NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 7, 2005

3:11 p.m.

REGULAR SESSION

SENATOR JAMES L. SEWARD, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT SEWARD: The Senate will come to order.

And 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.)

ACTING PRESIDENT SEWARD: The invocation today will be given by the Reverend Peter G. Young, of the Blessed Sacrament Church in Bolton Landing.

REVEREND YOUNG: Thank you, Senator.

Let us pray.

God has given us many different gifts, but it is always Your spirit, O God, that is there to guide our many different ways of serving in this Senate chamber. It is always to you, O God, that You have granted us and granted them to be used for the good of our New York State citizens.

God has gifted each member of this great power of this Senate of New York State a unique potential to help their constituents.

Let us take a moment to thank God for their talents and their skills.

God, we thank You for these gifts that You have put in this body, unique to each Senator. Let us rejoice in You, O God, who have made us this dedicated group.

And we pray too, especially today, for our troops in Iraq and for those places where they're serving our country.

We ask You this now and forever. Amen.

ACTING PRESIDENT SEWARD: Thank you.

The reading of the Journal.

THE SECRETARY: In Senate, Friday, February 4, the Senate met pursuant to adjournment. The Journal of Thursday, February 3, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe I have a resolution at the desk. I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT SEWARD: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 365, honoring Sergeant Kenneth F. Comstock, Sergeant Robert C. Hemsing, Jr., and Staff Sergeant Robert J. Griffin upon the occasion of receiving the Purple Heart Medal from Governor George E. Pataki on February 7, 2005.

"WHEREAS, The courage and bravery of our military personnel since the United States Armed Forces commenced Operation Iraqi Freedom will ensure our continued role as a nation which embodies the ideals of democracy and as a defender of liberty for people

throughout the world; and

"WHEREAS, Members of the Armed Forces from the State of New York, who have served so valiantly and honorably during Operation Iraqi Freedom deserve a special tribute from this Legislative Body; and

"WHEREAS, This Legislative Body is justly proud to honor Sergeant Kenneth F. Comstock, Sergeant Robert C. Hemsing, Jr., and Staff Sergeant Robert J. Griffin upon the occasion of receiving the Purple Heart Medal from Governor George E. Pataki at a ceremony held at the State of New York Division of Military and Naval Affairs in Latham, New York, on Monday, February 7, 2005; and

"WHEREAS, The Purple Heart Medal is the oldest military decoration in the world in present use and is awarded in the name of the President of the United States to members of the United States military who have been wounded or killed in action. It was created by General George Washington as a way to honor and thank the brave soldiers who fought under his command for the independence of our great nation; and

"WHEREAS, A member of C Company, 2nd Battalion, 108th Infantry Regiment based in Glens Falls, New York, Sergeant Kenneth F. Comstock of Ballston Spa, New York, joined the New York State Army Reserve National Guard on July 27, 2000; and

"WHEREAS, Sergeant Kenneth F. Comstock has been the recipient of a multitude of awards and certificates of recognition, acknowledging his efforts of in-depth magnitude, including the New York State Defense of Liberty Medal with WTC Device, the Army Service Ribbon, the National Defense Service Medal, the Army Achievement Medal (2nd Award), the Global War on Terrorism Service Medal, the Global War on Terrorism Expeditionary Medal, and the Combat Infantryman's Badge; and

"WHEREAS, A member of C Company, 2nd Battalion, 108th Regiment based in Glens Falls, New York, Sergeant Robert C. Hemsing, Jr., of South Glens Falls, New York, joined the New York State Army Reserve National Guard on May 24, 2000; and

"WHEREAS, Sergeant Robert C.

Hemsing, Jr., has been the recipient of a multitude of awards, honors and certificates of recognition, acknowledging his efforts of in-depth magnitude, including the New York State Defense of Liberty Medal, the Army Service Ribbon, the National Defense Service Medal, the Army Achievement Medal, the Global War on Terrorism Service Medal, the Global War on Terrorism Expeditionary Medal, and the Combat Infantryman's Badge; and

"WHEREAS, A member of the 105th Military Police Company, 53rd Troop Command, Staff Sergeant Robert J. Griffin of Albany, New York, joined the New York State Army Reserve National Guard on July 16, 1992; and

"WHEREAS, Staff Sergeant Robert J. Griffin has been the recipient of a multitude of awards, honors and certificates of recognition, acknowledging his efforts of in-depth magnitude, including the New York State Aid to Civil Authority (3rd Award), the New York State Medal for Humane Service, the New York State Military Commendation Medal, the Medal for Merit, the New York State Defense of Liberty with WTC Device, the Army

Service Ribbon, the National Defense Service Medal, the Noncommissioned Officer Professional Development Ribbon, the Humanitarian Service Medal, the Army Reserve Component Achievement Medal, the Global War on Terrorism Service Medal, and the Global War on Terrorism Expeditionary Medal; and

"WHEREAS, The banner of freedom will always wave over our beloved New York and all of America, the Land of the Free and the Home of the Brave; and

"WHEREAS, Residents of this great state must never forget the courage with which these men and women served their country and must recognize that no greater debt is owed than that owed to those who gave their lives for their beloved Nation and to those who continue to be missing in action; and

"WHEREAS, The freedoms and security we cherish as Americans come at a very high price for those serving in the military in times of conflict. It is fitting and proper that we, who are the beneficiaries of those who risk their lives, leaving their families behind, express our appreciation and eternal

gratitude for their sacrifices and courageous acts; now, therefore, be it

"RESOLVED, that this Legislative Body pause in its deliberations to honor Sergeant Kenneth F. Comstock, Sergeant Robert C. Hemsing, Jr., and Staff Sergeant Robert J. Griffin upon the occasion of receiving the Purple Heart Medal from Governor George E. Pataki on February 7, 2005; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Sergeant Kenneth F. Comstock, Sergeant Robert C. Hemsing, Jr., and Staff Sergeant Robert J. Griffin."

ACTING PRESIDENT SEWARD: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

You know, we're humbled here in this chamber as we hear a chronicle of three of the so many that have been wounded in Iraq. Three local soldiers who separated from their families, separated from their lives, go over to defend us and the entire free world. And they get hurt, and they get hurt badly. Many

of those recognize that they can be killed, not just injured.

Ken Comstock, that you just heard of, used to be in my district. And he went over -- got out of high school, went over, a Humvee blew up, 500 hundred fractures in his skull. And he's been reconstructed.

He was one of those of so many that in your districts in this state, throughout this country, are there while we deliberate, while we lead our daily lives, so that we can do that, our families can do that and their families.

And when you talk to these soldiers, you talk to these people in the armed forces, they do it gladly, they do it willingly. We had a free election there in Iraq. And they understand that what they're fighting for is freedom, freedom here in the United States, freedom with the free world who are partners in this constant struggle.

So we're honored that we could recognize these young gentlemen. And they are hearing this as it is read, this resolution, which will be part of the records here in the

Senate. And we wish them good health, and we wish them only the very best and thank them from the bottom of our hearts. God bless them all, and all the people who serve in the armed forces.

Thank you Mr. President.

ACTING PRESIDENT SEWARD: Are there any other Senators that wish to be recognized on this resolution?

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I had the privilege this morning of standing among these three American heroes and the to witness them being pinned with the Purple Heart. And it was such an honor and privilege and something that I will never forget.

I think the thing that struck me the most is here are three men who have severe injuries -- one to the head, one had a severe hand injuries, leg injuries. They've had months of rehabilitation. But the thing that was most impressive was their pride in being part of the National Guard, of being in their

uniform, of standing there, of knowing what they had done and what they had witnessed in Iraq and what had happened as a result of it with the elections that took place last week.

Their families were there. The relief and join in the face of their families is something that's unbelievable. And I gave greetings and thanks and gratitude from the entire Senate.

But it was a privilege, and I'm sure that we all thank them for everything that they've done and continue to keep in our prayers and good wishes all of those who continue to serve in Iraq.

Thank you.

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

(Response of "Aye.")

ACTING PRESIDENT SEWARD: Opposed, nay.

(No response.)

ACTING PRESIDENT SEWARD: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we open this resolution for cosponsorship to everyone that's in this chamber.

Anyone electing not to join, would you please notify the desk at your convenience. And thank you.

Thank you, Mr. President.

And while I'm on my feet, I would like to, with unanimous consent, take the pleasure of introducing to you a visitor for the first time here in Albany and this chamber, an ally, a partner here of the United States and of the free world, the Consul-General of the U.K., United Kingdom, Sir Philip Thomas, who joins us here today.

And Sir Philip has served the British Consulate for over 30 years. He has the responsibility of presently throughout the whole Northeast, and recognizing about 14 different entities that operate on behalf of the U.K. and the United States in partnership.

Sir Philip's responsibility relates to trade between the United States and Britain and investments in the United States and Britain. That's an awesome responsibility.

And it's interesting for to us note here in New York that in New York the largest investors here in New York are in the U.K. and the largest investors in the U.K. are from New York.

So we appreciate your visit. We appreciate, Sir Philip, the good work that you do. And we especially appreciate the partnership that we have had with you and all of the people in the United Kingdom as you join us in the struggles throughout the world, over the decades and in the centuries past. You have been good partners. And economic development opportunities to earn are really the backbone of your country and our country.

So we continue a partnership. We thank you for your visit. And we hope that this will be one of many. Because this is a great place, this capital of the Empire State, and it is wide and varied in terms of all the good things that take place here.

So we invite you not just to this chamber and through the Capitol, but to really visit here in upstate with us. Thank you for honoring us with your presence.

Sir Philip Thomas, Mr. President.

(Standing ovation.)

ACTING PRESIDENT SEWARD: Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a privileged resolution, 363, by Senator Larkin. Could we have it read in its entirety and move for its immediate adoption.

ACTING PRESIDENT SEWARD: The Secretary will read.

THE SECRETARY: By Senators Larkin, Bruno and Balboni, Legislative Resolution Number 363, commemorating National Salute to Hospitalized Veterans Week.

"WHEREAS, It is the sense of this Legislative Body that those who give positive definition to the profile and disposition of our American manner do so profoundly strengthen our shared commitment to the exercise of freedom; and

"WHEREAS, Attendant to such concern, and fully in accord with its long-standing traditions, this Legislative Body is justly proud to commemorate National

Salute to Hospitalized Veterans Week; and

"WHEREAS, National Salute to Hospitalized Veterans Week will be celebrated from February 13 through 19, 2005. This is a time to show support to the men and women who have honorably served our country and borne the battle in defending freedom, not only at home but throughout the world; and

"WHEREAS, The purpose of the National Salute to Hospitalized Veterans Week is to pay tribute and express appreciation to hospitalized veterans, increase community awareness of the role of the VA medical center, and encourage citizens to visit hospitalized veterans and to become involved as volunteers; and

"WHEREAS, Each year, the week of February 14 is an opportunity to say thank you to a special group of men and women, more than 98,000 veterans of the United States Armed Services who are cared for every day in Department of Veterans Affairs medical centers, outpatient clinics, domiciliaries and nursing homes; and

"WHEREAS, During National Salute to

Hospitalized Veterans Week, the Department of Veterans Affairs invites individuals, veterans groups, military personnel, civic organizations, businesses, schools, local media, celebrities and sports stars to participate in a variety of activities at the VA medical centers, including special ward visits and Valentine distributions, photo opportunities, school essay contests, special recreation activities and veteran recognition programs; and

"WHEREAS, National Salute to Hospitalized Veterans Week is a living testament to an indomitable heritage. From its broad base of compassionate concern and responsible endeavor, there yet emanate the current of valiant tradition and the irrepressible tide of freedom; and

"WHEREAS, Through its avowed commitment to the veterans of our Nation, those who volunteer at our Nation's veterans medical centers have so demonstrably advanced that spirit of united purpose and shared concern which is the unalterable manifestation of our American experience; now, therefore, be

it

"RESOLVED, That this Legislative Body pause in its deliberations and most proudly commemorate National Salute to Hospitalized Veterans Week, fully confident that such procedure mirrors our shared commitment to preserve, to enhance and to yet effect that patrimony of freedom which is our American heritage; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Department of Veterans Affairs, VA Health Care Systems and VA Medical Centers throughout the State of New York."

ACTING PRESIDENT SEWARD: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, each year the third week in February is set aside to honor veterans hospitalized. You know, we have 98,000 veterans across this country in nursing homes within the VA installations.

A good example of the appreciation was shown last night during the commercials on

the Super Bowl. It showed there a picture of combat veterans, men and women, coming off an aircraft. And a small round of applause, and very shortly it was big, everybody standing, showing appreciation to those who have rendered service in combat for their country.

But, you know, the purpose of this resolution isn't just to pass something out. It's truly to say to some of our members, men and women from the Army, Navy, Air Force, Active Reserves, how much we appreciate for what they do.

You don't have to be in combat to appreciate them. You need to go to a veterans hospital and see some of the men and women that are there that have made a sacrifice for you and I.

And what I think is this salute is very important. Because it says it all, that we're here, safe, because you made a sacrifice for us.

Thank you, Mr. President.

ACTING PRESIDENT SEWARD: Are there any other Senators that wish to be heard on this resolution?

Hearing none, the question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SEWARD: Opposed, nay.

(No response.)

ACTING PRESIDENT SEWARD: The resolution is adopted.

Senator Larkin.

SENATOR LARKIN: Can we open it up for everyone.

ACTING PRESIDENT SEWARD: Certainly.

Senator Skelos.

SENATOR SKELOS: If a member does not wish to sponsor it, they should notify the desk.

ACTING PRESIDENT SEWARD: Any member who does not wish to cosponsor the resolution should notify the desk.

Senator Skelos.

SENATOR SKELOS: At this time if you could take up Privileged Resolution 335, by Senator Montgomery, have it read in its

entirety, and move for its immediate adoption.

ACTING PRESIDENT SEWARD: The Secretary will read.

THE SECRETARY: By Senator Montgomery, Legislative Resolution Number 335, memorializing Governor George E. Pataki to proclaim February 2005 as Black History Month in the State of New York.

"WHEREAS, In recognition of the rich and diverse contributions of African Americans, a joyful month-long celebration is held each February across New York State and across America to pay tribute to our African American brothers and sisters; and

"WHEREAS, The idea for an observance honoring the accomplishment of African Americans was proposed by Dr. Carter G. Woodson, the founder of the Association for the Study of African American Life and History, and known as the Father of Black History; and

"WHEREAS, In 1926, Dr. Carter G. Woodson chose the second week in February to observe Negro History Week because it included the birthdays of Frederick Douglass and

Abraham Lincoln; and

"WHEREAS, During the early 1970s, Negro History Week became known as Black History Week, and in 1976 the week-long observance was extended to the entire month of February, in order to have enough time for celebratory programs and activities, and established as Black History Month; and

"WHEREAS, Holding Black History Month during February is especially significant due to the large number of notable contributions to black history that occurred during this month over the years; and

"WHEREAS, Jefferson Franklin Long became the first black person to speak in the House of Representatives as a congressman, 1871. Black college students staged a sit-in at a segregated lunch counter in Greensboro, North Carolina, beginning the first of the historic sit-ins of the 1960s. Ida B. Wells, reformer who first gathered statistical records on lynching in the U.S., commemorated on a postage stamp, 1990. Ernest E. Just, biologist, received the Spingarn Medal for pioneering research on fertilization and cell

division, 1914. The 15th Amendment, providing for black suffrage, ratified 1870. Jack Johnson, first black heavyweight champion, won the 'Negro Heavyweight Title,' 1903. The 24th Amendment, abolishing the poll tax, ratified 1864. Avowed white supremacist Byron de la Beckwith is convicted of the Medgar Evers murder, more than 36 years after he was shot in the back from ambush, 1944. The Peabody Fund is established to promote black education in the South, 1867. Erwin C. Mollison appointed judge of the United States Customs Court by President Truman, 1945. Martin Luther King, Jr., meets with President Lyndon Johnson to discuss black voting rights, 1965. Leroy 'Satchel' Paige elected to the Baseball Hall of fame, 1971. Bernard Harris, first black astronaut to take a spacewalk, dedicating it to the achievements of all African Americans, 1995. Andrew Brimmer is appointed the first black person to serve on the Federal Reserve Board, 1966. Clifford Alexander, Jr., becomes the first black Secretary of the Army, 1977. Nelson Mandela, South African American president and political

activist, released from prison after 27 years, 1990. NAACP founded after riot in Springfield, Illinois, 1909. John L. Searles becomes the first black member of the New York Stock Exchange, 1970. U.S. and African American nationalists protesting the slaying of Congo premier Patrice Lumumba disrupted U.N. session, 1961. Frederick Douglass elected president of Freedom Bank & Trust, 1857. W.E.B. Dubois organized the first Pan-African American Congress, 1919. Malcolm X assassinated, 1965. Adam Clayton Powell, Jr., activist and chairman of the House Committee on Education and Labor, denied his congressional seat, 1967. And Debi Thomas, figure skater, became the first black American to win a medal at the Winter Olympics, 1988; and

"WHEREAS, Black History Month is a time to reflect on the struggles and victories of African Americans throughout our country's history and to recognize their numerous valuable contributions to the protection of our democratic society in war and in peace; and

"WHEREAS, It is the sense of this Assembled Body to commend the African American community for preserving for future generations its centuries-old traditions that benefit us all and add to the color and beauty of the tapestry which is our American society; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor George E. Pataki to proclaim February 2005 as Black History Month in the State of New York; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to The Honorable George E. Pataki, Governor of the State of New York."

ACTING PRESIDENT SEWARD: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Thank you very much.

And I want to thank my colleagues. I think everyone in the Legislature has already indicated that they would like to be a cosponsor. I am very appreciative of that.

This is a very important time to

reflect on this particular slice of American history for us. And thankfully we have this month designated to do that, but many of us think about it every day all year.

And for me, I celebrate seven generations of my own family. And I have been trying to trace the history of my family. It began for me, the knowledge that I have of it, when the members that I can identify, my great-great-grandparents, were born during slavery and my great-grandparents were essentially born just before slavery ended or immediately thereafter.

So it's significant, especially for me and I think probably for many, many people on both sides of the aisle and in many generations before and after, because this part of American history has very much to do with shaping America.

The Civil War was fought around the issue of slavery, and much of our political movement from that point forward, up until now, had to do with the issue of what do we do to equal -- to make America live up to the original dream of the people who wrote the

first Constitution. And that is, we should have equal opportunity for all people.

I appreciate the fact that we have a history to look back on. So many people have significant contributions to our country, many of them scientists and people who have discovered very important aspects of technology.

I think about Elijah McCoy, who was an engineer and an inventor and invented aspects of the lubrication of the steam engine, which makes it possible for our trains to work efficiently even until today.

From people who have been involved in politics, like Shirley Chisholm, our own hero of our own state, Shirley Chisholm, who was the first African American woman brave enough to run for president; Jackie Robinson and Wilma Rudolph; a number of people who have been involved in sports, in politics, in every aspect of American history and development.

Not to mention the fact that African Americans have played a very significant role in military service across the board and have shown absolutely unwavering

patriotism and loyalty to the American ideals. Even when they went away to fight and came back to face the harsh reality of unequal treatment in America, they still have maintained and remain extremely loyal to America.

In every aspect of our lives -- politically, economically, social -- we have been able to advance despite the fact that we, as African Americans, came to America as servants and served for hundreds of years without any pay and without being treated even as humans.

This is also, however, a time to reflect on the fact that there have been a number of people, especially white Americans -- European Americans, I should say -- who have been part and parcel of a struggle for freedom in every aspect, from the idea of the slave revolts right on up until today, when we still have a number of people who are totally committed, even though they are not African American, they remain totally committed to the concept and the idea that America should offer an equal opportunity to

all people.

So I'm grateful for a moment. I thank you for reading the resolution for us. And I thank all of my colleagues for signing on to cosponsor, most of them not African American Americans.

And I would certainly say that any of my colleagues who would like to be on -- just symbolically, it's very meaningful -- I would invite you to join me in this small celebration of the slice of America that is reflected in the African American community and contribution.

Thank you, Mr. President.

ACTING PRESIDENT SEWARD: Senator Marchi.

SENATOR MARCHI: I just want to congratulate the Senator for introducing this resolution. What it tells the whole world, it's a vehicle for a proclamation that we in this country are all members of the same family. And we're very proud of the fact that the members of this family come from the continents throughout the globe.

This is a message of civility.

This is a message of love. This is a message of the unity of the human family. And I'm very grateful, Senator, that you introduced this. And I believe that as many of us that can support this join in the hope that it augments the message that you are sending.

And I don't care whether they're in Australia or in South America or in Asia. Wherever they are, they should know that we have a very deep and respecting love and affection for the members of our community, as they come from the entire world.

So I think you've performed a very distinctive, highly American method and vehicle for us to join and tell the world just how we feel.

ACTING PRESIDENT SEWARD: Any other Senators wish to be heard on this resolution?

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

(Response of "Aye.")

ACTING PRESIDENT SEWARD: Opposed, nay.

(No response.)

ACTING PRESIDENT SEWARD: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if any member wishes not to sponsor it, they should notify the desk.

At this time there's a privileged resolution, 364, by Senator Volker. I ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT SEWARD: The Secretary will read.

THE SECRETARY: By Senator Volker, Legislative Resolution Number 364, commending Marine Corporal Mark P. O'Brien, who was severely wounded while giving our nation heroic military service during Operation Iraqi Freedom.

"WHEREAS, The courage and bravery of our military personnel since the United States Armed Forces commenced Operation Iraqi Freedom will ensure our continued role as a nation which embodies the ideals of democracy, and as a defender of liberty for people throughout the world; and

"WHEREAS, Members of the Armed Services from the State of New York who have served so valiantly and honorably during Operation Iraqi Freedom deserve a special salute from this Assembled Body; and

"WHEREAS, This Assembled Body is justly proud to commend Marine Corporal Mark P. O'Brien, who was severely wounded while giving our nation heroic military service during Operation Iraqi Freedom; and

"WHEREAS, Corporal Mark P. O'Brien, a former lacrosse star at Iroquois Central High School, was in his first semester studying criminal justice at Erie Community College when his best friend graduated from Marine boot camp in 2001. And that, coupled with the 9/11 tragedy, prompted him to join the United States Marine Corps; and

"WHEREAS, He is glad to have made this decision and is proud to have fought for Iraq's freedom. Above all else, he cherishes the friendships he made and has no regrets; and

"WHEREAS, Sunday, November 7, 2004, was a sunny, humid day in Ramadi, a provincial

capital in the insurgent-infested Sunni Triangle. Corporal Mark P. O'Brien and the other men of Golf Company, Second Battalion, Fifth Marine Regiment, could feel the danger all around them; and

"WHEREAS, This tour of duty seemed so different than their first tour of duty in Iraq in the spring of 2003, when Corporal O'Brien's unit swept up the Euphrates Valley toward Baghdad, encountering little resistance; and

"WHEREAS, As Corporal O'Brien and his comrades worked to clear a major supply route in Ramadi, they drove headlong into an ambush. He was in the lead car of a convoy of about 18 vehicles, sitting in back on the passenger side, when a roadside bomb went off; and

"WHEREAS, When the smoke cleared, Corporal O'Brien could see that the side road they were driving down, code-named 'Ice Cream,' was lined with explosives. His vehicle was not damaged, but the second one in the convoy was hit, and that brought the convoy to a complete halt; and

"WHEREAS, He was assigned to check out a nearby alleyway. And, as he peered through his rifle scope, he saw the enemy taking aim at him with a rocket-propelled grenade. Corporal O'Brien pulled the trigger, felt himself blasted back into the Humvee, and his world went white; and

"WHEREAS, Medic McDonnell, nicknamed 'Doc,' did more than comfort his friend, he saved Corporal O'Brien's life; and

"WHEREAS, Corporal O'Brien's spirit, character and strength, which will most certainly propel him back into the mainstream of life with the help of his family, especially his parents, Erie County Sheriff's Deputy David M. O'Brien and his wife, Gale; and

"WHEREAS, Corporal O'Brien chose Gunnery Sergeant William Bodette, Jr., his boot camp drill sergeant, to present Corporal O'Brien his Purple Heart because he feels a strong bond with the man who made him a Marine; and

"WHEREAS, The banner of freedom will forever wave over our beloved New York

State and all of America, the Land of the Free and the Home of the Brave, because of the devotion to duty and sacrifices made by young Americans like Corporal O'Brien, bravely serving our nation; and

"WHEREAS, Residents of this great State must never forget the courage with which these men and women served their country, and must recognize that no greater debt is owed than that owed to those who have died or suffered grievous wounds for their beloved nation, and to those who continue to be missing in action; and

"WHEREAS, The freedoms and security we cherish as Americans come at a very high price for those serving in the military in times of conflict. It is fitting and proper that we who are the beneficiaries of the courage of those who risked their lives, leaving their families behind, express our appreciation and eternal gratitude for their sacrifices and courageous acts; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commend

Marine Corporal Mark P. O'Brien, who was severely wounded while giving our nation heroic military service during Operation Iraqi Freedom; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Corporal Mark P. O'Brien."

ACTING PRESIDENT SEWARD: Senator Volker.

SENATOR VOLKER: Mr. President, very briefly.

I really did not know Corporal O'Brien. I know his family quite well. His father is a sheriff's deputy. Although in keeping, I guess, with my advancing age, his grandmother, Leona O'Brien, I've known for many, many years, who was the Democratic leader of the town of Marilla. An excellent, wonderful person, even though we were politically on different sides.

This young gentleman, by the way, has already spoken out. And like me, he believes the Iraqi freedom fight is really a fight that is keeping away from the terrorists from this country and they're all concentrated

over there, trying to prove what happens when America goes into places for freedom.

I think that the men and women of this country have never shown any more courage than they've shown in Iraq. And Mark is, as far as we're concerned in Western New York -- and we've lost a number of people -- is very representative of those people.

And we can say all we want about 9/11, but I want to warn everyone that many expected -- and Senator Balboni is to my left here, and we talked about that. We are very, very surprised there has not been another attack.

Personally, I am convinced if we were not in Iraq we would have been hit already. Because we're fighting a battle for freedom there whether we like it or not. And the United States of America is a country that's never going to be loved. And I think it was Teddy Roosevelt that said it: they'll always respect us, but they'll never love us.

But gentlemen like Mark O'Brien are the kind of people who make this country great.

And I would just like to say that obviously everybody is welcome to be on the resolution, with the usual understanding that if you don't wish to be on it, you can say no.

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

(Response of "Aye.")

ACTING PRESIDENT SEWARD: Opposed, nay.

(No response.)

ACTING PRESIDENT SEWARD: The resolution is adopted.

Senator Morahan.

SENATOR MORAHAN: Anyone not wishing to be on the resolution please notify the desk.

And I would assume that's the same with Senator Montgomery's resolution as well.

ACTING PRESIDENT SEWARD: In all cases, the resolutions will be open for cosponsorship. If you do not wish to be a cosponsor, please notify the desk.

Senator Morahan.

SENATOR MORAHAN: Could we return

now, Mr. President, to reports of standing committees. I believe there's a report from the Insurance Committee at the desk.

ACTING PRESIDENT SEWARD: The Secretary will read the reports of standing committees.

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

Senate Print 1815, by the Senate Committee on Rules, an act to amend the Insurance Law.

ACTING PRESIDENT SEWARD: So ordered to third reading.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Is there any housekeeping at the desk?

REVEREND YOUNG: There is no housekeeping.

SENATOR MORAHAN: Since there is no housekeeping at the desk, then I would move that the Senate stand adjourned until Tuesday, February 8th, at 3:00 p.m.

ACTING PRESIDENT SEWARD: On

motion, the Senate stands adjourned until Tuesday, February 8th, at 3:00 p.m.

(Whereupon, at 3:55 p.m., the Senate adjourned.)