NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, 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 would ask all assembled to please stand and recite with me the Pledge of Allegiance to our flag.

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

THE PRESIDENT: We are very please today to be joined by Father Peter G. Young, of Mother Theresa's of Albany.

REVEREND YOUNG: Let us pray.

Dear God, in this chamber we are proud to honor a courageous Wesley Autrey for his outstanding example to help others and one in need.

As we gather following in that tradition on this national day in order to honor this man, Martin Luther King, we call on our New York State constituents and citizens to recall his contributions and greatness to positive changes for all people.

Having personally marched with Dr. King, we feel the esteem of the dream of climbing the mountain of liberty and justice,

as symbolized in the stained glass above this podium.

May our Senators be blessed to overcome injustices by following the example of Martin, with their dedication to fairness and opportunity in all of their legislative activities. We call upon You, O God, to provide them with the strength and the courage to be Your instruments of love and peace to all people.

THE PRESIDENT: Thank you, Father Young, who has delivered prayer before this chamber for 48 years. Thank you.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, January 15, the Senate met pursuant to adjournment. The Journal of Sunday, January 14, 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.

The chair recognizes Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. If we could take up Resolution Number 35, by Senator Parker, and have the title read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Parker, Legislative Resolution Number 35, honoring Wesley Autrey, of Harlem, New York, upon his heroic actions in saving the life of a fallen citizen.

THE PRESIDENT: Senator Parker wishes to be heard. The chair recognizes Senator Parker.

SENATOR PARKER: Thank you, Mr. President.

As all of us know by now, on January 2nd of this year something really

miraculous happened in the City of New York which -- I mean, you know I'm almost speechless to be even in the presence of someone that we are calling our subway superhero.

Mr. Wesley Autrey, who is here with us today, put his own life in imminent danger to save the life of a stranger, of a young man who had had a seizure on the platform of the 137th Street station at Broadway -- taking not just his life in his own hands but also his two daughters, who looked on as this drama unfolded.

And today I'm asking you all to join with me in just honoring this act of courageousness, this bravery.

And during the King celebration we should also make sure that we also recognize his humanity, that when we start talking about the unconditional love that Dr. King preached about, that this is surely an example of that kind of love.

And we can only hope that we find a piece of what Wesley Autrey found in himself that day, just a piece of that in all of us as

we go forward. And we hope that his act that day becomes viral and becomes contagious amongst all citizenry, not just in New York State but both this country and the world.

So, Mr. Autrey, we want to honor you. Thank you very much for your bravery, your heroism, and really just thank you for being an exemplar of what human life can be every single day.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I too echo the sentiments of my colleague and wish to let Mr. Autrey know that it makes us proud as Senators to represent someone from the state of New York that would take an opportunity to show kindness, compassion, and concern, and in the split moment use good sense in procuring the safety of himself and this young man.

It is with great pride that I will be a signator on this resolution declaring you as a true hero in the best sense of the word. We thank you.

THE PRESIDENT: The chair recognizes Senator Perkins.

SENATOR PERKINS: Thank you very much, Mr. President, for this opportunity to make my first speech in such a momentous occasion.

And if I may brag a moment, that's a constituent of mine. In fact, it's one of Harlem's finest, obviously. So I don't really want to say too much, except to thank my colleague Kevin Parker for the leadership that he has shown this bringing him to this body.

I want to thank him so much for making all of us, not just in Harlem but throughout our city, throughout our state, proud. I think you represent an example of what we all can be as legislators, as public servants. And we look forward to keeping you in mind as we move forward in trying to serve the people of the State of New York.

I would like to at this time ask that this resolution be opened up for cosponsorship to the entire body.

Thank you very much, Mr. President.

THE PRESIDENT: We will wait to

pass the resolution first, Senator Perkins.

Would anyone else like to be heard on the resolution?

Senator Huntley.

SENATOR HUNTLEY: Yes. I would like to take this time to tell this gentleman, on such a time of Dr. Martin Luther King and his birthday and the celebration, and for you to come today.

And as we know, Dr. King always talked about people helping people, people believing in people and a better life for our young people, our families. And you are an example of all of that. And I would say to you -- and also, I know your daughters live in my district -- it is such an honor to have people like you and your family amongst us again.

Thank you so much.

THE PRESIDENT: Thank you, Senator Huntley.

Senator Adams.

SENATOR ADAMS: This must be New Senator Day, because I want to join and add my voice.

Clearly, I served as a police officer in the transit system, so I'm well aware of what a train can do. And I'm well aware of how much it takes to jump on the tracks in the first place and then to use the initiative and courage to protect someone.

And I think that people often romanticize Dr. King, but they fail to realize that during that moment that there were costars. And those costars were ordinary people that were willing to do extraordinary things. And you're a representative and a reflection of the costars that move this great country ahead.

And I think that the best we can do is to make sure that your voice and your story is heard not only across New York State but across the country, because our children need to know that all we need to do is do ordinary thing in extraordinary ways and we will continue to be like you were.

And thank you very much for your show of support and your show of strength and courage.

THE PRESIDENT: Thank you,

Senator Adams.

Are there any other new or old Senators that would like to be heard on this motion?

Senator Maltese.

SENATOR MALTESE: Mr. President, as a resident of the city, I wish to join my colleagues in extolling the virtues of this heroic man.

As someone who has traveled the subway and am familiar with the perils of the subway, to think of the heroism of instantly leaping onto the tracks to save a person that he didn't know is such an act of heroism that it has truly been extolled by all the residents of not only the city but, as has been said by my colleague, by the state and the nation.

At a time when some of us may need a reminder of heroism and someone who puts his self aside for the welfare of others, this is a shining example. I join my colleagues in this resolution that commends a hero, Wesley Autrey. And I wish to join in this resolution as an example to his fellow New Yorkers and

his fellow Americans of a true American hero.

THE PRESIDENT: Thank you for those kind words, Senator Maltese.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I don't know whether I qualify as a new or old Senator, but we don't have any subways in Syracuse.

But when I heard of this act of heroism, I truly couldn't believe it. I truly couldn't believe it. In this day and age of skeptics and people who are cynical about everything and talking about situations where we don't do good things for our fellow man, to see something like this happening in our state is truly uplifting.

It's truly an honor to have you a citizen of the State of New York. And I can't say anything more than that, because it's beyond words what you did. And hopefully you will be an example for many, many more people to put others ahead of themselves, not only in situations like you were faced with, but also in situations whether it's government or otherwise.

And you are truly a hero and truly an unbelievable human being.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I also rise up to join my colleagues in congratulating our hero. And how good we feel to see that someone from the City of New York has become such a model for everyone else.

And by doing this and by we talking about him, I also want to remind everyone that don't forget that a miracle, a miracle happens here. And that shows our city and our state that there is God and that he's always looking, watching, protecting us in those moments when we most need him. He's always there.

And there is a time here when I'm seeing in you, my friend, a miracle. I'm seeing in you the hand of God, the power of God telling us I'm still -- I'm still -- I am who I am, and I'm protecting you.

So congratulations on that heroic achievement. But remember always, God is with

you. God bless you, brother.

THE PRESIDENT: The chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. Autrey, I hope you understand what we do here to a large extent is we produce laws which are designed to prevent people from doing bad things, to try to help people against others who would do them ill.

There's no way we could pass legislation, even this resolution, that would say thank you enough for the effort that you did. I'm sure your family is glad you survived, and I'm sure they told you don't ever do it again. I know that's what my wife would say. So in that case, listen to your family.

But this one time I'm glad you did, and I'm glad you did the right thing. God bless you, sir.

THE PRESIDENT: Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Thank you, Mr. President.

Mr. Autrey, I just wanted to tell you that your influence continues, because frankly I was not going to stand up. But because you stood up, I stood up, and so many of the new members stood.

And I frankly can't think of anything more auspicious to do as I start this session than to commend someone like you. It has raised the level completely. And I'm certainly honored that the first thing I say is to thank you for being exactly who you are.

Thank you.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution carries.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. If we could follow the normal custom of the house, I believe which was requested earlier by one of my colleagues,

that we open the resolution up to all members to sign on, unless otherwise indicated to the chair.

THE PRESIDENT: The resolution will be declared unanimous. Anyone wishing not to be on the resolution may indicate at the desk.

Wesley Autrey of Manhattan, New York, on behalf of the members of the Senate and our great leader, Senator Bruno, we want to thank you for this heroic and courageous act which has inspired people all around the world.

The most notable and profound of the commentary that I heard from people who have borne witness to your act was when you appeared on the David Letterman Show. And when asked, you said you did what anyone would have done. And David Letterman immediately said he would not have jumped from the subway tracks to save anybody.

(Laughter.)

THE PRESIDENT: But the fact is that in the spirit of oneness where we're all part of the same, and in that concept that we

love thy neighbor as we would love ourselves, which is embodied by all the religions of the world, we here in the Senate have not greeted anyone more deserving than your heroic act. And we thank you for joining us here today.

(Standing ovation.)

THE PRESIDENT: The chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, there is another resolution, Number 125, by Senator Smith. Will you have it read in its entirety.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Smith, Legislation Resolution Number 125, commemorating the 78th birthday of the Reverend Dr. Martin Luther King, Jr., and paying tribute to his life and accomplishments.

"WHEREAS, From time to time we take note of certain individuals whom we wish to recognize for their valued contributions and to publicly acknowledge their endeavors which have enhanced the basic humanity among us all;

and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, it is the intent of this Legislative Body to commemorate the 78th birthday of the Reverend Doctor Martin Luther King, Jr., and pay tribute to his life and accomplishments; and

"WHEREAS, His birthday was proclaimed a national holiday in 1986. Had he lived, Martin Luther King, Jr., would be 78 years old; and

"WHEREAS, Martin Luther King, Jr., was born January 15, 1929. At birth, his first name was Michael, but was later changed to Martin. He graduated from high school at the age of 15, and in 1948, he earned a Bachelor of Arts degree from Morehouse College; and

"WHEREAS, After three years of theological study at Crozer Theological Seminary in Pennsylvania, where he was elected president of a predominantly white senior class, he was awarded a Bachelor of Divinity degree in 1951. With a fellowship from

Crozer, he enrolled in graduate studies at Boston University, completing his residency for his doctorate in 1953 and receiving the degree in 1955; and

"WHEREAS, While in Boston, Martin Luther King, Jr., met and married Coretta Scott, a young woman of uncommon intellectual and artistic attainments. Two sons and two daughters were born into the family; and

"WHEREAS, in 1954, Martin Luther King, Jr., accepted the pastorate of the Dexter Avenue Baptist Church in Montgomery, Alabama. Always a strong worker for civil rights for members of his race, he was at this time a member of the executive committee of the NAACP; and

"WHEREAS, In early December 1955, Martin Luther King, Jr., was ready to accept the leadership of the first great Negro nonviolent demonstration of contemporary times in the United States, the bus boycott described by Gunnar Jahn in his presentation speech in honor of the laureate; and

"WHEREAS, The bus boycott lasted 382 days. On December 21, 1956, after the

Supreme Court declared unconstitutional the laws requiring segregation on buses in the South, Negroes and whites rode buses as equals; and

"WHEREAS, In 1957, Martin Luther King, Jr., was elected president of the Southern Christian Leadership Conference, an organization formed to provide new leadership for the burgeoning civil rights movement. The ideals of this group were taken from Christianity, and its operational techniques from Gandhi; and

"WHEREAS, In the 11-year period between 1957 and 1968, Martin Luther King, Jr., traveled over 6 million miles and spoke over 2500 times, appearing wherever there was injustice, protest and action; and

"WHEREAS, In 1964, at age 35, Martin Luther King, Jr., was the youngest man to receive the Nobel Peace Prize. He was also the recipient of more than 300 awards for his invaluable contribution to the improvement of race relations in America, and before his death, he wrote five books and numerous articles; and

"WHEREAS, During his life, Dr. King endeavored to inspire within all of us a different and better way of thinking, premised on a renewed sense of faith, strength, and commitment: The faith to believe what our forefathers proclaimed, that all men and women are created equal; the strength to look beyond prejudices of skin color so as to see the content of one's character; and the collective commitment to grow our country from an infancy rife with mistakes and oppression into an enlightened adulthood of mutual respect and understanding; and

"WHEREAS, Upon the occasion of the observance of the 78th birthday of Dr. Martin Luther King, Jr., it is the intent of this Legislative Body to commemorate the heroic actions of Dr. King, who loved and served humanity, and who was an advocate for peace, justice and righteousness; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 78th birthday of the Reverend Doctor Martin Luther King, Jr., and pay tribute to

his life and be accomplishments; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the New York State Black, Puerto Rican and Hispanic Legislative Caucus."

THE PRESIDENT: On the resolution, Senator Smith.

SENATOR SMITH: Thank you very much, Mr. President.

Yesterday would have been Martin Luther King's 78th birthday. What he stood for, which we all know today, was not only for justice and civil rights but also for fairness.

In addition to that, he also stood for something that we strive for every day in our life, and that is continued improvement. You know, the Japanese have a phrase called "kaizen." It was actually birthed by a gentleman by the name of W.E. Deming, who was the father of a theory and discipline called "continuous improvement."

What we are doing each and every day of our lives, what we are doing, in the

spirit of Martin Luther King, is continually trying to improve our lives. Just 45 minutes ago, Mr. President -- and you were there also -- we had a press conference with our Governor, the Majority Leader, the Speaker of the Assembly, and we have reached what many have thought would not happen, an agreement on a budget reform process.

Here we are on the sunset of Martin Luther King's birthday, which was yesterday, and we have the good news that we can bring to the people of this state, which essentially says to them we got their message. The message was we want to make sure the government of this state works for everyone. We want to make sure the government of this state is responsive. And, equally, we want to make sure that there are reforms that are put in place.

I think Martin would have been happy this day after his birthday had he been here. One day after his 78th birthday, he'd have been able to stand and say, Well, at least in the north United States, a place called New York State, they have recognized

the importance of doing what the people ask. We have reached an agreement on a budget process.

In addition, he would also ask, if he was here this day, that we take it a step further and that we do again what the people of this state have asked for, and that is to have a government that is by the people, for the people.

And also that would mean we would have certain rules that govern this body that allow for each and every member to have not only a vote but to make sure that that particular vote is not only cast but is also understood, recognized, and that the people of this state know exactly where people stand.

So I think as we celebrate his birthday today, 39 years of when he died, 39 to this date, to yesterday -- he would be 78 years yesterday -- I think we need to reflect not only on what Martin wanted for each and every one of us, but we should also reflect on what it is we want for our families.

Each and every one of us have someone in our family, somebody in our life

that we can look at and say, You know, I believe that all that Martin stood for is what I want for you. I want my son or daughter to be treated equal. I want the members of this Senate body to be treated equal.

I don't want to just stand here and say that hopefully one day black children, white children will be able to sing that old Negro spiritual and say "free at last, free at last." What I'd rather say is that one day we'll be able to stand on the floor of this Senate and that Democrats and Republicans can all stand up and be able to say not only that we are free at last, but our votes are cast and are recognized by everybody.

That's the day that we strive for. That's the day that we look for. I think this is a great day that we celebrate Martin Luther King's birthday. But I also think it is also a great time for us to be good to one another.

It's also a great time for us to be able to say to one another, when we leave these chambers today, that he did not die in vain 39 years ago and that we are going to be -- not only to receive the challenge, but

we're going to be brave in what we do and do some of the things that we think are difficult for us to do, as we know change is difficult. But we also know sometimes change has to be done in order to make the wrongs right.

With that, Mr. President, I thank you for allowing us to bring this resolution before us today. I must tell you that, in the spirit of friendship, you are my Martin Luther King. It's a pleasure to have you standing before us presiding.

Thank you.

THE PRESIDENT: Are there any other members that wish to speak on the resolution?

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, Dr. Martin Luther King was a name that I only knew by the media until February 1965. In February 1965, as you and I personally discussed, there was a meeting in the Pentagon. And it was said that there would be a march from Selma to Montgomery. And the problem was that Governor Wallace was

stubborn and had to be addressed.

On the 7th of March, there was an encounter on the bridge, with the bullhorns and the fire hoses, by a police chief by the name of Connor. And it was dismissed.

Another trial had happened, and at that time the president and the Attorney General, Ramsey Clark, and President Johnson ordered that a joint venture by the armed forces go to Selma, first to try to solve the problem with the governor.

There was a young Army colonel, better looking than he is today, who was assigned that mission. When I went out and talked to a full colonel by the name of O'Brien, he said, "We're not taking it. Mr. Wallace's answer to me was if the president wants to activate the Alabama guard, let him do it. We will not do it."

We went back to the Pentagon, and we did organize. We had the First Signal Group from Fort Lewis, Washington; the 11th Air Assault from Fort Benning; the 82nd from Bragg; the 720th from Fort Hood; and other units from Fort Riley. And we put together

the march from Selma to Montgomery, an integration of civil rights units, of which I don't know how many in this chamber know it, but the Lieutenant Governor's father, Basil, was one of the front-line marchers with Dr. King on that Sunday that we marched.

You know, if you look back at it, the memories it serves for me were most interesting. First of all, we had this bastion of people trying to let other people know there's something wrong with our society and we ought to start to look at how we can integrate without being ashamed of ourself. I know people who said, "Well, I'd like to do it, but." Well, you really didn't want to do it, but the "but" was a big asinine word as far as I was concerned.

And we marched. I don't know how many people here remember that there were three threats on Martin Luther King's life during that march. At the last end of the march, we flew back to Andrews Air Force Base, and on the plane with us was the attorney general, and a bunch of others. And we were getting ready to get off, and they said

there's been a killing. A lady by the name of Viola Liuzzo, who was a part of the UAW out of Detroit, who was down there representing her unit, was shot and killed that day.

If I ever saw a group of people trying to work out the little crunches, it was very successful. Between the military -- many of us had civilian clothes on for that week. But there was something about it. Every day when you marched, we had trains so that we could get the supplies up. And we had engineers checking all the rail lines to find out if they'd been dynamited or something.

There was a threat one night that Dr. King's trailer was going to be blown up, and he had to be relocated.

You know, if you think about our country and think about what happened in 1865, you start to wonder about how low we stooped to attempt to kill our fellow Americans. And I don't have to take a back seat to anybody, because I also commanded an all-black company -- that's what they were known -- from '49 to '51. Had a great, great unit.

And I stand here today to say, my

first encounter with Dr. King was he looked at myself and Colonel Kingman and he said, "I pray for you and I thank you both for what you're doing. Please, please, do not let any violence take place." And that was the last time I said anything to him for the rest of the march.

But it was just common sense that if we could do that on one day, after all the thrashing that went on, I think that this world could use a little more of Dr. Martin Luther King's theory -- not in principle, but in practice.

Thank you.

THE PRESIDENT: Thank you, Colonel Larkin.

Senator Maltese.

SENATOR MALTESE: Mr. President, I rise to join the resolution, join the support of the resolution.

Dr. Martin Luther King was truly an inspiration. His example of selfless sacrifice and dedication to the cause of peace inspires hundreds of thousands and millions across the country.

I have, as many know, the honor of being chairman of the board of Christ the King Regional High School, and one of our seniors, an honor student, had the honor of being chosen as one of five recipients in the entire state of the Dr. Martin Luther King, Jr., Humanitarian Award.

The young lady inspired by Dr. Martin Luther King was so active in a variety of causes, raising money for starvation in Darfur, raising money again against the scourge of leprosy for the Damian Society, working on behalf of other groups, the victims of floods and famines. In a person so young, it's remarkable that she would rise to such heights.

We honored earlier today a heroic man. That could truly be said to be in the spirit of Dr. Martin Luther King, who constantly, at threat of his own life and ultimately at the cost of his life, stood for peace and humanity.

It's my honor today, in that same spirit and dedication, to introduce to this body the young lady who is the recipient of

the Dr. Martin Luther King, Jr., Humanitarian Award given by the State of New York yesterday, and she is present here. Her name is Joanna Kurylo, and she is accompanied by her mother and father, Anatola Kurylo and Gonafra Kurylo. And I'd like to introduce them at this time.

They are immigrants from Poland and truly exemplify what Martin Luther King stood for, without regard to race or religion, standing forth in the true spirit of dedication and humanity.

Thank you, Mr. President.

(Applause.)

THE PRESIDENT: The chair recognizes Senator Adams.

SENATOR ADAMS: Mr. President, I too stand in support of the resolution.

A story that's not often told, when Dr. King was a child, he witnessed his older brother slide down the bannister and bump into his grandmother, knocked her to the ground. Dr. King, seeing this, thought his grandmother died. He ran up to the second floor of his home and jumped out the window in an attempt

to kill himself.

What would have happened if we would have lost Dr. King? How would our lives have been different? How far would our maturity of getting along with each other have changed?

I raise that question because I ask, how many Dr. Kings have we lost through senseless gun violence? How many Dr. Kings will never become who and what they ought to be because we have not yet as a state taken control of the overproliferation of guns on our city streets? How many secrets of cancer and AIDS and other important discoveries in a scientific capacity will never be found because of the thousands of children each year who die because of illegal handguns?

The question must be what are we going to do as a Senate body, not only to protect those potential Dr. Kings of tomorrow, but to protect the countless number of uniformed officers in the police agencies throughout this state, to ensure once and for all we rein in the senseless overproliferation of guns on our streets, and demand that those

who sell guns to safeguard and protect our constituents and citizens.

It's one thing to say we praise and champion Dr. King, but it's another thing to say we're turning his dream into a nightmare when illegal guns are on our streets.

Thank you, Mr. President.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I also rise to join in the resolution and also to say that even though I never met Dr. Martin Luther King, never even encountered him in any demonstration -- I didn't march with him, I did not participate in any of those historic marches like many of you did, and like many other people.

However, the only thing that I know is that I was 18 years old in 1960 in Puerto Rico. I was born in Puerto Rico and I grew up in Puerto Rico. And that was the Vietnam era. And I decided to join the great American Army to fight for my country and to go and even put my life in jeopardy, because I believe in the American dream. Even though I didn't know --

I mean, I never knew Martin Luther King.

I was sent from Puerto Rico, a young guy 18 years old, to Columbia, South Carolina, to Fort Jackson for my basic training. And when I got there, 18 years old, proud to be member of the American armed forces, I learned over there the abuses, the discrimination and the things that I even went through that I don't wish any other human being to go through. They called me "spic."

They even, when I went to a bar to get -- on my first pass, I sat down in a bar and they told me, "Whatever you're looking for, we haven't got it." Even though they served all my other friends from Puerto Rico who were white.

And I had to leave that establishment. And when I went outside, they chased me, running after me. I'm not wearing my uniform. And I was running from the town to Fort Jackson. In the entrance of Fort Jackson, thanks to the MPs there, they stopped.

So even though I never knew Martin Luther King, and people are celebrating his

day and all what he did, I'm very glad, I'm very honored that he went to these marches and that he took away our burden and that a young guy like me from Puerto Rico could join the Army, a young black guy from Puerto Rico could join the Army now and go to Fort Jackson, sit down with anybody else, eat in any other place and participate in any other activity that anybody else could participate.

So you don't have to be an American living in America or an African-American to understand about Martin Luther King. I am black, I'm Puerto Rican, I'm from Puerto Rico. I could tell you that Martin Luther King did a lot of things for us Puerto Ricans too. And I join all of you, my friends, and I tip my hat before Martin Luther King, Reverend Wyatt Tee Walker, Reverend Jesse Jackson.

And I also would like to say to those friends at the New York Post, leave Reverend Al Sharpton alone.

Thank you very much, Mr. President.

(Laughter.)

THE PRESIDENT: Senator Perkins.

SENATOR PERKINS: Thank you very

much, Mr. President.

I want to obviously join in on this resolution and join in the remarks made by our Minority Leader and sponsor, Malcolm Smith, in terms of the role that this body can play in the spirit of Dr. King.

I'm reminded of two campaigns that Dr. King embarked upon before his unfortunate assassination. The first, in 1967, he declared his opposition to the war in Vietnam. It's very significant because in that declaration he was not simply concerned about the death and destruction but also about the fact that funds, public dollars that were focused on a War on Poverty were redirected to a war that he considered -- and I join him in that consideration -- an unholy war in Vietnam.

And the second campaign that I'm reminded of is his campaign to end poverty in this country, his campaign that he started and unfortunately which he never was able to fulfill because he was assassinated upon announcing that campaign.

And it would seem to me that while

this body may not be able to end the war, we may have a role to play with regard to the problems of poverty. We see it not just in the Harlems of this state but where, for instance, even in New York City children are still being poisoned by lead, as was reported in recent newspapers this week, the Daily News in particular. Governmental intervention leading to that, it would seem to me that other manifestations of that kind of poverty, this body I would hope, as a new member inspired by the possibilities of this body, would want to direct its legislative might and other wherewithals, so that we can at least in that respect fulfill the dream of Dr. King that poverty, that public intervention is a possibility, a very important possibility, a moral imperative, if you will, to address the pervasive poverty not just, again, in the Harlems of this community but throughout this state and throughout this country.

So I would hope that we can look at Dr. King with that kind of recommitment.

Thank you.

THE PRESIDENT: The question is

on the resolution. All in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

Senator Smith would like this resolution to be opened for cosponsorship to the entire Senate body. Thank you, Mr. President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. I'm glad that was proposed. And if we could follow the normal procedure.

THE PRESIDENT: All those not wishing to be om the resolution may indicate so at the desk.

The resolution is adopted in the spirit that when we honor Dr. Martin Luther King we are also honoring, over the last 200 years, those Americans, black and white, living and dead, who struggled unremittingly

and courageously to bring to this country the true meaning to the end of our pledge of allegiance, there would be equality and justice for all.

And not the least among those Americans who fought for that is our colleague Senator Bill Larkin.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, we have another resolution, a privileged concurrent resolution, Number 115, by Senator Bruno. Could we have the title read, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Concurrent Resolution of the Senate and Assembly Number 115, authorizing the Senate and Assembly of New York State to purchase copies of the New York Red Book for 2007-2008.

THE PRESIDENT: On the resolution, the Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The resolution is

adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe we have another resolution, Number 128, by Senator Smith. Could we have the title read, please, at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Smith, Senate Resolution Number 128, to adopt the rules of the Senate for the years 2007-2008.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I do believe we have at the desk a resolution which the Senate Democratic conference has put together which is a proposal for the Senate rules. And I believe, Mr. President, very, very strongly that this entire body should find them fair, open and honest.

It's time to let the sunshine in this chamber, Mr. President. And I think we can all agree that we have really, frankly,

been embarrassed enough. And that embarrassment is quite public, and it's based on the stagnation and the dysfunction that we have seen here in Albany.

Now, at the same time, we do pride ourselves here in the Senate of being able to make real change for the people of the State of New York, and we are now being provided with an opportunity to make for real and substantive change in our Senate chamber.

You know, we are only as strong as our rules in this body. And who could disagree that having strong, fair, honest, open rules would in any way weaken anyone in this house? In fact, I think the claim could be appropriately made that strong, fair, honest, and open rules make all of us stronger.

So on the desk is our rules resolution. We will hear from several members of our conference on these rules and why we need these rules. And so with that, Mr. President, let's begin the discussion on our resolution on improving the rules of the New York State Senate.

THE PRESIDENT: On the resolution. The chair recognizes Senator Parker.

SENATOR PARKER: Thank you, Mr. President. I rise today as we engage in this conversation about rules, this idea of reform. In this last election we saw that the voters of the State of New York overwhelmingly asked, Mr. President, for there to be significant reform in the way that we do business.

A number of years ago, we got pegged with being the most dysfunctional legislature in the country. And in some ways that was very true in part because of the rules that we have here, and specifically around the issue of equal resources for Senators.

Right now, there are very unequal resources for Senators in this chamber based on party affiliation. And that shouldn't be the case. Members of this body all represent roughly, you know, 310,000 people. In fact, according to the number that I've seen, most of the Democratic Senators represent roughly

10 percent more than the average Republican Senator in this body, yet we receive substantially less in terms of resources.

I don't think that the members of my district or any other districts should receive less simply because the representative that they happen to elect comes from a particular party. And in fact, we should have the same ability to communicate with our constituents, we should have the same ability to serve them and advocate on their behalf.

And we're asking in this particular proposal to make sure that that in fact happens in a way that allows us to be able to just do the work of government. And certainly part of the work of government in a democracy is to be able to communicate effectively with your constituents. And under the current rules, many members of this body are prohibited from doing that.

And so I ask my colleagues, and all those who think that democracy is important, to vote for this reform in our rules.

Thank you.

THE PRESIDENT: The chair

recognizes Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

This resolution that is before us today, Senate Resolution 128, is, make no mistake about it, real reform -- real legislative reform that, if adopted, would move this Senate on the course to an open, accountable, responsible legislative body.

So this is an important debate that we have today. Unfortunately, this will be a rare debate that we have today. Because as a result of a rule that was adopted two years ago, any future proposed rules changes can only come through the Rules Committee and not to the floor of the Senate. So my understanding is that this will be the only opportunity we have for this two-year session to discuss real legislative reform on the floor of the State Senate.

I want to share with you, Mr. President and all of my colleagues, a situation has occurred shortly after taking office two years ago when I, as many new members I'm sure do have orientation sessions

and learn about the practices of how the New York State Senate works.

We went through the various forms of debating a bill and how the committee process works and so on and so forth. And then we talked about the issue of legislation that perhaps may be supported by an overwhelming number of Senators, Republicans and Democrats, that for whatever reason does not come out of committee. And we talked about a process of moving a bill to the floor of the Senate and recording that vote.

And much to my surprise, it was explained to me that in 2001, in the adoption of rules in that session, that those votes were no longer recorded. That, instead, a canvass of agreement was adopted whereby votes were not recorded on those bills. In addition, the number of opportunities to motion to petition a bill out of committee was significantly reduced.

And so, Mr. President, our resolution today eliminates the canvass of agreement. It eliminates the limits that we currently place on motions of petition. And

it basically says that when there are legislative proposals that some member or members of this body feel ought to be addressed by the Senate, that we would have a procedure under this rule to allow that bill to come -- or allow that motion to come before the house for a vote. And that the votes on that motion be recorded.

Because in the final analysis, Mr. President, don't the constituents that we represent deserve to know how we feel on a particular issue? One of the most democratic of all things that we do here, having an ability to stand up for a particular issue and say whether we support that issue or oppose that issue or support maybe an alternative proposal. Under our resolution, Senate Resolution 128, we would have that kind of a structure here in the Senate.

And I urge all my colleagues to support this resolution for the purpose of eliminating a canvass of agreement and opening this Senate, and for a number of other items that are contained in this as well, and move this Senate along the path toward real reform,

real openness, real accountability, real transparency and real responsiveness on our part on behalf of the citizens of the State of New York whom we are elected to represent.

Thank you, Mr. President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I rise to speak in support of this resolution and in particular to follow up on something Senator Valesky just noted about the power of the Rules Committee in this house.

And, ladies and gentlemen, I would urge you that this really shouldn't be a Democratic or a Republican issue. This is certainly not an issue that relates to any particular leader of this house.

But this is a sham Legislature. This is a Legislature, until we reform the rules, in which no member of this house, no group of members, no matter how numerous, can get a bill to the floor for a vote. It is controlled by the Majority Leader through the shadow committee, the Rules Committee.

Here is the calendar of Senate committee meetings, so the public can know when we meet. Every committee is on there except one, the Rules Committee. Because it has no scheduled meetings, it has no identity other than to be the shadowy arm of authoritarianism by which the Majority Leader has absolute control over what comes to the floor for a vote.

Last year we attempted -- in the last few years, since the passage of this rule in 2005 that requires all proposed changes to the Senate rules to go through the Rules Committee -- my colleagues on this side of the aisle sent a series of 11 resolutions to the Rules Committee proposing changes in the rules. Senator Krueger, Senator Oppenheimer, Senator Valesky, Senator Breslin, Senator Malcolm Smith, Senator Duane, Senator Hassell-Thompson, Senator Klein, Senator Sabini, Senator Stachowski and myself all authored resolutions. Not one of us even received a response from the Rules Committee that supposedly is in charge of handling amendments to the Senate rules.

Why is that? It's because -- we all know this, everyone knows this. Let's not, you know, play games with the public -- the Rules Committee is a shadow government. It's not a real committee. It's the arm of the Majority Leader to control what comes to the floor.

Ladies and gentlemen, let's get rid of -- I see at this point Senator Johnson is leaving our side of the aisle.

(Laughter.)

SENATOR SCHNEIDERMAN: Come back and visit again.

Ladies and gentlemen, this is not -- you know, this is really not a joke. Our constituents know what's going on. They know that this is the equivalent of the old legislatures in the Eastern Bloc, where you had a sham parliament that pretended to pass legislation while everyone knew that the Politburo was behind the scenes making decisions.

Let's get rid of the Rules Committee. Let's restore the power of the substantive committees. Let's provide for

ways for real, ordinary, rank-and-file Senators to get bills to the floor for a vote. And let's certainly dispense with this sham that rules reform will go on in the Rules Committee after the debate today.

So I urge everyone to support this effort to make the Senate more open and democratic and support Resolution 128.

THE PRESIDENT: Thank you, Senator Schneiderman.

Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

I stand in support of this resolution. The people of this state want and deserve a government that is open, that is honest, that is responsive, that is accountable, that is equitable, and that is effective.

This resolution would alter the 2005-2006 Senate rules by allowing ranking Minority members or any three committee members to place a bill on the committee agenda. It would allow the ranking Minority member or any three committee members to hold

public hearings. It would authorize any Senator to join on any bill as a cosponsor. It would require detailed committee reports on each bill reported to the floor.

It would require more information be made available to the public, through the Internet; the active list, including committee transcripts and votes, fiscal notes, and Senate expenditure reports.

Currently, right now, I serve as the ranking Minority member -- till today -- of the Labor Committee. I serve on six other committees. And many times I have found myself as one of a few members who attend these committee meetings.

This is where we're supposed to discuss and debate legislation. This is where we're supposed to seek the advice, the information, the expertise of our colleagues as to what the legislation and public policy we are putting forth is.

Our committees do not achieve that. Bills that move through the committee at the request of the chair are overseen by the Majority Leader's legal staff. We have almost

no input -- in fact, none of us have almost any input on the bills that come through these committees. We need to change that. This resolution will allow us to change that and allow for more interaction among the membership, more input, and better legislation moving through these committees.

So I support this resolution.

Thank you, Mr. President.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I want to offer a proposed hold on the numbers of committees that meet off the floor. The Senate currently holds an excessive number of meetings off the floor. Why is this problematic? It's problematic because the people send us here to have open and honest discussions, and they need to be allowed to attend or send representatives to attend any of these meetings.

The other thing that it disallows is a time frame in which there could be meaningful discussion on any of the

solicitation that is being proposed. According to the law of physics, it's impossible for a Senator to be in two places at once. When there is a committee meeting being held off the floor, the Senator who is a member of that committee must choose whether to miss floor votes, miss committee votes, or miss hopefully active debate or discussion that may be going on about the bill.

This rules change will permit committee meetings to be held off the floor under appropriate circumstances and is designed to ensure that the holding of committee meetings off the floor is the exception rather than the rule.

Finally, when it is necessary for the Senate to hold meetings off the Senate floor, this rule would provide that the Senate must stand at ease until the committee concludes its business. This will permit all Senators to perform their duties both on the floor and in committee.

This would also give us accountability to the public and committees that are scheduled for meeting times which are

publicized. And that's for a specific purpose. We are defeating the purpose each time that we take the committee off the floor.

Lastly, reality. While the reality is that sometimes these meetings off the floor become necessary, it should be done in consultation with the body in general. These decisions should not be made in a vacuum but, rather, this proposal would require that two-thirds of all members of the committee be held accountable for calling such a committee meeting.

In conclusion, the State Senate supports this proposal that makes the Senate and the entire Legislature, again, more responsive, deliberate, accessible, accountable, and efficient. This in fact is true reform.

THE PRESIDENT: Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Thank you, Mr. President.

I began earlier today talking about the auspiciousness of the day. And I get to rise yet again to talk about something that

startlingly just happened a few moments ago.

I was to speak on member items and the need for transparency and the need for accountability, and I find that the Governor, along with the Majority and Minority Leaders, have decided that member items should indeed be transparent, that member items should indeed be part of the budget process. That suddenly, the light is going to shine on what and who and how, and it will be decided on in a budget process. I think we have gone a far way.

One last thing, however. Part of my presentation was to deal with the fact that, once the member item has indeed seen the light of day and has become part of the budget process, that it actually be honored.

And I would want to thank my colleagues in advance for honoring the member items that are indeed in the budget. That those that do appear should indeed be granted, and we can certainly move forward again in a way that I believe gives more accountability, transparency, and credibility to this Legislature.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I rise to speak about our next amendment on ethical standards for members of the Senate officers and staff.

I often talk about, at home, that because I've asked people to elect me to make their laws, I believe I should be held to higher standards than the rest of the public. It is a privilege we have to serve in the Senate to represent the 19 million people in our state. But I believe that requires of us not just formal standards for our behavior but clear-cut rules for the Senate of what is acceptable and what is not.

And so this amendment would prohibit any member of the Senate, officer or employee of the Senate from accepting any gift with a fair market value of more than $25 directly or indirectly from any person or organization who is doing business with the State of New York.

All state employees must act in a manner consistent with that public trust and

must not take any actions that either are intended or appear to be intended to achieve personal gain or benefit. We have heard the voices loud and clear from all of our constituents. They demand better of us. They demand accountability. We need to be able to hold our heads high, say we are senators of the great state of New York and that we are held to high ethical standards.

Governor Spitzer has called for ending a system of pay-to-play government in our state. The Senate Democrats have been calling for that for many years. And we support, as part of a broader package of legislative changes on campaign finance reform and rules about how you can spend your campaign money, a rule within the Senate rules specifically outlining a gift ban.

Senator Bruno has spoken of this in previous years as a voluntary agreement, but it is not enforceable unless it is in our rules. It would give our Senate Ethics Committee something to do to ensure that we are following ethical standards within our rules.

Again, we need to tie this with other changes that need to be done both in consultation with our other house, the Assembly, and, I would argue, through legislative change. But today we can change our rules and we can establish that, as a Senate, we say we will have specific ethical standards for accepting gifts and we will not violate them.

Thank you, Mr. President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

I rise to discuss the issue of standing conference committees. Our proposal would create a standing conference committee of five Senators to work with the members of the Assembly to resolve differences.

So often you hear people in the halls talk about one-house bills, this is only a one-house bill. How often do we read about it in the newspapers? If we had a standing conference committee in place in our rules, the term "one-house bill" I think would be used less and less.

To have the legislation considered by this joint conference committee, the requests would be made by the Temporary President of the Senate -- the Majority Leader -- and the Speaker of the Assembly, or by the prime sponsors of the bill in both houses, or by the chairs of the substantive committee considering these measures. The prime sponsors of the bill in each house would serve on the conference committee but act as nonvoting members.

In addition, the resolution of the dispute would be examined by a nonpartisan council appointed by the commissioners of the Legislative Bill Drafting Commission, and then they will determine if the bill or resolution should be sent to the standing conference committee. They would have 10 days from the time of the referral to negotiate changes and then report the bill within 15 days of the referral.

What we're doing now I think is a disgrace. In 45 of the 49 bicameral houses of the legislature -- obviously, Nebraska has only one house -- but in the 45 of the 49

legislatures, they have conference committees. They have them in Congress. You read about it all the time in Congress. It makes absolutely no sense to deal with it the way we've been doing it.

Lastly, I believe that our rules changes -- when we say rules reform, too often that's become an oxymoron. I think it's time that we started to take reform of the Legislature, and the rules of the Legislature is where we've got to start this entire reform process.

Thank you, Mr. President.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I rise to talk on the so-called amendments and rules, especially the first one introduced by Senator Parker. It reads: "Proposal that all Senators receive equal staff and resources and that committee members, staff and resources are allocated proportionally to the majority and minority representation."

I think that if we are all honest

in what we're doing and trying to do, I would say that I will congratulate my colleagues and Senator Parker for talking about these.

However, I have been here four years. Four years I have been in this chamber. I'm going to my fifth. And we know that that side discriminates against us. We all know that.

They got people there with -- getting -- some members getting $3 million and $4 million, $5 million in member items. I'm getting $200,000. Some members there are getting -- some members there are getting -- I guess. I don't know, I think I -- que?

SENATOR HASSELL-THOMPSON: More than me.

SENATOR DIAZ: So if I'm getting more than you, Senator Ruth Thompson, this is exactly what I want to say.

That some members have two and three district offices; I only have a rinky-dinky one. We all represent -- supposed to represent 250,000 people plus. The law says one vote, one person. We all represent the same amount of people. Most of us, like

me, represent the poorest of the poorest. But we're getting nothing. Nothing. We're getting crumbs.

That's okay, that that side is in the majority, they control the money and they get the big chunk, and they send to us something. But then when it comes to us, whatever we get, we don't do with it what we say we're going to do with it. Because nobody's doing anything that can say let's do it right.

We don't get the same amount. Now, Senator Thompson just said that I'm getting more than her, and I'm getting $200,000. I suppose that she's getting what?

So if we want to talk about equality, resources, honesty, let's share equally. I understand that when Senator Connor was the minority leader, he didn't do it. When Senator Paterson was the minority leader, he didn't do it. Now I don't know what the new minority leader is going to do.

So let's criticize that side. Yes, you got the big bucks. You all discriminate against us; you get more money. But, ladies

and gentlemen, I have to present my side too. We're not getting it equally neither. So if we are going to talking about transparency, equality, honesty, let's be real, ladies and gentlemen.

Thank you very much.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Mr. President, on the proposal.

You know, I don't think it's revolutionary to say that we should as legislators, when people send us here to represent the people in our districts, the 300,000 people we represent, that it should be so questionable that we have to record our votes.

And yet under the current rules and the proposed rules that I hear are coming down, we are not, on many issues. When issues are brought to the floor for discharge, we're not required to record our votes.

I find it amazing that even once again we're in a position where all the rules are going to be dispatched through the Rules Committee, even though everyone knows the

Rules Committee won't deal with the rules. Even the attempt to discharge my bill last year to make the rules come before the floor of the body, that of course was knocked down by the other rule based on the canvass of agreement.

With regard to conference committees, it has become so ridiculous that we can't come to agreements on issues that even when we have good intentions and try to, we can't resolve them. Let's take, for example, Timothy's Law. Finally, after all these years, we passed it, the 11th hour, 59th minute of the last day of session in June. And of course that left a nonpassed version in the Assembly.

That shouldn't happen. And if another tragedy occurred, based on the fact that someone couldn't get care because we did it the Albany way, we did it the way that makes sure nothing gets done -- if another tragedy occurred because even when we had good intentions we couldn't get the law into effect, that's shameful. It's shameful.

Now, I read papers all over this

state. With the advent of online newspapers, you can read just about everyone's news in everyone's district. And across this state, in the Western Frontier, in the Southern Tier, in the Hudson Valley and the Capital District, New York City, Long Island, all I kept reading about everywhere, and everyone's raised it, was how every candidate was for cleaning up Albany, changing the system, making things better, more user-friendly for residents of the state of New York. And most of the people in this room said that in their campaigns.

What is it about when we get here that that attitude changes? Well, to paraphrase Dr. King, there was a promissory note issued here in November. And that promissory note, I suspect, is going to come back marked "insufficient funds." And that's not right.

We should be able to determine the role of this Legislature, the direction of this Legislature, and what bills come to the floor and what bills do not. And if we don't like it, we shouldn't be afraid to be recorded on it.

And so I support this package of reform that has come before us today and urge everyone in the room to seriously consider whether or not they can go back home and explain to people what it is we do in this room. Because when I try to explain it to people, I couldn't defend it. It's not my role to defend it. But I don't think anyone else who votes for it can defend it either.

Thank you.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, I'm beginning my 30th session here. And after what I heard Senator Diaz say, I want to have a little chat with you, Mr. President, after session. Because my colleague should watch what he complains of.

(Laughter.)

SENATOR CONNOR: In this beginning of my 30th session, I'm the senior member -- not the oldest, I always point out, but the senior member on this side of the aisle. And I look across the aisle, and I

have at least a dozen colleagues over there, and friends, who have spent more years in this house than I have.

And I pose the question, and I have my answer: Isn't it painful? Doesn't it pain you? In all the years I've been in the Senate, and I trust the years you have, have you ever seen or heard this Legislature, this Senate, be as much maligned and held in as much ill repute as one only needs have to look at the daily newspapers?

And I know over the years the newspapers have slammed us individually and collectively on various issues. I am talking about the consistent drumbeat, the consistent criticism, the consistent reference to the Legislature -- not just as dysfunctional, but in worse terms -- that we've been hearing now for a year or two.

Is it all fair? No, it's not all fair. I've served with some of the finest public servants I think New York has ever had on both sides of the aisle in this house. And yes, in nearly 30 years there have been a few scoundrels, and they got caught. You'll find

them anywhere. But they certainly never, never epitomized the New York State Senate.

This body, when I first came here, held itself forth as the greatest debating body, legislature, in the nation. They had rules that afforded all of us, minority members as well as majority members, full debate, full record votes, participation in committees. That's how it used to be.

I passed, as a minority member in my first year here, 21 bills. And they weren't local bills. Because the majority that led the house then -- and some of you were there. Remember what the rule was? We'll do any bill in this house on the merits. And politics didn't count. That's the way it was when Senator Anderson was the majority leader. And I have closets full of pen certificates to prove it. And I wasn't alone then, by any means.

Isn't it painful now, though? Isn't it painful when your neighbors look at you kind of funny? And they don't say, "Wow, you're a Senator," they say, "How are things in Albany? Going to clean that mess up

there?" That's how you're greeted by neighbors now. Isn't that painful?

You know, we don't serve here for treasure. Lord knows, I know -- I see senior members there, and I know the pension laws, and you know it too. There are a lot of you working for less than nothing. Less than nothing. And I said that to somebody once, and they said, "Oh, most of those members would pay for the honor of being in the State Senate." And certainly that was true for decades.

I really wonder now, where's the honor? We all have our personal honor. But isn't it time that we reach out to reclaim the reputation of this institution that's the people's Senate? I heard that phrase many times on this floor, We're the people's Senate in New York State.

That's what at stake here. Not just our individual reputations, the reputation of this institution where so many of us have served so many years and exchanged ideas and debated.

My colleagues, listen to the

voters. It's now resonating with the voters. It's not just a press problem, it's a problem with the voters. When the voters lose confidence in their elected representatives and the elected representative institution in which we serve, we all have a problem. Democracy with a small "d" has a problem. New York State has a problem. And it's a big problem.

These rules changes, what do they do? Do they eliminate the majority's control over the house? No. That's not democracy. Nobody is proposing to do that. They do change power relationships. They do. It certainly takes away some of the power of the majority leader. I assure you, adopt these rules and the majority leader will still be one of the three most powerful people in New York State. But he won't be quite so powerful. He won't be quite so powerful when it comes to how we function as elected representatives.

How independent can you be when you are guaranteed nothing for staff, guaranteed nothing? You can get anywhere from zero to

hundreds of thousands of dollars for staff. Do you want to represent the districts as large as ours with no staff or minimal staff? How can you be independent then, when every resource of this house depends on the will of the leaders? And I speak -- the other house can speak for itself, but we know what it's there like there too.

If we're going to change this Legislature, we have to change it. We can't just Band-Aid it a little bit here and there. What about these proposals to empower committees? Well, that's how real legislatures work. We are almost unique in being behind the curve on that.

Empower the committees, it empowers the chairs. So far none of us are chairs. It empowers you, my colleagues on the other side of the aisle. You, to be independent, to hold your committee meetings when you deem fit and the members of your committees deem fit, to function as a real committee -- like 25 or 30 years ago, when the TV cameras went to committee meetings. And everybody interested in an area attended committee meetings. And

everybody knew who the committee chairs were because they were really important.

How important are you when your meetings are being snuck off the floor in the middle of session, held in a lobby somewhere, no one knows they're happening?

That's what these rules do, they empower you. As well as give a fair voice to the minority.

Gifts. I have said this over and over again, I've never served with a person who I thought was unduly influenced by someone giving them a meal or a couple of meals over the course of a session. That's not the problem. The problem is perception. The public thinks you are. The public thinks the institution is.

And to his credit, Senator Bruno first proposed this total ban that's in these rules in the end of 1998, I believe it was. Maybe it was 1999. It was a one-house bill. I first suggested, "Well, let's do a rule that will bind us." We ended up with a voluntary ban that I've observed since then, and I suspect others have as well. But it's

obviously not good enough. It didn't solve the problem. It didn't get us ahead of that curve.

My colleagues, the voters are asking for change. Change can be difficult. Look, in my 30th year here there are some changes here, and I think, What did we have to do that for? Nobody really is comfortable with change for the sake of change. But you have to recognize when change is not just appropriate, it is necessary.

The voters have delivered a message. My colleagues, my advice to you is: Embrace change. Embrace change or pay the price. You'll perish politically at the polling places if you don't.

THE PRESIDENT: Senator Thompson.

SENATOR THOMPSON: Mr. President, I listened today very concerned as a new member of this very distinguished body.

I rise today, Mr. President, because I am very concerned, coming from the most western part of the state, where throughout the last couple of years our newspapers have consistently argued that

Albany is dysfunctional.

And I understand that we come from a great country where democracy is not perfect. But I do also know that people want change in this democracy in the New York State Legislature.

Today we have an opportunity to push for change. And unfortunately, in a very few minutes we may not give people the change that they so desperately want.

Legislative reform is something that in Western New York people have talked about each and every year for the last five to six years. People have also talked about making sure that their members participate in conference committees and that those committees have meaning and that those committees have value. Hopefully that will change by the time this session is over.

The other thing that's so important as well is that the road to change in New York State begins and starts in this chamber. It starts right here. And people want change and hopefully, ladies and gentlemen, that we will give people the change that they so

desperately want right here in Albany in this Senate chamber.

Thank you.

THE PRESIDENT: Senator Duane, to close.

SENATOR DUANE: Thank you, Mr. President.

You know, I've been listening to everything that my colleagues have said here. And there is nothing, nothing in any of the proposals put forward that would shock the conscience or seem in any way egregious. It just seems to me like simple democracy, good government, period.

Senator Parker, equal resources, of course.

Senator Valesky, makes sense.

Senator Schneiderman, absolutely correct; oversight is good.

Senator Savino, committees can actually function with a little bit of independence.

Senator Hassell-Thompson, why do we hold meetings off the floor? Right? We've got lots of room and lots of time to have our

committee meetings. What's the rush? Why do you have to call it off the floor, right?

(To Senator Stewart-Cousins.) Our new conscience. Thank you very much, Senator. You convinced me one thousand percent.

And Senator Krueger, our rules maven, makes perfect sense.

And Senator Stavisky, who doesn't love a good conference committee; right? Good government.

Senator Connor, with history on your side, you have proven that collegial and democratic makes good laws and makes a good legislative body.

This chamber was a real Senate. This chamber could be a real, democratic, open, honest, recorded chamber again. We can do it. We can reform ourselves, and the Senate could be a beacon of good government. There's nothing to stop us.

So let's not hold back, ladies and gentlemen. Let's do it. Let's make ourselves a real, democratic Senate.

Thank you.

THE PRESIDENT: The question is

on the resolution. All those in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Those opposed, nay.

(Response of "Nay.")

SENATOR CONNOR: Mr. President, I request a slow roll call.

THE PRESIDENT: Senator Connor, may I rule on the voice motion.

SENATOR MARCELLINO: Mr. President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: I don't believe a slow roll call is provided for under our current rules.

SENATOR DUANE: Mr. President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: I do believe that the voice vote was insufficient and we do need to get an accurate tally of the vote on this resolution.

THE PRESIDENT: Is there anyone else who would like to speak on the point of

order?

SENATOR MARCELLINO: Mr. President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: It is my understanding that the current rules only provide for a slow roll call on bills and concurrent resolutions and nominations. This not being one of those, the current rules do not provide for a slow roll call, and I suggest that the chair so rule.

SENATOR DUANE: Mr. President, point of order.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Actually, the rules are basically silent on this issue. And I therefore respectfully continue to request that we see what the actual votes here are. Because I believe it would be incredibly difficult to be able to tell, we're so -- we seem so closely matched in what it was.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, if it was the intention of this body to have

provided for slow roll calls other than the three instances that are provided in the rules, it would be listed. There is no provision for slow roll calls on a resolution.

So therefore, I would say that the resolution is defeated.

SENATOR DUANE: Mr. President, may we have a ruling, please.

THE PRESIDENT: The ruling on the point of order set forth by Senator Connor is defeated.

SENATOR DUANE: Mr. President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: I respectfully call for an appeal of the ruling of the chair.

SENATOR CONNOR: Mr. President, I call for a slow roll call on that appeal.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, if I could just mention, they're appealing the ruling of the chair. There's no slow roll call on that. And if they want to -- if the Minority can get 32 individuals to overrule the appealing of the chair, then it would be overruled.

SENATOR DUANE: Mr. President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: I respectfully disagree with that. Actually, the rules are quite open to having a slow roll call vote on an appeal of the ruling of the chair. In fact, there's precedent for that.

SENATOR ONORATO: Mr. President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Well, it's okay.

THE PRESIDENT: With regard to the ruling, is there any other member that would like to speak?

Senator Connor.

SENATOR CONNOR: Yes, Mr. President. Procedurally, I've seen many, many times when an appeal of the chair has been subjected to a slow roll call.

Certainly it's subjected to a roll call. I don't think Senator Skelos is suggesting that there's not a fast roll call on it. It's not a motion to discharge or an amendment, so it's not subject to that nonsensical canvass of agreement that was

adopted in 2001.

But as to the main issue, as to the main issue, let me pose the following. Yes, resolutions are done by voice vote, except a resolution adopting rules. Because that's what we're doing. If we don't adopt rules today, Senator Bruno loses most of his power tomorrow, because there will be no rules. There will be no rules tomorrow.

So it's an organizational meeting of the Senate. And when you have an organizational meeting, there are no rules.

Does anyone doubt for a minute, but for our comity in this house, that on opening day of a new Legislature, a new Legislature, when we elect a Temporary President by resolution -- oh, yes, we put a substitute resolution in that loses on a voice vote for the Minority Leader. Do you doubt if we came back here at 31-31 after an election you couldn't have a roll call on who the Temporary President would be because it's a resolution? Of course you'd want a roll call.

You can have a roll call, clearly, at the organizational meeting of the Senate,

on the election of a temporary chair, a Secretary, Stenographer, Sergeant-at-Arms and adoption of the rules. Why not? Is anyone willing to stand up here and say, Oh, if we came back here and it was a tie vote, we wouldn't want a roll call?

The fact that ordinarily we just do it on a voice vote is because we recognize the Majority has more seats.

And if you go back to the history books, go to the State Library, in the year 1965 when it took this Senate three months to organize, it operated without rules for three months, because the Constitution mandates the first order of business is electing a Temporary President. And it was unable to elect a Temporary President for three months, so there were no rules. And they had slow roll call after slow roll call on the election of a temporary chair. I'm not making that up. It's in the books, if anyone cares to look.

So that the my point, Mr. President. The adoption of the rules is an organizational matter of the Senate. And of course it's subject to a proper division of

the house by a roll call vote. How else could you do it?

SENATOR DUANE: Mr. President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Mr. President, I just want to focus on the question before us, which is whether, on the appeal of the ruling of the president, we are entitled to a slow roll call vote. I believe the answer is yes. I'm arguing that my motion is superseding the Senate rules because it's an appeal of the chair.

And so, Mr. President, I would very much like to hear your ruling on my appeal and our ability to have a slow roll call on that appeal.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Duane. We will have that ruling.

I would just like all the members, in the spirit of openness, to be allowed to express themselves. And we now recognize Senator Maltese.

SENATOR MALTESE: I yield to Senator Saland.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Mr. President, as best as I can follow this debate, what I seem to have gleaned procedurally is that, unlike the situations described by Senator Connor, we are operating under rules. The rules are the preexisting rules, and those rules have specific provisions as to what particular types of matters a slow roll call can be had -- for which a slow roll call can be had.

I think by inclusion -- and I'll defer to Senator Maltese as to what the Latin term is; he's far more adept at that than I am -- but by inclusion of those three specific items, we exclude all other items that might be coming before this house for consideration by this body.

And I would ask for the wisdom of the Latin expert to tell me what the phrase might be.

SENATOR MALTESE: Mr. President.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: I really miss Senator Marchi right now. But I believe the

phrase is expressio unius est exclusio alterius, which is "The expression of one is the exclusion of all others."

And since you have specific enumeration of those instances where the slow roll call is permitted, therefore it would exclude this circumstance, which is not specifically enumerated.

THE PRESIDENT: Is there any other member that would like to speak on the motion?

Hearing none, I had a feeling this might come up. Looking back at the actions of the Senate back to 1993, which was as far back as I was able to peruse, there have been rulings of the chair that were appealed and resolved by a slow roll call.

In 2001, there was a rules change to the Senate, including Rule 8(B), which is the one which is under debate right now. There was one appeal of the ruling of the chair during that time. At that time the chair did not make a ruling on that motion.

So there's no precedent in this chamber for an appeal of the ruling of the

chair not being allowed to have a slow roll call.

Now, the question of the exclusion of a procedure then therefore meaning that there is an automatic bar to that procedure is not true, because this chamber has done it several times. And in 1993, the members spoke Latin as well as they do today.

Therefore, the chair rules on the appeal of the chair by Senator Duane that, upon further information and belief, that the previous ruling of the chair is overturned.

There will be a slow roll call. The Secretary will ring the bell.

SENATOR WINNER: Mr. President, I appeal the ruling of the chair.

SENATOR CONNOR: Slow roll call, Mr. President.

SENATOR WINNER: Mr. President, I have the floor.

Point of order, Mr. Chair.

THE PRESIDENT: Point of order.

Senator Winner.

SENATOR WINNER: Thank you, Mr. President.

You have made a ruling for which the Majority appeals the ruling of the chair. And the determination by the chair under these circumstances can only be done with respect to whether or not a slow roll call can be had on an appeal of the ruling of the chair. And this appeal would be final.

THE PRESIDENT: Senator, I've already ruled on that. The appeal is denied.

SENATOR DUANE: Mr. President.

SENATOR WINNER: Mr. President.

THE PRESIDENT: Senator Duane.

SENATOR WINNER: Mr. President.

SENATOR DUANE: It occurs to me that really the chair had two choices now, to allow the slow roll call to move forward -- which frankly I don't know why it's such a big deal -- or the motion could be withdrawn. We don't have to do the rules today, Mr. President.

But those seem to be our only two options.

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Mr. President, my point of order and my request for an appeal

of your ruling is an appeal specifically relative to your determination that a slow roll call is in order with regard to the appeal of a ruling of the chair.

In this circumstance, we believe that on this side of the aisle we're entitled to a ruling that specifically relates to the issue as to whether or not a slow roll call is appropriate under these circumstances.

THE PRESIDENT: Thank you, Senator Winner.

SENATOR DUANE: Point of order.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Regardless of how --

SENATOR WINNER: I have the floor.

SENATOR DUANE: Regardless of how you rule on that motion, I believe strongly that the right order would be to have the slow roll call on the original appeal of the chair's decision.

THE PRESIDENT: Senator Duane, the point of order is before us right now. The point of order procedurally would come

before any other action the Senate will take.

On the point of order, as I ruled previously, Senator Winner, there have been -- there is much precedent in this chamber for slow roll calls as a result of the appeal of the chair's ruling. There have been no denials of those slow roll calls, as far as I could find, between 1993 and 2000. There was one appeal that was not ruled upon in 2001 after the passage of new rules, but at that time the chair did not ever rule on that motion -- on that appeal.

Therefore, I don't see any precedent for not allowing Senator Duane's motion to have a slow roll call on the appeal of the chair. The appeal is therefore denied.

SENATOR WINNER: Mr. President, I'm not asking you for a ruling with regard to precedent. I'm asking you for a ruling with regard to your ruling.

Your ruling is that there can be a slow roll call allowed on an appeal of the ruling of the chair. I am respectfully appealing your ruling that states that that is possibility. There can be no appeal of the

ruling of the chair by a slow roll call under the rules of this house.

Therefore, your ruling that it can be appealed by a slow roll -- a slow roll call can occur is therefore the subject of my appeal, and I would ask that there be a vote cast on that question.

And I would respectfully suggest that the vote in favor of overturning the ruling of the chair would be a vote suggesting that there be no slow roll call permitted on a motion --

THE PRESIDENT: Let me restate the ruling --

SENATOR CONNOR: Point of order, Mr. President.

THE PRESIDENT: -- of the chair for Senator Winner.

We did not rule on precedent. We ruled on your motion, a motion that in your subsequent argument you have just requested a vote. Ironically, which is what the ruling was about originally.

The ruling is that the slow roll call at this point is in order.

SENATOR CONNOR: Mr. President --
SENATOR SKELOS: Mr. President.
THE PRESIDENT: Senator Skelos.
SENATOR CONNOR: -- addressed to Senator Winner's motion. Fundamental parliamentary procedure --
THE PRESIDENT: Senator Connor --
SENATOR CONNOR: Point of order, I'm sorry.
THE PRESIDENT: Senator Connor.
Senator Skelos.
SENATOR SKELOS: Mr. President, we can go on all evening with this. And there can be as many appeals as the Minority wishes, but at some point there's going to be a motion to overrule the chair which will prevail.
So we can make 30 motions if we want, we can appeal 30 times if we want, but the bottom line is in the end there will be 32 votes that say no slow roll call.
SENATOR DUANE: Mr. President, I just -- Mr. President --
THE PRESIDENT: Senator Duane.
SENATOR DUANE: I just want to go back to my point of order, that I believe I'm

agreeing with you, Mr. President. We have two options: To go ahead with the slow roll call on the appeal, as you've ruled is in order, or those that want can just withdraw their rules and we'll talk about them another day.

Thank you, Mr. President.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Mr. President, just addressing Senator Winner's last motion --

SENATOR SKELOS: Mr. President, can we have a voice vote at this time on Senator Winner's motion to overrule the ruling of the chair.

SENATOR CONNOR: Mr. President, I have a point of order on that.

SENATOR WINNER: -- resolution is on the floor.

SENATOR CONNOR: A point of order upon a point of order is not appealable. That's what Senator Winner is doing.

THE PRESIDENT: We're not on a point of order right now, Senator Connor.

SENATOR DUANE: Mr. President, I know I'm sounding like a broken record,

appropriately on my -- but really there's only one of two options. Either we proceed with the slow roll on the appeal, or we'll hear a withdrawal of the resolution and what happens after that is -- who cares.

But frankly, again, I don't think it's a big deal to have the roll call. So let's just do it, Mr. President. Thank you.

SENATOR SKELOS: Mr. President, is -- Senator Duane, do you wish to withdraw the resolution?

SENATOR DUANE: No.

SENATOR SKELOS: Well, you just indicated you wanted to withdraw the resolution.

SENATOR DUANE: No, I don't. I don't, actually.

Mr. President, just to clarify, so those are the two choices and --

THE PRESIDENT: Senator Skelos.

SENATOR DUANE: -- no one has withdrawn the resolution.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, if I could just restate Senator Winner's

motion, I believe he wanted to overrule the ruling of the chair which stated that there would be a slow roll call.

So that motion is before us now, and I would ask that we vote on that motion.

SENATOR DUANE: Mr. President.

THE PRESIDENT: All those in favor of the motion please indicate by saying aye.

(Response of "Aye.")

SENATOR DUANE: Mr. President, point of order.

THE PRESIDENT: All those opposed, indicate --

SENATOR DUANE: Point of order. Point of order, Mr. President. Mr. President --

THE PRESIDENT: Senator Duane, we're on a vote.

SENATOR DUANE: -- my motion supersedes everything.

THE PRESIDENT: Senator, we're on a vote now. There was a motion after your motion.

SENATOR DUANE: Slow roll,

Mr. President. Slow roll.

SENATOR WINNER: We're on a vote.

SENATOR DUANE: Mr. President, just to be clear, we're asking for a slow roll on Senator Winner's motion. We're appealing your -- we're asking for a slow roll on Senator Winner's appeal.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, perhaps you can announce the results. If Senator Connor wishes to then ask for a slow roll call, we can bring that up at that time.

SENATOR DUANE: Mr. President, point of order.

THE PRESIDENT: Just a moment --

SENATOR DUANE: We're asking for a slow roll on Senator Winner's appeal of the chair's ruling. And we had five people standing up. In fact, we had many more. If you'd like to see, we'll show you again, Mr. President.

THE PRESIDENT: My understanding of this procedure is as follows. There was a ruling on a slow roll call, that it was in order. There's now an appeal of that ruling

by Senator Winner. On the appeal, Senator Skelos has asked for a vote.

And what would have to be explained at this point for the vote to continue is why those Senators calling for a slow roll call would be denied to do so, since the last ruling of the chair was in favor of a slow roll call. They got up in an appropriate time in the middle of a vote, as has always been the case when there's a slow roll call in this chamber.

Senator Skelos.

SENATOR SKELOS: Again, we're going to start going in circles. It is not provided for in the rules. And we are overriding the ruling of the chair, and then we can backtrack to the resolution as to whether there is a slow roll call on that or not. Of which you have ruled that there would be no slow roll call.

SENATOR DUANE: Mr. President, point of order.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Although I don't understand, again, what the big deal is about

having the slow roll call vote. It's certainly not a big deal on this side of the aisle.

But the rules actually do not address this issue. Therefore, Mr. Chair, your discussion of the precedent or lack thereof on this is absolutely on point. And therefore, we deserve and are entitled to, since we're falling back onto rules that exist everywhere in the universe -- and even here, since the rules are silent on this issue -- to have a slow roll vote count.

Thank you, Mr. President.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, it should be obvious by now that every time there is going to be a motion for a slow roll call, you apparently are going to rule in the favor of the slow roll call.

And every time you rule in favor, the Majority always has the opportunity under the rules to appeal your rulings. And they will call for a vote, like just what happened, and then the other side is going to call for a

slow roll call.

So unless we're going to go on ad infinitum with this process, it makes sense to have a vote on this, because ultimately the rules do provide that a majority can always appeal your ruling. And apparently the Majority is going to continue to appeal your ruling.

And to have some end to this process, unless we're going to go on all night, I would strongly suggest that we have a voice vote and get on with it.

SENATOR ONORATO: Mr. President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: A point of order.

I'd like to call a quorum. I don't know if they've got 32 votes present to make that voice vote valid.

THE PRESIDENT: Senator Onorato, the rules of the Senate call for a quorum to ascertain whether there is a majority of Senators present, not a majority or a plurality of one conference. So therefore, the point is not in order.

On the point that Senator DeFrancisco is raising, Senator DeFrancisco and all members present, it is the determination of the chair that a voice vote was not sufficient to pass this or defeat this resolution pertaining to the rules.

It was my determination that if one of the sides of the aisle, regardless as to who it is, wanted to have a slow roll call, that there is precedent in this chamber, there is also precedent in Robert's Rules of Order, in Mason's Rules of Legislative Procedure, where the rules of construction state that leaving out a procedure from a process does not ban it from being used.

And so I have stated not only that it has been practice in this chamber before, I have stated not only that the rules of procedure that we are using as the basis for the Senate rules provide for it, but I have further maintained that there has never been one time that anyone can cite in this chamber when the call for a slow roll call appealing the ruling of the chair has been denied.

So the precedent would be set today

if I allow it. And with the weight of the evidence on that side, I have ruled that a slow roll call is in order.

Now, I would certainly honor the Majority, if you would like to continue to discuss it, I'm open to that, or if you would like to appeal the rule of the chair again. But that is the decision of the chair, and I think that it is rooted in law, it is rooted in procedure and precedent where this body is concerned.

Senator DeFrancisco.

SENATOR DeFRANCISCO: If the chair recognizes that the Majority always has the right to overrule the ruling of the chair no matter how many subsequent questions are raised, then ultimately, when everyone gets exhausted here going through this process, we're going to get to that rule which is in the rules that are presently guiding this chamber.

So again, it's certainly up to the chair; we can continue to go through this. But ultimately the Majority, according to the existing rules, would prevent a slow roll call

no matter what the precedent is, because the rules are in existence as of the beginning of this session, because we carried over last year's rules.

And one other thing. It's kind of ironic that there's a motion to change the rules in such dramatic ways when there does not appear to be the willingness to follow the existing rule. The final one is the Majority always has the opportunity and the right to overrule you.

THE PRESIDENT: Senator DeFrancisco, I think your point is well-taken. The Majority --

SENATOR DUANE: Mr. President.

THE PRESIDENT: The Majority certainly has the option and certainly should, if the Majority feels that that is right, appeal the ruling of the chair.

However, any rules that this body has conducted itself for the first four days of the session have been indicated by consent. The rules of this body have not been adopted for this year. Even by following the previous rules, even if we were following the rules

right now, I made a determination on an appeal of the chair, based on the rules as I understand it, that this chamber has conducted itself.

If the Majority would like to overrule me, there are two other ways other than a voice vote that the Majority can do so. But it's my determination that a voice vote is not in order.

And I would like to point out that the other time that this came up was on January 9, 2001, in a rules change where we debated Rules 8(A)(B), and at that time the chair didn't rule at all.

And so what I'm saying is, I would not like to be the first chair to make a ruling that is anathema to everything else that I've seen in this process, not only as chair but as a member of this body for the last 21 years.

SENATOR DeFRANCISCO: Point of order.

What is on the floor at the moment?

SENATOR DUANE: Mr. President, if I may --

THE PRESIDENT: The point of order is, I believe, Senator DeFrancisco, a second appeal of the chair by the Majority on the issue of the allowance of a slow roll call.

SENATOR DUANE: Mr. President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: I just would like a point of personal privilege.

And as the members gather in the chamber, I want to remind the members that what we are voting on is whether or not to uphold your decision on Senator Winner's appeal -- not my appeal, but Senator Winner's appeal.

And I believe that your decision was most wise, and I'm hoping that every member of the body will agree that you are very wise in your decision. And voting yes on the slow roll will indicate agreement with that.

Thank you, Mr. President.

SENATOR PADAVAN: Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: I think it

would be instructive if you clarified the significance of a yes or no vote as it relates to this latest challenge to your ruling.

THE PRESIDENT: I'd be happy to do that, Senator.

Would you restate that? I didn't hear everything you said.

SENATOR PADAVAN: I'm asking you to clarify it, Mr. President. "Yes" means what and "no" means what in regard to Senator Winner's motion on your prior ruling?

THE PRESIDENT: "Aye" would be in favor of the motion that would defeat the ruling of the chair that a slow roll is order.

"Nay" would mean that it would support the previous ruling of the chair and that the slow roll would proceed.

SENATOR WINNER: Mr. President.

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Mr. President, I would respectfully request that you continue the voice vote on my motion to overturn the ruling of the chair.

We've already voted overwhelmingly on this side "yes" to overturn your ruling.

We didn't conclude the voice vote, however, for those that were in favor of sustaining the ruling of the chair.

THE PRESIDENT: Senator, we did not complete the vote because, as the vote was commencing, Senator Connor asked for a slow roll call. And a slow roll call is within the ambit of possibility based on the previous ruling. So I don't know how I can eliminate a slow roll call if I had previously ruled for it.

Senator Skelos.

SENATOR SKELOS: If I could just suggest that we all take a deep breath -- inhale, exhale. And if we could just wait a moment, I think everything will be resolved in a happy fashion.

THE PRESIDENT: Thank you, Senator Skelos. I'm waiting to exhale.

(Laughter.)

(Lengthy pause.)

SENATOR SKELOS: Mr. President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, I'm hopeful that the deep breath helped.

Senator Winner.

SENATOR WINNER: Thank you.

Mr. President, I withdraw my appeal of the ruling of the chair.

SENATOR SKELOS: Thank you, Senator Winner.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I'd like to withdraw my appeal of the chair.

THE PRESIDENT: So recorded, Senator Duane.

SENATOR SKELOS: Mr. President, if we could now vote on the resolution.

THE PRESIDENT: On the resolution proposed by Senator Smith, all those in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(Response of "Nay.")

THE PRESIDENT: The chair cannot make --

SENATOR DUANE: Mr. President. I just wanted to remind you, Mr. President, that on this vote we are actually raising our

hands.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. Can we do it over?

(Laughter.)

THE PRESIDENT: All those in favor of the motion presented by Senator Smith, please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: All those opposed, please indicate with a nay.

(Response of "Nay.")

THE PRESIDENT: The chair cannot determine where there are more votes. Perhaps a showing of hands would better indicate the result. Ayes, please raise their hands.

The Secretary will announce the results.

Twenty-three recorded in the affirmative. The motion is defeated.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a resolution at the desk by Senator Bruno. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE PRESIDENT: By Senator Bruno, Senate Resolution Number 139, to adopt the rules of the Senate for the years 2007-2008.

THE PRESIDENT: All in favor of the motion please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(Response of "Nay.")

THE PRESIDENT: The ayes have it.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Volker.

THE PRESIDENT: The resolution being adopted, we recognize Senator Volker.

SENATOR VOLKER: Mr. President, I just want to announce that it was suggested to me that I have a Codes Committee meeting off the floor today, but I thought it was kind of inappropriate to do that.

So we're going to have the meeting tomorrow at 10 o'clock in Room 433. Okay?

THE PRESIDENT: Thank you, Senator Volker.

SENATOR SKELOS: Mr. President, is there any further business to come before the Senate?

THE PRESIDENT: No, there is not, Senator.

SENATOR SKELOS: There being none, I move we stand adjourned until Wednesday, January 17th, at 11:00 a.m.

THE PRESIDENT: Senate is adjourned until Wednesday, January 17th, at 11:00 a.m.

(Whereupon, at 7:01 p.m., the Senate adjourned.)