THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

November 29, 2000

12:43 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, November 28, the Senate met pursuant to adjournment. The Journal of Monday, November 27, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As associate judge of the Court of Appeals, Victoria A. Graffeo, of Altamont.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of Justice Victoria A. Graffeo as an associate judge of the Court of Appeals.

Judge Graffeo's credentials have been examined by the committee, they have been found to be in excellent order. Her background has been looked at exhaustively by the committee. And she was interviewed and appeared before the committee this morning. The committee unanimously has moved the nomination to the floor.

And before I yield for purposes of a second, just a personal comment for one short second. I am overjoyed that Governor Pataki has nominated as an associate judge of

the Court of Appeals a person from our legislative family, and who will bring to the Court of Appeals her entire wealth of experience as a counsel for the New York State Legislature. Governor, my congratulations.

Judge -- about to be Judge Graffeo, my congratulations to you.

And I'm most honored to yield for purposes of a second to the Majority Leader of the New York State Senate, the Honorable Joseph Bruno.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President. Thank you, Senator Lack, colleagues.

Governor George Pataki, in his wisdom, has been offering for confirmation for the highest court, for high positions in this state, outstanding and remarkable people. And I'm happy to say as I stand here in support of this nomination that he is continuing that tradition with Judge Graffeo, serving on the appellate division presently, before us for confirmation.

And we welcome Judge Graffeo and

her family -- dad, Ed; mom, Agnes; husband, Ed, and the rest of the family.

And when you take a look -- those that sat in committee were able to examine the qualifications that bring Judge Graffeo to this chamber -- her qualifications and her experience, her commitment, her dedication are second to none. So the Governor and we are proud that such a truly outstanding individual will go to the highest court in this state.

Great experience in the world generally: she survived as counsel to Leader Rappleyea in the Assembly, and I'm sure learned a great deal; as solicitor general and counsel to our attorney general, Dennis Vacco; and served with distinction in so many ways as Supreme Court judge presently on the appellate division.

I know that we're joined by her close friend, president of the Senate, now Lieutenant Governor Mary Donohue, and so many others. And her husband and I go back an awful lot of years. Vicky I've known on a personal basis, and I am as proud as I can be that we're here confirming Vicky for the

highest court of this state.

And I know I don't have to urge my colleagues, because I know from what has gone before that they're as proud as I am to support Vicky Graffeo for the highest court of New York State.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Madam President, it is a joyous day here in the Capitol, a joyous day in this chamber. It's wonderful to look around the room and see so many of my former colleagues from the Assembly, the Assembly Minority, a proud place to be. And Senate Minority Leader John Faso is here with us, and so many of my friends and colleagues.

And we're here because we have all studied under the tutelage of Judge Graffeo. She's provided all of us with her intelligence, her wit, her dedication, her hard work. It is rare in society that we find someone of intelligence, hard work, and dedication who does not seek the limelight, who is content to be behind the scenes.

Vicky Graffeo's intelligence and

dedication is truly the pillar beneath the platform of our government. Whether it be counsel in the Assembly, whether it be solicitor general under the attorney general, or whether being judge of the Supreme Court Appellate Division, and now the Court of Appeals, she brings a rare quality.

And thanks to the man who made this appointment possible, Governor Pataki. Governor Pataki continues to perhaps break tradition, not waiting for a career of service before elevating to a position that most attorneys if not all attorneys wish that they would one day ascend to.

I'm reminded of the old saying that when one gives a flower, the fragrance stays on the hand of he who bestows it. And so does the excellence of this appointment reflect upon Governor Pataki.

And Clarence Rappleyea, the former leader of the Assembly Minority, a man who had a knack for putting people together of talent, of compassion, and commitment, he too deserves much of the credit here. And Dennis Vacco, for choosing this young woman at that time,

and she continues to remain young in her meteoric rise, Senator Ken LaValle and Senator Kemp Hannon -- all these gentlemen should be lauded for their selection.

Much has been said about Vicky's intelligence and hard work, but I'd like to speak to two aspects that perhaps people don't focus on, aspects that have meant a lot to me personally. In public life it's often difficult to find a way to try to do the right thing all the time and to avoid impropriety. There are plenty of the statutes, but very little guidance.

Over my 11 years as a public official, when I've had a question about ethics or about what the law in a particular area is, I would pick up the phone and call Vicky Graffeo. That's the confidence I have in her, and she has given me her trust. That's a talent you do not find often.

And the last aspect is that I was a staffer also, and I know in this town and in this place it's very easy to let your ego run away with you, to actually believe your press releases, to actually sit down and say I am

greater than what I really am. Well, Vicky Graffeo never lost that side of her. She knew her position. She knew that she was there to serve. She did so willingly and with excellence.

I'll leave you with an old Arabic saying. He who knows not and knows not that he knows not is a fool; shun him. He who knows not and knows that he knows not is simple; teach him. He who knows not and knows not that he knows is asleep; wake him. He who knows not and knows that she knows is wise; follow her. That's what we should do with this nomination.

Thank you very much.

THE PRESIDENT: Senator Nozzolio.

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

Madam President and my colleagues, I rise to join in the enthusiastic support and praise of the nominee before us today. It is not just with support and praise of Vicky Graffeo's intelligence or her legal acumen, but, as Senator Lack said, to have someone from our legislative family rise to this

preeminent position gives us all reason to pause with great gratitude and admiration.

It's been stated and I think can't be overstated that Vicky Graffeo's intelligence, her clear and unique understanding of state government, her understanding of the law and her understanding of how this whole process that we call the state legislature and the legislative process works and its interrelationship with the background and history of the law, it's just such a wonderful recipe for a qualified jurist with what I know will be a long and illustrious career.

I was so overjoyed when Governor Pataki made this appointment, an appointment I'm sure based as much from the heart as from the head.

I think it would be remiss of me if I did not state while I was up about the great influence that former leader and Assemblyman Rap Rappleyea has had on not just our nominee but on so much of what has happened in state government through these years. It's hard to believe that that band of 52 or 55 or 57, the

guerillas that were uncontrollable -- that, by the way, as counsel, Vicky Graffeo had to control us and keep us out of trouble, which was in itself no small feat. But with Rap having such a great recruit of what was to be, as -- serving as our Assembly Minority Leader, recruiting Governor Pataki into state government.

Today, over half of our Senate Majority was recruited or served directly under Rap Rappleyea. The head of our state operations, Jim Natoli, learned all about state government at Rap's knee. Various agency and department heads, many of whom are here today and share all our enthusiastic support and happiness over this appointment, a number of members of the Court of Claims, and now the second judge on our New York State Court of Appeals.

I can say a lot about our first judge from Rap's units that served on our Court of Appeals, but frankly I know that Vicky Graffeo will keep Dick Wesley on the straight and narrow, as she did when he was an Assemblyman and now I'm sure will do as a

justice of the New York State Court of Appeals.

Madam President, this appointment is by far one of the happiest that I've ever been involved with as part of the body that confirms Governor Pataki's appointments. Vicky Graffeo will serve New York, as she already has, with great distinction. We're all very proud of this confirmation. And I move its endorsement.

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: Madam President, I rise to support this nomination.

For Judge Graffeo, this is the penultimate step in the long process of selection to be Court of Appeals judge. Under this modern system we have, from reading and meeting and making recommendations to the Governor, to the bar associations, going through interviews, interviews of the potential candidates as well as the people who recommend them, to the Governor making up his mind, this has been a process of one based on merit, based on intelligence, based on accomplishment.

And it is obvious from the prior speakers, from the candidate herself, that she possesses in an outstanding fashion all the qualities needed to make a fine appellate judge.

I was reading in the New York Bar Association where Judge Bellacosa -- former judge Bellacosa, now dean -- was reflecting on his years in the court. And looking at the range of topics that came before him, the range of policies decided by him, I know that what we do today sends Vicky Graffeo on an uncharted course. And that's why I'm so glad that the qualities that a judge needs she possesses in great quantity.

She's focused, she's intelligent, she's detailed. She has an enormous scope of being able to know the policies and their implications. She's a consensus builder, as you can see from the comments of those who are in this house who were in the Assembly and are in attendance here today, members of the Assembly who dealt with her on the issues of the day.

She's a hard worker, which is going

to be needed for the intense workload that the Court of Appeals faces on a day-to-day basis, and probably getting more intense as more and more questions get referred to it, even by the federal courts.

So that her service in the legislative branch, her service in the executive branch will now be met by also her service in the judicial branch. And the good news is that she will make, I think, the policies of this state better for that service. The bad news is she knows the system.

I'm delighted that we're launching you on this court. It's going to be a number of years. New York's Court of Appeals has been known as one of the finest courts of common law jurisprudence, and I'm sure you will be a notable addition to that tradition.

So congratulations to you, your family, Rap Rappleyea, who sent us all on a number of different courses.

And I thank you very much, Madam President.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I'm delighted to stand in support of the confirmation of Judge Vicky Graffeo to the Court of Appeals. Her reputation as a judge, her performance as a judge has been exemplary. And her knowledge of the law, her conscientious study and application of the law, as well as her temperament, well suit her to serve on this state's highest court.

And if anyone have any doubt on the temperament side or if anyone would wonder why she is so well suited to serve on the Court of Appeals, I look at her resume and I know that her experience as a counsel to the Minority required the kind of patience and diligence, willingness to listen to others that well suits one to serve on the appellate bench.

Because all minorities are similarly situated in this Legislature, and the skills that it takes to accomplish things there well suit one for being patient and good listeners and for making good, sound judgments.

So my congratulations to the judge,

and I look forward to her many years of service on the Court of Appeals for the people of this state.

Thank you.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you very much, Madam President. I first of all promise I will not repeat Senator Balboni's quote.

More importantly, I rise as someone who has appeared in front of Judge Graffeo, someone who has been able to see firsthand the qualities of Judge Graffeo.

Judge Graffeo in our community, the Albany community, is one of the most highly respected judges we have ever had. From the appellate division chief judge, Tony Cardona, a lifelong friend of mine, who spoke so eloquently of her qualities and ability, to the Supreme Court bench in our judicial district, to the trial bar, universally they talk about Judge Graffeo pointing up the composite of what we would want a Court of Appeals judge to be: someone who is very bright, someone who gets there earlier than the others and works later than others,

someone who gains the respect of each side when you're coming to a resolution of issues.

She really is someone that all of us will remember this day when we confirmed Judge Graffeo, because I am sure she will go down with many of the most important names in the history of our Court of Appeals. And I commend the Governor for such a wise decision in choosing Judge Graffeo.

Thank you very much, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

There's an old trial lawyer's saw that I'm sure Judge Graffeo is familiar with that says never ask a question of someone in a courtroom unless you know what answer they're going to give you.

And today I broke that little rule and asked this future Court of Appeals judge a question about the relationship between the facility or the skills of a judge and the confidence that we need to have in our courts

and the effect that their decisions have on the people that we represent.

Because it seems to me that the most important thing that we need to do in this state in certain situations is to support the decisions of our judiciary, to give the public confidence when they go into our courtrooms, whether their liberty is at stake or their property is at stake, that they can have confidence that they're going to get an impartial and fair opportunity to be heard from a judge who's capable of dispensing true justice.

I would commend Justice Graffeo, soon to be Judge Graffeo, for her answer, and I think she's absolutely correct. She talked about the need for the courts to reach out to people, educate people about the importance of our judicial system as that third branch, that third leg of the stool of government. She talked about the need for jury service to get more people involved in the court system. She talked about the importance of direct contact between the judges and the people out in their community, the importance of community

service, the importance certainly of service in the bar.

All of which this aspiring Court of Appeals judge has done. And I commend you on that answer, and I think you may be giving the lie to that old saw about don't ask a question you don't know the answer to.

But, Judge Graffeo, I give you just one other little piece of advice based on the comments of my colleague from western New York. Senator Nozzolio I think is absolutely correct. There will be times when before you in the Court of Appeals will be cases where not only a Senator or an Assemblyman Nozzolio or other members, current members of the Senate, but even a then Assemblyman Wesley, where you gave them advice when they were out of line and needed to be brought back in line -- there may be instances when you're sitting as a judge in the Court of Appeals where the Legislature will have gone out of line, where the Legislature, because of our need to deal with the problems of the day, may have intruded on the rights that the people kept to themselves under their state

constitution.

Or you may reach that difficult decision where we enact a piece of legislation today that isn't consistent with one that we enacted 30 years ago, much like the dilemma faced by the Florida Supreme Court recently.

And I would just suggest, Judge Graffeo, that you and your colleagues on the Court of Appeals not be afraid to tell us, as you may have told other members of the Assembly when you were Assembly Minority counsel, that the Legislature has done something that is not constitutionally permissible for it to do. Don't be afraid to declare those laws unconstitutional and send those problems back to us for further consideration.

I have confidence based on your experience in this Legislature that you will have no fear of doing that. And in fact, on behalf of the people that I represent who kept certain powers to themselves under our state constitution, I would ask you when appropriate to do that and to send those problems back to legislative debate if they've intruded on the

people's constitutional rights.

Everything that has been said from all of my colleagues, including Senator Breslin, clearly demonstrates to me that you have that capability and confidence and that you will be a tremendous addition to what I still believe is the best common law court in this planet.

I commend you and wish you Godspeed.

THE PRESIDENT: The question is on the confirmation of Victoria A. Graffeo as associate judge of the Court of Appeals. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Victoria A. Graffeo is hereby confirmed as associate judge of the Court of Appeals.

(Applause.)

THE PRESIDENT: Judge Graffeo, as president of the Senate and as your former colleague on the State Supreme Court bench, I wish to congratulate you both personally and

professionally, as well as your family, for your outstanding achievements.

After having worked with you, I know that your work ethic, your diligence, your intelligence, and your commitment will ensure that the people of the State of New York will be served in an excellent manner by your position on the New York State Court of Appeals. Best wishes.

The Secretary will read.

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

As a member of the Board of Trustees of the State University of New York, Candace De Russy, of Bronxville.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move the nomination, please.

THE PRESIDENT: The question is on the confirmation of Candace De Russy, of Bronxville, as a member of the Board of Trustees of the State University of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The record will reflect that Senator Dollinger voted in the negative on the last confirmation.

The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Pamela R. Jacobs, of Buffalo.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move the nomination.

THE PRESIDENT: The question is on the confirmation of Pamela R. Jacobs, of Buffalo, as a member of the Board of Trustees of the State University of New York.

Senator Lachman.

SENATOR LACHMAN: Yes. I will be voting for the renomination of Trustee Jacobs, as I have for Candidate De Russy.

But I would like to raise an issue that I raised in the Higher Education Committee that I think is pertinent to the

SUNY Board of Trustees members. And that issue involves university-wide regulations to combat bias on State University and City University campuses throughout the state of New York.

As you're probably aware, there have been a series of anti-Semitic incidents during this academic year, starting on September 3rd, as there was an anti-Asian-American incident in the spring semester of last year.

Now, there is no question that this is not limited to SUNY. There have been incidents of anti-Semitic graffiti and tearing down of mezuzahs appearing in campuses throughout the country, from the East Coast, Washington, D.C., to the Midwest, Illinois, to Arizona and to California.

We are now facing some very serious international problems. And whoever the next president will be, he will have to tackle it and handle it, especially the problem in the Middle East in terms of warfare between the Palestinians and the Israelis.

What concerns me is that the

incidents at Binghamton started before the war in the Middle East started. And what also concerns me is that there does not appear to be university-wide regulation in place to bring about an educational process that might perhaps prevent these incidents and then, after these incidents occur, to have a standard at the different campuses for administrators, students, and faculty to follow.

Now, I say this with a great deal of respect for the State University of New York. It is, in population and size, the largest state university in the country. There has been a major attempt in terms of reinstating standards there, as there has been in CUNY.

But at the same time, I think that it is incumbent upon the Board of Trustees of the State University of New York to establish university-wide standards relating to bias issues, regardless of what group it concerns. It might be Jews today, Catholics tomorrow, African-Americans, Latinos and Asian-Americans.

And I assume and I hope that with the support of the chairman of the Higher Education Committee, Senator LaValle, the chancellor and the chairman of the Board of Trustees will move in this direction.

Thank you.

THE PRESIDENT: The question is on the confirmation of Pamela R. Jacobs as a member of the Board of Trustees of the State University of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Roslyn W. Block, of Commack.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Roslyn W. Block as a

member of the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the New York State Energy Research and Development Authority, Vincent A. DeIorio, of White Plains.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Vincent A. DeIorio as a member of the New York State Energy Research and Development Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the New York State Housing Finance Agency, John L. DiMarco, of Pittsford.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of John L. DiMarco as a member of the New York State Housing Finance Agency. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Buffalo and Fort Erie Public Bridge Authority-Peace Bridge, Paul J. Koessler, of Buffalo.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is

on the confirmation of Paul J. Koessler as a member of the Buffalo and Fort Erie Public Bridge Authority-Peace Bridge. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Peter S. Kalikow, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Peter S. Kalikow as a member of the Metropolitan Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes. I'd like to speak on behalf of this nominee. I believe that the chairman of the Transportation Committee is not here today.

Peter Kalikow has had a distinguished record in business, finance, and commerce as publisher of one of New York's major newspapers, the New York Post. Unfortunately, he could not be here today. But in a telephone conversation yesterday, he will be meeting in the near future with Senator Trunzo and with me to discuss transportation issues.

My major concern, in light of the defeat of the transportation bond issue, is the future of MTA and the services that they provide to the people of the City of New York.

Thank you.

THE PRESIDENT: The question again is on the confirmation of Peter Kalikow as a member of the Metropolitan Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Power Authority of the State of New York, Timothy Carey, of Montrose.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Timothy Carey as a member of the Power Authority of the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Central New York Regional Transportation Authority, G. Joseph Chalifoux, of Fulton.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move

confirmation.

THE PRESIDENT: The question is on the confirmation of G. Joseph Chalifoux as a member of the Central New York Regional Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Port of Oswego Authority, Mary E. McGowan, of Oswego.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Mary E. McGowan as a member of the Port of Oswego Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York College of Environmental Science and Forestry, Stephen F. Sloan, of West Fulton.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Stephen F. Sloan as a member of the Board of Trustees of the State University of New York College of Environmental Science and Forestry. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the State Environmental Board, Sarah J.

Meyland, of Huntington.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Sarah J. Meyland as a member of the State Environmental Board. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Correction Medical Review Board, Robert J. Muller, of Queensbury.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Robert J. Muller as a member of the Correction Medical Review Board. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Small Business Advisory Board, Judith B. Russell, of Albion.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Judith B. Russell as a member of the Small Business Advisory Board. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Allegany State Park, Recreation and Historic Preservation Commission, William Fox, of Cuba, and Wayne R. Grossman, of Bemus Point.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of William Fox for reappointment as a member of the Allegany State Park, Recreation and Historic Preservation Commission, and for Wayne R. Grossman for a new appointment as a member of the Allegany State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Finger Lakes State Park, Recreation and Historic Preservation Commission, William D. Leonard, of Waterloo.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of William D. Leonard as a member of the Finger Lakes State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Lake George Park Commission, Roger H. Phinney, of Queensbury.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Roger H. Phinney as a member of the Lake George Park Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Taconic State Park, Recreation and Historic Preservation Commission, Clara E. Kellner, of Germantown.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Clara E. Kellner as a member of the Taconic State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Stewart Airport Commission, Thomas Schaaff, of Middletown.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Thomas Schaaff as a member of the Stewart Airport Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Fire Fighting and Code Enforcement Personnel Standards and Education Commission, Charles Morello, of Lockport, and James E. Oare, of Johnstown.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation for the appointment of Charles Morello and the reappointment of James E. Oare as members of the Fire Fighting and Code Enforcement Personnel Standards and

Education Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the New York State Higher Education Services Corporation, Philip M. Williams, of New Hartford.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: I yield to the good Senator from Oneida.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

I'd like to move the confirmation of Phil Williams as a member of the Board of Trustees of the Higher Education Services Corporation.

He's noteworthy because he is the president of a two-year private college, the Utica School of Commerce, founded by his

great-grandfather in 1896. That is an extraordinary commitment to education, to making education affordable and accessible to this state. He and his family have a distinguished record, and I'm very proud to move his confirmation.

THE PRESIDENT: The question is on the confirmation of Philip M. Williams as a member of the Board of Trustees of the New York State Higher Education Services Corporation. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And I acknowledge the presence of Philip M. Williams and extend on behalf of the Senate our sincere congratulations and best wishes.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As director of

the New York State Urban Development Corporation, Joseph H. Holland, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Joseph H. Holland as a director of the New York State Urban Development Corporation. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the New York State Office of Science, Technology and Research Advisory Council, Erland E. Kailbourne, of Williamsville.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is

on the confirmation of Erland E. Kailbourne as a member of the New York State Office of Science, Technology and Research Advisory Council. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Advisory Council on Agriculture, Charles P. Bailey, of Williamson; Leslie L. Cole, of Livonia; Joy D. Crist, of Walden; John A. Noble, of Pavilion; and Edward C. Swartz, of Castleton.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation, as members of the Advisory Council on Agriculture, of Charles P. Bailey, Leslie L. Cole, Jr., Joy D. Crist, John E. Noble, and Edward C. Swartz. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Advisory Council on Alcoholism and Substance Abuse Services, John B. Wingate, of Huntington.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of John B. Wingate as a member of the Advisory Council on Alcoholism and Substance Abuse Services. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of

the Advisory Council to the Commission on Quality of Care for the Mentally Disabled, Adam Denenberg, of Albany.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Adam Denenberg as a member of the Advisory Council to the Commission on Quality of Care for the Mentally Disabled. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Citizens' Policy and Complaint Review Council, Douglas E. Landon, of Amsterdam.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Douglas E. Landon as a

member of the Citizens' Policy and Complaint Review Council. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Public Health Council, Joseph A. Cimino, of North Tarrytown; Judith Dicker, of Jamaica Estates; and Suzanne D. Rose, of Gloversville.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Joseph A. Cimino, Judith Dicker, and Suzanne D. Rose as members of the Public Health Council. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are

hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the State Hospital Review and Planning Council, Bruce G. Blower, of Huntington Station.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Bruce G. Blower as a member of the State Hospital Review and Planning Council. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Board of Visitors of the Central New York Developmental Disabilities Services Office, June C. McCarrell, of Ilion, and Arthur P. Pagano, of Little Falls.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you, Senator.

The question is on the confirmation of June C. McCarrell and Arthur P. Pagano as members of the Board of Visitors of the Central New York Developmental Disabilities Services Office. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Board of Visitors of the Mohawk Valley Psychiatric Center, Richard Lallier, of Verona.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is

on the confirmation of Richard Lallier as a member of the Board of Visitors of the Mohawk Valley Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Sunmount Developmental Disabilities Services Offices, Paul A. Maroun, Esquire, of Tupper Lake.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Paul A. Maroun as a member of the Sunmount Developmental Disabilities Services Office. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

I wish to call up my bill, Print Number 4021A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1257, by Senator Nozzolio, Senate Print 4021A, an act to amend the Criminal Procedure Law and the Penal Law.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

THE PRESIDENT: The Secretary

will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR NOZZOLIO: Madam President, I now move to recommit Senate Print Number 4021A, Calendar Number 1257, to the Committee on Rules.

THE PRESIDENT: So ordered.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I wish to call up, on behalf of Senator Goodman, Print Number 8200, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1725, by Senator Goodman, Senate Print 8200, an act to amend the Penal Law and the Criminal Procedure Law.

SENATOR NOZZOLIO: Madam President, I move to reconsider the vote by which this bill was passed and ask that it be restored to the order of third reading.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR NOZZOLIO: Madam President, I now move to recommit Senate Print Number 8200, Calendar Number 1725, to the Committee on Rules, on behalf of Senator Goodman.

THE PRESIDENT: So ordered.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the Resolution Calendar.

THE PRESIDENT: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, there are two privileged resolutions by Senator DeFrancisco, and I ask that the titles be read and move for their immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 5133, honoring Margaret Hanousek upon the occasion of her retirement as director of the Displaced Homemakers Program in Onondaga County.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 5134, commending the Syracuse Symphony Orchestra upon the occasion of celebrating its 40th anniversary.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, there is a privileged resolution at the desk by Senator Goodman. I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Goodman, Legislative Resolution Number 5135, honoring E. John Rosenwald upon the occasion of his designation for special recognition as an exemplary citizen of the State of New York.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there's another resolution at the desk, by Senator Larkin. I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 5137, mourning the death of Raymond T. Schuler, New York State's first Transportation Commissioner and a founder of the State Business Council.

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

Senator Larkin, first.

SENATOR LARKIN: Madam President, Raymond Schuler was a very distinguished member of the state government of the State of New York, going way back into the fifties. He served under three governors. He put together one of the greatest organizations in the state of New York after leaving government service. Today we call it the Business Council.

Ray Schuler was an individual who

touched people from all walks of life. I was privileged to call him a friend and a constituent. Ray Schuler never knew the word no. He always would try to resolve problems, whether they came to the state, as commissioner of transportation, or to his respective region.

He was known and respected throughout the state of New York and outside of it. He was a Democrat who was picked by Republicans, not because of his label but because of his quality of knowledge and expertise. His service to the state was of the highest order.

He will be dearly missed. May he rest in peace.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

All of the members' names will be

added to that resolution unless you notify the desk otherwise.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a privileged resolution at the desk by Senators Bruno and LaValle. And I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 5136, honoring and paying tribute to the distinguished and remarkable life of Dr. Rudolf Sturm, scholar and educator.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President,

can we ask for an immediate meeting of the Finance Committee in the small conference room.

THE PRESIDENT: There will be an immediate meeting of the Finance Committee in the small conference room.

Senator Bruno.

SENATOR BRUNO: And, Madam President, can we ask that the Senate stand at ease pending the return of the Finance Committee, which I trust will be within seconds if not minutes.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 1:36 p.m.)

(Whereupon, the Senate reconvened at 1:50 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Bruno.

SENATOR BRUNO: Madam President, can we return to the reports of standing committees. I believe that there is a report of the Finance Committee at the desk. I ask

that it be presented and read at this time.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

As a member of the New York State Office of Science, Technology and Academic Research Advisory Council, Richard A. Lippe, of Woodbury.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Richard A. Lippe as a member of the New York State Office of Science, Technology and Academic Research Advisory Council. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Senator Bruno.

SENATOR BRUNO: Madam President, is there any housekeeping at the desk or any other matters that we should be attending to?

THE PRESIDENT: No, there is not, Senator.

SENATOR BRUNO: Then, Madam President, there being no further business to come before the Senate, I would suggest that we stand adjourned, subject to the call of the Majority Leader, intervening days being legislative days.

And I'll take this opportunity, if we don't find ourselves back in the chamber, to wish everyone a very merry Christmas and a happy New Year.

Thank you, Madam President.

THE PRESIDENT: On your motion, Senator, the Senate stands adjourned until the call of the Majority Leader.

Happy holidays.

(Whereupon, at 1:56 p.m., the Senate adjourned.)