NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

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4:07 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please 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: With us this afternoon to give the invocation is the Reverend Peter G. Young, from Blessed Sacrament Church in Bolton Landing, New York.

REVEREND YOUNG: Let us pray.

Dear God, as we enjoy today's unseasonably warm weather, we are all well aware of the change in the cold days ahead. As we prepare for the temperature change, we honor, in today's resolution for Rosa Parks, the courage to make and to spark the necessary social changes in our society for all citizens.

O God, we ask You to assist all those confirmed today to implement their responsibilities for the citizens of New York State. We ask You to give them, the

confirmandi, the energy, the integrity, and the good health to perform their legislative mandates as members of the Empire State leadership team.

O God, bless the members of this Senate body as they gather in this preholiday session in Your name.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, November 28, the Senate met pursuant to adjournment. The Journal of Sunday, November 27, was read and approved. On motion, Senate adjourned.

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

Senator Bruno.

SENATOR BRUNO: Madam President, can I ask for an immediate meeting of the Finance Committee in Room 130 of the LOB.

THE PRESIDENT: There will be an immediate meeting of the Finance Committee in Room 130 of the LOB.

Presentation of petitions.

I'm going to ask for order, please. Any conversations should be taken out of the room. Thank you.

Presentation of petitions.

Messages from the Assembly.

I'm going to wait for order, please, members. Thank you. We'll start again.

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: Madam President, I believe, under resolutions, that there is a special resolution at the desk by Senator Paterson. I would ask that it be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senators Paterson and Parker, Legislative Resolution Number 3027, commemorating the life and legacy of Rosa Louise McCauley Parks.

"WHEREAS, It is the practice of this Legislative Body to publicly take note of and acknowledge those rare individuals of exceptional character whose courage and moral fortitude changed for the better the course of our nation's history; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body shall pause to honor the contributions of a true American hero, the late Rosa Louise McCauley Parks; and

"WHEREAS, Activist, author, educator, mentor, public servant, recipient of the Congressional Medal of Honor, Rosa Parks was, without question, one of the most revered and significant humanitarians of her generation; and

"WHEREAS, Born into segregation deep in the Jim Crow South, Rosa Parks spent the next 92 years of her life standing for

freedom. This foremother of the civil rights movement died on October 24, 2005; and

"WHEREAS, Rosa Parks was a tiny woman -- small in stature, soft-spoken, humble -- who held a strength of conviction so powerful its force would be felt for decades to come; and

"WHEREAS, We have come to know well that historic day, 50 years ago, on the first of December, when Rosa Parks ignited a movement of justice through the utterance of one single word: no; and

"WHEREAS, When she said no, when she refused to relinquish her seat for a white passenger, she was saying no to unequal treatment, no to passive acceptance, no to racial hatred. In refusing to stand, Rosa Parks, in fact, rose up high over an oppressive regime; and

"WHEREAS, The resulting 381-day Montgomery Bus Boycott amounted to a movement of justice of such paramount importance, the likes of which had never been seen before; at personal sacrifice, and with extraordinary grace, Rosa Parks marched into battle against

Jim Crow and arose, eventually, triumphant; and

"WHEREAS, The year 2005 marks 50 years since the Montgomery Bus Boycott. It also chronicles the loss of Rosa Parks and a great number of other luminaries of the civil rights movement; and

"WHEREAS, This is a time for reflection and recommitment, a time to remember what Rosa Parks offered to us. Hers was a vision of pure democracy, of one nation where we stand together as equals, united in solidarity as citizens of this great United States; and

"WHEREAS, As we celebrate Rosa Parks's memory, let us pledge to aspire to live as honorable a life as she lived; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the life and legacy of Rosa Louise McCauley Parks."

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

Many years ago, Madam President, the first person invented fire. And although I think it's likely that they were burned at the stake that they taught their brothers and sisters to light, nonetheless, they offered the world a gift that had never been perceived and forever lifted darkness from the face of the earth.

Throughout the centuries, there have been women and men who have taken first steps down new roads armed with nothing but their own vision. They fought, they suffered, and they paid -- but they won. What they won was freedom. And today we're here to celebrate one of those people.

Rosa Parks, who died 38 days before the fiftieth anniversary of the Thursday afternoon while riding home from work when she refused to relinquish her seat on the bus to a white customer and move to the back of the bus, which had been the custom and tradition in the deep South, was laid to rest on October 24th of her 92nd year, but not before having changed the 20th century and all centuries to follow, as the great lady of

freedom that she was.

An interesting side note, Madam President, is that Rosa Parks was not the first person to refuse to relinquish her seat on a bus that year. The first woman, who was taken off the bus in July of 1955, got into a fight with the police, and therefore the advocates didn't think this was a particularly good case to make the issue of segregation when in fact this person had assaulted some of the police officers.

The second woman was taken off the bus in September of 1955. She was an unwed mother, and at that time it was believed that that moral issue would supersede the humanitarian issue of equality.

And so it was only when Rosa Parks took this decisive action on December 1st that many in the civil rights movement saw her -- as an educator, a mentor, a public servant, a member of organizations that were trying to bring freedom to that area -- as the perfect test case.

But to some degree, the meaning was lost down through the decades that Rosa Parks

had planned on doing this. Her statement, the honest statement, was that that day she had just basically gotten tired of being abused and oppressed under that system. It gave rise to 381 days of boycotts from people whose names we don't know, whose families we don't remember, but whose gestures were just as important and are symbolically recognized as we do here today with Rosa Parks.

One of those people who went to and fought on behalf of those in the boycotts was the late Justice Constance Baker Motley, who lost her life just a few weeks before Rosa Parks. And we celebrate her as well.

It is a different culture that we live in. It seems so long ago. But there are people in this room who were in the South during that time who remember those oppressive conditions. We even have a New York state senator, Senator Bill Larkin, who actually was part of the Selma March, when he was sent by the National Guard to make sure that the marchers could get from Selma to Montgomery without losing their lives.

So though it may seem a long time

ago to the young people of society today, they really need to know the story of Rosa Parks and all those who struggled unremittingly and courageously -- black and white, young and old, throughout the South and throughout America -- to bring economic, political, and social justice to this land.

We're not all the way there yet, Madam President, but certainly we'd be significantly further back had it not been for the contribution of this great lady of freedom. And I'm happy that we pause in our deliberations to celebrate her moment at this time.

THE PRESIDENT: Does any other member wish to be heard?

Then the question now is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Paterson.

SENATOR PATERSON: Madam President, Senator Parker and I would be delighted to open the resolution so that all members who are interested can go on the resolution. And we open the resolution at this time, with your permission.

THE PRESIDENT: Senator Bruno, do you have any objection?

SENATOR BRUNO: Thank you, Senator Paterson, for that honor.

And I would recommend to the chair that all of the members in the Senate be added to the resolution unless they would approach, privately, the desk.

And thank you very much, Senator Paterson and Senator Parker.

THE PRESIDENT: Thank you, Senator Bruno and Senator Paterson.

Any member who does not want to cosponsor the last resolution, please notify the desk.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar in its entirety.

THE PRESIDENT: All in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

SENATOR BRUNO: Madam President.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: If we can return to reports of standing committees.

THE PRESIDENT: Reports of standing committees.

SENATOR BRUNO: And I believe in the resolution that we just adopted there are a number of appointees that do not require appearances for confirmation. And can we start taking those up at this time.

THE PRESIDENT: The Secretary will read.

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

As a member of the Crime Victims

Board, Jacqueline C. Mattina, Esquire, of Orchard Park.

As members of the Metropolitan Transportation Authority, John H. Banks III, of Brooklyn, and Mark Page, of Brooklyn.

As members of the New York State Housing Finance Agency, Herbert E. Berman, Esquire, of Brooklyn, and John L. Dimarco, of Pittsford.

As members of the Central New York Regional Transportation Authority, Robert E. Colucci, Jr., of Syracuse; Nicholas F. Laino, of New Hartford; and Darlene De Rosa Lattimore, of Auburn.

As a member of the Port of Oswego Authority, William F. Shannon, of Oswego.

As a member of the Rochester-Genesee Regional Transportation Authority, Frank Vitagliano, Jr., of Warsaw.

As a member of the New York State Olympic Regional Development Authority, J. Patrick Barrett, of Manilus.

As a member of the State Board of Historic Preservation, Elizabeth L. Watson, of Cold Spring Harbor.

As a member of the Albany Pine Bush Preserve Commission, Steven K. Rice, Ph.D., of Rexford.

As a member of the Allegany State Park, Recreation and Historic Preservation Commission, Wendy Myers Brand, of Allegany.

As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, Thomas O. Maggs, of Scotia.

As a member of the Fire Fighting and Code Enforcement Personnel Standards and Education Commission, Gerald W. Lynch, of New York City.

As members of the Lake George Park Commission, James T. Kneeshaw, of Queensbury, and Thomas J. Morehouse, of Ticonderoga.

As members of the Medical Advisory Committee, Stoner E. Horey, of Canisteo; Norman R. Loomis, M.D., of Ontario; and Gavin Setzen, M.D., of Slingerlands.

As director of the Municipal Assistance Corporation for the City of New York, Jonathan A. Ballan, Esquire, of Scarsdale.

As director of the New York State Environmental Facilities Corporation, Francis T. Corcoran, of Bedford Corners, and Robert J. Fischer, of Pittsford.

As a member of the Advisory Council on Agriculture, Maureen J. Torrey Marshall, of Elba.

As members of the State Council on the Arts, Elaine Wingate Conway, of Bronxville, and Laurie Tisch Sussman, of New York City.

As a member of the Mental Health Services Council, Eli B. Hoch, Ph.D., of Rego Park.

As a member of the Minority Health Council, Maggie Blackburn, M.D., of Harpersfield.

As members of the State Hospital Review and Planning Council, Howard S. Berliner, of New York City; Renee Garrick, M.D., of Bedford; Kevin N. Hill, of Pittsford; Jeffrey A. Kraut, of East Meadow; and Stephens Marshall Mundy, of Plattsburgh.

As a member of the Board of Visitors of the Bronx Psychiatric Center,

Sandra Unger, of the Bronx.

As members of the Board of Visitors of the Finger Lakes Development Disabilities Services Office, Sue Lesage, of Rochester, and Patricia Ann Power, of Palmyra.

As a member of the Board of Visitors of the Middletown Psychiatric Center, Ann Marie Maglione, of Middletown.

As a member of the Board of Visitors of the Metro New York Developmental Disabilities Services Office, Joan S. Laufer, of New York City.

As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at St. Albans, Denis J. McEneaney, of Broad Channel.

And as a member of the Board of Visitors of the South Beach Psychiatric Center, Linda B. Wilson, of Staten Island.

THE PRESIDENT: Senator Johnson, to move the nominations.

SENATOR JOHNSON: Move the nominations.

THE PRESIDENT: All in favor of the nominees as read by the Secretary, please

signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are all so confirmed as read by the Secretary.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the nominees that were required to appear before the committee and before the Senate.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following nomination:

As Commissioner of Environmental Conservation, Denise M. Sheehan, of Niskayuna.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Madam President, as chairman of the Committee on

Environmental Conservation in the Senate, it was my pleasure to interview, with the entire committee this morning, then acting Commissioner Sheehan and soon to be Commissioner Sheehan.

She has served the department well and will continue to serve the department well. This is one of Governor Pataki's finest nominations.

And I'm pleased to move the nomination and second it and yield the floor to Senator Farley.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Mr. Chairman, whose voice is leaving him.

Let me just say that Denise Sheehan, who is my constituent from Niskayuna, has served for 11 years in the Division of the Budget. She's eminently qualified. She's been an acting commissioner.

And during the Finance Committee, member after member said how they had dealt with her personally and how she had solved every problem and was very diligent.

And incidentally, I think the DEC

commissioner's job is one of the most difficult ones in government. It has all kinds of competing interests, and she has handled that with great grace and effectiveness.

Denise is a very, very well-qualified person who has come up through the ranks of government and has served us well. Her husband and so forth is also in the Legislature. And she's an outstanding mother and a great asset to government. And it's another example of Governor Pataki's wonderful appointments.

And I enthusiastically second her nomination.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I have -- Senator Farley talks about the commissioner living in his district. The commissioner was born and raised in my district and is the daughter of -- smart enough to move?

(Laughter.)

SENATOR BRESLIN: Particularly if

you happen to have an "R" after your name.

But she's the daughter of public school teachers. I happen to know her father very well, who is a frequent visitor to my office and exemplifies what volunteerism is in his retirement years.

And Denise, in her role as acting commissioner, has exemplified what being a good commissioner is. And I think she will -- I know she will continue to prove herself at the commissioner level, and I commend the Governor for the nomination.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can I add my comments and congratulations to Denise.

She is not a mystery to anyone. She's been serving, as has been mentioned, as acting commissioner since February '05, when a vacancy occurred. Ten years as a budget examiner with EnCon. Worked with the Clean Indoor/Outdoor Act, helped with the Bond Act. Just has really an extraordinary record.

And it's all recognized that it's quite a challenge, as has been mentioned, to

manage 3,350 people and a budget of a little under a billion dollars.

So this is a very wise appointment by our great Governor George Pataki. I commend him, commend Denise on her good work presently and in the future.

Thank you, Madam President.

THE PRESIDENT: The question now is on the nomination of Denise M. Sheehan, of Niskayuna, as Commissioner of Environmental Conservation. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations and best wishes.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As Commissioner of Transportation, Thomas J. Madison, Jr., of Waterford.

THE PRESIDENT: Senator Johnson,

to move the nomination.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

It is indeed an honor for me to stand before this body this afternoon and talk about a native son from Broome County who will be our next transportation commissioner.

Tom Madison has been a friend of mine for the last 19 years and certainly has worked for this administration and worked for many of you in this room over the course of the last ten years.

Earlier today, when the nominee was before the Transportation Committee, it was great to hear a number of my colleagues share stories about how Acting Commissioner Madison had already jumped in, worked with them one-on-one to solve little and large problems that existed.

He was on the job just a couple of days, and there was a terrible mudslide in the North Country. Then I believe there was

another mudslide down in New York City, and then the closure of the Dunn Memorial Bridge. So he was thrown in immediately, and he handled each one of those situations with great temperament and great management and leadership skills.

So it is an honor for me to stand before this body and move the Governor's nomination. The Governor has made a great, great appointment here.

And I'm pleased to see that Tom is joined by his wife, Tracy, his mother, Pat, and his father, Tom.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President.

And I also commend and congratulate Tom Madison. Tom knows the roads of New York State extremely well. And he, by the way, is my constituent, living in the great 43rd Senatorial District. And that's wisdom and vision by itself. Rides his motorcycle to work, checks out the roads, and does all of the right kinds of things.

You talk about a challenge; here,

he has a challenge. He has met challenges. So we can all be proud of the good work that he does on behalf of the entire constituency of New York State.

So congratulations to Tom, his wife, Tracy, who is very supportive -- probably rides on the back of that motorcycle, a very brave lady -- and I believe Brooks, his son, is here, and daughter, Morgan.

Congratulations to all of you and your parents, Tom, who I'm sure are proud, and your mom, Pat. Congratulations to all of you. Thank you.

(Applause.)

THE PRESIDENT: The question now is on the nomination of Thomas J. Madison, Jr., of Waterford, as Commissioner of Transportation. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations and best wishes.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time recognize Senator Paterson.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President -- and, Madam President, I'd like to thank the Majority Leader for just this moment.

I would just like to commend to my colleagues a great accomplishment that one of us has achieved in the last few weeks. Senator Byron Brown, who was elected to the Senate in the year 2000 and served from 2001 to 2005, is going to leave us at the end of the year and become the mayor of one of our largest cities, Buffalo, New York.

I just wanted to recognize that and congratulate Senator Brown at this time.

(Extended applause.)

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I'm not sure if that collective enthusiasm was because of Senator Brown's great achievements, which we all concede, or that there's one less Democrat in the Senate. But we appreciate it all the more.

(Laughter; applause.)

THE PRESIDENT: The Secretary will please continue to read.

THE SECRETARY: As a member of the New York State Employment Relations Board, Dean H. Leith, Jr., of Troy.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, I'm proud to stand on behalf of the nomination of Dean Leith.

Dean Leith is from Troy, a neighbor of mine. He is a man who goes back a lot of years in community service and in public service. Co-partner of a company that many of us knew around here that started as a startup and over the years, with Dean mentoring that company, grew to employ about 1,100 people, had sales of about 150 million.

Dean left the company in, I think, 1990 and went on into an early retirement from business but an active, more active life in the community, starting up in supporting community gardens in the Capital Region, the Rensselaer Historic Society, I think past chair of the board, and just has done an awful lot of good things and good work.

So there isn't a better nominee to take the position that Dean will be taking to help arbitrate and to help settle some important issues in people's lives.

I'm proud to move the nomination.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: All in favor of the nomination of Dean H. Leith, Jr., of Troy, as a member of the New York State Employment Relations Board, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Dean. Best wishes for continued success.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Donald Cecil, of Harrison.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: All in favor of Donald Cecil, of Harrison, as a member of the Metropolitan Transportation Authority, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations and best wishes to you. Please stand.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Michael E. Russell, of East Setauket.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Madam President.

I'd just like to speak briefly on behalf of Mike Russell, who is not Senator Bruno's constituent, he is my constituent.

And just briefly about Mike, one of the things that we're all going to enjoy is he has a tremendous experience in the business sector, he's been on a lot of boards, working with not-for-profits all across Long Island. He has talent and expertise and experience that will serve not only the university but its students and all the people of New York very well.

He's a great guy, he's a hard worker. I'm proud to call him my friend, and I will be proud to call him trustee, hopefully

very soon.

And Senator LaValle.

THE PRESIDENT: Senator LaValle.

SENATOR LaVALLE: Thank you, Senator Flanagan.

Madam President, it's with great pleasure that I rise to move the nomination of Mike Russell. This is indeed one of the Governor's best picks for the SUNY board.

At a time when the system is expanding opportunities for students, Mike will use his expertise that he gained on the Stony Brook council, the work that he's done for students and student athletes at the university, his interest in health care -- and we have three university hospitals that are very important to the SUNY system, and Mike will use that expertise.

But most important is that he is truly a great humanitarian. And I often say to him he should have been a social worker. Instead, he went out into the business world and made his way in finance. And he will bring that expertise to the board.

So he is really so well-rounded.

He knows how to be a good board member. He has the students' interest at heart. And I know he is extremely energetic, and we are lucky to have that energy and wisdom that he will bring to the board.

Good luck to you, Mike.

(Applause.)

THE PRESIDENT: The question now is on the nomination of Michael E. Russell, of East Setauket, as a member of the Board of Trustees of the State University of New York. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Will you please stand. And best wishes for success.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As Commissioner of the Tax Appeals Tribunal, Charles H. Nesbitt, of Albion.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President and colleagues.

Charlie, Charles Nesbitt, Charlie Nesbitt we all know as one of the leaders here in the Legislature. Charlie was in business, served 14 years in elective office, a lot of those years as a leader in the Assembly.

Charlie distinguished himself, really, in the military. Part of the Air Force, Charlie, and he actually got the prestigious Air Medal for ten years of service, served in Vietnam, flew helicopters. Courageous, a patriot.

And he goes on now to another challenge, having worked diligently on behalf of the public, recognizing the need for taxes and also recognizing that to keep businesses and people here in the state and competitive, that everything has to be in balance.

So he will serve there just as he served in the service, just as he served in

the Assembly and as leader, he will serve with great distinction.

And I'm proud to move Charlie's nomination and also proud of the Finance Committee, who unanimously moved him to the floor, Madam President.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

In keeping with the spirit of the day, Charlie Nesbitt happens to be a constituent of mine.

I want to say that in the 11 years that I have been here in the rough-and-tumble world of governing and of politics, you could not have a better partner than Charlie Nesbitt.

As all of us who are members of the Legislature and those who work here in the Legislature know that sometimes, believe it or not, there are challenges between members; sometimes it goes as far as to say there are ill well between members.

And I can tell that you every day, from the day I announced I was running for the

New York State Senate until this very day, today, Charlie has never been anything but professional, been straight with me in everything that we've done.

He's worked very hard for his constituents in Orleans County and Niagara County, in Monroe and in Genesee County.

I know Charlie -- and I'm going to miss you in the Legislature, but I know this is a challenge that you look forward to and I know that Kim looks forward, I think, to you not spending as much time in Albany, and your kids. And I just wish you well.

This is a great appointment by the Governor. And, Charlie, you're going to do a good job. And I just want to thank you publicly for the years that you and I have worked together. And this isn't an ending, it's just a new beginning. Thank you, Charlie.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, when I became the Minority Leader of the Senate in the beginning of 2003, Assemblyman Nesbitt became the minority leader

of the Assembly. And for the last three years, the two of us have tried to prevail on the majorities that we can make a contribution in our respective houses.

And the pinnacle of that moment was early earlier this year when Governor Pataki, Senator Bruno, and Speaker Silver invited the two of us to be part of the budget negotiations.

During that time and all the time I served with him, I found that Leader Nesbitt showed the great skills that he had demonstrated as a fighter pilot in Vietnam, as a businessman in Orleans County, and as a legislator before his elevation to minority leader.

But we should really consider that as he leaves, he may be the only leader of a legislative conference who, the one time he was part of the negotiations, we passed the budget on time. It will be a challenge for the rest of us to try to keep that streak going.

But I would like to commend to all of you, look at the difference that it made

when the old three-men-in-a-room negotiated the budget with the three men, an officer, and a gentleman. Thank you.

(Laughter; applause.)

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

I just came to Albany because my son, Assemblyman Reuben Diaz, Jr., who happens to be my boss, he ordered me to come here to congratulate you and to wish you well.

And on behalf of my son and my family, we wish you well. And this is a good appointment from Governor Pataki.

Thank you.

THE PRESIDENT: The question is on the nomination of Charles H. Nesbitt, of Albion, as Commissioner of the Tax Appeals Tribunal. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Best wishes for continued success, and congratulations to you.

(Applause.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, is there any further business at the desk that should come before the Senate?

THE PRESIDENT: No, there isn't, Senator.

SENATOR BRUNO: There is not?

THE PRESIDENT: There is not, Senator Bruno.

SENATOR BRUNO: We are happy that we have done the people's work here this afternoon.

And let me just make a couple of observations and comments.

THE PRESIDENT: I'm going to ask for order, please.

Senator, go ahead.

SENATOR BRUNO: One, we are in this room because, unlike the imaginary Chicken Little thinking the sky was falling, our ceiling was actually falling in the Senate chamber.

And it was pointed out to me that the first drops of that ceiling landed in my chair. And I was a little bit uncomfortable until I thought it through and realized that Senator Skelos sits there most of the time.

(Laughter.)

SENATOR BRUNO: It will be repaired, Dean. It will be repaired. And we will be in session, hopefully, when we convene in January. They're working diligently, and with historic preservation being what it is, it is a slow, expensive, and tedious process, but necessary.

I want to just, while I'm on my feet, commend Assemblyman Jim Tedisco, the new minority leader in the Assembly. Jim is a colleague, and he is a friend. And Jim is just an outstanding individual that will follow in the leadership role that is vacated by Charlie.

Jimmy distinguished himself, as you all know, as a scholar, as an athlete at Union College, an outstanding athlete, a great road runner. Just does everything extremely well. And I am sure that he is going to lead the

Assembly as well as he has accomplished himself throughout his life in everything that he has done.

So I know all of you join me in congratulating Assemblyman Jimmy Tedisco in assuming his new leadership role in the Assembly.

Thank you, Madam President.

(Applause.)

THE PRESIDENT: Senator Bruno. Motion?

SENATOR BRUNO: And, Madam President, there being no further business, I don't expect that the Senate will be back in session before January regular session '06.

So -- aw -- there being no further business to come before the Senate, I would move that everyone -- we stand adjourned and that we enjoy the holidays in a safe and healthy and happy way.

And we are going to adjourn subject to the call of the Majority Leader, with intervening days to be legislative days. Safe passage, and I move that we adjourn.

THE PRESIDENT: On motion, the

Senate now stands adjourned until the call of the Majority Leader. Happy holidays.

(Whereupon, at 4:50 p.m., the Senate adjourned.)