

There certainly is a celebrated age at which criminals seem to age out, that they just don't seem to commit the same types of crimes. And I think that we've reached that threshold and that we're overextending what may have been some very good legislation at a particular period of time.

Senator Volker and those who suggested it are to be commended. I voted for a bill last week by Senator Skelos which approximates the number of acts that would ignite the threshold of this kind of public protection. But in this case, it's just

extending the time. And I think we've got the time at a pretty good length as it is now.

So I would recommend a no vote on this legislation, in spite of the fact that previous legislation seems to be borne out by some statistical data. I don't see the statistical data when it comes to what people do 15, 20, 25 years into a minimum sentence when they're released.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 15 are Senators Connor, Duane, Hassell-Thompson, Montgomery, Paterson, and Santiago. Ayes, 50. Nays, 6.

THE PRESIDENT: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. I was hoping I could have

unanimous consent to vote in the negative on Calendar Number 29.

THE PRESIDENT: Without objection, you are recorded as voting in the negative on Calendar 29, Senator.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like unanimous consent to be recorded in the negative on Calendar 29.

THE PRESIDENT: Without objection, you are so recorded as voting in the negative on Calendar 29.

The Secretary will read.

THE SECRETARY: Calendar Number 53, by Senator Skelos, Senate Print 404, an act to amend the Social Services Law, in relation to the charging of a fee or other form of compensation.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Thank you, Madam President.

This legislation would increase the penalties for selling a child for money or

other things of value to an E felony for the first offense and a D felony for a subsequent offense.

Currently, the law is a Class A misdemeanor for the first offense and an E felony for the second.

THE PRESIDENT: Read the last section.

Senator Paterson.

SENATOR PATERSON: Madam President, would Senator Skelos yield for a question?

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: You know what, Madam President? Tell Senator Skelos that when I think of a question, whenever it is, I want him to yield. But for now, I'll let the proceedings go forward.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the controversial calendar.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 2102, by Senator Goodman, an act to amend the Tax Law.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move to accept

the report of the Rules Committee.

THE PRESIDENT: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

SENATOR DOLLINGER: No.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Nay, Madam President.

THE PRESIDENT: The Rules report is accepted.

SENATOR SKELOS: Madam President, could we take up the Rules report.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 80, by Senator Goodman, Senate Print 2102, an act to amend the Tax Law, in relation to enabling a city of one million or more.

SENATOR DOLLINGER: Explanation.

THE PRESIDENT: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: Madam

President, this bill seeks to respond to the very serious problem of increased fuel oil and gas prices as they apply in the City of New York.

The attempt to provide this relief is in the form of a tax forgiveness which would be for a 60-day period upon action by the City Council, applying both to heating oil and to natural gas.

The cost to the City of New York would be $8 million for the heating oil portion of this bill and $16 million for the gas portion.

May I say that an attempt has been made -- this has been introduced at the request of the mayor of the City of New York, who sought to obtain approval of the other house by inclusion of a clause relating to the natural gas portion of this bill. But unfortunately, having made that concession, I'm advised that the other house still does not wish to pass it in this form but rather in a form which would not have the 60-day limit but, rather, an open-ended limit on the imposition of this tax holiday.

Therefore, the effort being made by the City of New York to relieve its citizens of the onerous problem related to the hike in the cost of gas and oil is one which may not reach consummation by virtue of the inactivity in the other house. But it's to be hoped that they will realize the mayor's effort to compromise this issue and will act accordingly.

THE PRESIDENT: Read the last section.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Madam President, would you please yield for a question, Senator?

SENATOR GOODMAN: Of course, Senator.

THE PRESIDENT: Senator, do you yield?

You may proceed, Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm questioning why some other counties are not included. For example, I can speak for Westchester County. Our gas bills are a

little bit over double what they were last year this time. I'd like to know why Westchester wasn't included.

SENATOR GOODMAN: Senator, I realize the seriousness of what you say. But may I say to you that as far as I'm aware, the City of New York sought this for its own citizens and it was not applicable to other counties. This is a single-purpose bill relating strictly to the City of New York. And I cannot tell you about the other counties.

SENATOR OPPENHEIMER: I see. All right. Well, I certainly -- through you, Madam President -- I certainly hope we can draft a bill similar to this -

THE PRESIDENT: Senator, are you speaking on the bill?

SENATOR OPPENHEIMER: On the bill.

I certainly hope we can draft something similar to this, if this receives favorable response in the other house, that could help some of those counties that have been very severely impacted by the increase in

gas prices.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, is there any housekeeping at the desk?

THE PRESIDENT: No, there is not, Senator.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, I believe there's notice of a proposed rule change before the house that I've given notice of. Pursuant to a stipulation, I believe, with the Majority in our last session day, that notice was properly given. And I'd like to address the amendment of the rules right now.

In addition, Madam President -

THE PRESIDENT: One minute, Senator.

Senator, we have received the rules proposals. Under the new Senate rules, you now have half an hour to discuss the proposed rules changes.

SENATOR DOLLINGER: Thank you, Madam President.

In addition, as a matter of housekeeping, I believe I would also like to hand up notice of two other rules changes that would be in order. And I would hand that up at this time for tomorrow, which would notice them for tomorrow.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I would suggest that before we start handing up and discussing rules changes, why don't we complete the discussion on the proposed rule change. And then if Senator Dollinger wishes to hand up other proposed rules changes, I'm sure we would be happy to entertain them.

SENATOR DOLLINGER: That's perfectly acceptable, Madam President.

THE PRESIDENT: Thank you,

Senator Skelos.

You may proceed with your half-an-hour maximum.

SENATOR DOLLINGER: Thank you very much.

This proposed rule change does two things. It creates a new Senate committee on audiovisual coverage that will be made up of four members.

As many of the members in the house -- those who were here last week - recall, we had made two original proposals with respect to the video broadcasting of the affairs and proceedings of the New York State Senate.

The first was to require the Legislative Library to maintain a storehouse of videodiscs and videotapes of the proceedings, and the second was to create the position of an official videographer, someone who would sit at the desk, as our stenographer and our microphone person now sit, and provide for the recording of the affairs of the Senate.

We talked about how that could be

done, we talked about the process of wiring this chamber, with its 19th century elegance, and wiring it for the 21st century to allow that video broadcasting to occur.

The proposal and the amendment which is the subject of this proposed amendment today would create the new Senate committee on audiovisual coverage, a four-member committee -- two members of the Majority, two members of the Minority -- that would participate in ironing out the rules of how videotaping would occur.

It is patterned after the Senate Ethics Committee, which includes two members of the Majority and two members of the Minority as well as our colleagues from the Assembly in equal numbers.

And it seems to me it would eliminate the one great danger that members of the house might feel with respect to videotaping, and that is that somehow partisanship would influence what appears in our video broadcasts. It seems to me the best way to neutralize that tendency towards partisanship which occurs, frankly, in any

political body, especially one for which elections may be a once-every-two-year affair, serious and complicated, difficult elections -- the way to do that, the way to root out that tendency towards partisanship is to simply balance the membership, as we balanced it on the Ethics Commission.

To assure integrity in our ethics, in the administration of the Ethics Law in this state, we made it truly bipartisan. It seems to me the same thing should be true here, in order to ensure that the entire house is properly and fairly represented in videotape proceedings and video broadcasting, the easiest way to do it is simply to allow two Democrats, two Republicans to sit on the Senate committee on audiovisual coverage of the Senate. That would get us a long way down the road to assuring that kind of bipartisan nature of the broadcasts.

The second amendment which is the subject of the proposal today is a rule that would amend Senate Rule VII to require the Senate to video broadcast its proceedings. This is really the nub of the rule for which

the other three portions that we've discussed previously are essential predicates, but this is the rules change that really makes it work.

The State of New York is one of the few states in the Northeast that doesn't broadcast its proceedings in a video form. As I think I said last week -- and what actually occurred in my office, which I regard as an interesting part of our new technology - because we audio broadcast our proceedings, because we allow people in the state to turn on their computers and go right to the Senate website and get the audio feed through their computer, members of my staff were able to sit in Rochester, New York, and talk to me on the telephone, and I got the stereophonic equivalent of Senator Markowitz's speech in support of video broadcasting.

I sat in the lobby and listened to him live, and they put the telephone up to the audio broadcast, and I was able to listen to him on the telephone and listen to him live at the same time.

The only drawback of that, of course, was that there was no video

presentation of Senator Markowitz's rather fiery speech talking about the importance of video broadcasting all of the Senate proceedings.

It seems to me that the complement to that process is to simply take what we now see in pictures -- and, frankly, which any member of the gallery can now capture with their eyes -- and we can make that video broadcast in reality and, in essence, allow the 18½ million people that live in this state to sit in the gallery of our parlor while we debate the important parts of the state's agenda.

Now, this room right here is the state's parlor. This is where, at least in the Irish Catholic family that I grew up in, this is where the debates about the future of the family, the future of the country, religion, everything was talked about in the parlor.

We sit, by privilege of the people who elected us, in the parlor of New York in its State Senate. We would allow 18 million people to have the potential to sit in our

gallery every single day and observe what we do.

It seems to me that much as we're now convinced that video pictures, whether they're transmitted around the world or around our neighborhood, are an intelligent part of our ability to make judgments about the world outside, it seems to me that people should have the right to look into this parlor and see what we debate, what we talk about, what issues we effectively present.

And our voters both in our home districts and around the state can make a judgment about the validity of what we do, the passion of what we do, and the correctness of critical public policy decisions that we make.

So I commend to the house both of these rules changes. It's my view that these rules changes will open the door to New Yorkers to visit their public officials, to see us, to watch us, to understand what we do. I think it will be a civics lesson for everyone in this state.

I believe it will enhance our politics, it will encourage voter

participation, and it will drive a political discourse in this state, much as it does in Massachusetts with their gavel-to-gavel coverage, much as it does in New Jersey and I believe the 17 or 18 other states, many of them from the Northeast, in which video broadcasting is an important part of the public's knowledge and understanding of their government.

I've said this before; I'll continue to say it again. We govern with the consent of the governed. In our debate last year with Senate Marchi, we talked about those famous words in the Declaration of Independence, and we talked about the consent of the governed as being a critical part of America's history and America's view of itself and its projection into the world.

I would suggest that by video broadcasting our proceedings, we will enhance the informed consent of the public and drive a stronger respect for this government, for the operation of this Senate, perhaps even for the Majority of this Senate, in convincing people that its decisions on behalf of the people of

this state are the right decisions for today and will stand as the right decisions for tomorrow.

It seems to me that the Majority of this house, having governed it for nearly 40 years, and having been watched by thousands of people in our gallery debate the important issues of the time, this gives us an opportunity to simply reach a broader audience.

And, quite frankly, it seems to me that those in government, if they're willing to stand up and say, We are the Majority, we are making choices as a majority, that this video broadcasting will give you a forum to present your views on the issues to the people of this state, as it will everyone in this chamber, and allow us to fulfill, at least in my judgment, the important duty that we have to everyone.

So, Madam President, I commend both of these rules changes to the house. It is my view that they can only enhance the system we call democracy and make this State Senate better.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. I want to speak in support of Senator Dollinger's proposal, the rules change allowing for the video broadcasting of the proceedings here in the Senate.

And I want to commend to you, Madam President, a study in 1997 that demonstrated that less than 30 percent of high school students could approximate which half-century the Civil War of this country was fought. Also less than 30 percent of those high school students could not properly identify which country the United States of America defeated in the Revolutionary War.

And when you look at that, it begs the question of how much more the parents of those students know than the students. And I think that generally there is a malaise or an obfuscation of some of the most important issues of history and of the operation of government that have escaped some of us. Perhaps we weren't paying enough attention in civics and history class and in other avenues of educational study.

But for those who are interested, with the myriad number of channels now provided for on cable television, where you have 80 to a hundred channels that most subscribers are eligible for, to show the workings of government here in the New York State Senate for all those who don't live in Albany, who don't come here in the course of business, but are just civilians and would like to know what's going on.

I'm sure the terms can be worked out later. Perhaps the Majority might feel that they'd like a larger percentage of those who are making the decisions on how we'll set up the camera. For those who were here last week, Senator Dollinger talked about the camera angles that he thought would be appropriate.

But I think that it's a time that has come and an idea that should germinate through our voting for this rules change, and I proudly support it.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield?

SENATOR DOLLINGER: Yes, I will, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you.

I'm wondering if last week's debates and discussion on the rules change were broadcast live on video, what the sponsor thinks the reaction of New Yorkers would be if they were able to see that live.

SENATOR DOLLINGER: That would be -- through you, Madam President, that would be mere speculation on my part. I think I rather accurately expressed my personal opinion, and I would hope that my personal opinion, had it been broadcast to New Yorkers, might have convinced others to share that opinion.

But, Senator, I believe that's pure speculation on my part. And although I would like that as the ending, I couldn't guarantee that it would happen.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR DOLLINGER: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm wondering if the sponsor has had a chance to share his rules reform regarding particularly the videotaping of the proceedings here, if he'd been able to share that with his mother yet.

(Laughter.)

SENATOR DOLLINGER: No, Madam President, I haven't.

But be that as it may, given what was said about the rules changes, perhaps my mother would be the appropriate person to show it to.

SENATOR DUANE: Thank you, Madam President. On the bill -- on the resolution.

THE PRESIDENT: Senator Duane, you may proceed on the resolution.

SENATOR DUANE: The other reason that I wanted to raise Senator Dollinger's mother is because last week, when so many of

us were so effusive in our praise of Senator Dollinger, I think that it would be most appropriate to really give a big hunk of that credit to Senator Dollinger's mother, who had the foresight to actually deliver him, which made it possible for him to come here and put these terrific resolutions on the floor before us.

So thank you. As I thanked you last week, Senator Dollinger, this week I wish to thank your mother.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Duane, for your knowledge and respect for Senate rules.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I also would like to praise the whole Dollinger family, because I think -- I do think that the father must have had some role to play in his coming forth and joining us here, and certainly in the fine parenting that he must have received in order to be such a fine, upstanding citizen.

I'd like to talk on the bill for a

moment. And I am talking somewhat as a past League of Women Voters president, which feels very, very strongly on the issue of videoing these proceedings here.

I can point to my county of Westchester, where we have -- every town and village has the proceedings of the village board and the town board and the city -- also our cities, our city councils, every single community has the proceedings of their local legislature videotaped, so that people are able to follow it even though they can't necessarily get to those local meetings. And this is also true for our county board of legislators.

We feel strongly that this is an important issue if we are going to try and keep our citizenry informed. Which is, after all, the basic tenet of the League of Women Voters, that we are trying to educate citizens in order that they may become informed and involved citizens.

The fact is that we are losing so many of our citizens to indifference, to absolutely no interest in even bothering to

vote, which is not a major effort. And I think it is only through a greater understanding of their government, so it isn't felt that it is so distant from them, that they have absolutely zero impact.

So I strongly would support this resolution and commend Senator Dollinger for it.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the bill.

I am not going to spend more time commending Senator Dollinger, although certainly all that has been said I concur with.

I think that we have a responsibility to our constituents, to the laws of the State of New York, to the people of the State of New York, to take quick action on the issue of televising Senate proceedings.

It's been on the record that the Majority, and Senator Bruno said this in the press a number of times, supports televising proceedings. We have no excuse for waiting.

People can't see us at home - former Senator Abate couldn't see us on TV in New York City. She had to come up here when she missed us. You know, and there are a lot of other people who don't have that option because they're not former senators.

And most importantly is the point that's been made repeatedly by my colleagues. Children, young people, people who have not, by and large, shown a great propensity to register to vote as soon as they become eligible, it can only help for them to see what we do. It can only help democracy. It can only help the process of making this a better state.

And I don't know what rationale we have for failing to act. The technology is easily available. Senator Dollinger had put forward an extremely sensible, bipartisan proposal. We have a committee that's modeled on the Ethics Committee, which we all, I think, are satisfied with.

And I think that the proposal is just there. We're happy to have it taken - and I think Senator Dollinger would be happy

to have someone else's name put on it if we can get it done. But we have a responsibility to do it and do it promptly. There's really no excuse.

And I urge everyone to vote for this resolution.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, I wonder whether the sponsor would yield for a question or two.

ACTING PRESIDENT MEIER: Senator Dollinger, do you yield for a question?

SENATOR DOLLINGER: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: Thank you, Mr. President.

Last night at 9 o'clock, one of my favorite programs was on television, on C-Span. I don't know if you happened to see it, but it's called "Prime Minister's Questions," and they ask questions of the Prime Minister in the House of Commons in

London.

I wonder if the sponsor could explain to me why I can watch the House of Commons in Great Britain and I can't see the Legislature here in the State of New York.

SENATOR DOLLINGER: Well, I guess the shorthand answer, through you, Mr. President, would be that there's some greater affinity with England than there is with the Senate in New York.

I find that astounding. This body was formed in 1777, before America's independence, and we can't watch its deliberations on television, but we can tune in and watch Tony Blair, who nobody ever voted for -- I don't know about you, Senator, but I never did voted for Tony Blair. In fact, I've never voted for a Liberal or a Laborite or a Conservative. And I -- we get to watch them on television.

And the other thing is, Senator, you may not know this, but you can also watch the question-and-answer period in the Canadian Parliament.

SENATOR STAVISKY: Yes.

SENATOR DOLLINGER: And I might actually have an interest in doing that, because my sister-in-law is a member of Parliament in Canada, and I've actually seen her ask questions during the question-and-answer period. I found it fascinating. I was rooting for her from Rochester, New York.

And I find it astounding that I can watch her and nobody that I represent can watch me. And I guess the anomaly of that, Senator Stavisky, is that the people in New York will learn more about government from the British than they will from New Yorkers.

Although I would suggest that that's somewhat of a foreign experience, considering we divorced ourselves from Great Britain 225 years ago, and we still have some lingering infatuation that apparently the members of the Senate are comfortable with in allowing that infatuation to continue.

SENATOR STAVISKY: Mr. President, Senator Dollinger has done the transition for the question, the point that I was going to make, which was that we are independent of

Great Britain today. And it seems to me that in this house of lords, we ought to be able to have our constituents tune in and watch us as they can the Canadian Parliament or the House of Commons in Great Britain.

And I urge my colleagues to support Senator Dollinger's rules changes.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just to sum up, Mr. President, on behalf of the rules change.

Senator Stavisky brings up I think a strong point, and one that's worth repeating, which is we can watch foreign governments debate their future, but the people in New York can't watch their government debate ours.

In addition, Senator Oppenheimer's comment about local government, I still think that's one of the great innovations of local government, is that we get to watch our public officials, our city councilpeople. I see a couple of my new colleagues who were both on city councils who are both familiar with the

process of televising local city council meetings.

It's wonderful to sometimes walk in a grocery store when you're a local official and have someone interrupt you while you're standing in the checkout line and say, "Oh, by the way, I saw you on television last night." And sometimes they say, "I completely agree with you," and other times they say, "I complete disagreed with what you had to say."

Don't you think it's a wonderful thing that the people that you represent have that opportunity to lay their views right at your feet, even perhaps at an inconvenient time, but nonetheless because they were watching you advocate your position on television?

I would point out that in addition to watching Great Britain and Canada and watching our local officials, we of course get to watch the parlor of the federal government when we watch the Congress debate the issues. We can watch our congresspeople -- Louise Slaughter, from my district, or any one of your congresspeople, I can watch them on

television through C-Span, I can watch them debate, I can hear them talk about issues that are critically important.

I would only go back to one that I will never forget, which was to watch the members of the House line up in single file and approach the podium or approach the microphone and announce whether they were supporting then-President Bush's initiative in the Persian Gulf. And at a moment when America was going to contribute the lives of its young people to a military venture, it was refreshing to see members of Congress come to a podium and say "I support the President, and if he wants to put American troops to defend American interests in the Persian Gulf, I will stand with him."

It seems to me that that moment in time when the Congress was siding with the President, while we may never approach that dramatic level, certainly the debate on issues like the death penalty, debate on the budget, debate on critical issues affecting health care or women's health -- all of these issues, I think the public has an enormous interest.

And I think it would be in our interest to show them what we have to say and visualize it with pictures, use that latter-20th-century technology of the picture which can say a thousand words and probably, in the modern parlance, can say a million.

Mr. President, I know that Senator Bruno supports this. I know we have his support for this initiative. I simply would ask Senator Bruno and his colleagues in the majority party to give their support to a measure that will allow video broadcasting to occur.

I have, I think, fashioned it reasonably, I have fashioned it fairly, I have fashioned it in a way that can be done with minimal cost. I think it can be done without substantially changing the protocols in this house. And I think it can be done by maximizing the benefit to the people that we represent.

When I grew up in New York, the "Excelsior" actually stood for something. It meant that on most issues, New York was first in line. It meant that New York was a leader.

It meant that we weren't afraid to go down a path where others had not even tread yet.

I would suggest that by approving video broadcasting, by allowing the proceedings of this chamber to be broadcast to the people of this state, we are not going into a new territory, we are not fulfilling the goal of it being at the top of the list, at the forefront of an approved communication with our public. Instead, we are simply following a path already set by many other states who have done it fairly, consistent with the rules of their house, and inexpensively, in providing people with access to democracy. It's that simple.

I know Senator Bruno supports it. I know in his heart he's going to vote with us. All I would ask is that his voice follow his heart and that this rule be approved now.

Now is the time to do it. Let's start the process. Let's get the people of this state what they want, a chance to see us do their work, the work that they pay us for in this State Senate. I commend the rule to the house.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, I thank Senator Dollinger for his comments.

If your sister-in-law were listening to this, I'm sure she would have a great night's sleep in Canada.

It's great to see Senator Abate sitting here. The only thing that would make it better would be if Senator Leichter was also sitting here.

But I would just like to point out that Senator Bruno has led the way in terms of reform for this chamber. He has established joint conference committees. We have expenditure review open to the public. And we do not have the all-night sessions as a practice that existed in the past.

This Majority, under Senator Bruno's leadership, and the task force that has been established, chaired by Senator Johnson, will continue to move forward in a way that's businesslike and professional. And when it's appropriate, we will ask you to join in supporting us in what will be continuing to

improve the accessibility of the public to this chamber.

So I would urge my colleagues to defeat this motion.

ACTING PRESIDENT MEIER: The question is on the motion. All those in favor signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

ACTING PRESIDENT MEIER: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Just to explain my vote, Mr. President.

ACTING PRESIDENT MEIER: Just one second. Senator Skelos.

Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Just very

briefly, Mr. President. I take heart with what Senator Skelos has said. I listened. Senator Bruno has made changes in this house. He has done good things.

The expenditure report, which Senator Leichter advocated for years, is now a matter of record. We tried to pass an earlier rule that would have made it by rule so that no Majority Leader could change that without changing the rules as well. He has also improved the starting-on-time of the house, which I think everybody appreciates. He eliminated the late-night sessions, after years of Senator Hoffmann suggesting that was the right thing to do.

I think Senator Bruno has listened. And I don't want to suggest that Senator Bruno hasn't made positive changes in the house. I'm just -- in this instance, the time is a wasting. If time is money, the people of this state are losing money by not being able to watch us on television.

And I would just strongly suggest, this is not a multimillion-dollar project. I sit on Senator Johnson's committee. I would

suggest that it has functioned somewhat less than efficiently and economically, since it's only met once in its two-year history.

And I would suggest, from my point of view, this is something to vote aye on. I will reiterate it, I think that in the long run, doing it quicker is better than doing it later.

And I would suggest, Senator Skelos, that while at some point I may join you to do it, the better approach is to join the 21st century and have the Majority join this rules amendment now.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the affirmative.

The motion is defeated.

I'm sorry, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, to explain my vote.

ACTING PRESIDENT MEIER: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: I also welcome Senator Skelos' comments, although I do have to say that there's nothing that would upset Senator Leichter more than hearing that

you guys think I'm more of a pain in the neck than he was.

But in regard to the hearing and the task force, I would welcome that, if the task force had had meetings or reports scheduled, coming up, or if I could recall when it last had met.

I hope you will energize this task force, take action at Senator Dollinger's behest to move this along, because this is something where time is wasting.

And I think that I certainly would welcome the opportunity for everyone in all of our districts to see what what's going on here, and I don't think there's any credible argument for not moving forward quickly.

Thank you.

ACTING PRESIDENT MEIER: Senator Schneiderman will be recorded in the affirmative.

The resolution is defeated.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I rise to give written notice, as required by Rule XI, that I will move to amend

the Senate rules with respect to two other rules.

SENATOR SKELOS: I think it would be appropriate first if we moved to motions and resolutions. That's when this type of motion should be handed up.

SENATOR DOLLINGER: I accept Senator Skelos's admonition.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I hereby move to give written notice, as required by Rule XI, with respect to two additional amendments of the Senate rules. And I would give notice, as required by Rule XI, that those rules changes would be in order tomorrow.

ACTING PRESIDENT MEIER: The notice will be received and entered in the Journal.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, February 6th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, Senate stands adjourned until Tuesday, February 6, at 11:00 a.m.

Senator Paterson, why do you rise?

SENATOR PATERSON: Thank you, Mr. President. There's no -- there's no problem that -- the Senate's adjourned, Mr. President.

ACTING PRESIDENT MEIER: Senate's adjourned.

(Whereupon, at 4:07 p.m., the Senate adjourned.)