

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 January 12, 2010

11 10:25 a.m.

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14 REGULAR SESSION

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19 SENATOR DAVID J. VALESKY, Acting President

20 ANGELO J. APONTE, Secretary

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

2 ACTING PRESIDENT VALESKY: The  
3 Senate will please come to order.

4 I ask everyone present to please  
5 rise and recite with me the Pledge of  
6 Allegiance.

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

9 ACTING PRESIDENT VALESKY:  
10 Today's invocation will be given by Father  
11 Christopher Carrera, pastor of St. Peter's  
12 Roman Catholic Church in Lowville.

13 FATHER CARRERA: Before the  
14 invocation, I would like to thank Senators  
15 Darrel Aubertine and Joseph Griffo for  
16 cosponsoring me here today. It's a privilege  
17 to lead this body in prayer and to have  
18 bipartisan support in doing so.

19 "We, the people of the State of  
20 New York, grateful to Almighty God for our  
21 freedom, in order to secure its blessings do  
22 establish this Constitution."

23 Let us pray.

24 Lord God, these words from the

1 preamble to our state's constitution remind us  
2 that our freedoms as citizens are a gift from  
3 You to whom we owe our gratitude and  
4 obedience.

5 These words are not mere  
6 pleasantries written in a style now long  
7 forgotten. Rather, they were chosen to  
8 express a deeply held belief that You as our  
9 Creator grant life and freedom and invite us  
10 to use these according to Your law of love.  
11 They also serve to remind us that when we  
12 govern ourselves with respect for divine law,  
13 we build a society of true justice and love.

14 These words, adopted by  
15 constitutional convention in 1938 and approved  
16 by a vote of the people, do not establish our  
17 rights and freedoms; rather, they seek as our  
18 solemn duty to protect and secure them.

19 As these dedicated men and women of  
20 this honorable body gather here today, they  
21 face serious challenges in the legislative  
22 year ahead. We invoked Your guidance upon  
23 them so that they may execute their sacred  
24 trust to enact laws which protect the

1 God-given rights of all the people of the  
2 state, from the greatest to the most weak and  
3 vulnerable.

4 In a society filled with so many  
5 competing voices, may they have the grace to  
6 discern Yours and the courage to make the  
7 difficult decisions.

8 Lord God, let us be mindful of the  
9 words of the psalmist: If the Lord does not  
10 build the house, in vain do its builders  
11 labor. If the Lord does not watch over the  
12 city, in vain does the watchman keep vigil.

13 We ask You with Your almighty power  
14 to bless this great state. Protect it from  
15 Montauk Point to Manhattan Island, from  
16 Buffalo to Plattsburgh, and here in our  
17 state's capital. Bless our citizens with  
18 health and prosperity, and the members of this  
19 Senate with the wisdom and the courage needed  
20 to legislate in these difficult times.

21 And we ask this in Your holy name.  
22 Amen.

23 ACTING PRESIDENT VALESKY: Thank  
24 you, Father.

1                   Thank you also to Senator Aubertine  
2                   and Senator Griffo for sponsoring Father's  
3                   presence with us today.

4                   The reading of the Journal.

5                   The Secretary will read.

6                   THE SECRETARY:     In Senate,  
7                   Monday, January 11, the Senate met pursuant to  
8                   adjournment. The Journal of Sunday,  
9                   January 10, was read and approved. On motion,  
10                  Senate adjourned.

11                  ACTING PRESIDENT VALESKY:  
12                  Without objection, the Journal stands approved  
13                  as read.

14                  Presentation of petitions.

15                  Messages from the Assembly.

16                  Messages from the Governor.

17                  Reports of standing committees.

18                  Reports of select committees.

19                  Communications and reports from  
20                  state officers.

21                  Motions and resolutions.

22                  Senator Klein.

23                  SENATOR KLEIN:     Mr. President, at  
24                  this time may we please adopt the resolution

1 calendar in its entirety, with the exception  
2 of Senate Resolution Number 3598.

3 ACTING PRESIDENT VALESKY: All in  
4 favor of adopting the Resolution Calendar in  
5 its entirety, with the exception of Senate  
6 Resolution Number 3598, please signify by  
7 saying aye.

8 (Response of "Aye.")

9 ACTING PRESIDENT VALESKY:  
10 Opposed, nay.

11 (No response.)

12 ACTING PRESIDENT VALESKY: The  
13 Resolution Calendar is adopted.  
14 Senator Klein.

15 SENATOR KLEIN: Mr. President, I  
16 believe there's a resolution by Senator  
17 Breslin at the desk. I ask that the title of  
18 the resolution be read and move for its  
19 immediate resolution and allow Senator Breslin  
20 to speak on his resolution.

21 ACTING PRESIDENT VALESKY: The  
22 Secretary will read.

23 THE SECRETARY: By Senator  
24 Breslin, Legislative Resolution Number 3598,

1       paying grateful tribute to the life and many  
2       accomplishments of John J. McNulty, Jr.,  
3       distinguished citizen and devoted member of  
4       his community.

5                ACTING PRESIDENT VALESKY:  
6       Senator Breslin.

7                SENATOR BRESLIN:       Thank you,  
8       Mr. President.

9                I rise to salute the life of Jack  
10       McNulty, who passed away on December 28, 2009,  
11       at the age of 87.

12               To those members or those people  
13       who are familiar with the Capital District,  
14       Jack McNulty began his elective life at the  
15       age of 27, in 1949, and he continued as an  
16       elected official for over 50 years, retiring  
17       as mayor of the Village of Green Island in  
18       2002.

19               Along the way, he served as the  
20       supervisor of the Town of Green Island, he was  
21       the sheriff of Albany County, he was on the  
22       State Corrections Committee for years. He  
23       was, as I mentioned, the long-time sheriff of  
24       Albany County.

1                   He's also the father of five  
2                   children, one of whom was killed in the  
3                   Vietnam War. Another, Ellen, succeeded him as  
4                   mayor of Green Island. And another, Michael,  
5                   who you may be familiar with, was a long-time  
6                   Assemblyman and a long-time Congressman who  
7                   retired last year.

8                   Most importantly, for people who  
9                   knew Jack McNulty in the Capital District,  
10                  they would use words other than "an elected  
11                  official." They would use words like  
12                  "gentleman," "integrity," "honesty,"  
13                  "professionalism." Somebody who really  
14                  exemplified the kind of person that we want in  
15                  public office.

16                 So this resolution celebrating his  
17                 life is one that is extremely well deserved.  
18                 I applaud his life. I look forward to, at  
19                 times, trying to emulate what he has done  
20                 before me.

21                         Thank you, Mr. President.

22                         ACTING PRESIDENT VALESKY:     Thank  
23                         you, Senator Breslin.

24                         Senator Farley.



1                   SENATOR FARLEY:     Thank you very  
2                   much.

3                   I rise to pay tribute to the life  
4                   of Jack McNulty, who was an absolute icon in  
5                   this whole Capital Region.

6                   Jack McNulty epitomized being a  
7                   gentleman, being a person of integrity and  
8                   honesty -- and humor. He had a great Irish  
9                   sense of humor. And what a family that  
10                  McNulty family is. And they all represent the  
11                  very best, and the apple didn't fall far from  
12                  the tree.

13                  You know, Jack McNulty, everywhere  
14                  he went he was adored by Republicans and  
15                  Democrats regardless of their party  
16                  affiliation. And he used to appear so many  
17                  times on behalf of his son Mike. And I'll  
18                  tell you what, he always made a presence.

19                  I can recall him -- there were all  
20                  the candidates that are running for office  
21                  getting in line and announcing what they're  
22                  running for and a little bit about it. And  
23                  he'd jump right in the line. He says, "I'm  
24                  Jack McNulty, and I'm running statewide for

1       notary public."

2                   (Laughter.)

3               SENATOR FARLEY:     And this was the  
4       type of person he was.  He didn't take himself  
5       seriously.

6               But what a wonderful, wonderful man  
7       he was.  And what a loss it is to this area.  
8       The McNulty family from Green Island is  
9       absolutely -- they used to win their elections  
10      with only like one or two negative votes.  And  
11      they used to find out who those two were.

12               (Laughter.)

13              SENATOR FARLEY:     But the McNulty  
14      family is truly a remarkable family.  And my  
15      deep, deepest sympathy goes out to Mike and  
16      his brothers and sisters.  As Senator Breslin  
17      said, one of the sons was brought home in a  
18      body bag from Vietnam.

19              And they're just a wonderful  
20      family.  My deepest sympathy goes out on this  
21      loss, because Jack McNulty had a very rich and  
22      wonderful life that made all of us in public  
23      service look good.

24              ACTING PRESIDENT VALESKY:     Thank

1       you, Senator Farley.

2                   Senator McDonald.

3                   SENATOR McDONALD:     Thank you.    I  
4       too would like to join Senator Breslin and  
5       Senator Farley.

6                   I grew up, was born and raised in  
7       this area, and the McNulty family, regardless  
8       of what political party you were, what race,  
9       what religion, what ethnicity, they were good  
10      people to everybody. And the word is humane.  
11      Humanity is what that they cared for, and the  
12      people who came before them and worked with  
13      them. And they cared about all of us.

14                  I can't add to Senator Breslin and  
15      Senator Farley other than the fact that I'm  
16      proud that these people are from my region.  
17      And Jack was a wonderful man. And I just  
18      can't tell you what compassion he had for our  
19      community.

20                  Thank you.

21                  ACTING PRESIDENT VALESKY:     Thank  
22      you, Senator McDonald.

23                  Are there any other Senators who  
24      wish to be heard?

1                   Seeing none, the question is on the  
2                   resolution. All in favor signify by saying  
3                   aye.

4                   (Response of "Aye.")

5                   ACTING PRESIDENT VALESKY:  
6                   Opposed, nay.

7                   (No response.)

8                   ACTING PRESIDENT VALESKY:       The  
9                   resolution is adopted.

10                  Senator Breslin has indicated he  
11                  would like the resolution open for  
12                  cosponsorship. Any member wishing not to  
13                  cosponsor the resolution should notify the  
14                  desk.

15                  Senator Klein.

16                  SENATOR KLEIN:       Mr. President, at  
17                  this time can you please recognize Senator  
18                  Larkin to speak on his resolution paying  
19                  tribute and remembering the 13 brave soldiers  
20                  and civilians of the U.S. Army who lost their  
21                  lives in the tragic attack at Fort Hood,  
22                  Texas.

23                  ACTING PRESIDENT VALESKY:  
24                  Senator Larkin.

1                   SENATOR LARKIN:     Thank you,  
2     Mr. President.

3                   This resolution is something that  
4     we all ought to pay attention to. In November  
5     of this past year, 13 members of the armed  
6     forces and one civilian were killed by another  
7     member of the armed forces. Thirty-one were  
8     seriously injured. Twenty-seven, as of  
9     yesterday, were still in hospital conditions.

10                  This is a terrible incident in our  
11     country, soldiers killing soldiers. What we  
12     should be doing here today is saying, in  
13     essence, to the American people: We thank you  
14     for giving us your soldiers -- your sons, your  
15     daughters, your brothers, your fathers. But  
16     we didn't give them to you so that they could  
17     be killed by another member of the armed  
18     forces.

19                  What went on at Fort Hood -- and I  
20     speak as having served 23 years, but never at  
21     Hood, but knowing some of the families that  
22     are there. I say, what are we doing? What is  
23     this country turning to?

24                  These individuals, the majority of

1       them, were ready for, practicing and preparing  
2       for deployment to the Mideast. They never got  
3       there. Two of them, I'm told, it would have  
4       been their third trip to the Mideast. And yet  
5       instead of engaging in a firefight in  
6       Afghanistan or Iraq, they're killed in the  
7       deployment office at Fort Hood, Texas.

8               This is a disgrace. And when some  
9       people tell me that this individual was under  
10      stress, let me tell you, that's not stress.  
11      I'll tell you what stress is.

12             Stress, as stated by the wife of an  
13      army sergeant who is on his fourth trip to the  
14      Mideast, says stress is getting a call in the  
15      middle of the tour and being told your husband  
16      is being medically evac'd to Germany. Where?  
17      Don't know. What's his injuries? Don't know.  
18      By the way, he's not coming here, it's an  
19      18-hour drive to where he's going to be  
20      located. And when you get there, he can't  
21      feed himself, he can't bathe himself. You  
22      have to do it for him. That's stress.

23             The stress on not just the  
24      survivors at Fort Hood, but the stress on the

1       army as a whole brings us to the question of  
2       are we doing enough to support these families.  
3       I ask every one of you to think about it.  
4       Because there's nobody in this room that can't  
5       say they don't know or heard of someone who's  
6       been called to duty and asked to be in combat,  
7       combat for this great nation of ours. Because  
8       we are the greatest nation in the world.

9               But we cannot allow incidents like  
10       this to happen. It's a disgrace. We  
11       shouldn't be mollycoddling them. They should  
12       be brought to trial and severely punished.

13              To the families of those 13 that  
14       were killed, I say God watch over you. To  
15       those 27 that are still in hospital  
16       conditions, we pray that they will recover and  
17       be able to come back and carry on a decent  
18       life.

19              And to the rest of us, let's be  
20       sensitive to what's going on and truly support  
21       those who we ask to go to harm's way and  
22       defend this great country of ours.

23              Thank you, Mr. President.

24              ACTING PRESIDENT VALESKY:       Thank

1       you, Senator Larkin.

2                   Senator Klein.

3                   SENATOR KLEIN:     Mr. President, is  
4       there any further business at the desk?

5                   ACTING PRESIDENT VALESKY:     There  
6       is no further business at the desk.

7                   SENATOR KLEIN:     Oh, I'm sorry.  
8       Would you recognize Senator McDonald to speak  
9       on the resolution.

10                  ACTING PRESIDENT VALESKY:  
11       Senator McDonald.

12                  SENATOR McDONALD:     Thank you,  
13       sir.

14                  Colonel Larkin asked me to say a  
15       few words on his resolution.  These folks were  
16       in the same Army division I was in many years  
17       ago.  These folks are in today's 1st Cav  
18       Division.  And it's always a tragedy.  And I'm  
19       thanking you for putting this resolution up.

20                  But I want to thank this body as  
21       well as the Assembly and the administration  
22       for the support that it's been giving the  
23       troops.  It's been gratifying to see the  
24       sincerity of your support for our troops, you



1 know, of the last couple of years I've been  
2 here in the Assembly or the Senate.

3 And unfortunately, we're going to  
4 have to continue to that in the future with  
5 programs, services. And I know we're up to  
6 the task. And I just want to thank everybody  
7 for having that concern.

8 Thank you.

9 ACTING PRESIDENT VALESKY: Thank  
10 you, Senator McDonald.

11 Senator Klein.

12 SENATOR KLEIN: Mr. President, is  
13 there any further business at the desk?

14 ACTING PRESIDENT VALESKY: The  
15 desk is clear.

16 SENATOR KLEIN: There being none,  
17 Mr. President, I move that we adjourn until  
18 Tuesday, January 19th, at 3:00 p.m.,  
19 intervening days to be legislative days.

20 ACTING PRESIDENT VALESKY: There  
21 being no further business to come before the  
22 Senate, on motion, the Senate stands adjourned  
23 until Tuesday, January 19th, at 3:00 p.m.,  
24 intervening days being legislative days.

1                   (Whereupon, at 10:40 a.m., the  
2       Senate adjourned.)  
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