NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:06 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

May I ask everyone present to please rise and join me in the Pledge of Allegiance to the Flag.

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

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

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 3, the Senate met pursuant to adjournment. The Journal of Saturday, February 1, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MEIER: 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 LaValle, from the Committee on Higher Education, reports the following bills:

Senate Print 294, by Senator LaValle, an act to amend the Education Law;

296, by Senator LaValle, an act to amend the Education Law and the General Municipal Law;

And Senate Print 857, by Senator Balboni, an act to amend the Education Law.

Senator Maltese, from the Committee on Cities, reports the following bills:

Senate Print 157, by Senator Maltese, an act to amend the General Business Law;

And Senate Print 867, by Senator Velella, an act to amend the General Municipal Law.

Senator Hannon, from the Committee on Health, reports the following bills:

Senate Print 463, by Senator Hannon, an act to establish;

And Senate Print 592, by Senator Hannon, an act to amend the Public Health Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Without objection, all bills reported directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, I move we adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar in its entirety say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 15, by Senator Volker, Senate Print 242, an act to amend the Penal Law, in relation to consecutive terms of imprisonment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 36, by Senator DeFrancisco --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 39, by Senator Balboni, Senate Print 512, an act to amend the Penal Law, in relation to increasing the criminal penalties.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 48, by Senator Padavan, Senate Print 624, an act to amend the Penal Law, in relation to the disposal of allegedly stolen motor vehicles.

ACTING PRESIDENT MEIER: Read the last section.

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

November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 51, by Senator Marcellino, Senate Print 879, an act to amend the Environmental Conservation Law, in relation to management of wildlife resources.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the calendar.

SENATOR SKELOS: Mr. President, we're going to have to stand at ease temporarily so that we can have a Finance Committee meeting and then also a Transportation Committee meeting.

I believe that Senator Johnson and Senator Kuhl are at a budget hearing right now, and they should be back shortly.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:10 a.m.)

(Whereupon, the Senate reconvened at 11:12 a.m.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Transportation Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Transportation Committee in the Majority Conference Room.

(Whereupon, the Senate stood at ease at 11:12 a.m.)

(Whereupon, the Senate reconvened at 11:30 a.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Finance Committee in the Majority Conference Room.

(Whereupon, the Senate stood at ease at 11:31 a.m.)

(Whereupon, the Senate reconvened at 12:32 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT BALBONI: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there are several reports at the desk. I ask that they be read at this time.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Senator Kuhl, from the Committee on Transportation, reports the following bills:

Senate Print 112, by Senator Velella, an act to amend the Vehicle and Traffic Law;

129, by Senator Alesi, an act to amend the Vehicle and Traffic Law and the State Finance Law;

397, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

513, by Senator Balboni, an act to amend the Vehicle and Traffic Law;

524, by Senator Balboni, an act to amend the General Business Law and the Penal Law;

776, by Senator Marcellino, an act to amend the Vehicle and Traffic Law;

And Senate Print 785, by Senator Marcellino, an act to amend the Vehicle and Traffic Law.

Senator Velella, from the Committee on Labor, reports:

Senate Print 93, by Senator Maltese, an act to amend the Labor Law and the

Penal Law;

200, by Senator Spano, an act to amend the Labor Law;

And Senate Print 1119, by Senator Velella, an act to amend Chapter 206 of the Laws of 1974.

All bills ordered direct to third reading.

ACTING PRESIDENT BALBONI: Without objection, all bills are reported directly to third reading.

The Secretary will read.

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

As Commissioner of Human Rights, Michelle Cheney Donaldson, of New York City.

ACTING PRESIDENT BALBONI: Senator Johnson.

SENATOR JOHNSON: Yes, Mr. President. Michelle Cheney Donaldson is very qualified for the position of Human Rights Director. She appeared before our committee, many people were impressed with her credentials, and we certainly are happy to

advance her at this time.

ACTING PRESIDENT BALBONI: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Mr. President.

On behalf of Senator Malcolm Smith and myself, I'd like to say that this young woman came from Jamaica, which is a part of our district. And that is a training ground for bright young people. And she has excelled in her given field, and she will go on to make us proud as the new commissioner.

And I would like to congratulate the Governor for having the wisdom to bring forth this appointment. And I'd like to thank all of you for being supportive of it.

ACTING PRESIDENT BALBONI: Senator Smith.

SENATOR MALCOLM SMITH: Thank you very much, Mr. President. Also to my senior colleague, Senator Ada Smith. This is a proud day for both of us.

Actually, for me, there were three proud moments for me while I have been here in the Senate. The first one was when I got

elected and I came and casted my first vote. The second one was when I had the opportunity to nominate Senator David Paterson as the pro tem president for the Senate. And the third one is today, Mr. President.

And that is, I am here to second the nomination of Michelle Donaldson, who I believe the Governor has made an excellent choice. This young lady, who not only grew up in Jamaica, Queens, has a stellar educational background, her family is very solid -- notwithstanding the fact that she belongs to the same church I belong to, the Greater Allen Cathedral in Queens, of which the Right Reverend Dr. Floyd H. Flake is the pastor of -- but she's also an individual who's very open-minded, very fair.

And I will tell you, this is a very proud day for the state. The Governor has made an excellent choice. The Division of Human Rights could not do any better than this young lady. And it just gives me great pleasure to stand on the floor of the Senate this day, a very proud day for me -- the third one since I've been here -- to second the

nomination of Michelle Donaldson.

ACTING PRESIDENT BALBONI: Thank you very much, Senator Smith.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I rise to join my colleagues in wishing the new commissioner well. But I do want to note that she is taking over an agency that really is in a state of something of a crisis. There is a huge backlog of cases, the need for additional resources. I do believe that those of us in this house would be supportive of efforts to add resources to improve the situation.

There are a lot of people relying on the commissioner and relying on her staff for help in a very critical area. And we will be there for her. And I'd hope that she will, as her first order of business, try and address the severe lack of resources in the Division of Human Rights and the need to expedite things. She certainly can count on support from those of us who are speaking here today.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: All those opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The nominee is confirmed.

Congratulations.

(Applause.)

ACTING PRESIDENT BALBONI: In the gallery, the commissioner is joined by her husband, Randolph Donaldson; her mother, Alberta Cheney; mother-in-law, Bernice Donaldson; and brother-in-law, Glenn Inskip-Seale.

Welcome, all of you. And again, congratulations. I hope you enjoy your tenure, Commissioner.

The Secretary will read.

THE SECRETARY: As a member of the Public Service Commission, William M. Flynn, of Glenmont.

ACTING PRESIDENT BALBONI: Senator Johnson.

SENATOR JOHNSON: I'd like to recognize the nomination of William M. Flynn by the Governor to occupy the position of Public Service Commissioner.

He has an amazing background in law and certainly the Attorney General's office, various positions throughout his career. And he presently is the president of the New York State Energy Research and Development Corporation.

A very well qualified, very principled, very knowledgeable gentleman, and I'd certainly like to advance his nomination at this time. And I think Senator Nozzolio may want to speak on this as well.

ACTING PRESIDENT BALBONI: The chair recognizes Senator Nozzolio.

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

Mr. President, my colleagues, I rise with great honor and happiness in promoting, endorsing, and voting for the nomination of William Flynn, Bill Flynn, to be

chairman of the Public Service Commission.

Bill is a man of a very diverse and unique background. I've known him for well over two decades and know him to be a hard-working individual with good common sense.

And you'd expect that as a product of the Western Finger Lakes -- some say Western New York, we say Western Finger Lakes -- where Bill, growing up in a small town with small-town good values, knows what the citizens of this state need.

He worked hard, worked hard as a young man, worked hard in local government, in the State Legislature, in federal government, with the Attorney General, and now as the chief executive officer, president of NYSERDA.

Bill has experience that I say is unique to the Public Service Commission, with such a broad brush of background in a variety of state and federal endeavors. Bill will be uniquely qualified to serve and serve well as chairman of the Public Service Commission.

Most importantly, Bill Flynn understands that energy development means job

development. He's been very much in the forefront, at the point on this extremely important objective. He understands that the needs of the economy, and particularly the upstate economy, but the economy throughout our state, is dependent on the energy demands and meeting those demands.

He understands, because of his training, because of his background, what the dynamics of the energy and power needs are of our state. He knows what the future holds for energy and power development.

He knows these issues. He knows how to work with the Legislature. He knows how to work with the Executive. He understands the dynamics at the federal level. I think Governor Pataki did an outstanding job in promoting and putting forth this nomination.

Above all -- and I speak to my friends on the other side of the aisle, particularly Senator Duane, who made points during the Senate Finance Committee meeting. Senator Duane, as you serve as the ranking member of the committee of which I chair, I

know you certainly appreciate above all else an individual who's candid, who's trustworthy, who's open, and who's honest.

That, my colleagues, is the most important qualification that anyone can bring to any office. And that's the qualification that I unequivocally endorse and attest to in this nominee, as I have known him for over twenty years.

I know Bill Flynn will be an excellent chairman of the Public Service Commission. I'm proud of Governor Pataki for making this nomination; prouder still to know Bill Flynn as a friend.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Thank you, Senator Nozzolio.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I too am proud to rise to second the nomination of William Flynn as chairman of the state's Public Service Commission. And I too want to commend the Governor for the excellent choice and nomination he has

submitted to us for confirmation.

As you review the background of the nominee, you'll find, as pointed out by my colleague, that Bill Flynn has served in local government, state government, at the federal level, and brings the breadth of that experience to bear on his new responsibilities.

If you look at particularly the last four years of service, you'll find that he has immersed himself in the energy industry, has demonstrated his knowledge and understanding of the industry, and has held a series of positions, progressively working through the chairs, in the state's energy agency, NYSERDA, and has overseen the growth of that agency and the development of numerous programs that have effectively been implemented by NYSERDA on behalf of the Public Service Commission.

Throughout that, he has demonstrated his ability to manage, he has demonstrated his willingness to work with people, he has demonstrated his commitment to bipartisan solutions, and he has demonstrated

a willingness to prove that in fact you can take energy policy, merge it with environmental policy, and have a positive, successful impact on the economy.

That is an objective of this administration, that is an objective of the Governor, and it's one that Bill Flynn has demonstrated to a high degree of credibility during his four years in NYSERDA.

Throughout that tenure, he has been known for being an individual who is very direct, very candid, one who is willing to listen, and one who has demonstrated the ability to cooperate and work to bipartisan solutions.

Throughout that, and the reason for the cooperation and the bipartisan support, is his integrity. That character comes through loud and clear. Anyone who has met Bill Flynn or spent any time with Bill Flynn knows that to be a truth and a fact.

It's as a result of that that I'm personally very pleased to support and vote for Bill Flynn as chairman this afternoon. But it's also for those reasons that the

Standing Committee on Energy and Communication of the Senate unanimously recommended Bill's confirmation.

I look forward to that confirmation this afternoon. I look forward to working with Chairman Flynn. I wish him and his family the very best as they go forward.

Thank you.

ACTING PRESIDENT BALBONI: Senator McGee.

SENATOR McGEE: Thank you, Mr. President.

I too rise to say congratulations to Bill Flynn and his appointment to the Public Service Commission. I think the Governor has made a wise choice.

Bill has always been an invaluable source of information to me, an invaluable source of support to me, and particularly valuable in NYSERDA as a representative for the State of New York in dealing with the West Valley Demonstration Project. And he's done a superb job.

I commend the Governor on his appointment and say congratulations to you,

Bill, I look forward to working with you.

ACTING PRESIDENT BALBONI: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I'm delighted to rise in support of the nomination of Bill Flynn to be a member of the Public Service Commission. I too have had the great pleasure of working with him through two very unusual projects and through a larger, statewide initiative involving agriculture.

On the first issue, let me just explain that in the central part of the state, in Madison County -- which as many people know here is home to Pratt's Hollow, the geographic center of New York State -- we have two very exciting wind farms. And both of these were developed with the oversight of NYSERDA, through Bill Flynn's very capable direction.

Now, it's important to our discussion today -- and much of this took place during our previous Finance Committee -- it's important to the discussion today to know that throughout this wind-siting controversy,

there were many people who raised environmental issues, there were people who raised issues of local governance, and I was very pleased to see how capably Bill Flynn fielded all of these myriad issues and how he made sure that the best environmental decisions were made in the end and how New York State skyrocketed into the future with a truly fantastic alternative energy project, one that has been heralded across the country.

And indeed, we've seen other parts of the United States turn their backs on wind farms. On the Nantucket Sound, they have rejected the idea of wind farms, for reasons that are totally beyond my comprehension. But perhaps if they had had somebody as capable as Bill Flynn at the helm when the issue first came up, they too would be taking advantage of alternative energy as we are in Central New York.

With the Governor having made the great commitment to alternative energy for the State of New York in the years to come, we need somebody who has that personal experience

involved in energy siting issues and energy regulatory issues, and I can think of no better person than Bill Flynn.

As chairwoman of the New York State Senate Agriculture Committee, I've also had the opportunity to work with Mr. Flynn as it affects agriculture energy issues. Our farmers are frequently faced with unfair competition from other states, due to increased energy costs in those states. And through Governor Pataki and with Mr. Flynn's leadership at NYSERDA, we have made aggressive strides in bringing down the cost of energy to farmers, and we have many, many more things on deck through the leadership of these two fine men.

I can think of no better person to be moving to the Public Service Commission at this exciting time. I'm delighted to add my voice in support of the confirmation of Bill Flynn to the Public Service Commission.

ACTING PRESIDENT BALBONI: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I too would like to rise, as my colleagues have, to second the nomination of Mr. Flynn and to also state that Governor Pataki has given us a fine individual.

And I want to echo some of the comments that Senator Wright gave and pick up on the comments about integrity, responsiveness.

You know, I've had the pleasure now -- this is my 15th year in this body -- I've worked with many chairmen, many commissioners, people who run agencies. And I can tell you that in my dealings with Mr. Flynn, he has been extremely open, very, very responsive, and he has always been there for my constituents and for the questions that I have had for him. What you see is what you get. He's a very bright individual, and he is extremely responsive.

In Finance, we had some very difficult questions that were asked. My colleagues on the other side of the aisle asked some good questions, questions that concern the health and safety of the residents of this state. And I can assure them that

Bill Flynn, as chairman of the Public Service Commission, will do as outstanding a job for them and their constituencies as he has done at least in helping me serve mine.

So again, I applaud the Governor, and I think he's made an outstanding choice. And Mr. Flynn will do a great job.

ACTING PRESIDENT BALBONI: Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

I too would like to rise and offer my enthusiastic support for our nominee, William Flynn, to not only be a member of the Public Service Commission but also chair that very important commission.

There's no question that there are many, many challenges that will be confronting the PSC as we move forward. Certainly the responsibility of making sure that New Yorkers, as individuals and residents, but also New York businesses, have a sufficient supply of electricity and energy to move forward economically. That's certainly critically important to every single resident

of this state.

Also, as we continue to transition to competition not only in the electric utility world, but also on the telecommunications side as well, many challenges there continue to exist for the Public Service Commission.

And like many of my colleagues who have spoken already, I believe that Bill Flynn is an excellent choice to be chair of the Public Service Commission, to work with his fellow commission members and the great staff at the PSC to meet the important challenges that confront the PSC. There's no question that he has the intellect, the ability, the integrity, the background and experience to lead that commission to meet the challenges that confront us all.

So I stand in full support of our nominee. It's an excellent choice on the part of the Governor. And there's no question, the important part of Bill's background that sticks out in my mind is his devotion and commitment to public service. And so I think it's very, very appropriate that we confirm

Bill Flynn to the Public Service Commission, because that really says it all when I think about the qualifications of our nominee Bill Flynn.

So congratulations to Bill, congratulations to the Governor for making an outstanding choice.

ACTING PRESIDENT BALBONI: Thank you, Senator Seward.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I'd like to think that I am sometimes tough but always fair. And I hope that my colleagues here would agree with that. And I believe that my constituents sent me here because that is who I am.

Mr. Flynn may be the best, most qualified person for this job. But I don't know that. And there was certainly no way to find out about that during the confirmation hearing.

You know, when I talk to my constituents and describe to them the Senate, I have to immediately say it's not the U.S.

Senate, it's nothing like that. Because they all watch what happens in the United States Senate on C-Span. Unfortunately, televised coverage of the Senate is not available to them.

But I have to tell them that it's actually nothing like that. In fact, our confirmation hearing is more like a parody of what happens in Washington, D.C. I think it's embarrassing that Senators are shut down from asking questions of people that we're confirming.

Imagine if you were hiring someone in your office for a $100,000-plus-salary a year job. Well, you know, I would think that if you were hiring that person, you would feel entitled to ask them as many questions as you wanted to. But that's not how it is here, which is bizarre.

Now, the -- Mr. Flynn, I thought one of the most important moments in the hearing was when he discussed his four-year-old son in a very loving manner. And I'm hopeful that he's going to take that to his job. He said it wouldn't impact his

job, but I can't imagine that something that's happened in someone's life would not have an impact on a person's feelings and positions.

And I would have liked to have known what his thoughts were, because he has had so much experience working at the New York State Energy Research and Development Authority. So clearly he has a tremendous involvement with energy, but we didn't really get to find out what his positions are on that.

So again, he may be the best, most qualified person for this job, but I don't know that. And I am going to respectfully vote no on this confirmation, with the hope that our confirmation process will improve and actually, instead of being a parody of what happens in Washington, D.C., will be more like what happens in Washington, D.C., in the United States Senate.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. I rise in support of

this nomination.

I have an entirely opposite view of my colleague Senator Duane. If Senator Duane had bothered to attend the Senate Energy Committee meeting yesterday, he would have seen a very good dialogue, a question and answer session.

I know that from the Minority side of the aisle, Senator Parker and Senator Andrews asked several questions, asked the designee, Mr. Flynn, about his views on energy policies of the State of New York, and it was handled very capably by our chairman, Senator Wright. There was a great deal of dialogue, a great deal of give-and-take.

And I would particularly note that both Senator Parker and Senator Andrews voted, as did the entire committee, unanimously, for this nominee.

I've known Bill Flynn for a long time. He's from Western New York. He did an excellent job working as a deputy attorney general under Attorney General Dennis Vacco. And I most directly was involved with Bill's work when he chaired the NYSERDA. And his

work was excellent.

I think he's a very deserving nominee. I think Governor Pataki has made an excellent choice. And there was a great deal of dialogue and give-and-take, and I fully support this nomination.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Parker.

SENATOR PARKER: Thank you, Mr. Chairman.

This is a very important opportunity we have here before us. There are a lot of important issues as relates to energy and telecommunications that are coming up. And I think that in Mr. Flynn we have somebody who's going to -- as I said both in the Energy Committee and I've said in the Finance Committee -- somebody who I believe is going to work very, very hard for us.

I think, however, that the whole process that we're involved in here is also an important process. And that, you know, in all of the committees and here on the floor we ought to be taking what we do seriously and

really have the time to -- you know, to ask questions and really find out.

I think that oftentimes the questions are not necessarily made to, you know, belittle a person coming before us for nomination, or somebody who is not clear about what they're doing, but it's really sometimes for our edification, to understand what this person is going to bring philosophically.

I think that Mr. Flynn's nomination is something that's going to be a positive thing for the people of the state of New York. I have shared my concerns with him on issues of incineration and the fact that incineration is not a renewable resource, and I'm glad that he was open to it and will continue to be open to all of us.

I think, though, however, we do need to spend time doing this and take our jobs very seriously. And I look forward to, you know, continuing to work with Mr. Flynn in his new capacity, and with the other members and my colleagues as we, you know, deal with other nominations.

Thank you.

ACTING PRESIDENT BALBONI: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I want to address two issues before we close for the day. The first issue relates to the process questions raised by my colleagues.

I think that -- I haven't been in the Senate that long, and I think sometimes we get up here and we get into a sort of a time warp and we start thinking that a 40-minute hearing in a committee is a long hearing in a committee.

Well, our constituents, I think, expect more of us. And I think, particularly facing the difficult times that New York is, I think we owe it to them to put in a little extra time to look more closely at our nominees.

And this has nothing to do -- this procedural haranguing has nothing to do with Mr. Flynn. It has to do with every nominee that comes before us. But I think it's important for us to reflect on the fact that

we're not here to work an hour a day or two hours a day, we're here to work as long as we have to, to get the job done as well as we can for our constituents. And particularly given these circumstances.

And I hope that there will be a bipartisan effort to take a little more time, to respond to questions, to seek answers to questions, and actually to go outside the committee process and look into issues.

The second point that I want to make is a substantive point. And this relates to the issue of renewable energy, something that is tremendously important to me, something that is tremendously important to all of us, and particularly all of us who have small children. I mean, I hope that -- I hope it has a tremendous influence on Mr. Flynn's conduct, the fact of his family.

I mean, I think this affects all of us as we look forward to the future of New York State, a future that hopefully will have cleaner air and cleaner water and renewable energy to provide for our needs.

The point that I want to make is

that I don't really think there's any question regarding the issue of incineration and its place in the field of renewable energy. And I would urge Mr. Flynn that there really is no need to consult with anyone, there's no need not to prejudge an issue, because in the New York Code of Rules and Regulations, Section 204, there's a definition of renewable energy projects, which states: "A power generation technology that produces electricity from wind energy, solar thermal energy, photovoltaics, methane waste, or sustainably managed biomass; but not the combustion or pyrolysis of solid waste."

Incineration is just not in there. You don't have to look further than our own regulations.

I hope that as he goes forward to work with the Governor, and hopefully to lean on the Governor to take seriously his commitment to renewable resources, our nominee -- soon to be confirmed, I'm sure -- is going to take the hard work that went into these regulations into consideration.

We need his help. We need him as

an advocate for renewable energy. And we really can't afford, if our children's lives are to be better than ours, to hedge on this issue and to avoid the hard decisions.

So I think the process can benefit from some of our newer colleagues' desire to take committee hearings more seriously, and I would urge the nominee that we do need him as an advocate in this area. And that any help we can provide, certainly we are willing to provide.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

I have evidently been sucked into this time warp, then, because I'm confused. I was at the Energy Committee hearing presided over by Chairman Wright yesterday. My recollection of that hearing was that the chairman was more than solicitous of members desiring to ask questions. And even at the conclusion of the questioning, the chairman inquired if there were more questions.

Now, it is not the function of the chairman of the Energy Committee to make up questions or to prolong -- furthermore, there was no request by any member of the Energy Committee to adjourn those proceedings because they had further questions or required additional research.

And by the way, the Energy Committee then unanimously passed on the confirmation of Mr. Flynn.

And so at a time when we are frequently criticized -- and sometimes rightfully so -- for dawdling, and at a time when some people think we ought to get on with the business of this state, I don't see any reason for us to continue on the deliberation of a nominee whom everyone seems to agree is eminently qualified.

And by the way, all I heard Mr. Flynn say on this issue of incineration, in a general sense -- we weren't deep into the thicket of the regs -- was that he wasn't going to prejudge the issue. And I took that to mean he wasn't going to prejudge regardless of where the technology may take us into the

future, regardless of what the circumstances may bring.

Mr. Flynn has been nominated to sit on a body that sits as a quasi-judicial body. He is obligated by the oath of office that he's about to take not to prejudge issues.

The hearings and proceedings that were had were thorough. The chairmen permitted members to exhaust the questions that they had. And I'm fully satisfied and ready to vote for this nominee. He's going to do a fine job.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Thank you, Senator Meier.

With that ringing endorsement, all those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT BALBONI: The nominee is confirmed.

Congratulations, Bill Flynn.

(Applause.)

ACTING PRESIDENT BALBONI: Commissioner Flynn is joined by his wife, Mary, his son Kevin and his son Sean.

Have a great tenure, Commissioner. It's an honor for all of us.

(Applause.)

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: As a member of the Empire State Plaza Art Commission, Marijo Dougherty, of Schenectady.

And as a member of the State Hospital Review and Planning Council, Peter V. McGinn, Ph.D., of Vestal.

ACTING PRESIDENT BALBONI: Please, members, let me remind you we still have two more nominations to consider.

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

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Those opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The

nominees are confirmed.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT BALBONI: No, Your -- I was about to say "Your Honor."

No, Senator Skelos, there's no housekeeping at the desk.

(Laughter.)

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Monday, February 10th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT BALBONI: On motion, the Senate stands adjourned until Monday, February 10th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 1:00 p.m., the Senate adjourned.)