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REGULAR SESSION

LIEUTENANT GOVERNOR ROBERT J. DUFFY, President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will now come to order.

Please stand for the Pledge of Allegiance.

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

THE PRESIDENT: We are joined now by Father Peter G. Young, from Mother Teresa Community in Albany.

Father.

REVEREND YOUNG: Let us pray.

Let us remember all of our Senators so that they will guide our government as we consider the confirmation of our judicial and health membership here today, in confirmation of their important duties and responsibilities.

May they have the wisdom and understanding as they work for the good and for the good of all of our New York State citizens. We bless them and ask them to commit themselves to the dedication of our citizens of this great state.

Amen.

THE PRESIDENT: Next we'll have the reading of the Journal.

THE SECRETARY: In Senate, Sunday, January 23, the Senate met pursuant to adjournment. The Journal of Saturday, January 22, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bonacic, from the Committee on Judiciary, reports the following nomination.

As a judge of the Court of Claims, David A. Weinstein, of Glenmont.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President. I don't know if this mike is working, but I don't think I need it.

This afternoon our Judiciary

Committee met and we considered the nomination of David Weinstein as a judge of the Court of Claims for a term commencing April 1, 2011, and expiring 10 years thereafter.

Mr. Weinstein is up today here, and he's in the gallery. He has served as the first assistant counsel to the Governor, he has served in the Attorney General's office, and he has served as a law clerk in the United States Court of Appeals and the Federal District Court in the Southern District of New York.

Judge Weinstein has worked in the private sector and has had several publications in various law journals. He is a resident of Glenmont, and he's in Senator Breslin's district.

We met with him, the Judiciary Committee, and we report favorably on his nomination. And I move that nomination to the floor.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President. I just rise to second the nomination.

David is a resident of my district, and as Senator Bonacic pointed out, he has an exemplary background, one in private practice, one as a law clerk, one working in the Attorney General's office, and most recently in the Executive Chamber, where he worked on a bipartisan basis to do much to enhance the flow of legislation between the Legislature and the Governor.

And I highly applaud the Governor's recommendation to sit Judge Weinstein, and I applaud the move.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Breslin.

Any questions on the nomination?

Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

I am happy to stand here today and second the nomination and congratulate this Governor for the nomination of David A. Weinstein. It was one of the final acts -- well, we thought we had actually accomplished it -- in December of 2010, where we thought we

had actually nominated and appointed David Weinstein. But time and tide sometimes get in the way in real life.

I just want to say that not only has David Weinstein accomplished what was already described by Senator Bonacic and Senator Breslin, but I want to thank him personally for the work that he did during the Paterson administration, working with me and several others on incredibly important pieces of legislation -- the Domestic Workers Bill of Rights and the Wage Theft Prevention Act -- as well as other issues affecting government and labor.

So I want to say congratulations again to David Weinstein. And I know you're going to make a fine jurist, and we are very proud of you.

Thank you.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak?

The question is on the nomination of David A. Weinstein as judge of the Court of

Claims. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: David Weinstein is hereby confirmed as a judge of the Court of Claims.

Congratulations, Your Honor.

(Applause.)

THE PRESIDENT: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, we'll come back to Finance, because I believe we have another nominee to do.

But in the meantime, could we please do -- Senator Espaillat has a resolution at the desk, Number 272. He would like it read in its entirety and move for its immediate adoption.

And then, after that, if we could come back to the Finance Committee.

THE PRESIDENT: Yes, Senator.

The Secretary will read the resolution in its entirety.

THE SECRETARY: By Senator Espaillat, Legislative Resolution Number 272, memorializing Governor Andrew M. Cuomo to proclaim January 24, 2011, as Juan Pablo Duarte Day in the State of New York.

"WHEREAS, The people of the Dominican Republic acquired autonomy and sovereignty on the 27th day of February 1844; and

"WHEREAS, The Island of Quisqueya, the indigenous name for what later became the Island of Hispaniola, was the cradle of thinking and advancement in the Western Hemisphere, establishing the first university and cathedral of the New World; and

"WHEREAS, On the 26th day of January 1813, Juan Pablo Duarte, the founding father of the Dominican Republic, was born; and

"WHEREAS, During the month of January 2011, Dominicans celebrated the 198th anniversary of Juan Pablo Duarte's birth; and

"WHEREAS, Juan Pablo Duarte, along with Francisco Del Rosario Sanchez and Ramon Matias Mella, formed La Trinitaria, a secret organization that initiated the movement for the independence of the Dominican Republic; and

"WHEREAS, During the month of February 2011, Dominican nationals and Dominican Americans from throughout the Dominican Republic and the United States will celebrate the independence of the Dominican Republic; and

"WHEREAS, Since February 27, 1966, the Instituto Duartiano, Inc. in New York City has promoted the memory and accomplishments of Juan Pablo Duarte; and

"WHEREAS, The Instituto Duartiano is an organization that is dedicated to maintaining and keeping alive the life and history of Juan Pablo Duarte, the liberator and founder of the Dominican Republic; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to proclaim

January 24, 2011, as Juan Pablo Duarte Day in the State of New York. In recognition of this auspicious occasion, members of the Instituto Duartiano will visit Albany, New York, on Monday, January 24, 2011; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Honorable Andrew M. Cuomo, Governor of the State of New York; the Honorable Rafael Evans, Consul General of the Dominican Republic; and the Honorable Juan R. Elliot, President of the Instituto Duartiano de los Estados Unidos."

THE PRESIDENT: Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President, for allowing me to stand and welcome, for the 14th consecutive year, these visitors from the Instituto Duartiano and the Dominican Consulate in New York City.

It has become a custom of them to come at the beginning of the year as they kick off Juan Pablo Duarte Week, which entails a visit here to the Legislature but also activities with young people in the local

public schools. They have their gala event this coming Saturday.

And this year we are visited by the following people from the Instituto Duartiano: John Elliott, the president of the institute; Juani Ortiz, who's the secretary general; and two of the other members are Pilar Heimann and Angela Castillo.

Also from the Dominican Consulate's office we have, representing the Consul General, Rafael Evans: Jose Thomas Paulino, Cecilia Baez, Isabel Padilla, and Ambioris Hernandez.

Thank you, Mr. President, for allowing me to introduce them. I wish them all a very good stay here in Albany and in the Senate. This is, I believe, the first time they've been here in the Senate; they've traditionally done it in the other house.

So I welcome them to Albany, and I wish you all the very best.

I would like for the rolls to stay open that other members could join in the resolution if possible.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Other members wishing to speak?

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

As a Puerto Rican and half Dominican and adopted by the Dominican community, I would like to join my colleague, the Honorable Senator Adriano Espaillat, in congratulating the Dominican community.

I'm Puerto Rican, but there was one time, Mr. President, that we Puerto Ricans used to control all the political forces in the City of New York. But times have changed, and Puerto Ricans have moved to Orlando, Florida.

And the Dominican community has been growing in New York City. Right now they have two members of the Assembly are Dominican. They have two members in this chamber, Senator Espaillat and Senator Peralta. And they have four City Council members in the City of New York, plus many judges and members of the community in

different positions.

So I'm proud. They honored me in granting me the -- what you call the Serie 23, the [in Spanish] that belongs to the people from San Pedro de Macoris. And I have become a Pedro Macorisano. And I have learned already the national anthem [singing in Spanish].

So I am very proud to join the members of the Dominican Republic and all those beautiful people over there. And please, thank you and these gentlemen who for 14 years have been doing the resolution in the other chamber.

We did it here last year on the Dominicans, and we will continue doing it. Because you deserve, you are the members of the community that are bringing pride to our community. And you have supported me more than anybody, even more than my own community, you have supported me. And I will always appreciate that.

As you know, I employ -- I am the biggest Dominican employer in the City of New York. I employ about a thousand of you in

the [Spanish] that my wife runs.

So I've been part Dominican. I'm a Dominican today. I will be a Dominican tomorrow. And I will always join my colleagues here to honor you.

Thank you very much. And I see you in the balcony. Thank you.

(Applause from balcony.)

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak?

Senator Libous, Senator Espaillat wishes to open up this resolution for cosponsorship.

SENATOR LIBOUS: Without objection.

THE PRESIDENT: Any Senators wishing not to be on the resolution please notify the desk.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

I also want to welcome our guests.

(Applause.)

THE PRESIDENT: Senator Libous, why do you rise?

SENATOR LIBOUS: Thank you, Mr. President.

Could we go back to reports of standing committees for a nomination before the Finance Committee.

THE PRESIDENT: Yes, Senator.

The Secretary will read.

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

As Commissioner of Health, Nirav Ramesh Shah, of New York City.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I rise to move the nomination of Nirav Shah, Dr. Nirav Shah, as the Commissioner of Health.

We've had hearings both in the Health Committee as well as the Finance

Committee on his qualifications for this position, and he's eminently qualified and there was a unanimous vote in both committees.

And I would move the nomination and request that you recognize Senator Hannon on this nomination.

THE PRESIDENT: Thank you, Senator.

Senator Hannon.

SENATOR HANNON: Thank you, Mr. President.

I rise to commend to this body the nomination for confirmation of Nirav Shah. The Health Committee had a hearing where we heard from several colleagues and collaborators of Dr. Shah this morning, and then Dr. Shah appeared before the Health Committee, where there was lively conversation about different aspects of health policy.

Dr. Shah is currently an assistant professor of medicine -- or has been, until we confirm him -- assistant professor of medicine in the Section of Value and Comparative Effectiveness at NYU, associate director for research at NYU, as well as an associate

investigator at the Geisinger Center for Health Policy and Research in Pennsylvania, a 43-site health system in central Pennsylvania dealing mainly with rural residents.

He's a graduate of Harvard College and received his M.D. and his MPH at Yale University School of Medicine, and he's done post-doc training as a fellow at the Robert Wood Johnson Scholars Program at UCLA. He serves on editorial boards of journals and has published over 60 peer-reviewed articles.

The number of questions that he fielded this morning and this afternoon has been impressive, and I think all agreed that he has addressed in a very "on top of the moment" type of way so many of the pressing health delivery issues that this state and this nation faces.

I went over some of those 60 articles and was really impressed with the wide range of things that he commented on, mastered on, did some innovative research on. Such things as grafts and chronic health problems that often get people wound up back in the hospital, thrombosis, diabetes,

adherence to prescriptions. Major, several different articles in regard to hypertension, effectiveness of drugs thereon, and the cost of those drugs. Fibromyalgia. Wellness. Pain. Menopause.

He has pioneered work in regard to use of existing electronic health records and has some deep thoughts about where we go in the future with that.

Taking studies that currently exist and using existing research to determine effectiveness, comparative research.

These are the types of issues that this state will face if we are to address a systemic change in our health and Medicaid system. We have for years been talking about how we're going to fight cuts and all of that. Finally, when our back is to the door, unless we actually do what Governor Cuomo has proposed and have a redesign, we're not going to be able to make any progress. We're going to lose too many people to bad healthcare.

So I believe one of the best pieces of background that Dr. Shah brings to the job of Health Commissioner is both being an

investigator with the Geisinger Healthcare System -- rural New York is very comparable -- and being at Bellevue Hospital, obviously a shining example of what needs to be done in our most populated centers in New York State.

For those reasons, I would commend to this body the confirmation of Dr. Shah.

THE PRESIDENT: Thank you, Senator.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, thank you for recognizing me again. And I appreciate the fine remarks of Senator Hannon.

But I really wanted to comment on what a fine nomination this is that the Governor brought to this body.

You know, we're at a real critical stage not only in healthcare but in budgetary matters in the State of New York. And speaking with the doctor, it was pretty obvious that he's aware of the problems and is aware of the fact that the answer isn't simply across-the-board cuts so that those efficiently run programs and efficiently run organizations get hurt more than those that

have fat in their area and could be cut with impunity. And that we have to look at program by program and make surgical cuts rather than across-the-board cuts in order to balance this very difficult budget. He's aware of that.

He's also an individual who is extremely accomplished at such a young age. It's just amazing what he's done in such a short time.

And we've only got a short time to correct the problems that the state is now facing in healthcare, and I'm sure, with his work ethic and his demonstrated success in his profession, that he's the right person for this job at the right time.

So I want to congratulate the Governor on such a fine appointment and thank the doctor, Dr. Shah, for being willing to step up at this very important time in the history of the State of New York.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very

much, Mr. President.

Dr. Shah, welcome, and thank you for taking on this very difficult task, as was outlined by my colleagues Senator Hannon and Senator DeFrancisco.

Dr. Shah, I have to tell you that I was a little bit surprised when I picked up the Buffalo News and I saw that the Governor was nominating somebody from Western New York for the Health Department commissioner's job. Usually in upstate New York we don't get those very important assignments from any administration.

But I read about you, how you were born in Buffalo, graduated from Williamsville High School, then went on to Harvard and Yale, and then you moved to New York City. Everybody makes mistakes, Doctor; don't worry about that.

(Laughter.)

SENATOR MAZIARZ: We are very proud of you from Western New York, representing a district in Western New York. And we wish you the best. As I think Senator DeFrancisco pointed out, clearly with your

background, with your experience, you could be doing a lot of other things that would probably bring a lot more personal benefit to you, but you chose to take on this task.

And I have to tell you that the Buffalo News hit it spot-on when they said how proud everyone is in Western New York of one of our native sons taking on and being nominated for this very important position.

Mr. President, I proudly second this nomination. Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise in support of this nominee. Governor Cuomo has absolutely nominated a superstar. Everything that he has done, he's been number one in, he's succeeded. What a scholar. As a professor, I've never seen anyone that has published more articles and treatises than he has. Dr. Shah is truly an incredible appointee.

Also seated next to him is his

wife, who I am told through the nominee is even smarter than he is: The number-one student out of a million, which was quite remarkable. And also he comes from a magnificent family.

But everything he's done, he's been a success at. His resume is absolutely incredible. We're honored that he's taking on these challenges because, in my judgment, this is the most challenging time the State of New York has ever faced, and certainly the area of health and Medicaid is the area that's going to need an awful lot of attention. And we've got the person that can do it.

I wish you well, Doctor, and we're delighted to have you at the head of the helm of the Health Department.

THE PRESIDENT: Thank you, Senator.

Senator Stewart-Cousins.

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

I rise also to commend the Governor for such a fine nominee. I had the privilege of being in both the Health Committee hearings

as well as the Finance Committee, and it was an amazing two hours, spent not only knowing his credentials but having the testimony of those who had worked with him, who had gone to school with him, those who were in the trenches with him.

The range covered from everything he's done in terms of disparity studies to making sure that people who are reluctant to come in and be part of various studies were reached anyway. But everyone said the same things. They said collaborative. They said visionary. They said leadership. They said that Dr. Shah could get people to do anything for him and work to the benefit for everyone, and people didn't even know how hard they worked.

Dr. Shah, when he finished, said that New York State is poised to become a national leader in healthcare, despite the things that we face. I believe that's true, and I believe it because we will have someone who is a national leader at the helm of what we do here.

Congratulations.

THE PRESIDENT: Thank you, Senator.

Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Mr. President.

I'd like to echo the comments of some of my fellow Senators and welcome Dr. Shah to the chamber.

The credentials really speak for themselves. They're impeccable. The treatises, the manuscripts that you've written, the honors that you've achieved when you were in school -- and if I do the math correctly, looking at your date of high school graduation, you're probably also one of the youngest people to ever take on the position of Health Commissioner of the State of New York.

One of the things that I'd like to mention is, first of all, my hometown -- where you grew up -- is very, very proud. You went to high school about a half-mile from where I live.

And one of the things I wanted to mention is despite the fact that you went to

Williamsville East -- Williamsville has three high schools. It has South, it has North, and it has East. So you have the Flames, you have the Spartans, and you have the Billies. And all I can tell you is that all of Williamsville, all the high schools, the entire community is very, very proud of you and your family for what you've accomplished, and we wish you the very best of luck in this tremendously difficult and challenging endeavor that you're going to undertake.

So congratulations, welcome, and good luck in your new position.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

I too rise in support of the nomination of Dr. Shah. And my colleagues have so eloquently talked about why he's such a great nominee and why the Governor has done such an exemplary job in nominating him.

I also notice that many of my

colleagues would like to take credit for him. And I am glad that Dr. Shah's roots are in New York State, that he's spent a lot of time here. But I am particularly proud -- and I'm sure you and your family's ears are burning right now, but our districts are too, because Dr. Shah today resides in Lower Manhattan, in the 25th Senate District.

And we are so proud of what he's accomplished there, truly are so proud that he started in New York. It's a real New York story. Hopefully, even while his profession brings him to Albany, we will keep him in Battery Park City, which is one of the great growing communities. His children started day one at a new elementary school in the district this year.

And to have somebody of Dr. Shah's history, background and accomplishments willing to come up and help us deal with the incredible challenges we have in New York State is a great, great pride I think to this body, to state government, and, especially for those of us at home, to Battery Park City and to the 25th Senate District.

So welcome to Albany. I look forward to commuting back and forth with you in the years to come, Dr. Shah. And I look forward to voting for your nomination today.

THE PRESIDENT: Thank you, Senator.

Senator Kennedy.

SENATOR KENNEDY: Thank you very much.

Dr. Shah, congratulations on the nomination. I'd like to congratulate Governor Cuomo on his foresight in not only putting forward Dr. Shah as a consummate professional, as someone whose biographical information and resume speaks for itself, but for putting forward a Western New Yorker.

And I know that Senator Ranzenhofer spoke about how proud the town of Williamsville is of you and Williamsville East High School is of you. But even as a St. Joe's Marauder, I can tell you I'm very proud to second the nomination of Dr. Shah.

And as Senator Farley had mentioned earlier, congratulations to your family as well. And we all know that behind every good

man is a better woman.

And so, with that said, my congratulations to you. It's truly an honor to be on this floor with this honorable body to second your nomination and ultimately confirm you as the next commissioner of the New York State Department of Health. We all look forward to working progressively with you to pass responsible legislation to move New York State in a new direction.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. On the nomination.

Mr. President and my colleagues, I rise in support of this excellent individual to become the next Commissioner of Health.

In our discussions with Dr. Shah before the Senate Finance Committee, I was impressed with his answers to my questions. I was remiss in not asking him another question, though, dealing with his tenure at the Langone Medical Center.

The Langone Medical Center, among many other things, is sponsor of one of the best medical public information programs I believe in all of the United States, and that is known as "Dr. Radio." And, Dr. Shah, I don't know if you've ever been a guest on "Dr. Radio" or if you've had your own segment, but I certainly look forward to you being a guest, with your former colleagues, as you move forward to educate the public and particularly New Yorkers about health matters and medical concerns.

Dr. Shah and I had a very nice discussion within the confines of the Finance Committee on the issue that in this day of celebration we may not want to focus on, but Dr. Shah has confirmed and pledged his focus to understand the ramifications, the very serious ramifications of what is being done to healthcare in the United States of America by those policymakers in Washington, D.C.

That New York needs to be poised to understand its costs, its potential destruction to very important medical services that we take for granted in New York because

we have the best medical schools, the best medical researchers, the best number of specialists, whether it be downstate in the city but also upstate in the cities of Buffalo and Rochester and Syracuse.

That I fear that our nation is headed on a course of medical destruction where we will be dumbed down in terms of the healthcare provided, the research conducted by those who are empowered with that important responsibility.

Dr. Shah, you will have many tasks. But one among those I hope you will take on, and that's the understanding of what the ramifications are of those significant policy changes now suggested and mandated by Washington, D.C.

Mr. President, an excellent nomination, a very quality person. I look forward to working with him in these new capacities. I proudly vote on behalf of this nomination in the affirmative.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Young.

SENATOR YOUNG: Thank you, Mr. President.

Dr. Shah, I enthusiastically rise to support you in your nomination as the next commissioner of the Department of Health in New York State. We haven't had a chance to chat yet, but just so you know, I represent the Southern Tier of Western New York, so I know that you've heard of places like Dunkirk and Jamestown and Olean and Wellsville in my district.

And I was particularly impressed to hear you speak in the Finance Committee about a lot of things, but the fact that you were asked a question about whether everything should be uniform and standard across the entire board in New York State as far as the counties are concerned. And you listened and you were diplomatic, but you also responded that you know that each area of the state has its own special unique needs and that you want to tailor things in order to best meet those needs.

That was very impressive to me,

because it's great to have someone in your position who is willing to listen, who understands rural New York in addition to urban New York, and that you will work with us to address some of the unique needs, especially in rural healthcare. Because we need to make sure that people continue to have access, get the services that they need, that we will have the physicians and other medical professionals who are important to deliver those services. You understand that. And it's great to have somebody who knows Western New York, who knows New York City and everything in between.

So I look forward to work with you on those very serious, significant issues. And I know you are going to make us all proud, not just in Western New York but across the entire state.

Thank you.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak on the nomination?

The question is on the nomination

of Dr. Nirav Ramesh Shah as Commissioner of Health. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Dr. Shah is hereby confirmed as Commissioner of Health.

Congratulations, Doctor.

(Standing ovation.)

THE PRESIDENT: Dr. Shah is joined by his family up in the east gallery. He is joined by his wife, Nidhi Shah -- I thank her for being here -- his son, Vir Shah; his daughter, Amira Shah; his father, Ramesh Shah; his mother, Rekha Shah; and his uncle, Deepak Maniar.

So congratulations, everybody. Thank you, Doctor.

(Applause.)

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There will be an immediate meeting of the Rules Committee in Room 332, Mr. President.

And I ask that the Senate stand at ease.

THE PRESIDENT: There is an immediate meeting of the Rules Committee in Room 332, and the Senate will now stand at ease.

SENATOR BRESLIN: Point of order, Mr. President. Point of order.

THE PRESIDENT: Senator Breslin.

SENATOR LIBOUS: Mr. President, I believe the Senate stands at ease.

SENATOR BRESLIN: Point of order.

SENATOR LIBOUS: The Senate's at ease.

THE PRESIDENT: The Senate stands at ease.

SENATOR BRESLIN: Point of order, Mr. President.

SENATOR LIBOUS: The Senate is at ease.

SENATOR BRESLIN: I think a point of order supersedes --

THE PRESIDENT: Senator, Senator Libous had already called at ease before that.

(Whereupon, the Senate stood at

ease at 3:44 p.m.)

(Whereupon, the Senate reconvened at 4:02 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you.

Mr. President, we will have a report of the Rules Committee. But before we do that, I believe Senator Breslin would like the floor.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Senator Libous. And thank you, Mr. President.

A point of order. Mr. President, this point of order goes to the inherent power of the leaders of each of the two conferences, the majority conference and the minority conference. Among their abilities are their abilities to assign resources, designated offices for people, name their members to committees, and determine seating within this hallowed chamber.

Yet apparently the majority has chosen to disregard this tradition today. On

the very day that John Sampson, the minority leader, handed up committee assignments for four Democratic Senators who chose to caucus together, seating arrangements were made for them.

The rules are such that the majority and the minority have separate responsibilities. The minority has responsibilities over its own members, the majority over its members. This seemed to be unclear in the previous three or four weeks, which made it very difficult for the minority conference to really get together and move towards a point where we're doing the people's business, which is the most important thing we have before us.

Attendant to that, there was a letter written by the majority leader to our conference leader on January 14th that talked about making sure that the Senate minority gave committee assignments to the four Democrats who caucus on their own.

Senator Sampson was delighted with that letter, because it seemed to clear up minority versus majority, and wrote back --

the letter from Senator Skelos to Senator Sampson was on January 14th. And Senator Sampson immediately responded the next day by saying, in part, "I await your prompt acknowledgment I may proceed with a range of decisions to imbue the conference leadership, including but not limited to office assignments, staffing allocations, seating in this chamber, and committee assignments, so that we can turn towards pending legislation."

A letter again was followed up to that on January 21st saying that we had not heard.

The bottom line is we are the minority conference. We have jurisdiction over our minority members, as it should be. The majority has jurisdiction over its members. And we would urge that the majority leader and the minority leader get together. Because as we look across this land at all 50 states, in all 50 there's a majority and a minority. And sometimes there appears to be some sort of interference in the democratic process.

We would like it clearly

established that there in fact is a minority, with minority members to be treated in a fair and equitable way, and a majority, who will treat their members in the same way.

So the bottom line, Mr. President, is I would urge that the leaders of the respective conferences get together to make sure that they can resolve this in what has become a tradition over many years that's outlined in the rules of this Senate about the majority and the minority. Then we can go on to the people's business.

Thank you, Mr. President.

THE PRESIDENT: Senator Adams, on the point of order.

SENATOR ADAMS: Yes, I'd like to speak on the point of order.

Mr. President, I'm a bit confused, because one thing I recalled when Senator Skelos spoke here is that --

SENATOR LIBOUS: Excuse me, Mr. President.

SENATOR ADAMS: -- one thing we were going to do, we were going to return decorum to the chamber. That's what he

stated.

THE PRESIDENT: Senator Libous, why do you rise?

SENATOR LIBOUS: I'm sorry, Senator. I have a cold, I have trouble hearing. Are you speaking on the point of order?

SENATOR ADAMS: Yes, I am.

SENATOR LIBOUS: Thank you, Mr. President.

SENATOR ADAMS: As I was stating, the point of order that Senator Breslin raised is that there seems to be a complete erosion of the decorum and what we expect from each other.

When we have a member like Senator Montgomery, with over 25 years in this Senate, Senator Oppenheimer, with an equal amount of years in the Senate, when we have members like that who have freshman members who are picking rooms before them, who are knowing more about what's going to happen to their lives -- when we came here, we thought that there was a level of decorum that we were going to treat each other with a level of respect and a level

of dignity.

We'd have never done something like that to Senator Johnson. Every day in our conference we talk about how we should treat Senator Johnson and Senator Farley and some of the senior members of this conference with a level of respect and dignity.

What is happening to the decorum of this place? And I think that's what Senator Breslin is stating. We don't know our allocation of funding, we can't take care of our members. And now to walk inside the chamber today and have to go from chair to chair to chair to see where are we sitting today as if we're playing some type of political musical chairs.

We deserve better than this. And we expect better than this. And Senator Skelos stated that we're going to return decorum back to this place. That is not decorum, when Senator Sampson can't assign the members of his conference to their seats, their rooms, their allocations and other things that the leaders of this Senate chamber was always deserving of doing.

And that's what Senator Breslin is saying. It's not about where we sit or how you seat, it's about treating each other with a level of dignity and respect that being a Senator and being the leader of your conference -- there isn't three conferences in the Senate. Let's stop this madness. There are two conferences. There's the majority and there's the minority. And that's how we should be treated.

And when this conference was in the minority, we treated you with the respect. We shared the videos, we shared the resources, we shared the newsletters and upgraded how we treated each other.

So our statement is today if we're going to start creating a three-tiered system -- and I want to read one important paragraph of Senator Skelos' letter: "The Senate shall not discriminate because of race, creed, color, age and sex and marital status." This is Senator Skelos' letter. Was Senator Montgomery denied her room because she's an African-American woman? Was Suzi Oppenheimer denied her space because she's a woman?

SENATOR LIBOUS: Mr. President --
SENATOR ADAMS: But it even went further. Let me go on further. It says --
SENATOR LIBOUS: Mr. President, Senator Skelos --
SENATOR ADAMS: It says -- it says --
SENATOR LIBOUS: Mr. President, point of personal privilege.
SENATOR ADAMS: I don't want to be interrupted.
SENATOR LIBOUS: Excuse me, Mr. President. Senator Skelos -- point of personal privilege, Mr. President.
SENATOR ADAMS: It's stated here -- it's stated here in -- it's stated here -- it's stated here --
SENATOR LIBOUS: Point of personal privilege, Mr. President. Mr. President, point of personal privilege. Senator Skelos is not here --
SENATOR ADAMS: -- in Senator Klein's letter --
SENATOR LIBOUS: -- to defend himself.

SENATOR ADAMS: In Senator Klein's letter he stated he was denied access, he was denied access to --

SENATOR LIBOUS: Can I have order in the house, Mr. President.

THE PRESIDENT: (Gaveling.)

SENATOR ADAMS: That is not true. That was a lie. He was not denied access --

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: I would like order in the house, Mr. President.

Senator Adams has called --

SENATOR ADAMS: I have the floor. I have the floor.

SENATOR LIBOUS: -- Senator Skelos out by name. Point of personal privilege.

SENATOR ADAMS: I have the floor.

SENATOR LIBOUS: He is out of order by calling Senator Skelos out by name.

SENATOR ADAMS: You -- you -- you're out of order by ignoring -- by ignoring that I have the floor, Senator Libous.

Senator Libous is out of order that we walked in here and had to walk from chair

to chair. That's out of order, Senator Libous. After you stated that we're going to have decorum back in this place. That's out of order. Of disrespecting the leader of this conference and creating another conference, that's out of order, Senator Libous.

THE PRESIDENT: Senator Adams, Senator Libous has made a point of privilege here in speaking.

Senator Libous.

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

SENATOR LIBOUS: You know what, Mr. President, I'm going to ask Senator Skelos to come out here, since he's calling Senator Skelos by name.

Now, Senator Adams, if you wish to continue, continue and then I will respond.

THE PRESIDENT: Senator Adams.

SENATOR ADAMS: Mr. President, I'm lost on how quoting the text of Senator Skelos is calling his name. I quoted his letter.

I also wanted -- I want everyone in this chamber to listen to this paragraph in

Senator Klein's letter signed by my four other colleagues. "Because our members no longer have access to the staff and services of either the majority or minority, the IDC members have pooled many of the functions of our personal staffs."

Who denied them access to central staff? No one denied them access to central staff. They have the right to the same central staff as all of us. No one stated they could no longer use our central staff.

The dismantling of dignity and respect to each one of us is not instant, it's an erosion that takes place drip by drip by drip. We should never disrespect the senior members of this chamber. Senator Montgomery should never be disrespected. Senator Johnson should never be disrespected. And some of these other senior members should never be disrespected.

When we deny them the right of something as simple as their room or their seats or their allocations, then that is a denial of all of us. It's only a matter of time when we're lucky to serve as long as

they've served.

That's my statement to my colleagues on both sides of the aisle that I sit down and speak with and all of us speak with. We can't allow politics to disrespect each other, and particularly the senior members of this chamber.

It was wrong for us to walk into this chamber today and have to go chair by chair to find out where we sit today. That shouldn't happen to you, and it shouldn't happen to us on this side of the aisle. We're better than this, and we deserve a greater amount of respect than this.

And I'm ashamed of my four colleagues that are making this into this charade that it ought not to be. There are two conferences in this Senate, the majority and the minority.

Thank you, Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

We are speaking on Senator Breslin's motion, is that correct, or his

point of order?

THE PRESIDENT: We will go back to Senator Breslin's point of order, yes.

SENATOR LIBOUS: That's what both Senators were speaking on?

THE PRESIDENT: Yes.

SENATOR LIBOUS: Okay.

Senator Adams, on that point or motion, I take offense at a lot of what you said. I'm in charge of the transition, and I work with Senator Breslin from this side of the aisle. And at no point in time was there any discrimination that has taken place with this. And, sir, I consider that an insult and not the conduct and behavior that anyone of us should have toward each other.

Now, let me continue, please, as I let you continue.

We have organized the office move the best way we know how, very similar to what was done two years ago. And quite frankly, Mr. President, and Senators on this side of the aisle, we've given you more space than you gave us. We gave you additional offices on the ninth floor. We're actually in motion

right now to give you additional space in other buildings so that you can function as viable minority.

And I have to stand here with my colleagues and listen to you degrade our leader and to degrade us for not being fair, with racial overtones? Never, sir. Never. I resent the racist remarks. And no one on this side of the aisle represents those remarks at all. I am hurt by that.

Now let's talk about the motion on the floor. There is a motion on the floor that deals with seating in the chamber. And I ask, Mr. President, that you call his motion out of order based on Rule 2, Section 6. And if you would, Mr. President, I would ask you to read that rule.

THE PRESIDENT: Rule 2, under the title "Temporary President." Section 6: "He or she shall have general control, except as otherwise provided by law or in these rules, of the Senate chamber and the lobbies and galleries thereof, and of the rooms, corridors and passages in that part of the Capitol and Legislative Office Building assigned to the

use of the Senate, and any other property leased or utilized by the Senate."

SENATOR LIBOUS: Mr. President, I ask that you rule Senator Breslin's motion out of order.

SENATOR SQUADRON: Mr. President.

THE PRESIDENT: Senator Squadron, why do you rise?

SENATOR SQUADRON: Point of order or --

SENATOR LIBOUS: We are on a point of order, Mr. President. You cannot have a point of order based on a point of order. We are on the ruling on the point of order.

SENATOR SQUADRON: I misspoke, Mr. President, excuse me.

I have a point for Senator Libous, a point of clarification. The point of order was not on the seating in the chamber nor on the use of any particular Senate resources, it was on the role of the minority and majority leaders of the Senate under the rules and the tradition of the house.

THE PRESIDENT: Senator Breslin,

please state your point of order.

SENATOR BRESLIN: Yes, Mr. President, I'd be glad to.

It was really -- it wasn't on any particular thing, it was to make this body rise above petty politics and really to get together as a majority and a minority to determine things like allocations, seating assignments, committees and office spaces.

And it was asking -- it wasn't demanding, through an order, it was asking that the majority leader and the minority leader get together to resolve those issues which really, in the whole scheme of things, pale by comparison to what's important, to get legislation that affects the people of the State of New York. And it was really to short-circuit some of these undercurrents that arise through letters back and forth to each side.

THE PRESIDENT: Senator, I'm not sure it's a point of order. But I'll go back and read --

SENATOR LIBOUS: Would you rule on the point of order, Mr. President.

THE PRESIDENT: I'll go back and reread the same section. It's the ruling of the Temporary President to make decisions relative to this chamber.

And I think -- I defer to you gentlemen to speak offline, but I think in terms -- if there was a point of order relative to seating, that that point is overruled based on the Temporary President's rules and power.

SENATOR LIBOUS: Mr. President --

SENATOR SQUADRON: Mr. President, if I could just reiterate the point Senator Breslin just made, which is it's not a point of order relative to seating, it's a point of order about doing the business of the house.

THE PRESIDENT: You wish to be recognized, Senator Squadron?

SENATOR SQUADRON: Yes, Mr. President.

THE PRESIDENT: Senator Squadron.

SENATOR SQUADRON: Thank you. Thank you very much. And forgive me for jumping in there.

Just to reiterate yet again what

Senator Breslin said, this is not a point of order relative to the seating of the house, it is a point of order that is relative to the house's ability to do the people's business. And in order to do that, as Senator Breslin so eloquently put it --

SENATOR LIBOUS: Excuse me. Is there a new point of order on the floor? I believe we ruled on Senator Breslin's point of order.

And if you could please tell me what the good Senator is speaking on at this point in time. I believe we resolved the issue and we now need to go to the reading of the reports of standing committees.

SENATOR SQUADRON: Mr. President, I wasn't sure that I heard you rule on it, and I was just trying to clarify it before the ruling. I may have misunderstood it.

THE PRESIDENT: Senator Libous, I wasn't sure of the point of order either. But in case there was one relative to seating, it comes back under Rule 2, Section 6. I think it -- I ruled the -- I was told this was not a point of order, but I think, as Senator Libous

said, it's a moot point.

I think that the two conferences can certainly get together and talk, but I was not sure what the exact point of order is. The Temporary President is within his rights to establish seating and all things that happen within this chamber.

SENATOR SQUADRON: Mr. President, I'd like to appeal the ruling of the chair, please. I'd like to appeal the ruling of the chair. I'd like to appeal your ruling, Mr. President. And I'd like to speak on it, again to clarify again -- and I'm not sure any clarification is necessary, Senator Breslin was so eloquent about it.

But the reason we're here is to do the people's business, not to talk about all of these little internal pieces. Unfortunately, to do the people's business we need to have clarity as to how this house will run. In fact, we saw over the last two years what happens when there isn't clarity on how this house will be run.

We saw what happened when power overtakes or the thirst for power overtakes

the need to do the people's business. And the point of order that Senator Breslin was making, as I understood it, based on his eloquent description, was we need clarity about the minority and the majority leaders' roles in this house. And we are requesting those from Senator Skelos.

THE PRESIDENT: Just before I go to Senator DeFrancisco, there is not a clear point of order even to rule on.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Squadron yield to a question.

THE PRESIDENT: Senator Squadron, will you yield? Senator Squadron, do you yield to a question?

SENATOR SQUADRON: I do, absolutely.

THE PRESIDENT: Senator.

SENATOR DeFRANCISCO: The point you mentioned, Mr. President, is well-taken. And what I want to ask Senator Squadron is what remedy is he asking for.

THE PRESIDENT: Senator.

SENATOR SQUADRON: We're asking

for clarity either from the chair or from the majority leader as to the role of the minority leader and the majority leader to each of the members of this house.

THE PRESIDENT: Senator, just -- I'll go back. Not to be redundant, but Rule 2, Section 6 clearly points out the powers of the Temporary President.

SENATOR SQUADRON: Mr. President, again, just speaking on the appeal again. As I read the rule that you are referencing, it has to do with the physical plant of the Senate.

That certainly, Mr. President, if your ruling is that the majority leader of the Senate has complete and absolute power to all things and there is in fact no minority and that the ruling of the chair is that the minority has no prerogatives and no role in this house, that that is certainly a ruling that I would appeal as well.

THE PRESIDENT: Do you have a specific point of order?

SENATOR SQUADRON: I do. And as I -- as I stated.

THE PRESIDENT: State your point of order.

SENATOR LIBOUS: Excuse me, Mr. President.

THE PRESIDENT: Senator Libous.

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

THE PRESIDENT: Senator Libous --

SENATOR SQUADRON: Mr. President, I have the floor and was speaking on the appeal.

SENATOR LIBOUS: He's speaking on the appealing of the ruling of the chair, sir.

SENATOR SQUADRON: Mr. President, there is a motion to appeal the ruling of the chair. I am speaking on it. I am happy to yield to a question, as I did with Senator DeFrancisco. I'd be happy to yield to a question from Senator Libous or anyone else.

SENATOR LIBOUS: Mr. President, would the Senator yield?

SENATOR SQUADRON: As I said I would.

SENATOR LIBOUS: Mr. President, a

year and a half ago there was -- some people called it a coup took place. The lights went out and the doors got locked by the majority. Would you say, Mr. President, Senator Squadron, that the majority controlled the chamber at that time?

SENATOR SQUADRON: Senator Libous, I hear that as question about the physical plant of the chamber. And I know that that's what the President ruled on as well.

The reason I'm appealing the President's ruling is not actually to question the authority of the majority relative to lights and hallways and offices and a whole number of other things that are really irrelevant to the people.

What I'm asking is for a ruling on the clarity of the majority and the minority relative to the operation of this house, because that's the way you can have a democratic process to deal with the issues before the state.

SENATOR LIBOUS: Mr. President, I can answer his question very clearly.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Senator Squadron, read the rules.

SENATOR SQUADRON: I'm not sure I hear a question there, Mr. President, so I'll continue on my appeal here.

Again, the reason I'm appealing the ruling of the chair is because I believe the ruling of the chair was based on a question about the physical plant of the Senate. And I am appealing because I do not believe that the rules nor the tradition of this house say that there is in fact no authority or prerogative for the minority. In fact, the rules and the tradition of this house and in fact the fundamental tenets of a democratic system is that you have a majority and a minority, that you have independent debate for that majority and that minority.

And I believe that the ruling on the very limited issue of space is certainly appropriate but not in fact related to the point of order, which is about the role of the minority leader and the role of the majority leader as independent entities that are able

to create a process that allows us to do what we should be doing instead of having this conversation, which is dealing with the issues before the state.

We need the clarity in order to have a body that doesn't devolve the way it did a year and a half ago, as Senator Libous reminded us, but instead is able to have true debate on the very, very pressing issues before us.

THE PRESIDENT: Thank you, Senator.

On the point of the appeal, all those wishing to overrule the vote of the President signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: All those opposed.

(Response of "Nay.")

THE PRESIDENT: The ruling of the chair stands.

Senator Libous.

SENATOR LIBOUS: Can we go back to the reading of the reports of standing committees, please.

The report of the Rules Committee is at the desk.

THE PRESIDENT: The Secretary will read reports of standing committees.

THE SECRETARY: Senator Skelos, from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 2026, by Senator Flanagan, an act to amend the Education Law.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, I move to adopt the Rules report.

THE PRESIDENT: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(Response of "Nay.")

THE PRESIDENT: The report is the accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, there being no further business, I move that we adjourn until Tuesday, January 25th, at -- excuse me, Mr. President.

I believe the Minority has committee assignments, in consultation with the Majority, that we would love to hand up. Now, Mr. President, can we ask that they be filed with the Journal Clerk.

There being no further business, I move that we adjourn until Tuesday, January 25th, at 3:00 p.m.

THE PRESIDENT: They will be filed in the Journal.

And on motion, the Senate stands adjourned until Tuesday, January 25th, at 11:00 a.m. Oh, I'm sorry, 3:00 p.m.

SENATOR LIBOUS: Mr. President, I know we've adjourned, but I believe Senator Hassell-Thompson has an announcement.

THE PRESIDENT: Senator.

SENATOR HASSELL-THOMPSON: There will be an immediate meeting of the Democratic conference in the Democratic Conference Room following session.

THE PRESIDENT: Just to go back, Senator Libous, I have 11:00 a.m. Is it --

SENATOR LIBOUS: It's actually 3:00 p.m. That's been changed by the Majority

Leader.

THE PRESIDENT: Okay. So on motion, the Senate stands adjourned until Tuesday, January 25th, at 3:00 p.m.

There will be a Democratic conference immediately following session.

The Senate stands adjourned.

(Whereupon, at 4:26 p.m., the Senate adjourned.)