

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 May 26, 2010

11 4:04 p.m.

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13
14 REGULAR SESSION

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18 SENATOR DAVID J. VALESKY, Acting President

19 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: The
10 Reverend Peter G. Young, of Mother Teresa
11 Community here in Albany, is with us this
12 afternoon to offer an invocation.

13 REVEREND YOUNG: Thank you,
14 Senator.

15 Let us pray.

16 I recall, as a boy born in 1930, a
17 Depression baby, as that Depression baby, our
18 New York State history records the state that
19 the Senator of our 26th District in 1913
20 prioritized his political career to address
21 the need for job development and economic
22 growth as the President of the United States.

23 As we gather again in difficult
24 times, economic times that they are, we are
25 concerned about the New York State unemployed

1 seeking the dignity of a paycheck. Our prayer
2 intention on this day -- on this record
3 heating day that will only add to the family
4 stress and higher utility bills -- Almighty
5 and Eternal God, in this intention You have
6 revealed your God-given wisdom to all nations.

7 You are the God of power and might.
8 Wisdom and justice comes to our Senators
9 through Your authority with the prayer that
10 Your laws are enacted and judgments are
11 decreed with our citizens benefiting from the
12 dedication of our session today.

13 Amen.

14 ACTING PRESIDENT VALESKY: The
15 reading of the Journal.

16 The Secretary will read.

17 THE SECRETARY: In Senate,
18 Tuesday, May 25, the Senate met pursuant to
19 adjournment. The Journal of Monday, May 24,
20 was read and approved. On motion, Senate
21 adjourned.

22 ACTING PRESIDENT VALESKY:
23 Without objection, the Journal stands approved
24 as read.

25 Presentation of petitions.

1 Messages from the Assembly.
2 Messages from the Governor.
3 Reports of standing committees.
4 Reports of select committees.
5 Communications and reports from
6 state officers.

7 Motions and resolutions.
8 Senator Klein.

9 SENATOR KLEIN: Mr. President, I
10 wish to call up Senate Calendar Number 544,
11 Assembly Print Number 1401.

12 ACTING PRESIDENT VALESKY: The
13 Secretary will read.

14 THE SECRETARY: Calendar Number
15 544, by Member of the Assembly Wright,
16 Assembly Print Number 1401, an act to amend
17 the Public Housing Law.

18 ACTING PRESIDENT VALESKY:
19 Senator Klein.

20 SENATOR KLEIN: I now move to
21 reconsider the vote by which this bill was
22 substituted for my bill, Senate Print Number
23 6916, on 5/25/2010.

24 ACTING PRESIDENT VALESKY: The
25 Secretary will call the roll on

1 reconsideration.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 34.

4 ACTING PRESIDENT VALESKY: The
5 bill is before the house.

6 Senator Klein.

7 SENATOR KLEIN: I now move that
8 Assembly Bill Number 1401 be recommitted to
9 the Committee on Housing and my Senate bill be
10 restored to the order of Third Reading
11 Calendar.

12 ACTING PRESIDENT VALESKY: So
13 ordered.

14 SENATOR KLEIN: Mr. President, I
15 now offer the following amendments.

16 ACTING PRESIDENT VALESKY: The
17 amendments are received.

18 Senator Klein.

19 SENATOR KLEIN: Mr. President, I
20 wish to call up Calendar Number 211, Assembly
21 Print Number 5707.

22 ACTING PRESIDENT VALESKY: The
23 Secretary will read.

24 THE SECRETARY: Calendar Number
25 211, by Member of the Assembly Weinstein,

1 Assembly Print Number 5707, an act to amend
2 the Election Law.

3 ACTING PRESIDENT VALESKY:
4 Senator Klein.

5 SENATOR KLEIN: I now move to
6 reconsider the vote by which this Assembly
7 bill was substituted for Senator Addabbo's
8 bill, Senate Print Number 5029, on 5/18.

9 ACTING PRESIDENT VALESKY: The
10 Secretary will call the roll on
11 reconsideration.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 41.

14 ACTING PRESIDENT VALESKY: The
15 bill is before the house.

16 Senator Klein.

17 SENATOR KLEIN: I now move that
18 Assembly Bill Number 5707 be recommitted to
19 the Committee on Elections and Senator
20 Addabbo's bill be restored to the order of
21 Third Reading Calendar.

22 ACTING PRESIDENT VALESKY: So
23 ordered.

24 SENATOR KLEIN: Mr. President, I
25 now offer the following amendments.

1 ACTING PRESIDENT VALESKY: The
2 amendments are received.

3 Senator Klein.

4 SENATOR KLEIN: Mr. President, I
5 believe there are substitutions at the desk.
6 I ask that we make the substitutions at this
7 time.

8 ACTING PRESIDENT VALESKY: The
9 Secretary will read the substitutions.

10 THE SECRETARY: On page 28,
11 Senator Breslin moves to discharge, from the
12 Committee on Insurance, Assembly Bill Number
13 10219A and substitute it for the identical
14 Senate Bill Number 7408A, Third Reading
15 Calendar 482.

16 On page 33, Senator Breslin moves
17 to discharge, from the Committee on Finance,
18 Assembly Bill Number 2387 and substitute it
19 for the identical Senate Bill Number 797,
20 Third Reading Calendar 559.

21 On page 33, Senator Montgomery
22 moves to discharge, from the Committee on
23 Children and Families, Assembly Bill Number
24 8827A and substitute it for the identical
25 Senate Bill Number 3895B, Third Reading

1 Calendar 562.

2 On page 35, Senator Sampson moves
3 to discharge, from the Committee on Judiciary,
4 Assembly Bill Number 10410 and substitute it
5 for the identical Senate Bill Number 7289,
6 Third Reading Calendar 573.

7 On page 35, Senator Sampson moves
8 to discharge, from the Committee on Codes,
9 Assembly Bill Number 6195A and substitute it
10 for the identical Senate Bill Number 2972A,
11 Third Reading Calendar 580.

12 On page 35, Senator Parker moves to
13 discharge, from the Committee on Energy and
14 Telecommunications, Assembly Bill Number 6509B
15 and substitute it for the identical Senate
16 Bill Number 5615A, Third Reading Calendar 583.

17 On page 36, Senator Saland moves to
18 discharge, from the Committee on Children and
19 Families, Assembly Bill Number 8807B and
20 substitute it for the identical Senate Bill
21 Number 6070B, Third Reading Calendar 585.

22 On page 37, Senator Morahan moves
23 to discharge, from the Committee on Local
24 Government, Assembly Bill Number 7753A and
25 substitute it for the identical Senate Bill

1 Number 5339A, Third Reading Calendar 597.

2 On page 38, Senator Morahan moves
3 to discharge, from the Committee on Local
4 Government, Assembly Bill Number 7776A and
5 substitute it for the identical Senate Bill
6 Number 7107, Third Reading Calendar 601.

7 And on page 38, Senator Morahan
8 moves to discharge, from the Committee on
9 Local Government, Assembly Bill Number 7774A
10 and substitute it for the identical Senate
11 Bill Number 7108, Third Reading Calendar 602.

12 ACTING PRESIDENT VALESKY:
13 Substitutions ordered.

14 Senator Klein.

15 SENATOR KLEIN: Mr. President, I
16 believe Senator Saland has a resolution at the
17 desk. I ask that the title of the resolution
18 be read and move for its immediate adoption.

19 ACTING PRESIDENT VALESKY:
20 Senator Klein, has this resolution been deemed
21 privileged and submitted by the office of the
22 Temporary President?

23 SENATOR KLEIN: Yes, it has,
24 Mr. President.

25 ACTING PRESIDENT VALESKY: The

1 Secretary will read.

2 THE SECRETARY: By Senator
3 Saland, legislative resolution honoring Fred
4 Schaeffer upon the occasion of his designation
5 by the Poughkeepsie Journal as its 2010
6 Business Person of the Year.

7 ACTING PRESIDENT VALESKY: The
8 question is on the resolution. All in favor
9 signify by saying aye.

10 (Response of "Aye.")

11 ACTING PRESIDENT VALESKY:
12 Opposed, nay.

13 (No response.)

14 ACTING PRESIDENT VALESKY: The
15 resolution is adopted.

16 Senator Klein.

17 SENATOR KLEIN: Mr. President, at
18 this time I move that we adopt the Resolution
19 Calendar in its entirety, with the exception
20 of Senate Resolutions 5454 and 5519.

21 ACTING PRESIDENT VALESKY: All
22 those in favor of adopting the Resolution
23 Calendar in its entirety, with the exception
24 of Senate Resolutions 5454 and 5519, please
25 signify by saying aye.

1 (Response of "Aye.")

2 ACTING PRESIDENT VALESKY:

3 Opposed, nay.

4 (No response.)

5 ACTING PRESIDENT VALESKY: The
6 Resolution Calendar is adopted.

7 Senator Klein.

8 SENATOR KLEIN: Mr. President, I
9 move to take up Senate Resolution 5454, by
10 Senator Adams. I ask that the title of the
11 resolution be read and move for its immediate
12 adoption.

13 ACTING PRESIDENT VALESKY: The
14 Secretary will read.

15 THE SECRETARY: By Senator Adams,
16 Legislative Resolution Number 5454,
17 commemorating Memorial Day, Monday, May 31,
18 2010 in the State of New York.

19 ACTING PRESIDENT VALESKY: All
20 those in favor of adopting the resolution
21 please signify by saying aye.

22 (Response of "Aye.")

23 ACTING PRESIDENT VALESKY:

24 Opposed, nay.

25 (No response.)

1 ACTING PRESIDENT VALESKY: The
2 resolution is adopted.

3 Senators Adams and Larkin have
4 indicated they would like to open the
5 resolution to the entire body for
6 cosponsorship. Any Senator wishing not to be
7 on the resolution please inform the desk.

8 Senator Larkin.

9 SENATOR LARKIN: Thank you,
10 Mr. President.

11 You know, some of us older guys are
12 getting a little tired when Memorial Day
13 becomes a holiday -- special barbecues,
14 special this, special that.

15 Memorial Day to me means something
16 special. Memorial Day means the day that we
17 make recognition for those who aren't here.
18 New York played a great role in establishing
19 Memorial Day when they went out after the
20 Civil War and put flowers on a lot of graves.

21 But what are we saying? Last year
22 we recognized 59 New Yorkers that were killed
23 in Afghanistan and Iraq. Just last weekend,
24 there was six more killed.

25 This is a day we should be paying

1 attention. There will be parades, but they're
2 not the parades that we used to know. Because
3 we've lost the spirit. And many of us are old
4 enough to encourage our young people to
5 respect the flag and respect the people who
6 have served this country.

7 Service to this country isn't easy.
8 We just saw a buffoon in Connecticut telling
9 people how he was in combat in Vietnam. What
10 a disgrace, a disgrace to 15,000 Marines whose
11 names are on the wall on that black metal in
12 Washington, D.C., all killed in Vietnam.

13 It is a shame, it is a shame that
14 we don't do more to show those who care. Our
15 military force today is an all-volunteer. It
16 isn't a draft one. It isn't "maybe the rule
17 will catch me." It's young men and women.

18 One thousand three graduated from
19 West Point Saturday. The President of the
20 United States, in his address, indicated to
21 them that this time next year two-thirds of
22 them will be in combat. Combat that they're
23 not afraid of. Combat because they knew four
24 years ago when they went to West Point that
25 they would be in harm's way.

1 So, you know, no matter what you do
2 this weekend, you should take a moment and
3 think how lucky we are as individuals that we
4 have men and women who know they're in harm's
5 way.

6 When the West Point cadets were
7 here, we had the First Captain, who has had
8 three tours before he ever got to West Point.
9 And as he said Saturday, "This is the happiest
10 day of my life, because I am now an officer in
11 the United States Army. And I am an infantry
12 officer that will lead people in combat."

13 Ladies and gentlemen, please, for
14 your own sake, if you don't think it's very
15 important, just think about it. What would we
16 do if we didn't have these men and women? We
17 would be a country without anything.

18 But we're blessed. We have men and
19 women who have said: I will serve, and I will
20 defend this great country of ours.

21 Mr. President, we should all stand
22 up for a moment of silence for those Americans
23 who have been killed in combat. There are
24 1.9 million Americans who have been awarded
25 the Purple Heart since World War II.

1 Thank you.

2 ACTING PRESIDENT VALESKY: Thank
3 you, Senator Larkin.

4 Per Senator Larkin's suggestion, I
5 would ask all Senators, staff, and visitors in
6 the chamber today to please rise and offer a
7 moment of silent reflection in honor of all of
8 those men and women who gave their lives in
9 defense of our state and nation.

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

12 ACTING PRESIDENT VALESKY: Thank
13 you, Senator Larkin.

14 Senator Nozzolio, on the
15 resolution.

16 SENATOR NOZZOLIO: Thank you,
17 Mr. President.

18 Mr. President and my colleagues,
19 there is no way that I could ever match
20 Senator Larkin's eloquence and commitment, as
21 second to none, a commitment to our nation.

22 I thank you, Senator Larkin, for
23 your service, for your leadership, for your
24 answering the call when our nation needed you
25 the most.

1 In 1966, a small town in New York
2 State was declared the official birthplace of
3 Memorial Day. That community of Waterloo,
4 New York is a community that, in the spirit of
5 Senator Larkin's remarks, takes their
6 obligations very seriously in honoring the
7 sacrifices of our nation's veterans.

8 Waterloo is the permanent home of
9 Memorial Day. Not just for the community, not
10 just for the state, but for the entire nation.
11 It serves each and every year as a powerful
12 reminder that freedom is not free but is paid
13 for with the courage, valor, sacrifice and
14 commitment of all our nation's veterans.

15 I am honored to represent the
16 community of Waterloo, proud of their holding
17 the torch, the birthplace of Memorial Day,
18 celebrating and commemorating that day
19 throughout the entire weekend, but especially
20 observing Memorial Day on its traditional day
21 of May 30th.

22 We must never forget how blessed it
23 is to be an American. Although certainly we
24 are in a nation now of high alert, the
25 terrorists are continuing to threaten our

1 nation, that New York itself has more soldiers
2 and sailors in harm's way than any other state
3 in this nation today. We have more reservists
4 than any other state who are on active duty,
5 fighting in Afghanistan and Iraq and in other
6 places across the globe defending freedom.

7 On this Memorial Day, give thought
8 to a quotation of those who care about this
9 day and show our gratitude for those who are
10 real heroes, who shed their blood to keep our
11 world free: A soldier belongs to their
12 family, but when a soldier falls, he belongs
13 to us all. And that's the spirit of Memorial
14 Day.

15 And thank you, Senator Larkin, for
16 your leadership in making this body recognize
17 its significance of Memorial Day. Thank you,
18 Senator.

19 Thank you, Mr. President.

20 ACTING PRESIDENT VALESKY: Thank
21 you, Senator Nozzolio.

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

24 Seeing none, the question has
25 already been called. The resolution is

1 adopted. And as previously indicated, it is
2 open for cosponsorship.

3 Senator Craig Johnson.

4 SENATOR CRAIG JOHNSON: Mr.

5 President, at this time I move to take up
6 Senate Resolution 5519, by Senator Aubertine.
7 I ask that the title of the resolution be read
8 and move for its immediate adoption.

9 ACTING PRESIDENT VALESKY: The
10 Secretary will read.

11 THE SECRETARY: By Senator
12 Aubertine, Legislative Resolution Number 5519,
13 commending the courageous Fort Drum soldiers
14 for their valiant military service, each of
15 whom made the ultimate sacrifice serving their
16 beloved country as members of the United
17 States Army.

18 ACTING PRESIDENT VALESKY:
19 Senator Aubertine, on the resolution.

20 SENATOR AUBERTINE: Thank you,
21 Mr. President.

22 Mr. President, today this
23 resolution before us honors the many soldiers
24 who have served at Fort Drum and lost their
25 lives in the defense of our freedoms in

1 Afghanistan and Iraq since 2002 up till
2 April 30th of this year.

3 As you know, Mr. President,
4 Fort Drum is home of the Tenth Mountain
5 Division, our nation's most deployed military
6 division. They and their families make a home
7 in the North Country, coming from our
8 communities and from all parts of this great
9 nation.

10 It's important that this body
11 recognize those who have paid the ultimate
12 sacrifice. In the North Country, we're
13 constantly reminded of these sacrifices that
14 have been made. Just last week, two soldiers
15 from Fort Drum lost their lives, and their
16 service and sacrifice will not be forgotten.
17 It really drives home the point how much is at
18 stake for our soldiers and why it is so
19 important to commend each and every soldier's
20 selfless act of giving to protect our way of
21 life.

22 So in the true spirit of Memorial
23 Day, I ask all of my fellow legislators and
24 all of us here in this chamber to support this
25 resolution and remember our fallen servicemen

1 and women. And in so doing, we honor all
2 servicemen and women.

3 And for the record, Fort Drum,
4 since the beginning of the Iraq War in 2003,
5 we've lost over 300 soldiers. And that's a
6 constant reminder for all of us in the North
7 Country.

8 Thank you, Mr. President.

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

11 The question is on the resolution.
12 All in favor signify by saying aye.

13 (Response of "Aye.")

14 ACTING PRESIDENT VALESKY:
15 Opposed, nay.

16 (No response.)

17 ACTING PRESIDENT VALESKY: The
18 resolution is adopted.

19 Senator Aubertine has indicated he
20 would like the resolution open for
21 cosponsorship. Any Senator wishing not to
22 cosponsor should notify the desk.

23 Senator Johnson.

24 SENATOR CRAIG JOHNSON: Mr.
25 President, is there any further business at

1 the desk?

2 ACTING PRESIDENT VALESKY: The
3 desk is clear.

4 SENATOR CRAIG JOHNSON: Mr.
5 President, there being no further business at
6 the desk, I move that we adjourn until
7 Thursday, May 27th, at 3:00 p.m.

8 ACTING PRESIDENT VALESKY: On
9 motion, there being no further business to
10 come before the Senate, the Senate stands
11 adjourned until Thursday, May 27th, at
12 3:00 p.m.

13 (Whereupon, at 4:24 p.m., the
14 Senate adjourned.)

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