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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 31, 2005

3:17 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

1 P R O C E E D I N G S

2 THE PRESIDENT: The Senate will
3 please come to order.

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

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

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

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

14 THE PRESIDENT: Reading of the
15 Journal.

16 THE SECRETARY: In Senate,
17 Friday, January 28, the Senate met pursuant to
18 adjournment. The Journal of Thursday,
19 January 27, was read and approved. On motion,
20 Senate adjourned.

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

24 Presentation of petitions.

25 Messages from the Assembly.

1 Messages from the Governor.
2 Reports of standing committees.
3 Reports of select committees.
4 Communications and reports from
5 state officers.

6 Motions and resolutions.

7 Senator Farley.

8 SENATOR FARLEY: Thank you, Madam
9 President.

10 On behalf of Senator Maltese, I
11 move that the following bill be discharged
12 from its respective committee and be
13 recommitted with instructions to strike the
14 enacting clause: Senate Print 574.

15 THE PRESIDENT: So ordered.

16 Senator Skelos.

17 SENATOR SKELOS: Madam President,
18 can we have the title read on Resolution 292,
19 by Senator Morahan, and move for its immediate
20 adoption.

21 THE PRESIDENT: The Secretary
22 will read.

23 THE SECRETARY: By Senator
24 Morahan, Legislative Resolution Number 292,
25 honoring Sister Marie Callahan for her 75

1 years of service as a Dominican Sister.

2 THE PRESIDENT: All in favor
3 please signify by saying aye.

4 (Response of "Aye.")

5 THE PRESIDENT: Opposed, nay.

6 (No response.)

7 THE PRESIDENT: The resolution is
8 adopted.

9 Senator Skelos.

10 SENATOR SKELOS: Madam President,
11 there's a privileged resolution, 293, by
12 Senator Balboni. Could we have the resolution
13 read in its entirety and move for its
14 immediate adoption.

15 THE PRESIDENT: The Secretary
16 will read.

17 THE SECRETARY: By Senator
18 Balboni, Legislative Resolution Number 293,
19 honoring the members of the New York State
20 National Guard who provided security during
21 the elections in Iraq on Sunday, January 30,
22 2005.

23 "WHEREAS, Members of the Armed
24 Services from the State of New York who have
25 served so faithfully and courageously in wars

1 in which our nation's freedom was at stake, as
2 well as in the preservation of peace during
3 peacetime, deserve a special salute from this
4 Legislative Body; and

5 "WHEREAS, The dedication and
6 sacrifice of our military personnel ensure our
7 continued role as a nation which embodies the
8 ideals of democracy and is a defender of
9 liberty for peoples throughout the world; and

10 "WHEREAS, This Legislative Body is
11 justly proud to honor the members of the
12 New York State National Guard who provided
13 security during the elections in Iraq on
14 Sunday, January 30, 2005; and

15 "WHEREAS, There are 5,135 members
16 of New York State's National Guard who have
17 been called to serve in Iraq; and

18 "WHEREAS, Approximately 4,000 of
19 those New York National Guard members are
20 providing protection to Iraqi civilians in
21 their communities; and

22 "WHEREAS, On January 30, 2005,
23 those brave New York National Guard members
24 helped to keep order during the first truly
25 free election in Iraq in half a century; and

1 "WHEREAS, It is estimated that
2 60 percent of the 14 million eligible Iraqis
3 voted in those elections, and the commanding
4 presence of those New York National Guard
5 members minimized the number of casualties in
6 this region torn by daily violence; and

7 "WHEREAS, Those New York National
8 Guard members also provide training to Iraqi
9 security forces dedicated to a peaceful and
10 free Iraq; and

11 "WHEREAS, All New York National
12 Guard members who served or are serving in
13 Iraq contribute to the ongoing quest for
14 stability; now, therefore, be it

15 "RESOLVED, That this Legislative
16 Body pause in its deliberations to honor the
17 members of the New York State National Guard
18 who provided security during the elections in
19 Iraq on Sunday, January 30, 2005, and to
20 commend those individuals from New York for
21 their role in promoting worldwide democracy;
22 and be it further

23 "RESOLVED, That a copy of this
24 resolution, suitably engrossed, be transmitted
25 to Major General Thomas P. Maguire, Jr.,

1 Adjutant General of New York."

2 THE PRESIDENT: Senator Balboni.

3 SENATOR BALBONI: Madam

4 President, in America we search for things
5 that we can agree with, and -- at least we
6 ought to be. And so oftentimes we talk about
7 democracy, but only in this country.

8 Today is a very historic day,
9 following one of the most historic days in the
10 history of the Middle East. America has met
11 its promise of taking its resources, its most
12 valuable and precious resources, and using
13 them to bring democracy -- not just in word,
14 but in deed -- to the Middle East.

15 Free elections were held yesterday
16 in Iraq for the first time in 50 years. Fifty
17 years. And the reason why they occurred --
18 obviously because of the Iraqi people, but
19 because 4,000 of our fellow residents of this
20 state put their life in harm's way to provide
21 security for that election.

22 The numbers that are coming in are
23 still a little sketchy, but it's estimated to
24 be close to 60 percent of the country's
25 eligible population voted. That is

1 extraordinary. And particularly when you
2 consider the run-up to the election, everybody
3 saying this was going to be a disaster, you
4 ought to delay it, you ought to postpone it,
5 there can't be security, we ought to bow to
6 the terrorists. After all, we know what they
7 want. They don't really want freedom. They
8 can't understand freedom.

9 Of course they understand freedom.
10 And what we've seen is they understand freedom
11 perhaps as passionately or more passionately
12 than we do. How would Americans react if we
13 had to go to the polls under the gun, with the
14 threat of violence and death? Would we go in
15 60 percent numbers? But in part that happened
16 because of the men and women who are serving
17 in the volunteer armed forces today, making
18 that sacrifice.

19 As chair of the Military Affairs
20 Committee, I've never been more proud, because
21 this is something you can't argue with.
22 Whether you believe Iraq was right or Iraq was
23 wrong, what you can say is giving people the
24 right to vote and providing them with the
25 security necessary to exercise that franchise

1 is the greatest gift we can give as a
2 democracy. And it is because of the blood,
3 sweat, and tears of our neighbors and our
4 constituents that we are able to do this.

5 Thank you, Madam President.

6 THE PRESIDENT: Senator Larkin.

7 SENATOR LARKIN: Thank you, Madam
8 President. Please excuse my voice.

9 You know, Senator Balboni said it
10 very clearly. New Yorkers have over 4,000
11 troops in Iraq. Probably, since the beginning
12 of the event, closer to 6,000. We talk about
13 the opportunity to vote for the first time in
14 50 years. We talk about a constitution. I
15 think we ought to take a moment and go back in
16 history.

17 In May of 1945, the Germans
18 surrendered in Europe. It took us 4½ years to
19 get a constitution and an organized body in
20 Germany. On September 2, 1945, on the U.S.
21 Missouri, the Japanese surrendered. It took
22 us four years to get the Japanese government
23 in place.

24 Now, we talk about all of the
25 insurgents that went on. I don't know about

1 anybody else in this room, but I know I went
2 from the Pacific to Japan, and while in Japan
3 our units were bombarded many, many nights,
4 many, many days. Our losses were minimal, but
5 our property losses were great.

6 We are very fortunate; the people
7 that are in Iraq are all volunteers. Now,
8 I've heard people say they didn't volunteer to
9 go there or volunteer to do this, that or the
10 other. You know, last week I talked to two
11 Army colonels back from Iraq. It's very clear
12 that reenlistments are in the 90s, very clear
13 that these servicemen and women asked to be
14 part of the armed forces. And being part of
15 the armed services is serving where your
16 country sends you.

17 It's a proud profession. I'm very
18 proud. And we ought to be very proud of what
19 they've accomplished. Yesterday, that vote,
20 they did everything.

21 All the external people did
22 everything they could to tear that vote down.
23 And what happened? We were successful. We
24 were successful because the Iraqi people, not
25 only in Iraq, but in other parts of the world,

1 wanted to show that they wanted freedom.

2 You know, if we don't have freedom
3 there, we won't have freedom here. I've said
4 it time and time again, I'd rather fight in
5 Baghdad than in New York.

6 And when I hear people talk about
7 combat, what bothers me the most is those who
8 talk about it have never been in combat. Our
9 Majority Leader, Senator Bruno, fought in the
10 35th Infantry Regiment in Korea. John Marchi
11 was in it. Cesar Trunzo. And I'm very proud
12 that I was.

13 But we should be very proud of what
14 our men and women did, because they stood up.
15 They were a part of the new generation to
16 embrace the world with freedom.

17 THE PRESIDENT: Senator Padavan.

18 SENATOR PADAVAN: Thank you,
19 Madam President.

20 I'd like to associate myself with
21 the comments made by the previous two speakers
22 and thank Senator Balboni for introducing this
23 resolution. However, I would add something to
24 it.

25 Along with the National Guard,

1 there are thousands of Army Reservists
2 stationed in units throughout New York State
3 who have been activated and are now in Iraq.
4 I've attended various ceremonies of these
5 units as they were leaving at Fort Totten, as
6 an example, the headquarters of the 77th
7 Reserve Command. And I stood there and
8 watched them say goodbye to their families,
9 their children, their parents, others that
10 they knew as they left, departed for Iraq.

11 Among those who were activated is a
12 unit that I served in and commanded many years
13 ago, the 411th Engineer Brigade. And that's
14 the second time for them, because they were
15 also activated during the Gulf War.

16 And you probably don't remember,
17 but Senator Bonacic introduced a resolution
18 here last session, late last session, on
19 behalf of one of the members of that unit who
20 lost his life there.

21 So in addition to the National
22 Guard, whom we can be very proud of, we should
23 also be aware that there are equal numbers of
24 federal Army Reservists serving in Iraq doing
25 a fantastic job -- medical units, supply

1 units, transportation units, engineering units
2 of all kinds are doing what they were trained
3 to do. And in thinking about our Guard, we
4 should also think about them.

5 THE PRESIDENT: On the
6 resolution, all those in favor please signify
7 by saying aye.

8 (Response of "Aye.")

9 THE PRESIDENT: Opposed, nay.

10 (No response.)

11 THE PRESIDENT: The resolution is
12 adopted.

13 Senator Skelos.

14 SENATOR SKELOS: Madam President,
15 I believe Senator Balboni wants to open it for
16 cosponsorship. If anybody wishes not to
17 sponsor it, they should notify the desk.

18 THE PRESIDENT: Any member who
19 does not want to sponsor the last resolution
20 please notify the desk.

21 Senator Skelos.

22 SENATOR SKELOS: Madam President,
23 if we could go to the noncontroversial reading
24 of the calendar.

25 THE PRESIDENT: The Secretary

1 will read.

2 THE SECRETARY: Calendar Number
3 4, by Senator Skelos, Senate Print 85 --

4 SENATOR SKELOS: Lay it aside for
5 the day.

6 ACTING PRESIDENT MORAHAN: The
7 bill is laid aside for the day.

8 THE SECRETARY: Calendar Number
9 7, by Senator McGee, Senate Print 752, an act
10 to amend the Tax Law.

11 ACTING PRESIDENT MORAHAN: There
12 is a local fiscal impact note at the desk.

13 The Secretary will read the last
14 section.

15 THE SECRETARY: Section 7. This
16 act shall take effect immediately.

17 ACTING PRESIDENT MORAHAN: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT MORAHAN:
21 Announce the results.

22 THE SECRETARY: Ayes, 57.

23 ACTING PRESIDENT MORAHAN: The
24 bill is passed.

25 Senator, that completes the reading

1 of the noncontroversial calendar.

2 SENATOR SKELOS: Mr. President,
3 is there any further business at the desk?

4 ACTING PRESIDENT MORAHAN: No
5 further business at the desk.

6 SENATOR SKELOS: Then on behalf
7 of Senator Bruno, in consultation with
8 Minority Leader Paterson, I hand up the
9 following Minority committee assignments and
10 ask that they be filed at the desk with the
11 Clerk.

12 ACTING PRESIDENT MORAHAN: They
13 will be received and filed in the Journal,
14 Senator.

15 SENATOR SKELOS: There being no
16 further business to come before the Senate, I
17 move we stand adjourned until Tuesday,
18 February 1st, at 3:00 p.m.

19 Before we adjourn, there will be an
20 immediate meeting of the Rules Committee in
21 the Majority Conference Room.

22 ACTING PRESIDENT MORAHAN: Okay,
23 first there's going to be an immediate meeting
24 of the Rules Committee in the Majority
25 Conference Room.

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On motion, the Senate stands
adjourned until Tuesday, February 1st,
3:00 p.m.

(Whereupon, at 3:33 p.m., the
Senate adjourned.)