NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:06 p.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 please 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: The invocation will be given by the Reverend Murray Mayfield, pastor of Greenville Baptist Church in Greenville, New York.

REVEREND MAYFIELD: Shall we pray?

Our Father, we come before You this afternoon full of gratitude for the privilege of living in this great nation. We acknowledge that we're the nation we are today because of Your grace and Your goodness.

We thank You for this assembly of men and women whom You have raised up to lead this state. You tell us in Your word that there is no authority except from God and those which exist are established by God. I ask that this realization would guide all

decisions being made today.

We come before You at the beginning of this session and ask for divine direction. The responsibility of leading this state in a right way is a huge one, and human wisdom alone is insufficient for the task. And so at this time we humble ourselves before You and we ask for Your wisdom to fill this group so that they may make wise decisions.

I pray that as a result of today's work that righteousness will be exalted in this state. May these men and women pass laws and enact legislation that is equitable and just. Most importantly of all, we ask that You would be pleased with the results of today's work.

Thank You for Your son, Jesus Christ, who died to pay the penalty of our sins so we could have fellowship with You. And it's in the name of Jesus that we ask these things. Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 2, the Senate met pursuant to

adjournment. The Journal of Friday, May 30, 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 DeFrancisco, from the Committee on Judiciary, reports the following nominations.

As a judge of the Family Court for the County of Dutchess, Valentino T. Sammarco, of Hyde Park.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I'm proud to rise in this session today to move the nomination of Valentino T. Sammarco, of Hyde Park, as a judge of the Family Court for the County of Dutchess. He's

here with his wife, Joan, his daughter Lori, and his mother-in-law, Bessie Stelbach.

I had the pleasure to meet him for the first time today. He's a graduate of West Point, an individual who has served his time on the lower courts, being a town justice, and is clearly, as the committee found unanimously, well qualified to serve as a judge of the Family Court for Dutchess County.

I would like to pass this nomination on for seconding to Senator Saland.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I rise for purposes of seconding the nomination of Judge Sammarco. Val Sammarco is a gentleman who I have known since childhood.

As I mentioned earlier during the course of our committee deliberations, that he and I were members of the 1955 City of Poughkeepsie Little League Champions, the American Legion team. He was much better than I was; he got to play all the time because he

could hit. But he pitched, also, and I could only pitch.

And he's been pitching ever since, doing wonderful things not only for the community of Hyde Park, which he has so capably served as a town justice for some 18 years, but also as a member of the legal community, both as a public defender, as a private practitioner, and somebody who has spent the greater part of his practicing life dealing with Family Court and domestic relations issues.

He's an extraordinary gentleman who, as I believe was noted earlier in Senator DeFrancisco's remarks, served his country upon his graduation from West Point.

He's here with his wife, Joan, who certainly has been seen at many of the functions that I've been attending for these so many years. They, the Sammarcos and their family, have this moment to savor. It certainly is a reflection of, once again, the Governor's careful attention to his judicial nominees proposed to this body.

It's an extraordinary pleasure for

me to second the nomination of a friend, of a wonderfully capable attorney, and a man who has distinguished himself for a number of years as a town justice.

I wish him only the best, both he and his family, and may God bless you.

ACTING PRESIDENT MEIER: The question is on the confirmation of Valentino T. Sammarco as a judge of the Family Court for the County of Dutchess. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Sammarco with us today in the gallery. And, Judge, we wish you well and congratulate you.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Family Court for the County of Westchester,

Annette L. Guarino, of Rye.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'm also very pleased to rise and move the nomination of Annette Guarino as a judge of the Family Court, County of Westchester.

She is uniquely qualified, having served in that same position in the past. And during the committee meeting it was very clear that she had the right reasons for wanting to serve in that position again, to help resolve the very, very serious questions that come before Family Court judges dealing with children, dealing with very tense situations among family members.

She has also been found to be well qualified, and the committee unanimously voted to move her nomination here to the floor.

She's here with friends Susan King, Patricia Scerno, Joshua Reap, Despina Starakis -- I hope I got that right -- and Marshall Raibman.

And I would like to yield the floor to Senator Spano to second the nomination.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Thank you, Senator DeFrancisco, Mr. President.

It's a good day for Westchester County, for the judiciary, with Judge Guarino. Judge Guarino will lead off the confirmation of four outstanding individuals from Westchester who have been appointed to the Family Court and County Courts.

We have a great need in Westchester to have good, solid, dependable judges on the bench as quickly as possible to pursue justice in our county. And I want to thank Governor Pataki for each of these nominees that will be before us today.

Judge Guarino is someone I've known for a long time, has been practicing law a long time since 1982, has a distinguished career in law, having graduated from St. Johns University, has been involved in private practice, has worked as a district tax attorney for the State of New York, has already been confirmed once by this body for the Family Court, having been nominated by

Governor Pataki in 2000.

Right now Judge Guarino is the general counsel for the Battery Park City Authority in the City of New York, has been involved in a number of different activities in our county in Westchester, particularly in the Women's Bar Association, where she has been a moderator and chair and a lecturer on many of the statutes impacting our families in Westchester.

Nobody is more qualified to serve, who's got the compassion to serve in a very difficult position in the Family Court, having to make very difficult decisions on a daily basis impacting men, women, and children in Westchester County, than Annette Guarino.

So I am very pleased to stand here today to second her nomination, to welcome her friends who are with her -- Patricia and Despina, Susan, and Marshall, who are here -- and to say to Judge Guarino, you have continued to serve us well. We look forward to an outstanding career on the bench.

We look forward to an overwhelming support that will be evidenced by the Senate

today, and to say, to Governor Pataki, thank you for once again showing your faith in someone who has done so well in Westchester County, who will continue to serve as a Family Court judge right in our county.

So, Mr. President, it's my pleasure to second the nomination of Annette Guarino to the Family Court.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr. President, I too rise to second the nomination of Judge Guarino.

Her reputation for fairness and legal expertise in Westchester County in her short service on the bench is well known by the bar, both in Westchester and throughout the downstate region. She has managed to, in a short time, account herself well, and the Governor's confidence has been well placed in her.

I also take particular pride in supporting her nomination as our roots and our family heritage go back to the old days in Olga Mendez's district, in East Harlem, from

117th Street and Second Avenue, where her family and my family came as immigrants. And I grew up there for a good part of my life; she did too.

And I think the old neighborhood would be proud of you. Congratulations.

ACTING PRESIDENT MEIER: Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

I think all the neighborhoods in Westchester County are going to be very proud of Annette also.

I've had the good fortune to know Annette Guarino for a number of years now. I know what a fine attorney she is and what a fine judge she has been and will be again.

So we want to congratulate you and your family today on this honor.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the nomination?

The question is on the confirmation of Annette L. Guarino as a judge of the Family Court for the County of Westchester. All

those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Guarino is with us today in the gallery. Judge, we wish you well with your important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: As a judge of the Westchester County Court, Rory J. Bellantoni, of Rye Brook.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Again, I'm proud to rise to move the nomination of Rory Bellantoni, of Rye Brook, as a judge of the Westchester County Court.

Apparently there's no judges in Westchester County at the moment; they're all being confirmed today.

He's here with his wife, Amy, his father -- he's following in his father's footsteps, the Honorable Orazio Bellantoni. He's a New York State Supreme Court judge. No doubt it's just a matter of time before his son is on that court as well -- his mother, Mary; his sister, Monica; his aunt, Marie; and friends, the Honorable John Perrone, a retired judge and former member of the Assembly, and Chris and Maria Pierro.

This is an incredible resume for a man that's this young, to be distinguished not only in law school by an incredible record but also having had so many experiences in the practice of law in such a short period of time. Those broad range of experiences are obviously going to serve him well to serve as a county court judge in the County of Westchester.

I would now like to yield the floor to Senator Spano.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Thank you, Mr. Chairman, Mr. President.

It's my pleasure also to second the nomination of Rory Bellantoni. Judge Bellantoni's affiliations include many organizations in Westchester -- the county bar, he's been a part of the County Parks and Recreation Conservation Board.

He's had a great deal of experience, having worked in the prestigious law firm Wilson Elser, has worked in the Rockland district attorney's office, where he served as senior assistant district attorney. And most recently, Rory Bellantoni is serving as the Family Court hearing examiner in Westchester County Family Court.

He has received his bachelor's degree from Fordham and his J.D. from Fordham University.

And it's a real sincere pleasure to stand here today and to second the nomination of someone who comes from a great family and a great tradition. His great-uncle served in this chamber, Senator Anthony Gioffre.

His father is in this chamber and currently serves as a Supreme Court judge in Westchester County, and we are so glad that he

is seated right behind me.

It's a historic day for Westchester. We cannot find in the annals of history in Westchester County, or maybe even across the state, a situation where a father and son have served in the Superior Court together. So we're glad that it took Judge Raz Bellantoni and his son Rory Bellantoni to make history.

And I know that Judge Bellantoni will carry on, on his own two feet, in making sure that he will make the people of Westchester as proud of him as his parents are today, his wife, Amy, is today, his sister is today, and all of us who join with Governor Pataki in a great choice for a member of the county court.

So, Mr. President, it's my pleasure to second the nomination of Rory Bellantoni to Westchester County Court.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Thank you, Mr. President.

I too rise to second this

nomination. This is an opportunity that the Governor has given to us to place a young man on the court that has both the balance of the plaintiff and defendant's bar, as was ably pointed out by our chairman of Judiciary this morning when he misread the resume and thought there was only a defense bar experience. There was certainly a plaintiff's bar experience there to counterbalance the experience of this young man.

He certainly will add to the tradition of a fine family. And I look forward to seeing him continue on in that great tradition of Westchester County and of his family.

ACTING PRESIDENT MEIER: Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

Over the course of years we've had the chance, all of us, to speak on the nominations of our colleagues, sometimes, and peers. But when we start getting to our friends' sons, we know we've been here quite a long time.

But I had the chance to serve and to work with Judge Bellantoni. And reading his son's resume, to see all that he has done in his young life, it's very encouraging for all of us. I know he will be a great judge and follow in a great family tradition.

ACTING PRESIDENT MEIER: The question is on the confirmation of Rory Bellantoni as a judge of the Westchester County Court. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Bellantoni is with us today in the gallery. Judge, we congratulate you and wish you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: As a judge of the Westchester County Court, Lawrence I.

Horowitz, of Chappaqua.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'm again proud to rise to move the nomination of Lawrence I. Horowitz.

I commented at the committee meeting this morning that it's just a coincidence that Chairman DeFrancisco is placing into nomination Guarino, Sammarco, Bellantoni, and Horowitz.

And Judge Horowitz proceeded to tell us that he does have, I think, Italian blood -- Sicilian -- Italian blood as well. So there's something going on here.

I don't make the appointments, I simply sit to review the qualifications. And certainly Judge Horowitz is very well qualified.

He's here with his wife, Alexis, his son Benjamin, his daughter Rona, his brother-in-law David Furer, who I got to meet, and friend Michelle Angiello.

And his resume is an outstanding resume. In just the short time that I got to

speak with him, it's clear that he certainly has the judicial temperament in order to handle the many cases and the very serious cases that are going to be coming before the Westchester County Court.

And I'm proud to rise to nominate him, and I yield the floor to Senator Leibell.

ACTING PRESIDENT MEIER: Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

And I'm very pleased to have the chance to speak on Larry Horowitz, on his nomination, because I've known him also for a great many years. And our practices have been in close proximity, actually.

And I can tell you firsthand how well respected and well regarded he is by not only the Bar Association but so many different community groups in our area.

Thinking about what the chairman of the Judiciary Committee just noted in terms of judicial disposition, certainly Larry has got that. And his commitment to the law, his knowledge of the law, and his high ethical

regard for the law bodes very well for him as a judge of our courts in Westchester County and throughout our district.

So I'm very pleased to join with my colleagues and the members of the Judiciary Committee who sent this over to us today. I know that Larry Horowitz will be a superb judge.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Thank you, Mr. President.

It's also my pleasure to second the nomination of Larry Horowitz to the county court and recognize the work that he's done in a lot of community organizations in our county: the Northern Westchester Women's Shelter, the Women's Resource Center. He's served as a constable in the Town of Ossining and a village justice in the Village of Buchanan.

And I must say that Judge Larry Horowitz does sound real good. And you've come a long road, you deserve that title. We want to thank the Governor for recognizing all

the good things in your career, and look forward to continuing to work with you.

Congratulations, Judge Horowitz. And I am proud to second your nomination.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr. President, I too add my voice to the seconds.

I have seen no one who is more qualified in the sense of representing every ethnic and religious group, if not by an adequate degree of consanguinity, at least by his volunteer work in representing them pro bono. He certainly is an asset that we will long enjoy on the court.

ACTING PRESIDENT MEIER: The question is on the confirmation of Lawrence Horowitz as a judge of the Westchester County Court. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

nominee is confirmed.

Judge Horowitz is with us today in the gallery. Congratulations, Judge.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: As a judge of the Westchester County Court, Robert A. Neary, of Pound Ridge.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I again am very proud to rise to move the nomination of Robert A. Neary, of Pound Ridge, as a judge of the Westchester County Court.

He's here with his wife, Keary, and sons Michael, Phillip, Timothy, and Brendan.

And speaking generally about all the nominees, this is an incredible group of people. We're really very fortunate to have them willing to serve in these various positions of authority as judges.

Robert Neary, in reviewing his resume, really is an individual who is so qualified it just jumps out at you as you look

at his qualifications. Here's an individual -- and I don't think there's been anyone that's come before this committee with these types of qualifications. It's a criminal court, county court. He's supervised over 100 homicide investigations and has tried to verdict 20 homicide cases. That's clearly the most serious, the most difficult to try. And he certainly has the experience to preside over those cases.

And I'm sure, even though his background is mostly in prosecution, judging from his demeanor, the little information that I gleaned when we talked earlier this morning, he will balance the interests of both the accused as well as the prosecutors.

In fact, I'm sure he will hold the prosecutors to a higher standard in view of his qualifications and how well he's performed in that capacity. He'll be more demanding of prosecutors in view of those qualifications.

And I would like now to yield the floor again to Senator Leibell for his remarks.

ACTING PRESIDENT MEIER: Senator

Leibell.

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

And continuing with Westchester Day, I'm very pleased to rise on the nomination of Robert Neary. Bob and I both are graduates of St. Johns Law School and came out at approximately the same time. And when I got into the Westchester DA's office, Bob Neary was there also.

We had the opportunity to serve in the same bureau that we were assigned to as we arrived in that office, in the Rackets Bureau. And I had the chance to work with him closely. We speak on many of these nominations, but we can't always say that we've worked day by day with somebody who comes here. And I can actually say that in the case of Bob Neary.

I can tell you, as the chairman of Judiciary pointed out, he has had a long and distinguished career as a prosecutor, career prosecutor, and has served Westchester County and so many other communities with great distinction.

I can also tell you that he was one

of the most popular and most liked people in the district attorney's office. And the reasons for that were twofold. One, he was professionally very competent. Besides that, he was always willing to share of his competency and of his knowledge and to do it with any member who was there, whether they were there longer than he was or it was a new person coming into that office.

As was noted, he has tried literally scores of cases, some of the most serious cases in Westchester County. So we have been very fortunate to have his service over the years. And now we'll be fortunate to have his service as a judge.

I'm very pleased to have the opportunity to stand here today and to push this nomination, to urge my colleagues to support the nomination sent over to us by the Governor.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Thank you, Mr. President.

Once again, as Senator Leibell said, we'll continue with Westchester Day.

And it's also my pleasure to second the nomination of Bob Neary, someone who was born and raised in the city of Yonkers, great roots in the city that I live in, who, as Senator Leibell alluded to, started his career back in 1975 in the Westchester County district attorney's office, working under then District Attorney Carl Vergari, and has continued that work under the leadership of our outstanding district attorney in Westchester, Jeanine Pirro.

He has held so many different titles from '75 to now, where he is the chief of the Career Criminal Bureau. Governor Pataki has made an excellent and solid choice in each of these nominees that are presented to us today, and certainly that's the case with Bob Neary.

So to Judge Neary, it's my pleasure to second your nomination, to say congratulations to you, to the members of your family for this nomination today, and I look forward to continuing to work with you and to

work for you for the people of Westchester.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Thank you, Mr. President.

I also rise to second this nomination. Today, in the annals of Westchester County's history, will be known as the day of the Big Four judges. From henceforth the word will go forth, because certainly Westchester County has an awful lot to be proud of in these four individuals.

And I look forward to the great successes that they will have on the bench and am proud to be a second to all of their nominations.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: I too would like to rise the second the nomination of Robert Neary.

I'm sure some of you are surprised that somebody from Buffalo's getting up on a Westchester judge. But I know Bob Neary from

1967. We went to college at the same time. He was a senior when I was a sophomore.

I'm not surprised about his work record, because we played football together. Bob Neary was the captain of the team when I was a sophomore. I was fortunate enough to play on that team, and actually play and not just be a sophomore on the bench.

But Bob Neary was a starting receiver. He was a captain. He led through leadership, hard work, and determination. He was one of the best players we had, obviously. He was not the fastest, but he ran great patterns. Had a wonderful work ethic. Was wonderful for the younger guys that he welcomed you aboard.

He worked harder than any of us, so that he led through example. And I think that, because of that background that I know of him, that it's not surprising to me that he was such a successful district attorney. And I know that he will be a wonderful judge.

I also know that Senator DeFrancisco said that he was a little concerned that all his background was as a

prosecutor, but he knows that he'll give both sides a fair shake, and I'm positive he will. He'll be a great judge and someone we'll all be proud of.

I'm happy to have risen and seconded his nomination.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm sorry I was not present for the first one, two, three judges. I'm now present for Bob Neary, who, of the four, is the only one I don't know.

But I think I would like to make just a general comment. Being tied up in a meeting earlier, I would have liked to have been able to speak on Judge Guarino and Judge Bellantoni and Judge Horowitz. And now I am happy to speak including Judge Neary.

What I would like to say is that the caliber and the quality of the judges that we have in Westchester County has been uniquely high. And we have also put in some innovative new procedures in Westchester County which may serve as a model for the way we handle certain family and domestic violence

issues around the state.

And it is because our judges have been very open to progressive new methods that we are able to do some of the things we have done. We have put in our various courts childcare in every single court, major court -- city court, I should say city court in our county. And it is really the judges that have been very supportive of many of these -- the new thinking.

And so for all four, I commend them. They are very qualified people. They have in many cases shown their ability already. And I am just delighted that all four are here today for Westchester Day in the judiciary.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the nomination?

The question is on the confirmation of Robert Neary as a judge of the Westchester County Court. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those

opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Neary is with us in the gallery today. And, Judge, we congratulate you.

(Applause.)

ACTING PRESIDENT MEIER: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Golden.

SENATOR GOLDEN: Mr. President, amendments are offered to the following Third Reading Calendar bills:

Senator Bonacic, page number 18, Calendar Number 485, Senate Print 2225;

Senator DeFrancisco, page number 26, Calendar 662, Senate Print 3345;

And Senator Leibell, page number 40, Calendar 876, Senate Print 1572.

On behalf of Senator McGee, please remove the sponsor's star from Calendar Number

414.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bills will retain their place on the order of third reading.

And with regard to your second motion, so ordered.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On page 42, I offer the following amendments to Calendar Number 916, Senate Print 3752, and I ask that this bill of Senator Wright's retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bill will retain its place on the order of third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution at the desk, 1938, by Senator Meier. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The

Secretary will read the title of Resolution 1938.

THE SECRETARY: By Senator Meier, Legislative Resolution Number 1938, commemorating the 20th Anniversary of the Disability Advocacy Program.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution at the desk, 1984, by Senator Hoffmann. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title of Resolution 1984.

THE SECRETARY: By Senator Hoffmann, Legislative Resolution Number 1984, memorializing Governor George E. Pataki to proclaim June 2003 as Dairy Month in the State of New York.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution, 1977, at the desk by Senator Bonacic. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title of Resolution 1977.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 1977, commending the Valedictorians, Salutatorians,

and honored students of the 42nd Senate District, in recognition of their outstanding accomplishments, at a celebration to be held at the State Capitol on June 4, 2003.

ACTING PRESIDENT MEIER: All those in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution 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.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If I could just interrupt prior to going to the

noncontroversial reading.

Senator Meier's resolution, 1938, and Senator Hoffmann's resolution, 1984, we'd like to open that for cosponsorship. If anybody wishes not to sponsor the resolutions, they should notify the desk.

ACTING PRESIDENT MEIER: 1938 and 1984 are open for cosponsorship. Any member not wishing to be listed, notify the desk.

The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 306, by Member of the Assembly Gianaris, Assembly Print Number 2609, an act to amend the Estates, Powers and Trusts Law, in relation to prohibited acts of private foundations.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 310, by Senator Saland, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR SKELOS: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 608, by Senator Rath, Senate Print 3568, an act to amend the Family Court Act, in relation to permanency hearings.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 731, by Senator Farley, Senate Print 3425, an act to amend the Banking Law, in relation to the requirement for licensure.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 870, by Senator Trunzo, Senate Print 935, an act to amend the Vehicle and Traffic Law, in relation to dealers and dealer registration.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Little, Senate Print 4926, an act to amend the Real Property Tax Law, in relation to the eligibility.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1002, by Senator Little, Senate Print 4949, an act to amend the General Municipal Law, in relation to the procurement of transit vehicles.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1011, by Senator Farley, Senate Print 4389, an act to amend the Banking Law, in relation to unauthorized entities.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1012, by Senator Farley, Senate Print 4823, an act to amend the Banking Law, in relation to the requirements for licensure.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1019, by Senator Rath, Senate Print 4506, an act to amend the Education Law, in relation to displaying the flag at the State of New York on the grounds of the State University and institutions therein.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1020, by Senator LaValle, Senate Print 4960 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR SKELOS: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 1036, by Senator Bonacic, Senate Print 417, an act to amend the Vehicle and Traffic Law, in relation to allowing volunteer firefighters.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1037, by Senator Wright, Senate Print 701, an act to amend the Public Authorities Law, in relation to contracts.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1038, by Senator Leibell, Senate Print 988, an act authorizing the Pawling Central School District to lease lands.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1039, by Senator Kuhl, Senate Print 1013, an act to amend the Education Law, in relation to optional retirement programs.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1040, by Senator Fuschillo, Senate Print 1053, an act to authorize the Long Island Progressive Baptist Association.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1041, by Senator Stachowski, Senate Print 1165, an act to amend the Penal Law, in relation to the definition of assault in the second degree.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1042, by Senator Larkin, Senate Print 1185, an act to amend the General Municipal Law, in relation to establishing.

ACTING PRESIDENT MEIER: There is

a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1043, by Senator Trunzo, Senate Print 1502A, an act to amend the General Municipal Law, in relation to allowing active volunteer firefighters.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1045, by Senator LaValle, Senate Print 1793, an act to amend the Real Property Actions and Proceedings Law, in relation to the purchase of the premises.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1046, by Senator Spano, Senate Print 1922, an act to authorize the Village of Pleasantville, in the County of Westchester.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1048, by Senator Marcellino, Senate Print 2099, an act to amend the General Business Law, in relation to renewals of magazine subscriptions.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1049, by Senator Kuhl, Senate Print 2244, an act to amend the County Law, in relation to authorizing wireless communications service.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1050, by Senator Kuhl, Senate Print 2309, an act to amend the General Municipal Law, in relation to the powers and duties of the City of Hornell Industrial Development Agency.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

SENATOR KUHL: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1051, by Senator Trunzo --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1052, by Senator Skelos, Senate Print 2575, an act to amend the Tax Law, in relation to providing a fair marketplace.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Skelos, that completes the noncontroversial reading of the calendar.

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

And just to mention to the members that are on the Rules Committee, there will be a Rules Committee meeting shortly, upon completion of the debate on my bill, and then we'll come back and report the Rules bills and adjourn.

Senator Schneiderman -- if we could go now, Mr. President, to the controversial reading of the calendar.

ACTING PRESIDENT MEIER: The

Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 1052, by Senator Skelos, Senate Print 2575, an act to amend the Tax Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Now, Senator Schneiderman.

SENATOR SKELOS: Thank you, Mr. President.

Under the Tax Law provisions in New York State, New York lenders are unable to pass through the cost of the mortgage recording tax as a charge associated with making a loan. Federal lenders are allowed to do this. Obviously, this hurts New York State-chartered mortgage lenders. And it would allow them to pass through this cost.

It was vetoed by the Governor last year because of his concern as to the effective date. We have amended the law. Obviously, there's a new effective date. And it would apply to mortgages after the effective date of this legislation.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would yield for some questions.

ACTING PRESIDENT MEIER: Senator Skelos, do you yield for a question?

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Thank you.

This bill appears to be contrary to the best interests of consumers. Why would we want to require a borrower to pay the mortgage recording tax when the lender currently pays the tax?

SENATOR SKELOS: This is in the best interest of companies looking to -- New York State companies looking to have mortgages placed within the state. It's pro-New York.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Skelos, do you yield?

SENATOR SKELOS: Yes, I do.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR SCHNEIDERMAN: But it would seem that institutions licensed by New York State would have an actual advantage here competitively, because the public would know that they don't pass through the cost of the mortgage recording tax, unlike federally chartered institutions, licensed institutions.

So it would seem that that would in fact confer an advantage on them that we're now in the process of taking away.

SENATOR SKELOS: Everybody would have to pay the mortgage recording tax. It's just that they could then pass it through as a cost of making the loan.

SENATOR SCHNEIDERMAN: Through you, Mr. President. But isn't that removing an advantage that these institutions have now in terms of the ability to communicate to consumers?

SENATOR SKELOS: New York lenders presently cannot pass that through.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr.

President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Skelos, do you yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: My concern is that under the present circumstances, New York State-licensed mortgage lenders -- every consumer knows that those institutions are not going to pass the mortgage recording tax along to the consumers. It's a distinction that creates an advantage, if you will, competitively.

This would reduce any incentive for anyone to use a New York State-licensed mortgage lender as opposed to a federally licensed mortgage lender. Won't this have the result of reducing the number of consumers who use New York State-licensed mortgage lenders?

SENATOR SKELOS: This has been -- it's supported by that industry. They have met with us in support of the legislation. So obviously they feel that they are not going to

be hurt.

SENATOR SCHNEIDERMAN: Well, through you, Mr. President, I -- if he'd yield for one final question.

ACTING PRESIDENT MEIER: Senator Skelos, will you yield?

SENATOR SKELOS: Yes.

SENATOR SCHNEIDERMAN: When the Governor vetoed this -- and I certainly do not mean to convey that what the Governor says in veto messages are always correct by any means -- but in addition to noting the concern about the effective date, the Governor stated that he was concerned that the bill would adversely affect purchasers of single-family homes.

And I'm wondering if that has been taken into account in the amendments of the bill.

SENATOR SKELOS: I can't speak for the Governor, but I believe his concern was about mortgages that were already in the process at the time of the effective date of this legislation.

SENATOR SCHNEIDERMAN: Thank you,

Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I do think that this is something that is contrary to the interests of consumers. I understand why lenders want to be able to pass along to borrowers the mortgage recording tax, but I really don't understand how this benefits the consumers of New York State.

It also really does undercut -- and I think it's a matter of shortsightedness of this industry -- it really does undercut a competitive advantage that New York State-licensed mortgage lenders currently have, as consumers know that that's the one place that they're not going to have the costs of the mortgage recording tax passed on to them.

I think this is something that is a shortsighted effort by the industry to reduce its costs, with more long-term negative consequences both for the borrowers and the lenders. So I will be voting no.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the bill?

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1052 are Senators L. Krueger, Montgomery, Paterson, and Schneiderman. Ayes, 56. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the calendar.

SENATOR SKELOS: Mr. President, we're not prepared to call the Rules Committee meeting quite yet, so why don't we stand at ease at this time. Maybe there's some motions or housekeeping.

Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: I think we just have the one motion, Senator.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President. I wish to call up Senator Flanagan's bill, Print Number 4990, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 795, by Senator Flanagan, Senate Print 4990, an act to amend the Navigation Law.

SENATOR SEWARD: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator Seward.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

And the Senate will stand at ease pending the return of the report of the Rules Committee.

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

The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 4:00 p.m.)

(Whereupon, the Senate reconvened at 4:10 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Can we return to reports of standing committees.

I believe there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT MEIER: Reports

of standing committees.

The Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 44, by Senator Alesi, an act to amend the Public Health Law;

1459, by Senator Fuschillo, an act to authorize;

1520A, by Senator Bonacic, an act to give the Town of Thompson;

1571A, by Senator Fuschillo, an act to authorize;

1806A, by Senator Larkin, an act to amend the General Municipal Law;

2059, by Senator Farley, an act to amend the Environmental Conservation Law;

2062A, by Senator LaValle, an act to amend the General Obligations Law;

2527, by Senator Trunzo, an act to amend the Real Property Law;

2689, by Senator Mendez, an act to amend the Election Law;

2739, by Senator Volker, an act to

amend the Retirement and Social Security Law;

2940, by Senator Kuhl, an act to amend the Tax Law;

3025, by Senator Nozzolio, an act to permit;

3222, by Senator Spano, an act to authorize;

3386, by Senator Little, an act to authorize;

3387, by Senator Seward, an act to amend the Tax Law;

3426, by Senator Saland, an act to amend Chapter 505 of the Laws of 1985;

3427, by Senator Marchi, an act in relation to directing;

3584, by Senator Flanagan, an act to amend the Correction Law;

3664, by Senator Oppenheimer, an act to amend the Penal Law;

3702A, by Senator Maziarz, an act to amend the Tax Law;

3710, by Senator Morahan, an act authorizing;

3845, by Senator Rath, an act to amend the Penal Law;

3919A, by Senator Saland, an act to amend Chapter 942 of the Laws of 1983;

4130, by Senator Marcellino, an act to amend the Environmental Conservation Law;

4181, by Senator Golden, an act to amend Chapter 929 of the Laws of 1986;

4807A, by the Senate Committee on Rules, an act to amend the Tax Law;

4905, by Senator DeFrancisco, an act to amend the Surrogate's Court Procedure Act;

4940, by Senator Wright, an act to amend the Environmental Conservation Law;

4984, by Senator Rath, an act to amend the Social Services Law;

5095, by the Senate Committee on Rules, an act to amend Chapter 272 of the Laws of 1991;

5115, by Senator Nozzolio, an act to amend the Executive Law;

5135, by Senator Skelos, an act to amend the Correction Law;

And Senate Print 5159, by Senator Balboni, an act to amend the Executive Law.

All bills ordered direct to third

reading.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of the Rules Committee say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Skelos.

SENATOR SKELOS: Please recognize Senator Stachowski.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, can I have unanimous consent to be recorded in the negative on Calendar 1042, Senate 1185, please.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded

in the negative on Calendar 1042.

Senator Skelos.

SENATOR SKELOS: Is there any other housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR SKELOS: Mr. President, there being no further business, I move that the Senate stand adjourned until Wednesday, June 4th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, June the 4th, at 11:00 a.m.

(Whereupon, at 4:14 p.m., the Senate adjourned.)