NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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12:21 p.m.

REGULAR SESSION

LIEUTENANT GOVERNOR RICHARD RAVITCH, President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

I ask everyone present to rise and recite with me the Pledge of Allegiance to our Flag.

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

THE PRESIDENT: In the absence of clergy, may we all bow our heads for a moment of silence.

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

THE PRESIDENT: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Monday, February 8, the Senate met pursuant to adjournment. The Journal of Sunday, February 7, 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.

Any reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe Senator Smith has a resolution at the desk. I ask that the title of the resolution be read and move for its immediate adoption and allow Senator Smith to speak on his resolution.

THE PRESIDENT: Senator Klein, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Smith, legislative resolution honoring Wanda Best-DeVeaux, MA, MPA, of Queens Village, for

her steadfast devotion and selfless service to her community.

THE PRESIDENT: Senator Smith.

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

Mr. President, every so often you get a chance to speak on behalf and honor someone who has devoted much of their time in a volunteer way towards the betterment of their neighborhood. Ms. DeVeaux has been the director of our Dove House. It is a program for victims of domestic violence. And also she serves on the New Hope Family Shelter.

She has done a tremendous amount of work with Citizens Against Recidivism. It's a young lady who is an unsung hero. And I'm just glad today that we pause at this moment on this day to honor Ms. DeVeaux for the services that she's rendered to victims of domestic violence as well as individuals who are within the recidivism program.

Thank you very much, Mr. President.

THE PRESIDENT: Anyone else wish to be heard on the resolution?

The question is on the resolution.

All those in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed?

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Smith has indicated that he would like to open the resolution to the entire body for cosponsorship. Any Senator wishing to not be on the resolution please inform the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe that Senator Smith has a second resolution at the desk. I ask that the title of the resolution be read and move for its immediate adoption.

THE PRESIDENT: Senator Klein, has this privilege been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: By Senator Smith, legislative resolution honoring Denean D. Ferguson of Far Rockaway, Queens, for her steadfast devotion and selfless service to her community.

THE PRESIDENT: Senator Smith.

SENATOR SMITH: Thank you, Mr. President. I think the description of the resolution is sufficient in honoring Mrs. Ferguson. Thank you.

THE PRESIDENT: Are there any Senators that wish to be heard on this resolution?

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

(Response of "Aye.")

THE PRESIDENT: Opposed?

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe that Senator Leibell has a resolution

at the desk. I ask that the resolution be read in its entirety and move for its immediate adoption.

THE PRESIDENT: Senator Klein, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

And I believe Senator Leibell wants to speak on his resolution.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Leibell, legislative resolution urging the federal government to reverse its decision to hold civilian trials of terrorists Khalid Sheikh Mohammed, Walid Muhammed Salih Mubarak Bin Attash, Ramzi Bin Al Shibh, Ali Abdul-Aziz Ali, and Mustafa Ahmed Al Hawsawi in Manhattan federal court.

"WHEREAS, Throughout the course of our nation's history, from the time of George Washington to the present day, the United States has recognized that these terrorists,

captured with the intent to attack the United States, its people and/or its interests, and which present a serious and immediate threat to the nation and its people, should not be afforded the same constitutional criminal justice protections reserved for United States citizens; and

"WHEREAS, Attempting to apply the same constitutional criminal justice protections reserved for United States citizens, and attempting to apply the principles of our civilian courts to these terrorists, which have openly espoused, planned and/or conducted acts of terrorism, war and mass murder and destruction against the United States, its people and/or its interests, is contradictory to the rules of war followed by our soldiers during the capture of these individuals, and is inherently inapplicable to the prosecution and administration of justice; and

"WHEREAS, Permitting these terrorists to enjoy the same constitutional criminal justice protections reserved for United States citizens, and awarding them the

rules and procedures of our civilian federal courts, will place a great risk on our nation's most vital intelligence information, offer a platform for the inspiration of hatred of the United States, and encourage fellow terrorists to commit further acts of war and violence against this nation and this state; and

"WHEREAS, The means necessary to be employed to effectively stop the activities of these terrorists before they fulfill their missions to espouse, plan, and conduct acts of terrorism, war and mass murder and destruction against the United States, its people and/or its interests, are not consistent with the means to afford these individuals the same constitutional criminal justice protections reserved for United States citizens, or to obtain a successful prosecution of these individuals in a civilian federal criminal court; and

"WHEREAS, Despite these issues, in February 2009 the United States Department of Justice stayed the prosecution before a military commission tribunal of five of the

most infamous, dangerous and devoted Al Qaida terrorists in world history, Khalid Sheikh Mohammed, Walid Muhammed Salih Mubarak Bin Attash, Ramzi Bin Al Shibh, Ali Abdul Aziz-Ali, and Mustafa Ahmed Al Hawsawi; and

"WHEREAS, The government of the United States of America announced on November 13, 2009, through U.S. Attorney General Eric Holder, plans to prosecute avowed Al Qaida terrorists Khalid Sheikh Mohammed, Walid Muhammed Salih Mubarak Bin Attash, Ramzi Bin Al Shibh, Ali Abdul-Aziz Ali and Mustafa Ahmed Al Hawsawi in federal district court in Lower Manhattan; and

"WHEREAS, All of these avowed terrorists to be so prosecuted in federal court have been directly linked to the attacks of September 11, 2001, which saw the deaths of nearly 3,000 people on New York soil; and

"WHEREAS, The proposed location of this trial, in the very shadow of where the World Trade Center once stood, and in the heart of New York City's financial and commercial district, poses unacceptable and significant risk, harm, and threat to the

safety and security of millions of Americans and New Yorkers residing and working in the vicinity of the federal district courthouse in Manhattan; and

"WHEREAS, The risk, potential harm, threat and danger that will be brought to New York State and New York City and its citizens, as a result of the federal government's decision to give these avowed terrorists a civilian trial in federal district court in Manhattan, will cause New York City, New York State and its citizens to bear not only the huge burden of such risk, potential harm, threat and danger but also bear, in the midst of a deep economic recession and state fiscal crisis, an unprecedented security cost which officials have estimated could reach nearly $1 billion; and

"WHEREAS, It is further contemplated that these trials will cause the State of New York, the City of New York, and its citizens, many of whom experienced the horrific events of September 11, 2001, firsthand, further unprecedented disturbance,

emotional trauma and economic hardship with the institution of required security measures by state and local law enforcement agencies which would need to be taken in Lower Manhattan for a period which has been estimated to be years before completion of such trials; and

"WHEREAS, New York Governor David A. Paterson, New York City Mayor Michael Bloomberg, and Julie Menin, chairwoman of Community Board 1, representing the neighborhoods surrounding the federal courthouse for Lower Manhattan, have all expressed serious concern and opposition to the federal government's plan to prosecute these avowed terrorists in New York City and cause undue and unprecedented financial hardship and burden on the people and law enforcement agencies in the State of New York and its political subdivisions in and around New York City; now, therefore, be it

"RESOLVED, That President Barack Obama and Attorney General Eric Holder are hereby strongly urged by this Legislative Body to reserve their decision to prosecute Khalid

Sheikh Mohammed, Walid Muhammed Salih Mubarak Bin Attash, Ramzi Bin Al Shibh, Ali Abdul-Aziz Ali, and Mustafa Ahmed Al Hawsawi in federal district court in Manhattan, over the objections of our state and local government officials, and be it further

"RESOLVED, That will copies of this resolution, suitably engrossed, be transmitted to President Barack Obama, U.S. Attorney General Eric Holder, and all members of the New York State Congressional delegation."

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

A few months ago the Attorney General of the United States announced that terrorist trials would be held in the Southern District of New York in Lower Manhattan. His decision was supported by the President of the United States.

Now, I will begin my comments by saying that I personally believe that we should not be using the civilian criminal justice system to deal with these terrorists. And in fact we should be using a military

commission tribunal, for which there is a long history in this country, going back over 200 years to George Washington's day. In fact, in World War II, President Franklin Roosevelt used them.

And who are the people that we are discussing and describing? They are enemy military combatants engaged in active military combat against the citizens of the United States of America. They are the worst of the worst. They kill, they maim, they torture, they burn, they behead. If any group of individuals was ever eligible to be considered to be tried by a military tribunal, it is these individuals.

I would urge the administration to reconsider their position on where they should be tried. The subject of this resolution today deals with the venue and where they should be tried, in what court, what location. I'm going to suggest to you that trying these individuals in Lower Manhattan goes beyond the pale. There is no area of our country that has suffered more than those few square blocks. They have suffered in terms of lost

lives, lost dreams, and of course the economy.

Mayor Bloomberg has said that this trial or trials will cost in excess of a billion dollars. In fact, that may very well be a low figure. I had the chance a few weeks to walk through Lower Manhattan, to go through the federal court buildings, to try and get some sense of the great inconvenience, the great cost that will be placed on the residents and those who work within that area, trials that in fact could last for years.

I think we should listen to Mayor Bloomberg. I think we should listen to New York City's police commissioner, Ray Kelly. I think we should listen to those who are active in that community and those who live in that community and work there.

Through this resolution -- and I'm grateful that it has been brought to the floor -- we have an opportunity today as a legislative body to urge the President and the Attorney General to reconsider their previous decision. It was a mistake. But there is time to correct that mistake.

It is not correct to have these

trials in Manhattan. It is not correct to have them in New York City. We serve no purpose by doing that. In fact, we will only put at risk many people's lives, not the least of which will be the jurors who could be selected, the judges who may be involved, the police authorities who will work to attempt to protect people.

If we wish to be politically correct, especially with this type of enemy, we as Americans can be politically correct all the way to the cemetery. There are ways to assure fair trials and there are locations where that can be accomplished. I'm going to suggest to you, my colleagues, that New York City and New York State is not the correct location.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Leibell.

SENATOR LEIBELL: I'd like to open up this resolution for sponsorship -- I believe there are 30 names on it already, but to anyone who would wish to join.

THE PRESIDENT: Thank you.

Do other Senators wish to be heard on this?

Senator Squadron.

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

The problems and the challenges and the devastating burden of these trials for the community is not dearer to anyone's heart in this room than my own. This is my district, this is my community in Lower Manhattan.

And so I appreciate Senator Leibell's highlighting just what a burden putting these trials in the federal courthouse in Lower Manhattan would be. We know what a burden it would be because immediately after it was announced that they were considering the federal courthouse in Lower Manhattan, I asked the NYPD to present to the local community what it would take to make sure to do these trials safely in Lower Manhattan.

Because a very important value that was being raised was one that I and my community in Lower Manhattan, the community board and others, wanted to support, which was civilian trials for these accused terrorists.

But if the burden of those civilian trials was going to be too great for our community that has handled so much, has risen to so many challenges since September 11th, since 1993, then those civilian trials in that courthouse would not be possible.

And what we found when the NYPD did as they do, their unparalleled quality when it comes to telling us what it will take to make us safe, we saw that the burden in the Lower Manhattan community would be too great to bear.

And that's why I, along with Congressman Nadler and Speaker Silver, Councilmember Chin, all of the local advocates -- chair of the community board Julie Menin, as has been mentioned -- have come together and said we can't do this in Lower Manhattan at this courthouse.

We can't do it because this community, which has been at the epicenter of an international fight, at this point needs to be able to survive and thrive and continue to be the community that it was and has miraculously become since September 11th.

However, I'm not able to vote for this resolution that's been put forward today because, as I read this resolution, it says that these trials should not happen in civilian court. And when I listened to Senator Leibell just now describe the resolution, it sounded to me like he was calling for the United States to take these trials out of civilian court and put them in military tribunals.

And the fact is that at my core, at our core as Americans and New Yorkers and in the community of Lower Manhattan, that idea, the idea that our justice system can't rise to the challenge of what happened September 11th, is contradictory.

And so that's why we are going to as a body have the opportunity to stand with the Lower Manhattan community that I am so proud to represent to make clear that we're not going to have any community, whether in Lower Manhattan or anywhere else in this state, bear an unbearable burden for these trials. However, we are not going to turn our back on the fundamental tenets of this

country, of due process, of the civilian court system in order to do it.

So let me be very clear on my no vote on this resolution. I appreciate Senator Leibell's concern for the Lower Manhattan community, and I hope that you will maintain that concern as we have further resolutions. I appreciate the concern of everyone in this room when it comes to the extraordinary and heroic way that the Lower Manhattan community has dealt with these issues. And we should stand with the community as a legislative body.

However, we also must stand with the fundamental tenets and principles of our nation and our Constitution. And that's why I'll be voting no today.

Thank you, Mr. President.

THE PRESIDENT: Senator Adams.

SENATOR ADAMS: Thank you.

First, before speaking on the resolution, I would just like to take a moment just to acknowledge the absence of one of our colleagues, Senator Morahan. And I just hope for his family and for the Senator he's all in

our thoughts and he's all in our prayers as he recovers over this unfortunate incident that has come into his life.

No matter which side of the aisle we are on and no matter how much we debate here on the Senate floor, there is a level of collegial atmosphere that we do care for each other. And I care for the members of this body no matter on what chair they sit or where they are in proximity of what party they belong to.

So our hearts and our family goes to the empty chair that's here. We hope our Senator returns with us to participate in improving our state.

Speaking to the resolution, I share the support of this resolution, as my colleague Senator Leibell pointed out. And I respect the concerns of my colleague Senator Dan Squadron.

We are on unchallenged and unchartered waters. Our country is under an unprecedented level of attacks. Those who wish to harm Americans every day are becoming more and more creative in the methods that

they use to disrupt our way of life. If we do not change with them, if we do not find ways to stay ahead of their diabolical creativity, then we will find ourselves having to address this issue year after year, day after day.

Our criminal justice system cannot support trying cases in civilian courts of this magnitude. As a person who walked the ground of our Center of Trade when it was attacked on September 11th as a police officer, I understand how much it takes to secure that area. The billions of dollars that would have been needed or will be needed to protect the geographical area of a courtroom during the trial of a terrorist is just too costly for our systems to bear.

By having a military tribunal, it does allow one due process. And I want to be clear on my position. Individuals who blow up planes, who take down buildings, who attempt to disrupt our way of life in this fashion, they are enemy combatants. They should be treated in a military atmosphere because they're taking a military action against the people of this state.

We cannot compare a person that takes down the Trade Center with the person that snatches a pocketbook. That is not a reality. And we cannot continue to romanticize and live in a make-believe society where there's just one or two people that are attempting to hurt Americans.

People want to harm us. And I'm extremely clear on this. Because we don't hear about all the reports, don't believe it's not happening. That's why they're called sleeper cells. There was a seven-year gap between the first attack on the Trade Center and the collapse of the Trade Center. While we are moving further and further away from an attack, we become more and more comfortable, but a countless number of men and women all across America are attempting to foil, stop, prevent, and apprehend individuals who are carrying out these attacks.

These individuals should not be in our criminal justice system, they should be removed from our criminal justice system, and they should be treated as they are. They are enemy combatants to wars on the United States.

And if we fail to treat them that way, if we allow them the luxury of going through the criminal justice system and waiting it out and further endangering the lives of Americans by putting them in a criminal justice system, we're making the wrong decision, in my position.

Their attack is a military attack. If they are apprehended, they should be apprehended as a person of a military status. You don't have to don green fatigues to be in the army of hate. These are men who have decided, they have declared war on America. And if we continue to treat them as merely insignificant criminals that are standing on the corner selling a nickel bag or a dime bag, that's a mistake. You treat enemies of war as enemies of war, and you make sure they have the necessary prosecution that a wartime criminal deserves and should receive.

I support this resolution, and I thank you, Senator Leibell, for bringing it to the floor.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Mr. President,

it's kind of interesting that in a time of severe fiscal emergency that we are in -- and we know we're in that. The issue of how much and all that is one thing. But at a time like this, when the budget that we are looking at is a rather enormous decline in the numbers of State Police -- we just in this budget would cancel another class. And there's a reason I'm saying this, and Senator Leibell knows why I'm saying this.

If these trials are held in New York City, we will go to the highest level, that is the highest level of security for all of downstate New York. What happens when that happens is a substantial number of State Police and other law enforcement people are virtually automatically moved down to the city. This does not just involve Ray Kelly and -- who, by the way, is a very courageous guy. I know him personally. And the New York City police are ready to do anything they have to do.

But let's remember, if these trials are held, we are going to have an enormous commitment of State Police as well as city

police in New York City, and we'll have a situation that's going to go on for a long period of time.

As I thought about this situation -- and I formally was in charge of homeland security in the Senate hear several years ago -- it dawned on me that this will do far more than just create a problem with security, it will create havoc with the City of New York, its economic and social fiber, and may in fact encourage a lot of people to leave the City of New York. Which is the last thing that we need, is for people to leave this state.

You have to be reasonable when you're dealing with this sort of a situation. I don't think that Attorney General Holder thought this entirely through. I know he was making some sort of statement. And let's remember, by the way, that the Constitution of the United States is for the citizens of this country. Enemy combatants are not included in the protections of the Constitution of the United States. That issue is under a whole different issue.

These are people that are willing to kill in my area of the state -- I live in Western New York, second biggest target after New York City. Interestingly enough, the law enforcement people will move from other parts of New York to help out with New York City. Especially if we pass this budget the way it is, the State Police in this state will be short everywhere. We are headed, by the way, for the lowest number of State Police since well before 9/11. After 9/11, we increased the number of troopers substantially.

I think Senator Leibell's resolution is about as common-sense as anything I've seen this year before our house. We have to look at things logically. And that's especially true when the fiscal situation of the state and the country is in the situation that we're in.

I thank Senator Leibell, I thank Senator Adams and all those who support this resolution. And I would appeal to the President of the United States. This is not a political issue, really. It's a real issue, as I call it. It's an issue of fairness to

the City of New York, of fairness to everyone.

And it seems to me that what we need to do is realize that criminals are criminals, but enemy combatants are altogether different. They don't follow the same rules, and they shouldn't be covered under the same rules.

So it seems to me every piece of logic that I can think of says these trials should be moved out of New York City and out of this state.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. Lieutenant Governor, Mr. President. I rise to talk on this resolution here today.

Senator Vinnie Leibell, thank you. Thank you all of the Senators -- Senator Adams, for your comments, Senator Squadron, Senator Volker, and many others that will speak on this bill.

Senator Adams pointed out the seven years between 1994 and 2001. Those sleeper cells, ladies and gentlemen, lived in Brooklyn New York. They lived here. They were part of our communities. And they came out and did

this. Mohammad Atta was, in 1997, in Brooklyn. He was the head of those 19 that flew the planes into the World Trade Center.

It's not all right for us to move the trial someplace else and respectfully say, Well, we don't want it here because it shouldn't be here, and give it to another community. I think that's plain wrong. I think this trial belongs where it does belong, in a military court. Not in someone else's backyard. Not so somebody else in this great country can get hurt.

President Obama himself, he said we are at war. He said it. And you know what's important about this resolution today? It's because President Obama even said the other day, that he says, you know, it's going to be a little difficult, he says, because Mayor Michael Bloomberg is against it and the police commissioner is against it.

Well, that's why this resolution is so important today. Because this is the legislative body that represents the 19.5 million people of this great state. And we, the people of the State of New York, do

not want that trial here. That trial belongs in a military court.

None of us can forget and let us never forget Police Officer Riches, Police Officer O'Berg -- I'm sorry, Fireman O'Berg, chief of the Fire Department Jimmy Riches. Police Officer Moira Smith, the first woman killed. Thirty-seven Port Authority police officers, 23 New York City police officers, 343 fireman all perished that day.

Do you remember the smell, the odor of the dead bodies and the burning metal and twisted metal that day and the almost 3,000 people that perished that day? Ladies and gentlemen, we can't regurgitate that. We as a society cannot take that back into the City of New York and allow our people to go through that again.

The businesses that were closed. You couldn't go down blocks, you couldn't get into buildings. That all happens again. You couldn't get over bridges and through the tunnel. That all happens again. Do we want that? No, ladies and gentlemen, we don't want that.

I see, up in the audience, Lou Matarazzo and Ben Marquis. They were police officers years ago, as I was, as some of you here in this room. Think about it, trying to protect the City of New York with 35,000 New York City police officers, already 5,000 to 6,000 police offers less than what they should have. Think about it. State troopers, National Guard, where are we going to get the people? How are we going to get the New York City Police Department to be part of this surveillance and this setting up of security?

It is a nightmare, it is a logistic nightmare. If the commissioner of the New York City Police Department, Ray Kelly, has to do it, he will. And if the mayor, Mayor Bloomberg, is forced to do it, we will. But ladies and gentlemen, it would be a travesty to every living American in this great state and in the tristate area. And the cost would be so overwhelming that we'd never be able to recoup it.

As I opened up, cells were living here in the City of New York, in Brooklyn, where cells today, ladies and gentlemen,

across this state and across this nation still live. It's only a matter of time. We do not need to give them a venue. We've given and protected this great country since 2001 from any attack. We should not, ladies and gentlemen, open that door just a little bit to give any terrorist an opportunity to hurt or kill or maim another American.

That's why that belongs in a military tribunal. That's why they do not belong here in the City of New York. We can never lose sight of how long the day, the week, the months, the years that we toiled in and out of Manhattan, the volunteers that went down to that site, the truckloads of equipment and people that we sent into that. Never, ever let us forget the loss of those lives, the loss of those lives in Washington, D.C., the loss of those lives in Pennsylvania. We can never, ever, ever forget.

So I commend you, Senator Leibell. And God, I hope You're looking and listening and somehow we have the ability of making sure that that trial does not come to this great city and this great state.

Thank you Senator. Thank you, my colleagues. Thank you.

THE PRESIDENT: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

I'd like to thank Senator Leibell for putting this resolution before the body. To Senator Adams, thank you for your thoughtfulness both in talking about Senator Morahan and your thoughtful remarks on the resolution, as well as Senator Volker and Senator Golden.

Senator Leibell, my eighth-grade English teacher would have been very proud of you, because the topic sentence, first sentence in your resolution says it all and without anything else being said, talks about the heart of what you want to do.

"Whereas throughout the course of our nation's history, from the time of George Washington to the present day, the United States has recognized that these terrorists, captured with the intent to attack the United States, its people and/or its interests, and which present a serious and immediate threat

to the nation and its people, should not be afforded the same constitutional criminal justice protections reserved -- reserved -- for the United States citizens." That says it all. It says it all. It goes to the heart of what we're talking about.

For those who have had the opportunity to read, there are a number of recent biographies on George Washington, the father of our country and the commander of the Continental Army. It is very clear that he knew and understand that criminal combatants as well as those who may have committed treason were treated to a tribunal and then very quickly hung. That was it.

That methodology, as the resolution talks about, from the beginning, from George Washington forward, has been what this country has done with criminal combatants.

Senator Volker said it -- you know, it's common sense. People that I talk to in my district are really befuddled by this whole action. As a good friend of mine says, What were they thinking? What were they thinking when they moved this trial to New York City

and afford these terrorists the same constitutional rights as our citizens?

And I'll tell you, my colleagues, that is what is very troubling to the people that we represent. We talk about it costing a billion dollars at a time when we have deficits, we're cutting programs and education, higher education, healthcare, programs for our youth. We're spending a billion dollars? It's ridiculous, absolutely ridiculous. And to traumatize the people who have gone through this whole attack on our soil just goes beyond the pale.

And so I'm glad we have this resolution, that we're discussing it, debating it. And hopefully we will send a message on behalf of the 19 million people that live in this state that I don't believe it belongs anywhere but in a military setting in a military trial. So for one, I'm not for pushing this no of New York, but push it to some other state, some other place.

Senator Leibell, again, thank you for your vigilance in allowing the body to vote on this resolution.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

And I want to thank my colleagues. And Senator Adams, thank you for your comments. They were excellent. You usually do speak well, but that was probably the best I've heard him speak. And Senator Volker and all the other speakers who have gotten up and said this very important message.

These trials are not typical trials. This country is at war. I don't think anybody has any doubt of that. If you do, you're living in a dreamland. We are at war. There are people out there who want to hurt us. They want to do more than that, they want to destroy our way of life. These people want to destroy our way of life. They don't believe in our Constitution. They don't believe in the protections. They believe we deserve to die.

The 3,000 people that died on 9/11 in those buildings did not deserve to die. They didn't do anything wrong. They went to

work that morning. They woke up, got dressed, had their breakfast, tended to their families, and went off to work on a normal day. And it was their last day, because these people perpetrated a horrendous act on this nation, an a act of war.

These are not common trials. And we do not have anything to prove to anybody. I've heard it said and I've read in the papers that we have to prove that our criminal justice system is the greatest, the fairest in the world, that our Constitution is fearless, and that we don't worry about the threats of other people, the threats of a few terrorists. Nonsense. We have nothing to prove here in this country.

We are the fairest country in the world. We are the only country right now standing up for the rights of human beings. Who else is in Haiti? Who else is down in Haiti right now keeping order, distributing food, and doing the best it can? This country. Our troops are down there maintaining order, distributing food, and doing the best they can to help those poor

people.

We don't have to prove we are a great nation. We are a great nation. And these are not typical criminals. As Senator Adams said, these are not guys you picked up on the street corner selling a nickel bag. This is not a common criminal act. These people took 3,000 lives without even thinking, without batting an eye.

What are you going to do to the judges? What are you going to do to the jurors? How are you going to protect all these people? The Lower Manhattan area is one of the most congested areas in our state. To try to put through and to try to put security for all of the people that have to be secured -- including, including these terrorists, because they have to be protected -- can you imagine the hue and cry that would come off if one of our police officers is killed, maimed, or in any way hurt defending or protecting the lives of one of these terrorists? My God, why would you want to do that?

We have a system. The military

tribunals were set up for this stuff. We have courthouses in Guantanamo built to try these people under safe circumstances. Use them. Bring these people back where they belong.

This country has nothing to prove. We have nothing to prove. We have nothing to demonstrate to the rest of the world. We are the greatest nation in the world, and we should treat all who come to this land and attack us and kill our people just like the animals they are. They are not deserving of the protections of the Constitution of this country. They do not deserve it. And to pretend that they do is farcical.

The President is wrong. His Attorney General has made a bad decision, and it should be retracted. It should be retracted. We should not be carrying this forth to save somebody's face. This is a mistake. It should never have been decided in this way. It should never go forward. They should be sent to Guantanamo and tried under safe conditions, under proper military tribunals. And let that be the act.

Senator Leibell, thank you for to

resolution. I intend to vote aye. And I would hope that this resolution, as a demonstration of this Legislature's feelings towards these terrorists, that our act and our vote would be unanimous, to condemn these people and to condemn their vile acts for what they are, an act of war.

Thank you, Mr. President.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

A lot of my colleagues have stole my thunder. But, Vince, I've served with you for over 20 years. I think your presentation on behalf of the people of this great nation of ours was outstanding. And I thank you from the bottom of my heart.

I listen to people talk about 9/11, and I listen to people talk about Lower Manhattan. Two weeks ago I went to Lower Manhattan, because we have some priest friends, Maridols {ph}. You probably know where that's at, Mr. President. And they were crying out what this would do to the community the second time around.

And I don't think somebody in Washington is listening. I served my country for 23 years, and one thing I remember, the commander in chief has a responsibility to defend this nation and its people.

Now, the President said sometime ago, "I didn't make this decision. The Attorney General, Eric Holder, made this decision." Well, I got news for you. When you've ever been in a position of responsibility and command, somebody goofs off that bad, it doesn't take long to cut his legs off and make sure somebody else is there. I don't believe that Holder did this by himself. I think the President was up to his ears with it.

But what are we talking about? We had 3,000 people killed, killed in combat. If you don't think this is combat, maybe I'll send you a couple of books on war. Those of us who fought -- you're talking about noncombatants, they say. They're not noncombatants. Their mission was to kill us. If you've ever been in a unit, whether it's air, sea, or ground, and you came in touch

with combat units, your mission was to kill them before they killed you. And if you took them as prisoners, they went to a prisoner-of-war camp, and then you took it on from there.

The Supreme Court said we could have the military tribunals. My friend Senator Padavan reminded me and all those who have ever been in the service, there's a Uniform Code of Military Justice. Read it. We can try them at Guantanamo. That's the right place. I don't want to see them go to Illinois, Montana, or someplace else.

They've recommended an alternate, my area. West Point. What a disgrace. A university that's been cited as one of the greatest in this country. And then you're going to put these combatants. And I want everybody to stop calling them noncombatants.

And my friend Senator Squadron talks about he can't vote for this because of this change to do that. I'm not a lawyer, but they tell me where the crime was committed and that, you're going to have to try them in that same venue. I don't know anything about that. All I do know is this. They killed 3,000

Americans.

Just last week in this chamber we had a resolution honoring the 59 Americans that were killed in Iraq or Afghanistan in the year 2009. 9/11, 49 people from my district were killed at 9/11. What are we saying here? Who are we trying to please? Who are we trying to say we want to be nice to you? Nice for what? You killed 3,000 Americans. You've killed probably 10,000 or 12,000 in combat in two wars.

We don't need to apologize to anybody. What we need to do is unite as a body here and tell the President and his Attorney General and our Congressional delegation that this is not acceptable not only to New York but to the United States of America.

These people have pled guilty. They want to be martyrs so that someone can look at them. It gives them incentive for taking people from Yemen, Pakistan, Iraq, Iran to come to America and kill more Americans.

I ask you to think twice if you're going to vote against this resolution.

Because if you are, you're voting against the men and women who are in harm's way today defending our country. Why should they be over there in a lost way when you're saying, oh, bring them to New York City. I've heard dozens of lawyers -- and I'm not a lawyer -- say what a field day I will have. I will bring it up that the President of the United States said they'll be found guilty and they'll be murdered.

For what? Why should we expend all this money when we're talking around here about everybody we meet, there's no money for this, there's no money for that. But here we're willing to blow $2 million to $5 billion on a trial that should never occur in the United States of America. Don't we have any guts here or any guts in Washington to say stop?

And anybody who's been in combat knows it's a hell of a life. It's serious. When you've been in combat, your worry is not only your own but your worry -- am I right, Hiram? -- your worry is your surrounding. Because they're worrying about you and you're

worried about them.

So let's sit down here today and say, on behalf of those who have given so much and made the major supreme sacrifice, let us vote on behalf of them and vote to say try this in a military tribunal where it's authorized, it's sanctioned, we don't have to blow up anybody, we Don't have to lose any money, we don't have to start funneling around, we just all have to have the guts to say this should not happen in the United States of America.

Again, I thank my colleagues for their comments.

THE PRESIDENT: Thank you.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise in support of this and again thank Senator Leibell for bringing this forward. I don't know of a single New Yorker that is anxious to have this trial in New York.

You know, we do a lot of resolutions. This one has significance in

that the President is vacillating where this will be held and so forth. And I think this could be meaningful.

You know, Senators Schumer, Gillibrand, the mayor, Commissioner Kelly, so many of our Congresspeople are all united against bringing this to New York City.

Let me just say I want to just approach it from a little different point of view, the pain that happens to the families that suffered these murders. I had a first cousin, the father of five children, that was killed in this terrible tragedy. And I knew a score of people personally that died in this gruesome murder.

I think that every one of us should rise up and say we should not be bringing this back to this venue so close and go through this pain -- so many of these towns and so forth on Long Island and so forth that knew so many, many people that were murdered, 3,000 people. My colleague here was saying I think that's even more than were killed in Pearl Harbor. Just unbelievable that we should even consider bringing this back to New York City

for not only for a show trial but something that's going to spend a billion or more dollars.

I support this resolution, and I just wish the President of the United States could have heard some of these remarks made by my colleagues.

Thank you, Mr. President.

THE PRESIDENT: Thank you.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you very much.

So I'm a little bit farther to the north than Senator Squadron, where the bombing of the World Trade Center took place. Although I guess I don't have much of the privilege of representing the district that had the largest number of people in my zip codes who died in the World Trade Center bombing.

And I support not having the trial in New York, as everyone here has spoken about. And in fact pretty much everyone who represents New York State at the federal level has made it clear that they too don't think

Lower Manhattan is the right place to have the trial. And so I think the good news for all of us here today who share that view is I don't think we're going to have the trial in Lower Manhattan. It's the wrong place.

But I have to disagree with my colleagues, respectfully, if they say they don't think the federal court system can handle the trials and come to swift, extreme punishment of the guilty parties. I believe in the Constitution of the United States, and I believe that our federal court system is up to any challenge to protect our constitutional rights and protect us.

I worry about this expression "military tribunal." President Bush proposed them. No one ever really defined them. The U.S. court system is the fundamental protection of democracy that we all have and live under. We have fought wars protecting our right to democracy. Our young men and women go to wars on foreign soil to protect our Constitution and our right to continue to live under the democracy that we designed.

I believe the U.S. federal court

system is the place to process guilty people, whether it is this situation or others that we may face. We've faced a lot of tough things in our history. We have had wars in our history. We have had the federal court system try criminals, war criminals, and successfully do the right thing and bring swift justice.

I think it is dangerous, dangerous under the belief that somehow this is different enough that we should violate the sanctity of our constitutional faith in a federal court system to solve this quickly, correctly, and in the best interests of the United States and all 300 million citizens.

So I urge my colleagues, don't walk away from the Constitution in your desire -- which is my desire -- to make sure justice is swift and is not in Lower Manhattan. We can have a correct, fair, constitutional process. We can find them guilty. We cannot have it in Lower Manhattan. And again, these numbers, $3 billion to $5 billion for a trial, that's a new one on me.

So I urge my colleagues to continue your passionate support for all our federal

elected officials in New York State calling for us not to have the trial in Lower Manhattan, but to not let go of your belief in the Constitution.

And because of that, I will vote no on this resolution. Thank you.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Very, very briefly, I will be voting in support of this resolution. I appreciate the passion with which many of my colleagues have spoken.

I do so, however, just because the "resolved" clause which calls on the federal government not to hold the trial in federal district court in Manhattan is something I agree with.

I do have issues with some of the "whereas" clauses. And I share Senator Liz Krueger's concern that we put aside the constitutional protections that we all enjoy at our peril, and it should be done with great, great care.

I actually believe that we have work to do in restoring the credibility of the United States around the world as the nation that is different, as the nation that does provide protections to the innocent and the guilty alike.

I think that after the last administration, quite frankly, and what's come out about torture and what's come out about abuses of process, we have some work to do.

And I know people who have said, oh, lawyers will have a field day. I think this is an opportunity for our lawyers, those representing the United States government, to also make a presentation that would say to the rest of world no one is more determined to fight terror, but that we remember why we are fighting that terror so that we do not have to live under the sort of oppressive systems represented by and advocated for by the people who will be on trial.

I'm voting yes, Mr. President, but with that caveat. And I appreciate the passion and the sentiment of all concerned on this very serious issue.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I've listened very carefully to all of those who have engaged in this dialogue or debate here today. Each of us in this chamber has certain responsibilities as either a chair or a ranker of a particular committee. And each of us within that particular venue is responsible for some greater degree of expertise than perhaps the members at large.

And I heard two gentlemen, different sides of the aisle, the one currently the ranker on the committee that deals with homeland security -- Senator Leibell, the former chair -- I heard the current chair, Senator Adams, both speak rather eloquently not only about the need to avoid having this trial held here in New York, but, every bit as importantly, that these people who are the subject of these trials are enemy combatants.

And this is not about whether our federal court system can handle these trials. It's about whether a component of our federal

court system, which is the military component, should be handling these trials. It's all part of the same federal court system.

So it's not that it can't be handled in the federal court system. It can be. The question is whether it should be handled in the federal district court in New York -- or, for that matter, in federal district court in any other venue in any other part of this country -- or whether it should be handled in the federal military component of our federal court system.

Now, there's nobody here who doesn't remember where they were on September 11. There's nobody here who doesn't know, either through family or friends, somebody who lost their lives or a number of somebodies who lost their lives. I can well recall my wife and I trying reach my son, who was an assistant district attorney in Manhattan at the time and how she was driven to tears because hours and hours and hours went by and she could not get through to him and literally was crying -- excuse me.

(Pause.) Ultimately, we were able

to reach him on his home phone, where he had the good sense to leave a message that he and his roommate were safe and that they would get back to us whenever they could.

This was an act of carnage that was premeditated. And one of the very reasons that this act was premeditated was because this nation represents the very things that some of you have referred to earlier. We're the bastion of democracy. We believe in freedom of expression. We cherish our Constitution and its Bill of Rights, all of which are an anathema to the people who sought to wreak this horrid devastation on the City of New York, on our nation's capital, and Lord only knows where else that plane that ultimately destructed in Pennsylvania would have wound up.

The simple fact of the matter is they vilify our Constitution, they vilify everything we represent. It's a credo. It is a way of life. These are not civilians. These are soldiers in a war against this nation and everything we believe in. They may not necessarily be smartly attired in uniform,

but these are soldiers, soldiers of death and destruction. Soldiers that believe that under any circumstance, to the point of giving up and sacrificing their lives, they must bring this nation to its knees in any way that they can.

To afford them the opportunity for a civilian trial is really to compound the injury that they've already imposed upon us. They in fact should be subjected to no more or no less than any other military combatant. They should be tried before a military tribunal. They should be entitled to the same degree of justice that we would afford any other in that situation. And yes, there is, believe it or not, a series of justice that does occur in our military courts.

They should not impose the anguish, the fear upon any community in which they might located in this country, whether it's here, whether it's in Montana, whether it's in Chicago. We should make the statement that it is simply unacceptable to degrade ourselves in order to somehow or other make the international community feel that we're

apologizing to them. And that's basically the only justification that can be offered for conducting a civilian trial somewhere here in this country.

I want to commend Senator Leibell for bringing forth this resolution.

And incidentally, when I mentioned each of us has an area of expertise, as far as I know the only two people that are routinely briefed and briefed, by statute under the law of New York, by those in charge of homeland security here in New York -- and also including, from time to time, I believe, federal officials as well -- are the Senator who chairs the Homeland Security Committee and the ranker.

So I suspect that they've been privy to information that the remain remaining 60 of us have not. And in their judgment, in their well-qualified opinion, military tribunals are the appropriate places for these people -- and in many respects I think I stretch and accommodate to consider these people just that, people -- should be tried in a military tribunal.

Thank you, Mr. President. Thank you, Senator Leibell. Thank you, Senator Adams.

THE PRESIDENT: Senator Lanza.

SENATOR LANZA: Thank you, Mr. President.

I rise in support of this resolution, and I want to thank Senator Leibell for bringing it to the floor today. And I want to especially commend Senator Leibell and Senator Adams for their very poignant comments today.

And I added my name to the list late here because I knew my colleagues would do an excellent job in speaking in support of this resolution, and you have. And I want to associate myself with those remarks.

But I rise to respond to a couple of statements that were made by two of my colleagues that somehow a belief in our Constitution requires that we afford enemy combatants greater rights than United States soldiers.

I not only believe in our Constitution, but I've read it. And nowhere,

nowhere in the United States Constitution does it say that we should give greater rights to foreign attackers who take, in one fell swoop, 3,000 innocent lives, that we should somehow give them more rights than we do an American soldier. Because that's what a civil trial would do.

It was said that they should be afforded the same rights as any citizen in this country. We can discuss and debate that. I disagree. But that's not what a civil trial would do. It would afford greater rights to these enemy combatants.

And I am a bit perplexed by the notion that a civil trial would be too dangerous and too expensive for New York City, and because of that we should move it. My question is, which town, which hamlet, which city, which neighborhood in this state or any other should be exposed to that danger and that expense?

My colleague Senator Farley mentioned Pearl Harbor. The enemy combatants who attacked Pearl Harbor and dropped those bombs were not afforded a civil trial. Is

anyone suggesting that that's what should have happened?

On the battlefield in Europe, Americans were killed in combat by our enemies -- the Germans, the Italians. Is anyone suggesting that our country would be stronger had we afforded those enemies a civil trial? I would suggest to you that if we had, America might not still be the greatest, freest nation on the face of the earth today.

It is twisted logic to suggest that making America weaker somehow makes her stronger. It does not. A civil trial would afford our enemies with the intelligence that they would use -- because they said they would -- to wage additional attacks against this country. It would make it easier for them to do what they have vowed to do, and that is to attack and destroy us. Doing that would not make America stronger. It would make us weaker. It would endanger our citizens.

I want to thank Senator Saland for reminding us of the human face of what happened that day. I lost, as some here had,

very dear friends, very dear friends in that attack. They deserved justice. America deserves justice.

And you know, if a military trial is good enough for a United States soldier, it's too good, it's too good for those who attacked us that day.

And so I want to thank you, Senator Leibell, Senator Adams, for bringing this resolution to the floor. It is unconscionable for us to even debate whether or not we ought to give those who attacked America on that day a civil trial.

And yes, Senator Krueger, we can handle it. There's no doubt about that. But it's not a matter of whether or not we could handle it, it's a matter of whether or not we are going to stand for American freedom. And I think this resolution does that.

Thank you.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Just, just to ask myself here in public, why is it, Mr. President, why is it

that we are always giving the Republicans the opportunity to paint us Democrats as anti-American?

It is just a simple, a simple resolution. Why is it that we always have to be looking like the bad guys, like that we hate America? A simple resolution, yes. Why do we have to go against this resolution to give them the opportunity to look like great Americans and we stupid dummies, that we hate America? Simple. It's a good resolution.

I was in the Army. Many of my colleagues never went to the Army. Many of my colleagues never went into the armed forces. I was into the Army. Do you know what happened when one soldier violated the law? Do you know where he or she would be tried? In a military tribunal. Any soldier that violates the law, they are tried, in the Army, in the military tribunal.

So why do we have to give the terrorists such a privilege? Let them be tried in the tribunal. Let them be tried there. Let them be just like they are, military.

So, ladies and gentlemen, we Democrats, we are great Americans too. So yes, I am supporting that resolution.

And even though Senator Squadron says that he is the one representing the Lower Manhattan and the people, hey, we all represent Lower Manhattan here. We all represent the City of New York. We all represent the State of New York, especially when we are attacked like we were attacked on 9/11. Let them feel the power and the justice of the military tribunal.

So I'm here to tell you that I am a great American and that I support America and that this is a good resolution and that we should stop talking about it and approve the resolution and stop giving the Republican side the opportunity to be painted as the great Americans, because we are all great Americans.

Thank you very much.

THE PRESIDENT: Senator Owen Johnson.

SENATOR OWEN JOHNSON: I'd like to thank Senator Leibell for bringing this resolution before the body today, and all the

members who spoke in support of not doing it in New York City.

I think the President and the Attorney General made a thoughtless decision when they wanted to put this trial in New York City, the greatest city of the world. It should not have been thought of in the first place. This mistake will concentrate the world's attention on this trial, and they and their left-wing attorneys will put the United States on trial if it's in New York City.

Can you imagine how deeply they would dig into the fact of the apprehension and treatment of these terrorists, the methods, torture they endured, by them, to which the world's media would flock with enthusiasm, to repeat and say terrible things about the United States?

This trial should take place in Gitmo and not give America's enemies any propaganda victory by putting them on trial here. The foreign nations who hate America, they'll have a field day by repeating all the things that they said at the trial, trying to indict America when they are the criminals.

I think that -- well, I can't keep talking. I think that the fact is that we don't think it should be in New York City and we don't want America's enemies to celebrate this, we don't want to make a slide show out of it. The trial then should go back to Gitmo and have a military tribunal.

Thanks.

THE PRESIDENT: Thank you.

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

SENATOR LIBOUS: Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Could I please request that we vote on the resolution by a show of hands.

THE PRESIDENT: The Secretary will ring the bell, please.

(Pause.)

THE PRESIDENT: All those in favor of the resolution please indicate by raising your hand.

Members will have to leave their hands up to make sure the Secretary gets an

accurate count, please.

SENATOR LIBOUS: Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Sir, while the roll is being called, if I could just also state that we have two members that are in committee meetings. And under Rule 9, Section A, they have until 5 o'clock to vote.

Do you want me to state that for the record? We have Senator DeFrancisco and Senator Hannon.

THE PRESIDENT: Under Rule 9, they have until 5:00 p.m. to vote.

SENATOR LIBOUS: Thank you, Mr. President. I just wanted to make note of that so they're not recorded as absent.

SENATOR KLEIN: Mr. President.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: Mr. President, I certainly agree with that. We have, I think, one or two members also who are at committee meetings that would like to cast a vote on this.

THE PRESIDENT: The same rule applies.

Senator Valesky.

SENATOR VALESKY: Yes. I just wanted to -- Senator Leibell, I believe, in his presentation of this resolution indicated that the resolution is open to cosponsorship by any member of the Senate who wishes to cosponsor. I just wanted to confirm that with the desk.

Thank you.

THE PRESIDENT: It's confirmed.

All those voting nay, please raise your hand.

The Secretary will announce the results.

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time I move that we pass the Resolution Calendar in its entirety, with the exceptions of Senate Resolutions 3811, 3855, and 3791.

ACTING PRESIDENT BRESLIN: All those in favor of passing the Resolution Calendar in its entirety, with the exceptions

of Senate Resolutions 3811, 3855, and 3791, please signify by saying.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Those opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The Resolution Calendar is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we take up Senate Resolution 3811, by Senator Stavisky. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Stavisky, Legislative Resolution Number 3811, honoring New York State Higher Education Opportunity Programs whose achievements and endeavors further enhance excellence in education.

ACTING PRESIDENT BRESLIN: Senator Stavisky.

SENATOR STAVISKY: Thank you,

Mr. President.

Very, very briefly, the Opportunity Programs in higher education enable young people to achieve a degree, to benefit their career and advance, and ultimately hopefully they'll stay in New York State and they'll pay their taxes and everybody will benefit.

This is the 35th anniversary of TAP, the Tuition Assistance Program. And I'd like to remind my colleagues that nearly 30 percent of the New Yorkers who are enrolled in TAP come from families whose income is lower than $40,000 a year, and 11 percent have a family income of less than $20,000 a year.

And the same numbers are true for HEOP, which is the Higher Education Opportunity Program, and they are celebrating their 40th anniversary. In this case, 80 percent of the students come from low-income families.

And there are other opportunity programs. We have the STEP program, which is the Science and Technology Entry Program, the CSTEP, which is for college students, and the STEM, the Science, Technology, Engineering and

Math programs, the Liberty Partnerships and all of the other programs. These are celebrating a significant anniversary.

TAP is such an important part of our state program of service to higher education. It's such an important ingredient for students, for their success in the future. They benefit from these programs, and we'd like to recognize their achievements.

We have some students from some of the colleges and universities in the gallery, and we pay tribute to those students who have benefitted from TAP, the thousands and thousands of students who are enrolled in the public and private colleges of New York State. And we recognize them in the gallery.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Stavisky.

Are there any other Senators wishing to be heard?

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

I rise to support to Senator

Stavisky's resolution, and I hope that it might be opened up for whoever wants to sponsor that.

I think New York State without a doubt has clearly been a leader in student financial aid. Access and choice have been very critically important to our colleges and universities, but most importantly to the students and parents, to have that choice and that access available to them.

Only through student financial aid are we able to maintain the access and choice that really thousands of students have in this state. So I rise to support the resolution.

ACTING PRESIDENT BRESLIN: Thank you, Senator LaValle.

Are there any other Senators wishing to be heard?

Senator Johnson.

SENATOR OWEN JOHNSON: I'm sorry I forgot the birthday of my baby. The Tuition Assistance Program was my baby. Senator Ronald Stafford was the chairman of the committee; we worked together to create that program and worked together to improve it over

many years.

But thank you, Senator Stavisky, for reminding us.

ACTING PRESIDENT BRESLIN: Thank you, Senator Johnson.

Are there any other Senators wishing to be heard?

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

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Stavisky has indicated that the resolution is open to total sponsorship unless someone would come to the desk and indicate they do not wish to be on it.

Senator Klein.

SENATOR KLEIN: Mr. President, can we please take up Senate Resolution 3855, by Senator Monserrate. I ask that the title of the resolution be read and move for its

immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Monserrate, Legislative Resolution Number 3855, honoring Doris "Dorie" Miller posthumously for special recognition, and noting the significance of his purposeful life and his accomplishments as a member of the United States Navy.

ACTING PRESIDENT BRESLIN: Senator Monserrate.

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

I rise to introduce formally a resolution honoring the life of Dorie Miller. Dorie Miller is a very distinguished name in the community I represent in Corona. Currently his name is placed on a 300-apartment complex called the Dorie Miller Co-ops, predominantly African-American and one of the first African-American co-ops established in the United States.

But Dorie Miller is a true all-American hero. In fact, he is the first

African-American to win a Navy Cross, the highest honor given to members of the Navy and the United States Marine Corps. His heroics happened during the Second World War, the attack on Pearl Harbor on December 7, 1941.

And just last week the United States federal government bestowed upon him the honor of a postage stamp. So I encourage you all to purchase that and keep it.

And let's always remember Dorie Miller, his family, and the community he represented. Semper Fi.

Thank you very much.

ACTING PRESIDENT BRESLIN: Thank you, Senator Monserrate.

Are there any other Senators wishing to be heard on the resolution?

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

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The

resolution is adopted.

Senator Monserrate has indicated that he would like to open this resolution to cosponsorship by the entire body. Anyone not wishing to be on the resolution please indicate so by coming to the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, can we take up Senate Resolution 3791, by Senator Squadron. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Squadron, Legislative Resolution Number 3791, memorializing Governor David A. Paterson to proclaim March 11, 2010, as PKD Day in the State of New York.

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

Polycystic kidney disease is one of the most common deadly genetic diseases in

this country. Over 600,000 Americans have it. More Americans are afflicted with polycystic kidney disease than cystic fibrosis and Down syndrome combined.

It's often considered the silent scourge, though, among genetic diseases, because families or those afflicted with it don't know they have it until a tragedy occurs.

Polycystic kidney disease over time basically creates kidney failure for those whoa have it, and kidney failure leads to all sorts of other issues -- high blood pressure, problems with other organs. And so for many families, they don't know they're afflicted with polycystic kidney disease until someone in their family suffers a major event.

This is a disease that is not curable right now, it's not preventable right now, but it's a disease that we can do something being it and make less painful for those afflicted with it, with increased knowledge about the disease, increased research, and more organ donations.

Over 50 percent of people who get

diagnosed with polycystic kidney disease end up going into kidney failure, which means they either need to live in dialysis, with all of the costs that come with dialysis, or in order to survive they need an organ transplant, they need a new kidney.

With a new kidney, though, people with polycystic kidney disease can live for two, three, even four decades. Without it, the prognosis is not very good at all.

Also, with additional research dollars and additional knowledge about the disease, there's a belief that we can stop its effects on the kidneys before you've created that sort of crisis situation. It would save lives, it would save donations, it would also save money for our medical professions.

I bring this resolution because a constituent of mine, Amy Epstein, had a husband who was afflicted with polycystic kidney disease. He lived with it, he overcame it, he was on dialysis. Eventually he did succumb to the disease. She reached out to my office and asked for this joint resolution to ensure that March 11th would be PKD Day in the

State of New York, to help raise awareness, to help raise funding, to help encourage organ donation.

Little did she know when she called my office that I knew exactly what she was talking about, because my sister has polycystic kidney disease. And in fact today, right now, my sister is looking for a kidney donation because she is beginning to go into the process of kidney failure.

It's not really that big a surprise, though, is it, that I had a constituent and that I myself and my family are so deeply affected by this disease -- because it is that common. If you look around this room, I'm sure that almost every person in this room has a family member or a friend or a friend of a friend who has this disease. They may not know it, because we don't test for it, we're not aware of it. But believe me, it is overwhelmingly likely that that's the case.

And it is undeniable that if we had more available kidneys, more people willing to donate and join organ registries, that if we

had more awareness about the disease so that people could catch it early and help to slow its effects, and if we had more dollars for research, events like that that happened to Amy Epstein's husband or that are happening to my family right now would be much, much less likely. We would literally save lives on a disease that afflicts more than half a million Americans.

That's why having March 11th be PKD Day in the State of New York is so important and why I urge my colleagues to cosponsor the resolution.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Squadron.

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

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Squadron has indicated that he would like to open this resolution up to the entire body for cosponsorship. Any Senator wishing not to be on the resolution please inform the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a report of the Judiciary Committee at the desk.

ACTING PRESIDENT BRESLIN: There is a report from the Judiciary Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Sampson, from the Committee on Judiciary, reports the following nomination. As a judge of the Court of Claims, Mark R. Dwyer, of Brooklyn, New York.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of the chairman of the Judiciary Committee, Senator Sampson, I had a chance to look over Mr. Dwyer's resume.

And sometimes in life we prepare

for the job we're ultimately going to take very carefully. And certainly Mr. Dwyer has certainly done that. A graduate of Princeton University, he has a law degree from Yale Law School, a very extensive history at the DA's office in New York County, someone who really served his entire legal career for the public good.

I would just like to say also he was at one point in his illustrious career a clerk to a United States District Court judge.

He's someone who throughout his career used his intelligence, his law degree, his experience to help the public good. And I will say that when Mark Dwyer assumes his position as judge of the Court of Claims, justice will be done.

ACTING PRESIDENT BRESLIN: Thank you, Senator Klein.

Senator Maziarz.

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

Mr. President, I had the opportunity and the pleasure to meet with Mr. Dwyer as part of the Judiciary Committee

pre-meeting today.

And as my colleague Senator Klein pointed out, this nominee is very qualified for this position. I think he would do a great job. We talked a little bit about his background in the Manhattan DA's office.

And I would strongly recommend that this nominee be confirmed, and I second the nomination.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Maziarz.

Are there any other Senators wishing to be heard on the nomination?

The question is then on the nomination of Mark Dwyer as a justice of the Court of Claims. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The motion carries. The nomination of Mark Dwyer to the Court of Claims is hereby confirmed.

Judge Dwyer, congratulations to you and to your wife Anne Ryan and to your daughter Mary Kate Dwyer.

(Applause.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, at this time could we please move to a reading of the calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar 57, by Senator Dilan, Senate Print 5174, an act to amend the Vehicle and Traffic Law, in relation to emergency rule.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Little, to explain her vote.

SENATOR LITTLE: Thank you,

Mr. President. I would like to explain my vote.

I did vote for this last year. But we've had a recent incident in my town where we are finding that really getting to gross negligence is very, very difficult.

And I support this bill in that it affects I-95, but I would like to see the bill amended so it did not affect all roads in New York State. And I would ask Senator Dilan to consider that amendment to the bill.

But at the current time, I vote no. Thank you.

ACTING PRESIDENT BRESLIN: Senator Little will be recorded in the negative.

Announce the results.

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

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 58, by Senator Aubertine, Senate Print 6237, an act to amend the Highway Law, in relation

to designating.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

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

SENATOR KLEIN: Mr. President, there will be an immediate meeting of the Transportation Committee in Room 124 of the Capitol, followed by a meeting of the Investigations and Government Operations Committee also in the Capitol, Room 124.

Mr. President, may we please stand at ease.

ACTING PRESIDENT BRESLIN: The Senate will stand at ease. There is an

immediate meeting of the Transportation Committee in Room 124 of the Capitol, followed by an immediate meeting thereafter of the Investigations Committee in the same room, Room 124.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:13 p.m.)

(Whereupon, the Senate reconvened at 9:19 p.m.)

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: Mr. President, can we return to the reports of select committees. I believe there's a report at the desk.

THE PRESIDENT: The Secretary will read the title of this report.

THE SECRETARY: "Report of the New York State Select Committee to Investigate the Facts and Circumstances Surrounding the Conviction of Hiram Monserrate on October 15, 2009."

THE PRESIDENT: The question is on the acceptance of the report of the select committee. All those in favor please indicate

by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The report is accepted and will be entered into the Journal.

Senator Klein.

SENATOR KLEIN: Mr. President, if we could at this time return to the order of motions and resolutions, I believe Senator Foley has a resolution at the desk.

I ask that the resolution be read in its entirety and move for its immediate adoption.

THE PRESIDENT: Senator Klein, has this resolution been deemed privileged and been submitted by the office of the Temporary President?

SENATOR KLEIN: Mr. President, just a clarification. Can we just read the title of Senator Foley's resolution.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Foley, Senate resolution condemning the conduct and

calling for the expulsion of Senator Hiram Monserrate.

THE PRESIDENT: Senator Klein, I asked you earlier, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

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

(No response.)

THE PRESIDENT: The question is on the resolution. All those in favor --

SENATOR LIBOUS: Mr. President, could I ask for a show of hands on the vote, please.

THE PRESIDENT: All those in favor please signify by raising your hands.

(Senators raised their hands.)

THE PRESIDENT: Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

Today we are getting even. There

was a process here back in November when Malcolm Smith wanted to be president of the Senate. And then there was a coup when Hiram Monserrate brought the Senate to a halt. So today we stand to get even. So we formed a committee, a committee to go and find out things that the Queens district attorney and the judges and the court system, according to the committee, didn't found.

But there was a guy here in this chamber, a guy by the name Marty Markowitz, long time ago. And he was convicted for money laundering, misdemeanor. And when he came back, he was received as a hero. They didn't form a committee to go after Marty Markowitz. But they formed a committee to go after the Hispanic one and get even.

So, ladies and gentlemen, go ahead, get even. Enjoy it. But that was not done before. It's only done to the minority Hispanic.

And by the way, if you see in my Democratic conference, all the whites. Only one Puerto Rican, Jose Serrano, and the lady in the -- in the -- what's your lady's name?

Andrea Stewart-Cousins.

So yes, time to get even. And you might feel good. The Republicans feeling good because, aha, you came to us, you jumped back, now we getting you.

The Democrats, they was begging Monserrate to come back. The same people. You got to see, you got to see, Mr. President, Eric Schneiderman, how he was begging Monserrate to come back when he was on the other side. He was a great guy. He was, oh -- he was, "Oh, come back, come back." All of us: Come back, come back. Just to make fun of him and to put him to shame and to do this to him.

And you got to see how our leader have no leadership. You got to see the mockery. You got to see how his closest lieutenant, his closest lieutenant goes against him.

And then they're going to call us to be a united front, a united Democrat party, a united thing.

Go ahead, enjoy your victory. Republicans on the other side, enjoy it. You

got it. Whatever he did to you in the summer, now it's time to get even. And you Democrats, Eric Schneiderman, good, good public relations to become AG. Go ahead.

THE PRESIDENT: Senator Diaz, how do you vote, sir?

SENATOR DIAZ: How am I vote? You asking me how am I vote? You asking me how am I vote?

THE PRESIDENT: We were on a vote -- we were on a vote, sir, at this --

SENATOR DIAZ: I vote against all these people here. Thank you.

THE PRESIDENT: Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

Let me strike a different tone. Although I consider Senator Diaz my friend, I do want to acknowledge my continued support for a fair and just leader, Senator Sampson.

We were in conference. Our conference met privately. And those thoughts and points of view will remain private.

But these thoughts are my own. I proffered legislation and unveiled it

yesterday that would have removed the ambiguity concerning this matter into the future. But we are focused on the so-called Senator Monserrate expulsion decision here tonight.

Earlier today, Senator Leibell produced a resolution and there was intense debate about what kinds of rights we would confer upon terrorists. And there were many that were voting today -- or voted already in favor of allowing civil trials. That is, the Constitution that serves us so well for hundreds of years, we confer upon terrorists the rights to enjoy their due process in our court system.

That due process, by the very same people that supported it for the terrorists, did not find themselves capable of supporting Senator Monserrate's due process rights. And that is a fundamental reason why I must vote no on this resolution.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Espada.

We were in the middle of a roll

call vote. Mr. Secretary, have you counted all the votes?

Excuse me. Senator Monserrate.

SENATOR MONSERRATE: Thank you, Mr. President. Good evening to you, to my colleagues on this very somber evening.

I stand before you today, in front of my 61 fellow colleagues, facing a vote on expulsion. The basis for this, an act that took place even before I was sworn in as a Senator. Behavior that is unbecoming of a State Senator.

Many questioned if the Senate even has the right to expel a sitting member, particularly one who is eligible to be seated. Ultimately, whatever action this body undertakes, it should adhere to the principles of fairness, process, and obviously the rule of law.

Let me remind everyone that a new election cycle is right around the corner. If my sins are of such magnitude that the voters of the 13th Senatorial District feel that they can no longer support my continued service to them, then so be it. But it should be up to

them.

Not one of the members in this Senate took place in any of the elections that I have participated in since 2000. I think it's the height of arrogance for someone who has never pulled a lever in my community -- that never saw the narcotics sales on Roosevelt Avenue, that never saw the lack of services that my community receives -- to think that today they have more power than the constituent voters who sent me here to represent them.

All of us here are here as a privilege, because the people have decided to send us here to represent them. Moreover, there are legitimate questions, legitimate, under our State Constitution and our legal system, if this Senate, if this body currently has the power to expel members.

But even if the Senate had the right to, even if they had the right -- which I believe they do not -- this process has deprived my constituent voters and me of due process.

It was eloquent today when I heard

Senator Squadron speak about due process when he talked about the Taliban terrorists. And even Senator Liz Krueger from Manhattan stood up and rose and spoke boldly about an America that would protect the rights of even terrorists.

Well, ladies and gentlemen, I was denied basic due process, rules of evidence, and the like during this inquiry.

It is clear that outside of the felony conviction, there are no standards or rules that delineate an act of expulsion. Prior to 1821, there were provisions regarding the purging of members of the legislature. But in the Constitutional Convention of 1821, they were taken out, and with good reason.

Respectfully, my colleagues, we don't have the power to expel a member. This action would be unconstitutional, illegal, and contrary to precedent.

So what is it that we are doing here? We are all here doing the people's business because of one salient reason: The people have afforded us the privilege of serving. Expulsion, therefore, is an extreme

action that clearly abrogates the rights of people who exercise their democratic rights to vote.

Now, over the years we have witnessed on numerous occasions how some of the people's representatives have abused their privilege, lining their own pockets at the expense of the public interest that they have sworn to uphold. Just recently, a leader of this very body for many years was convicted of corruption, using his office for personal gain at the expense of the taxpayers and this great state.

We have also seen a long list of others who were convicted or even pled to misdemeanors. Senator Diaz mentioned one, but there are countless others -- dozens, if we include the New York State Assembly. Many of them negotiated pleas to avoid felony convictions.

Ladies and gentlemen, I was facing four felony charges and prison time. I believe so much in my innocence that I went into a courtroom with my attorney and we fought a legal battle to prove my innocence.

Today we are in appeals process of the sole reckless charge.

I want to underscore that. For those of you who are members of the bar -- including the Democrats who somehow forgot their ethical guidelines along the way -- there was no mens rea here. There was no intent. There was a reckless act. And for that, I am sorry. I'm also very sorry for all the pain and the upset that has occurred as a result of that to this body.

But let's be clear what we're dealing with here and what the offense was. In all the time that all these things were occurring, with other elected officials being arrested and convicted, corruption scandals, who knows how certain individuals and their friends get contracts in this house -- with all of that going on, no one from the Democratic Conference stood up and said "Enough is enough." Even when the behavior became common knowledge.

Before I arrived to Albany, two of our colleagues, one on each side of the aisle, were convicted of using their office for

corrupt purposes. Is it any wonder that we have earned the label of "dysfunctional" that has been bestowed upon us?

Yet with all this history of corruption, suspect behavior, no Senator has ever been forced to face the prospect of expulsion -- not one -- until now. Why now? What is happening at this time that makes the current effort to expel me so compelling?

At every turn, we as a body are facing charges of failing to adequately represent the public interest. Editorials written by billionaire publishers single out lists of elected officials who it is alleged have violated their oath of office. It is a climate that paints us all with a very wide and broad brush -- but everyone in this body stands accused.

In response, we rush to craft an ethics bill -- someone pounding on the table about how important the first step is -- to signal to the public that we begin to approach the people's business differently. But at the same time, let's make sure the lawyers in the room can hide whatever business they have

going on -- that's okay. The same individuals who are so pompous and stand on the ethical bully pulpit.

Make no mistake about this. This is about, in a dramatic and public manner, the effort by some in this body to demonstrate that they are going to expiate all its sins by making Hiram Monserrate the scapegoat. Now we're going to clean up the house. We're going to put on our suits and our ties, we're going to look sharp, and we're going to say what we're doing to clean up the house.

My colleagues, it has been now over 14 months since I entered these chambers as a Senator. I have voted with you on hundreds if not thousands of bills. I have worked with you. Many times, on more than one occasion, to my great colleagues in the Democratic conference, I provided the 32nd vote on so many important pieces of legislation -- bills introduced by Senator Klein and Malcolm Smith and Diane Savino, my good friend Senator Eric Adams, even Tom Duane.

So many times we worked and we battled against differences of opinion from

the other side of the aisle with respect to budgetary constraints, budget reduction bills, member items, capital projects. We have dealt with the MTA bailout, we've protected homeowners, and yes, even enacted some pretty significant rules reform that I think I should take some of the credit for -- right, Pedro?

SENATOR ESPADA: Absolutely.

SENATOR MONSERRATE: Some of the rules reform that equalized the resources of this house so that the minority party could also benefit and be treated like what they are, legislators serving the public, to reduce a little bit of this partisanship that so many times provides for gridlock. Not that losing the 32nd vote in this conference will help much towards that.

During this same period of time, my office has serviced thousands upon thousands of constituents, many of them new Americans and people of color who need the services that my district office has provided for them.

Clearly, I am not being judged for violating my oath of office. I'm not being judged because I had no-show jobs in my

office. I'm not being judged because something went wrong with whatever public funds were at risk during the process of the budget.

But for whatever reasons, ladies and gentlemen, my colleagues, the actions that I have committed, that I've been involved with, do not rise to the level of expulsion. And the process that this body has used has not only deprived me of my due process but in fact is disenfranchising the voters of my majority minority district.

When the committee whose report is the basis of the expulsion action was constituted, the underlying charges were and are the basis of an appeal. This report, which is full of material omissions, legal inaccuracies, and factual distortions, has really amounted to a self-serving document designed solely to justify a result of this committee desired before even commencing its investigation.

Sadly, I learned recently that the committee didn't even receive vital evidence from the district attorney's office that was

in their possession and supposedly, under court order, agreed to be received by the distinguished members of the committee, their chair, and their legal counsel.

Despite never hearing from the only two people involved in the incident that I was involved in on December 18, 2008, the committee proceeded anyway. And its report, written as a prosecutorial brief, lacks both balance and fairness. In this way, it is what the jury hears before the defense counsel even has a chance to speak. Yet this is what has been used and what this body has prepared to use as the basis to expel me from the Senate.

I therefore stand before you today to ask for your forbearance and, yes, in many respects your forgiveness. Forgiveness is important, isn't it, Reverend Diaz? That's what the Scripture teaches us.

I know that my behavior has brought unwelcome discredit to this chamber. And for that, again, as I've earlier stated, I am sorry. But as Reverend Jesse Jackson once said: "God isn't through with me yet." He's got a lot of work to do.

Let the people, come next fall, if they decide that I can no longer effectively serve them, let them be the final word on the matter of Hiram Monserrate.

I thank you for the time and the opportunity to speak here on my behalf, and for the privilege that I have had to represent the people of Corona, Elmhurst, Jackson Heights, East Elmhurst, Woodside, and Lefrak City, USA.

I thank you all, and I'll close solely by saying that this clearly is a much, much bigger issue than just me. This is about the process and the rule of law. I really hope that no one in this chamber, ever in their life, in their public-service career, that they ever find themselves in a situation similar to me -- that on one evening or one day, something goes awry and you find yourself at the mercy of certain colleagues with unfortunate political agendas.

I will be voting no on this resolution. I would encourage every member of this chamber who believes in fundamental fairness and can put to the side the politics

and the heated discussion of the issue and say "It's Hiram Monserrate today, it can definitely be me tomorrow."

Clearly, Senator Espada, in his effort to bring some clarity to this situation, has proposed legislation which I think would be an important first step. But I want to just remind everyone that when you have a process with no rules, no boundaries, no parameters, we could all find ourselves being judged for the wrong reasons at the wrong time.

Thank you very much, Mr. Chair. I'll be voting no. Thank you.

THE PRESIDENT: Senator Monserrate will be recorded in the negative.

Mr. Secretary, would you please read the results?

THE SECRETARY: Ayes, 53. Nays, 8.

THE PRESIDENT: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, is there any further business at the desk?

THE PRESIDENT: Senator Klein, the desk is clear.

SENATOR KLEIN: There being none, Mr. President, I move that we adjourn until Monday, February 22nd, at 3:00 p.m., intervening days to be legislative days.

THE PRESIDENT: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Monday, February 22nd, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 9:46 p.m., the Senate adjourned.)