NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 24, 2009

3:03 p.m.

EXTRAORDINARY SESSION

SENATOR ANDREA STEWART-COUSINS, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT STEWART-COUSINS: The Senate will please come to order.

I ask everyone present to rise and recite with me the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT STEWART-COUSINS: In the absence of clergy, may we all bow our heads for a moment of silence.

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

ACTING PRESIDENT STEWART-COUSINS: Thank you.

Senator Smith, I have at the desk here a proclamation which I am handing down to the Secretary at this time.

The Secretary will read.

THE SECRETARY: "Proclamation.

"Pursuant to the power vested in me by Article IV, Section 3 of the Constitution, I hereby convene the Senate of the State of New York in Extraordinary Session at the

Capitol, in the City of Albany, on the twenty-fourth day of June, two thousand nine, at three o'clock, for the purpose of considering legislation with respect to various issues and for the consideration of legislation with respect to such other subjects as I may recommend.

"Given under my hand and the privy seal of the State, in the City of Albany, this twenty-third day of June in the year two thousand nine, by the Governor, David A. Paterson."

ACTING PRESIDENT STEWART-COUSINS: The proclamation having been read, the session is in extraordinary session.

Senator Klein.

SENATOR KLEIN: Point of order, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein, why do you rise?

SENATOR KLEIN: My point of order, Madam President, is regarding legal concerns about the Senate-only extraordinary session.

Because the Governor called only the Senate for an extraordinary session and not the Assembly, it is questionable that the bills that the Senate passed could result in any laws being enacted, even if those bills contain the same language as bills previously passed by the Assembly.

It is clear the Governor has the power under Article IV, Section 3 of the Constitution to call only the Senate and leave the Assembly at home for an extraordinary session. However, it is not clear that a Senate-only extraordinary session can result in any bills becoming law.

So the bills that were passed by the Assembly in regular session that now are before us in extraordinary session would be invalid.

It's interesting to note, Madam President, that when Article IV, Section 3 of the State Constitution was added -- the section was added which states "Senate only" -- in 1821, the reports of the proceedings and debates of the convention of

1821, assembled for the purpose of amending the Constitution of the State of New York, containing all the official documents relating to the subject and other valued materials.

It's also interesting to note, Madam President, that then Senator Martin Van Buren moved to insert the words "or the Senate only." The amendment was supported by the mover upon the ground that it might be necessary for the Senate, with whom was lodged a part of the appointing power, to be convened without the other branch of the Legislature.

So if we were here just doing the job that we can only do as a Senate body, the appointing authority, it would probably be valid. But if we are taking up legislation, we need the Assembly to be here as well for an extraordinary session.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Klein.

The ruling of the chair is that this Extraordinary Session Number 2 has not been noticed in conformity with applicable provisions of the New York State Constitution

and well-established parliamentary practice of this house.

Senator Smith.

SENATOR SMITH: Yes, Madam President. I rise, one, to appeal to our colleagues on the other side of the aisle. Obviously, this is no longer a time for us to do politics, this is more of a time for us to do work.

We are hoping that this Extraordinary Session Number 2, notwithstanding the legalities or the constitutionality of this session, that at least our colleagues on the other side of the aisle would show up for work. Clearly, for them it's more about politics than it is about performing the people's business.

This is very important for us to show the people that we can rise above all of that. Unfortunately, they have chose not to do that.

But notwithstanding that, Madam President, given -- in light of what my learned colleague Senator Klein has put forth,

Madam President, I ask that we would move to adjourn this body today and that we will not take up any business and we adjourn sine die.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Smith.

Being there is no further business to come before the Senate, on motion, the second extraordinary session is adjourned sine die.

(Whereupon, at 3:08 p.m., the Senate adjourned.)