ALBANY, NEW YORK

February 14, 1995

3:07 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order; members please take their places. Ask the staff to take their seats. Ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 13th. The Senate met pursuant to adjournment, Senator DeFrancisco in the Chair upon designation of the Temporary President. The prayer by the Reverend Terry Troia of the Brighton Heights Reformed Church of Staten Island. The Journal of Sunday, February 12th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no objection, the Journal stands approved as read.

We're honored today to have visiting with us as a visiting clergy, the

Reverend Wilma Jackson, who is the mother of a nominee who comes before us for confirmation, Richard E. Jackson, Jr.

REVEREND WILMA JACKSON: This is a very joyous, happy occasion, and I thank God that He allowed me to live to see this day.

A few years back, Richard, Jr. chose a scripture that he claimed and I have been finding for him, and I would like to share that scripture with you this evening. It is Micah, the 6th chapter and the 8th verse, and it says:

He has shown thee, O man, what is good; and what does the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?

There are three things that stand out in that scripture, and the first one is to do justly, to love mercy and to walk humbly with thy God, and that's what Richard Jr.'s been doing, and we are very proud of him this day and very proud of all of you because you are part of this.

Secondly, I would like to do the first Psalm, and this is what it is says, and this is a Psalm of King David, one of our greatest kings that we have. It is:

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful; but his delight is in the law of the Lord; and in his law doth he meditate day and night. And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper. The ungodly are not so; but are like the chaff which the wind driveth away. Therefore, the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous.

Let us pray.

Father God, we thank You this, my Abraham, for allowing me to send -- for all of us to speak here in this Senate. We thank you, Father, for these our people, and you said in the scriptures that we, as people, should pray

for the leaders of the nation and, Father, we pray for all of the leaders that is leading us, and we thank God for them.

Our Father, we just bless Your mind, and we ask You for the protection for each one as they go about their daily task, and we will just say, blessed is the man that cometh in the name of the Lord.

Amen.

ACTING PRESIDENT KUHL: Amen.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Motions and resolutions.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Kuhl, on page 6, I offer the following amendments to Calendar 67, Senate Print 2081, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Bruno, would you like to do the Resolution Calendar at this time?

SENATOR BRUNO: Yes, Mr. President. Can we now take up the Resolution Calendar?

ACTING PRESIDENT KUHL: The question is on the adoption of the Resolution Calendar. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I would like to call an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules

Committee in Room 332, the Majority Conference Room.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Can we now take up the non-controversial calendar?

ACTING PRESIDENT KUHL: The Secretary will read the non-controversial calendar.

THE SECRETARY: Calendar Number 44, by Senator Farley, Senate Bill Number 568, an act to amend the Education Law, in relation to efficiency study grants.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 47, by Senator Levy, Senate Bill Number 390, an act to amend the General Business Law, in relation to disclosure of insurance coverage.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day after it shall have become a law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 48, by Senator Skelos, Senate Bill Number 1075, an act to amend the Vehicle and Traffic Law, in relation to the enforcement of handicapped parking regulations.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 49, by Senator Volker, Senate Bill Number 1474, an act to amend the Vehicle and Traffic Law, in relation to suspensions for failure to answer.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

50, by Senator LaValle, Senate Bill Number 1491, an act to amend the Vehicle and Traffic Law, in relation to traffic control signal indicators.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the non-controversial calendar. We have a report of a standing committee at the desk, if you would like to return to reports of standing committees to receive that report?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Senator Padavan, from the Committee on Cities, reports the following bill directly for third reading:

Senate Bill Number 1654, by Senators Maltese and others, Administrative Code of the city of New York, in relation to criminal possession of a knife.

Senator Lack, from the Committee on Judiciary, reports the following bills directly for third reading:

Senate Bill Number 546, by Senators Marchi and DiCarlo, Judiciary Law, creating the 13th Judicial District consisting of the county of Richmond;

1294, by Senator Lack, an act to amend the Estates, Powers and Trusts Law;

1623, by Senator Lack, proposing an amendment to the Constitution, in relation to the jurisdiction of the New York City Civil Court.

Senator Wright, from the Committee on Alcoholism and Drug abuse, reports the following bills directly for third reading:

Senate Bill Number 328, by Senator Levy, an act to amend the Public Authorities Law and the Railroad Law;

355, by Senator Levy, requiring the Department of Motor Vehicles to compile information on driving while under the influence of drugs;

384, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to requiring school bus drivers involved in personal injury accidents;

1745, by Senator Velella, an act to amend the Vehicle and Traffic Law and the Criminal Procedure Law, authorizing the discovery of blood samples.

Senator DiCarlo, from the Committee on Aging, reports the following bills directly for third reading:

409, by Senator Skelos and others, Real Property Tax Law;

908, by Senator Goodman, an act to amend the General Business Law;

1278, by Senator Farley and

others, Real Property Tax Law;

Also 1473, by Senator Padavan, an act to amend Chapter 420 of the Laws of 1991, amending the Real Property Tax Law;

1631, by Senators Farley and others, Education Law, authorizing the State University trustees to make courses available for certain persons 60 years of age or over.

Senator Cook, from the Committee on Education, reports the following bills directly for third reading:

Senate Bill Number 346, by Senators LaValle and Trunzo, approval of certain building aid to the William Floyd Union Free School District;

1247, by Senators Holland and Cook, Education Law, in relation to contracts for transportation of school children;

1303, by Senator Cook, Education Law, defining non-residents of a district for purposes of admission.

Senator Holland, from the Committee on Social Services, reports the

following bills directly for third reading:

Senate Bill Numbers 139, by Senator Holland, Social Services Law and the Education Law, in relation to Medicaid fraud control;

290, by Senator Cook, an act to amend the Social Services Law, establishment of the Scenic Vistas program;

2046, by Senator Holland and others, Social Services Law and the Workers' Compensation Law.

Senator Goodman, from the Committee on Investigations, Taxation and Government Operations, reports the following bills:

Senate Bill Number 281, by Senator Holland, an act to amend the Tax Law;

436-A, by Senator Farley, Alcoholic Beverage Control Law, in relation to fee for a summer license for a vessel;

571, by Senator Johnson, an act to amend the Tax Law, procedures for written communications;

628, by Senators Stafford and Present, Tax Law, distribution of the additional mortgage recording tax;

699, by Senator Saland, Tax Law, waiving the $50 minimum penalty for late filing of certain -- certain sales taxes;

926, by Senator Goodman, an act to amend the Tax Law, in relation to additional tax on receipts from the sales of parking services;

1367, by Senator Goodman, an act to amend the Arts and Cultural Affairs Law, in relation to autographed sports collectibles;

Also, 1613, by Senator Goodman, an act to amend the Tax Law and the Administra tive Code of the city of New York.

All bills reported directly for third reading.

ACTING PRESIDENT KUHL: Bills are received and reported directly to third reading.

Senator Bruno, we have a report from the Finance Committee at the desk. Would you like that read?

SENATOR BRUNO: Please -- please read the report, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the nomination of Ambassador Charles A. Gargano of Bay Shore, Commissioner of Economic Development.

Senator Stafford also reports the nomination of Ambassador Charles A. Gargano of Bay Shore, Director and President of the New York State Urban Development Corporation.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Johnson on -- Senator Bruno on the nomination.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: Yeah, with deep respect for my leader, I understand that the Governor has called a leaders' meeting and I know Senator Connor went down in response to that, and he's been interested in this

nomination also. Is it possible to hold this until you come back, Senator Bruno? I know you certainly want to go to that meeting.

SENATOR BRUNO: I'm five minutes late, Mr. President, and I don't like to be late for meetings, as you well know. Are you talking about this nominee or all nominees?

SENATOR GOLD: Oh, I think it's just this nominee. Maybe you want to do the others and come back? I don't know how long that meeting will be.

SENATOR BRUNO: I would guess that it'll -- Mr. President, it'll probably run 45 minutes to an hour, minimally.

SENATOR GOLD: I can spend that much time if you want it on the other nominees.

SENATOR BRUNO: Do we have the next nominee here?

SENATOR GOLD: Senator, I'm not suggesting we don't work. I know how you want to move it. I'm not suggesting that -

ACTING PRESIDENT KUHL: Senator Bruno, the -

SENATOR BRUNO: We're going to run through them now.

ACTING PRESIDENT KUHL: Senator Bruno, the desk informs me that the reports from the Finance Committee relative to, I think it's three or four nominations are at the desk, if that's of any help to you, sir.

SENATOR BRUNO: Why don't we read the nominees that are at the desk, and we will indulge Senator Gold in moving past the ambassador presently and plan on coming back, hopefully, within the hour.

SENATOR GOLD: I think that's a gentlemanly accommodation, and I do appreciate it, and I'm sure Senator Connor appreciates it.

SENATOR BRUNO: And I'm sure that that will be reflected in his remarks on the floor, Senator.

(Laughter)

SENATOR GOLD: I'm sure of it. I'm sure of it.

ACTING PRESIDENT KUHL: Thank you, Senator Bruno.

We'll have the Secretary read the next nominee's nomination.

SENATOR BRUNO: Thank you, Mr. President.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the nomination of Richard E. Jackson, Jr. of Peekskill as Commissioner of Motor Vehicles.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leibell on the nomination.

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

I'm greatly honored and pleased to have the opportunity today to speak in behalf of the nominee, Richard Jackson.

I think you already got a little inkling about Richard Jackson from the fact that his mother was here speaking this morning and giving the prayer to this chamber.

Richard has been joined here today by many of his friends and family from the district. I would, of course, note that the mother of our favorite son from Peekskill,

George Pataki, Mrs. Pataki, was here in the chamber today, as well as the mayor of the city of Peekskill and members of the city council.

Richard Jackson -- as I had an opportunity to speak earlier this morning at the Transportation Committee, I noted he's had a distinguished career in two fields. He's had a distinugished career as an educator, having served as a teacher of mathematics in the Peekskill School District from 1968 through the end of last year. He's also had a distinguished career in public service, his other career.

A brief read of Richard Jackson's resume would tell you what he has been about as a government official for the last many years, from 1984 through 1991, serving as the mayor of the city of Peekskill, deputy mayor of the city of Peekskill from 1982 to '84 and again in 1993 through '94, councilman for the city of Peekskill 1979 to 1984 and 1993 through '94, a past board member of the Peekskill Housing Authority from 1982 through 1984. He has served in the county of Westchester's Board of Ethics

from 1984 through 1991 and chaired the Peekskill Industrial Development Agency from 1985 through 1991.

These appointments have also been coupled with his numerous activities in the community, serving as a member of the Education Committee of the Peekskill area NAACP, member of the board of directors of the Peekskill Field Library, member of the board of directors of the United Way of Westchester and campaign chairman for the Peekskill United Fund Drive.

We are here today on this nomina tion to a very important position. Commissioner of Motor Vehicles is one of our large depart ments. It is certainly one of the departments that receives a great deal of attention from our constituents throughout New York State. It is a high profile department. It's also a department where the vision of Richard Jackson, both in utilizing new technology and in new techniques of administration will, I believe, bring great, great credit to that department.

I have served in the state

Legislature -- this is the beginning of a seventh term for me -- and the first term -- the first time that I have had the opportunity to speak on behalf of a nominee. I personally have known Richard Jackson. I have worked with him. I know of his outstanding record.

One of the truly great architects of the revival of the city of Peekskill, he brings to this very important public position in this state, intelligence, dedication, energy, integrity. There is really nothing more we could ask for someone to put in a position of such influence as these qualifications which Richard Jackson brings to us today.

I know he's held in great affection by the city of Peekskill and all of its people. He has served them well over the years and he will continue to serve all of the people now of the state of New York.

Mr. President, I would like to move the nomination of Mr. Richard Jackson to be Commissioner of the Department of Motor Vehicles.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Markowitz on the nomination.

SENATOR MARKOWITZ: Thank you very, very much.

Admittedly, I don't know Mr. Jackson very well, except that those that I respect who, at one point resided in Peekskill, tell me that he was the best mayor that Peekskill ever had. Did I say anything wrong?

(Laughter)

I'm extremely impressed, not only by his resume, but I don't go by paper; I go by the feel, my feel of a person, and in meeting - in meeting him and listening to his professional background, his community affairs, I particular ly note his activism with the NAACP -- and I might add that that kind of dedicated, strong leadership is needed now more than ever in that organization and perhaps, after we confirm him, that he'll be able to lend his considerable talents both to the state and national efforts of the NAACP -- but also that he is certainly an individual who's ready to tackle one of the

state departments most used by the residents that we all represent, that's for sure; and he is up to the new technologies. He has ideas about how he's going to implement programs to make our Department of Motor Vehicles that much more responsive, user friendly, in our current terminology, user friendly to the residents of New York.

I have to say that we did speak for more than an hour. He didn't rush me up one bit. He didn't care that I was a Democrat or Republican. I want the Commissioner to know that in two years, they'll be begging for Democrats again, so it's good that you didn't rush up a Democrat, but that in listening to you and your courtesy, your generosity of time, genuine interest, that's what it takes to be a great commissioner of this very important department of New York State.

So I'm very delighted to lend my voice and to confirm that this, I believe, is an excellent appointment, and I know on behalf of the residents of my community, I will look

forward to working with our commissioner in this department and its work.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Smith on the nomination.

SENATOR SMITH: Thank you, Mr. President.

I, too, am very pleased to rise to second the nomination of Richard E. Jackson, Jr. I have not had the pleasure that Senator Leibell has had of knowing him for a long time, but in the short period of time that I have had the pleasure of knowing him, I have found him to be an outstanding individual and I know that because of his caring, the caring for his family and the caring for the people of the state of New York, that he will do a wonderful job as the Commissioner of the Division of Motor Vehicles.

In interviewing him for this position, we found that he had new ideas, innovative ideas which will only redound to the benefit of all of all our constituents, and that's why I'm very pleased to be one of those

who seconds his nomination.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Levy on the nomination.

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

I'm just delighted to rise with my colleagues to join in moving the nomination of Richard Jackson.

I hadn't met him until after he was nominated by the Governor, but since then I have met with him. I have talked to him, and he certainly, in a very, very short period of time, has developed an unusual command of knowledge about the Department of Motor Vehicles. He has plans to make this department more consumer responsive.

I commend the Governor on this appointment. I know that Richard Jackson will be an outstanding commissioner and an extraordinary leader.

Thank you very much.

ACTING PRESIDENT KUHL: Senator

Oppenheimer on the nomination.

SENATOR OPPENHEIMER: Thank you.

Well, Richard Jackson is a fellow Westchester mayor, and I would second what was said earlier. There is -- if you speak to any of the residents of that community, one of the things that you will hear as a constant is that they all miss him very much and wish that he could have been installed forever in that position because he did such a beautiful job and related so beautifully to all the people, and his concern for all of the people was so apparent to everyone.

He's a very thoughtful man, a calm man, a soft-spoken man, but someone that conveys the importance he assesses to listening to everyone on trying to respond to what those needs are of the people.

I was very, very pleased to see how quickly, in the space of only a matter of weeks, he has acquired so much knowledge about the DMV and, I mean, we should have expected it. We know him to be bright, but he really did

a magnificent job as far as picking up all the pieces of this department and understanding them very, very intimately.

I would say that I think some thing that's important for the Commissioner of the Department of Motor Vehicles is that he be a people person, and while I know Richard is going to do a beautiful job as far as the technology -- I mean, he was talking way above my ahead technologically, but I think his real strength and skill is going to be his ability to communicate with people and I think that of all of our commissionerships, I think the Department of Motor Vehicles needs that most because it has the most contact with the public.

So I wish Richard very well. I know he's going to make us all very proud, and I'm very happy to second his nomination.

ACTING PRESIDENT KUHL: Senator Paterson on the nomination.

SENATOR PATERSON: Thank you, Mr. President.

I went to Peekskill in 1988 where

I visited the local chapter of the NAACP, and in speaking at that point and getting to know some of the people in Pittsburgh, I was told of Richard Jackson. Next time I heard about him was when he was a council member in 1993 but never got the opportunity to meet Mr. Jackson until this week, but as is so often the case in this chamber, it's people that you know and people that you respect who tell you a lot about individuals, their accomplishments, their ability, as Senator Oppenheimer just referred to his abilities with people and his interaction with individuals, and I think it's a credit to the Governor and a credit to this state that he will be serving as our Motor Vehicle Commissioner.

And, of course, it's a rare opportunity for me to demonstrate what I think would be a good government aspect of my personality since I have been accused of not always having one, but just to show that I really am a fair person and also to show that I'm a person that really doesn't hold any

grudges in spite of the fact that the New York State Department of Motor Vehicles has never granted me a driver's license, I will support this nomination and will vote for Mr. Jackson.

Thank you.

ACTING PRESIDENT KUHL: Senator Waldon on the confirmation.

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

I am honored, indeed, to rise and second the nomination of Richard Jackson, someone whom I've only recently met. My reasons for looking forward to his service as Commissioner at DMV are manifold, but let me just share a few thoughts.

He was a great athlete, and I think there's a saving grace in those who want to be public officials and having had some experience in understanding the ecstasy of victory and the agony of defeat. It tempers one. You don't get too high when things are going well and you don't get too low when things are going bad, and let me asure you, Mr.

Commissioner, to be -- that -- in this position that you are in, where people go ballistic quite often when they're not serviced in a manner that they anticipate, you need not to overreact or underreact; you need to be a person who is very even tempered.

Secondly, I had the good fortune to meet with Mr. Jackson and to chat with him only briefly, but those of us who are in public life often do a thing that is called a "gut check". We make an assessment of someone almost instantaneously, based on the vibrations we receive from that person. In that evening in the Omni that I met him and chatted with him for a few minutes, I felt very positive about this man and felt very positively about his potential to serve in this administration.

Lastly, I am very happy and pleased that he will be the commissioner because of his family background and because of who he is as a person in terms of his math background. Someone who has to handle DMV has to understand numbers and has to understand the technology

that is existent today to cause those files and applications to hum and go through the system with as little consternation as possible.

And for all of those reasons, I believe that Richard Jackson will make a marvel ous commissioner. I applaud the Governor's choice. I applaud his family for having had the wisdom to have him and stick with him, and I wish you well, sir. All the best.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Mendez.

SENATOR MENDEZ: Mr. President, I also rise in support of the nomination of Robert Jackson for Commissioner of the motor vehicle agency, and it certainly is a credit to the Governor in submitting this talented and bright -

ACTING PRESIDENT KUHL: Senator, excuse me just a minute. May we have some quiet in the chamber? None of us at the desk can hear the Senator speak. This is an important nomin ation; certainly you deserve respect, Senator. We hope our colleagues will give it to you.

Thank you.

SENATOR MENDEZ: Thank you. Thank you, Mr. President.

As I was saying, most -- I, too, like most of my colleagues today that have spoken on behalf of the nomination of -- of Robert Jackson, also have met him during this week. I was fortunate to meet with him and spoke to him for a little while, and I was highly impressed by his intelligence, his clear thinking, his way of relating to people, and also how dedicated he has been studying that agency and the kinds of new directions that he wants to give to that agency.

For example, he's looking for New York State to increase its revenues by having little offices in various places, and already he knows -- he cited a study in which revenues increase in smaller offices than in large, large offices, and people, then, are also more satisfied with a more informal small office where they could reach without having to travel long distances and also without having to wait

in those long, long lines.

His political career has been incredible and he has performed so very well, I'm told by people who reside in the area, that everybody loves the guy over there in Peekskill, and that's why I can very well understand how he has been so successful, so -- because he's competent, because he's bright, because he's working hard in that agency and will bring about certain changes that are necessary.

I think that all of our constituents in the entire New York State are going to be wonderfully satisfied with this new commissioner.

So, Mr. Jackson, lots of luck - good luck. You're going to be wonderful in your new job.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the confirmation?

(There was no response.)

Hearing none, the question is on the confirmation of the nominee, Richard E.

Jackson, Jr. to serve as Commissioner of Motor Vehicles. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The confirmation is confirmed.

Commissioner Jackson, congratulations.

(Applause)

The Secretary will continue to read the nominations.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the nomination of Neil D. Levin of New York City as Superintendent of Banks.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Goodman on the confirmation.

SENATOR GOODMAN: Mr. President, it is a special privilege and a pleasure for me today to place a nomination before our body, the name of Neil D. Levin, who comes to us with an exceptional background and is superbly equipped

for the job of Banks Superintendent.

Just a quick overview of Mr. Levin's qualifications is most persuasive. First of all, he was a graduate of Lafayette College, C.W. Post Graduate School of Business, where he received an M.B.A. in finance, and the Hofstra University School of Law.

Immediately upon graduation from law school, he was recruited by United States Senator Alfonse D'Amato to serve in Washington, D.C. as his legislative assistant. There he was responsible for advising on issues relating to securities, banking and insurance. He represented the Senator in the Senate Banking Committee legislative drafting sessions, including those pertaining to the substantial issues of depository institutions active in 1982.

Following that, he was in the United States Senate Banking, Housing and Urban Affairs Committee in Washington, where his worthy responsibilities included advising committee members, drafting legislation and

planning hearings on specific issues pertaining to insider trading, corporate takeovers, regulation of the government securities market and authorization and oversight of the SEC, the Securities and Exchange Commission.

From there he went to the private sector with one of the best known and most prestigious of the Wall Street investment banking firms, Goldman Sachs & Company. There, he was responsible for providing investment banking services to federal agencies including "Fannie Mae", "Freddie Mac", "Sallie Mae", the Resolution Trust Corporation, United States Postal Service. Additional responsibilities included the development of Goldman Sachs' business in the state of Israel.

He was the vice-president of the mortgage finance -- Vice-President for Mortgage Finance is the title which he was given at Goldman Sachs, and in that capacity, it's quite evident that with that firm with its enormous reach and responsibility, he was called upon to assume some very weighty and indeed significant

responsibilities himself.

Mr. President, let me just say that the job of Banks Superintendent is a highly sensitive one. We've all been recently aware of the debacle with respect to the savings and loan industry in the United States and the immense complexity of the Argentina, Brazil and Chile problems with their faltering loans. All of these international events and many national and state events have a direct impact upon the responsibilities of the Banks Superintendent because at the end of the day, it is he who is responsible for the soundness of our state chartered banks and our banking system here in the state of New York.

It is for that reason that I take particular pride and special comfort in knowing that Neil Levin, a man for whom I have had great personal regard over many years of a personal friendship, has been called upon by the Governor to assume this great responsibility.

Mr. President, it's with a good deal of pride that I present this name to you

and nominate him for this post.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Farley on the confirmation.

SENATOR FARLEY: Thank you, Mr. President.

It's always difficult to follow Senator Goodman, but let me just say in the 19 years that I have been here on the Banking Committee the entire time, I've seen a lot of banking superintendents confirmed. None comes through better qualified than Neil Levin.

New York State is still the financial center of the world. It's one of our premiere industries; our banks are the finest in the nation, and this young man of boundless energy and superb preparation is committed to the dual banking system. He's committed to promoting the New York State charter. He has a working relationship with the banking industry and a legislative training which is refreshing.

It's with a great deal of enthusiasm and pride that I support the nomination of Neil Levin as Superintendent of

Banks. I look forward to working with him in New York State, and the Governor is very fortunate to have somebody of his caliber as our superintendent.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Maltese on the confirmation.

SENATOR MALTESE: Mr. President, I rise to second the nomination of Neil Levin.

In the 14 years that I have come to know him, in those years he has served in most responsible positions in the federal government, in private industry. It's almost as if you were looking to provide a background some 14 or 15 years ago that would well suit him for this most high and critical position, you would have given him exactly the same training and background. His education, his intelligence and, most of all, his integrity will suit him well in this position.

As Senator Goodman and Senator Farley have said, this is a position with awesome responsibilities, and the welfare and credit standing of our state rests in many

instances on his shoulders.

I commend the Governor for this wonderful appointment and wish the nominee well.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Skelos on the confirmation.

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

I'm delighted to stand up and speak on behalf of my friend, Neil Levin, who may have moved to Senator Goodman's district but received his education, his upbringing and his fine character that he has in my senatorial district growing up in Atlantic Beach.

The credentials are there. He's a wonderful choice by the Governor, but I know how proud his father is. I think his father, Marty, may be down south enjoying the warmer weather, but Marty is just a wonderful, wonderful human being. I know what a good father he has been to Neil, to his entire family, encouraging them to participate, not just in the private sector but to give back a

bit by being active in public affairs, as Neil has over the years working for Senator D'Amato, working in Washington and now as our Superintendent of Banks.

So, Neil, I congratulate you. My wife says that I have to be a little bit more active in finding you a wife now because you are single and, as you move up, you know, we have to settle you down a little bit. But he's a great choice. I know his brother is here. We're proud of you, and I know -- I guess your father right now, if he was sitting here, would have tremendous nachas; and, Neil, I salute you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Montgomery on the confirmation.

SENATOR MONTGOMERY: Thank you, Mr. President.

Unlike Senator Skelos, I can't talk about how long I've known this nominee or how well I know him. Except from his excellent qualifications, I don't know him, but I was impressed by the fact that when he was asked

about his intentions and his -- his desire to look very specifically at ways in which he could use his position as Superintendent of Banks to encourage and enable the commercial institutions in our state to be more supportive of small minority/women-owned businesses in the neighborhoods throughout the state, he was very emphatic about it and excited about the possibility of being able to do that and has had experience specifically around those kinds of issues and, of course, we all know how important that is to the creation of jobs and to improving the vitality, the economic development and vitality in the neighborhoods and districts throughout the state, especially in those like mine.

So I am very pleased to be able to rise and speak to his nomination and look forward to working with -- with him, with you as you try to use your position as many of the other agency heads will be doing to stimulate the growth in the area that is most needed in our state, and that is our economy.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President.

I think the Governor has given us an exceptionally well-qualified nominee, and I'm really delighted to get up and second his nomination.

I also want to do so to point out that, while I may have been less than enthus iastic about some of the Governor's nominees, that I certainly find in Neil Levin that he's given us a Superintendent of Banks with an excellent background, a good understanding of the industry, and I think also a good under standing of the Legislature, and I want to express my appreciation.

He took the time to come to see me, to speak to me. I guess there's a value and benefit for having worked for the Legislature and understanding how legislators act, and I'm sure we're going to have a very, very good

relationship with him. Senator Farley has a good relationship with everybody, every superintendent.

But I think it is important be cause, obviously, the industry is very important and I think that a lot of issues that we face, one that I've raised with the Superintendent - I think we can call him Superintendent since his confirmation is imminent -- is the need to provide banking services for all our people and the loss of branches and banking facilities in many of our communities and neighborhoods, and he was very responsive and sensitive to the problem.

I just want to point that out as an indication of what a -- I think, an excep tionally perceptive superintendent we have. We were discussing the Mexican peso crisis and its impact on New York, the financial institutions, and we were discussing at that time the plan of President Clinton for the assistance of the $40 billion, and he expressed how he would do it, which actually was pretty much the way that it

then came to be done through the IMF. So it was just a further indication to me that we have somebody who's going to be an outstanding superintendent, and I second the nomination.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the confirmation?

(There was no response.)

Hearing none, the question is on the confirmation of Neil D. Levin to the position of Superintendent of Banks. All those in favor signify by saying aye.

(Response of "Aye".)

Those opposed, nay.

(There was no response.)

The confirmation of the nominee is confirmed.

Congratulations, Superintendent Levin.

(Applause)

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the

nomination of Edward J. Muhl of New York City as Superintendent of Insurance.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Velella.

SENATOR VELELLA: Mr. President, it's my pleasure this afternoon to present before this body the name of Edward J. Muhl for consideration as Superintendent of Insurance.

His qualifications certainly are on both sides of both the regulatory part of the insurance industry and the practical experience, having worked in many of the major companies throughout this country.

He has served as the Superintendent of Insurance in the state of Maryland and is president of the National Association of Insurance Commissioners, which is a national organization in this country which has really grown a great deal and has representatives of every insurance commissioner in the states.

Certainly, some of my recent involvement with that association leads me to

believe that New York State will have a more - more active role to play in opening up that association, and I am sure that Mr. Muhl looks forward to working out the differences between this state and the National Association Of Insurance Commissioners.

He is chairman of the board of directors of the Motor Vehicle Accident Indemnification Corporation of New York. He is a member of the board of directors of the Insurance Federation of New York. Some of his memberships and affiliations include the board of directors, Insurance Federation of Pennsylvania; board of trustees, Maryland Auto Insurance Fund; board of directors, North Carolina Guarantee Association and Rates Bureau; board of trustees, the National Association Against Drunk Drivers.

He's part of a Congressional insurance advisory committee, has worked with the board of directors of the Ohio Medical Practice Joint Underwriting Association and has worked for several of the largest insurance companies in this country. I think it's a great

privilege for the state of New York to be able to obtain a person with such national experience and experience in the industry to help rebuild the insurance business in this state.

He's accompanied today by his wife Joan, who is in the balcony with him, and it is my pleasure to advance his name on behalf of the Senate Majority as Superintendent of Insurance in the state of New York.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Solomon on the confirmation.

SENATOR SOLOMON: Thank you, Mr. President.

I would like to second the nom ination of Edward Muhl. I have spoken to Acting Superintendent -- or Superintendent Muhl on numerous occasions regarding particular problems that we have in New York State, including problems with the NAIC, which has taken away the accreditation of the New York State Insurance Department, even though it's recognized as the premiere department in the United States today, and he has assured me that he intends to agree

with the position that Senator Velella had originally put forth that, in fact, the Legislature really is the body that passes rules -- or passes laws, not the NAIC telling the Legislature what laws to pass, and I think that's a very important consideration regarding New York State and its current position in insurance regulation, still as the center of the insurance industry in the country.

We've also talked about numerous situations, including the fact that we have Home Insurance located in New York City which has approximately 3,000 jobs, and hopefully, we're going to be able to maintain those jobs in the takeover of Home by Zurich.

I do agree with Senator Velella. I think Ed Muhl is eminently qualified for this position, being a superintendent in the state of Maryland, being former president of the NAIC, even though when that came before the committee, I was not sure whether that would be a plus in our current fight with the NAIC in the way they've treated the state of New York, and I

think he realizes that he has a daunting task in front of him, starting off this week and next week with the problems Blue Cross/Blue Shield has with its pending rate increse and the pending problems that they have with their - the fact that they, in fact, may be decertified by the national organization in Chicago, and I think Mr. Muhl will meet the tasks that he has before him, and I look forward to working with him on this and a number of other issues, and I'm glad that he will be receptive to all legislators and the people of the state of New York.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the confirmation?

Senator Leichter.

SENATOR LEICHTER: Yeah, Mr. President. I intend to vote for the confirmation, but I want to put something on the record because I think it's very important.

This is a matter that has been

gone into in the Insurance Committee, was raised in the Finance Committee and it's been in the press. There's pending before the Insurance Department a matter involving the Reliance Insurance Corporation -- I'm sorry, Relied Insurance Corporation. I may not have the name perfectly correct, but it's Reliance, for whom Mr. Muhl either worked directly or he worked for Mr. Steinberg, who is the owner of the Reliance Group of companies.

The matter pending before the Insurance Department involves an issue of liquidation of two Reliance companies, and there's a substantial payment or substantial - I don't know whether penalty or fine is the correct word or if it's an assessment, that the Department intends to make against Reliance. That matter is pending and will have to be determined by the Department.

Now, Mr. Muhl, coming from his background with his association with Mr. Steinberg has rightly said, "I cannot make that determination. I will recuse myself," but

unfortunately, he said, "I'll let my deputy do it." Now, the deputy happens to be someone who worked for the Senate, I think a very bright, very able person of high integrity, but it is so important to build a firewall between the Superintendent and that decision and, clearly, just saying, "Well, the deputy who I appoint and who reports to me is going to make that decision and not me," is just insufficient. That's even more so, because Mr. Steinberg was one of the largest campaign contributors to Governor Pataki, to Senator D'Amato, and I think all sorts of issues, questions. Are going to be raised, and I said to Mr. Muhl at the Senate Finance meeting, we may end up with a determination that is the best determination possible, but people will look at it and say, "Well, wait a second. Was that influenced in some ways by the relationship that the Superintendent had to the -- to Mr. Steinberg and to Reliance?"

There's an easy way out of it, and that is to pick an independent person to

make that determination. That could be somebody appointed as a special deputy for this purpose. You could pick the former Superintendent of Insurance to do it, but to rely on the deputy that you appoint and who works for you to make that decision is not the firewall that's needed.

So I -- I will vote for the confirmation, but I strongly urge Mr. Muhl - and I want it publicly understood that there is a way that this matter can be handled in the public interest, and to do anything else would be, I think, unfair to the people of the state of New York, would frankly be unfair to the Governor. So in voting, as I do, for the confirmation, I really urge this very strongly on the nominee.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Larkin on the confirmation.

SENATOR LARKIN: Mr. Speaker, I rise in support of this nominee -- Mr. President. I forgot. I served in the other house so long, Randy.

ACTING PRESIDENT KUHL: Another time, another place.

SENATOR LARKIN: I rise in support of this nomination. You know, I just heard my colleague, Franz Leichter, talk about the firewall and all of the rest, but I heard Mr. Muhl clearly enunciate how he would handle the situation. As far as I'm concerned, when you look back at Mr. Muhl's career -- I have known him for over 15 years -- he's a man of clear, high integrity. He is well-known through the industry.

Yes, some of us know his background with the NAIC, but here's a man who knows the industry, will be able to work with us, for us, for the people of the state of New York. He has clearly stated that he would give this job to his deputy to look at certain of these things, and if there appeared to be a problem or conflict, he would resolve it with another independent individual.

I think we've picked -- the Governor has picked an individual who is clearly

in the best interest of us, the people of the state of New York, and I support his nomination.

ACTING PRESIDENT KUHL: Senator Leibell on the confirmation.

SENATOR LEIBELL: Yes, Mr. President. Briefly, I rise also in support of this nomination. I had the opportunity over the course of many years in the other house to serve on the Insurance Committee, in fact, for all my time there, for six terms and now in this committee, in the Senate.

I have seen a number of superintendents throughout the years. I have had the opportunity to meet with the nominee, to hear his concerns with the issues that confront the industry and our constituents. I have had the opportunity to take a close examination of his resume. I can congratulate the Governor for submitting this name to us for consideration. I'm convinced that Mr. Muhl is going to be an excellent superintendent, a great superintendent in terms of the industry, as well as in terms of our constituents and their insurance needs.

Thank you very much.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the confirmation?

(There was no response.)

Hearing none, the question is on the confirmation of the nominee, Edward J. Muhl to become Superintendent of Insurance. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The confirmation is confirmed.

Congratulations, Superintendent Muhl.

(Applause)

ACTING PRESIDENT RATH: The Secretary will -- the Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the nomination of John Francis O'Mara, as a member of the Public Service Commission.

ACTING PRESIDENT RATH: The Chair

recognizes Senator Kuhl on the confirmation.

SENATOR KUHL: Yes, Madam President. It's my privilege, indeed an honor, to be able to stand before you to second the nomination of the Governor of John Francis O'Mara to the position of member of the Public Service Commission.

John O'Mara is not only a friend and a constituent but also he is what we know in the local district as Mr. Government. John has had a varied background, went to school at LeMoyne College, graduated from Cornell Law School and has a very interesting job experience. Among other things, John served in the position of judge of the Court of Claims back in the early '70s. He's also been a Chemung County District Attorney, a Chemung County attorney. He's worked in the Department of Law, been a confidential law clerk to a Supreme Court justice, done work as a village justice, a town justice, been a town attorney on several occasions. Now, one might question as to whether or not John could hold a job or

whether or not he just has a varied experience.

I can assure you that this man knows as much as anybody who's ever been in state or local government, and so it's with a great deal of privilege, as I said, and an honor for me to support the nomination of John Francis O'Mara to the position of a member of the Public Service Commission.

Don't, for instance, think that this man cannot help your constituents by lowering the utility rates, because if anybody can, John can. He's charged with a tremendous responsibility by the Governor, and that is to undertake the responsibility of certainly reorganizing, looking at the Public Service Commission in a way that will make all of us proud and certainly will be beneficial to the economic development of businesses here in New York.

So, John, my congratulations to you on the nomination, your wife Ann and, Madam President, I move the nomination.

ACTING PRESIDENT RATH: Thank

you, Senator Kuhl.

The Chair recognizes Senator Seward on the confirmation.

SENATOR SEWARD: Thank you, Madam President.

I also want to rise to support the nomination of John F. O'Mara to be a member of the Public Service Commission and also to congratulate the Governor on making an outstanding choice.

As Senator Kuhl, Judge O'Mara's home Senator, has outlined, Judge O'Mara has a most impressive record of service. He appeared before our Energy Committee last week and won the unanimous recommendation of the Committee. This is a very critical time for the -- the utilities of New York State and our rate payers of New York State.

On the power side of the equation, our high electric rates have, I'm sad to say, contributed to the fact that New York State is less than it should be in terms of being competitive with other states, in terms of

developing new jobs and keeping the jobs that we have in New York State, and our electric utilities are poised to enter a new era of competition in terms of electric service in this state.

On the telecommunications side, of course, our telephone companies and our cable TV companies are also poised to compete for customers. This is very much a time of change when it comes to our electric utilities and our telecommunication industries in New York State.

For these reasons alone, it is no longer business as usual over at the Public Service Commission. We must have new policies and we must break new ground, and I have every confidence that Judge O'Mara, as a member of the Public Service Commission, has the right combination of intelligence, integrity and independence to tackle the very serious challenges that lie ahead. He also has a very keen awareness that the Public Service Commission, through its policies, can contribute to the economic revival of New York State.

So, for all of these reasons, I'm very pleased to stand in support of this nomination and to congratulate Judge O'Mara as being named to the Public Service Commission.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio on the confirmation.

SENATOR NOZZOLIO: Thank you, Mr. President, my colleagues.

I rise in support of this nomination and, Mr. President, I think you said it best when you said it is, in fact, an honor to speak in behalf of someone who, throughout his career in public service, has served in such an honorable fashion.

Mr. President, not a day goes by when a business doesn't come to one of our offices to discuss why it is going to leave New York State. It says it is having trouble, not just with taxes and regulation, but citing very frequently, if not always, the high cost of utilities in damaging the competitiveness of the manufacturing and commercial sectors of this state.

John O'Mara is an individual that I believe is so uniquely qualified to serve as Commissioner of Public Service, that he will seek to make our businesses competitive once again, to help them in their quest to be managed well, to have utility rates that put them in line with other states and, unfortunately, our rates have gotten so far out of line with other states.

It is, indeed, Mr. President, an honor to speak on behalf of this nomination. I encourage all my colleagues to join in support of this fine nomination and, most importantly, wish this new Public Service Commissioner all the luck in this great quest.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Libous on the confirmation.

SENATOR LIBOUS: Thank you, Mr. President.

I, too, rise to support the nomination of a friend of the Southern Tier in John O'Mara.

Although I did not really get to

know John until most recently, I have a cousin who is also a local attorney back home and who would frequently have to deal with John on different things, and when I asked him about John O'Mara, I said, "What kind of guy, what kind of person is he?" and my cousin would say that John O'Mara is a tough negotiator, he's fair, and you always know where he stands.

I think, Mr. President, we're putting John O'Mara on the Public Service Commission at a time when we need someone with a great degree of professionalism, someone who needs to really roll up his sleeves and get to the bottom of some of the problems that some of my colleagues have mentioned -- because indeed the Public Service Commission, in my opinion, needs a lot of work -- at a time when businesses are leaving the state and certainly at a time when we're doing everything we can to try to protect the people and the consumers of this state.

So, Mr. President, it is indeed an honor and a privilege for me to second the

nomination of John O'Mara to the Public Service Commission, and Governor Pataki has sent us a real professional for this job.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Volker on the confirmation.

SENATOR VOLKER: I would like to also reiterate the comments of my colleagues.

I've known John O'Mara for some time, but I have come to know him in the last several months on a much more intimate basis, as we have been dealing with a number of issues in the criminal justice area and, as I said, having come from Chairman of Energy to Chairman of Codes, Criminal Justice, I know how easily criminal justice people can go from one to the other, so I would just like to say that John is certainly one of the most competent and conscientious people that I have met in Albany, and having known a little bit about the Public Service Commission in my prior years as Chairman of Energy, there's no question in my mind that his knowledge and understanding of energy and business will put him in great stead as a

Commissioner on the Public Service Commission.

I wish him the best of luck, and think it's a great appointment by the Governor.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger on the confirmation.

SENATOR DOLLINGER: Mr. President, I'll be very brief.

I also rise to commend Governor Pataki for this nomination. I commend John O'Mara. As I said in the Energy Committee, I once litigated him in a somewhat protracted proceeding. To clarify for Senator DeFrancisco, I was ahead on points when we settled the case, but I just -- I think it's important to recognize that this is someone who has combined a life in politics with a life as a lawyer. His reputation is large enough from the Southern Tier that it's made its way to Rochester, and I think this is a good lawyer, a good mind and will be a good addition to the Public Service Commission.

ACTING PRESIDENT KUHL: Is there

any other Senator wishing to speak on the confirmation?

Senator Maltese on the confirmation.

SENATOR MALTESE: Mr. President, I rise also to second the nomination of John O'Mara.

I think the fact that he left the, in a way, cloistered life of a Court of Claims judge to continue in public service says something about the man. The fact that he has been recognized by his peers in so many different ways, appointed by a Democratic governor to positions of trust, serving as a member of a judicial screening panel for Senator D'Amato where I've come to know him, John can always be depended upon to go long distances, spend late hours in the consideration of judicial nominees, always be there despite the fact that many of the meetings took place in the city of New York, coming a long distance from western New York, to give his opinion.

His searching questions bespeak

his knowledge of law enforcement, his background as a district attorney and with various positions of trust, with trial lawyers and attorney associations, tell us the type of man he is. He's a no-nonsense, tough negotiator, as has been indicated here.

I think the Public Service Commission will be the better for his service. I commend the Governor for the appointment, and I congratulate John on his appointment.

ACTING PRESIDENT KUHL: Senator Stafford on the confirmation.

SENATOR STAFFORD: Thank you, Mr. President.

First, with everyone speaking upstate, obviously, I had to get up, and I would only say that he talked so long today in the Senate Finance meeting, but everyone understood and he did very well.

On a serious note, one's friends really recommend him, and every friend that I has -- that I have, that John O'Mara has, speaks so highly of him, his professional ability, as a

person and his commitment to government, and Commissioner O'Mara will be much more than just a Public Service Commissioner. I assure you that isn't just a small responsibility. He'll be there as part of the Governor's team, and we will be much better for it.

ACTING PRESIDENT KUHL: Senator Mendez on the confirmation.

SENATOR MENDEZ: Mr. President, I also rise to commend Governor Pataki for submit ting the name of John O'Mara for Commissioner of the Civil Service Commission. He's a lawyer's lawyer. I mean, from trial lawyer, district attorney, judge, the whole legal profession, he's been there. He's competent and there is something that I was very much impressed with when I met with him, and that is that I asked him how he felt about having the Governor appoint two members to the Commission, members that would be representative of consumers in the state of New York, and I was so pleasantly surprised that he thinks it's a good idea and is willing to explore it further, but most of all,

Mr. President, he has full command of the leprechaun, and we have to respect that.

So, again, lots of good things in your new job, and we're looking forward to work with you and, again, my -- my congratulations to the Governor for such a splendid nominee.

ACTING PRESIDENT KUHL: The Chair recognizes Senator DeFrancisco on the confirmation.

SENATOR DeFRANCISCO: I would like to rise in support of the nominee. Energy issues are just so complex in the state of New York and I don't believe they have to be and knowing John O'Mara as I do, we have an individual who has practical common sense that could fight through some of this complexity that is not necessary and make it into a common sense energy policy for the state of New York, and for that reason and for many others, I am very pleased to stand and have my voice heard in favor of the confirmation.

The only other thing I would like to say, knowing John O'Mara and knowing Senator

Dollinger, I find it very hard to believe that he was ahead on the points at the time that case settled.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the confirmation?

(There was no response.)

Hearing none, the question is on the confirmation of John Francis O'Mara to the position of member of the Public Service Commission. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The confirmation of John Francis O'Mara to member of the Public Service Commission is confirmed.

Congratulations.

(Applause)

Senator Velella.

SENATOR VELELLA: Mr. President, can we return to reports of standing

committees?

ACTING PRESIDENT KUHL: We're at reports of standing committees, Senator Velella.

SENATOR VELELLA: I think there's a Rules report at the desk.

ACTING PRESIDENT KUHL: There is a Rules report at the desk.

SENATOR VELELLA: Can we have the clerk read?

ACTING PRESIDENT KUHL: The clerk will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill directly for third reading:

Senate Bill Number 2241, by Senator Volker, an act to amend the Penal Law, the Criminal Procedure Law, the Judiciary Law, the County Law and the Correction Law, in relation to the imposition of the death penalty.

SENATOR VELELLA: Can we lay that bill aside temporarily?

ACTING PRESIDENT KUHL: Adopt the Rules -

SENATOR VELELLA: Oh, I'm sorry. Adopt, yes. I move to adopt the Rules Committee report.

ACTING PRESIDENT KUHL: Without objection, the Rules report is adopted.

Senator Velella.

SENATOR VELELLA: Can you lay that bill aside temporarily now?

ACTING PRESIDENT KUHL: The bill will be laid aside temporarily.

Senator -

SENATOR VELELLA: Can we return to nominations, the nomination of Mr. Gargano?

ACTING PRESIDENT KUHL: Return to nominations. Secretary will continue to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the nom ination of Ambassador Charles A. Gargano of Bay Shore as Commissioner of Economic Development.

Senator Stafford, from the Com mittee on Finance, also reports the nomination of Ambassador Charles A. Gargano of Bay Shore as Director and President of the New York State

Urban Development Corporation.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Johnson on the confirmation.

SENATOR JOHNSON: Mr. President, I am honored to move the confirmation of Ambassador Charles Gargano, Governor Pataki's nominee for Commissioner of the Department of Economic Development and President of the Urban Development Corporation.

I have known Charlie Gargano, a resident of my 4th Senate District, for the better part of 20 years. I'm delighted to speak on his behalf today.

Ambassador Charles Gargano combines a distinguished career in public service with a series of successes in business and in industry.

Serving our nation as the United States Ambassador to Trinidad and Tobago from 1988 through 1991, Charlie Gargano earned the respect of the diplomatic community both here at home and abroad.

Prior to that, he was federal

deputy administrator for the Urban Mass Transportation Administration, overseeing a staff and budget of mammoth proportion. A seasoned professional executive with Master's Degrees in both engineering and business administration, Charlie Gargano's hard work and perseverence have made him a leading figure in the Long Island business community.

His success in the private sector is matched, if not surpassed, by his many achievements in charitable endeavors. In these activities, he has shown great leadership, diligence and fortitude, which is essential in his new position.

I know Charlie Gargano and I know that he shares this Governor's vision for New York's future, a future of growth and prosper ity, where the shackles of bureaucratic control and overregulation are broken, where the entre preneurial spirit is set free to create jobs, establish new industries and develop state-of the-art technologies.

By his word and his deed, Charlie

Gargano has proven he has what it takes to turn this Department of Economic Development and Urban Development Corporation into the catalyst for economic growth as our great state begins its journey toward economic renewal and reform. That journey began November 8th with a clarion call for change and continues today as we confirm Charlie Gargano.

Governor Pataki has announced that, under Charlie's stewardship, he will establish the new Empire State Development Corporation. The state's economic development agencies will be consolidated and streamlined to refocus their mission of job creation and industrial development.

Once again, I take great pride in calling Charles Gargano my friend, and I take great pride in moving the confirmation of Ambassador Charles Gargano, nominee for Commissioner of Economic Development and President of the Urban Development Corporation.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Goodman.

SENATOR GOODMAN: Mr. President, I am very pleased indeed to second the nomination of Charles Gargano and would like to take just a moment to reflect upon one or two of the very special characteristics of this uniquely qualified candidate.

First, however, let me remind this body that Charles Gargano, before he could become an ambassador of the United States of America, went through a procedure with which I'm somewhat familiar because I, too, was a Presidential appointee subject to the advice and consent of the Senate.

This procedure, for those of you who are not aware of it, involves a very intensive FBI check, an intensive check by the staff of the White House, and when all of that has been completed and the President forwards a nomination to the Senate for action, the appropriate Senate committee then proceeds to do its own very intensive examination of a candidate for office. This is nowhere more true than in the sensitive selection of ambassadors

to represent the United States of America because, quite self-evidently, these people are on their own in foreign countries far from home and must be relied upon to carry forward their duties with the highest integrity and the greatest skill.

Mr. President, Ambassador Gargano went through that process and emerged from it to achieve the overwhelming approval of the United States Senate for his duties. In addition to that, I would like to just reminisce for a moment about a lunch that I had with Ambassador Gargano, which he himself might not remember because it occurred some time ago. We were lunching at a restaurant in New York City and we had just learned of the catastrophic earthquake which had shaken southern Italy, and Charles Gargano at that time, never imagining, I'm sure, that we would be speaking of him today in this context, said to me, "There's been a catastrophe in southern Italy and I'm going to drop everything that I have on my docket to make supreme efforts to try to be helpful to

alleviate the suffering of the people who have been ravaged by this earthquake."

We have just recently seen the effects of the earthquake in Kobe, Japan, and I'm quite certain that what occurred in southern Italy at that time was not at all dissimilar to the tragic suffering that we had experienced at that time in southern Italy.

Mr. Gargano has made it very clear in his extremely elevated action in this matter that he was willing to sacrifice personal income, personal consideration and devote an enormous amount of his own time and treasure and persuasive effort to gathering every ounce of assistance that he could from people in the New York and other communities, and he became the head of a national disaster relief effort.

I submit to you, Mr. President, that anyone capable of doing this type of very, very altruistic action is someone of whom we can be duly proud. There is a long record of such community involvement as well on the part of the Ambassador, who is noted as a leading

philanthropist and organizer of good efforts in his home community in Long Island and in New York City.

Now, I have personally worked with this nominee in connection with his already well-known work as a supremely effective fund raiser because I, too, in my capacity as Republican County Chairman in New York and as a co-chairman of the Reagan for President Campaign and as a co-chairman for the Bush for President Campaign, found myself involved and from time to time directly with him in fund raising, and I can testify to you personally that, in his techniques in that connection, in his entire approach to those duties, he was always an ethical man who was sensitive to the situation in which he was involved and never pressed unduly nor departed from what I would regard as his code of gentlemanly behavior which is evident to me in all of his activities.

Mr. President, I share these personal observations with you because we're best able to judge people when they don't know

they're being judged, and when we have a long track record from which we can extrapolate a pattern of behavior, I think we're entitled to share it at a moment like this.

This is an altruist of high character, a businessman of high skill, a straight shooter, an honorable individual and someone who richly deserves our support today for the very important post for which he has been nominated, and let me just say, he will be the pivotal executive in the Governor's effort to try to build and develop the business community in the state of New York.

Unfortunately, we've lagged in the national economic effort to try to bring New York abreast of the national recovery, and no where is the effort more significant than in the work that he will be doing to build the state's job economy. I need not remind this chamber that jobs and good, solid, long-term job commitments exceed any efforts which we can make in the welfare area to assure the well-being of the rank and file of New Yorkers. Put them to

work, and put them to work not with Band-Aids or superficial cover-over employment, but real genuine involvement in the texture of our society, and there you build a strong society for the future.

In that effort, Charles Gargano, I am absolutely convinced, will be superb in his effort on behalf of the state of New York and, for that reason, I enthusiastically second his nomination.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Trunzo.

SENATOR TRUNZO: Mr. President, it's a great honor for me to also second the nomination of Charlie Gargano who -- I've known Charlie Gargano for over 25 years. My first meeting with him was way back when I was a councilman in the town of Islip.

Charlie has been my constituent for many years and, when we did the last reapportionment, I had to turn him over to Owen Johnson, to Senator Johnson, as part of the reapportionment. Owen just said thanks.

But knowing Charlie and knowing the work which he has done within the community of Islip and the work that he has done over the years for the many, many organizations that he's worked for, that he's done -- he was really a tremendous asset to our community and when President Reagan made him an ambassador, we were so proud of Charlie Gargano when that happened back in those years.

And now it gives me great pleasure to second the nomination and commend the Governor for nominating Charlie Gargano as Commissioner of the Economic Development and as also of the Urban Development Corporation and, again, a great man who's going to do an outstanding job, as has already been pointed out by Senator Johnson and Senator Goodman. I commend the Governor once again for this appointment.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Farley on the confirmation.

SENATOR FARLEY: Thank you, Mr. President.

I rise to support the nomination of Charlie Gargano with enthusiasm. If this state has a problem, it's in the area of economic development and jobs, and this man is a shaker and a mover.

As Senator Goodman said, this is a pivotal appointment and one that is absolutely crucial to this state, and this is the man for the job. I think he's an outstanding person, a man of integrity and ability, and I support him enthusiastically and look forward to remarkable results as a result of his appointment, and we wish you well, Ambassador.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Maltese.

SENATOR MALTESE: Mr. President, I rise to second the nomination.

It is with a great deal of pleas ure and pride that I second that nomination. I speak not only as a Senator, not only as an American, but an Italian-American. Charlie Gargano has been known for more than 20 years for his altruistic, humanitarian efforts on

behalf of Italians. Senator Goodman mentioned earlier his immediate stance upon hearing about a tragedy in southern Italy, but it's much more than that. It's the day-to-day, hour-by-hour, week-by-week time that he spends with Italian American organizations and on behalf of Italian-American and Italian organizations, the land of birth of many of our constituents and many of the people from New York State.

These efforts have been recog nized by so many organizations and so many people. I see that he's been recognized by the president of Italy, by officials in Italy, by officials in the Vatican, by religious, governmental officials and by people -- and Italian-American leaders and organizations here, with every accolade and every honor.

Mr. President, many people complain that there are too many lawyers in public service. Mr. Gargano is an engineer, a graduate of Manhattan College, where he received his Master's. He served as an engineer and a builder -- a builder building New York. It's in

that capacity that Governor Pataki has chosen to give him this most important position so that he can bring jobs and revitalize the economy of New York State.

Mr. President, I'm proud to second the nomination of a good man, a good friend, Charlie Gargano.

ACTING PRESIDENT KUHL: The Chair recognizes Senator DiCarlo on the confirmation.

SENATOR DiCARLO: Thank you, Mr. President.

I rise also to second the nomina tion -- nomination of Ambassador Gargano. I have known the ambassador for a number of years, and the best thing that you can say about an individual is that they are honorable and they are a gentleman. Ambassador Gargano fits both of those very well. It has been said that he has the qualifications. I know he has the qualifications. I know that the Governor has made a wise choice, and one of the things that those here might not know and those who serve as their -- his Senator now in Long Island is that

the best thing about Charlie Gargano is that he comes from Brooklyn.

Good luck.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stavisky on the confirmation.

SENATOR STAVISKY: Mr. President, not everyone in this chamber is a member of the Finance Committee, and not everyone in this chamber has had the opportunity for a long friendship or an intimate friendship with the designees who are presented for confirmation by the Senate. We have to rely upon information that has been provided or information that has been withheld or information that has been given in one forum and then given in another forum.

This is not a unique situation in the Senate of New York State. You will notice that there are similar questions that are raised in the Senate of the United States when one body of information is presented at one time, and then is questioned by a body of information that emerges subsequently, and I ask the members who know the facts to comment on that possibility.

We are not proposing an international appointment regarding Trinidad or Tobago or even Italy. If we were, a different set of qualifications would be expected. We are proposing someone who will have vast powers and responsibilities with regard to economic development, and with economic development, objective judgments must be made that are not clouded in any way by personal or private interests.

I have heard, and I seek clarification of this point, that some of the points of economic investments or directorships or positions that the applicant -- the candidate -- may have were not always provided in the initial presentations.

There is a similar debate going on in Washington with regard to the Surgeon General of the United States as to whether at the very beginning all of the information was made available or whether it was subsequently amended or omitted in later presentations, and I ask those of you who know this candidate to

share with us, was there information on the table before us at the very beginning or was that revised, updated, corrected afterwards, because there were serious omissions, and if the answer is that there were no serious omissions, if the answer is that this candidate does not have economic interests that have to be decided by agencies of the state of New York, that there are no taxes owed, that there are no things that were left in the closet that have been brought out now -

SENATOR GOODMAN: Mr. President.

SENATOR STAVISKY: I will yield at the conclusion, Senator, unless it's a point of high personal privilege for yourself.

SENATOR GOODMAN: You merely raised a question which I think we can illuminate, and I didn't want to -

SENATOR STAVISKY: Well -- well, I'm raising the question and, by all means, answer.

SENATOR GOODMAN: Mr. President, in the course -

SENATOR STAVISKY: But not at this point, Senator.

ACTING PRESIDENT KUHL: Senator Stavisky, are you asking a question of Senator Goodman?

SENATOR STAVISKY: No, he's apparently going to ask a question.

ACTING PRESIDENT KUHL: Are you asking a question?

SENATOR STAVISKY: I'm asking for an answer after I've finished with my remarks.

SENATOR GOODMAN: Mr. President, I understand. I think the Senator raised a general question, which I'd be happy to respond to when he's finished.

SENATOR STAVISKY: Thank you, and I would be happy to hear the answer.

ACTING PRESIDENT KUHL: Please continue.

SENATOR STAVISKY: These are not irresponsible questions. These are questions that would be asked under similar circumstances by United States Senator Robert Dole, by Speaker

Newt Gingrich and by U.S. Senator Alphonse D'Amato, if there were questions, if there were omissions, if there were changes in the dossier involving anyone up for Senate confirmation in Washington, and so I say the same standard should apply.

If Alphonse D'Amato was sitting here or Bob Dole was sitting here or Newt Gingrich was sitting here, would they be comfortable with the addendum of the dossier that occurred after the initial presentation? Were all of the facts known before today? Were all of the facts of economic involvement, economic relationships with state agencies known prior to this time; or were they filled in subsequently the way people in Washington often update the information that may have been available on a preliminary basis at first and then is added to as more facts become available?

And I ask those of you who know him best, not in criticism of the candidate but rather what was the sequence? When did we know

it? When was that information provided; and have there been serious or simply minor omissions of facts that we should have known at the very beginning? And it's in that spirit, not in an argumentative or pejorative manner that I have raise these questions.

What would Senator D'Amato do when confronted with a similar changing script?

And now Senator Goodman, if he will return, I will be happy to hear from him.

ACTING PRESIDENT KUHL: Chair recognizes Senator Mendez.

SENATOR MENDEZ: Mr. President. I also rise in support of the nomination of Ambassador Charles Gargano to the position of Commissioner of UDC Economic Development Corporation, and I attended today a Finance Committee meeting where Mr. Gargano stayed for an hour and 45 minutes. All the questions that could possibly be asked pertaining to his financial involvement were answered satisfactorily. As far as I'm concerned, I believe so.

Secondly, I want to congratulate the Governor for submitting his name for this position because the man has shown through his life that he is not only intelligent and well qualified but he has also -- as has been expressed here by some of my colleagues before me that he has run an extra mile in his effort of being -- of cooperating with humanitarian concerns.

But, above all, Mr. President, I believe Mr. Gargano as a businessman that he is, he understands fully that the economic situation of the State of New York is not proceeding - the rate of growth is not proceeding at the pace that it should be in order for the state to provide jobs for people.

So I think that his vision of the agency will, in fact, make it possible for the development of more jobs that New Yorkers so badly need. He is also a workhorse. The man works 12 hours a day at the job.

And I think that once he's confirmed, he'll keep working very hard, because

he's very much committed to insure that the economic stake yp our CP in our state is fully developed for the satisfaction of all New Yorkers.

One thing that he is particularly interested in is in working with small businessmen. We do know that is not the big corporations that provide the greatest number of jobs in New York State. It is in fact 94 -- in fact, 94 percent of the jobs are produced by small businesses, and that's no surprise to us because small businesses have to have the potentiality to expand and, therefore, create jobs.

So it is with great satisfaction that I believe that he is an excellent nominee and that he, in fact, will do a great job for the people of the State of New York.

ACTING PRESIDENT KUHL: Chair recognizes -

Senator Waldon.

SENATOR WALDON: Would Senator Mendez yield for a question?

ACTING PRESIDENT KUHL: Senator Mendez, do you yield to Senator Waldon?

SENATOR MENDEZ: Yes.

ACTING PRESIDENT KUHL: Senator yields, Senator Waldon.

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

Senator, I heard you remark on another occasion that you have a very personal relationship with the nominee. Recognizing that both you and I -

SENATOR MENDEZ: I'm sorry. I'm sorry. Would you repeat that, please?

SENATOR WALDON: I said I've heard you remark or at least I recall that you remarked you have a personal awareness and relationship with the nominee. Is that correct?

SENATOR MENDEZ: No, that is not correct. I met Mr. Gargano when I was appointed to the transition committee by Governor Pataki. After that, I met the gentleman only on two other occasions.

SENATOR WALDON: May I continue, Mr. President.

ACTING PRESIDENT KUHL: You're asking the Senator to continue to yield?

SENATOR WALDON: Yes.

ACTING PRESIDENT KUHL: Senator Mendez, do you continue to yield?

SENATOR WALDON: There is no trap involved here, Senator.

SENATOR MENDEZ: Just in case. My dear colleague, just in case.

SENATOR WALDON: I want to do something that perhaps will help both your community and my community. We both are so labeled minorities. From the limited awareness that you have of this nominee, do you perceive that he will take steps to ensure that Latinos, be they Puerto Rican or Dominican or from South America or Venezuelan or wherever, as well as African-Americans and Caribbean-Americans, be permitted to participate in the construction industry in numbers which reflect the numbers that we are in this state.

SENATOR MENDEZ: Well, I believe that Mr. Gargano is committed to ensure that minorities, Puerto Ricans, Hispanics, African-Americans and other protected classes will in fact have an equal opportunity to benefit from the programs and services that the agency will be offering.

SENATOR WALDON: One more question.

ACTING PRESIDENT KUHL: Senator Mendez, do you -

SENATOR MENDEZ: In fact, Senator Waldon, I forgot to mention when I rose to support his nomination that I read somewhere that he had made statements to that effect.

ACTING PRESIDENT KUHL: Senator Mendez, do you yield to one more question from Senator Waldon?

SENATOR MENDEZ: Yes, one more.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MENDEZ: And even two.

SENATOR WALDON: Thank you, Mr.

President. Please, Senator Mendez, let me thank you for your indulgence. This was not a prepared situation by me. On the spur of the moment, as I sometimes do, I rise because questions pop into my head.

Is it your considered opinion from your awareness and from your reading and your analysis from your meetings -- I would assume you have a vibration from Mr. Gargano - that you support his candidacy because you believe that he will give us -- when I say "us," I mean your community and my community -- a fair shake at the table, especially regarding construction industry situations, set-asides and other kinds of opportunities in an entrepreneurial sense that will be under his jurisdiction as the head of UDC?

SENATOR MENDEZ: Senator Waldon, I really believe that he will do that. In fact, since I am a woman that do not believe in double standards pertaining to the record of the previous person that was head of the agency, I can tell you that in terms of the statistics -

and I love the man, but love has nothing to do with it. I'm talking about the previous Commissioner of, at that time, UDC. We Puerto Ricans -- I don't know how you African-Americans did, but certainly we Puerto Ricans and Hispanics did not do well at all in that immense, rich agency.

I have the vibrations, as you put it, that this gentleman will in fact do much better, more so to the satisfaction of you as a representative who care for your people and to my satisfaction for myself that I also care about Puerto Rican and Hispanics and African Americans and everybody. If I wouldn't feel that way, my dear colleague, I wouldn't be standing here supporting him.

I feel very certain that he will do so, and it is refreshing and nice and hopeful to feel that way.

SENATOR WALDON: Thank you very much, Mr. President, for your indulgence. I want to publicly thank here in the chamber the learned Senator for her remarks, and may I just

add a caveat as I sit -

ACTING PRESIDENT KUHL: Senator Waldon, the floor was given up by Senator Mendez. There is a whole series of people who are on the list. If you'd like to speak, I will put you down on the list.

SENATOR WALDON: With due deference to the procedure, I will sit.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Thank you, Senator Waldon.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: I also wanted to ask Senator Mendez just one question based upon what she said to Senator Waldon, if she was still available for a question.

SENATOR MENDEZ: Yes.

ACTING PRESIDENT KUHL: Senator Mendez?

SENATOR GOLD: The confirmation process is supposed to be an enlightenment, and

I'm just curious. You say that you got the vibrations that it would be better. Can I ask you what was the basis of the vibrations? Was it something that he said at the meeting, something you learned in a different source. I would like to know where they come from.

SENATOR MENDEZ: Senator Gold, the issue of the vibrations came because I wanted to be a little bit sardonic when my colleague used that word in terms of possibly imagining -- I don't know what he had in mind, and I wanted to retort back to him, and I did so.

SENATOR GOLD: I see. Would the Senator please yield to one more question?

SENATOR MENDEZ: Yes.

ACTING PRESIDENT KUHL: Senator yields, Senator Gold.

SENATOR GOLD: Senator, I also have minority groups in my district that I am concerned about and I think my record as a state Senator over the years indicates that I have been sensitive to so-called minority needs. I

can understand why some people might want this nominee or might not want the nominee. I don't understand the minority issue. What was it that the man either did in his life or said at the committee meeting which gives an impression that he would in some way be good for minorities? I'm not saying he is or not. I'm just curious what it is you are relying on since I respect you so much.

SENATOR MENDEZ: First of all, my professional -- the graduate work that I did is in the behavioral sciences; and we, all of us here, do deal with all sorts of people. We meet all sorts of people during the -- performing the functions of being a state Senator; right? So we're not naive. Once you meet with somebody and you talk and you ask certain questions, you keep in mind the emotional tone in which things are said, and you end up with a picture of whether that person is sincere or whether the person is not, besides the statements that the gentleman has done to that effect.

SENATOR GOLD: Yes, Mr.

President. Would the Senator be kind enough to yield to one last question?

ACTING PRESIDENT KUHL: Senator Mendez, do you yield to one last question from Senator Gold?

SENATOR MENDEZ: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator, what I'm trying to find out is what were the questions you asked and the responses you got that made you have this feeling. There must have been something. I know you have a great concern for the people you represent, and you must have asked what were very, very important questions for which the answers you got were very, very significant for your community. I'm wondering what those were.

I was at the committee meeting and I didn't hear any of that. Perhaps I missed something.

SENATOR MENDEZ: But, Senator Gold, as I said before, I met the gentleman when

I was appointed by Governor Pataki to his transition committee. I had an opportunity to talk to him about different things, and one of the first things that I ask anybody that I meet and I try to dig into his attitudes towards Puerto Ricans, African-Americans and others, because anyhow I am also a member of a minority. As you know, I am Puerto Rican.

And in his history, this man was an Ambassador to Tobago and Trinidad. Tobago and Trinidad are minority islands, are not they? And he did a great job over there, so the inference is that he has no problem whatsoever in relating to people who have a different racial or ethnic background, and that is a big plus.

SENATOR GOLD: Thank you, Senator.

SENATOR MENDEZ: You're welcome.

ACTING PRESIDENT KUHL: Chair recognizes Senator Marchi on the confirmation.

SENATOR MARCHI: Mr. President. The process by which the nominee is before us, I

assisted personally over a period of 16 years confirmation of thousands of nominees and the process is a sound one. There is an intensive investigation of each and every nominee to spot the negatives, to spot those things that are not harbinger of good things to come, and they accompany the evaluations of the affirmative qualities that a nominee brings to the office that he has been designated by the Governor, and that is submitted and experiences a very exacting process.

Everything that I have seen with Senator Stafford, he has continued that with the same enthusiasm and the same zealous pursuit of fulfilling the requirements that the Finance Committee must take in making a recommendation that finally ends up before us on this floor.

Why are all of the circumstances -- and Charles Gargano brings a wealth of experiences. I know that he is not being offered as an international ambassador at this point, but all of the experiences that he has had are relevant to the office that he will be

serving very shortly. He will be interacting on an intergovernmental plane with people from the nation, even internationally. The office that he will occupy will require, if he is going serve his responsibilities with any degree of effectiveness, will require and bring into play those experiences that he has had before coming here tonight, and he has had them and he has passed with flying colors the exacting process that he survived in the Senate, not just for negatives, because that should be a given for anyone entrusted with the responsibility, a public responsibility, but also weighing very carefully the qualities that are brought to an office.

Mention was made of his response to charitable endeavors, how he dropped everything. Senator Goodman made a very good point on the disaster that befell southern Italy which a grateful Italian government conferred a knighthood on him. His charitable endeavors in this nation and in this community which received recognition by another exacting process because

he also received a knighthood from the Knights of Malta and the Knights of the Holy Sepulcher. Now, these are organizations that are very serious and make a very intensive review of the life and the strength of the character of an individual, and these are important, the strength of an individual's character, his willingness to embrace some heavy lifting and duty, and he was not found wanting in any of these evaluations.

So we do need Ambassador Gargano. We do need him to take over the reins in economic development. We have suffered in the Northeast. I don't want to place blame on anybody, but we have suffered generally, but he brings a wealth of experience with none of the negatives, indeed confirmation of his strength of character and his integrity. He brings these qualities to serve this state combined with excellence in service in both public and private sectors, which is very reassuring, I think, as we attempt to reverse the picture and restore New York State to the preeminence that it really

deserves to have, and I'm sure that with support given by this body, he is going to embrace those things; and he does this with our encouragement because I am confident that he will give a good account of himself and that will also reflect a great benefit to the people of this state as he coordinates efforts to reverse a picture of economic stagnancy.

So we wish him well, and I do hope that he does get a good vote here today by way of encouragement.

ACTING PRESIDENT KUHL: Chair recognizes Senator Nozzolio on the confirmation.

SENATOR NOZZOLIO: Thank you, Mr. President.

My colleagues, I rise to second the nomination of Ambassador Charles Gargano for this important position.

Ladies and gentlemen, you all know we live in troubled times. Governor Pataki recognizes that. We recognize that now more than ever. The competitive world we have today

puts business leaders in a quandary. The siren songs of the South where businesses have gone from New York to set up operations, where we have now today more manufacturing jobs in the state of Alabama than here are in the State of New York, the once Empire State of New York. We have less manufacturing jobs today than when Roosevelt was President; and, unfortunately, that's Theodore Roosevelt not Franklin Roosevelt.

The Governor recognizes this problem, and that's why he has chosen a leader to lead us out of the economic doldrums that we are in, a leader who can talk the talk and walk the walk with the business leaders of this state, of this nation and of this world, one who understands policies matter, one that understands that leadership is required in order to keep jobs in New York.

I'm very honored, my colleagues, to have first met Charles Gargano 14 years ago. I watched him do great work on behalf of the citizens of this state, and I know the

Governor's faith and our confidence in him, our efforts to work with him are critical during these next years if we are to gain our economic competitiveness again and be called, once again, the Empire State.

Our nominee today is up to the task of that great challenge, and I'm honored to support his nomination and urge my colleagues to do likewise.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Libous on the confirmation.

SENATOR LIBOUS: Thank you, Mr. President.

I, too, rise to second the nomination of Ambassador Gargano; and, unlike my colleagues, I can't stand before you and tell you that I have known him for 20 or 25 years, but I can tell you that in the short time that I have known him, Ambassador Gargano because of his sincerity, because of his honesty, you feel like you have known the man for some 25 or 30 years.

Mr. President, that's the kind of sincerity and feeling that we have to give to business in this state. That's the kind of leader that we need. You know, I live in the Southern Tier. I represent the Southern Tier of New York, and I have to tell you that every day the state of Pennsylvania is coming across the county line, the state borderline and taking jobs away, and they are not taking one and two at a time. They are taking them factories at a time, offering them incentives, taking them away from this great Empire State.

Ambassador Gargano's resume, if you take the time to look at it, tells you that he is overqualified for this position. He is in a position to lead this state to economic recovery, something that is desperately needed. There is not a colleague in this chamber that wouldn't take one additional job in their district today if that could be delivered, and that is the role that Ambassador Gargano will play as economic development director to bring more jobs to this state for all New Yorkers.

Mr. President, once again, Governor Pataki has delivered us a very, very well-qualified candidate and it is a pleasure and honor for me to second the nomination of this good candidate.

ACTING PRESIDENT KUHL: Chair recognizes Senator Smith on the confirmation.

SENATOR SMITH: Thank you, Mr. President. Let me first say that I met with Ambassador Gargano, and I found him to be immensely charming. I also praise him for being from Brooklyn and for going to New York City Tech, which I did, for also being involved with the developmentally disabled young people, and many in this room know that I have been an advocate for the developmentally disabled.

I also praise him for being licensed in five states, but I have great reservations when I sit in a committee room and I ask the Governor's nominee about his legal residence and he tells me that his legal residence is Bay Shore, and I ask him if he voted from that address in the previous

election, and he tells me "Yes," and then he also tells me that he has voted there for the past five elections, and I'm greatly dismayed when the Board of Elections can find no registration for Charles Gargano in Bay Shore, and I'm even more dismayed when the only registration I find is in Dix Hills and that registration was canceled in August of '94 prior to the election based upon two letters going out, one in '93 and one in '94, and coming back to the Board of Elections showing that he no longer lived in Dix Hills.

These are the kinds of omissions and the kinds of things that bother me. If I can't get the truth about someone's real residence, then I certainly can not vote for them to become a Commissioner of the State of New York in such an important position.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold on the confirmation.

SENATOR GOLD: Thank you very much. I would like to congratulate Governor D'Amato on this nomination. Governor Pataki

didn't do so well.

If you like the resume, Senator Libous, can you imagine how much you would like it if it was all there?

Now, to begin with, I want to say one thing to people like Senator Marchi and Senator Maltese. This is not in my opinion a Italo-American issue. Certainly I, who went out every day campaigning for a guy named Cuomo and who holds Serph Maltese in a personal way on the highest level and Senator Marchi on the highest level, I don't have to explain and account for myself if I'm going to oppose somebody who happens to be Italian; and I'm glad that there are organizations that feel proud of him because of his heritage, and I respect someone who is what they are. I respect that, but that is not my issue as I see it.

Senator Stavisky asked questions, questions similar to those I asked earlier today, and why leave it hanging, Senator? What would Al D'Amato do? What would Bob Dole do? You know darn well what they would do. They

would say, "President Clinton, you got some nerve, some nerve to send us someone and not answer questions; and if it takes a few days or a week, President Clinton, that's what it's going to take."

But not around here. Not around here. Well, I try, you know, to learn from everybody, and I certainly am going to think very hard the way the junior Senator from New York would act under these situations.

Just a couple things. I mean Senator Smith said something that disturbed her. Well, at the committee meeting, there were questions asked and this is after, after there has been criticism for a lack of candor.

And Senator Leichter asked some questions about some company, G M Development; and the way I remember the answers and I think I'm giving it to you right, the answer was, yes, they've got some kind of tax problem but he was a consultant that came in to help his son and whatever. Well, the resume I found on my desk says from '84 to '88 he was the president of the

company. Well, he was either the president of the company and he worked for the company or he was a consultant. You know, it's one or the another.

And why doesn't that bother anybody on the other side to at least understand it? Now, I'm not saying that if he was President he did anything wrong, and I'm not saying if he was a consultant he did anything wrong.

And then a question was asked as to the particular tax problem of which I know nothing, but one of the counsel's for the committee said, "We checked that out, and it's fine." Well, when I heard that, I had some questions in my mind, so I said, "Well, was there any permission given by the candidate, the Ambassador, in writing to the Tax Department to release information?" because I said to myself, you know, God forbid that the Tax Department even though it's all Republicans now is giving information without authorizations; and to my delight, I found out that, in fact, no

authorization was given and the Tax Department did nothing wrong, they didn't give information.

But I'll tell you this. The answer that the counsel gave was a truthful answer but it was misleading. As the movie - what is that movie? -- "Absence of Malice," they say, "Well, it's true but it's not accurate."

And it turned out that the only record that was checked was the record that we have provided by the candidate who said nothing's wrong; and since it's a Republican nominee from a Republican governor, the Republican staff of the Republican Finance Committee said, "We don't see anything wrong."

I think that's terrible. I think it's misleading. I think the thing should be looked at; and as was with Mr. Sweeney, if everything falls into place, then fine; and, then, if we have a gentleman before us with extraordinary experience who can do the job, fine. But when there are questions raised as to integrity, they shouldn't be left hanging, and

I'm not saying the man has no integrity. I'm not saying that.

SENATOR VELELLA: Point of order, Mr. President. I heard no questions raised as to his integrity. I believe you said that you believe Ambassador Gargano was a man of the highest integrity. Maybe you misspoke.

SENATOR GOLD: I didn't say the word "highest." I said, as far as I know, the man has integrity. What I'm saying is -

SENATOR VELELLA: Then what -

ACTING PRESIDENT KUHL: Senator Velella, are you asking Senator Gold to yield?

SENATOR VELELLA: Yes, I ask him to yield.

SENATOR GOLD: To you, always.

ACTING PRESIDENT KUHL: Senator yields. Do you have a question?

SENATOR VELELLA: Are you saying that an issue has been raised as to the integrity of Ambassador Gargano on the floor here?

SENATOR GOLD: Yes. Do you want

it explained?

SENATOR VELELLA: Would you yield to a question?

SENATOR GOLD: Do you want it explained?

SENATOR VELELLA: Do you yield to another question?

SENATOR GOLD: Absolutely.

ACTING PRESIDENT KUHL: Senator yields to another question.

SENATOR VELELLA: Innuendo, in the absence of any facts, just the political slights that you are making now and trying to allege that there is some kind of impropriety? Is there not some kind of burden on your part to come forward with something that you show that is wrong -

SENATOR GOLD: Yes!

SENATOR VELELLA: -- not maybe there is something there?

SENATOR GOLD: Yes.

SENATOR VELELLA: Come forward with it.

SENATOR GOLD: Thank you. Thank you. I didn't plant that, did I?

SENATOR VELELLA: No.

SENATOR GOLD: Okay.

ACTING PRESIDENT KUHL: Senator Gold on the confirmation.

SENATOR GOLD: You asked me, Senator, whether or not the issue of integrity is on this floor, and I tell you that if it doesn't bother you with every candidate that's appointed by every governor, then I don't think you are doing your job. The issue of integrity is always a question.

Now, if you have a situation where questions are asked and the answers that come forward are either not accurate or they are missing the mark or they're intending to be misleading, that raises an issue of integrity, and that issue should be resolved.

Now, I didn't say that this gentleman has done anything wrong. I've said that things were raised that require questions and answers and not in a rush, either. Not in a

rush. The Ambassador if he is confirmed will have huge jurisdiction.

Now, he says -- and I don't know what all of his stock holdings are. He says that a lot of his stock, when you hear 80,000 shares or 100,000 shares, don't get excited, these are only start-up companies.

Well, with all respect, I have a friend who bought some stock in a start-up company, put it away, forgot she had it or he had it, and the next thing you know a few years went by; the start-up company was a pretty big company and the amount of money was very substantial. I know people whose fortunes were made because they got in at 10 cents a share and then when it was three dollars a share -- do you want to multiply that out and see what it's all about?

So I don't know what these start-up companies do, but it would seem to me that if the economic climate of New York gets better -- God willing, it should get better, no matter what it's at -- I don't know how it

affects any of these companies. I don't know what these companies are. But I can not believe that if this was a nomination in front of the United States Congress put forth by President Clinton, you would want to know everything those companies did, you would want to see the payrolls of those companies, you would want to see their contracts, you would want to know who their lawyers were, you would want to know where their lawyers ate dinner and who was at the table with them, and don't tell me anything different because this is the real world and we look each other in the eye and we know what the truth is.

My colleague, Senator Mendez, said that this gentleman was so forthright that he was in front of the committee for an hour and a half and went the extra mile. Well, he was in front of the committee for an hour and a half because there were questions. There have been nominees in front of our committees for ten seconds because there were no questions. All of a sudden, you get a medal because there's so

much to be asked and there was a lot more that you should have gone into. So I don't see anything terrific about that.

I am very disturbed about the nomination, and I shouldn't be disturbed. I shouldn't. I have been around here a lot of years. Some of you think too long, I know. But I have voted for nominees of Republican governors and I've worked with nominees of Republican governors, and there is nothing wrong with us analyzing each other's nominees, and the issue of confirmation is not one of agreement.

When I asked the Health Commissioner questions and she wouldn't answer, I thought that was terrible because she doesn't have to agree with me but at least answer, and your answer can be in disagreement with me but a competent answer, and I as a state Senator would have to say, "Madam, I don't agree with you but you're competent and we vote yes."

But there is a process, and we ought to be embarrassed by a process where we take the attitude we don't care. Now, George

Pataki in my opinion -- and I said this behind his back; I would say it to his face -- is an honest man, and I don't agree with his political views but I have to believe he wants to do the right thing, but somebody is missing the boat.

I have seen the nominees. I know where they come from. Long Island is getting its share. The junior Senator is getting his share, and it's interesting where these nominees are going; and I want to tell you since I intend to live in the state a little longer, I pray for George Pataki to be a good governor. Why not? I live here. But, Governor Pataki, I just hope that all the things you are trying to do don't get sabotaged by the kind of haste that's being used in examining these nominees.

I don't even believe, Senator Bruno, that the Governor's people have answers to questions they've asked, and then everybody gets very nervous. I believe that there are Republicans on your side of the aisle who in private say, "Boy, if this were a Democrat I'd love to vote no." But we're all great soldiers

and if you're Republicans you vote yes. But in my opinion, it's only my opinion, with great respect for every one of you, we demean the process when we do it. These are significant jobs, and in my opinion to allow someone to wield the kind of power that this man will yield in the next few years without him going through a process which brings us answers diverts the constitutional intention and doesn't help the system.

ACTING PRESIDENT KUHL: Chair recognizes Senator Levy on the confirmation.

SENATOR LEVY: Thank you very much, Mr. President. I am privileged to rise to join in moving the confirmation of the nomination of Charlie Gargano. I have known Charlie Gargano for almost 25 years, and I know him to be an honorable man of integrity. The hallmark and the tradition, indeed the legacy of his endeavors has been leadership and success. Leadership and success, whether it was in the private sector, the public sector, on behalf of charitable or philanthropic endeavors.

As we have heard time and time again this afternoon on this floor, he takes over probably second to the Governor New York State's most vital responsibility, and he's charged with meeting New York State's most vital concern. We've heard it over and over again, and it's true. It's his job to get this economy jump started to create and to maintain jobs; and, heaven knows, given our economy, we need a hot hand of success. Charlie Gargano is an outstanding leader. He is going to do an extraordinary job in his new position, and the Governor is to be congratulated upon this appointment.

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger on the confirmation.

SENATOR DOLLINGER: Mr. President. I rise today in what I think is perhaps the most difficult task that a member of this Senate is required to do, and that's to exercise the constitutional power of advice and consent on a nominee to the Governor to the

position that Senator Levy I think properly describes, really the number two position in this state from the point of view of economic development and growth in this state.

Senator Libous is also correct. There isn't a person in this chamber that wouldn't want more jobs in their districts. I want certainly more. My people want more. I think we all want that.

Today, we face a debate over a nominee that I guess like other nominees that I've discussed on the floor certainly brings a lot to the table. First of all, let me tell you about what I think are the good and strong parts that commend Charlie Gargano to this job.

He's been a successful businessman. I give them that. He's got a history of doing that. He was in the business of economic development in a real estate business, which he acknowledges, through G M Development. It survived an economic downturn. That, too, is commendable. I think both Senator Marchi and Senator Maltese mentioned his work on

behalf of Italian earthquake victims. I believe that deserves the highest commendation. In addition, he was the Ambassador to Trinidad and Tobago, something that we can't ignore. Best information that I can receive suggests he did a very good job in that position. I even got a chance to read a couple of articles he wrote about the Caribbean Basin initiative.

In addition, he's been a participant in the political process. Several people have talked about the relationship between Senator D'Amato and Mr. Gargano. I don't believe that that fact that there is a relationship disqualifies him from this position. I think, frankly, business people as many people in our society get involved in politics, get involved in the mother's milk of politics which is fund raising. Certainly, there is no one in this chamber who hasn't called a business person and asked them for money to fund a campaign. So that's no reason to disqualify Charles Gargano.

In addition, the best I can tell

he's been a family man. He testified in front of the Economic Development Committee that when his son's business was in trouble -- I believe he said he spent about a million and a half dollars baling him out.

But let me tell you what I think is important, Senator Marchi. You talked about advice and consent of other bodies, that this gentleman had been through the United States Senate; and while the Senate may have reviewed him, and other bodies including Governor Pataki have reviewed his qualifications, I believe it is this body and this body alone that has a constitutional obligation to give advice and consent on this nominee.

And what is at issue in this debate today? Our integrity and the integrity of the process that we follow.

I was at the Finance Committee meeting today. I frankly think that Senator Galiber's motion to delay was very appropriate. I will describe in a minute why the questions still remain regarding this nominee and why we

need better answers. But that's what is at stake today, the integrity of the process and the integrity of this body.

Let me tell you why I'm going to vote against Charles Gargano despite having said that he has many commendable qualities. I'm concerned as Senator Gold is about the fact that the nominee has on several occasions given what I believe are at least misleading answers to questions. Let me start with the first one.

When in front of the United States Senate, he happened to mention under -- I don't know whether he was under oath. I should back off on that. But certainly while -- during his confirmation as Ambassador to Trinidad and Tobago, he was asked to give a statement, which he did, and he said, "My experience in the private sector including membership on the board of directors of a commercial bank," a fact which he acknowledged I believe to Newsday just wasn't true. He wasn't a member of the board of directors of a commercial bank, but yet that's what he told the United States Senate when his

nomination to be an Ambassador was at stake.

Second, I'm concerned about a report in the newspaper, which I've also checked out, about disclosures that he made when he was on the board of directors yp two publicly-traded companies, disclosures that were made in the form of reports to the Securities and Exchange Commission, a government agency charged with the regulation of the securities industry in this country. Apparently, Mr. Gargano forgot in his discussions with those companies to disclose his directorships in other companies. He omitted them. Apparently, he has acknowledged that he omitted them, but he said that they weren't made to mislead anyone. I find that troubling.

Then he comes to this body, the New York State Senate, a body that has a constitutional obligation to provide advice and consent on this nominee. He provides to the Economic Development Committee to I believe my colleague Senator Present -- he provides a resume which contains a description of his current activities. It's not sworn to under

oath, but it's a compilation so that we in exercising our power of advice and consent can determine what he does, determine how well he does it, check out his resume. Frankly, just as any one of you would do if you were hiring a member of your staff, you would look at the resume and say, "Gee, I can rely on this resume; it is a fair and accurate picture of what this candidate is all about and what his qualifications are all about." What do we find out in perusing his resume? That he's left off two companies on which he serves as a member of the board of directors -- LGI Group, Inc., and a company called Winners International which he describes as a start-up company. It's actually an offspring of a company called Natural Child Care that got into business to try to develop new products, and, sure enough, has a very interesting product which I will talk about in a minute, which is the other reason why I'm concerned about this nominee. But he doesn't disclose that to us.

When he wants a job, he fails to

make a critical disclosure to us. I think we're entitled to ask why. I think we're entitled to ask why he didn't make accurate disclosure to the companies he was on the board of directors when he knew as every shrewd and prudent businessman would know that they would report it to the federal Securities and Exchange Commission. I think we're entitled to ask why he misled, in my judgment, the United States Senate when he said I'm a member of the board of a commercial bank, board of directors of a commercial bank.

But let me tell you the other thing that leads me to be concerned, and I listened very carefully during the Finance Committee deliberation to Senator Leichter's questioning of the nominee regarding an affidavit that he submitted in a piece of litigation. Let me just explain the background of this.

This was a piece of litigation that related to a foreclosure of a mortgage brought by Key Bank of New York. Everybody

knows Key Bank. It was brought against a company called DelGar Realty Corp. There were a series of individual defendants who were guarantors on about a million dollar note. What Key Bank did in this litigation, what caused this affidavit to be written, they do probably what most of you who are lawyers are familiar with, they tried to get personal service over all of the defendants so that they could take a judgment against each of the individual defendants, record that judgment; and if for some reason the mortgage they were seeking to foreclose was not sufficient to pay off the debt that was guaranteed under the note, they would then have access to the individuals. I have a copy of the complaint here. I have read the complaint. I have been through the responses; and, sure enough, Mr. Gargano submitted in - excuse me. Back up for a second.

In order to get jurisdiction over Mr. Gargano, the bank served the Summons and Complaint upon the receptionist at the home of a business called G M Development, Inc., a

business that Senator Gold mentioned earlier. They tried to get personal jurisdiction over Mr. Gargano by serving him under the CPLR, which is a law that this body had a hand in creating, that would give him jurisdiction over Mr. Gargano by serving him at a place of business. Senator Leichter asked Mr. Gargano about what he was doing in 1993 when this litigation was commenced.

He testified -- or I believe he did and please correct me if I'm wrong. I was in the back of the room and had difficulty hearing. I believe he testified that he had a consulting contract, that he was working as a consultant to his family company, G M Development Inc., and I also believe he testified that he was compensated approximately $75,000 as a consultant. Yet in his affidavit that was submitted to the Court and submitted in an attempt to avoid this judgment, to avoid personal jurisdiction.

ACTING PRESIDENT KUHL: Senator Paterson -- excuse me, Senator Dollinger -- why

do you rise?

SENATOR PATERSON: Would Senator Dollinger yield for just a moment?

ACTING PRESIDENT KUHL: Senator Dollinger, would you yield?

SENATOR PATERSON: Mr. President. We would like unanimous consent to open the roll to allow Senator Galiber to vote, who has to leave.

SENATOR BRUNO: Without objection, Mr. President.

SENATOR GALIBER: No.

ACTING PRESIDENT KUHL: Hold on, Senator Galiber.

Secretary will read the last section. I don't have a last section.

Call the roll.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

ACTING PRESIDENT KUHL: Senator Galiber is recorded in the negative.

Roll call is withdrawn.

Senator Dollinger, the floor is

yours.

SENATOR DOLLINGER: Thank you, Mr. President.

In the course of attempting to avoid personal jurisdiction, the Court's exercise of personal jurisdiction over him, in an attempt to avoid the possible consequence of having what could have been a million dollar judgment, $895,000 judgment taken against him, Mr. Gargano, despite having told Senator Leichter that he was a consultant for the corporation, made the following statement under oath, "The address where Plaintiff Key Bank attempted to serve process, 130 East Main Street, Bay Shore, is not my actual place of business. I am retired and do not work; therefore, I have no actual place of business."

Seems to me, my colleagues that the statement that I am retired and that I do not work is inconsistent with what this nominee told Senator Leichter before the Senate Finance Committee today. Why are those misrepresentations, however you wish to

characterize them, misleading statements, to the United States Senate, to companies in their Securities and Exchange Commission reports, to Key Bank and the State Supreme Court, why are they important in considering this nominee?

Let me just give you my view. One of the things that Senator Leichter also mentioned in the Finance Committee was that this nominee had done a great deal of fund raising, appropriate fund raising, fund raising that I don't quibble with and I don't criticize, on behalf of both the junior Senator from New York and the Governor who sits on the second floor. In a question to a question from Senator Leichter about appearances of conflict, how do we send a message to the people of this state that this nominee won't cross that line between being a fund raiser for the Governor and a fund raiser for Senator D'Amato and the chief economic development expert in this state?

He said, "I will erect a wall. I will recuse myself. I will take whatever steps are necessary to avoid a conflict of interest."

I submit to my colleagues that the fact that there have been misleading statements made before at least raises a question about whether in this context that statement might not be misleading, as well.

I will close with one other note. I think it should become apparent to everyone in this chamber that this nominee is very active in an industry which is a part of the major debate in this state. It's called the casino and gaming industry. One of the things the nominee said before the Senate Finance Committee was that -- when we talked about his investment in Winners All, one of the things he said was that I inadvertently left off my investment in Winners All. My understanding is that that's a $400,000 investment that he inadvertently left off his resume submitted to this body.

He also said, "I hope they come to the State of New York." I hope Winners All brings their little portable slot-machine-like device that allows gaming to occur. It's now

being done on a not-for-profit basis or a gratuity basis, but at least based on what I know it might easily become the next generation of slot machine. He said, I do hope they come to the State of New York. I disagree with this nominee. I hope they don't. I hope casino gambling doesn't come to this state. I've been against casino gambling. I continue to be against it.

I point out that Hospitality Systems and Hospitality Financing which owns a portion of Alpha Hospitality is a big player in the casino business throughout this country. It owns a casino down in Mississippi. It tried to work out a joint venture for casinos with the Mohawk reservation. This is the next step on the road down the path toward casino gambling in this state.

The chief economic development czar will be someone whose background is in casinos, who has substantial holdings in a casino operating company. I don't think we should go down that road. I think there are

questions about this nominee that remain unanswered. The Senate Finance Committee in its wisdom decided not to delay this nomination. I believe personally, as I stand here today, that this nominee may have answers to all the questions I have asked. He may be able to describe and satisfy all my curiosity about what I see as potential inconsistencies in his record. I would invite him, I would encourage him to take the chance to come back to the Senate Finance Committee, listen to these questions, explain these questions.

In my opinion, there is no more difficult task than to sit here and analyze someone I never met, look at a public record about him, look at questions that are raised about him and try to make an overall judgment about his fitness and his character. In my opinion, because the Finance Committee has not asked these questions, in my judgment because there are additional questions that need to be answered, I believe my only alternative in exercising the power of advice and consent is to

vote no.

I wish this body for the integrity of this body would send this nomination back to the Finance Committee. Let's ask these questions, find out whether these are really misleading or untruthful statements, and then make a judgment about the fitness of this nominee. In the absence of that, I will be voting in the negative.

ACTING PRESIDENT KUHL: Just for the benefit of the membership, this debate on this nomination started at 4:22. There are currently seven members who still wish to speak.

With that, Senator Leichter, on the confirmation.

SENATOR LEICHTER: Thank you, Mr. President.

I'm troubled, sincerely troubled by this nomination. The Urban Development Corporation, the economic development agency, are terribly important for the New York, but they are also very sensitive positions and Urban

Development Corporation has enormous power, so Urban Development Corporation is the most financially potent agency that this state has. It's a cash cow, gives out millions of dollars in grants and contracts, and I think those members who have been here for some years know that nobody has been more critical of the Urban Development Corporation than I have; and if John Daly were here, he would tell you how often I would go up to him and say, "John, you got to do more about the Urban Development Corporation," and he agreed with me that the powers that corporation has, the potential that it has for overriding local zoning, for giving out contracts, really required much more supervision by us.

And it's, therefore, clear to me that any nominee in that position has to be, yes, close to the Governor, have the Governor's trust, and I think we all know that Vince Tese was probably one of Governor Cuomo's closest confidants, and I'm pleased that Governor Pataki seems to have great faith in Charles Gargano,

but there is another qualification, and that is the qualification that all of us have an obligation to see is provided by this nominee; and that is, a record, a background without any question, without any doubt, as to the way that he has conducted himself in his financial affairs and matters.

We're not just here to be doormats for the Governor, and I really plead with my Republican colleagues that we don't just make this a -- where the Constitution says with the advice and consent, that we don't make it as I said in another occasion "advice and applaud"; and the questions and the issues that we have raised today are genuine. They are legitimate, they are factual, and they deserve answers; and I know at the Finance Committee, one my good friends and our colleague got up and said this is all political and so on. It's not. It is absolutely not.

We have raised facts. If you heard Senator Dollinger, he gave you chapter and verse of instances where this nominee failed to

be as forthcoming as is required by the law and certainly as is required, it seems to me by the important position that he has been nominated for.

I am concerned about two aspects. One, the omissions in the resume and the failure to give clear answers to questions that were posed to him. Now, one omission, two omissions, that can happen, particularly if, like Mr. Gargano, you have had a very active financial and business life, you leave something out. But when you have a pattern here, that is disturbing. So we're not just talking about failure to list $400,000 worth of stock; and maybe in my financial situation, it's unthinkable how you could fail to list stock ownership worth $400,000, but maybe for some people in their assets $400,000 is something that you can overlook.

But then I asked Mr. Gargano today about a lawsuit that he filed in the tax court, he and his wife filed, that he had no recollection of; and, again, I accept even that

it was some years ago. He is had a lot of other things on his mind, but I can not understand how a nomination of this importance that he doesn't go to accountants and lawyers that there isn't care taken with the financial statement and the resume. I think we have a right to demand that. I think we have an obligation to demand it.

And the fact that there was this carelessness, if you will, cutting corners, and I don't think there was an intent to intentionally mislead the Senate and, oh, I'm going to keep those things hidden. As I understand it, there was an attitude; and I understand this was also true in dealing with the second floor, like, "Listen my matters are my matters; it's really not that important." Well, I think it is important, and I am concerned when a nominee for this sort of a position -- frankly, for any position but for this sort of a position feels, well, he doesn't have to really work at making that disclosure, at sharing that information.

Senator Dollinger talked about the affidavit that was filed in court. I think that's a serious matter. I don't think it's just well, it's a game; I wanted to get away from being served. I think to file an affidavit with a court to say that you are not working for a particular corporation at a particular place when the financial records show that you have received compensation of $75,000 and when the nominee himself stated, "Yes, I did consulting work for that corporation which happened to be the family corporation," I find that disturbing.

I'm also disturbed about the fact that the nominee would not make a commitment that he was not going to engage in fund raising. Now, let me say the fund raising that he did, we have no criticism of it. I have never heard anybody say that he did it improperly or illegally or that any issue has ever been raised about him strong-arming people. But in the position which he is going to hold, to go out and fund raise, inevitably raises a conflict in view of the importance and

powers of the UDC and the Department of Economic Development, and I find it very hard, even all the other things aside, to vote for a nominee who is going to hold that position who won't make that pledge. Now, some people are going to say, well, Vince Tese went and he raised money for Governor Cuomo. Is that the standard that you want to accept? Is that the standard now that we're going to say? And I think there is a difference because while Vince Tese went and raised some money, he was not -

ACTING PRESIDENT KUHL: Senator Leichter, excuse me just a minute.

Senator Libous, why do you rise?

SENATOR LIBOUS: Senator, will you yield to one question?

SENATOR LEICHTER: Yes, as soon as I finish this sentence. I was just going to say that Vince Tese was not the consummate professional, almost, fund raiser that Mr. Gargano was and, therefore, there is certainly a difference.

I'll yield, Senator.

ACTING PRESIDENT KUHL: Senator Libous, the Senator yields.

SENATOR LIBOUS: My question was going to be you obviously must have accepted that standard when you supported Vince Tese's nomination?

SENATOR LEICHTER: Let me tell you, when Vince Tese's nomination came before us there was no question of his being a massive fund raiser because he had never engaged in it. I assure you that if he had done that and had the same background as this nominee that I would have insisted that he take the same pledge that I have asked of this nominee.

ACTING PRESIDENT KUHL: Senator Libous, are you asking the Senator to yield?

SENATOR LIBOUS: Yes, certainly.

ACTING PRESIDENT KUHL: Senator yields to another question.

SENATOR LIBOUS: So you're telling me at the time of that confirmation you were unaware of any fund raising that that candidate did for the Governor at that time?

SENATOR LEICHTER: Absolutely, and I don't think that Vince Tese at any time, certainly not before he became the head of the UDC and I don't believe after, did fund raising in the amounts that Mr. Gargano did, but I think it was wrong. I think it was wrong, and I don't think that I want to establish as the standard of what is right for New York State what happened in other administrations. I think that we learn. I think that we get better, and I have no problem in saying we are going to impose standards that we didn't impose sometime ago. If you want to argue on the basis that -

SENATOR LACK: Senator Leichter will you yield for a question?

SENATOR LEICHTER: If I may just finish, Senator Lack.

ACTING PRESIDENT KUHL: Senator Lack, the Senator refuses to yield at this time.

SENATOR LEICHTER: If you want to argue that you see no ethical problem, no difficulty, no risk of any conflict in the head of the Urban Development Corporation going out

and raising money, I can accept that argument. I will disagree with you. But if your argument is going to be, well, it was done before. Boss Tweed did it, so we can do it now. I don't think that that's really your position because I know you to be somebody of very high ethical standards.

ACTING PRESIDENT KUHL: Senator Libous, why do you rise?

SENATOR LIBOUS: Mr. President, and, Senator Leichter, that wasn't my argument. My argument was -

ACTING PRESIDENT KUHL: Senator Libous, are you rising to ask a question of Senator Leichter? Are you asking him to yield the floor? Senator Leichter has the floor.

SENATOR LIBOUS: I'll put it in the form of a question, then.

SENATOR LEICHTER: Sure.

SENATOR LIBOUS: It was okay then, but it's not okay now; is that what you are saying?

ACTING PRESIDENT KUHL: Senator

yields.

SENATOR LEICHTER: I am saying it wasn't okay then and it certainly is not okay now.

I'll yield to Senator Lack.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Yes, Senator Leichter, I'd just like to know, considering what the job does, would you prefer that the person who holds that position get on-the-job training to be a fund raiser; and are you really against us because we take an accomplished fund raiser, somebody who already has those credentials, known credentials and puts that person in the job? But it's all right when the person gets there, is that your position, that they learn fund raising on the job?

SENATOR LEICHTER: No, no, Senator. I made it very clear. I don't want the head of the Urban Development Corporation who gives out contracts to lawyers and insurance companies and contractors and all sorts of

people to do any fund raising even if he's never raised a dollar before or whether he has raised $100 million before. I don't think he should do it.

And I asked this nominee would he say that he would not engage in fund raising; and while he, you know, made certain statements, he refused to make that statement, and I think that's important. I think it's important for all of us to impose that on somebody who is the economic development czar of the State of New York.

SENATOR LACK: Mr. President. Can I ask Senator to yield to another question, please?

ACTING PRESIDENT KUHL: Senator Leichter, do you continue to yield?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LACK: Mr. President. Senator Leichter, could you please inform the body how many times after you might have become

aware -- he might have become aware, Mr. President, that the former occupant of this position, Mr. Tese, was engaged in fund raising did Senator Leichter draft and release press releases calling on Mr. Tese to resign his position; and particularly during the last gubernatorial campaign, how many press releases or public statements did Senator Leichter make that Mr. Tese should resign his positions?

SENATOR LEICHTER: Senator Lack, I didn't do it. I was not aware, first of all, that he was engaged in massive fund raising.

SENATOR LACK: I didn't know it and I wouldn't know it if he did it. All right. I hear your position. Thank you very much, Senator.

SENATOR LEICHTER: Fine. But, Senator, I think you know me and you know I speak my mind, and I have had enough disagreements with Governor Cuomo and also Vince Tese, but I tell you that it's something that if it had been called to my attention, I would have done. I should have done it if it was so, and I

assure you that I'm not trying to apply a double standard, and I would hope and I think it's the case that if Governor Cuomo had been reelected and we had now to pass on the confirmation of Vince Tese that I would do the very same thing.

I think really that's the issue; and, Senator Lack, I say the same thing I said to Senator Libous and I say the same thing to everybody here because I think we all have a high ethical standard. I don't think that we should argue because it was done in another administration -- because it was done in the days of Boss Tweed and so on, are you going to argue, well, we have a right to row up the Hudson River with a satchel bag full of dollars and pay off the legislators. It was done then. It was wrong then, and it was wrong -- if Vince Tese did it, it was wrong; and it's wrong in that position to be an active fund raiser. It's as simple as that.

SENATOR LACK: Thank you, Senator. I'll save my remarks for when I speak.

ACTING PRESIDENT KUHL: Senator

Velella, why do you rise?

SENATOR VELELLA: Will you yield for a question?

SENATOR LEICHTER: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR VELELLA: I understand your argument that it was wrong if Vince Tese did it and it was wrong if his successor would do it. I just want to ask you, did you ever take a look at Mario Cuomo's filings and compare what he received for his campaign committees against the economic development grants that were made in New York State? Did you ever have that much concern about the integrity of the process when Cuomo was in office and why this new found concern about the integrity? Does the fact that it's a Republican governor make it that much more pressing in your mind; and might that be politically motivated more so than not even caring to look and see if Vince Tese had been soliciting people from the economic development grants?

SENATOR LEICHTER: Let me assure you, Senator Velella, that it is not the fact that this is a nominee of the Republican governor and this is somebody that raised a lot of money from the Republicans. That is absolutely not a factor in me. If you want to say, Leichter, you should have done that, I will concede it. I should have. You are absolutely right. I should have done that.

Let me just conclude. You know we have heard some very fine things about this nominee, and I think for various jobs, for various functions, there is no question this seems to be a very fine person. I don't know him myself, but certainly when you hear what he did to help Italy in the earthquake; he seems to have been extremely active in his community and philanthropic matters; but it seems to me that all of that is really almost irrelevant. The fact that he was confirmed by the U.S. Senate in 1981-82 for position as Ambassador as if everything he did since then, as if any affidavit filed afterwards in court whether

accurate or false is irrelevant. Obviously, that's totally meaningless, and the fact that he was honored as he has been by the government of Italy, that speaks very well for him. But none of that, none of that, can excuse or explain the failure to present us with a complete record and particularly of his financial dealings, of his lawsuits, of his stock ownerships; and I think none of that has any bearing on a nominee who is stepping into this position, going to be the head of this cash cow, and who says I'm going to continue to be an active fund raiser. That it seems to me is something that to my mind make him not qualified for this position.

I'm going to vote against this nomination.

ACTING PRESIDENT KUHL: Senator Waldon on the confirmation.

SENATOR WALDON: Thank you very much, Mr. President. What we're experiencing here today in my opinion is not about Ambassador Gargano at all. It's about a process. It's about a process that has given us a very good

view under a microscope of our conversation and dialogue today about disrespect, disservice and deception. We are witnessing a raw exercise of power.

Last Friday, I am told that the Minority Conference became aware that Ambassador Gargano would be proposed this week. That did not give sufficient time to the Minority to have all of the information related to this gentleman. I am sure that Mr. Gargano is honorable, respectable. He certainly has had an extraordinarily successful life, one of which he and his family should be quite proud; however, the disservice has been, the deception has been that the Republican Majority did not allow the Democrat Minority to have time to become sufficiently aware of this person, this candidate, this nominee so that we could make a valid judgment about his capability to serve. There was deception to the candidate. He was not told that he would be thrown into this, if you will, hot bed of controversy not of his own making, necessarily, but because people are

upset and disturbed that they should be so disrespected as to be excluded from the process. That is a collegial body. We are accustomed to scratching each other's backs. We are accustomed to making deals. That's how we got here.

Yet about something that is as important as who will lead the most important - being redundant -- economic arm, perhaps, of state government department, we're not made aware of what the real deal is. I'm not in a position to admonish my Republican colleagues, nor is it my style, but I would suggest to you that one day down the road on something perhaps as important as this or less important than this nomination, you will need some of us on this side of the aisle who can think rationally and sometimes with our hearts and who want to do the right thing about something that you suggest, and it might make sense for you to take a posture which says, well, let's at least communicate to Marty Connor, our Leader, what is going on, because when there is no communication

there is no ability to have a valid judgment on this side of the aisle.

So I believe that you, meaning the Minority Conference, did this candidate a tremendous disservice and in doing him a disservice with the deception you did a disservice not only to this body and to your colleagues who happen to be Democratic but to yourselves as well. But, most importantly, the deception and the disrespect ended up in disservice to the people of the State of New York who need to have a good Commissioner in this position.

So I would just suggest, please, in the future recognize that we, too, need information in order to make valid judgments. It's not going to undermine you or undermine your process, but give us some lead time so that we can think and get our act together. Maybe we're not as quick as some of you. Maybe we're not as fast studies as some of you, but we're here to serve and to serve well, as are you.

Thank you very much, Mr.

President.

ACTING PRESIDENT KUHL: Chair recognizes Senator DeFrancisco on the confirmation.

SENATOR DeFRANCISCO: Thank you, Mr. President. Just briefly on the process, I have been here a short three years; and, quite frankly, I don't see a difference in the process today as there was the last couple of years whenever we had a confirmation, so I am very comfortable that the process has been applied whether it's a Democratic governor or a Republican governor in the same fashion. My view of what we're supposed to do in this body when we receive a nominee is to determine whether the individual is capable and qualified to perform the function.

Unfortunately, when you have an individual who has a substantial business background with many holdings with much experience, with much success, I might add, that individual is subject to more and more scrutiny about his personal affairs, his personal

business acumen, his contacts, and the like which I think is a bit unfortunate.

Let me draw an analogy to the Supreme Court nominees that have to appear before the Senate for confirmation. Over the years, you are better off if you want to be a Supreme Court judge if you've never had an opinion on anything. If you've never had a published opinion that could be criticized because maybe your philosophy is not the same as the individual who is doing the inquiry.

Similarly, if we're looking for someone that has no business background and that doesn't have a lot of dealings with different people under different circumstances, it seems almost you are more qualified because there is nothing really to criticize. To me, what's important about this particular nominee is the fact that he has a broad range of business experience. He has an ability to bring this state in the different direction, the direction that we've been trying to bring this state in and all of us want to bring the state in; and

with his qualifications, with his experience, and with his success, I think he will bring success to the State of New York, and I will be more than happy to support this confirmation.

ACTING PRESIDENT KUHL: Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Mr. President. I rise to second the nomination of Charles Gargano. The Ambassador -- I happen to know the Ambassador for approximately five or six years. I think that the question is whether he is immensely qualified. I think he is. I support his confirmation. I think that when they mention about the United States Senate I think it was somewhere around 1988 where he was confirmed and possibly prior to that in 1981 for the federal position that he undertook then, and I support his nomination and confirmation and wish him all well.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack.

SENATOR LACK: Thank you, Mr.

President.

After seventeen years in this body, I finally learned something new about democracy today in the land of the free and the home of the brave, and that is when Senator Mendez stood up to praise a nominee from a Republican governor, she was immediately attacked. There was an attempt to eat her up from her own side.

So my congratulations to the members of the Democratic party in this house you certainly know how to keep an even standard of things and make sure -- make sure that you carry out what we Republicans have been saying for all these years, that when it comes to running a monolithic political party, you people certainly know how to do it better than we do.

Now, I'm probably the only person from Long Island who hasn't known Charlie Gargano for 25 years, but as I've heard the Democrats today list his assets, I wish I had known him for the last 25 years.

The only conclusion I can draw

today is that if you want somebody to head UDC and head economic development in this state, God forbid that he ever had anything to do with it, because we certainly don't want anybody who is successful. We certainly don't want anybody who has been in business. We certainly don't want anybody who's ever built things. We certainly don't want anybody who has been known, and we certainly don't want anybody who wants to sit here and listen for two hours to this awful, god awful, political exercise that we have been put through.

You know I used to enjoy the fact that we, the members of the New York State Legislature, have immunity for being sued for anything we say on the floor of this Legislature. I might just put in a bill to repeal that. Maybe it will change some of the tenor of some of the remarks I have heard today about this mystery person that we are obviously trying to confirm, a mystery person that at least seven Senators have stood up and said they have known for 25 years; yet one person stood up

and said he is obviously not registered to vote.

Well, Mr. Ambassador, I want to congratulate you. You are probably the only person in history, at least who's been publicly credited, with raising $14 million dollars to get a governor elected in this state, is known to be the chief fund raiser for what my Democratic colleagues like to refer to as the junior Senator from State of New York; and, if that's the case, after what he did last night, I'd hate to see what happens if he ever became the senior Senator from New York; but, besides that, I want to congratulate you that no one has ever heard of you, but you raised 14 million. You are the chief fund raiser for the person who is now the head of the United States Senate Campaign Committee, but we don't know who you are.

If there is some inconsistencies, my colleagues on the other side of the aisle, let me you explain. I know Senator Gold is looking at me saying Long Island is going to get

its share. Well, if we can get our share by getting appointees of the caliber of Charlie Gargano to take over those positions in state government which have run amuck for these past years, I would like nothing better.

Of course, as Senator Leichter - and I admire Senator Leichter, because I truthfully believe that Senator Leichter believed everything he said. If everybody on the other side of the aisle was like Senator Leichter, this would have been a much shorter debate. However, Senator Leichter, some of your colleagues, quite frankly, don't fit into that mold. If there is anybody other than Senator Leichter in this room who thinks that Vincent Tese never raised a dollar for a political party, please stand up now. Anybody, Republican or Democrat, who doesn't think he ever raised a dollar, stand up right now.

(There was no response.)

Now, if there is anybody who ever thinks that Vincent Tese who held these positions before Ambassador Gargano never came

onto Long Island or any place else and tried to raise political havoc, please stand up now.

(There was no response.)

He never showed up any place. Never tried to bring UDC out, never tried to come into the Town of Huntington to try to change things around. No-no, no-no, we had a nonpolitical operation, and there was certainly not under Governor Cuomo any awarding of grants, items, hiring of counsels or anything that were in the least bit political in this state. Aw, come on, for shame.

I mean I have listened -- I will yield when I finish, Senator. Thank you. Just like you.

I have listened here very nicely all afternoon, and I -- I know you people don't want to hear it because this isn't a political conversation, but it occurs to me that the only two nominees my colleagues on the other side of the aisle have bothered to stand up and make a "federal" case about has been John Sweeney and Charlie Gargano. Now, I know that has

absolutely nothing whatsoever to do with politics, and I want to congratulate all of you over there.

Now, Senator Dollinger, you are really the best. I mean you really are. I mean lord knows you are a great litigating attorney. Now, that was a wonderful affidavit you stood up and read. It really was. Mr. Gargano said in the affidavit, for purposes of where I'm going to be served, I'm retired and I don't work; and Senator Leichter or whoever stood up and said, "Yeah, he earned $75,000." As what? As a consultant for the corporation.

Well, I know none of you over there has ever done any consulting work. Of course, if you ever leave the Senate and you want a political contract for consulting work, maybe Ambassador Gargano will help you out. But, besides that, in any event, you might not have an address where you can get sued at for purposes of where you are doing your consultancy. But let's stand up and read that affidavit because that really means something

that he wasn't working as an officer or an employee from 9:00 to 5:00 at that place of work in Bay Shore, Long Island.

That's right, Senator Dollinger, he wasn't. He was a consultant to a company for which he earned money, but he wasn't at that address day-to-day receiving and filing a time sheet for his hours. By the way, no one here files a time sheet, either, as a member of this Legislature, but that's okay. We wouldn't want to expect that for our appointee.

All I can say is after listening to this, listening to this, is there any wonder, is there any wonder, why the Governor of this state is trying to downsize this state's government.

Ambassador Gargano, I wish you all the luck. Quite frankly, I don't know why after you have listened to all this that you want to take this on publicly, but the fact that you do and the fact that you have sat here all afternoon as whatever has transpired here - certainly nothing of any great value -- my

congratulations to you. I wish you good stead and good luck in everything that you undertake.

And, yes, Senator Gold, I will yield to you feel.

SENATOR GOLD: Thank you. Mr. President, if -- the Senator said he'll yield.

ACTING PRESIDENT KUHL: Senator Lack yields.

SENATOR GOLD: You indicate all of these things that you said that Vincent Tese did. I have one question along those lines. Are you also saying that Vincent Tese misled the Senate committees with his answers on his resumes, et cetera?

SENATOR LACK: No, I don't think Vincent Tese misled with his answers on the resume, and do you want to know something, Senator Gold?

SENATOR GOLD: Sure.

SENATOR LACK: I don't think Charles Gargano did either. I'm sure you can stand up -- I mean I've got a Red Book here. We are going run out of time in 15 minutes and the

president would not like it, but I could stand here and start reading all the self-made descriptions of every member of the Senate as put in by every member of the Senate as to all the great things they've -- ever did in their life, and I'm sure since we've all submitted these ourselves, there is absolutely no inaccuracy whatsoever on any page in this book on anything that's ever been submitted by a member of the Senate about his or her background; and if anybody would like me to stand up and read their biography as they submitted it and all the great things they have always done, then I've got no problem and I'll be glad to read out everything they've done.

SENATOR GOLD: Senator, will you yield to another question?

SENATOR LACK: Yes, sir.

SENATOR GOLD: Are you saying I'm really now upset, because I'm taking you very seriously. Everything you say makes sense, so I'm taking you very seriously, but are you saying that there are members of the Senate who

have given their resume and that they're not 100 percent accurate.

SENATOR LACK: I wouldn't know that, Senator. I just said that I would offer to read everything that anybody submitted here.

SENATOR GOLD: Senator Lack.

SENATOR LACK: Yes.

SENATOR GOLD: You know, the thing that bothers me let's get it out on the stable.

ACTING PRESIDENT KUHL: Senator Gold, are you asking the Senator to yield.

SENATOR GOLD: Yes.

ACTING PRESIDENT KUHL: I'd appreciate it if you keep the conversation through the chair. Senator Lack, do you yield?

SENATOR GOLD: You are absolutely right, Mr. President. It's refreshing.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator Lack, what bothers me and I would like your comment, the individual involved has worked in a lot of areas

and, on the face of it, has experience, but are you saying that if you have a certain amount of experience that at that point in time you become immune to people saying to you what about this and that, and you don't have to answer the questions accurately. You can fudge them, you can mislead them; and as long as the person has a resume that sets forth a good deal of itemization on other things you say those are irrelevancies. I can't believe that is your position, Senator.

SENATOR LACK: I didn't say that at all, Senator.

SENATOR GOLD: Well, then, Senator, if you will yield to another question.

ACTING PRESIDENT KUHL: Senator, continue to yield?

SENATOR LACK: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: I'm not arguing that this man has certain experience. What troubles me and other people is a lack of candor

about things which are significant and which were to be answered, and I have to believe, Senator -- I mean you can make all of the remarks about this being political and we care because this guy is a fund raiser. That is utter, utter nonsense. It's utter nonsense, because I'll tell you something. If George Pataki had people who were qualified and who did him political favors during the campaign and they are qualified, I don't have a problem with his making those appointments. He has a right to do that. It happens all over.

The questions here are legitimate questions and if you don't see them as legitimate, Senator Lack, then I got to wonder about you, and I don't wonder about you because you are a darn good lawyer. Now, you are carrying the coals here today and you got to do it and I respect that. But let's put it on the table. If Mario Cuomo were the governor, and this came before the Senate and you had a nominee with a great background on paper who didn't answer questions accurately and there

were questions about lawsuits he forgot about and there were boards of directors that he said he was on that he wasn't, you guys would never confirm him if it was a Mario Cuomo appointment.

ACTING PRESIDENT KUHL: Senator Gold, that's the longest question I've heard in my life and I feel I haven't heard it yet. Are you asking a question, Senator Gold?

SENATOR LACK: Yes, I was looking for the question mark, Mr. President.

SENATOR GOLD: Yes. Isn't that right?

ACTING PRESIDENT KUHL: Senator Gold -- Senator Lack, you have the floor.

SENATOR LACK: If I may answer Senator Gold's question. No.

ACTING PRESIDENT KUHL: Senator Larkin on the confirmation. Senator Larkin passes.

Senator Stafford on the confirmation.

SENATOR STAFFORD: Very briefly Mr. President. What we've always tried to do

and we did today in the Finance Committee, everyone talked who wanted to talk, everyone asked questions who wanted to ask questions. Let's make that very, very clear.

Now, I would also point out I have to mention fund raising. Some of us have not been too much involved in fund raising because thirty years ago I had a couple fund raisers and I lost money, and I decided that, you know, it doesn't help that much. But now today we have to have it, and I understand that.

Now, I -- you know, things are mentioned during these debates. Now, casino gambling, I only point this out because, again, it depends on where you are coming from. Now, the thing is I could say that the native Americans are able to have these casinos because in the middle of the night they passed a bill and that was included and it was for industrial development, economic development. Now, the problem is in my area it's getting so, most of my colleagues know, you can leave Plattsburgh

and within 45 minutes going north you are in a very fine casino; and in about a month or less if you go west you are going to be at a very fine casino right on the border of the reserve.

So, again, we can suggest that that's all bad to be involved in, but it's the real world.

I would only emphasize this point if we're going to have people in government who have had experience who have worked, I assure you, and I say this in complete good faith, anybody who has ever filled out an SEC application, if you are on a board where you have to fill out a form for the SEC, you have to fill it out every year, and believe you me, you have no idea. To get that perfect, you have no idea the time you have to spend on it, and you can say that's part of the problem, by the way, to leave it to your accountants and I won't say lawyers but, yes, lawyers, and sometimes it isn't as perfect as it should be.

I make this point. I looked at this. As far as the bank board is concerned, I

believe the Ambassador was forming a bank; and then when he got started into federal service, he withdrew. But I think we could just go on and on and on. The Tax Court, I notice that it was the party suing the Internal Revenue and the United States of America. Well, that's the right side! And then it was withdrawn. It was withdrawn, and it was mentioned here. All of us could go to our lawyer. We could talk about it and say, "We're going to do this," and we're all the same. When you sign a form or sign an affidavit or if you sign the complaint in a matter and you have a lot of work with your lawyer, I can see that happening. I can see the matter proceeding, then it's withdrawn. I will only say that we could go on and on and on. But, Mr. President -

Well, I have to also commend Senator Lack because I thought this was going to be the key point that I could make tonight to show that I practice a little law. But, again, the CPLR, that's what it's all about. You have to be working there. You have to be an employee

and you can be served. If you are a consultant, it does not make it possible for you to be served or if you draw dividends, so you also can be paid.

But I have to say here, Mr. President, we have a nominee who has done a great job, family, business, government, political party. I believe this is correct. He received from the State Department a top secret clearance in 1988; and for any of you who have been through that, I assure you that is not obtained easily.

Mr. President, yes, it's our good fortune that Ambassador Gargano, Charlie Gargano, worked hard for our candidate, our successful candidate, Governor Pataki. He understands business. He understands the political system. I think that he is just the person to be serving as the economic czar, as chairman of the UDC, and as Commissioner of the Department of Economic Development. I say here today that we are better and will be better here in New York State because of Governor Pataki's

nomination of Ambassador Charles Gargano and that we in the state will be better when he serves and carries out the responsibilities of these offices.

ACTING PRESIDENT KUHL: Chair will recognize Senator LaValle, then Senator Connor to close for the Minority and Senator Bruno to close for the Majority.

Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

Certainly, those of us who live and have been involved in public life know of the record of Ambassador Gargano; and, certainly, many speakers have indicated many of the things that he has been involved in; but I would just like to pick up where Senator Lack left off with a rhetorical question of why Ambassador Gargano, given such a distinctive career, would put it all on the line to receive an appointment and go through what he did today?

There is no doubt that a person

is fair game in questions that deal with -- you have stock; what are you going to do with it, how are you going to handle certain matters, and so forth, and there was certainly a significant amount of that questioning in the Finance Committee. I think the Ambassador answered those questions straightforward. Where he did not have an answer, he simply said, "I don't know. Some of those matters were handled by an accountant or an attorney," and so forth, and I think he was very, very straightforward.

But what is important for this body and our process is the fact that we do not dissuade competent and the best and brightest of our citizens from public service, and that's what this is all about, Ambassador Gargano. Certainly it's not the salary. It is something that he feels he can contribute in moving this state with our Governor and this Legislature out of economic doldrums to return it to a position of the Empire State, to create jobs, to give people a sense of security, and we haven't dwelled enough about his credentials, his

education, degrees in engineering and in business. A successful business person who knows how to make thing happen, what kind of better person do you want in a leadership position to lead this state forward to interact with business leaders across this state; and he has already had many dealings with people from one end of the state from Montauk Point to Niagara Falls, and so we are very, very fortunate to have a person who knows how to make things happen, who knows how to sit down with business leaders in this state to make and create jobs; and I think we all know being public officials that one day in one bit of scrutiny does not end there. Each of us as we conduct ourselves are constantly under scrutiny, and so I believe that both in the committees, the standing committees that examined this nominee and today in the Finance Committee, in this debate, I'm not sure there are many people that have come before this august body who have received greater scrutiny.

So, it's indeed -- as a Long

Islander to rise today to talk about this nominee as many have done, and I believe that his credentials, his energy and his success in the business community will be a great help to creating jobs and returning economic vitality to this state.

ACTING PRESIDENT KUHL: Chair recognizes Senator Connor to close debate for the Minority.

SENATOR CONNOR: Thank you, Mr. President. You know, I have heard a lot in the time I was out here about how the Senate ought to approach confirmations, and I think back many years ago to when Senator Levy, in fact, was chairman of a committee and raised questions about a nominee, witnesses were subpoenaed and testimony under oath was taken for -- went on for months until the nomination was killed and that clearly was the political directive of the Majority Leader at the time. But it was a process that certainly had all appearances of being a diligent inquiry and many steps were made.

Other nominations over the years when it was a Republican Senate examining a Democratic governor's nominees delved quite extensively into the nominees and their backgrounds required great exposure.

I remember -- you mentioned Vincent Tese. When he was first nominated twelve years ago, it was as Superintendent of Banks, and he had divested himself into a blind trust of all stock and investments; and when he appeared before the relevant committee, and I don't recall which one of my esteemed Republican colleagues it was, but someone raised the fuss about the fact that he still owned gold bars, "...and might that not be a conflict for a New York State Banking Superintendent to own eight or nine million dollars worth of gold bars" as if the New York State Banking Department could effect the world market in gold in Hong Kong, Tokyo, and whatever. Mr. Tese said, "You know what? I don't want any controversy," and he sold his gold bars between the meeting of the Banking Committee and the Finance Committee,

which was an one or two week lapse of time, and he sold his gold bars. The last laugh was on the Senator who raised that, since it so happened he hit a point when the gold was 900-and-some dollars an ounce, made five or six million dollars by selling it at that point rather than later. But the scrutiny, the diligent concern for the potential of conflict in him owning gold -- I thought they were going to make the man sell the ring off his finger to be the Banking Department Superintendent -- was rather rigorous, rather overly -- I thought a little overly zealous; but, nonetheless, this was the way the Senate operated in screening Governor's candidates.

And let me say that not for a moment do I hold it against Ambassador Gargano that he raised so much money for his candidate. I don't resent that at all. I'm frankly envious of it, but I think certainly we are all in politics here. We respect people. As Senator Leichter pointed out, there has been no suggestion, not one suggestion whatsoever, that

he did anything improper in raising that money other than work very, very hard at it, and we all accept that and can appreciate that as a good job well done in politics; and so for that, again, I don't hold that against him. My hat's off to him for that. In fact, in comparing Vincent Tese, I have no personal knowledge of whether he raised funds or not. He may have, he may not, but I assure you I don't think he raised $14 million.

SENATOR LIBOUS: Not even a close second.

SENATOR CONNOR: "Not even a close second," okay. So that's not an issue here.

The issue of how much involvement Mr. Gargano may or may not do as the UDC chair of fund raising I think is one that Senator Leichter explored. I think it's a valid concern to have, and I think we know who is in the majority in this house, and I think that Ambassador Gargano will -- should he be as zealous at fund raising in the future will

probably have to answer to public opinion about that. I'm hoping he is much too busy bringing jobs into New York State and doing his job, much too busy doing that rather than raising money for Republican candidates.

The real concern I have here and it's one of process because I'm concerned about the Senate as an institution, and I think the sometimes overzealous scrutiny that the Majority in this house gave to Democratic governor's candidates did two things. It set a standard you ought to still abide by and, secondly, it delivered some degree of comfort to people on this side of the aisle that while it was our governor's nominee coming up, we knew they were being run through the ringer, so to speak, and they were being forced to disclose interests which may be real or apparent conflicts. I think there is some concern on this side of the aisle, and we understand certainly the desire of the Governor, and the Majority to assist him, in getting his administration up and going. That's legitimate. I don't think we want to see any

shortcuts either on time and we don't want to see any shortcuts on the substance of disclosure.

Now, certain issues were raised. Senator Stafford said, "What's wrong with casinos? They are there." I don't see anything wrong with casinos. I have not made a judgment and I think most of my colleagues have not made a judgment about whether or not casino gambling is a desirable thing for New York State to undertake or authorize as a matter of economic development, but I think we all know it is a present issue. It is an issue this year, next year; it's been an issue. It was almost an issue the last day of session last year, and I think people can see that -- I would hope that whoever is in charge of economic development for New York State would opine about that to us, would investigate it, would have a role in that, and I can see where the public at large, whatever we decide about, for example, casino gambling, the public certainly has to be reassured that when we make that judgment that

that's the best judgment we have for the welfare of the people of the New York and the economy of New York. I don't think there ought to be any cloud or anybody questioning, "Gee, did somebody have an interest that influenced them one way or the other," influenced them to be for casinos because "Oh, boy! I own some casino stock" or "Gee, I'm against casinos because I own some casino stock and have a couple going on native American reservations." So I was greatly concern about that holding.

I appreciate Ambassador Gargano brought that up to me and said, "I will resign as a director." I think the number of shares involved is probably significant, and something ought to be done about that, perhaps a blind trust or disposing of them even as Mr. Tese disposed of his gold bars once upon a time.

I think that other questions have been raised since then, and I ascribe absolutely no conscious attempt to mislead to this. I don't think for one moment Mr. Gargano thought he would deliberately mislead the Senate or hide

anything. I don't look at any bad motives here, but I think someone who is about to be confirmed to such a high position who has been such a remarkably successful business person, obviously someone who is successful in other endeavors, just about everything he tried, business, fund raising, whatever, ought to have been more careful and respectful toward the Senate and the public in making sure that, look, if he didn't have it at his fingertips, somebody, accountant, lawyer, business manager, whatever, sat down and prepared these disclosures so that they were full and candid disclosures; because, regrettably, when I pick up a newspaper and hear about two corporations I never heard of before and some other interest I never heard of, naturally your first conclusion is, "What else is there?"

I don't mean that as a matter of innuendo. It's just a natural reaction, and why wasn't this down on the paper we Senators were given, and I think that reflects back, and I would urge the Majority -- and I know it's a new

experience for the Majority to be -- at least new for the last 20 years to be screening nominees of their own party's governor, and I urge you in the future, you know, to insist on that disclosure because it's not just upholding the Senate as an institution and its institutional role. It's not just protecting the public. I think it's a good service for your governor. It's a good service for your party, and it's a good service for your party's nominees. If your staff rather than say, "Can we get Ambassador Gargano through quickly? He is a good guy. He has been such a good Republican," if instead of that you encourage your staffs to, say, sit down with that nominee and put him through the mill a little bit like you did Cuomo's to make sure we get it all out there so nobody gets embarrassed in the end and there are no appearances -- no appearances -- of conflicts and no spectre of conflicts.

I'm very, very disappointed about the way the process was here when some of these items that were unexplained or undisclosed were

called to my attention at the end of last week, I asked my counsel to write a letter to the second floor, specify we would like this following information about Ambassador Gargano. These questions have come up. What's this corporation? What's that one we haven't heard of before? The reply we got was perfunctory, was not the kind of detail that I would expect, that I think you ought to expect under such circumstances.

And all of that leads me to really a very regrettable conclusion and that is, today, standing here now forced to vote, I have to vote no on this nomination not because I think the Ambassador has done anything consciously wrong -- I don't think he has at all -- and not because he doesn't have an impressive resume -- he does -- but because the process and the lack of candor, the lack of - and, by the way, I do blame, not in a conscious way, I think the Majority could have prevented a lot of this by insisting, even though it's a nominee they clearly like, insisting that all

the blanks be filled in before the process went forward.

So, Mr. President, it's with a great deal of regret that I will vote no today, and I think some of my colleagues who will vote no share that regret. I don't think it's meant to cast any aspersions particularly on Mr. Gargano but on the process and on the way -- and I think -- by the way, I think this Senate has a duty to the nominees to take them through the process and encourage them to make full disclosure, but on the record before us today there is no choice but to vote the way I've indicated.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The chair recognizes Senator Bruno to close debate on the confirmation.

SENATOR BRUNO: Thank you, Mr. President. We've had a long afternoon, and I'm on my feet really to thank Ambassador Gargano for all of the good things that he has done on behalf of the people of this state to this day

and having been extremely helpful to our new governor, George Pataki, in helping him become governor. Did a great job, and I thank you for that, and I am as certain that you will go forward in helping all of the people in this state in the good work that you are going to do in your new jobs.

I keep hearing about the process that we go through in this chamber, and I am just so pleased to hear my colleagues on this side of the aisle talk about the process, the process (indicating the Democratic side). I'm very happy to hear that you are concerned with the process.

I think it was last year, former governor, sent up 116 nominees that went through this house in two days, in the middle of the night, 2:00 in the morning, 3:00 in the morning, 4:00 in the morning. I am just wondering, Mr. President, where these born again reformers were.

SENATOR CONNOR: I was sleeping.

SENATOR BRUNO: Sleeping

undoubtedly. Where was the process then, Mr. President? Where was good government then?

We did it. We didn't like it, but there was a governor governing. He did things his way. We didn't like it. We didn't agree, but we respected the office, and so we were here in the middle of the night passing during this process that you were all silent in, silent as you sat here nodding -- and not in agreement, but to keep awake.

You really got to examine yourselves because there are going to be other circumstances where we are going to be on this floor having a similar debate because there are other people who are going to come through this chamber and we're going to confirm highly qualified people and we'll ask you to participate in the process, and I'll thank you in advance for your generosity in all the time that you spend talking about how politically operative these people have been.

Do you know what really pleases me, Mr. President?

Finally, we have a man who is qualified to do the job of moving this state forward in economic development. It is no accident in my mind that under the former governor with the former commissioner, New York ranks at the bottom in almost every category of economic development, job loss, lack of jobs in this state, debt, last in this country. Thank you to Vincent Tese and thank you to our former governor; and when we talk about leading the country in job loss, is that a job that we can be proud of?

I am confident, Mr. President, that our new Commissioner, Ambassador Gargano will help the people of this state as he has helped in the past, as you heard on this floor in so many ways.

You know, all of us ought to be proud that a successful business person is willing to take on the challenges to help the millions of people in this state that need help. A highly successful individual, that's what we want, a successful person.

It is not a sin. I have a bullet, a large bullet: It is not a sin to be successful in business in this state. It is not a sin to earn a profit on investments. We should reward people for doing that. We shouldn't punish them for doing that. That's yesterday's news. That's the last 12 years in this state. We're going forward and we're looking forward.

Again, I was chuckling because we talked about this successful businessman with his interests and how that's very disturbing and we should study for weeks and months all of these things that this man has done in his life because he is successful in business. I chuckle because I keep thinking of all of my good friends in this chamber who are lawyers, who are lawyers, and the more money they make and the more clients they have, the more successful they are the better it is for everybody.

Oh-oh. Oh-oh. I'm about to get questioned. I'm getting too sensitive. But if you are, and I -- forgive me, but rarely do we

question attorneys to any great extent as they come forward before us because it's okay, and I get the feeling as a business person myself - and you will just forgive me, please, that, you know, our laws are of, by, and for lawyers, and that has been the case for too long in this state.

But happily now we have a mix, and we have a mix that helps move this state forward. We have attorneys and we have business people and we have real estate people and we have retired people and we have teachers and professors, and that's what governing is all about.

But we are here today confirming, yes, a successful person for a job that needs to be done, and I want to support and I happily support a successful business person to lead this state forward.

So I thank you for participating in the process. Thank you for enlightening us on the process.

And we are listening intently

and, Mr. President, again, I thank the Ambassador for sharing part of his life with us and for all of the good things that he is going to do on behalf of all of the people of this state. We need you, and we welcome you in the state.

And, Mr. President, I move this nomination.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT KUHL: The question is on the confirmation of the nominee, Charles A. Gargano to the positions of Commissioner of the Department of Economic Development and Director and President of the New York State Urban Development Corporation.

All those in favor -

(Response of "Slow roll call.")

Slow roll call has been requested. Are there five members who request that?

There are.

Secretary will read the roll call slowly.

THE SECRETARY: Senator Abate.
SENATOR ABATE: No.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator Bruno.
SENATOR BRUNO: Yes.
THE SECRETARY: Senator Connor.
SENATOR CONNOR: No.
THE SECRETARY: Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator DiCarlo.
SENATOR DiCARLO: Yes.
THE SECRETARY: Senator Dollinger.
SENATOR DOLLINGER: No.
THE SECRETARY: Senator Espada, excused. Senator Farley.
SENATOR FARLEY: Yes.
THE SECRETARY: Senator Galiber voting in the negative earlier today.

Senator Gold.

SENATOR GOLD: Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Gold to explain his vote.

SENATOR GOLD: I'm not going to go into any of the arguments; but in my remarks, I made reference to an answer given by a staff member during the Senate committee meeting, and having been a staff member myself I'm sensitive to that. I want the record to indicate that while I felt that in the general sense we got the wrong impression, I wouldn't want the record to indicate that I thought that the gentleman who works for Senator Stafford did anything other than his job or tried to in any way affirmatively mislead anybody in the Senate.

I vote no.

ACTING PRESIDENT KUHL: Senator Gold in the negative.

Secretary will continue to call the roll.

THE SECRETARY: Senator

Gonzalez.

SENATOR GONZALEZ: Yes.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

(There was no response.)

Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Yes.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Yes.

THE SECRETARY: Senator Jones.

SENATOR JONES: No.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Yes.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

ACTING PRESIDENT KUHL: Senator Larkin to explain his vote.

SENATOR LARKIN: Mr. President. We sat here for almost four hours listening to confirmations, and I have to say to Ambassador Gargano that we appreciate you taking the time to listen, and I hope you listened very clearly to some of those who tried to trash you as the Majority Leader clearly outlined what you mean and what you have done, and I hope that everyone takes heed that we have an individual who could have gone away after he did great things in helping us elect a new governor.

But what did he do? He said, "I helped you get there; I want to be a partner with this state in moving you forward," and, yes, we had people nitpicking. Well, as the Majority Leader said, I could nitpick, too. Some of you over on the other side of the aisle started saying oh nothing. Between July 1 and July 2, we confirmed 41 people in less than 24 hours. How come you never complained about it?

(Comment of "They were qualified.")

They were qualified to whose extent? We did a courtesy to the Governor.

Ambassador, I thank you for putting up with it, and I thank you for being the person that you are. You're quality and we're proud of you.

I vote yes.

ACTING PRESIDENT KUHL: Senator Larkin in the affirmative.

Continue the roll.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Yes.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Yes.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: Mr. President, briefly to explain my vote.

ACTING PRESIDENT KUHL: Senator Leichter to explain his vote.

SENATOR LEICHTER: I just want to

tell my good friend Bill Larkin here that there were some of us who weren't happy with all those nominations being pushed through at that time and some of us who voted, for instance, against the nomination of Mr. Dyson and some of the other nominations. I don't think it was anything for any of us to be proud of. The fact that we did it at that time if the Governor put the nominations before us with inadequate time, that certainly doesn't reflect well on him.

But I am troubled by the Majority continually saying, "Well, it happened in the past, you did it, and so on." Let's be better. That's really the message that we have, and that's the purpose and the aim that we have.

And, Mr. President, for the reasons I stated before, I can not support this nomination. I vote in the negative.

ACTING PRESIDENT KUHL: Senator Leichter in the negative.

Secretary continue the roll.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.
(There was no response.)
Senator Mendez.
SENATOR MENDEZ: Yes.
THE SECRETARY: Senator Montgomery.
ACTING PRESIDENT KUHL: Senator Montgomery to explain her vote.
SENATOR MONTGOMERY: Yes, Mr. President, to explain my vote.
I would like to also join with Senator Larkin in complimenting and thanking the nominee for this time and apologizing for the process; however, I do want to just remind him as well as my colleagues that this is a process unlike what goes on in other chambers in our

country, namely, at the federal level. You know this is the same process that is taking place right now with the Surgeon General nominee of the President. It's the same process that went on with Lonnie Gruniere. She was not as successful in going through it. It is a process that is taking place as it relates to Ron Brown in Washington, the head of the Economic Development Agency national. It went on with several of the nominees put forth by the President for the Supreme Court, and several of them were not successful.

And so though it places a lot of stress on many of us and certainly is not an enjoyable process, it is the process. So I want to apologize to the nominee; but, hopefully, you will understand that we are not out of order in raising questions and issues that we feel are extremely important to this position and to the process.

So I join my colleagues and also standing up with those questions; and since they are not answered, I, too, am voting not against

the nominee but I am voting no on this process.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Montgomery in the negative.

Secretary will continue the roll.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson to explain his vote.

SENATOR PATERSON: Mr. President. I think that there are a number of appointments that the Governor makes that do not

come through the Senate, and the ones that do come through the Senate are those specifically in which the constitution admonishes us to advise and consent, and so I think we have to come to an overall decision and put politics behind us, once and for all, and determine what we are going to investigate and what we're not going to investigate.

To some degree the new governor is trying to say that the financial disclosure forms have, in a sense, been overly scrupulous in the past and, to some degree, perhaps he's right that he is going to maintain control so that people's personal and business finances don't become the object of scrutiny by tabloid magazines.

But at the same time, we have to understand that where there are questions asked that we would like to have answers, and perhaps the answers were made with what the individuals answering the questions in this case thought to be honest answers. But in one case, it led members of the Minority to feel that this person

that was a consultant was, in fact, retired; and that's what caused the problem in that case.

What we need to do is perhaps get together and revisit this whole situation. We had this problem with Mr. Sweeney on January the 16th. I voted for that nomination.

I'm going to vote against this nomination because I don't think a significant effort has been made to improve that process, and I think that Senator Connor and Senator Gold, Senator Leichter, Senator Dollinger and Senator Waldon, really underlined the points that really command us to decide whether or not we're going to have a process or whether we're not going to have one.

But as for Mr. Gargano, I don't know him personally but I will work with him. In fact, I would say if he is confirmed -- and I think he will be -- in his first day he has already provided the state a great service, because I have been looking all over the state for a Republican who will prevent the passage of the death penalty, and he did that today.

Thank you very much.

ACTING PRESIDENT KUHL: Senator Paterson in the negative.

Secretary will continue the roll.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward to explain his vote.

SENATOR SEWARD: Yes, very briefly, Mr. President.

I spent all afternoon and part of the evening involved with the confirmation

process today with the Finance Committee and now here on the floor, and I have been listening very intently to the points that have been raised by some members on the other side of the aisle in both of the forums, and I must say I have heard a lot of innuendos. I have heard a lot of nitpicking. I have heard a lot of what I would consider politically motivated statements and questions.

I think the real question -- and, by the way, in the Finance Committee meeting, I found Ambassador Gargano's responses to the questions to be very forthright and complete.

But let's get to the real question. The real question, Mr. President, is that in the last few years New York State has lost hundreds of thousands of jobs. The real question is what are we going to do to fix our economy in this state? And I think part of that answer to that question, a big part of it, is who are we going to have heading up our Economic Development Department and the Urban Development Corporation, and I have come to the conclusion

that the right person for that important job is Ambassador Charles Gargano.

He brings to these positions the qualities we need, leadership skills, business experience and acumen. He's got the trust and confidence of the governor of this state.

On behalf of the people in my district and across this state who need jobs, I'm very pleased to support the confirmation of Ambassador Gargano. I vote yes.

ACTING PRESIDENT KUHL: Senator Seward, aye.

Secretary continue the roll.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Aye.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Solomon.

SENATOR SOLOMON: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Mr. President briefly to explain my vote.

ACTING PRESIDENT KUHL: Senator Velella to explain his vote.

SENATOR VELELLA: I generally don't explain my vote, and I regret at this late hour when we have other things to do that I have to, but I think we owe to Ambassador Gargano a very clear statement from the Senate tonight that despite the fact that for hours he was grilled by committees, in spite of the fact that

for hours he was talked about on the floor of the Senate not one member who opposed his vote has cited a reason to vote against him reflecting on his integrity, his honesty, his qualifications for the office.

I asked Senator Gold during our debate, "Give me the reason," and again all we heard was innuendos, questions raised and political tones that were used to certainly reflect that he raised a lot of money for his party.

Well, certainly I believe that the record should be clear at this late hour when most of the press is gone and will write a story that his nomination had difficulty in the Senate, I hope that someone will remember that in the course of the debate not one word was said reflecting on this man's integrity or ability to serve in this office.

So I proudly vote to confirm the nominee.

ACTING PRESIDENT KUHL: Senator Velella in the affirmative.

Secretary will continue the roll.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: To explain my vote.

ACTING PRESIDENT KUHL: Senator Waldon to explain his vote.

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

To Ambassador Gargano and his family, I want the record to be very clear that anything that I said in regard to this process was not personal. I want you to know very clearly that it is just part of the process. This is a political process, and it is my desire as a participant of 61 that I be accorded the same respect as my Republican colleagues, I be accorded the same information as my Republican colleagues wherever possible.

This is not directed toward you, my actions, nor your family nor your history as a very successful person. I want you to also

know that as part of this process, once you are confirmed, that no one will work more diligently with you than myself and my staff because it is necessary in the service of the 300,000 people from the southeastern corner of Queens that I do that. It is the mandate when they send me to this office.

Equally important is the mandate that I raise concerns which I feel are moral imperatives; and to be outside of the loop of information which would allow me to make a very valid decision in regard to your candidacy, I was not included within that loop; therefore, this process today.

Thank you very much, Mr. President, for your indulgence.

ACTING PRESIDENT KUHL: Senator Waldon how do you vote?

SENATOR WALDON: (Indicating no.)

ACTING PRESIDENT KUHL: Senator Waldon in the negative.

Secretary will continue the roll.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: Secretary will call the absentees.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Hannon.

(There was no response.)

Senator Markowitz.

(There was no response.)

Senator Santiago.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 36. Nays 18.

ACTING PRESIDENT KUHL: The nomination of Charles A. Gargano to positions of Economic Development and also Director and President of New York State Urban Development Corporation are confirmed.

Congratulations.

(Standing ovation.)

Senator Bruno, earlier today

there was a Third Reading Calendar reported as Calendar Number 100, Senate Print 2241. The bill was temporarily laid aside.

What is your desire with regard to that?

SENATOR BRUNO: Mr. President. Would you lay that bill aside.

ACTING PRESIDENT KUHL: The bill is laid aside.

SENATOR BRUNO: For the day.

ACTING PRESIDENT KUHL: For the day.

Senator Bruno.

SENATOR BRUNO: And there being no further business to come before the Senate, I would -- we have announcements to be made when we finish this one by Senator Larkin.

ACTING PRESIDENT KUHL: Chair recognizes Senator Larkin for an announcement.

SENATOR LARKIN: Mr. President. There will be a meeting off the floor tomorrow of the Local Government Committee on one bill. It will be called as soon as we arrive at

session.

ACTING PRESIDENT KUHL: There will be a Local Government Committee meeting off the floor tomorrow.

SENATOR BRUNO: There are budget hearings tonight until 9:00 o'clock I'm informed by Senator Stafford; and since the weather forecasts are for inclement weather later tomorrow, Mr. President, it might be appropriate to start our session at 10:00 sharp tomorrow because we have a busy schedule. Ten o'clock sharp, a.m., tomorrow.

Thank you, Mr. President. I move we adjourn.

ACTING PRESIDENT KUHL: Without objection, Senate stands adjourned until tomorrow, Wednesday, at 10:00 a.m.

(Whereupon, at 7:02 p.m., Senate adjourned.)