ALBANY, NEW YORK

March 20, 1995

3:04 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. Ask the members to find their places, staff their places. I'd ask all the members and the gallery and visitors to rise and recite the Pledge of Allegiance to the Flag with me, please.

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

In the absence of clergy, may we all bow our heads in a moment of silence.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, March 19th. The Senate met pursuant to adjournment, Senator Hoblock in the Chair upon designation of the Temporary President. The Journal of Saturday, March 18th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator DiCarlo, I wish to call up his bill, Print Number 500, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator DiCarlo, Senate Print 500, an act to amend the Criminal Procedure Law and the Penal Law, in relation to felony sex offenses.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which this

bill was passed.

ACTING PRESIDENT KUHL: Motion is to reconsider the vote by which the bill passed the house. Secretary will call the roll.

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

The Chair recognizes Senator Holland.

SENATOR HOLLAND: Mr. President, on page 12, I offer the following amendments to Calendar Number 91, Print Number 2046-A, and ask that said bill retain it place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted; bill will retain its place on the Third Reading Calendar.

SENATOR HOLLAND: Also, Mr.

President, on page 15, I offer the following amendments to Calendar Number 138, Senate Print Number 466, and ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted; bill will retain its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Mr. President, have the two new members been sworn in?

ACTING PRESIDENT KUHL: The Secretary informs me that both members have been sworn in, Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President, and I would like to offer a word of welcome to the two new members, Senator Carl Marcellino and Senator George Maziarz; and where are they? And they're right there next to each other.

And, Mr. President, these are two gentlemen who are not new to public service. They have had long and distinguished careers in their own municipalities, having distinguished

themselves by the way they have handled them selves with their constituencies respectively, but not only in the public sector but also in the private sector, because they have been involved in numerous civic activities, working on behalf of their constituency because they are interested in doing good things and the right things for people.

So we are honored to have you join this body and you join this group that has had a number of very distinguished people here and through here, among them, our late President Franklin Delano Roosevelt, and very recently Governor George Pataki.

So we welcome you here, and we know that you're going to join with your colleagues in doing all the good things that you can on behalf of your constituency.

Welcome, gentlemen.

(Applause)

Stand up so we can see who you are. Thank you.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, we are also honored to have in the chamber with us the first lady of New York State, Libby Pataki.

(Applause)

SENATOR BRUNO: And Mr. President, I understand that there's a resolution at the desk by Senator Gold.

ACTING PRESIDENT KUHL: There is a privileged resolution at the desk. I'll ask the Secretary to read the title.

THE SECRETARY: Legislative Resolution, by Senator Kuhl, recognizing National Agricultural Day and proclaiming March 20th, 1995 as National Agriculture Day in the state of New York.

ACTING PRESIDENT KUHL: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: And Mr. President, there is a resolution at the desk by Senator Gold.

ACTING PRESIDENT KUHL: There is. I ask the Secretary to read the title.

THE SECRETARY: Legislative Resolution, by Senator Gold, honoring Maurice Lowinger, guest of honor at the Council of Jewish Organizations of Borough Park Annual Awards Dinner.

ACTING PRESIDENT KUHL: Question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, there is a resolution at the desk by Senator Holland. May I ask that it be read in its entirety and adopted.

ACTING PRESIDENT KUHL: Secretary will read the resolution in its entirety.

THE SECRETARY: By Senator Holland, Legislative Resolution honoring Mary G. Loeffler, upon the occasion of her designation for special honor on March 20th, 1995.

WHEREAS, individuals who give of their time and energies and serve the best interests of their communities are an asset beyond remuneration and cannot be sufficiently extolled, and

WHEREAS, Mary G. Loeffler has given not only of her time and energies but also of her competence, intelligence and leadership and consequently has been designated for special honor; and

WHEREAS, Mary G. Loeffler will be honored on March 20th, 1995 with the J. Daniel Mahoney Award; and

WHEREAS, Mary G. Loeffler was chosen recipient of the J. Daniel Mahoney Award for her enduring commitment and dedication to the Conservative Party, its philosophy and its

goals; and

WHEREAS, a committed community activist, Mary G. Loeffler actively and efficaciously served the P-TA for 12 years, the Girl Scouts, Boy Scouts, Catholic Big Sisters and the American Cancer Society; and

WHEREAS, Mary G. Loeffler has been called upon to contribute her time and talents to countless civic and charitable endeavors and has always given of herself unstintingly; and

WHEREAS, throughout the entire period of her community service, a period of constructive involvement, Mary G. Loeffler has stood constant in dignity, good grace and humor; and

WHEREAS, with her throughout have been her family, all of whom feel privileged to be part of her life and rejoice in her achievements; and

WHEREAS, rare indeed is the impressive dedication shown by an individual for the benefit of others which Mary G. Loeffler has

displayed throughout her life,

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to honor Mary G. Loeffler upon the occasion of her designation for special honor on March 20th, 1995, and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to Mary G. Loeffler.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Holland on the resolution.

SENATOR HOLLAND: As you heard, Mr. President, Ms. Loeffler is being honored with the J. Daniel Mahoney Award by the Conservatives tonight. Mary has been a good friend for many, many years. She's also been a good friend to us all. She's active in the community, as you all heard. But what you didn't hear, she's recovered from cancer, but even though that happened to the lady, she kept working for the community and the groups in the community right through that.

She is an honor to have in

Rockland County. I cherish her as a friend and I know she will continue to work hard for everybody for as long as we're both here, and I congratulate you on your award tonight, Mary.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Maltese.

SENATOR MALTESE: Mr. President, I second what my colleague, Joe Holland, has said about Mary Loeffler. Knowing her for so many years, knowing of her dedication, dedication to principles, her high ideals, her high standards that she's adhered to, the fact that, as a woman, she has done so much for her community, for the members of the Rockland County Conservative Party, that she's worked so closely with other officers in the party, she truly exemplifies the spirit in which the award was named the J. Daniel Mahoney Award.

I'm proud to know her. I'm proud to second the resolution honoring this great lady.

ACTING PRESIDENT KUHL: The question is on the resolution. All those in

favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is unanimously adopted.

Mary Loeffler, on behalf of Senator Bruno, Senator Maltese, Senator Holland and all of the members of the chamber, thank you so much for coming and sharing this little piece of your life with us. Keep up the good work. It's wonderful having you with us.

(Applause)

Senator Bruno, are you ready for the calendar, sir?

SENATOR BRUNO: Yes, Mr. President. Can we now take up the non-controversial calendar?

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

THE SECRETARY: On page 11, Calendar Number 69, by Senator LaValle, Senate Print 1032, an act to amend the Education Law,

in relation to the definition of income for determining the amount of awards.

ACTING PRESIDENT KUHL: 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 53.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 92, by Senator Holland, Senate Print Number 281, an act to amend the Tax Law, in relation to providing for business tax credits.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 151, by member of the Assembly A. Greene, Assembly Print 2463, an act to amend the Banking Law, in relation to banking records.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 168, by Senator Kuhl, Senate Print 1716.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

Senator Bruno, that completes the

non-controversial and the controversial calendars.

SENATOR BRUNO: Mr. President, can we now return to reports of standing committees and hear the report of the Finance.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following nominations: Member of state Board of Parole, Brian D. Travis of Garrison, New York.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, can we now move the nomination of Brian D. Travis as chairman of the state Parole Board.

ACTING PRESIDENT KUHL: Senator Nozzolio, on the nomination.

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

As chairman of Crime and Corrections Committee, I have had the distinct pleasure of discussing this nomination with the

nominee, and I have the great pleasure to inform my colleagues that Brian Travis is a man very experienced in the skills that are very important to the criminal justice system and its workings, has been trained throughout his professional career in the workings of parole, probation, that he comes extremely well recommended from those organizations of which he has been a member and which are dealing very closely with these critically important issues.

I was extremely impressed with Brian Travis' grasp of these matters and very clearly believe he should get our full support and commendation.

What I'd like to do is defer the balance of my time, Mr. President, to Senator Vin Leibell, who would like to speak on this nomination.

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

SENATOR LEIBELL: Thank you, Mr. President. Thank you, Senator Nozzolio.

Over the last few weeks we have

seen our new Governor, George Pataki, submit to us numerous names for our consideration, and I might note that he has submitted to us a most excellent list for our deliberation, of admitting women well qualified for public service.

I'm very pleased to have a couple of minutes this afternoon to speak about Brian Travis. Some weeks ago, I received a phone call from the State Police doing a background inves tigation as they do with all the nominees, and I was asked my thoughts about Brian Travis who I have known for many, many years.

Brian is coming to us today with his nomination to serve as member of the state Board of Parole and as chairman. We could not find a better qualified person for this position in New York State. He comes to us with a long career of public service. He comes to us with an educational background which well fits him to serve in this position: A Bachelor's degree in psychology from Syracuse University, a Master's degree in criminal justice from John Jay College

of Criminal Justice, an employment history that is long and diverse, but that well equips him for the current position.

I should also note that he's a graduate of the F.B.I. National Academy where he's received a certificate of criminal justice education.

I'd like to just briefly note his record, his background, where he served in the Putnam County Probation Department, my home county, as Director of Probation; where he served as Commissioner of the Putnam County Conditional Release Commission; where he served as vice-chairman of our Alternatives to Incarceration Advisory Board.

I would also note that he currently serves as an adjunct professor at the College of New Rochelle, teaching criminal justice and probation and parole. He served in the Bronx as a New York -- with the New York State Division of Parole as a field parole officer. He has served at Sing Sing Correctional Facility as an institutional parole

officer; that he was a supervising probation officer in Putnam County from January 1984 through 1986. He's also served in the Dutchess County Probation Department as a probation officer for a number of years.

I had the good fortune as a young prosecutor and as county attorney of Putnam County, to know this fine individual. I can honestly tell you that I don't know of anybody in public life who has greater commitment or greater integrity. I am very pleased to count him as one of my very dear and close friends, but more importantly in front of this body, I'm most pleased to move the nomination of a person who brings these sorts of credentials and background to state government.

I believe, my colleagues, you will find he will be a great asset. I salute my former colleague, our Governor, George Pataki, for an excellent choice.

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

SENATOR ABATE: I, too, rise to

support the nomination of Brian Travis. When I was a Commissioner of Probation in New York City, I also had the privilege of working with Brian when he was the Director of Probation in Putnam County. He will not just be a bureau crat, running the Division of Parole for the state of New York. He has the vision; he has the commitment.

He has enormous experience in the field of criminal justice. He worked as an institutional parole officer as well as a field parole officer. His knowledge of probation, his knowledge of correction, I believe he's an ideal candidate because he will have a vision, a great understanding for what the complexities of parole are. He understands that parole must be about public safety and surveillance, but he also understands that people on parole need supervision and any other kinds of social services.

So I, too, am very pleased with this nomination. I think he will serve the state of New York with distinction, and I look

forward to working with him over the coming years.

ACTING PRESIDENT KUHL: The question is on the nomination of Brian D. Travis of Garrison, to be a member of the state Board of Parole. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed. We're happy to be joined by Brian D. Travis, his wife Theresa, here in the chamber. Brian, congratulations. We look forward to working with you. Good luck.

(Applause)

ACTING PRESIDENT KUHL: The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, could we now move the nomination of Bernadette Castro as Commissioner of Parks and Recreation and Historic Preservation.

ACTING PRESIDENT KUHL: Senator

Bruno, I'll ask the Secretary to read the report from the Senate Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following nomination: Commissioner of Parks, Recreation and Historic Preservation, Bernadette Castro, of Lloyd Harbor, New York.

ACTING PRESIDENT KUHL: Senator Bruno moves the nomination.

The Chair recognizes Senator DeFrancisco, on the nomination.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I'm very pleased to rise in support of the nomination of Bernadette Castro for Commissioner of Parks and Recreation. You know, her life, I think, demonstrates what we all know as the true American dream. If you look at her resume and look at the situation that her family was in when they first came to this country and to see how far the family has risen over the years, it's truly what we would want to have everyone to be able to participate

in.

Her mother worked on a dairy farm, her father did not speak English and learned to speak English at night school, but was industrious enough to start a company that became an excellent company that employed many, many individuals and provided a prosperity for not only the family but all those associated with that business.

Bernadette received her Bachelor's degree from the University of Florida in broadcast journalism, and a Master's degree where she was Phi Beta Kappa. In fact, she became the first woman ever to receive the University's distinguished alumnus award in 1985.

She became the Executive Vice-President of Castro Convertibles and served in that position for 16 years and in 1991 became chief executive officer and was -- participated in a successful sale of that business where she became a member of the board of directors of the purchasing corporation.

She's married and has four children who are continuing that American dream.

I first met her in her campaign last year as she was running for the United States Senate. Many thought that that was a desperate attempt by someone who was put in a position that maybe she would regret because of the uphill battle that she had, but the minute I met her I truly understood what a great person she was, a person of character and integrity and a person that would never say die, and she did a great job in the campaign and she impressed an awful lot of people, including the Governor-to be of the state of New York who saw those attributes and wanted Bernadette Castro as part of his team.

A person who is well equipped in the business arena then would bring into government the same principles that she followed in making sure that her business was a great success. Her theory in government is to make sure that we treat people like they're customers

of the business because they're the ones that we're serving, and that's the type of philosophy that all government officials should have.

Her description of life is kind of interesting. I really think it's important to read it. It's very short. "I want to make every day count. I need to give myself back to the community and make a difference. I've spent my life trying to succeed as a mother and a businesswoman and now I want to spend my time giving back to the people who need my help." And she's going to give back to the people who need her help. She's already started, and she's going to be a great Commissioner of Parks and Recreation, and I'm proud to move the nomination of Bernadette Castro as Commissioner of Parks and Recreation.

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

SENATOR GOODMAN: Mr. President, it's a special privilege and a pleasure today to speak on behalf of Bernadette Castro. This is a truly remarkable lady who made a mark in her

very early years having appeared as a four-year old youngster as the centerpiece of a superb commercial campaign on behalf of Castro Convertibles. Not since Shirley Temple stunned the American public with her glorious presence in such movies as Heidi has the public been more pleased by the presence on the screen of a bumptious and delightful youngster, attractive and articulate, and well able to send forth a message on the merits of an outstanding product which I dare say many of us have enjoyed in our homes and even in our college dormitory.

The Castro Convertible was a unique piece of furniture which was both a lovely couch and also a very comfortable bed upon which guests could rest with a blissful sleep.

I'm delighted to say to you that Bernadette Castro has proven herself to be a lady of remarkable attributes during her campaign for the United States Senate. In her debates against a highly respected member of the United States Senate, she more than held her

own, reflecting great flexibility, an enormous grasp of issues and a capacity for that grasp of issues which won her very many admirers in her great and useful campaign in which she stuck to the issues and made it clear to the public that she was not only a star as a youngster but continued to have that star quality as an adult.

Let me say that this is a remarkable woman, almost a Renaissance woman. She has four children one of whom is an assistant district attorney, several of whom have distinguished themselves in their own right. She is married to a gentleman who is a very well respected professor of surgery at New York Hospital-Cornell Medical Center.

She has a magnificent home, to which a number of us have had the pleasure to be invited, on Long Island, which reflects her very great capacity to preside over a great household with exquisite taste.

But, Mr. Chairman, let me say that running the Parks Department of the state

poses very special challenges. The parks are places where people of all walks of life can go to seek recreation and relief from the strains of contemporary society.

It is imperative that there be someone who directs this operation who has sensitivity to people, who cares about people and who loves to -- and derives her happiness from making other people comfortable and happy. May I say, Mr. President, that in Bernadette Castro we have an ideal amalgam of these qualities. She is a star in every way, and I think the Governor is to be complimented for having selected her to run this particular very, very important job for the pleasure of many New Yorkers.

Mr. President, the parks will be better places under the stewardship of this outstanding leader, and I commend her to the entire chamber for its unanimous support on this felicitous day.

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

SENATOR STAFFORD: Mr. President, I was going to talk about all of the candidates, so I decided I would talk at the time we were considering the one in the middle, Mrs. Castro.

Today, after 30 years here in the Senate, three candidates came before the Senate committee as well prepared, as committed and as thorough as I have ever seen. Now, you'll have to get the message to the chairman of the Parole Board, Brian Travis, because I think he left, but I want to emphasize we were proud. They had complete knowledge of their subject matter. You could see that they had a concern for people. When they were asked questions, they thought and they realized what the ramifications were.

We certainly commend Governor Pataki for three fine appointments. I apologize, Mr. President, for talking about all three when I'm supposedly talking about one, but I know they understand and, if we can have candidates come before us that make the impression that they made on everyone, we are indeed a fortunate people. The Governor has

made fine appointments, and New York State is better for it.

ACTING PRESIDENT KUHL: Senator Tully on the nomination.

SENATOR TULLY: Thank you, Mr. President.

Bernadette Castro is a modern role model of daughter, mother, wife and corporate executive. Her business and academic credentials have already been mentioned, so I will not be redundant. Suffice it to say that they are extensive and glittering.

As acting commissioner, she has attempted to personally traverse this state to visit the almost 200 parks and historic sites in our Empire State. She is a doer and she will make us proud. I am pleased to second her nomination.

ACTING PRESIDENT KUHL: Senator Maltese on the nomination.

SENATOR MALTESE: Mr. President, I'm proud to second the nomination of Bernadette Castro. The prior speakers, my good colleagues,

have told us a great deal about Bernadette and about her attributes and her being a role model as a wife, a mother, a businesswoman.

I think also I must comment on the fact that she is certainly a role model as the Renaissance woman of Italian-American descent. Her father, Bernadette, who founded the business that is so famous now and worldwide, was an upholsterer, as my father was, and she was the daughter of immigrants and came up, in effect, the hard way and yet she has a business sense that has persevered and excelled. But it isn't only in that that she has shown the type of woman that she is. It's by giving so much of her time and effort and dedication to charitable enterprises in all walks, religious, ethnic, Italian-American, community, civic, to which she has been unstinting and generous to the extreme.

We are very proud to have her named by the Governor, and I am proud to second the nomination of Bernadette Castro and congratulate her and her family.

ACTING PRESIDENT KUHL: Senator Rath on the nomination.

SENATOR RATH: Thank you, Mr. Chairman.

I rise as do my colleagues, as have many of my colleagues, to second the nomination of Bernadette Castro. I came to know Bernadette as she was on the campaign trail and many of my other colleagues who have spoken have been from downstate. They know Bernadette in a different way and a different place, but over a month in New York and I got to know Bernadette and then came to find that she was going to be the Commissioner of Parks and Recreation. I said, "Bernadette, we've got a lot of parks over here in western New York. We need to have you come over very soon and see what we have." Think of the size of the Allegheny State Park coupled with the Niagara Reservation and the importance of tourism in the Niagara Falls area, the great gorge to the east, Letchworth State Park.

One of the first things

Bernadette did was to go to western New York, go to the parks, talk to the people and get to know about our concerns, and coupled with her lively enthusiasm for her new role and her healthy respect for the taxpayer's dollar, we know you're going to be one of the great parks commissioners of all time.

I'm happy to second the nomination and congratulate the Governor on your appointment.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the nomination.

SENATOR OPPENHEIMER: I'd like to thank Bernadette Castro down here for having met with me several times, and I must say she's a very bright and a very charming, enthusiastic woman, and I think she's going to bring a lot of gifts and a lot of interest to -- to Parks and Rec' and Historic Preservation.

I must say that her interest so far has demonstrated itself in the brief time that I have known Bernadette Castro which is just from our first meeting together, our fourth

or so. She has mastered -- she has been such a quick study, and has learned so much about this business that she's about to be named commissioner, and that I am very enthusiastic about the future of our parks and our historic preservation and look forward to the good works that she is going to do.

Congratulations.

ACTING PRESIDENT KUHL: Senator Seward, on the nomination.

SENATOR SEWARD: Thank you, Mr. President.

I also would like to rise and add my voice in support of the confirmation of Bernadette Castro to be our Commissioner of Parks, Recreation and Historic Preservation. I, like so many New Yorkers, became very impressed with Bernadette Castro during the campaign last year, but after the campaign, I had the distinct honor and privilege to serve with Bernadette on one of the Governor's transition task force and during that experience, I got to know Bernadette best, and I can tell you my impressions were

certainly that she's very bright, conscientious, hard working, a quick study. She's very friendly, but don't let that be deceiving. She's very firm in her resolve on the issues that are important to her.

I've always considered our state parks system to be one of the shining jewels in our state's crown, and I know that under Bernadette Castro's stewardship as commissioner, that our parks system is going to become even more of an important resource for our state and its people; so with that thought in mind, I rise to congratulate the Governor on an outstanding choice and to congratulate Bernadette Castro. We look forward to great things from you.

ACTING PRESIDENT KUHL: Senator Leibell on the nomination.

SENATOR LEIBELL: Yes, Mr. President.

I would like to echo the comments that have been made here already this afternoon. I had the chance also to meet Bernadette Castro on the campaign trail, and you

certainly got the sense during that period of time that you were meeting someone who was special. I had the opportunity to meet with Mrs. Castro again recently in my office, and we had a chance to talk about many of the issues that are going to be of concern to her in her new position as Commissioner and of concern to my district in the mid-Hudson.

I was very greatly impressed with her depth of knowledge, her energy and her desire to see a job well done. The parks system in this state is truly a jewel for this state. It is something we have always prided ourselves on, and I have every confidence that this system is now going to be in excellent hands.

Thank you, sir.

ACTING PRESIDENT KUHL: The question is on the confirmation of Bernadette Castro, of Lloyd Harbor, as Commissioner of Parks, Recreation and Historic Preservation. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed. Commissioner Castro, who is with us, congratulations on your appointment. Good luck.

(Applause)

Secretary will read.

THE SECRETARY: Senator Stafford also hands up the following nomination: Commissioner of Environmental Conservation, Michael D. Zagata, of West Davenport, New York.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, I now move the confirmation of Michael Zagata as Commissioner of Environmental Conservation.

ACTING PRESIDENT KUHL: Senator Tully, on the nomination.

SENATOR TULLY: Thank you, Mr. President.

As chairman of the Environmental Conservation Committee, I've had several opportunities to speak with Mr. Zagata and to discuss his vision for the Department. I share

his goal of reaching compliance with the -- our environmental laws and regulations through a less adversarial relationship with the regulated community.

I am thoroughly satisfied with his commitment to achieving this goal without lowering our standards or risking degradation of our environment. He recognizes the need for growth in this state to provide employment opportunity, but is equally cognizant of the ecological ability to sustain that growth.

Mr. Zagata enjoys support throughout the state from unions, representing environmental conservation officers, to trappers and perhaps, most significantly, by many envir onmental advocates including but not limited to the New York State Conservation Council, Citizens Campaign for the Environment, the Audubon Council of New York State and the American Wild Life Research Foundation and the New York Chapter of the Wildlife Society, just to name a few.

Mr. Zagata's educational and

professional background well qualify him for this position, and I am pleased to second his nomination as Commissioner of Environmental Conservation for the state of New York.

ACTING PRESIDENT KUHL: Senator Seward, on the nomination.

SENATOR SEWARD: Thank you, Mr. President.

I also would like to rise in support of Michael Zagata's nomination as DEC Commissioner. Even though Mike Zagata and his family are technically over the county line of Senator Cook's district, those of us from the Oneonta area tend to claim him also as one of our own because of the fact that he was educated, that he taught school, coached in Oneonta which is part of my district, and I just want to congratulate the Governor for making an outstanding selection to head an agency which is, in my opinion, in deep need of common sense approaches, a sensitivity to taxpayers, and the business people of our state, and also in need of one that would bring the conservationist

approach to environmental protection.

I think it would be imprudent and unfair not to mention useless, to try to wedge Mike Zagata into the mold of any previous commissioner at DEC. They were appointed by previous governors. Our current Governor, it's no secret, conducted a very lengthy and exhaustive search for a commissioner and guess what? He found the ideal candidate right at DEC working as business ambassador at DEC.

And Mike Zagata is going to bring his own style, his own blend of education and professional experience and background to the role of commissioner and the management of the Department. In my mind, he's the right man for this very important job for -- to head up an agency that lately has been known for its iron fist but minus the velvet glove.

Now, I, as well as I'm sure a number of other colleagues, could cite numerous examples of when that has been the case. But Mike Zagata is going to bring a fresh approach to DEC, and he's going to ensure that his deputy

commissioners and others, personnel in the agency, are going to treat the taxpayers as customers.

He's going to insist on strict environmental compliance but use enforcement as only one tool to bring that about and he comes to the agency at a very critical time for our state.

First and foremost, Mike Zagata is a conservationist. He has a multi-faceted background in environmental issues including business, academia and government. He's known for negotiating solutions and for suggesting creative solutions and approaches to environmental problems.

The list goes on and on. He's going to bring the bridging of the gap -- it seems to me that we've seen too much in this state where it's either been on one hand something that's in the interest of business at the expense of the environment or if you're for the environment, it can't be good for business and he's going to bridge those two and make it

good for business and the taxpayers and the environment in terms of our policies for New York State.

This is something that we desperately need in this state, and I rise to congratulate the Governor and Mike Zagata on assuming this position as well as his family who are -- many of whom are with us here today.

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

SENATOR COOK: Mr. President, thank you.

I chuckled a bit when I looked into the gallery and I saw Commissioner Castro and Commissioner Zagata sitting next to each other, because Commissioner Castro and her -- in another life was traveling in my county as she did apparently everybody else's, and we were probably 20 miles from the home of her opponent at the time, and looking here, Mike Zagata lives probably within about a mile of her, which places two very well known and important people in the state living in very close proximity to

each other.

But the important thing about Mike is that here's an individual who has grown up in the midst of the environment. This is not someone who has either been transplanted out of the concrete jungle out into the wild, as it were, and is trying to take those values and going to make them work in a different context, but rather someone who understands the environment because he has lived and worked in that environment.

I think that this is a real breath of fresh air. We have all too much and all too often seen a department where regulation seems to have been the entire purpose for their existence, where they seem to have lost track of their real purpose, which is to maintain a strong environment and a good environment, but also to let people do those things that they need to do to make this a prosperous state.

I think that balance, as Senator Seward has indicated, is the important thing that we have to have in the Department. I think

that the ideal person has been appointed to fulfill that responsibility, and I'm very pleased to also rise in support of Michael Zagata's appointment by the Governor.

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

SENATOR LEICHTER: Thank you, Mr. President.

I support this nomination. I've had the occasion to meet with Mr. Zagata. I've heard him in the EnCon Committee, heard him in the Finance Committee. He is clearly well versed in issues coming before the Department. He has a very substantial background in the field of environmental conservation. He's been on both sides, if you will, of issues affecting the environment, both environmentalists as well as business. He is very articulate. I think he clearly will be a good spokesperson for the Department.

Having said that, let me just raise some caution that I have about the direction of the Pataki administration on the

environment, and I want to put it in the context of some of the remarks I heard by Senator Cook and Senator Seward.

I think there's a perception that the Department has been very hostile to business interests and I don't want to say that the Department has handled situations involving business well. I think certainly the matters of delay in permitting, and so on, are really quite inexcusable. But we have a grave responsibility of protecting the environment. That's not only necessary for the health of New York as it's necessary for our economic welfare, and this idea that, well, if you tell business to do something where it's necessary for the environment but costly to your business, that, therefore, you're anti-business, just is not the case, and there are going to be conflicts, and I want to refer to one of these conflicts.

Our new Commissioner likes to use the expression win/win. He uses it a lot, and there are situations that are win/win, but there are also situations where you've got to make a

decision and one of those situations, Senator Cook, deals with the New York City watershed, whether New York City is going to continue to have good drinkable water, whether Westchester is going to have good drinkable water or whether we're going to have to go to filtration and spend billions of dollars in building filtration plants which would have a devastating financial impact not only on the city of New York but on the state of New York.

Now, we read in the paper that DEC, in the last few days, sent a letter to the city of New York which would make it impossible for the city to meet one of the requirements imposed upon it by the Environmental Protection Administration when EPA said, "O.K., we'll give you three years, three years to avoid filtration but you've got to do certain things," and one of those things is to buy 80,000 acres of land in the watershed, 10,000 by June, and if that isn't done, you filtrate and, if you filtrate, besides that economic burden on the state and the city that I talked about, what it's going to do to

the water metering rate of Senator Marchi's constituents and Senator Maltese's and other people throughout the city of New York will just be devastating.

So it's a real problem that's going to take a lot of leadership, and I hope that the new Commissioner, and I expect the new Commissioner will take leadership; but it's not an issue that you can necessarily resolve on win/win where everybody is going to be happy. You're going to have to make some tough decisions, and they're going to be times when you may have to say to a business or to a developer, "You can't do it because it's bad for the environment. It places people at risk. If you go ahead with that development, you may end up impairing the water for the city of New York. We can't let you proceed with it," and I certainly hope that the Commissioner will make those decisions not only in regard to the watershed but in other areas too, and there are going to be times, if the job is done as it needs to be done, and the primary job of the

Department is to protect the environment, protect the environment, see that the problems we have with air quality which is bad in most of New York State, water quality which is bad in many portions of the state, problems of landfills, problems of hazardous waste, these are the things that need to be addressed if the health of New Yorkers is going to be protected.

So I very much urge Commissioner Zagata to bring his knowledge, his skills, to making the emphasis of this Department what it has been to protect the environment and, in that connection, let me also say because there have been some disturbing stories about dismantling the regulatory personnel within the Department, lawyers have been fired, I understand from the Commissioner that some have been rehired, that others will be given a chance to be hired. These are basically non-political people. These are people with that know what needs to be done, that have the experience, and it would be most unfortunate if they were let go for political reasons, or if they were let go because the

Department was not going to carry out its function and its mandate of acting where necessary to protect the environment, and at times that requires enforcement.

So having said this, I wish Commissioner Zagata a lot of good luck. He'll need it. It's a tough job, maybe one of the toughest in New York. I remember years ago it used to be one of the easiest jobs. Everybody wanted to be Commissioner. All you had to worry about was somebody maybe shooting a deer out of season.

Now, you're faced with the most perplexing problems that our society faces, but I have every expectation and hope that Commissioner Zagata will provide the leadership this Department needs.

Thank you.

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

SENATOR FARLEY: Thank you, Mr. President.

Let me begin by congratulating

Commissioner Castro, a remarkable woman, on being Commissioner of Parks, Recreation and Historic Preservation. I know that she'll be an outstanding Commissioner.

Let me just say that, as the former chairman of the Environmental Conservation Committee, and somebody that has been involved with -- over 20 years of confirming Commissioners of the most difficult job in the state government in my judgment, and the one that seems to get the most controversy and problems involved, I've never seen anybody that has been more qualified than Michael Zagata.

It is with enthusiasm, Michael, that I stand here to second your nomination because I'm confident that you're going to bring a whole new era to the DEC and one that will - that this state has really needed for a long time.

I look forward to your tenure. I'm pleased to support you, and I congratulate the Governor on this outstanding choice.

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

SENATOR OPPENHEIMER: Thank you very much.

When we're talking about where people live or came from, some of the Senators made reference to the proximity to their home districts. I should be noting, though it isn't who I'm speaking on now, but it should be noted that Bernadette Castro was brought up on the same peninsula on which I live, Oriente Point in Mamaroneck. But I am here to talk about our nominee for the DEC.

There's concern around the state about the direction DEC will be taking under this administration. There have been newspaper articles, filings, diversion of the $18.5 million that was slated to go into our EPF, our Environmental Protection Fund, and just a general concern that DEC will not protect our environment and our health.

Through the confirmation process

many of us have questioned Commissioner designee Zagata on a variety of key environmental issues. I have been impressed with his concern and the commitment he has made on a number of issues. We have spoken together now perhaps a half a dozen times, and I feel that he will be open to input from individuals that come from a variety of different prespectives.

He has pledged to move DEC in the right direction. His leadership and resolve will truly be tested in trying to balance competing views. I might mention on the floor here that it is those states in our nation that seem to have the strongest environmental regulation that also have the strongest economic development and economies.

So the two do not -- indeed the two should never be separated. We are seeking economic development, but we are seeking it with environmental protection.

Ultimately, his responsibility as DEC Commissioner is to protect the environment. He has indicated that this is his primary goal.

I very much appreciate his working with us in the confirmation process, and I look forward to working with him at DEC as -- towards that end.

I must report that I have a more positive sense about the nominee himself than I do about the administration's plans and priorities for DEC. I hope the nominee will win those battles and lead this agency and reverse the disturbing trend that I have seen at DEC since January.

I vote yes, and I wish our new Commissioner the very best. Happy to be working with you.

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

SENATOR MARCHI: Mr. President, Senator Stafford, I think, sounded a common note when he observed that each of the nominees today in a most splendid fashion really presented in each and every case thorough preparation, thorough backgrounds and all the indicias of sterling performance of things to come.

Certainly Michael Zagata has had

an -- he is in a state where distinguished people have preceded him, but he brings qualities and experience, I think, that augurs well, but most importantly his attitude. Senator Seward referred to the win/win principle and I know Senator Leichter very properly pointed out that, with that, we also have to have a determination to protect those legitimate concerns that we have, and I think that Senator -- that it would be corrosive and undermine a win/win situation if a Commissioner were less than zealous about protecting those basic concerns in a firm but unmistakable manner.

On the other hand, I come from a community where, well, we have over -- I hope you hear me -- 50 percent of the solid waste disposal in my Staten Island. It's over 50 percent of all the solid waste that is collected in the state of New York ends up in this one vast potentially ecological disaster, and we desperately need the kind of feeling that Mr. Zagata, Commissioner Zagata exemplifies.

I remember Jim Buckley, when he

ran in 1966, shared with me the -- why he was running. He didn't expect to win, but he thought he might sensitize the public to ecological and environmental concerns. The public was not that interested then and midway during his campaign, he shifted to other objectives, but -- and in reviewing the nominee's background, we see here a steady progression of academic excellence, executive ability, administrative ability, a whole composite of preparations that augur so well and reflect great credit on the nomination made by the Governor to this important office.

So all of these factors, I think, engender great, great hopes that the missionary is going to be there and he's going to enlist and elicit the positive response which is indispensable, I think, to a sensitivity to treating the environment with respect and at the same time making it user friendly in a most enlightened way.

I notice that you've had an experience at the Darden School, but we did it

at different times, and I'm sure you will agree that that was a most rewarding experience there at the University of Virginia.

In any event, to come back to the point made by our distinguished chairman here, these are excellent nominees and, on this note, I know that we will have a very, very strong supportive indication from this body wishing the Commissioner-to-be the best of luck.

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

SENATOR WRIGHT: Thank you, Mr. President.

I, too, would like to take a moment to extend my congratulations to Commissioner Castro. I think it's only fitting that we should be confirming both Parks and Recreation and EnCon on this day together since I think it's essential that both agencies spend a great deal of time over the next administration working together on many of those common issues.

I also rise to support the

confirmation of Commissioner Zagata. I found it very refreshing to find a commissioner who is actually carrying a fishing license which, in my part of the state, is a credential that's extremely important to many of our constituents. Equally important, when I had the occasion to engage the commissioner designee in some of the issues affecting our area of the state, the North Country region, affecting the fishing community, he was not only knowledge able, he was very conversant in those issues, but I think that's critical, and my constituents think it's critical to restoring the balance that's essential to a Department of Environmental Conservation.

It is not simply a regulatory agency, but it is an agency that has a responsibility for stewardship and fostering issues of conservation. Those are issues my constituents understand. Those are issues that we believe the Commissioner understands and we're looking forward to working with this new Commissioner to restore a balance to the

Department of Environmental Conservation, not to sacrifice our environmental objectives because I do not believe the Commissioner is interested in doing that, but to truly restore a balance to what we believe is an important natural resource in this state.

So I, too, look forward to confirming Commissioner Zagata here.

Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Hoffmann on the nomination.

SENATOR HOFFMANN: Thank you, Mr. President.

I'm delighted to rise and speak in favor of these two excellent nominees. I've had the pleasure of meeting both Miss Castro and Mr. Zagata in my office over the past several weeks, and I was impressed with the great knowledge of the post that they're about to assume and also with the very specific information that they had studied, no doubt on a very quick time line to be familiar with the issues of interest in our specific districts

and, like Senator Wright, I was pleased at the knowledge of issues like Green Lakes Park in central New York that Commissioner Castro demonstrated, and I was very pleased to hear that Mr. Zagata holds a fishing license, also that he is an avid sportsman who hunts and equally important, perhaps most important of all for me and for my constituents, that he understands first hand the problems of agriculture.

It's been a long time since I've sat down with a nominee for any state agency and had a good earnest conversation about slurry and the finer points of manure storage, and this is a commissioner who understands not only what it is, but why it's important in New York State. Having grown up on a dairy farm, pre-automatic milking days, he is well versed in the intricacies of farming, and he understands the tremendous burden that some environmental regulations have imposed in the past upon New York State's number one industry.

So I am very heartened by the

enthusiasm that both of these individuals have, and I am continually in amazement at the great willingness to sacrifice personal lives and family obligations to do what is, frankly, an impossible job in running any state agency in New York State.

So I wish both Commissioner Castro and Commissioner Zagata well as they undertake their awesome responsibilities.

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

Hearing none, the question is on the nomination of Michael D. Zagata, of West Davenport, to the position of Commissioner of Environmental Conservation.

Senator Cook.

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

ACTING PRESIDENT KUHL: Senator Cook, to explain his vote.

SENATOR COOK: Mr. President, this is a rather unusual procedure, but Senator

Leichter, I think, involved himself in a discussion of an issue which will come before the Commissioner, and I can't leave his statements on the record without having a responsibility to it, so I'm using this device for accomplishing that.

Senator, when you've denigrated the win/win strategy relative to the watershed you exactly personified the problems that we're having because for New York City, there is no win/win. It's you win and we lose, and that is precisely the balance that we're seeking to overcome.

Now, let me tell you something. The city of New York proposed to buy 80,000 acres of unidentified land in the watershed, unidentified land. The Department of Environmental Conservation staff, to their credit -- to their credit -- have recommended a procedure whereby the city may identify parcels of land which they perceive to be some kind of a threat to their watershed, to go to an impartial hearing procedure and to have some people who

are independent of both parties make a decision relative to each parcel of land as to whether it ought to be acquired.

Now, Senator, that's a win/win situation, the protection of the water; it protects our land and the rights of our people and that's the kind of thing that the Department ought to be doing. They shouldn't be doing the single-minded kinds of ways that the city of New York has been trying to do and which the Department of Environmental Conservation all too often has been doing through the years.

I welcome Senator -- I welcome Commissioner Zagata because I'm sure that he will give us the kind of even-handed consideration that we deserve and that we require.

I vote in favor.

ACTING PRESIDENT KUHL: All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination of Michael D. Zagata as Commissioner of Environmental Conservation is confirmed.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, thank you.

I just want to just offer and add my congratulations to the commissioners, all three that we have had the responsibility here of dealing with, and also suggest to my colleagues that I think this procedure has been representative of this chamber when we can say what we have to say and have it be heard and recorded, and yet the process goes forward and we now have three more public servants highly qualified, capable, able individuals that will serve all of the people of this state.

So, Mr. President, and just representing the Senate, I am just pleased to add these three to the rolls of public servants for the people of New York State.

Thank you.

ACTING PRESIDENT KUHL: Thank you, Senator Bruno.

Commissioner, congratulations. We're happy to have you joined by your wife Beth and also your dad down here, and his wife Jean. Welcome to the chamber and good luck.

(Applause)

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until tomorrow, Tuesday, at 3:00 p.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Tuesday, at 3:00 p.m.

(Whereupon, at 4:12 p.m., the Senate adjourned.)