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ALBANY, NEW YORK

February 9, 1998

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEVEN M. BOGGESS, Secretary

1 P R O C E E D I N G S

2 THE PRESIDENT: The Senate will
3 come to order. Would everyone please rise and
4 join with me in the Pledge of Allegiance.

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

7 THE PRESIDENT: The invocation
8 today will be given by Rabbi Israel Rubin from
9 the Chabad Center in Albany.

10 Rabbi Rubin.

11 RABBI ISRAEL RUBIN: We begin
12 with a note of sadness, a feeling of loss at
13 the passing of Senator Norman Levy. Among his
14 many accomplishments are those of pressing and
15 initiating a humanitarian seat belt law. It
16 should be noted that his tradition says one
17 who saves one life at risk saves the whole
18 world, and certainly this can be said for all
19 lives in the state and credit to this fine
20 Senator.

21 This week is Tu B'Shvat, a
22 holiday which is the Jewish New Year for trees
23 on Wednesday. It carries the universal
24 message of concern for trees and the
25 environment and all growing things, especially

1 their relationship to man, as the Bible states
2 in Deuteronomy, "For man is as a tree of the
3 field." Indeed when God first placed Adam and
4 Eve in Paradise in the Garden of Eden, they
5 were commanded in the seven laws and charged
6 with the divine mandate to work the garden and
7 to serve on it.

8 O God, grant the legislators in
9 this Assembly division the foresight to plan
10 for our human growth, while also taking into
11 account the growth of the world around us.
12 Amen.

13 THE PRESIDENT: Amen.

14 The reading of the Journal,
15 please.

16 THE SECRETARY: In Senate,
17 Sunday, February 8th. The Senate met pursuant
18 to adjournment. The Journal of Saturday,
19 February 7th, was read and approved. On
20 motion, Senate adjourned.

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

24 Presentation of petitions.

25 Messages from the Assembly.

1 Messages from the Governor.

2 Reports of standing

3 committees.

4 Secretary will read.

5 THE SECRETARY: Senator Rath,

6 from the Committee on Local Government,

7 reports the following bills:

8 Senate Print 616, by Senator

9 Cook, an act to amend the County Law;

10 1944, by Senator Seward, an act

11 to amend the Town Law;

12 3267, by Senator Seward, an act

13 to amend the Town Law;

14 3890, by Senator Wright, an act

15 to amend the County Law;

16 4647, by Senator Cook, an act

17 to amend the Town Law;

18 4992-A, by Senator Spano, an

19 act to amend the Real Property Tax Law; and

20 6001, by Senator Larkin, an act

21 to amend the Town Law.

22 Senator Volker, from the

23 Committee on Codes, reports the following

24 bills:

25 Senate Print 222, by Senator

1 Volker, an act to amend the Penal Law and the
2 Criminal Procedure Law;
3 424, by Senator Goodman, an act
4 to amend the Penal Law;
5 454, by Senator Holland, an act
6 to amend the Penal Law;
7 502, by Senator Johnson, an act
8 to amend the Penal Law;
9 522, by Senator Volker, an act
10 to amend the Penal Law;
11 1135, by Senator Marcellino, an
12 act to amend the Penal Law;
13 1290, by Senator Saland, an act
14 to amend the Penal Law;
15 1957, by Senator Holland, an
16 act to amend the Penal Law;
17 1977, by Senator Kuhl, an act
18 to amend the Penal Law;
19 2016, by Senator Saland, an act
20 to amend the Penal Law;
21 2522-A, by Senator Johnson, an
22 act to amend the Penal Law;
23 5525, by Senator Volker, an act
24 to amend the Criminal Procedure Law and
25 others, and

1 5950, by Senator Balboni, an
2 act to amend the Penal Law.

3 Senator Cook, from the
4 Committee on Education, reports:

5 Senate Print 5739, with
6 amendments, by Senator Cook, an act to amend
7 the Education Law.

8 Senator Holland, from the
9 Committee on Social Services, reports:

10 Senate Print 231, by Senator
11 Holland, an act to amend the Social Services
12 Law; and

13 6170, by Senator Hannon, an act
14 to amend the Social Services Law.

15 All bills ordered directly for
16 third reading.

17 ACTING PRESIDENT MEIER: All
18 bills directly to third reading.

19 We'll continue on with reports
20 of select committees.

21 Communications and reports from
22 state officers.

23 Motions and resolutions.

24 Senator Marcellino.

25 SENATOR MARCELLINO: Thank you,

1 Mr. President.

2 On behalf of Senator Libous,
3 please remove the sponsor's star from Calendar
4 Numbers 2 and 5.

5 ACTING PRESIDENT MEIER: So
6 ordered.

7 SENATOR MARCELLINO: Thank you,
8 sir.

9 Senator Farley.

10 SENATOR FARLEY: Thank you, Mr.
11 President.

12 On behalf of myself, on page
13 12, I offer the following amendments to
14 Calendar Number 171, Senate Print 2216, and I
15 ask that that bill retain its place on the
16 Third Reading Calendar.

17 ACTING PRESIDENT MEIER:
18 Amendments are received.

19 Senator Johnson. No?

20 Sorry, Senator Holland.

21 SENATOR HOLLAND: Well, Mr.
22 President, I wish to call up Senator Larkin's
23 bill, Print Number 2369, recalled from the
24 Assembly, which is now at the desk.

25 ACTING PRESIDENT MEIER:

1 Secretary will read.

2 THE SECRETARY: Calendar Number
3 77, by Senator Larkin, Senate Print 2369, an
4 act to amend the Navigation Law.

5 SENATOR HOLLAND: Mr.
6 President, I now move to reconsider the vote
7 by which this bill was passed.

8 ACTING PRESIDENT MEIER:
9 Secretary will call the rolling on
10 reconsideration.

11 (The Secretary called the roll
12 on reconsideration.)

13 THE SECRETARY: Ayes 45.

14 SENATOR HOLLAND: Mr. President,
15 I now offer the following amendments.

16 ACTING PRESIDENT MEIER: The
17 amendments have been received at the desk.

18 SENATOR JOHNSON: Mr.
19 President.

20 ACTING PRESIDENT MEIER:
21 Senator Johnson.

22 SENATOR JOHNSON: Mr.
23 President, on page 13, I offer the following
24 amendments to Calendar Number 187, Senate
25 Print Number 4834-B, and ask that said bill

1 retain its place on the Third Reading
2 Calendar.

3 ACTING PRESIDENT MEIER: The
4 amendments are received.

5 Senator Skelos, we have a
6 substitution.

7 SENATOR SKELOS: Is there any
8 housekeeping? Any substitutions to be made?
9 Would you please make the substitutions.

10 ACTING PRESIDENT MEIER:
11 Secretary will read.

12 THE SECRETARY: On page 13,
13 Senator LaValle moves to discharge from the
14 committee on Corporations, Authorities and
15 Commissions Assembly Bill Number 8879-A, and
16 substitute it for the identical Third Reading
17 Calendar 190.

18 ACTING PRESIDENT MEIER:
19 Substitution ordered.

20 Senator Skelos, we have another
21 substitution.

22 SENATOR SKELOS: Please make
23 the substitution, Mr. President.

24 ACTING PRESIDENT MEIER:
25 Secretary will read.

1 THE SECRETARY: Senator Skelos
2 moves to discharge from the committee on
3 Corporations, Authorities and Commissions
4 Assembly Bill Number 8994 and substitute it
5 for the identical Third Reading Calendar 191.

6 ACTING PRESIDENT MEIER:
7 Substitution ordered.

8 Senator Skelos.

9 SENATOR SKELOS: Mr. President,
10 there will be an immediate meeting of the
11 Rules Committee in the Majority Conference
12 Room, and if you could take up the
13 non-controversial calendar.

14 ACTING PRESIDENT MEIER:
15 Senator Skelos, we have one more motion.

16 SENATOR SKELOS: One more
17 motion.

18 ACTING PRESIDENT MEIER: Yes.
19 Senator Farley.

20 SENATOR FARLEY: Thank you,
21 Senator Skelos and others.

22 Mr. President, I move that the
23 following bills be discharged from their
24 respective committees and be recommitted with
25 instructions to strike the enacting clause.

1 These are Senator Libous' bills, 2700-A, 2740
2 A and 4813.

3 ACTING PRESIDENT MEIER: So
4 ordered.

5 Secretary will read the
6 non-controversial calendar.

7 THE SECRETARY: Calendar Number
8 17, by Senator Volker, Senate Print 889-A, an
9 act to amend the Criminal Procedure Law, the
10 Public Health Law and the Family Court Act, in
11 relation to the authorized destruction of
12 dangerous drugs.

13 ACTING PRESIDENT MEIER: Read
14 the last section.

15 THE SECRETARY: Section 5.
16 This act shall take effect on the first day of
17 November.

18 ACTING PRESIDENT MEIER: Call
19 the roll.

20 (The Secretary called the
21 roll.)

22 THE SECRETARY: Ayes 50.

23 ACTING PRESIDENT MEIER: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 91, by Senator Cook, Senate Print 1422, an act
2 to amend the Criminal Procedure Law, in
3 relation to denial of recognizance or bail.

4 ACTING PRESIDENT MEIER: Read
5 the last section.

6 SENATOR PATERSON: Lay it
7 aside.

8 ACTING PRESIDENT MEIER: Lay
9 the bill aside.

10 THE SECRETARY: Calendar Number
11 92, by Senator DeFrancisco, Senate Print 1537,
12 an act to amend the Criminal Procedure Law, in
13 relation to applications for recognizance or
14 bail.

15 ACTING PRESIDENT MEIER: Read
16 the last section.

17 THE SECRETARY: Section 3.
18 This act shall take effect on the 30th day.

19 ACTING PRESIDENT MEIER: Call
20 the roll.

21 (The Secretary called the
22 roll.)

23 THE SECRETARY: Ayes 49, nays
24 one, Senator Sampson recorded in the
25 negative.

1 ACTING PRESIDENT MEIER: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 93, by Senator DeFrancisco, Senate Print 1538,
5 an act to amend the Criminal Procedure Law, in
6 relation to compliance with orders fixing
7 bail.

8 ACTING PRESIDENT MEIER: Read
9 the last section.

10 THE SECRETARY: Section 4.
11 This act shall take effect immediately.

12 ACTING PRESIDENT MEIER: Call
13 the roll.

14 (The Secretary called the
15 roll.)

16 THE SECRETARY: Ayes 50.

17 ACTING PRESIDENT MEIER: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 104, by Senator Saland.

21 SENATOR PATERSON: Lay aside.

22 ACTING PRESIDENT MEIER: Lay
23 the bill aside.

24 THE SECRETARY: Calendar Number
25 106, by Senator Marchi, Senate Print 3597, an

1 act to amend the Not-for-Profit Corporation
2 Law, in relation to the organization of
3 university faculty practice corporations.

4 ACTING PRESIDENT MEIER: Read
5 the last section.

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

8 ACTING PRESIDENT MEIER: Call
9 the roll.

10 (The Secretary called the
11 roll.)

12 THE SECRETARY: Ayes 50.

13 ACTING PRESIDENT MEIER: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 119, by Senator Levy, Senate Print 102-A, an
17 act in relation to requiring the Commissioners
18 of Motor Vehicles, Transportation and
19 Education to develop a uniform definition of
20 the terms "school" and "school bus".

21 ACTING PRESIDENT MEIER: Read
22 the last section.

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

25 ACTING PRESIDENT MEIER: Call

1 the roll.

2 (The Secretary called the
3 roll.)

4 THE SECRETARY: Ayes 50.

5 ACTING PRESIDENT MEIER: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 120, by Senator Stafford, Senate Print 119, an
9 act to amend the Vehicle and Traffic Law, in
10 relation to the operation of school buses.

11 ACTING PRESIDENT MEIER: Read
12 the last section.

13 THE SECRETARY: Section 2.
14 This act shall take effect on the first day of
15 July.

16 ACTING PRESIDENT MEIER: Call
17 the roll.

18 (The Secretary called the
19 roll.)

20 THE SECRETARY: Ayes 50.

21 ACTING PRESIDENT MEIER: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 153, by Senator Goodman, Senate Print 5559, an
25 act to amend the charter of the city of New

1 York, in relation to the power of the
2 Department of Finance.

3 ACTING PRESIDENT MEIER: Read
4 the last section.

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

7 ACTING PRESIDENT MEIER: Call
8 the roll.

9 (The Secretary called the
10 roll.)

11 THE SECRETARY: Ayes 50.

12 ACTING PRESIDENT MEIER: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 155, by Senator Trunzo, Senate Print 1523-B,
16 an act to amend the Eminent Domain Procedure
17 Law, in relation to acquisition of land by the
18 state.

19 ACTING PRESIDENT MEIER: Read
20 the last section.

21 THE SECRETARY: Section 2.
22 This act shall take effect in 30 days.

23 ACTING PRESIDENT MEIER: Call
24 the roll.

25 (The Secretary called the

1 roll.)

2 THE SECRETARY: Ayes 51.

3 ACTING PRESIDENT MEIER: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 174, by Senator Hannon, Senate Print 4433, an
7 act to amend the Civil Service Law.

8 SENATOR PATERSON: Lay aside.

9 ACTING PRESIDENT MEIER: Lay
10 the bill aside.

11 THE SECRETARY: Calendar Number
12 185, Senate Print 548, an act to amend the
13 Agriculture and Markets Law, in relation to
14 duties of the Commissioner of Agriculture and
15 Markets.

16 ACTING PRESIDENT MEIER: Read
17 the last section.

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

20 ACTING PRESIDENT MEIER: Call
21 the roll.

22 (The Secretary called the
23 roll.)

24 THE SECRETARY: Those recorded
25 in the negative on Calendar Number 185 are

1 Senators Goodman, Leibell and Leichter. Ayes
2 49, nays 3.

3 ACTING PRESIDENT MEIER: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 186, by Senator Padavan, Senate Print 3084, an
7 act to amend the Agriculture and Markets Law,
8 in relation to spectators at exhibitions of
9 animal fighting.

10 ACTING PRESIDENT MEIER: Read
11 the last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect on the first day of
14 November.

15 ACTING PRESIDENT MEIER: Call
16 the roll.

17 (The Secretary called the
18 roll.)

19 THE SECRETARY: Ayes 54.

20 ACTING PRESIDENT MEIER: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 190, substituted earlier today, by member of
24 the Assembly Sweeney, Assembly Print 5991-A,
25 an act to amend the Public Authorities Law, in

1 relation to the special powers of the New York
2 State Environmental Facilities Corporation.

3 ACTING PRESIDENT MEIER: Read
4 the last section.

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

7 ACTING PRESIDENT MEIER: Call
8 the roll.

9 (The Secretary called the
10 roll.)

11 THE SECRETARY: Ayes 54.

12 ACTING PRESIDENT MEIER: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 191, substituted earlier today, by member of
16 the Assembly Vann, Assembly Print 8994, an act
17 to amend the Business Corporation Law, in
18 relation to corporate finance proxies, powers
19 of directors, and mergers.

20 ACTING PRESIDENT MEIER: Read
21 the last section.

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

24 ACTING PRESIDENT MEIER: Call
25 the roll.

1 (The Secretary called the
2 roll.)

3 THE SECRETARY: Ayes 53, nays
4 one, Senator Leichter recorded in the
5 negative.

6 ACTING PRESIDENT MEIER: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 202, by Senator Present, Senate Print 5919, an
10 act to amend the Vehicle and Traffic Law, in
11 relation to the maximum speed limit on a
12 portion of Route 17.

13 ACTING PRESIDENT MEIER: Read
14 the last section.

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

17 ACTING PRESIDENT MEIER: Call
18 the roll.

19 (The Secretary called the
20 roll.)

21 THE SECRETARY: Ayes 54.

22 SENATOR LAVALLE: Mr. President.

23 ACTING PRESIDENT MEIER:

24 Senator LaValle.

25 SENATOR LAVALLE: Mr.

1 President, may I have unanimous consent to be
2 recorded in the negative on Calendar Number
3 185.

4 ACTING PRESIDENT MEIER:
5 Without objection, Senator LaValle will be
6 recorded in the negative on Calendar Number
7 185. (Pause)

8 For the purposes of the record,
9 Calendar Number 202 is passed.

10 Senator Marcellino.

11 SENATOR MARCELLINO: Mr.
12 President, there will be an immediate meeting
13 of the Finance Committee in Room 332.

14 ACTING PRESIDENT MEIER:
15 Immediate meeting of the Finance Committee in
16 Room 332.

17 Senator Marcellino.

18 SENATOR MARCELLINO: Mr.
19 President, can we take up the controversial
20 calendar right now.

21 ACTING PRESIDENT MEIER:
22 Secretary will read the controversial
23 calendar.

24 THE SECRETARY: Calendar Number
25 91, by Senator Cook, Senate Print Number 1422,

1 an act to amend the Criminal Procedure Law, in
2 relation to denial of recognizance or bail in
3 certain cases.

4 ACTING PRESIDENT MAZIARZ:
5 Senator Cook, an explanation of Calendar
6 Number 91 has been requested by Senator
7 Paterson.

8 SENATOR PATERSON: Mr.
9 President, interestingly enough that 20 years
10 ago when this bill was first introduced it was
11 quite radical. In the context of many of the
12 other things that people are talking today,
13 it's a very conservative bill in that it only
14 establishes a presumption in the case where an
15 individual appears for an arraignment and they
16 ask for bail to be set. It creates a
17 presumption that, if they've previously been
18 convicted of one of the enumerated violent
19 crimes or if they're currently under
20 indictment on another violent -- charge of a
21 violent crime, that they are presumed to be an
22 endangerment to the society and that the judge
23 has to then have a hearing at which that may
24 be refuted by the defendant, but that the
25 judge must deny bail unless there is some

1 showing on the part of the defendant that, in
2 fact, they do not create an endangerment to
3 the public.

4 ACTING PRESIDENT MAZIARZ:
5 Senator Paterson.

6 SENATOR PATERSON: Thank you,
7 Mr. President.

8 If Senator Cook would yield.

9 ACTING PRESIDENT MAZIARZ:
10 Senator Cook, would you yield for a question
11 from Senator Paterson?

12 Senator Paterson.

13 SENATOR PATERSON: Thank you,
14 Mr. President.

15 Are there any statistics
16 currently involved in the revocation of bail
17 by judges that would give us an example, give
18 us an idea of how many people would be
19 affected by the passage of this type of
20 legislation?

21 SENATOR COOK: Mr. President, I
22 have no statistics because I don't know that
23 we've -- that anybody keeps those kind of
24 statistics. You have individual cases, of
25 course, which come before courts and the

1 problem is that in New York State courts, at
2 least in one -- at least in one judicial
3 district and I think probably statewide, the
4 presumption at this point has to be that the
5 only reason to deny bail would be a showing
6 that there was some reason to expect that the
7 individual might not appear for trial, and
8 it's then -- the burden of proof then is on
9 the district attorney in that case to show
10 that the individual may actually flee the
11 state rather than appearing for trial.

12 The -- the court then does not
13 have the ability to make the decision on the
14 other question, which is the endangerment of
15 society, and that's really what this bill does
16 is changes that presumption and because you're
17 changing the presumption you really -- you
18 can't count one kind of statistics as
19 indicative of what may happen in a different
20 type of case.

21 ACTING PRESIDENT MAZIARZ:

22 Senator Paterson.

23 SENATOR PATERSON: Thank you,
24 Mr. President.

25 If Senator Cook would continue

1 to yield.

2 ACTING PRESIDENT MAZIARZ:

3 Senator Cook?

4 SENATOR COOK: Yes.

5 ACTING PRESIDENT MAZIARZ:

6 Senator Paterson.

7 SENATOR PATERSON: Senator
8 Cook, I think it's probably my fault. I don't
9 think I'm stating it clearly enough. Perhaps
10 there are no statistics. I wasn't thinking in
11 terms of cases where there was -- where the
12 situation already existed where someone is
13 currently out on bail for another charge or
14 where there was a previous conviction.

15 I was thinking of those cases
16 where a person is allowed out on bail and then
17 the bail was revoked showing that there's some
18 necessity for this legislation that people who
19 are currently out on bail or are in some way
20 awaiting trial or in recognizance are
21 committing a large number of crimes. The
22 reason I'm seeking the answer is because I
23 want to know what kind of crime reduction that
24 we could expect from the passage of this
25 legislation.

1 SENATOR COOK: Well, first, let
2 me answer you that I'm not -- I'm not aware
3 that revocation of bail at this point is -
4 would be dependent upon any subsequent action
5 of the defendant. This is not like probation
6 where an individual on probation, first by
7 violating probation, immediately has the
8 probation suspended, or parole where they
9 break parole and, therefore, go back to jail,
10 because the -- the bail, of course, is set on
11 a specific incident relating to a specific
12 time of appearance in court; so I don't know
13 that you have this same kind of continuity,
14 but that is really, of course, the question
15 that -- not the question you really are trying
16 to ask.

17 You're trying to say, do we
18 have any showing that, in fact, this
19 particular bill is going to cut back
20 dramatically on street crime. I have no
21 statistics again, because we don't -- we don't
22 have a way to measure, but I can tell you that
23 at least two incidents that I am aware of, one
24 case where an individual was -- had a previous
25 conviction for rape and was, in fact, awaiting

1 trial on a second -- a second charge, in fact,
2 murdered someone and that's really where this
3 bill started.

4 I also have testimony that I
5 received in Buffalo some years ago from a
6 police chief out there indicating that one
7 particular individual had 11 charges pending
8 against them at the time that they took an
9 antenna off an automobile and stabbed somebody
10 in the -- in the stomach, and they ultimately
11 died from that, but that, in fact, the person
12 had been released on bail repeatedly for a
13 whole variety of different crimes in which it
14 was clear that this is an individual who has a
15 propensity for committing violent acts, so the
16 anecd... that is admittedly anecdotal evidence
17 but it seems to indicate to me that there is
18 at least a need for the judge to be able to
19 make a decision based upon the individual's
20 past performance as to whether they constitute
21 an endangerment to society.

22 ACTING PRESIDENT MAZIARZ:

23 Senator Paterson.

24 SENATOR PATERSON: Thank you,

25 Mr. President.

1 What Senator Cook is proposing
2 really makes a lot of sense when you listen to
3 the examples that he gave. I think we would
4 all feel a sense of responsibility or
5 certainly a sense of chagrin at finding out
6 that an individual who had previously been
7 convicted of a violent felony and then at some
8 point arrested for a second similar situation
9 would at the time of awaiting trial commit yet
10 a third offense because we as a society did
11 not realize that this person was so dangerous
12 that it really was injurious to us as a
13 community to have this person out on the
14 street, and this was the reason why I'm trying
15 to elicit any information that would
16 demonstrate whether the situation that Senator
17 Cook describes occurs with enough frequency so
18 that the cost to localities to
19 institutionalize these individuals or even the
20 impingement upon constitutional rights would
21 be justified, that there would be a finding
22 that this has become such an awesome
23 circumstance in the face of predicate felons
24 that we have to try to take some action to try
25 to stop them.

1 I'm not satisfied of this point
2 and cannot vote for the bill as yet because I
3 think that there isn't enough information that
4 demonstrates that we need to do this. There
5 are always going to be some exceptions and
6 some instances where this kind of thing
7 occurs. It is going to be quite tragic for us
8 to learn when it actually affects another
9 human being where someone who has had a
10 continuing disregard for our laws acts out in
11 some fashion that makes us wish that we had
12 incarcerated them longer for a previous
13 offense or detained them when they were
14 arrested for a second offense.

15 But the purpose of bail, Mr.
16 President, is really not to allow for any
17 punishment but is a -- a protection that
18 ensures the defendant's appearance at trial
19 and it is one that is held very highly in our
20 bill of rights and one does not speak to the
21 innocence or guilt of the individual. I think
22 that passage of this legislation comes very
23 close to turning the presumption of innocence
24 on its head. Unfortunately, we probably often
25 can recognize who criminals are just by their

1 prior offenses or by a proclivity to an
2 offense itself, but when we get to the point
3 where we codify it as part of our legislation
4 and we're now saying that, if you're arrested
5 for one felony, and during the period that
6 you're out on bail waiting for another trial,
7 you're arrested for a second, it really
8 challenges the presumption of innocence to
9 then incarcerate that individual for any
10 period of time, and in light of enough
11 evidence that this is occurring so often that
12 it's a significant threat to public safety, I
13 would favor the value of our constitutional
14 protections over our fears and anxieties that
15 come from people whom we know are probably at
16 higher risk than the average citizen being out
17 on bail.

18 ACTING PRESIDENT MAZIARZ: Read
19 the last section.

20 Senator Cook.

21 SENATOR COOK: Senator Paterson
22 has correctly stated the law and the judicial
23 precedent as it exists in New York State,
24 which is that the courts may only consider
25 whether the individual will, in their opinion,

1 reappear for trial, and that is exactly the
2 problem. That the courts under the present
3 judicial precedent that exists are not even
4 permitted to consider the question of whether
5 this person is an endangerment to society.

6 I would point out on the
7 constitutional issue that in federal court as
8 well as in the courts of most of the other
9 states in the Union, this is a consideration
10 that's acceptable, and I think that last year
11 when we voted on this, there were seven
12 negative votes. There may be some changes in
13 mind one way or another, but it appeared that
14 last year most people agreed that we ought to
15 have that power in the hands of the courts in
16 New York State and voted for the bill.

17 ACTING PRESIDENT MAZIARZ: Read
18 the last section.

19 THE SECRETARY: Section 11.
20 This act shall take effect on the first day of
21 January.

22 ACTING PRESIDENT MAZIARZ: Call
23 the roll.

24 (The Secretary called the
25 roll.)

1 ACTING PRESIDENT MAZIARZ:

2 While the Secretary is recording the votes,
3 we'd like to welcome Mr. Steven Forbes to the
4 Senate Chamber. Mr. Forbes?

5 SENATOR COOK: Mr. President.

6 ACTING PRESIDENT MAZIARZ:

7 Senator Cook.

8 Senator Cook, to explain his
9 vote.

10 SENATOR COOK: Mr. President, I
11 think it's interesting that in a report
12 released on February 13, 1978, which
13 admittedly is a while ago, by the Democratic
14 Minority Leader of the New York State Senate,
15 it's noted that at least 80 percent of all
16 persons convicted of robbery have at least one
17 prior felony arrest, and that more than 2,000
18 people arrested in New York City in
19 1976 -- and there's been raising of the old
20 numbers -- for new crimes were already wanted
21 under bench warrants issued for absconding
22 from recognizance or bail granted on a prior
23 felony charge, which may give you some of the
24 statistics that you were looking for,
25 Senator.

1 ACTING PRESIDENT MAZIARZ:

2 Senator Cook will be recorded in the
3 affirmative.

4 Senator Paterson.

5 SENATOR PATERSON: Mr.
6 President, I already voted in the negative.

7 ACTING PRESIDENT MAZIARZ: And
8 you already explained also, so -

9 SENATOR PATERSON: Maybe if
10 Senator Cook had gotten that information over
11 here, I have an open mind. It is likely to
12 come back next year.

13 ACTING PRESIDENT MAZIARZ: Did
14 you want to change your vote, Senator
15 Paterson?

16 SENATOR PATERSON: I don't
17 think so.

18 ACTING PRESIDENT MAZIARZ: I
19 thought not.

20 Results, please.

21 THE SECRETARY: Those recorded
22 in the negative on an Calendar Number 91 are
23 Senators Abate, Breslin, Connor, Kruger,
24 Markowitz, Montgomery, Sampson, Santiago and
25 Smith. Ayes 47, nays 9.

1 ACTING PRESIDENT MAZIARZ: The
2 bill is passed.

3 Senator Marcellino.

4 SENATOR MARCELLINO: Mr.
5 President, can we now take up Senate Calendar
6 Number 174.

7 ACTING PRESIDENT MAZIARZ:
8 Secretary will read.

9 THE SECRETARY: Calendar Number
10 174, by Senator Hannon, Senate Print Number
11 4433, an act to amend the Civil Service Law,
12 in relation to authorizing the defense and
13 indemnification of the state for actions
14 against persons.

15 SENATOR MARCELLINO: Mr.
16 President, can we just lay this bill aside
17 temporarily. We have a question for a member
18 who is sitting in Finance right now and the
19 next bill to be talked about is also in
20 Finance, so if we could just be at ease for a
21 few moments until the respective Senators
22 return from the Finance meeting, we would
23 appreciate it.

24 ACTING PRESIDENT MEIER: The
25 bill will be laid aside. The Senate will

1 stand at ease pending the completion of the
2 Finance meeting.

3 Senator Marcellino.

4 SENATOR MARCELLINO: All
5 right. Could we return to reports of standing
6 committees for the Rules Committee report.

7 ACTING PRESIDENT MEIER: Return
8 to the order of business, reports of standing
9 committees.

10 Secretary will read.

11 THE SECRETARY: Senator Bruno,
12 from the Committee on Rules, reports the
13 following bill direct to third reading:

14 Senate Print 6183, by Senator
15 Stafford, an act authorizing the extension of
16 time for the collection of taxes, fines and
17 payment of other monies.

18 ACTING PRESIDENT MEIER:
19 Senator Marcellino.

20 SENATOR MARCELLINO: Stand at
21 ease, sir. I'm sorry. Mr. President, before
22 we stand at ease can we move to accept the
23 report of the Rules Committee, please.

24 ACTING PRESIDENT MEIER: Motion
25 is to accept the report of the Rules

1 Committee. Those in favor signify by saying
2 aye.

3 (Response of "Aye.")

4 Opposed nay.

5 (There was no response.)

6 The report of the Rules
7 Committee is accepted.

8 Senator Marcellino, there are
9 other committee reports at the desk.

10 SENATOR MARCELLINO: Can we
11 take up the other committee reports at this
12 time. Bless you!

13 ACTING PRESIDENT MEIER: Yes.

14 THE SECRETARY: Senator
15 Leibell, from the Committee on Housing
16 Construction and Community Development,
17 reports:

18 Senate Print 2351, by Senator
19 Leibell, an act to amend the Administrative
20 Code of the city of New York;

21 3930, by Senator Leibell, an
22 act to amend the Private Housing Finance Law;

23 6007, by Senator Marchi, an act
24 to amend the Real Property Tax Law;

25 6042, by Senator Leibell, an

1 act to amend Chapter 84 of the Laws of 1993;
2 6043, by Senator Leibell, an
3 act to amend Chapter 449 of the Laws of 1986;
4 and

5 6044, by Senator Leibell, an
6 act to amend Chapter 777 of the Laws of 1986.

7 All bills ordered direct for
8 third reading.

9 ACTING PRESIDENT MEIER:

10 Without objection, all bills directly to third
11 reading.

12 Senator Marcellino.

13 SENATOR MARCELLINO: Mr.

14 President, can we return to the calendar at
15 this time and take up Senate Print Number
16 6170, previously reported from the Committee
17 on Social Services.

18 ACTING PRESIDENT MEIER:

19 Senator Marcellino, before we do that, the
20 Secretary would like to read the report that's
21 at the desk from the Committee on Social
22 Services.

23 SENATOR MARCELLINO: O.K.

24 ACTING PRESIDENT MEIER:

25 Secretary will read.

1 THE SECRETARY: Senator
2 Holland, from the Committee on Social
3 Services, reports the following bill direct to
4 third reading:

5 6170, by Senator Hannon, an act
6 to amend the Social Services Law.

7 ACTING PRESIDENT MEIER:
8 Without objection, third reading.

9 SENATOR MARCELLINO: May we now
10 return to regular order.

11 ACTING PRESIDENT MEIER: We'll
12 now return to the regular order of business.

13 Secretary will read.

14 THE SECRETARY: Calendar Number
15 236, by Senator Hannon, Senate Print 6170, an
16 act to amend the Social Services Law, in
17 relation to limiting the method of payment.

18 ACTING PRESIDENT MEIER: Read
19 the last section.

20 THE SECRETARY: Section 4.
21 This act shall take effect in 120 days.

22 ACTING PRESIDENT MEIER: Call
23 the roll.

24 (The Secretary called the
25 roll.)

1 THE SECRETARY: Ayes 56.

2 ACTING PRESIDENT MEIER: The
3 bill is passed.

4 Senator Marcellino.

5 SENATOR MARCELLINO: Is there
6 any other housekeeping?

7 ACTING PRESIDENT MEIER:
8 There's no housekeeping at the desk at this
9 time.

10 SENATOR MARCELLINO: Then shall
11 -- let the house stand at ease for a while.

12 ACTING PRESIDENT MEIER: Senate
13 will stand at ease.

14 (The Senate stood at ease from
15 3:41 p.m., until 3:50 p.m.)

16 ACTING PRESIDENT MEIER:
17 Senator Skelos.

18 SENATOR SKELOS: Mr. President,
19 would you please call up -

20 ACTING PRESIDENT MEIER: Excuse
21 me a second, Senator Skelos. Could we have
22 order in the chamber, people cease their
23 conversations, please.

24 Senator Skelos.

25 SENATOR SKELOS: Mr. President,

1 at this time would you call up Calendar Number
2 104, Senate Number 999, by Senator Saland.

3 ACTING PRESIDENT MEIER:
4 Secretary will read.

5 THE SECRETARY: Calendar Number
6 104, by Senator Saland, Senate Print Number
7 999, an act to amend the Not-for-Profit
8 Corporation Law, in relation to eliminating
9 limitations.

10 ACTING PRESIDENT MEIER: Read
11 the last section.

12 THE SECRETARY: Section 2.
13 This act shall take effect -

14 ACTING PRESIDENT MEIER:
15 Senator Paterson, are you asking to be
16 recognized?

17 SENATOR PATERSON: I think
18 Senator Smith has a question.

19 ACTING PRESIDENT MEIER:
20 Senator Smith.

21 SENATOR SMITH: Thank you, Mr.
22 President.

23 Would the sponsor yield for a
24 couple of questions?

25 SENATOR SALAND: Yes, Mr.

1 President.

2 ACTING PRESIDENT MEIER:

3 Sponsor yields.

4 SENATOR SMITH: Could you tell
5 me briefly why this bill is necessary at this
6 point in time?

7 SENATOR SALAND: It would
8 require a somewhat brief explanation of the
9 history of this section.

10 The section goes back about 150
11 years and, when initially instituted, the idea
12 of not-for-profits or whatever they called it
13 back in 1848 was somewhat novel -- new -- and
14 what they determined at that point is that
15 they're going to permit the accumulation of
16 property and the accumulation of income that
17 should be limited, and if I remember this
18 correctly -- and perhaps it's in the memo -- I
19 think initially they talk in terms of \$125,000
20 worth of accumulation of property, some
21 \$10,000 in income.

22 Periodically, over the last
23 century and a half, what we have done is from
24 time to time up those limits to now where it
25 talks in terms of accumulation of 50 million

1 in property and 6 million in income.

2 What this bill proposes to do
3 is to say there's no reason to have these
4 limits for not-for-profits any longer,
5 particularly when the language contained in
6 section 202 is not necessarily
7 jurisdictional. What you can do in your
8 certificate of incorporation, and many of the
9 more contemporary not-for-profits do this,
10 they notwithstanding the language of 202, at
11 least insofar as it pertains to their
12 accumulation of property or the amount of
13 income that they're permitted to generate and
14 by notwithstanding it, they have no
15 limitation, effectively what we would like to
16 do, and it's not changing any of the
17 governance for not-for-profits but merely to
18 say that this particular proscription which is
19 only in part applicable and doesn't -- and can
20 be, in effect, voluntarily done away with by
21 your own certificate of incorporation, should
22 no longer really be applicable and let those
23 not-for-profits who do, Lord only knows how
24 many good things in their respective
25 districts, have the responsibility to do as

1 they please in property accumulation and
2 income.

3 SENATOR SMITH: Thank you. I
4 believe it was 1984 that we last changed the
5 amount.

6 SENATOR SALAND: Correct, yes.

7 SENATOR SMITH: Are there any
8 current limitations of -- that would inhibit
9 not-for-profits from carrying out their
10 functions?

11 SENATOR SALAND: I believe that
12 there are some not-for-profits who are under
13 older certificates of incorporation who find
14 themselves restrained, whereas more -- those
15 that have been formed more recently have been
16 able, if they chose to do so, to do away with
17 this particular what I'll call requirement,
18 but again it's not a requirement in the
19 strictest sense because you're, by your own
20 certificate of incorporation able to eliminate
21 it.

22 SENATOR SMITH: Excuse me. Mr.
23 President: Was there any one particular
24 not-for-profit that requested this
25 legislation?

1 SENATOR SALAND: As far as I
2 can determine, no. We've gone back through
3 our files to see if we -- when we originally
4 introduced this bill which I think may have
5 been three years ago, if we had a request from
6 anybody in particular. We've been unable to
7 determine. I'm not aware of anybody in
8 particular who asked for this for their
9 corporation.

10 SENATOR SMITH: One last
11 question: Have there been cases, to your
12 knowledge, of for-profits that have
13 established not-for-profit corporations to be
14 able to circumvent the fiscal entity?

15 SENATOR SALAND: Ask you to
16 rephrase that, Senator. I'm not quite sure -
17 would you just ask that question again.

18 SENATOR SMITH: Have there been
19 for-profit corporations that have established
20 not-for-profits so that they would be able to
21 transfer or to buy property under the
22 not-for-profit or under a foundation sort of
23 spin-off?

24 SENATOR SALAND: I'm not aware
25 of that being a problem. If you are aware of

1 it, it's news to me, and, in effect, there is
2 the ability if you want to form a -- as I
3 understand the law, if you wanted to form a
4 new not-for-profit, you could do that with
5 relative abandon and not be concerned about
6 this section.

7 SENATOR SMITH: And I'm sorry,
8 I did say it was one last question but there's
9 one last -- provokes one more thought. What
10 is to prevent a not-for-profit from buying up
11 everything imaginable and at what point do
12 they become a for-profit, because they have
13 all of this property which brings in income or
14 is valued at some point? How do you establish
15 the cut-off point?

16 SENATOR SALAND: Not -- well,
17 there are not-for-profits that, as I said
18 before, are not bound by these provisions and
19 they've chosen not to be bound, have
20 effectively constructed their corporate -
21 their not-for-profit corporate existence, in a
22 way not to contend with this. There are, I'm
23 sure, any number of not-for-profits that
24 probably have values or have assets not in the
25 hundreds of millions, perhaps in the billions.

1 Certainly there are foundations which may not
2 necessarily be not-for-profits which have
3 billions of dollars worth of assets, but it's
4 the purpose of the corporation, and while it
5 may pay money to employees, they may have
6 people who administer -- they may have people
7 who do clerical work. The purpose of the
8 not-for-profits are generally some -- in the
9 direction of some of societal good as
10 distinguished from having a return that's
11 going to be maximized for the benefit of their
12 shareholders.

13 SENATOR SMITH: Thank you very
14 much.

15 ACTING PRESIDENT MEIER: Read
16 the last section.

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

19 ACTING PRESIDENT MEIER: Call
20 the roll.

21 (The Secretary called the
22 roll.)

23 THE SECRETARY: Ayes 57.

24 ACTING PRESIDENT MEIER: The
25 bill is passed.

1 Senator Skelos.

2 SENATOR SKELOS: Mr. President,
3 would you please call up Senate Number 6183
4 that was before you before the Rules
5 Committee.

6 ACTING PRESIDENT MEIER:
7 Secretary will read.

8 THE SECRETARY: Calendar Number
9 237, by Senator Stafford, Senate Print 6183,
10 an act to authorize the extension of time for
11 the collection of taxes, fines and payment of
12 other monies.

13 ACTING PRESIDENT MEIER: Read
14 the last section.

15 THE SECRETARY: Section 4.
16 This act shall take effect immediately.

17 ACTING PRESIDENT MEIER: Call
18 the roll.

19 (The Secretary called the
20 roll.)

21 THE SECRETARY: Ayes 57.

22 ACTING PRESIDENT MEIER: The
23 bill is passed.

24 Senator Gold.

25 SENATOR GOLD: Mr. President, I

1 was at a Finance meeting. May I have unanimous
2 consent to be recorded in the negative on
3 Calendar Number 91, Senator Cook's bill,
4 1422.

5 ACTING PRESIDENT MEIER:
6 Without objection, Senator Gold will be
7 recorded in the negative on Calendar Number
8 91.

9 Senator Mendez.

10 SENATOR MENDEZ: Mr. President,
11 I would like to have unanimous consent to be
12 recorded in the negative on that same bill,
13 Calendar Number 91.

14 ACTING PRESIDENT MEIER:
15 Without objection.

16 SENATOR SKELOS: Mr.
17 President.

18 ACTING PRESIDENT MEIER:
19 Senator Skelos.

20 SENATOR SKELOS: There will be
21 an immediate meeting of the Higher Education
22 Committee in the Majority Conference Room and
23 if you could call up Calendar Number 174, by
24 Senator Hannon.

25 ACTING PRESIDENT MEIER:

1 Secretary will read.

2 THE SECRETARY: Calendar Number
3 174, by Senator Hannon, Senate Print 4433, an
4 act to amend the Civil Service Law, in
5 relation to authorizing the defense and
6 indemnification by the state.

7 SENATOR PATERSON:
8 Explanation.

9 ACTING PRESIDENT MEIER:
10 Senator Hannon, an explanation has been
11 asked.

12 SENATOR HANNON: Yes. This
13 bill extends the defense indemnification
14 provisions of the current Public Officers Law
15 to health care providers who serve as
16 consultants or expert witnesses for the Civil
17 Service Department or Civil Service
18 Commission. It passed previously and was
19 introduced at the request of the Department of
20 Civil Service.

21 ACTING PRESIDENT MEIER:
22 Senator Stachowski.

23 SENATOR STACHOWSKI: On the
24 bill. I know that previously there was no
25 opposition to this bill and we supported it

1 and, however, this year there is a slight
2 change in that the AFL-CIO opposes this bill
3 now, and they have some concerns about
4 identifying these witnesses and feel that it
5 could lead to possibly more privatization and
6 so, for that reason, I'm going to vote against
7 the bill.

8 ACTING PRESIDENT MEIER: Read
9 the last section.

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

12 ACTING PRESIDENT MEIER: Call
13 the roll.

14 (The Secretary called the
15 roll.)

16 THE SECRETARY: Those recorded
17 in the negative on Calendar Number 174 are
18 Senators Gold, Leichter, Mendez, Nanula,
19 Onorato, Paterson, Smith and Stachowski. Ayes
20 49, nays 8.

21 ACTING PRESIDENT MEIER: The
22 bill is passed.

23 Senator Skelos, that completes
24 the reading of the controversial calendar.

25 SENATOR LEICHTER: Mr.

1 President.

2 ACTING PRESIDENT MEIER:

3 Senator Leichter.

4 SENATOR LEICHTER: Mr.

5 President, would you please, with unanimous
6 consent, mark me in the negative on Calendar
7 91.

8 ACTING PRESIDENT MEIER:

9 Without objection.

10 Senator Skelos.

11 SENATOR SKELOS: Mr. President,
12 if we could return to reports of standing
13 committees, I believe there's a report of the
14 Finance Committee at the desk. I would ask
15 that the two bills reported be read first.
16 We'll take them up and then we'll go to
17 confirmations.

18 ACTING PRESIDENT MEIER:

19 Reports of standing committees. The Secretary
20 will read.

21 THE SECRETARY: Senator
22 Stafford, from the Committee on Finance,
23 reports the following bills direct to third
24 reading:

25 Senate Print 6187, by the

1 Senate Committee on Rules, an act to amend
2 Chapters 53, 54, 55 and 56 of the Laws of
3 1997; and

4 Senate Print 6188, by the
5 Senate Committee on Rules, an act to amend
6 Chapter 434 of the Laws of 1997.

7 All bills ordered direct to
8 third reading.

9 ACTING PRESIDENT MEIER:
10 Without objection, all bills to third
11 reading.

12 SENATOR SKELOS: Mr. President,
13 would you take up Calendar Number 238, Senate
14 6187 that was reported by the Finance
15 Committee.

16 ACTING PRESIDENT MEIER: The
17 Secretary will read.

18 THE SECRETARY: Calendar Number
19 238, by the Senate Committee on Rules, Senate
20 Print 6187, an act to amend Chapters 53, 54,
21 55 and 56 of the Laws of 1997.

22 SENATOR SKELOS: Mr. President,
23 is there a message of necessity and
24 appropriation at the desk?

25 ACTING PRESIDENT MEIER: There

1 is a message at the desk.

2 SENATOR SKELOS: Move to
3 accept.

4 ACTING PRESIDENT MEIER: The
5 motion is to accept the message of necessity
6 and appropriation. All those in favor signify
7 by saying aye.

8 (Response of "Aye".)

9 Opposed, nay.

10 (There was no response.)

11 The message is accepted.

12 Read the last section.

13 THE SECRETARY: Section 5.

14 This act shall take effect immediately.

15 ACTING PRESIDENT MEIER: Call
16 the roll.

17 (The Secretary called the
18 roll.)

19 THE SECRETARY: Ayes 57.

20 ACTING PRESIDENT MEIER: The
21 bill is passed.

22 Senator Skelos.

23 SENATOR SKELOS: Mr. President,
24 at this time would you call up Calendar Number
25 239, Senate 6188 that was reported from the

1 Finance Committee.

2 ACTING PRESIDENT MEIER: The
3 Secretary will read.

4 THE SECRETARY: Calendar Number
5 239, by the Senate Committee on Rules, Senate
6 Print 6188, an act to amend Chapter 434 of the
7 Laws of 1997.

8 ACTING PRESIDENT MEIER:
9 Senator Skelos.

10 SENATOR SKELOS: Mr. President,
11 is there a message of necessity at the desk?

12 ACTING PRESIDENT MEIER: There
13 is a message at the desk.

14 SENATOR SKELOS: Move to
15 accept.

16 ACTING PRESIDENT MEIER: The
17 motion is to accept the message of necessity.
18 All those in favor signify by saying aye.

19 (Response of "Aye".)

20 Opposed, nay.

21 (There was no response.)

22 The message is accepted.

23 Read the last section.

24 THE SECRETARY: Section 9.

25 This act shall take effect immediately.

1 ACTING PRESIDENT MEIER: Call
2 the roll.

3 (The Secretary called the
4 roll.)

5 THE SECRETARY: Ayes 57.

6 ACTING PRESIDENT MEIER: The
7 bill is passed.

8 Senator Skelos.

9 SENATOR SKELOS: Mr. President,
10 if we could return to motions and resolutions,
11 I move that we adopt the Resolution Calendar
12 in its entirety.

13 ACTING PRESIDENT MEIER: The
14 motion is to adopt the Resolution Calendar.
15 All those in favor signify by saying aye.

16 (Response of "Aye".)

17 Opposed, nay.

18 (There was no response.)

19 The Resolution Calendar is
20 adopted.

21 Senator Skelos.

22 SENATOR SKELOS: Mr. President,
23 if we could return to reports of standing
24 committees, could we complete the report of
25 the Finance Committee at this time.

1 ACTING PRESIDENT MEIER:
2 Reports of standing committees. The Secretary
3 will read.

4 THE SECRETARY: Senator
5 Stafford, from the Committee on Finance,
6 reports the following nomination:
7 Commissioner of Labor: James J. McGowan, of
8 Yorktown Heights.

9 ACTING PRESIDENT MEIER:
10 Senator Stafford.

11 SENATOR STAFFORD: Move the
12 confirmation.

13 ACTING PRESIDENT MEIER:
14 Senator Spano.

15 SENATOR SPANO: Mr. President,
16 it's my pleasure to second the nomination of
17 Jim McGowan as the Commissioner of the
18 Department of Labor.

19 I'll say that due to the
20 unfortunate circumstances of Senator Levy's
21 death, this confirmation had to be moved up a
22 day, but even in moving it up a day, there's
23 still many friends of Jim McGowan who are in
24 the gallery and if it were going to be
25 tomorrow, I'm sure the gallery would have been

1 filled with not only representatives from
2 organized labor but family and friends of a
3 person like Jim McGowan who has touched so
4 many people over the years, starting back from
5 1963 when he was first appointed as a
6 firefighter in New York City, where he rose up
7 the ranks and became a lieutenant in 1974 and
8 then went on and became the president of the
9 New York State Professional Firefighters in
10 '88 and became well known in the halls of the
11 Legislature in Albany all those years.

12 The Governor appointed Jim as
13 the chairman of the Hazard Abatement Board and
14 in his role there, continued his tradition,
15 which has been to work for his members and
16 look out for the working men and women across
17 New York State.

18 There are a lot of stories,
19 Jim, that I could try to tell, but as we think
20 and even as I talk to some of my colleagues,
21 when we talk about Jim McGowan stories, we
22 forget that we're here to help you. So we're
23 here to help you. We will not tell many of
24 the stories about Jim McGowan here today.

25 One of my colleagues came up to

1 me last week and he said, This guy, Jim
2 McGowan, he says, that's your buddy, right? I
3 said, Yeah. He's a Westchester guy. He lives
4 in Yorktown. He said, Yeah. That's the short
5 Irish guy that speaks Italian. I said, Yep,
6 that's it. That's him.

7 Your reputation is well known.
8 Your wit is well known. The fact that you
9 work hard to represent your people as a very
10 strong advocate is certainly well known and
11 the Governor should be commended. The
12 Governor should be commended for reaching into
13 the house of labor to put someone in a very
14 critical position to be his advocate in the
15 cabinet as the Commissioner of Labor who will
16 continue to make sure that the best interests
17 of the working men and women across the state
18 are protected.

19 So, Jim, it is my pleasure,
20 it's an honor here as chairman of the Labor
21 Committee to be the person to second your
22 nomination and to say that we are all proud of
23 the job that you've done. We are all proud of
24 the job that you will continue to do in what
25 will be a very challenging part of your

1 career.

2 It's well deserved and we
3 congratulate you, Jim McGowan, and thank the
4 Governor for selecting someone with your
5 credentials to head this agency.

6 ACTING PRESIDENT MEIER:

7 Senator Leibell.

8 SENATOR LEIBELL: Thank you,
9 Mr. President.

10 I'm very pleased to rise today
11 to also second the nomination of a great New
12 Yorker, a good friend, Jim McGowan and, Jim,
13 you should know that it was me that Nikki was
14 talking to when we were trying to figure out
15 what we can say and what we shouldn't say, and
16 the reason for that is we have spent some very
17 good times together, all of us, over the
18 course of many years and whether serving in
19 this house or serving in the other chamber for
20 all those years, Jim McGowan was one of the
21 first friends I had when I came to Albany. He
22 was a person who instructed me in many
23 different areas but taught me the importance
24 of the working man, the working woman to New
25 York State.

1 As we look back over Jim's very
2 distinguished record over the course of many
3 years, we see the deep commitment that he has
4 made to all our hard workers throughout this
5 great state.

6 Jim also comes from a wonderful
7 family. Fran and Helen and Jim and I have
8 spent many good times together. He has
9 wonderful children. He understands the
10 importance of our families to all of us.

11 We are very fortunate as we sit
12 here today, my colleagues, that the Governor
13 has sent us this name because this is clearly
14 the right man in the right job at the right
15 time. This is a person who will take labor
16 into the next century. He will make sure that
17 all of our working people in this state are
18 protected.

19 I am deeply honored that I have
20 had the chance to rise today to also second
21 this nomination of such a fine New Yorker and
22 such a good friend.

23 Best of luck, Jim.

24 ACTING PRESIDENT MEIER:

25 Senator Maltese.

1 SENATOR MALTESE: I can only
2 echo the words that Senator Spano and Senator
3 Leibell stated as far as Jimmy McGowan. In
4 some 20 years of service to his members, there
5 is no one who has represented them with more
6 dedication and who can point back with more -
7 to more achievements.

8 I think the Governor has
9 indicated again with this fine distinguished
10 appointment that he can go out of any rigid or
11 fixed mold and reach to someone who can
12 represent the interests not only of labor but
13 of all New Yorkers and when we look back at
14 Jimmy the man, we see by his very
15 distinguished career as a firefighter, as a
16 professional firefighter, as a building
17 construction supervisor and foreman, some of
18 the things that he's accomplished and some of
19 the things he's done.

20 When I first knew Jim some many
21 years ago and started to work with him as a
22 Senator when he became ten years ago the
23 president of the Professional Firefighters
24 Association, all I heard was praise of Jimmy
25 the man, a stand-up man, a gentleman, a person

1 who you knew where he was at and where he was
2 coming from, no shilly-shallying, no
3 meandering around but telling you directly and
4 right up front what he felt and yet at the
5 same time not somebody that you couldn't sit
6 down and talk to and perhaps have a cup of
7 coffee with and have a meal and perhaps hope
8 that you changed his mind and ending up with
9 him changing your mind.

10 So, again, I want to commend
11 the Governor and am very proud to second the
12 nomination of a working man in the true sense
13 of the word, a true American, a dedicated
14 patriotic veteran, someone who will well
15 represent the Governor and labor and
16 management and the people of New York State as
17 our commissioner.

18 Congratulations to him and his
19 family.

20 ACTING PRESIDENT MEIER:
21 Senator Smith.

22 SENATOR SMITH: Thank you, Mr.
23 President.

24 I too am proud to rise to
25 second the nomination of Jim McGowan. Ten

1 years ago was very important to the
2 firefighters when Jim McGowan became their
3 president. It was also important to me
4 because some firefighters helped put me in the
5 Senate because two of the firefighters that
6 I'm friendly with were the chairmen of my
7 election committee.

8 They told me a lot about Jim
9 McGowan and, when I arrived in Albany, I had
10 the pleasure of making his acquaintance and it
11 has been a fun time ever since.

12 He has always been up front.
13 He has always been there to give advice and he
14 is always knowledgeable about issues
15 pertaining to labor.

16 I would like to commend the
17 Governor for making this appointment because
18 he's truly doing something that will benefit
19 all of the people of the state of New York,
20 and it's my pleasure to say, Jim, I know that
21 you will do a good job because in everything
22 that you've done in the past, it has been
23 superior.

24 ACTING PRESIDENT MEIER:
25 Senator Trunzo.

1 SENATOR TRUNZO: Mr. President,
2 as chairman of the Civil Service and Pension
3 Committee, I have had the pleasure -- I think
4 it's a pleasure anyway -- of working with Jim
5 McGowan over the past ten years.

6 He has been an outstanding
7 individual not only as the president of the
8 Professional Firefighters fighting and
9 bringing bills to me to try to introduce for
10 pension and Civil Service stuff but also the
11 fact that he's also president -- or was
12 president of the Public Employees Conference,
13 which is made up of all the municipal
14 employees of the state of New York, and as a
15 result we have had a very close working
16 relationship.

17 The only thing I asked him when
18 I first heard about Jim becoming -- running to
19 become the Labor Commissioner, I said to him,
20 You know, Jim, you have such a nice life now
21 as president of the union. You're enjoying
22 life. You come and go as you please. Why the
23 hell do you want to go back to work? Be that
24 as it may, I do commend the Governor for
25 picking Jim as the Labor Commissioner and I

1 know he will do an outstanding job in that
2 position.

3 Congratulations, Jim. I look
4 forward to working with you.

5 Thank you.

6 ACTING PRESIDENT MEIER:

7 Senator Maziarz.

8 SENATOR MAZIARZ: Thank you,
9 Mr. President.

10 I too want to rise and join my
11 colleagues in seconding the nomination of Jim
12 McGowan. Soon we'll have to call you
13 commissioner now. You will have a big title.

14 I have only been in the Senate
15 now for four years but -- well, starting my
16 fourth year, but I know that in talking to
17 labor advocates in Western New York, the name
18 of Jim McGowan was always well known and was
19 always synonymous with fairness, and I
20 certainly look forward, Commissioner, to
21 working with you, particularly in the Western
22 New York area.

23 I commend the Governor. This
24 is a great appointment. It -- the Governor
25 has reached into labor for the Commissioner of

1 Labor, and I think it's going to be great for
2 this state. I think you are going to do a
3 good job, Jim, and I want to join in
4 commending Governor Pataki as Senator Smith
5 did, and that's really a great day around here
6 when Senator Smith commends Governor Pataki,
7 I'll tell you, Jim. So you are the one person
8 that brought those two together.
9 Congratulations.

10 Thank you.

11 ACTING PRESIDENT MEIER:

12 Senator Onorato.

13 SENATOR ONORATO: Thank you,
14 Mr. President.

15 I rise to congratulate the
16 Governor on a wonderful, wonderful
17 appointment. It's not too often that almost
18 everyone in the chamber -- in both chambers
19 know the individual being nominated by the
20 Governor, and I know that from his labor
21 background, he has a fair and open mind about
22 the problems in safety of the workers
23 throughout this state, and I look forward to
24 working with him and especially on an
25 environmental tour of the greeneries. I know

1 he's very concerned about the pesticides that
2 are being used around some of these areas,
3 making sure that no one gets sick, but I
4 sometimes question his ability to measure
5 distance, but I'm going to challenge him a
6 little bit more often on environmental
7 excursions when we get out there, and I look
8 forward to breaking bread with you again.

9 Again to you and your family, I
10 wish you nothing but the best of health and
11 success.

12 ACTING PRESIDENT MEIER:
13 Senator Nozzolio.

14 SENATOR NOZZOLIO: Thank you,
15 Mr. President.

16 I rise to echo my colleagues in
17 support of this fine appointment to the
18 Commissioner of Labor.

19 Jim McGowan has been a pillar
20 of strength for the working man, on behalf of
21 the working man and working woman in this
22 state.

23 I was honored to know Jim when
24 I served in the state Assembly and carried on
25 that knowledge and friendship into this

1 capacity, but I just thank Governor Pataki for
2 his wisdom in putting together such a fine
3 appointment before us and that I know Jim
4 McGowan is as said here, and I don't believe
5 can be overstated, is truly a representative
6 of working men and working women in this
7 state.

8 Jim, my hat's off to you.
9 Congratulations. I know you'll be an
10 excellent Commissioner of Labor.

11 ACTING PRESIDENT MEIER:
12 Senator Bruno.

13 SENATOR BRUNO: Thank you, Mr.
14 President and to be Commissioner McGowan, wife
15 Fran.

16 I am honored to be here and be
17 able to acknowledge the Governor having
18 forwarded such a capable and outstanding
19 person to be Commissioner of Labor for all of
20 the people of New York State, and I heard some
21 of the comments that were made and I'm not
22 going to repeat them, but Jim has made a lot
23 of friends throughout this state and for good
24 reason because he has served the public,
25 especially in the area of labor's rights,

1 knowing what it is to be out there doing your
2 thing in the very best way that you can and he
3 brought credit to the firefighters of New York
4 State, decorated himself many times and,
5 George, I heard you talk about being out there
6 checking the environment, and I can tell you
7 for those of you that have not been out on the
8 golf course with Jim, there is a favorite
9 expression that is used, but I won't repeat it
10 because it has something to do with sandbagger
11 and for those of you that aren't golfers, that
12 means that a person has this tremendous
13 capability and when you're on the first tee,
14 he talks differently and then you see him out
15 there and he does it to perfection. Well, I
16 had that lesson and I look forward to another
17 lesson or two and hopefully we can do that in
18 the season that's going to be before us.

19 But, Jim, I really am saying to
20 you that I'm glad you're here and I appreciate
21 your wife letting you be this involved on
22 behalf of the people of this state because the
23 work that you have to do is so important to
24 everyone and the Governor has done a lot of
25 good things in these last several years but

1 this is one of the best.

2 So my congratulations to him
3 and to Jim, to his family and to all of the
4 people of this state.

5 Thank you, Mr. President.

6 ACTING PRESIDENT MEIER:

7 Senator Gold.

8 SENATOR GOLD: Thank you, Mr.
9 President.

10 Mr. President, Senator Stafford
11 is very kind and gives the members of the
12 Finance Committee resumes and they're very
13 useful because I wasn't sure about this
14 nominee until I noticed that he is the past
15 president of the Mahopac Touchdown Club and
16 that did it for me.

17 Also in the resume it's very
18 pleasing to me that the Governor -- and God
19 bless him for this one; it's a wonderful
20 nomination -- picks a working man and I see
21 this, a firefighter from '63 to '74,
22 lieutenant from '74 to '88 and in that time,
23 it just shows you what education will do. In
24 1984, he attended something at Cornell
25 University and right away he knew he had to

1 get out of there and into the lobbying
2 business, I guess, and so we met him and,
3 again, all of you can thank Cornell University
4 for that, I guess.

5 The most significant part of
6 all of this, as far as I'm concerned, is that
7 in his comments before the Committee, he spoke
8 about the opportunity to work with business
9 and to worry about jobs for this state and
10 that's the kind of talk that we always like to
11 hear from someone who is going to be the
12 Commissioner of Labor, but the reassuring part
13 is that we have a commissioner who knows what
14 it is to work, who knows what it is to not
15 only get his hands dirty but get his hands
16 dirty in some of the most dangerous work that
17 any citizen of this state could participate in
18 and when you're at that conference table and
19 you're trying to create jobs and you're trying
20 to make labor and business get along, there's
21 just a good feeling that every citizen ought
22 to have that the guy sitting there working for
23 us is a working man who knows what it is to
24 work.

25 This is a wonderful

1 nomination. This is one of the Governor's
2 best, and I wish you Godspeed and the best of
3 luck, Jim. You'll do a terrific job.

4 ACTING PRESIDENT MEIER:
5 Senator Connor.

6 SENATOR CONNOR: Thank you, Mr.
7 President.

8 At the risk of repeating what I
9 know has already been said by my colleagues, I
10 rise to support the confirmation of this
11 nomination.

12 Jim has been a friend for many
13 years and in his work with the Legislature on
14 behalf of the fire officers and then on behalf
15 of the public employees, all the public
16 employees of New York State, I have had an
17 opportunity to see that he -- what he can do,
18 that he truly cares about the issues. He
19 truly cares about the working men and women in
20 New York State and he understands the role of
21 government in protecting the important rights
22 which over the decades in this fine state have
23 accrued to working men and women in New York,
24 and he understands as well the proper role
25 that the state has in advancing the needs for

1 ever increasing opportunities for employment
2 and in so advancing that, assuring also that
3 working conditions and the type of dignity
4 that ought to belong and that is guaranteed to
5 working people is maintained.

6 I've also had opportunity to
7 notice in his past role that he really isn't
8 as good a golfer as he thinks he is, but
9 hopefully when he gets older, because he's
10 quite a young man, he will improve his game.

11 I think the Governor -- I have
12 not always agreed with the Governor's
13 appointments, but on this one, not only do I
14 vote to confirm, thus according the respect
15 ordinarily due to the Executive in his
16 appointments, but I enthusiastically endorse
17 this appointment as one that's good for all of
18 the people of the state of New York.

19 Thank you, Mr. President.

20 ACTING PRESIDENT MEIER:

21 Senator Abate.

22 SENATOR ABATE: Yes. I'm proud
23 to stand in support of the nomination of Jimmy
24 McGowan.

25 Like many of my colleagues, I

1 do not support him because of his golf
2 prowess. One thing that's clear, I'm told by
3 many people, there's need for improvement, but
4 there's very little need for improvement in
5 terms of his readiness, his preparedness, his
6 skills and his ability to take on the job at
7 hand.

8 As a labor leader, he was so
9 accessible to so many of us in the
10 Legislature. He was available. He was ready
11 to educate us around issues that affected
12 working men and women throughout the state,
13 and I believe the same accessibility and
14 fair-mindedness will carry over when he
15 becomes Commissioner of the Department of
16 Labor.

17 I believe that Jimmy McGowan
18 will not only be strong but will be fair. He
19 will vigorously enforce fair labor and wage
20 protection for workers, but moreover he
21 understands if we're going to improve the
22 working condition for working men and women,
23 it requires a working partnership, cooperation
24 between business, government and labor and
25 workers themselves and it takes that kind of

1 sensitivity, that commitment, the long work
2 that he's had in this movement to bring what I
3 call an even -- or a balance, a sense of
4 common sense to this office. He will do
5 that. I think he will make New York State
6 proud, and I'm very happy to support him
7 today.

8 ACTING PRESIDENT MEIER:

9 Senator Stachowski.

10 SENATOR STACHOWSKI: Mr.

11 President, I too would like to rise to second
12 the nomination. I think the Governor made an
13 excellent choice. I think that Jim's
14 background as a labor leader and then
15 representing all of the paid firefighters will
16 serve him well in representing all of the
17 working men and women in the state and at the
18 same time in his comments, his awareness of
19 the fact that we have to be careful how we
20 deal with business so that we maintain the
21 jobs we have and create more for the people of
22 New York, I think will give an even balance
23 and add a lot to the Department of Labor at a
24 time when we -- they play such an active role
25 in creating jobs, protecting jobs and making

1 sure that the people that are not working now
2 are going back to work because of the various
3 changes in programs and government.

4 So I wish him well and
5 congratulate the Governor on the appointment.

6 ACTING PRESIDENT MEIER:
7 Senator Alesi.

8 SENATOR ALESI: Thank you, Mr.
9 President.

10 I would like to join my
11 colleagues in supporting the Governor's
12 nomination and pleased that he has chosen such
13 a wonderful person for the position of
14 Commissioner of Labor, not only because I
15 serve on that committee but also because I am
16 fully aware of Jimmy McGowan's having climbed
17 the ladder to gain his knowledge through
18 experience, and I fully support Jimmy in that
19 capacity, in his new capacity.

20 One of the reasons that I'm so
21 happy to see that we have Jimmy McGowan rising
22 to the commissioner's position is because I
23 know he has an exceptional capacity for
24 innovation. I know this because we share the
25 same hotel and for many years I was able to

1 have a secret parking spot and only after
2 sharing that with Jimmy, I found out that he
3 now shares my innovation because he also
4 shares my secret parking spot and not too long
5 ago we were talking about -- at breakfast, in
6 fact, Jim's experience and some of the things
7 that he will do and has done for labor and in
8 the course of that conversation, I mentioned
9 that I have a license plate that says "Jimmy",
10 J-I-M-M-Y, and I could see the wheels of this
11 new commissioner turning already.

12 Well, in congratulating Jimmy
13 McGowan, let me just say that you may continue
14 to share my parking spot, but I will never
15 give up my license plate.

16 ACTING PRESIDENT MEIER:

17 Senator Lack.

18 SENATOR LACK: Thank you, Mr.
19 President.

20 A lot has been said about Jim
21 McGowan here this afternoon and probably all
22 of it is true. I just want to stand and
23 congratulate him and wish him good luck on a
24 job that is going to be very difficult but he
25 certainly is the person who could do it.

1 If you have been reading lately
2 about the state of labor in the country and
3 where it is, a good expert hand with real
4 knowledge of what's going on in the labor
5 movement and how to adjust to that is needed
6 at the helm of this state's Labor Department
7 and, Jim, I congratulate you for taking this
8 chore on and particularly since you come from
9 the -- from the public employee part of labor,
10 shoring up the relationship internally between
11 the public employees and between the craft
12 unions is going to be, I know, the hallmark of
13 your administration in the Department.

14 I wish you Godspeed and
15 anything I can do as a former chair of the
16 Labor Committee to help you in your endeavors,
17 please call on me and I'll only be too happy
18 to give you all of the assistance I can.

19 Congratulations.

20 ACTING PRESIDENT MEIER:

21 Senator Oppenheimer.

22 SENATOR OPPENHEIMER: I think
23 what we haven't said yet and what I think we
24 should say on behalf of Jimmy McGowan is that,
25 yes, he does have the experience and he has

1 long years in this field and he does have a
2 tough job dealing with disparate elements that
3 are involved in business, labor, government,
4 but what I think we may not have said is that
5 this is a man that has a certain warmth and
6 ability to deal with a variety of people in a
7 non-confrontational and a very productive
8 mode.

9 He is a warm and caring person
10 who demonstrates that in his relationships,
11 and I think that is the key. It is not only
12 intelligence and background and experience but
13 it is also a certain type of personality that
14 is capable of bringing people together, and I
15 think that's what Jimmy has, and I certainly
16 wish you the very, very best of luck.

17 ACTING PRESIDENT MEIER:

18 Senator Volker.

19 SENATOR VOLKER: Mr. President,
20 very quickly, I just want to say as an old
21 friend of Jim's, I guess I would just dispute
22 one thing that Senator Oppenheimer said that
23 just dawned on me -- right -- let me just say
24 that coming from where Jim McGowan came from,
25 from the old firefighters union, I know a

1 little bit about that in having been involved
2 a little bit, I think that it wasn't exactly
3 non-confrontational in years past. I think
4 you'll probably find this job more of a piece
5 of cake than anything.

6 I think -- one of the things I
7 think we don't realize is that we are in a
8 different era in many ways in this place. In
9 fact, I was telling somebody the other day
10 that we seem to be the boring place in this
11 country right now given what's happening in
12 Washington, but I think that there's no
13 question that the Governor made an excellent
14 choice and those of us that have known Jim as
15 long as I have know that you couldn't find
16 anybody better, I think to do this job and my
17 very best to you, Jim, and to your family.
18 Good luck.

19 ACTING PRESIDENT MEIER: All
20 Senators wishing to speak on the nomination
21 having been heard, the Chair recognizes
22 Senator Stafford to close.

23 SENATOR STAFFORD: Thank you,
24 Mr. President.

25 In moving the confirmation, I

1 certainly second everything that's been said
2 for a very fine nominee of the Governor who
3 I'm sure will do a very fine job. Jim.

4 ACTING PRESIDENT MEIER: The
5 question is on the confirmation of James J.
6 McGowan as Commissioner of Labor of the state
7 of New York. All in favor signify by saying
8 aye.

9 (Response of "Aye".)

10 Opposed, nay.

11 (There was no response.)

12 The nomination is confirmed.

13 Commissioner McGowan is with us
14 here today as well as he's accompanied by his
15 wife Frances. Commissioner.

16 (Applause)

17 Commissioner, we wish you well
18 with your important duties. Godspeed.

19 The Secretary will read.

20 THE SECRETARY: Senator
21 Stafford, from the Committee on Finance,
22 reports the following nomination: Member of
23 the Adirondack Park Agency: Frank L. Mezzano,
24 of Speculator.

25 ACTING PRESIDENT MEIER:

1 Senator Stafford.

2 SENATOR STAFFORD: Thank you,
3 Mr. President.

4 It's also a pleasure for me to
5 move the confirmation for this nominee, Frank
6 Mezzano.

7 I will be relatively brief as I
8 always am, but I have some serious things to
9 say here, and I want you all to know that I
10 try to keep a sense of humor. Sometimes it is
11 difficult for me like it is all of you to
12 point out the seriousness and how important
13 this nomination is.

14 I would like to tell you about
15 a joke last year -- and I don't by any means
16 want to criticize those who made this joke.
17 We have to take it in good humor, and I know
18 there was no ill will or there was no intent
19 other than to have a light evening, and I
20 attend this function and enjoy it, but during
21 the course of the program, it was pointed out
22 during the function that Stafford was going to
23 ask that the Adirondack Park residents be
24 included in rent control and there was going
25 to be a consideration first if there had been

1 a domestic violence complaint in a residence
2 during the past six months. That was going to
3 be a consideration. It would enhance the
4 situation and also if people used in the
5 residence a petroleum drum for a stove, and
6 that was going to be a consideration and
7 everyone laughed. Again, no ill will, but I
8 mention that to you to emphasize the
9 importance of this nomination for the people
10 of New York State.

11 Colleague, this nominee is
12 interested in the environment of the
13 Adirondack Park and his record has proven
14 this. Also he's interested in a balance in
15 consideration for the people who live there,
16 in consideration of the people who live
17 there. I think you get my point.

18 The nominee is a business
19 person, a successful store owner and he's been
20 involved in his community and we're very proud
21 to move his nomination.

22 ACTING PRESIDENT MEIER:

23 Senator Farley.

24 SENATOR FARLEY: Thank you, Mr.
25 President.

1 I rise to second this
2 nomination. Frank was my constituent, I think
3 for 16 years when I served Hamilton County.

4 Senator Stafford is so right.
5 This is a man that is respected in his
6 community and as somebody that has lived and
7 represented Hamilton County for a lot of
8 years. I don't know anybody that was more
9 articulate and respected in that community
10 than the nominee, and let me just say this:
11 At the Finance Committee, I think at least two
12 of the opposite side of the aisle said to me
13 his answers were superb, or words to that
14 effect. He did answer the questions candidly,
15 honestly and in my judgment took away any
16 concern that anybody might have.

17 He'll be an outstanding
18 commissioner. Everybody's commending the
19 Governor for his nomination of the previous
20 nominee. I commend him on this nomination.
21 This is a person from within the park, a
22 person that is articulate, informed, moderate
23 and somebody that will do a terrific job with
24 the Park Agency.

25 I am pleased to second your

1 nomination, and I think he'll be an
2 outstanding commissioner of that Park Agency.

3 Thank you.

4 ACTING PRESIDENT MEIER: The
5 question is on the confirmation of Frank
6 Mezzano as a member of the Adirondack -- I'm
7 sorry.

8 Senator Oppenheimer.

9 SENATOR OPPENHEIMER: I
10 recognize I'm not very big -- tall. This is
11 somewhat difficult because I have met with
12 Frank Mezzano and he does seem like a very
13 fine gentleman and I can see that he certainly
14 has the support of the communities where he
15 has been elected as the supervisor and he is a
16 noted resident of the Adirondack area.

17 My concern, and I have
18 expressed this to him and said that it is not
19 anything personal. I'm sure, you know, he -
20 as I mentioned, he certainly has the concern
21 of his constituents at heart.

22 I will be opposing Mr. Mezzano
23 because his concept of the land of -- the land
24 use of the Adirondacks is rather contrary to
25 those of us who believe in conservation of the

1 environment.

2 I can understand that he wishes
3 to have economic development to provide more
4 jobs for the people who live within the
5 Adirondacks. However, I feel very strongly
6 that the acquisition of land by the state is a
7 primary concern of mine as well as many other
8 environmentalists because we have this unique
9 public/private park, which is the largest park
10 in 48 states and the balance must not go to
11 private. In our opinion, it must go to
12 public.

13 We strongly support the
14 acquisition of the Whitney property, that
15 portion of the Whitney property and because
16 this is a very serious philosophic conflict, I
17 feel it will not be possible for me to support
18 this nomination.

19 ACTING PRESIDENT MEIER:
20 Senator Marcellino.

21 SENATOR MARCELLINO: Yes, Mr.
22 President.

23 Mr. Mezzano's record was
24 cleared through the Senate Environmental
25 Conservation Committee which, as you know, I

1 chair. His views, I believe, do represent a
2 point of view strongly held in the Adirondacks
3 area, is strongly held by the people whom he
4 represents as an elected official. Clearly
5 the agency is in need of people who have
6 strong views, are not afraid to speak out and
7 diversity is a value and a virtue when a
8 decision has to be made.

9 The Governor has chosen well
10 and has chosen a person who represents that
11 area and is represented -- and will represent
12 the area well, and I am pleased to second that
13 nomination.

14 ACTING PRESIDENT MEIER: The
15 question is on the confirmation of Frank
16 Mezzano as a member of the Adirondack Park
17 Agency. All in favor signify by saying aye.

18 (Response of "Aye".)

19 Opposed, nay.

20 (Senator Oppenheimer raises
21 hand.)

22 Frank Mezzano is confirmed as a
23 member of the Adirondack Park Agency.

24 Congratulations, Mr. Mezzano.

25 (Applause)

1 The Secretary will read.

2 THE SECRETARY: Senator
3 Stafford, from the Committee on Finance,
4 reports the following nomination:

5 Member of the Niagara Frontier
6 Transportation Authority: William N. Hudson,
7 Jr., of Williamsville.

8 SENATOR STAFFORD: Move the
9 confirmation.

10 ACTING PRESIDENT MEIER:
11 Senator Stachowski.

12 SENATOR STACHOWSKI: On this
13 nomination, Mr. President, I just rise because
14 I'm going to have to vote against this
15 nomination not -- I have absolutely nothing
16 against the individual. I think he's a fine
17 man. I think he would be a great
18 appointment. However, traditionally, the NFTA
19 had always had one seat for labor to be
20 represented on the board. That seat that Mr.
21 Hudson is getting is the traditional labor
22 seat. He's replacing George Wessell, who was
23 the labor leader in the area. The labor
24 community had spoken out that they wanted to
25 get a representative on the board. Most of

1 the other representatives are business
2 people. This is just another business person
3 and, as I said, if it was any other seat, I
4 would be probably up and seconding the
5 nomination for Mr. Hudson, but in this case,
6 I'm going to vote no on the appointment not
7 against the individual but against the fact
8 that they're putting someone other than a
9 labor person into a traditionally labor seat.

10 I would like to be recorded in
11 the negative.

12 ACTING PRESIDENT MEIER: The
13 record will reflect your remarks.

14 Senator Rath.

15 SENATOR RATH: Mr. Chairman, I
16 would like to speak on behalf of the
17 appointment of William N. Hudson as a member
18 of the Niagara Frontier Transportation
19 Authority.

20 I have known Mr. Hudson for
21 some 25 years. He is an expert and has been
22 in the world of municipal finance in very high
23 level positions with Marine Midland both in
24 Buffalo and in New York City and now back in
25 the Buffalo area again. He will be an

1 excellent member. He's a leader in the
2 community, and I would like to congratulate
3 the Governor on his appointment.

4 ACTING PRESIDENT MEIER:
5 Senator Nanula.

6 SENATOR NANULA: Thank you, Mr.
7 President.

8 Also on the nomination of
9 William Hudson and in relation to Senator
10 Stachowski's comments, I too rise in
11 opposition of this nomination pretty much,
12 quite frankly, for the same reasons, and
13 although Mr. Hudson has a very impressive
14 career record certainly in regards to the
15 resume that was included in our packet today
16 at the Finance Committee, nowhere in his
17 resume is there any kind of organized labor
18 experience, and as Senator Stachowski
19 commented, this has traditionally been a seat
20 reserved for organized labor.

21 George Wessell was not simply a
22 union leader. He was a leader amongst
23 leaders. He was the regional president of the
24 AFL-CIO. He was instrumental in the project
25 labor agreement that was -- or that became a

1 reality for the construction of the Buffalo
2 Airport and as well -- again, as Senator
3 Stachowski mentioned, several labor leaders
4 from Western New York are very much opposed to
5 this based on that principle. Dan Booty with
6 the building trades union who is a leader in
7 Western New York amongst labor leaders was
8 suggested. That name was floated around these
9 hallowed halls, was suggested to the
10 Governor. That name is not here today, and
11 again, this is in no way anything personal
12 against Mr. Hudson.

13 As stated, he's a very
14 qualified man in terms of his field, but again
15 to state what I believe to be important in
16 regards to this nomination, he doesn't have
17 organized labor experience.

18 And to close, I think it's
19 quite ironic that here we are all in a
20 bipartisan fashion standing up and lauding a
21 man who deserves lauding because he has a
22 labor background unlike the first appointment
23 the Governor made to the Commissioner of Labor
24 post and here in the same session just two
25 nominations later we're not at all being

1 sensitive to that issue.

2 I think that's wrong, and I
3 urge my colleagues based on that principle to
4 vote against this nomination as it comes to
5 the floor.

6 Thank you.

7 ACTING PRESIDENT MEIER: The
8 question is on the confirmation of the
9 nomination. All in favor signify by saying
10 aye.

11 (Response of "Aye".)

12 Opposed, nay.

13 (Response of "Nay".)

14 The nomination is confirmed.

15 The Secretary will read.

16 THE SECRETARY: Senator
17 Stafford, from the Committee on Finance,
18 reports the following nomination:

19 Member of the Small Business
20 Advisory Board: Anthony J. Baynes, of
21 Williamsville.

22 ACTING PRESIDENT MEIER: The
23 question is on the confirmation of the -- I'm
24 sorry.

25 Senator Rath.

1 SENATOR RATH: Yes, Mr.
2 Chairman. I rise to second the nomination of
3 Anthony J. Baynes of Williamsville, member of
4 the Small Business Advisory Board.

5 Mr. Baynes is a young man and
6 has assumed a position of major leadership
7 throughout the community and is in his own
8 right a very successful businessman having
9 started three or four small companies and is
10 growing them and uniting with other
11 companies. I believe his experience, his
12 background and his enthusiasm will be a great
13 advantage to this board, and I want to
14 congratulate the Governor on his appointment.

15 ACTING PRESIDENT MEIER: The
16 question is on the confirmation. All those in
17 favor signify by saying aye.

18 (Response of "Aye".)

19 Opposed, nay.

20 (There was no response.)

21 The nomination is confirmed.

22 The Secretary will read.

23 THE SECRETARY: Senator
24 Stafford, from the Committee on Finance,
25 reports the following nomination:

1 Member of the Board of
2 Directors of the Great Lakes Protection Fund:
3 Gerald F. Mikol, of Orchard Park.

4 SENATOR SKELOS: Move the
5 nomination.

6 ACTING PRESIDENT MEIER: The
7 question is on the confirmation. All in favor
8 signify by saying aye.

9 (Response of "Aye".)

10 Opposed, nay.

11 (There was no response.)

12 The nomination is confirmed.

13 The Secretary will read.

14 THE SECRETARY: Senator
15 Stafford, from the Committee on Finance,
16 reports the following nomination:

17 Member of the Board of
18 Directors of the New York State Science and
19 Technology Foundation: Van C. Campbell, of
20 Corning.

21 SENATOR SKELOS: Move the
22 nomination.

23 ACTING PRESIDENT MEIER: The
24 question is on the confirmation of the
25 nomination. All those in favor signify by

1 saying aye.

2 (Response of "Aye".)

3 Opposed, nay.

4 (There was no response.)

5 The nomination is confirmed.

6 The Secretary will read.

7 THE SECRETARY: Senator

8 Stafford, from the Committee on Finance,

9 reports the following nomination:

10 Members of the Board of
11 Trustees of the State University of New York
12 College of Environmental Science and
13 Forestry: Heidi J. Busa, of Skaneateles and
14 Gregory Harden, of McConnellsville.

15 SENATOR SKELOS: Move the
16 nomination.

17 ACTING PRESIDENT MEIER: The
18 question is on the confirmation of the
19 nominations. All those in favor signify by
20 saying aye.

21 (Response of "Aye".)

22 Opposed, nay.

23 (There was no response.)

24 The nomination are confirmed.

25 The Secretary will read.

1 THE SECRETARY: Senator
2 Stafford, from the Committee on Finance,
3 reports the following nominations:

4 Members of the Lake George Park
5 Commission: James B. Neal, of Silver Bay and
6 Joan Ahr Robertson, of Cleverdale.

7 SENATOR SKELOS: Move the
8 nomination.

9 ACTING PRESIDENT MEIER: The
10 question is on the confirmation of the
11 nominations. All those in favor signify by
12 saying aye.

13 (Response of "Aye".)

14 Opposed, nay.

15 (There was no response.)

16 The nominations are confirmed.

17 The Secretary will read.

18 THE SECRETARY: Senator
19 Stafford, from the Committee on Finance,
20 reports the following nominations:

21 Members of the Stewart Airport
22 Commission: Francis S. Reese, of Hughsonville
23 and James C. Wright, of New Windsor.

24 SENATOR SKELOS: Move the
25 nomination.

1 ACTING PRESIDENT MEIER: The
2 question is on the confirmation of the
3 nominations. All those in favor signify by
4 saying aye.

5 (Response of "Aye".)

6 Opposed, nay.

7 (There was no response.)

8 The nominations are confirmed.

9 The Secretary will read.

10 THE SECRETARY: Senator
11 Stafford, from the Committee on Finance,
12 reports the following nomination:

13 Member of the Veterans Affairs
14 Commission: Richard Samuel Zummo, Esq., of
15 East Setauket.

16 SENATOR SKELOS: Move the
17 nomination.

18 ACTING PRESIDENT MEIER: The
19 question is on the confirmation of the
20 nomination. All those in favor signify by
21 saying aye.

22 (Response of "Aye".)

23 Opposed, nay.

24 (There was no response.)

25 The nomination is confirmed.

1 The Secretary will read.

2 THE SECRETARY: Senator
3 Stafford, from the Committee on Finance,
4 reports the following nominations:

5 Members of the Minority Health
6 Council: Robin Nefirteria Hunter Buskey, of
7 Mount Vernon and Thakor Rana, M.D., of
8 Hastings-on-Hudson.

9 SENATOR SKELOS: Move the
10 nomination.

11 ACTING PRESIDENT MEIER: The
12 question is on the confirmation of the
13 nominations. All those in favor signify by
14 saying aye.

15 (Response of "Aye".)

16 Opposed, nay.

17 (There was no response.)

18 The nominations are confirmed.

19 The Secretary will read.

20 THE SECRETARY: Senator
21 Stafford, from the Committee on Finance,
22 reports the following nominations:

23 Members of the Board of
24 Visitors of the Agricultural and Industrial
25 School of Industry.

1 SENATOR STAFFORD: Move the
2 confirmation.

3 THE SECRETARY: Daniel J.
4 Doyle, Esq., of Irondequoit and Frank Piraino,
5 of Avon.

6 SENATOR STAFFORD: Move the
7 confirmation.

8 ACTING PRESIDENT MEIER: The
9 question is on the confirmation of the
10 nominations. All those in favor signify by
11 saying aye.

12 (Response of "Aye".)

13 Opposed, nay.

14 (There was no response.)

15 The nominations are confirmed.

16 THE SECRETARY: Senator
17 Stafford, from the Committee on Finance,
18 reports the following nomination:

19 Member of the Board of Visitors
20 of the New York State Home for Veterans and
21 Their Dependents at Batavia: Cathleen F.
22 Macinnes, of Walworth.

23 SENATOR STAFFORD: Move the
24 nomination.

25 ACTING PRESIDENT MEIER: The

1 motion is on the confirmation of the
2 nomination. All those in favor signify by
3 saying aye.

4 (Response of "Aye".)

5 Opposed, nay.

6 (There was no response.)

7 The nomination is confirmed.

8 The Secretary will read.

9 SENATOR BRUNO: Mr. President,
10 is there any housekeeping at the desk? Can we
11 take that up now?

12 ACTING PRESIDENT MEIER: Yes,
13 there is, Senator Bruno.

14 The Secretary will read -
15 Senator Lack.

16 SENATOR LACK: Yes, Mr.
17 President. I wish to call up Senator Spano's
18 bill, Print Number 882, recalled from the
19 Assembly, which is now at the desk.

20 ACTING PRESIDENT MEIER: The
21 Secretary will read.

22 THE SECRETARY: Calendar Number
23 140, by Senator Spano, Senate Print 882, an
24 act to amend the Penal Law.

25 SENATOR LACK: Mr. President, I

1 now move to reconsider the vote by which the
2 bill was passed.

3 ACTING PRESIDENT MEIER: Call
4 the roll.

5 (The Secretary called the roll
6 on reconsideration.)

7 THE SECRETARY: Ayes 57.

8 SENATOR LACK: Mr. President, I
9 offer the following amendments.

10 ACTING PRESIDENT MEIER: The
11 amendments are received.

12 Senator Bruno, that completes
13 the housekeeping at the desk.

14 SENATOR BRUNO: Mr. President,
15 just as a reminder, we have cancelled the
16 normal schedule tomorrow pertaining to session
17 and committee meetings out of deference and in
18 memory of our good friend and colleague who
19 departed, Senator Levy. So tomorrow there
20 will be no normal schedule and there are many
21 people who will be traveling to the service
22 there in Nassau and in memory of Senator Levy,
23 there being no further business to come before
24 the Senate, I would move that we stand
25 adjourned until 3:00 p.m., February 23rd,

1 intervening days to be legislative days.

2 Thank you, Mr. President.

3 ACTING PRESIDENT MEIER: On
4 motion, the Senate stands adjourned in memory
5 of Senator Norman J. Levy until Monday,
6 February 23rd, 3:00 p.m., intervening days
7 being legislative days.

8 (Whereupon, at 4:54 p.m., the
9 Senate adjourned.)

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