NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 27, 2001

11:07 a.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 each bow our heads in a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 26th, the Senate met pursuant to adjournment. The Journal of Friday, February 23rd, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Senator Skelos.

SENATOR SKELOS: Madam President, if I could interrupt, there will be an immediate meeting of the Education Committee in the Majority Conference Room.

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

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 Marcellino.

SENATOR MARCELLINO: Yes, Madam President. I move that the following bill be discharged from its respective committee - its committee and be recommitted with instructions to strike the enacting clause. The number is S1154.

THE PRESIDENT: So ordered, Senator.

SENATOR MARCELLINO: Thank you.

SENATOR DOLLINGER: Madam

President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Excuse me, Madam President. I just rise to make a point of order.

Is that a motion to discharge that was made by Senator Marcellino? And if so, is the motion to discharge in order under the revised rules of the Senate that were changed a month ago?

THE PRESIDENT: No, Senator, it was a motion to strike an enacting clause.

SENATOR DOLLINGER: Madam President, again, with all due respect, I believe the transcript will show that Senator Marcellino said that he was moving to discharge the bill. If that's the case, although the motion, the subsequent motion, once the bill is discharged, is a motion to amend and recommit, the initial motion is a motion to discharge.

Under the rules of the Senate as adopted by the Senate, that motion I believe is not in order without notice and other

restrictions and cannot be timely made now. It must be made -- I believe can only be made by early February.

Madam President, if I also have the floor, I'd be glad to be corrected if -

THE PRESIDENT: Senator, if you could wait a moment, please.

SENATOR DOLLINGER: Thank you.

THE PRESIDENT: I'm conferring with counsel on this issue.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I believe the motion has been made by Senator Marcellino, but it's been made on behalf of the sponsor of the legislation, who controls the legislation, so I think it's in perfect order.

THE PRESIDENT: Senator Skelos, that's exactly what we were conferring about.

And that is the interpretation of the Senate at this time, Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, could you quote the rule to me that says that the -- on whose behalf the

motion to discharge -- not the motion to amend, because the initial motion Senator Marcellino made -- again, I'll be corrected if I'm incorrect on the language -

THE PRESIDENT: Senator, I'm going to interrupt you at this time. I've made a ruling. If you wish to appeal it, you certainly have the right to do that. I'd like to proceed now with the business of the Senate.

Thank you, Senator.

Senator Marcellino, are you all set?

SENATOR MARCELLINO: Madam President, I concur with your ruling.

SENATOR DOLLINGER: Can I appeal the ruling of the chair, Madam President, with all due respect.

THE PRESIDENT: One moment, please, Senator Dollinger.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I just want to point out that under our rules, it shall require an affirmative vote of a majority of

all members elected to overrule a ruling of the chair.

THE PRESIDENT: That's correct, Senator. And that's what we're proceeding with at this time.

Senator Dollinger, I'm going to raise a question for the members at this time, pursuant to your appeal.

The question is whether the ruling of the President of the Senate should be overruled. All in favor signify by saying aye.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: First of all, we'd like the chair to state what the ruling is.

And, secondly, Senator Dollinger has appealed the ruling. That's not just something that he just gets up and says he appeals. He hasn't been given the opportunity to state to his colleagues what his objection is, thereby giving all the members an opportunity to know what they're voting for.

So what I would like to request is that the chair state for the record what its ruling is. And then at that point, Senator Dollinger would like to appeal the decision of the chair. And an appeal is not just a statement. He has -

THE PRESIDENT: One moment, Senator Paterson, please.

SENATOR PATERSON: Thank you.

SENATOR DOLLINGER: Madam President.

THE PRESIDENT: Senator Dollinger, I'd like to clarify. I've already stated my ruling. But pursuant to Senator Paterson's request, I'll be happy at this time to restate my ruling.

The ruling is that Senator Marcellino made a motion to strike the enacting clause. It was not a motion to discharge. Therefore your appeal, my decision on your appeal -- on your motion was denied. I denied your motion.

Pursuant to your appeal at this time, the house is -- will hear your argument on your appeal at this time.

SENATOR DOLLINGER: Thank you, Madam President.

I'm prepared to be corrected if I'm mistaken. But what I heard Senator Marcellino say -- and if I'm mistaken, I'll withdraw the objection and we can get on with the Senate business. But what I heard him say is that he moved to discharge the bill, to bring it before the house, and then made a motion to strike the enacting clause. That's two motions. First is the motion to discharge, to bring it before this house so that this house as a body can move to strike the enacting clause.

My question for this house is, where is the provision in the Senate rules that allows a motion to discharge to be made? There was such a provision for motions to discharge in the rules prior to the amendment of those rules by the Majority of this house. There is no provision in the rules passed by the Majority of this house, over the objections of the Democratic Minority, to allow a motion to discharge to be made.

Under those circumstances, Madam

President, with all due respect, there is no foundation in the procedure of this house for a motion to discharge to be made by Senator Marcellino. And I would add, Madam President, we had an extensive debate over the rules in this house. And those rules were passed over by the Majority over the objection of the Democratic members of this chamber.

But I would suggest, Madam President, that having made the rules, the last thing the Majority should do is now disregard them completely when they remove the power to do what Senator Marcellino wants to do, which is to move to discharge bills. That power does not exist under our rules.

With all due respect, Madam President, you in your position as the presiding officer cannot create it by overturning my appeal. There is no motion to discharge. Senator Marcellino was out of order when he made it. And the ruling of this chair seems to suggest that like, in Animal Farm, there will be one rule for a particular type of person in this house and another rule for other types of people. And the

differentiation will be made on the basis of politics and not on the basis of rule-making.

I would strongly suggest, Madam President, that we reread the rules and find that there is no authority for a motion to discharge. Even if it's for the time-honored purpose for which Senator Marcellino did it, which is to do something we've done forever in this chamber: move to discharge, bring it before the house, strike the enacting clause, and send it back to committee, which is what Senator Marcellino did.

But it is first and foremost a motion to discharge, not a motion to amend. And under those circumstances, there is no authority for it in these rules. And I strongly object to a set of rules that will apply to Democrats and a separate set of rules that will apply to Republicans, even if they're done through the gloss of decision-making in the chair rather than in a strict application.

Madam President, I was fearful of this when this issue came up in this chamber and we talked about motions to discharge. I

knew that we had done them as a routine practice forever and that this would interfere with our ability to do that.

I have no objection to Senator Marcellino's motion except there's no authority for it.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, party vote in the negative.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I concur with Senator Dollinger's finding, with a slightly different interpretation.

I think that what we have are really two types of motions to discharge. One is the motion to discharge where it is in a sense an attempt to bring a bill out of committee to have it voted for on the floor. The latter would be what Senator Marcellino was attempting to do, which was to bring a bill onto the floor to strike the enacting clause. And they are somewhat different, even though they operate under the same name.

In the case of the latter, it's

been our tradition to discharge bills out of committee for purposes of maintenance rather than immediate action. And that has been our tradition in the chamber.

But Senator Dollinger raises a very interesting point, and I think it's aptly taken and brilliantly articulated, and that is that what we have done in the past few weeks is to change what would be termed the spirit of debate here in the chamber. We have now determined that we are going to have a very scrupulous application of all rules here in the Senate. And what Senator Dollinger is saying is that that application has to apply to this attempt by Senator Marcellino as a motion to discharge. It's just another motion to discharge, in its purest interpretation.

Unfortunately, the drafters of the new rules didn't think of that at that time, other than the fact that Senator Dollinger suggested it when we had that debate. And because we didn't heed his warning, he is in a sense reminding us of the terrible truth of what happens when you try to suppress a free and open exchange of ideas and opinions.

So whichever way we rule on this, we'll all know that if we're going to have this scrupulous interpretation of our rules, we're going to run rampant with attempts by different members to actually circumvent the process around here. Which may in the short term be inconvenient, but in the long term I think reminds us of why we're here as public servants in the first place and that our duty is to steward the public's interest in the law-making process.

I agree with Senator Dollinger: Perhaps a slight inconvenience today, but of long-term benefit to all of us in this democracy.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I want to point out that yesterday there was a similar motion by Senator Hassell-Thompson. And unfortunately, Senator Dollinger, maybe you weren't present or were out of the chamber during the pendency of a quorum call yesterday. I'm not -- but I didn't notice your scrupulous objection to it yesterday.

The point is what we have right now, Madam President -

SENATOR DOLLINGER: Point of order. Point of order, Madam President.

SENATOR SKELOS: Are you asking me to yield?

SENATOR DOLLINGER: No. I have a point of order.

SENATOR SKELOS: Well, then -

THE PRESIDENT: Senator Skelos has the floor. I believe Senator Skelos -

SENATOR DOLLINGER: Point of order.

SENATOR SKELOS: Number one, Madam President, I think we are on a point of order right now. So what I'd like to just comment is that the motion to discharge is a motion to suspend the rules for the purposes of getting a bill to the floor for a vote.

This motion is totally different. It is not what would be considered the traditional motion to discharge, in which there had been a recent rules change.

SENATOR DOLLINGER: Madam President, may I be -

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, I raise, again, two points of order.

One is, could you explain to me - and again, with all due respect, have we voted on this bill? I understood the Deputy Majority Leader to suggest that he had already cast a vote in the affirmative to uphold the voting of the chair. If so, then there is no longer a provision for debate on this.

And if Senator Skelos was explaining his vote, I can understand that. But I couldn't understand why the vote would be interrupted to allow him to talk.

And, secondly, I raise a point of order, Madam President. Is Senator Skelos's personal comment to me about the quorum call yesterday inconsistent with the rule that requires civility between members in this chamber?

THE PRESIDENT: Senator, we have the vote of the Majority. I've asked the question. We've had arguments. I'll repeat

the question. The question is whether the ruling of the chair should be overruled. We do not have a vote of the Minority. Could we have that at this time?

SENATOR DOLLINGER: Correct. Madam President, I'm not authorized to give it.

I would like to know how Senator Skelos got the floor in the middle of a roll call.

THE PRESIDENT: It was a point of order, Senator. We have a question on the floor. The question is whether the ruling of the chair should be overruled. All in favor -

SENATOR DOLLINGER: Madam President, I'd like to explain my vote.

SENATOR PATERSON: Wait a minute. Wait.

THE PRESIDENT: Go ahead, Senator.

SENATOR MARCELLINO: Excuse me, Madam President. I don't believe he's voted. He just stated he doesn't have the authority to have a vote.

THE PRESIDENT: Senator Marcellino, your point is well-taken. Senator Dollinger, could we please have the vote.

Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Dollinger and Senator Skelos would like to vote at this particular time -

SENATOR SKELOS: Madam President, if I could just raise a point of order.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Now, how does Senator Paterson have the floor if Senator Dollinger has indicated that we are on a roll call? If he wishes to explain his vote, he can by all means explain his vote.

But we are on a roll call, and if we could have the vote at this time.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson, are you standing up to vote? That was the understanding of the chair. Why do you rise, Senator Paterson?

SENATOR PATERSON: Madam

President, there is no member of the Minority that indicated that they were voting.

The Deputy Majority Leader, as he has a right to do, got up and voted in the middle of a debate. I did not at any point indicate that I wanted to vote. Neither did Senator Dollinger. Senator Dollinger asked - he asked why Senator Skelos would get up and discuss the bill after he had voted. But no one here voted.

And the point I'm just raising is that there is a time that is granted to explain why there is a need to appeal the ruling of the chair. Because one member or even a leader gets up and casts a vote on behalf of his conference is an indication of how that conference feels. It does not imply, or I should not infer, that I have to vote at that time, because I'm still trying to persuade whoever else hasn't voted that my point of view should be affirmed.

THE PRESIDENT: The chair is going to state the question again, and the vote will proceed.

The question is whether the ruling

of the chair should be overruled. All in favor signify by saying aye.

SENATOR SCHNEIDERMAN: Madam President.

SENATOR DOLLINGER: Madam President.

THE PRESIDENT: Senator, do you rise to explain your vote?

SENATOR DOLLINGER: No, Madam President. I'd ask that you recognize Senator Schneiderman.

THE PRESIDENT: Senator, to explain your vote. That would the proper reason for standing at this time.

SENATOR SCHNEIDERMAN: Well, Madam President, as we have not yet voted, I can't explain my vote.

THE PRESIDENT: The question is on the floor. I'm going to ask for order. The question is on the floor.

SENATOR SCHNEIDERMAN: If I may be -- if I may be heard, Madam President -

THE PRESIDENT: I would like a vote of the members on the question.

SENATOR SCHNEIDERMAN: We wish -

just because we wish to be heard -

THE PRESIDENT: Senator, I'm going to repeat my question to you. Do you rise to explain your vote?

SENATOR SCHNEIDERMAN: Madam President, if I may be heard very briefly.

THE PRESIDENT: To explain your vote?

SENATOR SCHNEIDERMAN: No, Madam President, to explain why I don't think we're at the stage of this proceeding where we should be explaining our votes. We haven't voted yet. We're trying to be heard on this appeal.

THE PRESIDENT: The question has been asked, and the chair has asked for a vote. All in favor signify by saying aye.

SENATOR SCHNEIDERMAN: Madam President, I move to withdraw the roll call for the purpose of being heard.

THE PRESIDENT: The voting will proceed. And I'm going to ask the question again. All in favor signify by saying aye.

Senator Stachowski, to explain your vote.

SENATOR STACHOWSKI: Well, I usually don't take a real big part in these kind of debates on floor procedure. But being an institutional person, I kind of find this rather interesting.

Whether or not, when the rule change was made, that they wanted these common procedures where we discharge from committee a bill to amend it or not, it's still a discharge from committee. And unfortunately, when they drafted the new rules, nobody thought of it. It's not my fault; I'm just a member. I care a lot about the way this institution is run. But the fact is if you change the rules and eliminate motions to discharge, you eliminate all of them, even the simple ones to amend rules.

I'm sorry that that's the way it is. Unless you can -- maybe you can produce a piece of paper now that will suddenly say except these, but I'm sure it wasn't in the rules as they were changed on the day that the debate took place, or on the subsequent days after until this day.

It's not anybody's fault that the

new senator did the same thing yesterday and that nobody called on it. The fact is it shouldn't have been allowed, because it's not part of the rules anymore. The fact is, there are no more motions to discharge.

If the chair at its liberty wants to do two separate rules, the ones that are in the book and the ones that the Majority feels like using today, that's her prerogative. And it's just good that everybody will have the right to understand when they vote now that that is the way the chair will operate, that the chair will operate in a fashion that says, If my Majority made a mistake in making the rules and they point it out to me, then we should have an exception because they didn't mean not to exclude these discharges from committee, then she can make that ruling anytime she wants.

And she can proceed to make those kind of rulings every day on the floor on different matters, just twist the rules when it's convenient for the Majority, and that's okay, I got to live by it. And the reason I do is because you can do it and they can do

it. Does that make it right? No. Does that make it kind of a black eye on this institution? Yes. And that's the only reason I rose.

And I stand with the challenge of the chair. I vote yes on the challenge.

THE PRESIDENT: Senator Stachowski, you will be so recorded as voting in the affirmative.

Senator Paterson, to explain your vote.

SENATOR PATERSON: Madam President, because the roll call has now started and another member has explained his vote, I will go forward. But I really wish that had not happened, because my position is that we had not called the question because we still had members to speak. Senator Schneiderman was trying to get the attention of the chair when the question was called.

And I think this opens up a very dangerous precedent. And that is that whenever someone wants to curtail discussion and truncate debate, that they call the question. And then I don't even know why we

have debates around here.

Now, this would be apt conduct perhaps in Bosnia, but this is the United States of America. There was a debate going on, and there was an individual who decided to get up and record the vote of his party, which he has a right to do. Either that was a vote or that was his opinion of what the vote would be. But my position is that one whole half of the room should not be impeded by the fact that the other half wants to have the vote.

So my explanation is that I am not voting. I absolutely refuse to vote on this measure, because I don't think that Senator Schneiderman was ever heard. There was no time limit that had been violated. This whole procedure, as far as I'm concerned, has been violated. I can understand that people are upset and that they're angry about process and maybe people manipulating the process. But that's something that we're all upset about.

So maybe sometime when we're not here and we're not embarrassing ourselves in public, we'll sit down and work this out.

THE PRESIDENT: Senator Paterson,

are you asking to be excused from this vote?

SENATOR PATERSON: Yes, Madam President. I cannot vote on this issue.

SENATOR SKELOS: Madam President.

SENATOR DUANE: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Under our rules, I'd like to object to Senator Paterson's right to not vote, refuse to vote. I believe under the rules of the Senate every member is required to vote unless they're abstaining because of personal benefit, potential personal benefit from the vote.

SENATOR DUANE: Madam President.

THE PRESIDENT: Senator Paterson, you are not excused from this vote.

SENATOR DUANE: Madam President.

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: First and foremost, Madam President, I don't think that anyone can force a person to vote. We don't have any -

THE PRESIDENT: Pursuant to Rule IX, Section 1, Senator Duane, each member

shall vote unless excused.

SENATOR DUANE: And what is the punishment for not doing that, Madam President?

THE PRESIDENT: Are you rising to explain your vote, Senator?

SENATOR DUANE: Point of clarification, please. What is the punishment for not voting in this body?

THE PRESIDENT: That hasn't been determined at this time, Senator.

SENATOR DUANE: So it seems like it's the Senator's freedom to not vote if the Senator doesn't want to vote.

THE PRESIDENT: I already quoted the pertinent rule to you, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: If you wish to explain your vote, you may proceed.

SENATOR DUANE: Well, I certainly appreciate your close adherence to that rule.

I do want to point out that there wasn't a person who was sitting in this body that did not hear a motion to discharge. I

don't think anyone in this chamber heard a call the question. I don't think anyone heard a call on the motion that was made by Senator Schneiderman.

And I'd also like to say that for the most part, most of us have been very civil, but there has been a breach of the civility rules here. So not only have the rules just been generally breached, but also has the civility of this body been breached.

I have to say that my eighth-grade class followed better debating rules than what happened here. And I really think it's appalling that rules -- which I opposed -- are not being followed. It's really a disgrace. And at the point that the transcript is looked at, I think that those of us who have objected to -- I think that those of us that have objected to the process here today will be vindicated. The rules have been breached continuously here since one of our senators put on the table a motion to discharge.

THE PRESIDENT: Senator, you are in excess of your two minutes. Please wrap up.

SENATOR DUANE: Actually, I don't think I am in excess of two minutes, Madam President.

THE PRESIDENT: It's been 2½ minutes, Senator. And pursuant to the rules of the Senate, I'm directing you to wrap up your argument.

SENATOR DUANE: Madam President, what time did I start speaking? I wasn't keeping track.

THE PRESIDENT: It's now over 2½ minutes. Please comply with my directive, Senator.

SENATOR DUANE: Did that include the point of order?

THE PRESIDENT: Please wrap up your -

SENATOR DUANE: Madam President, I have to follow my colleague, Senator Paterson -

THE PRESIDENT: Senator Velella.

SENATOR DUANE: I'm unable to vote, and I will take the punishment for not voting.

SENATOR VELELLA: I'd ask the

Senator to abide by the rules and stay within 2 minutes.

I would just like to point out to the younger members or newer members of this house that I as a member of this Senate, in a session which we had and the issue went to the Court of Appeals, my vote was casted by Lieutenant Governor Krupsak on behalf of a - when I tried to abstain from voting and the Majority members of this house tried to abstain from voting on a vote for the Regents of the State of New York. And Lieutenant Governor Krupsak was upheld by the courts when it was said that if we were in the chamber, pursuant to the rules, that she saw us, she could cast our vote in the affirmative, and if we wanted, we would indicate that that was not the proper way.

I therefore feel that the chair is justified, and I vote -- I therefore vote to support the chair.

SENATOR DUANE: Madam President -

THE PRESIDENT: Senator Dollinger. Senator Dollinger.

SENATOR DUANE: -- please take a vote -

THE PRESIDENT: Senator Dollinger has the floor.

SENATOR DUANE: Point of order. Was the Senator just casting his vote?

THE PRESIDENT: The Senator was explaining his vote, sir.

Senator Dollinger, do you wish to have the floor?

SENATOR DOLLINGER: Madam President, since I started this, I'll rise and address it once again. The sense I get here -

THE PRESIDENT: You may be heard to explain your vote, sir.

SENATOR DOLLINGER: Yes, I will explain my vote and why I'm going to vote to overturn the chair. Because I was afraid that when we changed the rules this is exactly what would happen, Madam President.

When rules seem to be disregarded, when rules seem to be read to us and aren't read to the other side and Senator Skelos can stand up in the middle of a recorded vote and

then attack me personally without a rebuke from the chair, without enforcing the rule against incivility in this chamber, it seems to me, Madam President, that that's where chaos comes from.

And I would suggest that to those who impose the rules on us, then don't follow them, have them read to us when we violate them, I would suggest, Madam President, without the rules in place, we're not going to have order in this chamber.

And with all due respect to the chair, with all due respect to my colleagues on the Republican side, this is what happens, Madam President. There are one set of rules for Republicans, another set of rules for Democrats.

I go back to the fundamental premise. The motion to discharge to amend the bill was not in order under our rules, it's not under the new rules ever going to be in order until the rules are changed.

And the fact that Senator Hassell-Thompson did it and I didn't object then, quite frankly, I was waiting for someone

on the other side to do it so that we could have this debate about the new rules and what they mean to Democrats and what they mean to Republicans. They're not fair, and I would suggest there's no reason to follow any of them in the future if this is the way they're going to be enforced.

I vote aye.

THE PRESIDENT: Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Yes, Madam President.

I cannot state strongly enough my concurrence in what Senator Dollinger just said. You cannot -- your efforts to enforce order, Madam President, will fail repeatedly if we don't have a set of rules that are consistent, consistently applied, that we can all understand. Right now in this house we do not have that. We do not have a set of rules that apply consistently to motions to discharge. There were members on my side waiting to be heard on this debate. And somehow or other by Senator Skelos, which he has the right to do, announcing a party-line

vote, he cut off debate. That's not within the rules of the Senate.

You have to have a set of rules that all can live by, or you will have chaos. I look forward to a restoration of civility here. I look forward to a restoration of the rule of law in this house as regards our procedures. But until that happens, I'm afraid you're going to have a very, very busy session trying to maintain order.

THE PRESIDENT: Senator Marcellino -

SENATOR MARCELLINO: When we're talking about restoring -

THE PRESIDENT: -- to explain your vote.

SENATOR MARCELLINO: Thank you, Madam President.

I would explain my vote, but one of the points that I bring up is my colleague on the other side of the aisle has just issued a threat. And I don't see that. To threaten this house with disruptive behavior I think violates the rule of civility. I personally heard no attack on Senator Dollinger by

Senator Skelos. He simply pointed out a fact during the debate that went on yesterday afternoon.

This point of argument that we have, we can have a disagreement and maintaining civility along the way is all well and good. But to threaten this chamber with disruptive behavior unless I get my way simply doesn't make any sense. We deal with 3-year-olds when they do that. We don't deal with New York state senators in that way. And we shouldn't be talking to our colleagues in that way.

Now, if we're going to maintain civility, let's do it on both sides. I argue that this motion to discharge was not a motion to discharge, it was a motion to strike the enacting clause first and foremost. It was not a motion to bring a bill on the floor for a vote in any way, it was to strike the enacting clause for a member.

Senator Dollinger admitted he waited, didn't call on Senator Hassell-Thompson's point, he waited for one of our side to do it for political reasons. I

think that is an objectionable way to behave in this chamber and should never be done.

I vote nay.

SENATOR SCHNEIDERMAN: Madam President, if I may respond to that personal mention, this was not in any way -

THE PRESIDENT: You may rise to explain your vote, sir.

SENATOR SCHNEIDERMAN: Yes, thank you. This was not -

SENATOR MARCELLINO: He already explained his vote once.

SENATOR SCHNEIDERMAN: Excuse me. If I might seek a point of personal privilege to respond to a personal accusation of making a threat.

THE PRESIDENT: You may respond, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I in no way am making a threat. I'm sorry if I was misunderstood by the good Senator. It is a simple prediction that I think has been true in many, many circumstances that if you don't have rules

that all sides can understand, you have chaos. That's all I'm saying.

I look forward -- and I'm very sorry about that. I mean, as much as we've had disagreements over the last two years since I've been here, we have had good debates. Things have, by and large, proceeded quite civilly in this chamber. And I would look forward to a restoration of that degree of civility.

I don't think that having rules that are applied in an arbitrary manner benefits the Majority or the Minority in the long run, and that's all that I was saying. There's certainly no threat involved. We will continue to try and work within the framework of the rules. But it's not easy to do so when the rules are changed on the whim of the Majority.

Thank you.

THE PRESIDENT: The Secretary will announce the results.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 24. Nays, 35.

SENATOR SKELOS: Madam President.

THE PRESIDENT: The motion to overrule the ruling of the chair is defeated.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room. And if we could adopt -

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

Senator Skelos.

SENATOR SKELOS: If we could adopt the Resolution Calendar, with the exception of Resolutions 519, 611, and 628.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 519, 611, and 628, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted, with the stated exceptions.

Senator Skelos.

SENATOR SKELOS: Madam President, may we please take up Resolution Number 519, by Senator McGee, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator McGee, Legislative Resolution Number 519, memorializing Governor George E. Pataki to recognize June 3, 2001, as "Cancer Survivors' Day" in the State of New York.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Thank you, Madam President.

I cannot explain totally to everyone the importance of this bill. Cancer Survivors' Week is indeed something that's extremely important for us. Cancer does not strike just women, and breast cancer, but it's men and prostate cancer. Cancer is a devastating, devastating disease.

I just had the opportunity to meet with a young man who is of the age of 50. He is now going to be a survivor. His wife, as a

matter of fact, is a survivor from breast cancer. Cancer Awareness Week is a most important thing. Cancer has the opportunity or the ability to strike each and every one of us.

So I think if we can be more aware of this terrible disease, if we can say to women, if we can say to men: Please guard yourself, have your yearly checkups, talk with your doctors. This is an extremely important issue, I believe, and something that has a bearing on us and our families and our extended families.

So with permission, I would like to open up this resolution to total sponsorship by everyone, if I may do so. And thank you for giving me the opportunity to speak of this very important Cancer Awareness Week.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. I rise in support of this resolution as a cancer survivor.

And I think early detection and awareness of not only what to do to detect it but how to live to prevent it I think is most

important. And I commend my colleague, Senator McGee, for her dedication to fighting this very devastating illness. As one who has gone through not prostate cancer, some more - a cancer that may have been even more life-threatening, I'm particularly mindful of our obligations to ourselves to take care of our bodies so that we can continue to protect our families and to do those things that we do so well, and maybe to do some of the things we don't do so well.

So I stand in support of your resolution. I commend you for your advocacy for this awareness program. And I think it's something that will join all senators together regardless of political persuasion. And I ask that my name be added to the resolution.

Thank you very much.

THE PRESIDENT: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is

adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe I heard Senator McGee graciously offer to open the resolution for sponsorship. If the Minority would like to cosponsor, we'll put all the members on the resolution. If they do not wish to be on the resolution, they should notify the desk.

THE PRESIDENT: All members who do not wish to be on the previous resolution, please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, could we take up my resolution, Number 611, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Skelos, Legislative Resolution Number 611, memorializing Governor George E. Pataki to proclaim March 2001 as Professional Social Work Month in the State of New York.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, thousands of our friends and neighbors across the state depend on the critical care provided by New York State's professional social workers. New York's 23,000 members, some of them who are in the chambers today enjoying the proceedings, are members of the National Association of Social Workers. They help men, women, children of all walks of life.

As vital members of the health care community, the impact of social workers can be seen in virtually every corner of society. From schools, health care centers, public and private agencies, corporations, and all levels of government, social workers provide direct services and act as advocates to disadvantaged and underserved members of our communities.

I ask my colleagues to join me in recognizing the good work of all these fine individuals, and would move the resolution and would offer it up for sponsorship to the entire membership.

THE PRESIDENT: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

All members who do not wish to have their names on the previous resolution, please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, on the Resolution Calendar, Number 627, which passed, sponsored by Senator Marchi, honoring the memory of Abe Beame, former Mayor of New York City, Senator Marchi has graciously offered to open up the resolution for sponsorship.

So if we could put all members, with the consent of the Minority, on the resolution. If somebody does not wish to sponsor the resolution, they should notify the desk.

SENATOR DOLLINGER: Thank you, Madam President.

SENATOR SKELOS: Madam President, if we could take up Resolution Number 628, by

Senator Rath, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Rath, Legislative Resolution Number 628, memorializing the Honorable George E. Pataki to designate March 2001 as "Women's History Month" in the State of New York.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Madam President - and I'm proud to say "Madam" -- Women's History Month needs to include not only the designation as we are looking at it formally, but for an understanding all throughout the state of New York, and I'm sure as other states are doing likewise during the month of March, to point out that, I guess, the old phrase "those who don't remember history are doomed to repeat it."

And I think what we have as we have looked at Women's History Month, lo, these many years is a recognition of the accomplishments of women down through the ages. And although some of them might not

have been what we might have considered major and overwhelming breakthrough accomplishments, they were the undergirding accomplishments that allowed other people to go forward and make breakthroughs.

The last 50, 75 years, women have been making a lot of breakthrough accomplishments. And as we recognize all of those accomplishments in Women's History Month, I would be honored to have all the members of the Senate join me on this resolution and ask for the opportunity for cosponsorship for everyone.

Thank you, Madam President.

THE PRESIDENT: All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted. And any member who does not wish to be on this resolution, please notify the desk.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, I hereby give written notice, as

required by Rule XI, that I will move to amend the Senate rules by adding a new rule, XV, in relation to ethical standards for members, officers, and employees of the Senate.

THE PRESIDENT: Senator Dollinger, that has been received and will be filed in the Journal.

SENATOR DOLLINGER: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I note that Senator Dollinger was very anxious to make that motion. But I wanted to offer Senator Rath's resolution up for sponsorship by both sides unless Senator Dollinger objects.

SENATOR DOLLINGER: We have no objection, Madam President, and I thank the Deputy Majority Leader for that courtesy.

THE PRESIDENT: And I will repeat that any member who does not wish to be on this resolution, please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, are there any substitutions at the desk? If

we could make them at this time.

THE PRESIDENT: The Secretary will read the substitutions.

THE SECRETARY: On page 8, Senator Alesi moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number 4446 and substitute it for the identical Senate Bill Number 2241, Second Report Calendar 155.

And on page 15, Senator Volker moves to discharge, from the Committee on Codes, Assembly Bill Number 1437 and substitute it for the identical Senate Bill Number 1083, Third Reading Calendar 106.

THE PRESIDENT: Substitutions ordered.

Senator Dollinger.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam

President, just a point of order, ever so briefly.

We've already had a debate. I understand the ruling of the chair. I would simply point out, as will happen again at some point, those are motions to discharge, those are motions to discharge bills.

And I again -- although we've had this debate before, I don't want to bring it up again, I would suggest we may debate this some other day. But those are motions to discharge that no longer have authority in the rules, Madam President. I suggest the drafters go back to work.

THE PRESIDENT: Senator Dollinger, for point of clarification, Senator Marcellino did not make a motion. It was a request. And these substitutions are not motions, Senator Dollinger. There is no vote taken on that type of an action by the Senate.

SENATOR DOLLINGER: Madam President.

THE PRESIDENT: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Again, to

continue the point of order, Madam President, not to belabor it. But I believe you said "without objection." That's because there's a vote taken on that motion to make it happen. And -

THE PRESIDENT: I don't think those two words have been uttered by me this morning, Senator.

SENATOR DOLLINGER: And, Madam President, Senator Marcellino started his comment off -- I'll abide by the record. Senator Marcellino knows it. It was read, quite frankly, by the Secretary of the Senate. Those were -- he moves to discharge. Those are motions to discharge, Madam President. That's what the point-of-order fight was all about.

Again, Madam President, I don't want to go through it again. But I would suggest the drafters go back and look at their own rules. Those are motions to discharge. They have no foundation in the rules of this chamber. We will debate it again.

THE PRESIDENT: Let us proceed, members, to the noncontroversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 60, by Senator Seward, Senate Print 1120A, an act in relation to legalizing, validating, ratifying, and confirming certain acts and proceedings.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: A local fiscal impact note is at the desk.

The bill is laid aside.

THE SECRETARY: Calendar Number 63, by Senator Skelos, Senate Print 400, an act to amend the General Business Law, in relation to the possession, sale and use of monomeric methyl methacrylate.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 84, by Senator LaValle, Senate Print 1422, an act to amend the General Municipal Law, in relation to granting.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 90, by Senator Goodman, Senate Print 687, an act to amend the Transportation Law, in relation to disclosure.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 93, by Senator Alesi, Senate Print 1137, an act to amend the Highway Law, in relation to designating.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 95, by Senator DeFrancisco, Senate Print 439, an act to amend Chapter 912 of the Laws of 1920.

SENATOR DOLLINGER: Lay it aside,

please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 102, by Senator Trunzo, Senate Print 1679, an act to amend the Eminent Domain Procedure Law, in relation to acquisition.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Thank you very much. If we could go to the controversial calendar at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 60, by Senator Seward, Senate Print 1120A, an act in relation to legalizing, validating, ratifying and confirming certain acts and proceedings.

SENATOR DOLLINGER: Explanation, please, Madam President.

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

SENATOR SKELOS: Madam President, I believe we're on Senator Seward's bill.

THE PRESIDENT: Yes, that's correct, Senator.

SENATOR SKELOS: If we could lay that aside temporarily.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, Senator Seward's bill was laid aside temporarily.

If we could take up Calendar Number 63.

THE PRESIDENT: The bill will be laid aside temporarily.

SENATOR SKELOS: Thank you.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 63, by Senator Skelos, Senate Print 400, an act to amend the General Business Law, in relation to the possession, sale and use of monomeric methyl methacrylate.

SENATOR DOLLINGER: Explanation,

please.

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

SENATOR SKELOS: Yes, Madam President. This bill, which passed the Senate 61 to nothing last year, would prohibit the possession, sale and use of monomeric methyl methacrylate, also known as MMA, in the practice of nail specialty.

According to the FDA, MMA is a poisonous and deleterious substance when contained in nail products.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, on the bill very briefly.

This is a bill that we've passed before. And I concur with Senator Skelos that this is a public health consideration for those who are involved in the nail practice business as well as the clients that they treat. I think it's consistent with our continuing not only monitoring of the nail profession, the nail practice profession, but also to making sure that the public is not

exposed to the kinds of dangerous chemicals that are used in that business.

I'm not a user of those services, Madam President, but I can understand the people that are need to be protected. And I encourage everyone to vote in favor of this bill.

THE PRESIDENT: The Secretary will 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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 84, by Senator LaValle, Senate Print 1422, an act to amend the General Municipal Law, in relation to granting additional points.

SENATOR DOLLINGER: Explanation, please, Madam President.

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

Senator Wright.

SENATOR WRIGHT: Would you lay it aside temporarily, please, Madam President.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 90, by Senator Goodman, Senate Print 687, an act to amend the Transportation Law, in relation to disclosure.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Wright, Senator Duane has requested -

SENATOR WRIGHT: Lay it aside for the day, Madam President.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 93, by Senator Alesi, Senate Print 1137, an act to amend the Highway Law, in relation to designating.

SENATOR DOLLINGER: Explanation, please, Madam President.

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

SENATOR WRIGHT: We will be joined momentarily by Senator Alesi, Madam President.

THE PRESIDENT: Thank you, Senator Wright.

SENATOR WRIGHT: In the meantime, would you call an immediate meeting of the Aging Committee in the Majority Conference Room, Madam President.

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

SENATOR WRIGHT: Madam President.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: If we could take up Calendar Number 60 before Senator Seward leaves, we'll have him deal with that.

THE PRESIDENT: The Secretary will read.

The Secretary will withdraw Calendar Number 93 and bring up Calendar 60.

THE SECRETARY: Calendar Number 60, by Senator Seward, Senate Print 1120A, an act in relation to legalizing, validating, ratifying, and confirming certain acts and

proceedings.

SENATOR DOLLINGER: Explanation, please, Madam President.

THE PRESIDENT: Senator Seward, an explanation has been requested by Senator Dollinger.

SENATOR SEWARD: Certainly, Madam President. I'll be happy to explain the bill before I leave for the conference committee meeting on the Women's Health and Wellness bill.

This bill would allow the Oneonta City School District to obtain the state transportation aid for certain contracts which were not filed with the Education Department within the required 120 days of the commencement of the service under the contract. And because of this administrative oversight, the transportation aid which is due the district was not -- is not forthcoming, and there's no statutory authority for the state to provide this aid to them.

And this bill would make that correction and allow the transportation aid to flow to the Oneonta City School District.

SENATOR DOLLINGER: Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Will Senator Seward yield for a question, please.

THE PRESIDENT: Senator, will you yield?

SENATOR SEWARD: Certainly.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, what was the nature of the administrative oversight that you described in this case in the Oneonta City School District?

SENATOR SEWARD: Well, Madam President, my knowledge of the situation is that the personnel who were in charge of submitting the necessary paperwork to the State Education Department just simply missed the deadline. And this is a situation that we're looking to correct under legislation.

SENATOR DOLLINGER: Through you, Madam President, if Senator Seward will continue to yield.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR SEWARD: Yes.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: With all due respect to Senator Seward -- and as a lawyer, the issue of missing deadlines is something that happens all the time -- I guess my question is, can you tell me what specific conduct caused them to miss this deadline? Was there confusion in the office?

And the reason why I ask is because our state transportation aid has yearly deadlines that must be met by every school district, and there's 729 of them in this state. And every year, three or four miss them.

And I'm just wondering, is there any particular conduct, anything that happened in this case that makes it unusual that would justify us relieving them from their default?

SENATOR SEWARD: Well, Madam President, I can simply answer the inquiry by saying this. I personally am not aware of the

specific circumstances. It's been described to me as simply they missed the deadline. But I can assure you I've had personal conversations with the superintendent of that school district, and believe me, he has taken measures to make sure that this does not happen in the future.

Now, the issue before us is this. Should the taxpayers of the Oneonta City School District not receive the state aid that totals $238,000, should they be bearing the burden of this because of an administrative oversight? I think not. And it's very common in this Legislature that when there is no statutory authority for the Department and the State to provide aid because of circumstances such as this in the past, we have passed bills that have been signed into law by the Governor to allow the aid to flow.

And that's all I'm asking to do under this legislation.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I'll yield to Senator

Lachman.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Through you, Madam President, I have one or two questions for the Senator.

Are you saying that there are precedents for this, when a school district does not come in under the deadline, for the deadline to be extended for that particular district? Or is this a precedent for the Oneonta School District?

SENATOR SEWARD: My point was, Madam President, that this is not -- this is unusual for the Oneonta City School District under these circumstances.

My point was that for other school districts, other municipalities that have faced similar situations, there have been in the past special bills presented and passed by this Legislature to correct situations where either a deadline was missed or incorrect information was filed, that type of situation.

SENATOR LACHMAN: Through you, Madam President -

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: -- if Senator Seward is available for another question in this area.

SENATOR SEWARD: Certainly.

THE PRESIDENT: He is so available.

SENATOR LACHMAN: Thank you.

Do we have statewide standards for Oneonta, New York City, Mount Vernon, Long Island communities as to when and under what standards precedents are granted and are not granted? Or is this just an individual decision made by an individual?

So what I'm saying -- let me explain the question further, Senator Seward. If this had happened in the school district of New York City, the Inspector General would probably ask for the head -- not literally, but figuratively -- of the individual that failed in the filing. Now, if this applies to Oneonta, why can't it apply to other school districts in the State of New York, whether these are urban school districts or rural school districts?

SENATOR SEWARD: Well, Madam

President, I would say this. It's important to have deadlines. In this case, these contracts were to be filed I believe within 120 days of the commencement of the service under the contract. It's important to have these deadlines; it's important to meet the deadlines.

When they are missed for a reason, then it's -- I think it's important for this Legislature to give the statutory authority for the Department and the State to provide the aid to help with the local expenses.

I have had no problems in my 15 years here in the Senate in voting in favor of legislation to provide that statutory authority. And I would just ask you to do the same.

SENATOR LACHMAN: Thank you.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, on the bill.

THE PRESIDENT: You may be heard, Senator.

SENATOR DOLLINGER: Thank you,

Madam President.

I think the point that Senator Lachman makes on this bill is a good one. And that is, we set up rules, we set up a statute in which we fund transportation aid, I'm sure to the Oneonta School District in the sum of -- I think the bill says $150,000, which I assume is a single year's payment. It may be more than that; it may be a quarterly installment. We didn't get that in the debate.

But Senator Seward is doing exactly what his constituents demand, which is he is advocating for them to obviate the consequence to the taxpayers of missing a decline.

And it seems to me that this bill falls in the same category of all those bills we do for Long Island when all those people buy those tax-exempt properties, when churches buy properties and they're tax-exempt, they fail to file, they fail to meet the statutory requirement to get a property tax exemption, and this house has passed bills -- all over my negative vote -- to in essence relieve them from their mistake.

Senator Seward I think is properly saying, Gee, why should the taxpayers of Oneonta pay for mistake of one of the bureaucrats inside the city of Oneonta. I would just suggest, Senator Seward, that my colleagues from the City of New York have a tremendous argument. Since there are $800 million in claims by the City of New York against the State of New York for unpaid money under the education program -- I believe the number is $700 or $800 million. I come from a city and a community that has, I believe, about $30 million in pending claims, all of which relate to some mistake or some failure to qualify, or in some cases just an overt failure to actually pay.

And while, Senator Seward, I think that $150,000 is critically important to the people of Oneonta, and I applaud you for bringing their concerns to this chamber, I would suggest there are people out there who are owed millions of dollars in extremely poor school districts, that the State of New York ought to pay them.

And while I'm one of those who

believes that mistakes by public officials should not have consequences, in some cases, to taxpayers, nonetheless, that's the real world in which we live. We're about to in essence give a get-out-of-the-jail-free card to Oneonta. And I would suggest that there are lots of school districts in this state that are owed large sums of money by the State of New York who should be paid as well.

So my view is, Madam President, that this -- I'm going to vote in favor of this bill. I've voted in favor of these bills in the past. I hope this is the start of a trend where the State of New York will pay its claims to school districts around the state in a timely fashion.

And the other thing I would suggest to Senator Seward, that I have suggested to others on the tax-exemption bills that we do, is why not simply introduce a bill into this house, into the Assembly, that gives the Commissioner of Education the ability to waive those time limits for good cause shown. In essence, Madam President, we wouldn't allow that law office or administrative office

mistake to punish the taxpayers.

I think it's a good idea. That's what Senator Seward is doing. We should make a bill of general application so that we give to the Commissioner the ability to pay these expenses which are justly due and which are only before us because of the mistake of a single individual. That, in my judgment, would be a better way to do it.

And I just hope that the Majority in this house comes to the conclusion we should start paying all the claims of all the school districts for whom money is owed by the State of New York.

Thank you, Madam President.

THE PRESIDENT: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Thank you, Madam President. If we could take up Calendar Number 93.

THE PRESIDENT: The Secretary will read Calendar Number 93.

THE SECRETARY: Calendar Number 93, by Senator Alesi, Senate Print 1137, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: An explanation has been requested, Senator Alesi.

SENATOR ALESI: Madam President, this bill names State Route 441 as the "Korean War Memorial Highway."

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam

President, I'm going to vote in favor of this bill. And I congratulate Senator Alesi on putting this bill before the house. The Korean War veterans in the Rochester and Monroe County area deserve this highway to be named after them.

I do have to acknowledge some interest in the fact that this highway almost dead-ends itself right at the front door of my house in Brighton. And I guess I find it continuing with the unusual things that sometimes happen in this chamber that this bill would come into the town of Brighton virtually at my front door and doesn't have my name on it, Madam President.

THE PRESIDENT: Senator, you will be so recorded as voting in the affirmative.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Can we take up Calendar Number 95, Madam President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 95, by Senator DeFrancisco, Senate Print 439, an act to amend Chapter 912 of the Laws of 1920, relating to the regulation of boxing and wrestling.

SENATOR DOLLINGER: Explanation, Madam President.

THE PRESIDENT: An explanation has been requested, Senator DeFrancisco.

SENATOR DeFRANCISCO: First of all, Senator Dollinger, I can't believe your front door could be the dead end for anything, so -

(Laughter.)

SENATOR DeFRANCISCO: But in any event, this bill is a bill to increase the possible penalties for violations of the State Boxing Commission rules and regulations.

Presently the law says the maximum penalty is $5,000. This penalty came into

effect in 1930 when FDR was President and Max Schmeling was the heavyweight champion. We're proposing to raise it to $50,000 for the first offense and not to exceed $100,000 for the second and each subsequent offense.

The purpose behind it is to put the penalty in some kind of perspective, in view of the changes in boxing purses from 1930 to the year 2001. And it was really first brought up after the Lennox Lewis-Evander Holyfield fight, when there were some questions raised about the relationship of one well-known promoter with some of the officials or at least one of the boxing officials.

That's what the bill is for, and that's what it's intended to do.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Would Senator DeFrancisco yield for a question.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President, how often has the Boxing Commission imposed this penalty in the past?

SENATOR DeFRANCISCO: I have no clue.

SENATOR DOLLINGER: Through you, Madam -- Mr. President, I apologize.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Will Senator DeFrancisco yield to another question.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: Senator, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Do we know how often or how much money has been collected by the Boxing Commission because of these fines in the last ten years or so?

SENATOR DeFRANCISCO: No, we don't. And I didn't think it was relevant,

insofar as the point of a penalty is not to raise revenue for any agency of the state, it's to provide a realistic penalty for a violation.

And $5,000 is not a realistic penalty in this day and age. New Jersey has penalties, the first one not to exceed $25,000, the next, $50,000. And Nevada has a $250,000 fine.

So it -- what we've collected in the past I didn't think was important to find out, and I didn't.

SENATOR DOLLINGER: Through you, Mr. President, if Senator DeFrancisco will yield to one more question.

ACTING PRESIDENT MEIER: Does the sponsor continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President, how often has the Boxing Commission actually found a violation of state boxing rules in last five or ten years?

SENATOR DeFRANCISCO: Once again,

I don't know that either. But I do know that if there was a violation in the Holyfield-Lewis fight, the maximum penalty was going to be $5,000. And I think they pay the water boy $5,000 to bring in water during the rounds. That was the reason for trying to change this at this present time.

I don't know the amount of fines, the number of times. I just think a penalty should be commensurate with the seriousness of the offense.

SENATOR DOLLINGER: Mr. President, just one more. Senator DeFrancisco's comment brought up one other question.

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield for one more question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: And again, I don't know this, other than to find out. Was a fine or a violation found in the conduct of the promoters in the Lewis-Holyfield fight?

SENATOR DeFRANCISCO: I don't think so.

SENATOR DOLLINGER: Okay. Just on the bill briefly, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: This bill, I think Senator DeFrancisco properly points out that Max Schmeling was the heavyweight champion of the world when we imposed this fine. But it would seem to me that before we can figure out whether the fine is a deterrent or not, we should know whether the Boxing Commission has ever imposed such a fine or ever actually ever found such a violation.

And I would be concerned that -- I know the Governor and others have had an interest in promoting title fights in New York City, either at Madison Square Garden or other places, which I appreciate, understand and think is a good idea. But it seems to me I'd like to know whether the Boxing Commission is really doing anything to enforce the law at all with respect to violations of the rules and regulations of the State Boxing

Commission.

And it would seem to me that increasing the penalty without knowing whether they've ever actually found a violation is to put the cart before the horse. If there was a sense that we were imposing fines and that the fines weren't deterring the conduct, then the suggestion would be that maybe we need to increase the fine to deter the conduct. But without knowing whether we've actually found violations, it seems to me we're enacting a bill that substantially increases, brings it up-to-date -- I don't oppose that. But we don't know whether the Boxing Commission itself is actually doing the job of investigating and finding violations.

I'm going to vote in favor of this bill, because I agree with Senator DeFrancisco. We should come in line with the other states so that they don't forum-shop and come here because this is a place where you can violate the rules of the Boxing Commission with impunity. But I would suggest that before this becomes a law of this state or is considered by the Assembly or reviewed by the

Governor, I think somebody should find out whether the Boxing Commission is actually imposing notices of violations in any case.

And without that evidence, I think increasing a fine, not knowing whether the old fine worked, not knowing whether the commission works, that we're really putting the cart before the horse.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Wright, why do you rise?

SENATOR WRIGHT: If we could, Mr. President, continue with the controversial calendar, with Calendar Number 102.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 102.

THE SECRETARY: Calendar Number

102, by Senator Trunzo, Senate Print 1679, an act to amend the Eminent Domain Procedure Law, in relation to acquisition of land by the state.

SENATOR DOLLINGER: Explanation, please, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Trunzo, an explanation has been requested.

SENATOR TRUNZO: Thank you, Mr. President. I have a bad cold and can't talk.

But at any rate, what this bill does -- it's a very simple bill. It merely provides that whenever the land is going to be acquired by the state, there should be 60-day notification to the local towns or cities, villages, regarding the fact that those - that the state wants to take over this property.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer.

SENATOR OPPENHEIMER: I just a have a question. In that 60-day -

ACTING PRESIDENT MARCELLINO: Senator Trunzo, do you yield to a question?

SENATOR TRUNZO: Yes.

SENATOR OPPENHEIMER: Would you please yield to a question?

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR OPPENHEIMER: Thank you.

In that 60-day period, does the local government have any option if this is being taken by eminent domain?

SENATOR TRUNZO: Well, in eminent domain they have the right to condemn. And as a result -- you know, they've been doing it many, many times. Currently the law permits them to just come in and condemn a piece of property without any notification to any of the local municipalities that may be involved and any kind of planning that may be going on in that particular community that it could affect.

So that at least there's got to be 60-day notice where a town or a city or a village or whatever, or the county, can, you know, contest and try to, you know, talk them out of it, I guess, as far as that goes.

SENATOR OPPENHEIMER: Through

you, Mr. President, if you would yield.

ACTING PRESIDENT MARCELLINO: Senator Trunzo, do you continue to yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR OPPENHEIMER: I couldn't hear in the beginning what you were saying. And I was just wondering what the options were of local government during that 60-day period.

SENATOR TRUNZO: During that 60-day period, I would think that would give the local government an opportunity at least to be prepared for the fact that the state is going to condemn the land. I don't think - you know, they still have the right to condemn. But the thing is that it has happened in the past whereby the state did come into a community and just condemn the land, and that was it, without any notice. And suddenly your town supervisor, your county executives didn't know what was going on and as to why they were condemning it and even couldn't object to it even if they wanted to.

So basically that's what it is.

It's merely a very simple bill to try to get some semblance of order to have that happen within your community.

SENATOR OPPENHEIMER: Thank you, Senator.

SENATOR TRUNZO: Thank you.

SENATOR OPPENHEIMER: Just on the bill.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I see nothing harmful with this bill. It just doesn't seem to do a heck of a lot. But I see no reason to oppose it, so I'll be supporting it.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor yield for one question, please.

ACTING PRESIDENT MARCELLINO: Senator, would you yield for a question?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR DOLLINGER: Thank you, Mr. President.

Senator Trunzo, could you explain why you didn't include villages and other districts like water districts, lighting districts?

SENATOR TRUNZO: It's any level of the government, really. Which are special districts, commissions, authorities, all would be involved.

SENATOR DOLLINGER: But again through you, Mr. President, I apologize, I just want to clarify that question to Senator Trunzo.

ACTING PRESIDENT MARCELLINO: Senator Trunzo, do you continue to yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MARCELLINO: He continues to yield, Senator.

SENATOR DOLLINGER: The bill says that prior notice of acquisition shall be given to towns, counties, or cities. My question is regardless of who's doing the condemnation, why shouldn't they notify villages if it occurs in a village or in

lighting districts, pure water districts, fire districts? As you know, I'm sure, there are all kinds of other municipal-like governments that might want to know about the condemnation of the property.

SENATOR TRUNZO: There are many, many special districts, as you know, throughout the state. We are an entity of local government in many cases. And therefore, I think it would fall under that category. When you say a local government, the towns, the villages, the counties in the state, they're all a part of local government.

SENATOR DOLLINGER: Okay. Again through you, Mr. President, just so I make sure I'm clear. If Senator Trunzo would continue to yield.

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MARCELLINO: I believe he continues, Senator.

SENATOR DOLLINGER: The bill as it's drafted says that the condemnor, the party taking the property, only has to give

notice to the town, the county, and the city. And I'm just trying to find out why you wouldn't include villages, which are like towns -- you know, they're municipal governments -- water districts, pure water districts, fire districts. They would have the same level of interest.

Certainly I think in your neck of the woods, Senator Trunzo, where you have bigger towns, bigger villages than we do in upstate, those districts have municipal-like qualities about them. I'm wondering why you wouldn't include those in the bill so that they get notice too.

SENATOR TRUNZO: I guess the reason for that would be the fact that those districts, special districts, are created by the towns, the people in the town. Therefore, they are a part of the town government. Even though they may be a separate level of government, they are still -- they were created by the town boards involved.

And therefore, you know, it's a question of they could notify and continue the notification to those various districts that

are involved, the special districts.

SENATOR DOLLINGER: Okay, I thank Senator Trunzo for his explanation.

I'm actually going to vote against this bill based on the explanation -

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Thank you.

Senator Trunzo, I understand the need to provide for the condemnor, the party taking the property, to give notice to other levels of government. I agree with that as a principle for intergovernment communication, and a requirement that that notice be given.

But I'm going to vote against this bill because I think it would be narrowly construed to only require the condemnor to give notice to the town, the county, and the city. Independent villages that are separately incorporated would not be included. The special districts may be created by counties, they may be created by us. As you know, there are a number of districts in Nassau and Suffolk where we have big towns and big villages where we actually created the

special improvement district and where the actual people who sit on it may not be coextensive with the town board.

So I'm going to vote against this bill because I don't think it goes far enough to give enough information to all the levels of government necessary to achieve the beneficial purpose of Senator Trunzo's bill. I would suggest if it came back amended to include towns, special districts, lighting districts, water districts, pure water districts that are within the area to be condemned, then I would be in favor of it.

After all, when we condemn property and the State of New York takes it, as Senator Trunzo well knows, it becomes exempt from taxes. And that's I'm sure the reason to do it, is to let government know that we're allowing the condemnor to take property off the tax roll. And it seems to me before that happens, all the entities that derive revenue -- water districts, ambulance districts, fire districts -- they should all know of the impact of this before it happens.

I'm going to vote in the negative.

It does a good thing, but it doesn't go far enough.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect in 30 days.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'm voting in favor of this bill.

But I would like the record to show that villages are independent entities of towns. It is true under the State Constitution that we have to lie inside of towns, but we are totally independent entities. And in the future it would be appreciated if the bill were to include villages.

As a past village mayor, I can tell you our government is large and encompasses all the various elements of town governments, and is totally and 100 percent independent of

towns.

ACTING PRESIDENT MARCELLINO: Announce the results, please.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. Could we lay aside for the day Calendar Number 84.

ACTING PRESIDENT MARCELLINO: The bill is laid aside for the day.

Senator Wright, please.

SENATOR WRIGHT: Thank you, Mr. President. I believe that completes the report of the controversial calendar.

ACTING PRESIDENT MARCELLINO: It does.

SENATOR WRIGHT: We should return to reports of committees, and I believe there's a report from the Finance Committee at the desk.

ACTING PRESIDENT MARCELLINO:

There is, Senator.

May we please return to the reports of the standing committees.

SENATOR WRIGHT: I ask that the report be read, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you. The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations:

As a member of the New York State Energy Research and Development Authority, William G. Howell, of Rockville Centre.

ACTING PRESIDENT MARCELLINO: Move the nomination. Senator Wright.

SENATOR WRIGHT: Mr. President, I'll move the nomination.

ACTING PRESIDENT MARCELLINO: The question is on the nomination of William G. Howell, of Rockville Centre, for a term to expire April 1, 2006, as a member of the New York State Energy Research and Development Authority.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The nominee is confirmed.

The Secretary will read.

THE SECRETARY: As members of the State Fire Prevention and Building Council, John H. Flanigan, of Slingerlands, and Robert G. Shibley, of Buffalo.

SENATOR WRIGHT: Mr. President, I would move the nominations.

ACTING PRESIDENT MARCELLINO: The question is on the nomination of John H. Flanigan, of Slingerlands, and Robert G. Shibley, of Buffalo, for a term to be members of the State Fire Prevention and Building Council.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The nominees are confirmed.

The Secretary will read.

THE SECRETARY: As a trustee of the Power Authority of New York, Joseph J. Seymour, of Glenmont.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT MARCELLINO: Recognize Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President. Thank you, Senator Stafford.

I just want to rise and support Commissioner Joe Seymour. Just about a month ago, we were here discussing and reviewing a lot of what had happened with Clarence "Rapp" Rappleyea, a colleague in the Assembly, as he was leaving his service as chair of the Power Authority in New York State. And we're here today confirming the Governor's recommendation and appointment in that position of Commissioner Joe Seymour.

And all of us can be proud, and the Governor certainly does himself proud by recognizing how important energy is to the people of this state and in this country. And we have been reading and listening to all the failures in California and in other states,

but not in New York. But we recognize that power creates a crisis if it's not there sufficiently and at a moderate cost.

So the Governor in his wisdom is taking an accomplished individual with high energy, 30 years of public service, literally from Yonkers, Rochester, across this state. Serving as the city manager of Peekskill, starting ground level, grassroots, everywhere, including the Motor Vehicle Department, OGS most recently. Everywhere Commissioner Joe Seymour has been, it's an improved place, it's a better place, and the constituency of that municipality or of this state benefits.

So the Governor again is to be commended for choosing an individual to lead us through these next several years as it relates to energy, power, and all the things that that makes possible that accrues to the benefit and the quality of life of all New Yorkers.

So I congratulate and commend Commissioner Seymour for taking the time, having the will, having the desire to continue his distinguished career in public service.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President. If I may, just to echo what our leader has said here, that we thank the Governor for sending us an appointment of this caliber.

I've had the good fortune to know Joe for a number of years, from down in my neck of the woods. And we are most fortunate to have a person of this experience, his talent, of his caliber come forward to continue to serve this state in a most challenging and difficult area.

So I extend, with my colleagues and the Majority Leader, congratulations, and once again praise for the Governor for sending us such a fine appointment.

Thank you.

ACTING PRESIDENT MARCELLINO: Senator Wright, please.

SENATOR WRIGHT: Thank you, Mr. President.

I rise to join my colleagues in moving the nomination of Commissioner Seymour. As chairman of the Energy Committee, I've had the occasion to spend some time with the Commissioner in preparation for assuming the leadership of the Power Authority.

And I think we all recognize the important role that the Power Authority plays in New York State, not only as a supplier of energy to our businesses, our industries, and our homes throughout this state, but, equally important, as a leader in energy efficiency and energy conservation. The Authority plays a very prominent role in the state's efforts to address those issues.

The Commissioner, as has been pointed out, brings a strong managerial background to the position of trustee and the Governor's designation as chairman. The Governor should be commended. He's had a long personal working relationship with Commissioner Seymour, he knows firsthand the Commissioner's managerial capabilities and the expertise that he brings to the job.

Looking for someone to provide the

necessary leadership at this critical time, the Governor could not have made a better choice in designating Joe Seymour. If you look at the responsibilities he has performed over his 25-plus-year career in public administration, he's worked at the local level, worked at local government, and he will be dealing with many local governments across this state, and municipal -- munies.

He in turn has served in a commissioner capacity in state administration, and in that job has done a very admirable job of governing and administering the Office of General Services. And there are several examples in his tenure as Commissioner that I believe will speak to the expertise he brings to this job as Power Authority chair.

For example, the Commissioner is a proponent of clean fuel vehicles and has chaired the state's Clean Fuel Vehicle Council, implementing that first statewide program and doing it very effectively, and will continue to promote those initiatives through the Power Authority.

As the Commissioner of OGS, he's

worked very closely with the Power Authority on energy efficiency programs, having reduced OGS's electric bill by $3.5 million annually, an example that all of us can benefit from.

And of course most recently as OGS Commissioner, he's been working closely with the Department of Environmental Conservation in the construction of its new downtown facilities, the first major green facility in New York State, under the state's new statute.

So I think the Commissioner certainly brings the background, the managerial experience, the credentials to serve as the next chair of the New York State Power Authority. And as we move forward addressing the energy concerns of this state, we will need the strong leadership and direction that the Commissioner will be providing.

I'm very confident that the Governor has nominated the right chairman. I'm very pleased to endorse that nomination and move for its support among my colleagues, and wish to extend my congratulations to the Commissioner. I look forward to a strong and

long working relationship.

Best of luck.

ACTING PRESIDENT MARCELLINO: Senator Onorato, please.

SENATOR ONORATO: Mr. President, I rise too to congratulate the Governor on his wonderful nomination.

Now, I represent Queens County, and I've gone over the Mr. Seymour's background, and it's very, very impressive. He has certainly a great expertise in the planning and development of major real estate properties.

And we are currently faced, Mr. Chairman, with a situation in Queens County where the New York Power Authority is currently contemplating siting ten new generating plants. I'm speaking specifically of one which creates a major problem in the Long Island City area, on Vernon Boulevard, because it would interfere with the development of the Silvercup Studios' plan to develop a major television and perhaps movie studio, and also in the development of further residential community along the waterfront.

We have not stated that we do not want the generating plant. We have offered an alternative site in a very, very close proximity to the current location. I've spoken with Senator Schumer, and he has assured us that he is willing to participate in providing additional funds for the additional cost of moving the generating plant from the Vernon Boulevard area to an area on Borden Avenue which is approximately one mile from its current location.

Now, I notice that you've -- in your resume that you currently have situations that you have been able to use your imagination to solve these particular problems. I and several of my colleagues are currently involved in a lawsuit to prevent the location and siting of that facility. There is a temporary restraining order for that particular site, and I am currently awaiting the decision of Supreme Court Justice Joseph Golia for his decision. And while that decision is pending, he has urged both sides to engage in possible remedies so that it should not be necessary for him to render this

decision.

So again, I commend the Governor on this nomination. And I commend to you, with your background of expertise, to be involved in this new process. I know you're the new man on the block, and this is your first challenge. And I will do everything that I possibly can to work with you to accomplish these facts.

And again, congratulations.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. I rise to support this nomination.

Joe Seymour took over one of the toughest agencies to operate, in my judgement, in the State of New York, one that was under many times criticism and so forth. And he ran it beautifully well, without criticism, and particularly all the work that he did with the Schenectady -- trying to get all of those people on the same page. I'm terribly grateful to him and very, very proud of the job that he's done.

And let me just say this, as a

great supporter of our Governor and a close confidant, I know that he is appreciative of all that you've done for the State of New York. Joe, we wish you well in your new assignment. I know that this is an area, particularly in the area of power, that is a national crisis, if not international.

And we wish you well, and I know that you're going to do a great job with the Power Authority. All the best to you, Joe.

ACTING PRESIDENT MARCELLINO: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President.

I rise to echo the comments that my colleague Senator Onorato made as they pertain to a particularly potentially harmful situation that's going on right now in our home borough.

And I brought this issue up during the Finance Committee hearing on this nominee, and I have every expectation that Mr. Seymour will be a terrific NYPA trustee. And should he be elevated to the chair of NYPA, he will be in an even more impressive position to

impact the quality of life and the quality of economic development in Queens.

Senator Onorato is a hundred percent on the money when he suggests that the siting of one of NYPA's temporary generating facilities is absolutely misguided. And we'll be the first to tell you that we recognize the need for additional generating capacity in New York City, and particularly the short-term generating capacity which we need by this summer to prevent rolling brownouts and blackouts.

But you don't cut off your nose to spite your face. And to put this site in this particular location, in an area that's already overburdened -- not to mention the fact that we have been in a lengthy process to redevelop the Queens waterfront. And we know that directly because the plaintiffs, one of the plaintiffs in the lawsuit of Silvercup Studios, that they may not participate in an expansion of their facility as a consequence of the siting of this facility. You just don't do this.

Now compound the situation with the

fact that there are additional sites which have been offered, and Senator Onorato referred to them. So this is not just a case of NIMBY. This is not a "not in my back yard" situation.

And, furthermore, Senator Schumer has suggested that he can secure federal funding to incur additional costs, should they be necessary, in order to locate this plant on an additional site.

And, finally, I have not heard any evidence that the failure to site this one 44-megawatt facility by this June would lead to catastrophic shortages of power this summer in the City of New York.

This is a situation where unfortunately we have to litigate it, and there are some burdens in terms of putting up a bond in order to prevent the construction from moving forward. And it's going forward right now. But this is one of those situations that NYPA really needs to reconsider this and do it immediately, because we're hurting ourselves.

There's no reason to do this

generator in this site. We've got other sites, better sites, that will provide us with the requisite power we need and at the same time not compromise the residential neighborhoods in that location and not compromise the nice momentum that we've built up in the development of the Queens waterfront -- which is not just commercial development, but it's residential development working in concert with each other. We're making progress finally, after years and years, in that location, and this threatens to hamper that progress.

So I wish Mr. Seymour great luck in his new endeavor and strongly urge him to take a look at the new sites that have been proposed for this generating facility. And with that in mind, that NYPA should reconsider and just stop their momentum to put this site there. This will be a wise public policy decision, and one in which I think all parties agree that the folks who are advocating not putting the site here are not just saying we don't want it in our back yard, they're saying it doesn't make sense to put it in our back

yard, here are the 15 reasons why.

So I wish the nominee luck, and I am sure, after this thorough airing of the issue, that he will take this back to other trustees. And should he be elevated into a capacity where he can directly influence the process, we trust he will give this a thorough airing.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Stavisky.

SENATOR STAVISKY: Very briefly, Mr. President. I too wish to echo what my colleagues have said.

This is a remarkable piece of property along the East River, along the shore front. And to have an inappropriate power plant would be economic disaster, both for Silvercup and for the other potential developers of the shore front property.

Nobody underestimates the need for power plants. Others have been suggested. And I certainly hope that the Power Authority members will take into consideration the needs of the community as expressed by Senator

Onorato and Senator Hevesi. And I am optimistic that the message will be heard and that something will be done.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you.

Senator Stafford, can we move the nomination.

SENATOR STAFFORD: It's a pleasure to move the nomination.

ACTING PRESIDENT MARCELLINO: Thank you. The question is on the nomination of Joseph J. Seymour, of Glenmont, as a trustee of the Power Authority of New York. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The nomination is approved.

(Applause.)

ACTING PRESIDENT MARCELLINO: Mr. Seymour is joined by his wife, Susan.

And we wish you well in your

endeavors, sir.

The Secretary will read.

THE SECRETARY: As a member of the Workers' Compensation Board, Mona A. Bargnesi, Esquire, of Snyder.

ACTING PRESIDENT MARCELLINO: Senator Stafford.

SENATOR STAFFORD: Mr. President, it certainly is a pleasure to move this very fine nomination. And before I move this good, excellent nomination, I have to mention -- Joe Seymour is just leaving. I wouldn't want him to leave without my mentioning what a tremendous nomination his is. And we certainly do wish him well.

Thank you so much.

And it's a pleasure to nominate or move the nomination of Mona Bargnesi, who has just a tremendous record. She graduated from one of the fine colleges in the nation, and she graduated from one of the fine law schools in the nation. She's had a tremendous experience in litigation. She in a very short time has proven her ability. She has worked for the Attorney General. And she also has

worked in the private sector.

The Governor, as has been mentioned earlier here, has made tremendous nominations. He certainly has. And I have said it before, and I'll say it again. These two nominations that we're considering, Joe Seymour and Mona Bargnesi, are the type of excellent nominations, excellent individuals - dedicated individuals, capable individuals - that have proven that they're going to do a fine job. It is a pleasure to move the nomination.

ACTING PRESIDENT MARCELLINO: Senator Volker.

SENATOR VOLKER: Mr. President, I just want to also second the nomination of Mona Bargnesi.

She's actually a resident of Senator Rath's district. Senator Rath is now down -- I believe over in wherever it is that they're doing the conference committee on women's issues and wellness. And so she couldn't be here, but she asked me to speak in Mona's behalf.

As Senator Stafford said, she is an

excellent attorney and former Assistant Attorney General, has a great background - she's also fluent in Spanish and French, which could be useful in some cases on the Workers' Compensation Board. She has an excellent education background. And I know that she'll make an excellent member of the Workers' Compensation Board.

And I congratulate the Governor for the nomination.

ACTING PRESIDENT MARCELLINO: The question is on the confirmation of Mona Bargnesi, Esquire, as a member of the Workers' Compensation Board. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The nomination is confirmed.

Ms. Bargnesi, we wish you well in your endeavors for the people of the State of New York. Congratulations.

(Applause.)

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could turn to motions and resolutions, I believe there's a privileged resolution at the desk by Senator Seward. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MARCELLINO: We'll return to motions and resolutions.

The Secretary will read the privileged resolution of Senator Seward.

THE SECRETARY: By Senator Seward, Legislative Resolution commending Alexis Saba upon the occasion of her designation as a Distinguished Finalist in the Sixth Annual Prudential "Spirit of Community" Awards program.

ACTING PRESIDENT MARCELLINO: All in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The

ayes have it. The resolution is passed.

Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: No, Senator, the desk is clean.

SENATOR SKELOS: There being no further business, I move we adjourn until Monday, March 5th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MARCELLINO: There being no further business before the Senate, the motion is to adjourn until Monday, March 5th, at 3:00 p.m., intervening days being legislative days.

The Senate is adjourned.

(Whereupon, at 12:51 p.m., the Senate adjourned.)