NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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January 9, 2008

12:18 p.m.

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: Welcome back.

The Senate will come to order, hopefully in the same way that the 2007 session read.

Please rise and join with me in reciting our Pledge of Allegiance.

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

THE PRESIDENT: We are joined today by the Most Reverend Howard J. Hubbard, who is the bishop of Albany. He will give our invocation.

BISHOP HUBBARD: Let us pray.

Eternal and faithful God of us all, in Your mighty providence You have endowed the people representing us in state government with varied gifts of wisdom, resourcefulness, imagination, foresight, awareness of human frailty, and consequently of the need for human solidarity in confronting together how best to meet the needs of these troubled times and to serve the aspirations and the common good of our people.

O, caring God, bless, we pray, the

gifts that each legislator in our State Senate brings to the people of New York, and enable these dedicated public servants to utilize their varied gifts in ways that redound to the benefit of the citizens of our Empire State.

May they work together in a civil and harmonious fashion with one another, the Governor, and the members of the Assembly, putting the common weal before partisan politics and vested self-interest.

Embolden all who are involved in the 2008 session to channel their efforts and their energies to address courageously the thorny issues and serious concerns of so many, especially those who suffer the plight of homelessness, hunger, unemployment, alcohol and substance abuse, and the lack of adequate education and healthcare opportunities.

Grant to us all, O God, a widening of our vision, that it may increase an awareness of the crises and dramatic needs of many of our brothers and sisters, not only here in New York but in the United States and in other countries throughout the world.

In a special way, dear God, we pray

today for Barbara "Bobbie" Bruno, the wife of the Majority Leader of this chamber, who is being laid to rest. Grant her that fullness of life that her noble sojourn among us so well deserves.

Bless, too, her husband Joe and her four children and grandchildren in this time of sorrow. May they be buoyed up by Your strength and by the comfort and solace of loving family and friends.

Finally, O compassionate God, in the morning time of this new year of 2008 we ask that You bless this legislative body and that the good work begun this day will reach a successful conclusion.

For all this we pray, O loving God, in your sacred name, You who live and reign both now and forever and ever.

Amen.

THE PRESIDENT: We'd like to thank Bishop Hubbard for his very kind condolences to the Bruno family.

And may I suggest that we have a moment of silence in honor of Barbara Bruno, who passed away two days ago.

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

THE PRESIDENT: The Secretary will call the roll to ascertain a quorum.

THE SECRETARY: Senator Adams, excused.

Senator Alesi.

SENATOR ALESI: Here.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Present.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Present.

THE SECRETARY: Senator Bruno, excused.

Senator Connor.

(No response.)

THE SECRETARY: Senator DeFrancisco, excused.

Senator Diaz.

SENATOR DIAZ: Presente aqui.

THE SECRETARY: Senator Dilan.

SENATOR DILAN: Here.

THE SECRETARY: Senator Duane.

SENATOR DUANE: Here.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Here.
THE SECRETARY: Senator Flanagan.
(Senator Flanagan was recorded as present.)
THE SECRETARY: Senator Fuschillo.
SENATOR FUSCHILLO: Present.
THE SECRETARY: Senator Golden.
(No response.)
THE SECRETARY: Senator Gonzalez.
SENATOR GONZALEZ: Here.
THE SECRETARY: Senator Griffo.
SENATOR GRIFFO: Here.
THE SECRETARY: Senator Hannon.
(Senator Hannon was recorded as present.)
THE SECRETARY: Senator Hassell-Thompson.
SENATOR HASSELL-THOMPSON: Here.
THE SECRETARY: Senator Huntley, excused.
Senator C. Johnson.
SENATOR CRAIG JOHNSON: Here.
THE SECRETARY: Senator O. Johnson.

SENATOR OWEN JOHNSON: Here.
THE SECRETARY: Senator Klein.
SENATOR KLEIN: Here.
THE SECRETARY: Senator L. Krueger.
SENATOR LIZ KRUEGER: Here.
THE SECRETARY: Senator C. Kruger.
(No response.)
THE SECRETARY: Senator Lanza.
SENATOR LANZA: Here.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Here.
THE SECRETARY: Senator LaValle.
SENATOR LaVALLE: Here.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Here.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Present.
THE SECRETARY: Senator Little.
SENATOR LITTLE: Present.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Present.
THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Here.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Here.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: Here.
THE SECRETARY: Senator Morahan.
SENATOR MORAHAN: Here.
THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Present.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: Present.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: Here.
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Here.
THE SECRETARY: Senator Parker.
SENATOR PARKER: Present.
THE PRESIDENT: Senator Skelos, a quorum is present.
SENATOR SKELOS: Thank you, Mr. President.
If we could please proceed with the order of business.

THE PRESIDENT: Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

The chair hands down a communication from the Governor and asks the Secretary to read.

THE SECRETARY: "Dear Mr. President,

"I would appreciate the privilege of appearing before your honorable bodies in joint session on January 9, 2008, at 1:00 p.m., or as soon thereafter as may be convenient, to personally deliver my annual message to the Legislature.

"Very truly yours, Eliot Spitzer."

THE PRESIDENT: To be filed in the Journal.

At our joint session today the Governor will present some of the family members of our late Senator Robert F. Kennedy. And I would just like the members to be aware that they are in the chamber today: his wife, Ethel; his son Robert F. Kennedy, Jr; his daughter Kathleen Kennedy Townsend; and his

daughter Kerry Kennedy. They are sitting right here.

Welcome.

(Applause.)

THE PRESIDENT: As we begin this session of 2008, I thought that we would pause in our deliberations for a moment to reflect on some of the concepts, the early concepts that went into the drafting of not only our state constitution but indeed our federal Constitution, and the critical role that it gave to the Senate in both governments.

The word "Senate" comes from the term "Senatus", S-E-N-A-T-U-S, which means a council of elders. This Latin term expresses that the members of that council are imbued with great wisdom.

The tradition of the Senate was first offered by Romulus, the mythical king and founder of Rome, who wanted to bring together the heads of the most influential 100 families. The Senate was expanded to 300 by Lucius Junius Brutus.

Throughout the centuries, the practices and the procedures of the Senate --

quorum calls, rules for debate, appropriations of resources, and appointment of judges -- have been present in legislative bodies down throughout history.

And so in our government that was founded in Kingston, the Senate in 1777 and moved to this chamber in 1881, we tried to keep alive the twin principles of the original Senate of Rome, that being the free and open exchange of ideas in debate and the passage of laws.

And so as we go to this 2008 session, I hope we will remember that sometimes our discussions are diminished often by our humanity, which expresses itself in anger and in acrimony. But what we must be foremost aware of as we engage in these debates is that this is actually the concept that's made our civilization so well known and made our country of America so great. It is the free and open exchange of ideas, combined with the coalesced thinking that inevitably benefits us through the passage of laws.

And so as we represent all New Yorkers -- be they Asian, black, Hispanic

or white, be they upper middle class or dependent on services from government, be they tenants, landlords, coopers, homeowners and even those who are losing their homes, sending our children to public and private school -- I hope that we will remember that this Senate is no less distinguished than any other body calling itself by the same name, either past or present, and that we have an immense opportunity this year if we start to look at who we are, what we are, and what we can be.

The chair now recognizes the Minority Leader of the Senate, Senator Malcolm Smith.

SENATOR SMITH: Thank you very much Mr. President.

And good afternoon to all of my colleagues.

I know that we took a moment to recognize the loss of our Majority Leader's wife. But I do want to, on behalf of our conference and our members, once again for the record indicate that our heart goes out to Joe.

I had a long conversation with him

this morning, and it was obvious by the tone of the conversation -- and he talked to me about when he and his wife first met, he talked to me about how his wife -- actually, her family didn't necessarily want her to marry him because of the family relationship. But yet still she believed in him and trusted in him, and she married him.

It just told me that our friend the Majority Leader is in a very serious place, and his heart is hurting.

And I just wanted again to put on the record that our heart goes out to him. We continue to pray for him, and we will. And know that if there's anything that we can do for him, that we will do that.

I just wanted to say that again to the members, that we are very seriously concerned about how he is feeling and wanted you to know that.

This is a good year for us. It's an exciting year, I think. The President of the Senate just told us so. This could be that year.

But I do hope that as we go through

this session, the next six months, seven months, that we will do what I think the people of this state have been asking us to do.

We have a challenge before us, there's no question about it. But it is clear that most of the people of this state have lost their faith, trust and hope in us as a body.

And I do hope that as we are deliberating all that we have to do this year that we remember and understand that we are obligated to restore that faith and tell people that yes, we can do things. Let them know that they can trust our word if we say we're going to do something. And also let them know that we can give them that hope, that hope that says there is a promise of being here.

I was told when I grew up that if you played by the rules, did all that you're supposed to do, that the promise of New York would say that you could live and have a family and grow here. I have children myself; I'm not sure if they can give live and grow

here after school, only because we have not done what we were supposed to do.

It is my hope that this year we will use this as a moment to turn that corner, to say to the people of this state that this is one New York. There's not an upstate, there's not a downstate, this is one New York. If part of us is not functioning, then all of us is not functioning.

And I think we have that opportunity. I know we have the intellect as a body to rise above what we need to to get that done. And I think this is an opportune time for us to send a clear message to everybody in this state that this is one New York, and we can proceed in a way that will put us back in a leadership position in this country, which we need to do.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Smith.

The chair now recognizes the Acting Majority Leader of the Senate, Senator Dean Skelos.

SENATOR SKELOS: Thank you very

much, Mr. President.

On behalf of our Majority conference, and I know the entire Senate and staff, we too want to send our prayers to Senator Bruno on the loss of Bobbie.

I think many of us who have served in the Senate for a number of years, and in particular in the Majority conference, have had the opportunity to be with Bobbie on numerous occasions when she graciously hosted us at their beautiful home. And at all times, she went beyond just being a hostess; she was a part of our family. And she always made us feel that we are part of the Bruno family. A very special lady.

And certainly I know at the appropriate time -- and I would urge members who can, there will be a memorial service this Monday. If they can attend, I know that the Bruno family would be most appreciative.

Our good friend the Lieutenant Governor talked a little bit about the definition of "Senate" and used certain Latin phrases. As an American of Greek heritage, I feel that many times we educated the world in

the right way.

To me, to me, the responsibility of the Senate and, quite frankly, the Assembly is to be a checks and balance, not just to blindly follow an executive. It's to be a checks and balance.

When we think the Governor is wrong, we will stand up to him, as we did with Governor Pataki. When we feel the Assembly is wrong, we will point out where they're wrong.

The number-one responsibility is to serve as a checks and balance and also to make sure -- and this has been the priority of the Senate under the leadership of Senator Bruno and our conference -- property tax relief.

People are struggling. They can't pay their taxes, their property taxes. We need immediate property tax relief, not necessarily commissions and further studies. We need it now. We need to reduce property taxes.

Economic development. Job creation, a priority of this Majority conference -- in particular, quite frankly, in the upstate community. We have to work

diligently in a bipartisan way to make sure that jobs are created upstate and we maintain job creation and the economy in our City and also on Long Island.

It would be presumptuous of me, quite frankly, on behalf of the conference or Senator Bruno to say really anything else.

But again, our prayers are with Joe, his family. And I know that Joe will speak at the appropriate time concerning the legislative agenda that we will be going forward with.

So, Mr. President, I appreciate the courtesy of recognizing me and Senator Smith. I know that we will all be working together to do what's right for the people of the State of New York.

THE PRESIDENT: Thank you, Senator Skelos.

And we will be delighted to join with you and the Bruno family at the memorial next week. Thank you.

Let's return to the order of business.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno, I offer up the following resolution, Resolution 3843, request that it be read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read Resolution 3843.

THE SECRETARY: By Senator Bruno, Concurrent Resolution Number 3843 of the Senate and Assembly, providing for a joint Assembly for the purpose of receiving a message from the Governor.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution carries.

Senator Skelos.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno, I offer up the following resolution, 3844, and request that it be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 3844, notifying the Governor of a joint session with the Assembly to receive the Governor's message.

"RESOLVED, That a committee of two be appointed by Senator Bruno to inform the Governor that the Senate has adjourned its 230th session sine die and has again convened and is organized and ready to proceed to business and will meet with the Assembly in joint session in the Assembly chamber at 1:00 o'clock p.m., today, to receive the Governor's message.

"RESOLVED, That Senator Bruno appoint such committee, Senator Griffo and Senator C. Johnson."

THE PRESIDENT: On the

resolution, all those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any nays?

(No response.)

THE PRESIDENT: Senator Bruno appoints Senators Griffo and C. Johnson to inform the Governor that the Senate will join in the joint session at 1:00 o'clock p.m.

Senator Skelos.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno I hand up the following resolution, 3845, and ask that it be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 3845, notifying the Assembly of a joint session with the Assembly to receive the Governor's message.

"RESOLVED, That a committee of two be appointed by Senator Bruno to inform the Assembly that the Senate has adjourned its 230th session sine die and has again convened and is organized and ready to proceed with

business and will meet with the Assembly in joint session in the Assembly chamber at 1:00 o'clock p.m., today, to receive the Governor's message.

"RESOLVED, That Senator Bruno appoint such committee, Senator Lanza and Senator Thompson."

THE PRESIDENT: On the resolution, all those in favor.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Senator Bruno therefore has appointed a delegation of Senator Lanza and Senator Thompson to notify the Assembly that it is resolved that the Senate has adjourned the 230th session sine die and that we are ready to meet in joint session with the Assembly at 1:00 o'clock today.

Senator Skelos.

SENATOR SKELOS: Mr. President, we will now go to the Assembly chamber to receive the Governor's message.

I now move that the Senate stand

adjourned until Monday, January 14th, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: Senate is adjourned.

(Whereupon, at 12:38 p.m., the Senate adjourned.)