NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:06 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 Reverend Todd Falk, pastor of Wilton Baptist Church in Wilton, New York.

REVEREND FALK: Let us pray.

Our Heavenly Father, we come to You this day a grateful people. And we thank You for this great state and the greatest nation on this earth, Lord. We thank You for the privilege of living in a free society where every man, woman, and child has the opportunity to live life to the fullest, to worship You without fear, to express ourselves without rebuke, to experience liberty without violence.

I pray that none of us would take this for granted and that we would live our

lives with responsibility and with the duty to serve.

Thank You for these great men and women here today, as we thank You for their duty to this great state.

We also lift up our sons and our daughters and our husbands and wives and fathers and mothers and brothers and sisters who are the defenders of this freedom.

We especially lift up our men and women of the armed forces, and today of the 42nd Infantry Division, who are defending liberty around the world. Lord, we ask that You would watch over them and protect them as they go about defending our freedom and our liberties.

Father, we thank You for all that you have done. Lord, we ask that You hold our troops in Your loving hands and, Lord, that You protect them with Your hedge of protection around them. May we remember them always and pray for them continually, for they have earned our respect and our admiration with their blood.

Lord, let us never forget the

sacrifices of those who willingly laid down their lives to defend our freedom. May this world be a safer place because we as a nation stood for what was right and just. And may this nation never falter in the face of fear and difficult challenges.

Father, may You strengthen us in the days to come. May You guide our Senate today, and our Governor, and the leadership of great state to do what's right. May You guide them with Your divine wisdom to do the people's business.

And may You guide our commander-in-chief, President Bush, with profound wisdom.

May God bless this great State of New York, and may God bless America. In Christ's precious name, amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 13, the Senate met pursuant to adjournment. The Journal of Sunday, February 12, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar, with the exception of Resolutions 3480 and 3481.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The calendar is so adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe I have a privileged resolution at the desk, 3481. I would ask at this time that it be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 3481, paying tribute to the returning veterans of the 42nd Infantry Division from 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 Legislative Body; and

"WHEREAS, This Legislative Body is

justly proud to pay tribute to the returning veterans of the 42nd Infantry Division from Operation Iraqi Freedom; and

"WHEREAS, The returning veterans and their families will be honored at a Freedom Salute to be held at Hudson Valley Community College on Saturday, February 18, 2006; and

"WHEREAS, There will be three Army National Guard units of the 42nd Infantry Division present for this auspicious event: The 42nd Infantry Division Headquarters, the 642nd Military Intelligence Battalion, and Company B of the 1st Battalion, 101st Cavalry; and

"WHEREAS, In December of 2003, the Army National Guard launched the 'Freedom Salute Campaign,' an unprecedented program designed to recognize Army National Guard soldiers, their families, and others who have supported them as they answered the call to duty, both at home and abroad; and

"WHEREAS, The deployment of the 42nd Infantry Division Headquarters from Troy, New York, marked the first time since the

Korean War that an Army National Guard division headquarters was deployed to a theater of combat; and

"WHEREAS, The 42nd Infantry Division, known as the Rainbow Division and commanded by Major General Joseph J. Taluto, achieved notable success in all lines of operation in North Central Iraq since February 15, 2005; and

"WHEREAS, the 42nd Division deployed as a combat task force, known as Task Force Liberty. It drew its name from its New York roots and for its role in helping to bring the first democratic elections to Iraq in more than half a century; and

"WHEREAS, The 'Rainbow Division,' as it is known in the Army, received its nickname back in 1917, from then Colonel Douglas MacArthur, because the unit included some of the best National Guard units from across the entire country; and

"WHEREAS, For its mission in Iraq, the division also grew to include Army National Guard, Army Reserve and active Army soldiers from some 29 states, Puerto Rico and

American Samoa; and

"WHEREAS, the 42nd Division Headquarters also served the City and State of New York in the aftermath of the terror attacks of September 11, 2001, when it served as the command and control for the National Guard response in Lower Manhattan; and

"WHEREAS, 3,000 soldiers from the 42nd Infantry Division were deployed to Iraq, including approximately 400 from the Capital Region; and

"WHEREAS, The Rainbow Division was part of the 23,000-soldier Task Force Liberty that was in charge of security in four provinces across North Central Iraq, a 27,000-square-mile region, half the size of New York, with a population of 6.3 million. The soldiers found and removed more than 425 weapons caches in the region, destroyed 44 percent of all improvised explosive devices (IEDs) set against U.S. soldiers, helped task-force engineers complete 1,400 reconstruction projects valued at $757 million in North Central Iraq, and trained and equipped 18 battalions (600 soldiers per

battalion) of Iraqi Army soldiers; and

"WHEREAS, The command and control of more than 23,000 soldiers in North Central Iraq passed from the 42nd Infantry Division to the 101st Airborne Division during a transfer of authority ceremony on November 1, 2005; 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 especially recognize that no greater debt is 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 pay tribute to the returning veterans of the 42nd Infantry Division from Operation Iraqi Freedom; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the veterans of the 42nd Infantry Division from Operation Iraqi Freedom."

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President.

It really is an honor and a privilege to add my welcome. You have heard this resolution, you heard the presentation to the officers -- Major General Taluto, officers, and the enlisted men of the 42nd Infantry Division, which is headquartered in Troy, New York, the 43rd Senatorial District.

And let me tell you, they make me awfully proud to have them headquartered there. And they make everyone in this chamber and everyone in this state proud. This outfit, the Rainbow Division, is the first

division to be sent into a combat zone since Korea.

Now, you look up at these brave men and women that are part of the 42nd. They left their homes, they left their jobs, wives, husbands, children, neighbors, and I believe spent up to 18 months in Iraq, several not returning. Any one of them could not have returned. Being willing to lay themselves out there. For what purpose? To defend freedom, to defend the people there, to make this country continue to be the free country, to fight for freedom throughout the world. That's what it's all about. That's what it's still all about.

So these brave men and women left and are back. And we celebrate their victory, we celebrate their return, your courage, your commitment, your dedication, your patriotism. It's an honor to welcome you in this chamber as we pass this resolution recognizing your valor and your courage and all the good things that you do on behalf of people who cannot do it for themselves. It's the greatest sacrifice that can be made.

We are hosting a reception, I believe there's 400-some troops, General, in the Capital Region, out of 3,000-plus in the division. And we're going to host a reception in Troy at headquarters at 2 o'clock.

And we would welcome any of the Senators that are here in for the weekend to join us there, although I know that all of you are diligent in your districts recognizing all of the people that have done so much on behalf of freedom here for New York, for America, and for people throughout the world.

So thank you, Madam President. And again, congratulations and thank you.

(Standing ovation.)

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I have to apologize, I have laryngitis. But I want to applaud my Majority Leader for honoring his 42nd Infantry Division from Troy -- your hometown, Madam President.

Although this is a Troy operation, these soldiers come from the entire Capital District, many of whom are my constituents.

And I can't say how proud we are of you and what you've accomplished on behalf of our nation.

I'm so delighted to see you here, Major General Taluto, who has been a dear friend, and your organization. Your division, Major, is truly a credit to not only the Capital District in New York State but to the United States in itself. The Rainbow Division has an incredible history, and you have added to it. And we're very, very proud of you.

And I congratulate you, and I congratulate the Majority Leader for throwing a party for you tomorrow. That's something else.

All the best to you, and Godspeed.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Thank you, Madam President.

Senator Bruno, I got a chance, with Governor Pataki and a whole bunch of other people, to visit the Rainbow Division before you deployed, where we announced -- remember that, guys? -- remember we announced the Patriotic Act that we were going to do here

with this Legislature to make it easier for you citizen-soldiers to leave your jobs and your homes and go and fight for us and come back.

Well, I don't know if you've heard, but thanks to your good work, that's been done, and to Senator Bruno's leadership.

And I enjoyed that day, and I proudly display in my office that photograph of my getting the chance, the honor to address you. But I have to tell you, as much as I enjoyed that day, I enjoy this a lot better.

Welcome back. Job well done.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

At the age of 18, I joined the Army, voluntary, in Puerto Rico, in 1960. And there was the Vietnam conflict. When I came back to Puerto Rico, there was, in those times, a lady called Jane Fonda, Hanoi Jane, and others that made us ashamed.

When I came back from the -- to Puerto Rico, I didn't get a reception. I almost had to hide myself. And there was like

people making fun of us.

So, Senator Bruno, where were you in 1960? We needed you then. And I admire you, and I congratulate you because today, out there, there are others trying to make these heroes feel guilty of defending this nation.

And I'm so honored and so proud that we have like you, Senator Bruno, that take into consideration people like me. Because in my time, I needed that. I needed someone to welcome me, to tell me that it wasn't in vain. I volunteered, but it wasn't there. We didn't have it at that time.

And today, there are some today, like the Al Gores of this day, the Kennedys of this day, and all those people making -- trying to make our heroes feel ashamed and treat them bad.

And I'm proud that today in this body you, Senator Bruno, take into consideration the heroism of these people. I congratulate you, and I congratulate all of those. And I envy them because I didn't have you in 1960.

Thank you, Senator Bruno.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Thank you, Madam President.

Since my Senate district includes counties of Schoharie and Greene, I consider myself a Capital District Senator as well. And I'm very proud to rise in support of Senator Bruno's resolution and the comments of a number of my colleagues as we honor the 42nd Infantry Division upon their return from Operation Iraqi Freedom.

That word "freedom" is one that far too many Americans take for granted. But as I watch, on the television, those pictures of the Iraqi people, when given the opportunity to flock to the polls to select for the first time their leaders, to write for the first time an actual constitution so that their future and their destiny is now in the hands of the Iraqi people, that would not be possible without the members of the 42nd Infantry Division and the many other Americans serving in Iraq today and in the past.

And so for that, we say thank you and God bless you. It's important work to

spread freedom and give, in this case, the Iraqi people that opportunity that we have had in this country for so long to direct our own destiny as citizens and as people and not leave it up to an oppressive dictator.

Thank you, and God bless all of you.

THE PRESIDENT: As president of the Senate, and as a Troy resident as well as native, I see a lot of familiar faces up there. But many of you I did not know in your military capacity. And I want to thank you, on behalf of the people of the state. Pastor Falk also has returned recently from Iraq.

We can't really fathom the depth of sacrifice you made. Major General, all of you, we are certainly in debt to you for what you have done to spread freedom around the world. We're delighted to have you home. We know your families have also sacrificed. And we wish you the best, on behalf of the people of New York State. Thank you so much.

All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Best wishes to all of you.

(Standing ovation.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can I ask that all the names of all the members be added to this resolution unless they selectively request otherwise.

And the reception, by the way, is Sunday at 2:00, not tomorrow, at headquarters. We don't want you showing up two days.

Thank you, Madam President.

THE PRESIDENT: Any member who does not wish to cosponsor the last resolution, please notify the desk.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have the title read on Resolution 3480 and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marchi, Legislative Resolution Number 3480, honoring the 1st Battalion, 101st Cavalry, New York Army National Guard, upon the occasion of their homecoming from Iraq, to be celebrated on March 3, 2006.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Madam President, it's a contagion.

Senator Bruno brought this very uplifting information about people in his district. It's not something new. I was discussing with Senator Larkin just recently, and he's a -- both of us were veterans of World War II. Some cruel people have said that I was probably in the Civil War.

(Laughter.)

SENATOR MARCHI: But not Senator Larkin.

Senator Larkin was also in World War II, and I had four years of that. And I've seen so much, so much that gives us, that evokes the kind of response that Senator Diaz over there reflected. It's a contagion. And you feel that it gives you something to be

proud of.

And I am proud of the folks in my district who have served on behalf of the armed forces in the Operation Iraqi Freedom. And they went over in great numbers. These were all volunteers, of course. They were products of a volunteer expression.

And they are going to be -- and incidentally, they're the 1st Battalion, 101st Cavalry, Army National Guard, these are people that are not unknown to Senator Bruno.

And we have had so many people from my own district going in great numbers. We never needed a draft down there. We never needed anything that would aid and abet those who were willing to come to the aid of their country even when a formal declaration was still absent.

So we're proud to commend the 1st battalion of the 101st Cavalry, Army National Guard. And this is going to produce an embarrassment of riches, because they will be honoring that battalion of the National Guard with their homecoming from Iraq, and that will take place, to the members of that group, that

will also take place on Sunday.

So I -- we're going to have an embarrassment of traffic control here. But it's an embarrassment of riches. It's people from this area, people from my own area, and there are people from other areas that are there visibly, risking their lives for the preservation of freedom and to see that it is defended.

So it is with great pride, Madam President, that we extend the same courtesy and decision of this body to praise and thank them for their service to their country. And maybe some of us will be able to travel back and forth from Troy to Staten Island. That would be a trick.

But all those who -- you have your pick, you can go upstate or you can come down to Staten Island. And we'll be happy to see you in the exercise of this appreciation springing from this Legislature for those who are willing to risk their lives, as so many of them have, some with great mortal losses. Nevertheless, freely. And they continue to go in great numbers in the defense of freedom.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Are there any substitutions at the desk, Madam President?

THE PRESIDENT: Yes, there are, Senator.

SENATOR BRUNO: Can we make those at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 12, Senator Maziarz moves to discharge, from the Committee on Labor, Assembly Bill Number 5771A and substitute it for the identical Senate Bill Number 5749, Third Reading Calendar 118.

THE PRESIDENT: Substitution ordered.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam

President, on behalf of Senator Leibell, on page 20 I offer the following amendments to Calendar Number 219, Print Number 4761.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR NOZZOLIO: Thank you.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 11, by Senator Marcellino, Senate Print 2852, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 106, by Senator LaValle, Senate Print 3744A, an act to amend the Education Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 108, by Senator Trunzo, Senate Print 1682, an act in relation to requiring state agencies.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 111, by Senator Robach, Senate Print 4258, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 117, by Senator Trunzo, Senate Print 4562, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Meier recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 118, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 5771A, an act to amend the Labor Law and others.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 129, by Senator Maziarz, Senate Print 701A, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays,

1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 132, by Senator Volker, Senate Print 880, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 136, by Senator Golden, Senate Print 2214, an act to amend the Criminal Procedure Law.

THE PRESIDENT: 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, 58. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 148, by Senator Skelos, Senate Print 6524, an act to amend the Criminal Procedure Law.

THE PRESIDENT: 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 PRESIDENT: Senator Klein, to explain your vote.

SENATOR KLEIN: To explain my vote, Madam President.

I rise today in support of this legislation. And it's almost identical to an amendment that I attempted to pass several weeks ago. I guess many in the chamber did hear part of my argument, because here's a

bill before us today.

I've done a lot of work on this issue over the years, and I think it's something very, very important that we do immediately, not only in the State Senate but I'm hopeful it will pass the Assembly as well.

For many in our chamber who may not know, we're one of the few states that still has an antiquated law on the books of a five-year statute of limitations. It was something that was actually implemented in New York State in the 1800s.

I think, quite frankly, by still having this law on the books in New York State, we're discriminating against women. Because what we're telling women throughout our state is that the crime of rape is not as serious as the crime of murder, arson, or kidnapping, other crimes which have no statute of limitations.

One of the things that my office did, actually on Father's Day of last year, was release a survey. What we did was we looked at all 62 counties of the state, and we found that overwhelmingly all the district

attorneys around the state are in favor of getting rid of the five-year statute in some shape or form, some when there's DNA evidence available, some when there's other types of physical evidence that would withstand the test of time.

The alarming fact that I did find is the large number of unsolved rape cases around the State of New York. What we found was totally the number of open cases in the New York City metropolitan area is 1,669. Actually, the total in the New York City metro area that are approaching or past the five-year statute is 809.

If we look at the cases that are actually quickly approaching the five-year statutory limitation -- which means unless we pass a law, we'll never actually bring these individuals to justice -- in New York City, Westchester, and Nassau County there's 689 cases approaching the five-year statutory limitation. If we look at it statewide, the number grows to 833.

Those are individuals who will never be brought to justice. And I think what

we're saying -- again, as I said earlier -- is I think anyone here who understands the serious crime of rape, how long a woman has to deal with that horrible memory, but yet what we're doing is giving a get-out-of-jail-free card to individuals once it approaches that five-year statutory limitation.

I think it's worth talking about something that many of you may know. It was in most of the papers, it was on TV, it was something that was investigated by District Attorney Morgenthau. It was the case of a man named Clarence Williams.

Clarence Williams committed over 23 rapes in New York City, Maryland, and New Jersey. The only way they finally found him, over 32 years later, he tried to get a gun permit in Atlanta, Georgia. They did a background check, they found out about all the outstanding warrants. And lo and behold, he committed two rapes in New Jersey, nine in Maryland, and there was nine women who came forward and positively identified Mr. Williams about committing a rape many years ago.

Unfortunately, in New York State,

we weren't able to bring any case. Thank God New Jersey and Maryland have no statutory limitation on rape and he's presently being prosecuted for his crimes there.

I'm glad also this legislation goes beyond just the requirement of DNA evidence. While I think with the advent of DNA we can prosecute cases five, 10, 15, even 30 years into the future, I don't think we should limit it just to DNA evidence.

One of the things that comes to mind is the National Organization of Women, who's supporting this legislation, and they came up with a scenario where one of the women -- who's the president of the New York City Chapter, happens to live in my district -- when she was a Queens ADA, she couldn't prosecute a case which was 10 years old even though she had evidence -- actually, it was a tape taken off a video machine -- which positively identified the rapist.

I think it's important we do a piece of legislation like this today because there's other types of evidence that can withstand the test of time. And I think we

owe that to the women of New York State.

So I vote yes, and I'm going to do everything possible -- I know Senator Skelos will join me -- in making sure also this legislation comes to fruition in the State Assembly as well.

Thank you, Madam President.

THE PRESIDENT: You will be recorded, Senator Klein, as voting in the affirmative.

Senator Skelos.

SENATOR SKELOS: Madam President, to explain my vote.

In the last several years this Majority has attempted to sway the Assembly Democrat leadership into understanding what we are trying to do in terms of eliminating the statute of limitations in certain instances.

The legislation we are passing now -- and I thank the membership for their support -- eliminated rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, course of sexual conduct against a child in the first degree. These crimes are

all Class B violent felony offenses.

Senator Golden's bill, which passed prior to this -- and has passed on other occasions, Senator Klein -- would cover this but cover all violent B felonies. That has passed.

And shortly we'll be passing my legislation, Calendar 239, that would toll the statute of limitations when the use of DNA can be found for the reason.

I point this out because we are giving the Assembly a variety of choices, yet we do not see them pass these types of legislation. There cannot be a joint conference committee until they pass something similar that we can go to joint conference committee and have an open public discussion.

So, Senator Klein, I would urge you to talk to the Assembly Democrat leadership, where you served for a number of years, and ask them please do something, do something positive so that we could either pass the bill -- because it's a very simple bill. It just adds these crimes where there's no statute of limitations. I don't know what

there is to discuss.

So I would urge you to go to the Speaker, go to the Assembly leadership, pass these bills. And certainly we will be doing something very positive and good for the people that suffer these types of crimes.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 156, by Senator DeFrancisco, Senate Print 41, an act to amend the Surrogate's Court Procedure Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 177, by Senator Little, Senate Print 1756A, an act authorizing the payment of ordinary disability retirement benefits.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 233, by Senator Balboni, Senate Print 5917A, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of

2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 236, by Senator Hannon, Senate Print 6630, an act to amend the Public Health Law and the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 239, by Senator Skelos, Senate Print 5342, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

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

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

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

SENATOR SKELOS: There being none, I move we stand adjourned until Wednesday, February 15th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate now stands adjourned until Wednesday, February 15th, 11:00 a.m.

(Whereupon, at 3:45 p.m., the Senate adjourned.)