

1 NEW YORK STATE SENATE

2
3
4 THE STENOGRAPHIC RECORD

5
6
7
8
9 ALBANY, NEW YORK

10 June 8, 2010

11 4:01 p.m.

12
13
14 REGULAR SESSION

15
16
17
18
19 SENATOR CRAIG M. JOHNSON, Acting President

20 ANGELO J. APONTE, Secretary

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

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The Senate will please come to order.

4 I ask everyone present to rise and
5 recite with me the Pledge of Allegiance to our
6 Flag.7 (Whereupon, the assemblage recited
8 the Pledge of Allegiance to the Flag.)

9 ACTING PRESIDENT CRAIG JOHNSON:

10 In the absence of clergy, may we all bow our
11 heads in a moment of silence.12 (Whereupon, the assemblage
13 respected a moment of silence.)

14 ACTING PRESIDENT CRAIG JOHNSON:

15 The reading of the Journal.

16 The Secretary will read.

17 THE SECRETARY: In Senate,
18 Monday, June 7, the Senate met pursuant to
19 adjournment. The Journal of Sunday, June 6,
20 was read and approved. On motion, Senate
21 adjourned.

22 ACTING PRESIDENT CRAIG JOHNSON:

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 Senator Klein.

5 SENATOR KLEIN: Mr. President, I
6 believe there's a report of the Judiciary
7 Committee at the desk. I ask that it be read
8 at this time.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 There is a report of the Judiciary Committee
11 at the desk.

12 The Secretary will read.

13 THE SECRETARY: Senator Sampson,
14 from the Committee on Judiciary, reports the
15 following nominations.

16 As a judge of the Court of Claims,
17 Honorable M. William Boller, of Elma.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Senator Klein.

20 SENATOR KLEIN: Mr. President,
21 please move the nomination.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Volker.

24 SENATOR VOLKER: Mr. President --
25 thank you, Senator Klein -- M. William Boller,

1 otherwise known as Bill Boller, has been a
2 friend of mine as long as I can remember, and
3 his mother and father were very close to my
4 mother and father.

5 But more important than anything,
6 he has been an excellent justice of the
7 peace -- or, as we call them, village or town
8 justices now -- for many years, and then later
9 became a judge in the Court of Claims. He is
10 recognized I think by most of the legal people
11 in Erie County as one of the finest judges I
12 think ever to have served in the judiciary.

13 As I said, he came from a fine
14 family. He has a wife who has been extremely
15 helpful to him, and he has two children who
16 try to keep him in line. And what I would
17 like to say is that the Governor has done this
18 state an immense favor by reappointing Bill
19 Boller to the Court of Claims.

20 So congratulations and good luck in
21 the future.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Maziarz.

24 SENATOR MAZIARZ: Thank you very
25 much, Mr. President.

1 I want to join my colleague Senator
2 Volker in seconding this excellent nomination
3 by Governor Paterson. Judge Boller has done
4 just a great job in the Court of Claims. He
5 was a great jurist back in local government
6 when he was a town justice. I've known him
7 for many years.

8 And I'm certain that he will
9 continue that level of excellence for another
10 term in the Court of Claims.

11 Thank you, Mr. President.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Thank you, Senator.

14 Senator Ranzenhofer.

15 SENATOR RANZENHOFER: Mr.

16 President, I'd like to join my colleagues in
17 talking about Judge Boller. I've known Judge
18 Boller for somewhere between 20 and 30
19 years -- it's been so long, I don't know.

20 But he is an excellent
21 representative from Western New York, has a
22 fine reputation as a judge on the bench for
23 being firm and fair, respecting everybody that
24 comes before him, has a great record of
25 service as a lawyer with Erie County and also

1 as a town judge and obviously with his
2 continuation as a judge in the Court of Claims
3 and also acting Supreme Court.

4 I'm very proud to move his
5 nomination forward and to vote for him today.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Are there any other Senators wishing to be
8 heard on the nomination?

9 Seeing none, the question is on the
10 motion to confirm the nomination of M. William
11 Boller, of Elma, as a judge of the New York
12 State Court of Claims. All those in favor
13 please signify by saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Opposed, nay.

17 (No response.)

18 ACTING PRESIDENT CRAIG JOHNSON:
19 The motion carries. The nomination is
20 confirmed.

21 Judge Boller is joined in the
22 gallery today by his wife, Ann.

23 Congratulations.

24 (Applause.)

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The Secretary will continue to read.

2 THE SECRETARY: As a judge of the
3 Court of Claims, Honorable John J. Brunetti,
4 of Baldwinsville.

5 ACTING PRESIDENT SAVINO: Senator
6 Klein.

7 SENATOR KLEIN: Madam President,
8 please move the nomination.

9 ACTING PRESIDENT SAVINO: Senator
10 DeFrancisco on the nomination.

11 SENATOR DeFRANCISCO: Yes, I
12 would like to second the nomination of John J.
13 Brunetti for the Court of Claims.

14 I don't think there's been anyone
15 who's ever come before this body that's had
16 such a broad range of experience that has made
17 him the great judge that he is.

18 He started off early on in his
19 career while practicing law as a law clerk for
20 a Supreme Court judge. He was back in private
21 practice, then he was the first assistant
22 district attorney for Onondaga County. Then
23 he went to the U.S. Attorney's office, he did
24 some work here in the Senate as a Senate
25 counsel, and he's been on the bench for 15

1 years. It doesn't seem possible that it's
2 been 15 years, it just doesn't seem possible.

3 But from what everyone says in
4 Onondaga County, as acting Supreme Court judge
5 in the Criminal Part, he is an outstanding,
6 outstanding judge. Great judicial
7 temperament, gives each side a fair shake, and
8 there is nobody in the state that has a better
9 handle of the criminal law than John Brunetti
10 does. He's published a book, New York
11 Confessions, that's been published by Matthew
12 Bender, which is a definitive source on
13 confessions in New York State.

14 So from a professional standpoint,
15 there's no one who is more deserving than John
16 Brunetti to be reappointed as a Court of
17 Claims judge.

18 From a personal standpoint, I've
19 known John for very many years. We practiced
20 together for a while, we're good friends. And
21 there is nobody also who is of greater
22 integrity or intelligence and just a good,
23 good man than John Brunetti.

24 So I'm taking a lot of time today
25 and I didn't in the prior nomination processes

1 because I think this will be the last time
2 he's going to be nominated for this position
3 unless we change the age rules in the State of
4 New York. So I wanted to make sure the record
5 was clear on what a great choice the Governor
6 has made for a Court of Claims judge in John
7 J. Brunetti.

8 Thank you.

9 ACTING PRESIDENT SAVINO: Senator
10 Volker.

11 SENATOR VOLKER: Madam President,
12 I too want to praise the Governor for renaming
13 John Brunetti. Except for a short downfall
14 when he was counsel to Senator DeFrancisco --
15 you know, I mean, we all have our little
16 problems -- he has been all the way through a
17 respected person, a person with brilliance and
18 integrity.

19 I dealt with him a great deal
20 because he dealt a lot in criminal justice.
21 And everybody I've talked to tells me that
22 he's probably one of the finest Court of
23 Claims judges on the bench. And I want to
24 congratulate him and congratulate the Governor
25 on his reappointment.

1 ACTING PRESIDENT SAVINO: Are
2 there any other Senators wishing to be heard
3 on the nomination?

4 Seeing none, the question is on the
5 motion to confirm the nomination of John J.
6 Brunetti, of Baldwinsville, as a judge of the
7 Court of Claims. All those in favor please
8 signify by saying aye.

9 (Response of "Aye.")

10 ACTING PRESIDENT SAVINO:
11 Opposed, nay.

12 (No response.)

13 ACTING PRESIDENT SAVINO: The
14 motion carries. The nomination is confirmed.
15 Congratulations.

16 (Applause.)

17 ACTING PRESIDENT SAVINO: Senator
18 Klein.

19 SENATOR KLEIN: Madam President,
20 if I may just interrupt the nominations, I
21 believe there's a resolution by Senator
22 Flanagan. I know he has a special guest that
23 has to be on her way. I ask that the title of
24 the resolution be read and move for its
25 immediate adoption.

1 ACTING PRESIDENT SAVINO: Senator
2 Klein, has this resolution been deemed
3 privileged and submitted by the office of the
4 Temporary President?

5 SENATOR KLEIN: Yes, it has,
6 Madam President.

7 ACTING PRESIDENT SAVINO: The
8 Secretary will read.

9 THE SECRETARY: By Senator
10 Flanagan, legislative resolution
11 congratulating Elisabeth Zamarelli of Stony
12 Brook, New York, upon the occasion of being
13 named 2010 Ms. New York Senior America.

14 ACTING PRESIDENT SAVINO: Senator
15 Flanagan.

16 SENATOR FLANAGAN: Thank you,
17 Madam President.

18 Senator Klein, thank you for the
19 indulgence. I appreciate everyone allowing me
20 to introduce our guest.

21 We all have occasions where we have
22 people come up from our district, and today I
23 have a distinguished guest from Stony Brook,
24 out in Suffolk County on Long Island. And,
25 Doctor, if you would please stand, I want to

1 introduce to the body Ms. Senior New York
2 2010, Dr. Elisabeth Zamarelli, who has a very
3 impressive resume.

4 First of all -- and I'm going to
5 say this because she's Ms. Senior New York; I
6 think I can get away with it -- she is 69
7 years old and she's still working full time as
8 a teacher. She is a special ed teacher, has a
9 doctorate in special education, four children,
10 six grandchildren. She volunteers a lot
11 locally. She's an auxiliary police officer.
12 We've had an exciting day having her here.

13 Now, she won not only Ms. Senior
14 New York, but in that contest she was also
15 awarded Ms. Congeniality. And Lord knows we
16 could use some of that around here.

17 So to Dr. Zamarelli, I want to just
18 introduce you to the body, wish you well and
19 congratulate you.

20 She will be representing the State
21 of New York in the national competition in
22 Atlantic City. And welcome to the Senate.

23 DR. ZAMARELLI: And we're going
24 right to the top!

25 (Applause.)

1 DR. ZAMARELLI: I hope to
2 represent all of us in the most prestigious
3 manner that I can. And I can only speak so
4 highly of what I've seen here today, and that
5 I can bring back to my students, and hopefully
6 they can get the opportunity someday that I
7 have had to come here and share a few moments
8 of history with you.

9 Thank you so much.

10 (Applause.)

11 ACTING PRESIDENT SAVINO: Are
12 there any other Senators wishing to be heard
13 on the resolution?

14 Seeing none, the question is on the
15 resolution. All those in favor please signify
16 by saying aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT SAVINO:
19 Opposed, nay.

20 (No response.)

21 ACTING PRESIDENT SAVINO: The
22 resolution is adopted.

23 Senator Flanagan has indicated that
24 he would like to open up the resolution to
25 cosponsorship by the entire house. Anyone not

1 wishing to be on the resolution please see the
2 desk.

3 Senator Klein.

4 SENATOR KLEIN: Madam President,
5 can we please return to the judicial
6 nominations.

7 ACTING PRESIDENT SAVINO: The
8 Secretary will read.

9 THE SECRETARY: As a judge of the
10 Court of Claims, Honorable William C. Donnino,
11 of Syosset.

12 ACTING PRESIDENT SAVINO: Senator
13 Klein.

14 SENATOR KLEIN: Madam President,
15 please move the nomination.

16 ACTING PRESIDENT SAVINO: Senator
17 C. Johnson.

18 SENATOR CRAIG JOHNSON: Thank you
19 very much, Madam President. I wish to rise to
20 second the nomination of Judge William C.
21 Donnino and welcome him to the Senate chamber.

22 My family and my wife's family, in
23 particular, has had the privilege of knowing
24 Bill Donnino for 30 years. He is an
25 outstanding jurist, like all the judges who

1 are here today getting renominated. We're
2 going to hear that quite a bit.

3 And like Senator Volker in
4 congratulating and thanking Governor Paterson,
5 I too want to thank the Governor for
6 renominating Bill Donnino. He serves really
7 as a mentor, not just to the new judges who
8 come to Nassau County but to the new lawyers.
9 He's extremely patient, extremely fair-minded
10 in his court, somebody who all lawyers and
11 practitioners of the bar can look up to.

12 I want to congratulate him. I also
13 want to take the opportunity quickly to
14 congratulate Judge Grella, Judge Mangano, and
15 Judge Zweibel. My father-in-law happens to
16 have known Judge Zweibel the longest, for over
17 40 years -- actually, almost 50 years, and
18 they go back to college. It's really a
19 privilege for me to have the opportunity to
20 vote on and confirm all these great jurists.

21 So I wish to congratulate all of
22 them, and I wish you the best of luck.

23 Thank you very much.

24 ACTING PRESIDENT SAVINO: Senator
25 Volker.

1 SENATOR VOLKER: I too would
2 liking to congratulate Bill Donnino and thank
3 the Governor.

4 I first met Bill Donnino, I know
5 how long ago it was because it was the first
6 year that I was here in Albany, and Bill
7 Donnino was then one of the top counsels to
8 Nelson Rockefeller. And he was the first of
9 Nelson's people to argue with me and the
10 Republican conference over the Rockefeller
11 Drug Laws. And needless to say, we were back
12 and forth on it quite a bit. He was much
13 better, of course, than I was because I was
14 very young and I really wasn't that good.

15 But Bill and I remained friends
16 over the years. I consulted him on a number
17 of occasions on various items relating to
18 statutes in Albany and in New York City. And
19 I just want to say that he didn't disappoint
20 anyone.

21 He was a fine -- he is a fine
22 jurist. And I have to say that the Court of
23 Claims probably in New York, as a group, is as
24 good a group of judges at that level as any in
25 the country.

1 And I congratulate you, Bill, and
2 good luck.

3 ACTING PRESIDENT SAVINO: Are
4 there any other Senators wishing to be heard
5 on the nomination?

6 Seeing none, the question is on the
7 motion to confirm the nomination of William C.
8 Donnino, of Syosset, as a judge of the
9 New York State Court of Claims. All those in
10 favor please signify by saying aye.

11 (Response of "Aye.")

12 ACTING PRESIDENT SAVINO:
13 Opposed, nay.

14 (No response.)

15 ACTING PRESIDENT SAVINO: The
16 motion carries. The nomination is confirmed.

17 Congratulations, Judge Donnino.

18 (Applause.)

19 ACTING PRESIDENT SAVINO: The
20 Secretary will continue to read.

21 THE SECRETARY: As a judge of the
22 Court of Claims, Honorable Philip M. Grella,
23 of Medicare.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Senator Klein.

1 SENATOR KLEIN: Mr. President,
2 please move the nomination.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Senator Fuschillo.

5 SENATOR FUSCHILLO: Thank you,
6 Mr. President. Just quickly, I just want to
7 rise and second the nomination of Judge
8 Grella.

9 He has certainly distinguished
10 himself as an outstanding jurist in the last
11 number of years while serving on the Court of
12 Claims and other parts as well. Prior to
13 that, for many years, over 25 years, Judge
14 Grella has distinguished himself as a tough,
15 hardline prosecutor from the Nassau County
16 District Attorney's office.

17 But equally as important, he's a
18 man that loves and respects his community and
19 loves his family as well. And it's an honor
20 for me to rise and second his nomination.

21 Thank you, Mr. President.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Thank you, Senator Fuschillo.

24 Any other Senators wishing to be
25 heard on the nomination?

1 Seeing none, the question is on the
2 motion to confirm the nomination of Philip M.
3 Grella, of Merrick, as a judge of the New York
4 State Court of Claims. All those in favor
5 please signify by saying aye.

6 (Response of "Aye.")

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Opposed, nay.

9 (No response.)

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The motion carries. The nomination is
12 confirmed.

13 Congratulations, Judge Grella.

14 (Applause.)

15 ACTING PRESIDENT CRAIG JOHNSON:

16 The Secretary will continue to read.

17 THE SECRETARY: As a judge of the
18 Court of Claims, Honorable Robert K. Holdman,
19 of Bronxville.

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Senator Klein.

22 SENATOR KLEIN: Mr. President,
23 please move the nomination.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Are there any Senators wishing to be heard?

1 Senator Lanza on the nomination.

2 SENATOR LANZA: Thank you,
3 Mr. President. Thank you, Senator Klein. I
4 proudly rise to second the nomination and
5 support the reappointment of the Honorable
6 Robert Holdman.

7 I've known Judge Holdman for most
8 of my adult life. We attended Monsignor
9 Farrell High School together. And even back
10 then, he stood out from the crowd as a person
11 of honor and integrity, someone who always
12 stands by what is right. The kind of person
13 you'd always want on your side.

14 And since then, he's certainly
15 distinguished himself in his professional
16 career. As a Bronx Assistant District
17 Attorney, he rose to national distinction as a
18 prosecutor in the Child Abuse and Sex Crimes
19 Bureau.

20 Let me just say this about my good
21 friend Judge Holdman. As I've said before
22 here in this chamber, when it comes to the
23 work we do as Senators, I don't think it's
24 more important or perhaps there is no more
25 important time for us to get it right than

1 when it comes to the confirmation of judges.
2 And I want you all to know and assure you that
3 in voting to support this confirmation of
4 Judge Holdman, you can't ever get it more
5 right. This is precisely the kind of person
6 we want serving as judge in this state.

7 And I'll pay him the compliment I
8 paid him during committee, which is to say
9 this. In his courtroom, nothing less than
10 justice will ever occur.

11 It is my proud honor to once again
12 vote in favor of this confirmation and to
13 congratulate my good friend Judge Holdman, his
14 wife and his family.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Thank you, Senator Lanza.

17 Are there any other Senators
18 wishing to be heard on the nomination?

19 Seeing none, the question is on the
20 motion to confirm the nomination of Robert K.
21 Holdman, of Bronxville, as a judge of the New
22 York State Court of Claims.

23 All those in favor please signify
24 by saying aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Opposed, nay.

3 (No response.)

4 ACTING PRESIDENT CRAIG JOHNSON:

5 The motion carries. The nomination is
6 confirmed.

7 Judge Holdman is joined in the
8 gallery today by his wife, Catherine.

9 Congratulations, Judge Holdman.

10 (Applause.)

11 ACTING PRESIDENT CRAIG JOHNSON:

12 The Secretary will continue to read.

13 THE SECRETARY: As a judge of the
14 Court of Claims, Honorable Guy J. Mangano,
15 Jr., of Atlantic Beach.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Senator Klein.

18 SENATOR KLEIN: Mr. President,
19 please move the nomination.

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Are there any Senators wishing to be heard on
22 the nomination?

23 The question is on the motion to
24 confirm the nomination of Guy J. Mangano, Jr.,
25 of Atlantic Beach, as a judge of the New York

1 State Court of Claims. All those in favor
2 please signify by saying aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Opposed, nay.

6 (No response.)

7 ACTING PRESIDENT CRAIG JOHNSON:
8 The motion carries. The nomination is
9 confirmed.

10 Judge Mangano is joined in the
11 gallery today by his wife, Maria Fasulo;
12 father, Honorable Guy Mangano, Sr.; and friend
13 Pat Pope.

14 Congratulations.

15 (Applause.)

16 ACTING PRESIDENT CRAIG JOHNSON:
17 The Secretary will continue to read.

18 THE SECRETARY: As a judge of the
19 Court of Claims, Honorable Nicholas V. Midey,
20 Jr., of Manlius.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Klein.

23 SENATOR KLEIN: Mr. President,
24 please move the nomination.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Are there any other Senators wishing to be
2 heard?

3 Senator Nozzolio, on the
4 nomination.

5 SENATOR NOZZOLIO: Thank you,
6 Mr. President. I'm proud to rise on behalf of
7 this nomination.

8 Mr. President and my colleagues,
9 that it has been a wonderful day when we have
10 so many preeminent jurists from across the
11 state. The nominee before us today is among
12 that list, but one that from a very personal
13 standpoint I am extremely proud to endorse his
14 nomination.

15 Nick Midey comes from the same town
16 that I grew up in, and we grew up together, a
17 year apart in school, and played lacrosse and
18 basketball together.

19 But far beyond that, he has
20 brought, during his illustrious tenure on the
21 bench, small-town values -- the values of
22 small-businessmen, small farmers, those who
23 make the economy grow each and every day. And
24 that as former practitioner on Main Street --
25 we call it Fall Street in Seneca Falls -- Nick

1 practiced law with his father, in partnership,
2 and did wonderful service for the greater
3 Seneca Falls community through the years.

4 That Nick comes with a variety of
5 experiences, whether it had been his tenure as
6 public defender, his involvement as a
7 counselor to municipalities, his involvement
8 as a small-town practitioner with those
9 businesses and individuals and enterprises
10 that require good legal guidance, Nick was
11 always there.

12 He's had a very good career as a
13 judge on the Court of Appeals -- excuse me,
14 the Court of Claims; I tried to promote him --
15 the Court of Claims, and that he is one that I
16 know will continue in great stead as a public
17 servant and a great judge of the Court of
18 Claims.

19 Mr. President, I move the
20 nomination with great support and wonderful
21 appreciation for the job Nick Midey has done
22 as a member of the Court of Claims.

23 Thank you, Mr. President.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Thank you, Senator Nozzolio.

1 Senator DeFrancisco on the
2 nomination.

3 SENATOR DeFRANCISCO: Yes, I
4 would also like to rise to second the
5 nomination of Judge Midey. I don't know where
6 he is. Where are you? Oh, there he is.

7 I didn't know Judge Midey before he
8 went on the bench. I met him when he was
9 first confirmed 15 years ago, I think. And
10 since that time I got to know him. For a
11 while his court was in the same building as my
12 Senate district office in Syracuse. And we
13 got to talk from time to time about various
14 issues -- not relating to any cases that he
15 had, but I got to know him extremely well.

16 And what Senator Nozzolio said
17 really needs to be emphasized. There was a
18 time when the people that got appointed to
19 judgeships were people from large law firms
20 and with many, many accolades from those who
21 were the power players in a community. It's
22 so great to see a man like Nick Midey, from a
23 small law firm that he practiced with his
24 father, who he loved dearly, and who has the
25 family values of people in upstate New York

1 that you just can't describe unless you talk
2 to him -- it's just heartwarming to know that
3 he was given this opportunity. And not only
4 given the opportunity, but has run with it and
5 become an outstanding, outstanding judge.

6 So it's with great pleasure that I
7 second the nomination of Nick Midey, and I
8 wish him the best until his term is up and
9 beyond.

10 Thank you.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Are there any other Senators wishing to be
13 heard on the nomination?

14 The question is on the motion to
15 confirm the nomination of Nicholas V. Midey,
16 Jr., of Manlius as a judge of the New York
17 State Court of Claims. All those in favor
18 please signify by saying aye.

19 (Response of "Aye.")

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Opposed, nay.

22 (No response.)

23 ACTING PRESIDENT CRAIG JOHNSON:
24 The motion carries. Congratulations.

25 (Applause.)

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The Secretary will continue to read.

3 THE SECRETARY: As a judge of the
4 Court of Claims, Honorable Norman I. Siegel,
5 of New Hartford.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Klein.

8 SENATOR KLEIN: Mr. President,
9 can you please move the nomination.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Griffo, on the nomination.

12 SENATOR GRIFFO: Thank you,
13 Mr. President.

14 It's with great pleasure that I
15 rise also to second the nomination of Judge
16 Siegel. This is truly a remarkable individual
17 who has enjoyed a distinguished career in both
18 public and private practice and enjoyed great
19 success throughout that career.

20 The judge also has been a truly
21 active and engaged individual throughout all
22 segments in our community. And I think that
23 also is something of great note, because we
24 need people of his reputation, which is one of
25 great respect and integrity, to show that they

1 care. And Judge Siegel has always rolled up
2 his sleeves and been involved with a number of
3 organizations and a number of efforts to
4 better our community.

5 But beyond that, he has done an
6 extraordinary job in his court. He is an
7 individual that I have come to know who
8 possesses great intellect but also has a quick
9 wit and has sage counsel. And I've enjoyed
10 the opportunity to interact with the judge.

11 And things that I have heard from
12 those who have appeared before him in his
13 court I think are a great testament to his
14 ability in the ten years that he has served.
15 They've talked about the balance and the
16 fairness that they receive in his court, and
17 also the opportunity to be heard, that he
18 actually would listen and, even though he may
19 not be of the same mindset, gives you that
20 opportunity to truly be heard and to determine
21 and evaluate accordingly.

22 So today I am proud to stand here
23 to talk to an individual who I know has got
24 great respect and admiration throughout our
25 community. And I am proud to second his

1 nomination.

2 He's the father of three children,
3 six grandchildren, and he's here with his
4 wife, Ann, today. So I want to thank the
5 judge for his service, and I proudly second
6 his nomination.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Thank you, Senator Griffo.

9 Are there any other Senators
10 wishing to be heard on the nomination?

11 Seeing none, the question is on the
12 motion to confirm the nomination of Norman I.
13 Siegel, of New Hartford, as a judge of the
14 New York State Court of Claims. All those in
15 favor of the motion please signify by saying
16 aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Opposed, nay.

20 (No response.)

21 ACTING PRESIDENT CRAIG JOHNSON:
22 The motion carries.

23 Judge Siegel is joined today in the
24 gallery by his wife, Ann. Congratulations.

25 (Applause.)

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The Secretary will continue to read.

3 THE SECRETARY: As a judge of the
4 Court of Claims, Honorable Ronald Zweibel, of
5 New York City.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Klein.

8 SENATOR KLEIN: Mr. President,
9 can you please move the nomination.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Are there any Senators wishing to be heard on
12 the nomination?

13 Seeing none, the question is on the
14 motion to confirm the nomination of Ronald
15 Zweibel, of New York City, as a judge of the
16 New York State Court of Claims. All those in
17 favor please signify by saying aye.

18 (Response of "Aye.")

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Opposed, nay.

21 (No response.)

22 ACTING PRESIDENT CRAIG JOHNSON:
23 The motion carries. The nominee is confirmed.

24 Judge Zweibel is joined today in
25 the gallery today by his wife, Eleanor, and

1 his son, Robert. Congratulations.

2 (Applause.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Senator Klein.

5 SENATOR KLEIN: Mr. President,
6 can we go back to motions and resolutions. I
7 have several amendments.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 Returning to the order of motions and
10 resolutions.

11 Senator Klein.

12 SENATOR KLEIN: First,
13 Mr. President, on behalf of Senator Addabbo on
14 page 22 I offer the following amendments to
15 Calendar Number 417, Senate Print Number 4755,
16 and ask that said bill retain its place on
17 Third Reading Calendar.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 So ordered.

20 SENATOR KLEIN: Mr. President, on
21 behalf of Senator C. Johnson, I wish to call
22 up his bill, Print Number 7369, recalled from
23 the Assembly, which is now at the desk.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 The Secretary will read the title.

1 THE SECRETARY: Calendar Number
2 413, by Senator C. Johnson, Senate Print 7369,
3 an act to amend the Executive Law.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Klein.

6 SENATOR KLEIN: Mr. President, I
7 now move to reconsider the vote by which this
8 bill was passed.

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

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 59.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Klein.

16 SENATOR KLEIN: Mr. President, I
17 now offer the following amendments.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Amendments received.

20 SENATOR KLEIN: Mr. President, on
21 behalf of Senator Schneiderman, on page number
22 29 I offer the following amendments to
23 Calendar Number 576, Senate Print Number 7806,
24 and ask that said bill retain its place on
25 Third Reading Calendar.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 So ordered.

3 Senator Klein.

4 SENATOR KLEIN: Mr. President, on
5 behalf of Senator C. Kruger, on page 16 I
6 offer the following amendments to Calendar
7 Number 284, Senate Print Number 5956A, and ask
8 that said bill retain its place on Third
9 Reading Calendar.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 So ordered.

12 Senator Klein.

13 SENATOR KLEIN: Mr. President,
14 can you recognize Senator Libous for a floor
15 motion.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Senator -- Libous.

18 (Laughter.)

19 SENATOR LIBOUS: Mr. President, I
20 have a floor motion. Not a privileged
21 resolution.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Making sure.

24 Senator Libous.

25 SENATOR LIBOUS: Thank you,

1 Mr. President.

2 On behalf of Senator Maziarz, I
3 move the following bill be discharged from its
4 respective committee and be recommitted with
5 instructions to strike the enacting clause:
6 5871, please.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 So ordered.

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

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Thank you, Senator Libous.

13 Senator Klein.

14 SENATOR KLEIN: Mr. President, I
15 believe there's a report of the Finance
16 Committee at the desk.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 There is a report of the Finance Committee at
19 the desk.

20 The Secretary will read.

21 THE SECRETARY: Senator C.
22 Kruger, from the Committee on Finance, reports
23 the following nominations.

24 As a member of the Continuing Care
25 Retirement Community Council, Robert M. Chur,

1 of Clarence.

2 For promotion to Major General,
3 New York Air National Guard, James W.
4 Kwiatkowski, of Clarence Center.

5 As a member of the Board of
6 Visitors for the New York State Home for
7 Veterans and Their Dependents at Batavia,
8 Richard G. Oleksyn, of Rochester.

9 And as members of the Board of
10 Visitors for the New York State Home for
11 Veterans and Their Dependents at Oxford,
12 Louise Mary Platt, of Westford, and William E.
13 Randall, II, of Marathon.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Kruger.

16 SENATOR CARL KRUGER: Thank you,
17 Mr. President. Can we please move the
18 nominations.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Are there any other Senators wishing to be
21 heard on this motion to confirm the
22 nominations?

23 Seeing none, the question is on the
24 motion to confirm the nominations. All those
25 in favor please signify by saying aye.

1 (Response of "Aye.")

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Opposed, nay.

4 (No response.)

5 ACTING PRESIDENT CRAIG JOHNSON:

6 The motion carries. The nominations are
7 confirmed.

8 Returning to the order of business,
9 reports of select committees.

10 Communications and reports from
11 state officers.

12 Motions and resolutions.

13 Senator Klein.

14 SENATOR KLEIN: Mr. President, I
15 believe there are substitutions at the desk.
16 I ask that we make the substitutions at this
17 time.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The Secretary will read.

20 THE SECRETARY: On page 14,
21 Senator Addabbo moves to discharge, from the
22 Committee on Elections, Assembly Bill Number
23 5707A and substitute it for the identical
24 Senate Bill Number 5029A, Third Reading
25 Calendar 211.

1 On page 19, Senator Montgomery
2 moves to discharge, from the Committee on
3 Finance, Assembly Bill Number 2563A and
4 substitute it for the identical Senate Bill
5 Number 6177A, Third Reading Calendar 358.

6 On page 34, Senator Oppenheimer
7 moves to discharge, from the Committee on
8 Education, Assembly Bill Number 10507A and
9 substitute it for the identical Senate Bill
10 Number 7584, Third Reading Calendar 644.

11 On page 37, Senator Little moves to
12 discharge, from the Committee on Health,
13 Assembly Bill Number 9829 and substitute it
14 for the identical Senate Bill Number 6762,
15 Third Reading Calendar 698.

16 On page 38, Senator Oppenheimer
17 moves to discharge, from the Committee on
18 Education, Assembly Bill Number 11064 and
19 substitute it for the identical Senate Bill
20 Number 7816A, Third Reading Calendar 702.

21 On page 38, Senator Oppenheimer
22 moves to discharge, from the Committee on
23 Education, Assembly Bill Number 11067 and
24 substitute it for the identical Senate Bill
25 Number 7819A, Third Reading Calendar 704.

1 On page 39, Senator Montgomery
2 moves to discharge, from the Committee on
3 Children and Families, Assembly Bill Number
4 8504 and substitute it for the identical
5 Senate Bill Number 4388, Third Reading
6 Calendar 710.

7 On page 39, Senator Sampson moves
8 to discharge, from the Committee on Codes,
9 Assembly Bill Number 6922 and substitute it
10 for the identical Senate Bill Number 4536,
11 Third Reading Calendar 712.

12 On page 39, Senator Parker moves to
13 discharge, from the Committee on Codes,
14 Assembly Bill Number 529 and substitute it for
15 the identical Senate Bill Number 5923, Third
16 Reading Calendar 713.

17 On page 39, Senator Schneiderman
18 moves to discharge, from the Committee on
19 Codes, Assembly Bill Number 7961 and
20 substitute it for the identical Senate Bill
21 Number 5963, Third Reading Calendar 714.

22 On page 39, Senator Peralta moves
23 to discharge, from the Committee on Consumer
24 Protection, Assembly Bill Number 2642C and
25 substitute it for the identical Senate Bill

1 Number 7319A, Third Reading Calendar 718.

2 On page 40, Senator Squadron moves
3 to discharge, from the Committee on Finance,
4 Assembly Bill Number 10689A and substitute it
5 for the identical Senate Bill Number 7613A,
6 Third Reading Calendar 725.

7 And on page 41, Senator Dilan moves
8 to discharge, from the Committee on Housing,
9 Construction and Community Development,
10 Assembly Bill Number 5667C and substitute it
11 for the identical Senate Bill Number 7178A,
12 Third Reading Calendar 758.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Substitutions ordered.

15 Senator Klein.

16 SENATOR KLEIN: Mr. President, I
17 believe there's a resolution at the desk by
18 Senator Oppenheimer. I ask that the title of
19 the resolution be read and move for its
20 immediate adoption.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Klein, has this resolution been deemed
23 privileged and submitted by the office of the
24 Temporary President?

25 SENATOR KLEIN: Yes, it has,

1 Mr. President.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The Secretary will read.

4 THE SECRETARY: By Senator
5 Oppenheimer, legislative resolution commending
6 Linda and Jeff Solomon upon the occasion of
7 their designation for special recognition by
8 the UJA-Federation of New York and
9 Westchester's Larchmont-Mamaroneck Campaign's
10 Community Celebration in their honor on
11 June 8, 2010.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The question is on the resolution. All those
14 in favor please signify by saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Opposed, nay.

18 (No response.)

19 ACTING PRESIDENT CRAIG JOHNSON:

20 The resolution is adopted.

21 Senator Klein.

22 SENATOR KLEIN: Mr. President,
23 there will be an immediate meeting of the
24 Rules Committee in the Majority Conference
25 Room.

1 Pending the return of the Rules
2 Committee, may we please stand at ease.

3 And I ask my colleagues right after
4 Rules to come right back in the chamber so we
5 can take up the active list.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 There will be an immediate meeting of the
8 Rules Committee in Room 332.

9 Pending the return of the Rules
10 Committee, the Senate will stand at ease.

11 But again, I reiterate Senator
12 Klein's request that all members return to the
13 chamber right after the Rules Committee
14 meeting. Thank you.

15 (Whereupon, the Senate stood at
16 ease at 4:35 p.m.)

17 (Whereupon, the Senate reconvened
18 at 5:44 p.m.)

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator Klein.

21 SENATOR KLEIN: Mr. President, I
22 believe there's a report of the Rules
23 Committee at the desk. I move we accept the
24 report at this time.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 There is a report of the Rules Committee at
2 the desk.

3 The Secretary will read.

4 THE SECRETARY: Senator Smith,
5 from the Committee on Rules, reports the
6 following bills:

7 Senate Print 2933, by Senator
8 Duane, an act to amend the Transportation Law
9 and the Public Authorities Law;

10 6819, by Senator Foley, an act to
11 amend the Executive Law;

12 And Senate Print 7000B, by Senator
13 Breslin, an act to amend the Insurance Law and
14 the Public Health Law.

15 All bills ordered direct to third
16 reading.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 All those in favor of adopting the Rules
19 Committee report please signify by saying aye.

20 (Response of "Aye.")

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Opposed, nay.

23 (No response.)

24 ACTING PRESIDENT CRAIG JOHNSON:
25 The Rules Committee report is adopted.

1 Senator Klein.

2 SENATOR KLEIN: Mr. President, at
3 this time can we please go to a reading of the
4 calendar.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 The Secretary will read the noncontroversial
7 calendar.

8 THE SECRETARY: Calendar Number
9 351, by Senator Sampson, Senate Print 87A, an
10 act to amend the Tax Law and the State Finance
11 Law.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Read the last section.

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

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Call the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Announce the results.

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 351 are
23 Senators Flanagan, Marcellino, Nozzolio and
24 Young.

25 Ayes, 56. Nays, 4.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The bill is passed.

3 The Secretary will continue to
4 read.

5 THE SECRETARY: Calendar Number
6 463, by Member of the Assembly Kavanagh,
7 Assembly Print Number 6812, an act to amend
8 the Social Services Law.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Read the last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect on the 180th day.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Call the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Announce the results.

18 THE SECRETARY: Those recorded in
19 the negative on Calendar Number 463 are
20 Senators DeFrancisco, Farley, Golden, Hannon,
21 Larkin, LaValle, Leibell, Libous, Marcellino,
22 Nozzolio, Ranzenhofer, Seward, Skelos, Winner
23 and Young. Also Senator Bonacic. Also
24 Senator Flanagan. Also Senator Little. Also
25 Senator Fuschillo. Also Senator Saland. Also

1 Senator Griffo. Also Senator McDonald.

2 Ayes, 38. Nays, 22.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The bill is passed.

5 THE SECRETARY: Calendar Number
6 482, by Member of the Assembly Jacobs,
7 Assembly Print Number 10219A, an act to amend
8 the Insurance Law.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Read the last section.

11 THE SECRETARY: Section 5. This
12 act shall take effect on the first of January
13 next succeeding.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 Call the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Senator Seward, to explain his vote.

19 SENATOR SEWARD: Yes, thank you,
20 Mr. President.

21 This bill before us is an important
22 piece of legislation that updates the standard
23 reference compendia that is used to determine
24 which cancer treatment drugs are reimbursable
25 under insurance plans. And I did support the

1 legislation in the committee.

2 However, once the bill was reported
3 from committee, it was amended and language
4 was added, this language was added to the
5 bill. In addition to the list of the
6 compendia that is used, it now includes these
7 words: "Or recommended by review article or
8 editorial comment in a major peer-reviewed
9 professional journal."

10 And I consider this language to be
11 overly broad. And the inclusion of this
12 language is contrary to the federal-level
13 requirements, which call for a very
14 comprehensive public review process that is
15 required to be included in compendia that meet
16 very specific, transparent regulations and
17 rules.

18 You know, just because a drug has
19 been recommended in an article or in, let's
20 say, the New England Medical Journal does not
21 make it appropriate or safe. And I have
22 concerns that this overly broad language could
23 result in experimental cancer treatments being
24 utilized that have not been fully researched
25 and have not been shown to be scientifically

1 proven.

2 So on that basis, Mr. President, I
3 vote in the negative.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Seward to be recorded in the negative.

6 Are there any other Senators
7 wishing to explain their votes?

8 Senator Breslin.

9 SENATOR BRESLIN: Yes, just
10 briefly, Mr. President, I'd like to explain my
11 vote.

12 Back in 1990, there was legislation
13 that developed a compendia of resource
14 documents so that if you wanted to use a
15 particular cancer drug in an off-label way --
16 that is, for another form of cancer, not the
17 primary one that it's generally used for --
18 you would refer to this compendia.

19 This legislation updates that
20 compendium. And it does outline that if there
21 are respected, recognized journals like the
22 New England Journal of Medicine, that you can
23 use that as a reference source as well,
24 because the compendias are not dissimilar.

25 It has to be remembered that any of

1 these drugs being used have to be approved by
2 the United States government beforehand.

3 Accordingly, I'll be voting in the
4 affirmative.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Breslin to be recorded in the
7 affirmative.

8 The Secretary will announce the
9 results.

10 THE SECRETARY: Ayes, 59. Nays,
11 1. Senator Seward recorded in the negative.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 The bill is passed.

14 Secretary will continue to read.

15 THE SECRETARY: Calendar Number
16 485, by Senator Addabbo, Senate Print 5028B,
17 Concurrent Resolution of the Senate and
18 Assembly proposing an amendment to Section 2
19 of Article 2 of the Constitution.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Announce the results.

25 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 485 are
2 Senators Alesi, Bonacic, DeFrancisco, Farley,
3 Flanagan, Fuschillo, Golden, Griffo, Hannon,
4 Lanza, Larkin, LaValle, Leibell, Libous,
5 Little, Marcellino, Maziarz, McDonald,
6 Nozzolio, Padavan, Ranzenhofer, Robach,
7 Saland, Seward, Skelos, Volker, Winner and
8 Young.

9 Ayes, 32. Nays, 28.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The bill is passed.

12 THE SECRETARY: Calendar Number
13 544, by Senator Parker, Senate Print 6916A, an
14 act to amend the Public Housing Law.

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Read the last section.

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

19 ACTING PRESIDENT CRAIG JOHNSON:

20 Call the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 59. Nays,
23 1. Senator DeFrancisco recorded in the
24 negative.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The bill is passed.

2 THE SECRETARY: Calendar Number
3 620, by Senator Aubertine --

4 SENATOR KLEIN: Lay the bill
5 aside for the day, please.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 The bill is laid aside for the day.

8 THE SECRETARY: Calendar Number
9 637, by Senator Stavisky, Senate Print --

10 SENATOR KLEIN: Lay the bill
11 aside for the day, please.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 The bill is laid aside for the day.

14 THE SECRETARY: Calendar Number
15 642, by Senator Klein, Senate Print 5725, an
16 act to amend the General Business Law.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Read the last section.

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

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Call the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Announce the results.

1 THE SECRETARY: Ayes, 60.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The bill is passed.

4 THE SECRETARY: Calendar Number
5 652, by Senator Dilan, Senate Print 7617, an
6 act to amend the Public Authorities Law.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Read the last section.

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

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Call the roll.

13 (The Secretary called the roll.)

14 SENATOR MAZIARZ: Mr. President.

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Senator Maziarz, to explain his vote.

17 SENATOR MAZIARZ: To explain my
18 vote.

19 I think this is a very good bill.
20 You know, the canal runs all through my
21 district. And, you know, the people work very
22 hard on the canal. And I want to be
23 congratulate Senator Dilan on bringing this
24 bill forward.

25 Thank you, Mr. President.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Senator Maziarz to be recorded in the
3 affirmative.

4 Announce the results.

5 THE SECRETARY: Ayes, 58. Nays,
6 2. Senators Duane and Griffo recorded in the
7 negative.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is passed.

10 The Secretary will continue to
11 read.

12 THE SECRETARY: Calendar Number
13 758, substituted earlier today by Member of
14 the Assembly V. Lopez, Assembly Print Number
15 5667C, an act to amend the Multiple Dwelling
16 Law.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Read the last section.

19 SENATOR LIBOUS: Lay the bill
20 aside.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 The bill is laid aside.

23 The Secretary will continue to
24 read.

25 THE SECRETARY: Calendar Number

1 759, by Senator C. Kruger, Senate Print 8080,
2 an act to amend the Executive Law, the Real
3 Property Tax Law, and the Tax Law.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Read the last section.

6 THE SECRETARY: Section 26. This
7 act shall take effect immediately.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Call the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Announce the results.

13 THE SECRETARY: Ayes, 60.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 The bill is passed.

16 Senator Klein, that completes the
17 reading of the noncontroversial calendar.

18 SENATOR KLEIN: Mr. President, at
19 this time can we please go to a reading of the
20 controversial calendar.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 The Secretary will ring the bell.

23 Members are all asked to come to
24 the chamber for a reading of the controversial
25 calendar.

1 The Secretary will read.

2 THE SECRETARY: Calendar Number
3 758, substituted earlier today by Member of
4 the Assembly V. Lopez, Assembly Print Number
5 5667C, an act to amend the Multiple Dwelling
6 Law.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Padavan, on the bill.

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

11 Much of what I'm about to say I've
12 already discussed with the sponsor, Senator
13 Dilan. But I think we have a very, very
14 serious problem with regard to this
15 legislation.

16 Let me preface my remarks by saying
17 that I have, since its very inception, been a
18 supporter of the Loft Law, as it's known, a
19 bill, a statute that came into being to
20 accommodate, in certain parts of the city,
21 individuals that were residing in usually the
22 second story of a taxpayer-type building zoned
23 commercial or industrial. And those occupants
24 in the main were artists, craftsmen,
25 sculptors, and it was a place where they could

1 work and live.

2 And so the Loft Law was generated
3 to accommodate them, since many landlords,
4 having found difficulty to rent that space,
5 were happy to rent to these artists and
6 craftsmen. And then later on some of them had
7 a different point of view, as the value of
8 their property changed, but we had to protect
9 those residents.

10 Having said all of that, however,
11 the bill before us goes far afield of the
12 original goals set in the Loft Law. And I
13 have in front of me a two-page memo from the
14 City of New York which, in part, I would like
15 to read.

16 "The bill would extend coverage of
17 the Loft Law to buildings that were illegally
18 occupied for residential purposes during the
19 period January 1, 2008 to December 31, 2009.
20 The locations and numbers of these buildings
21 are not specified in the legislation or
22 supporting materials, and may be located
23 anywhere in the City of New York. As a
24 result, the bill would legalize presently
25 unlawful residential uses in industrial and

1 commercial areas in all five boroughs of the
2 city, from the Garment Center in Manhattan to
3 the Steinway area of Queens, regardless of
4 basic safety provisions of the building and
5 fire codes and regardless of the underlying
6 zoning."

7 So in effect, very directly, we
8 have these dwellings that do not conform to
9 local zones, meaning they are commercial or
10 industrial and not residential. And as such,
11 they do not meet all of the safety
12 requirements that the building code requires
13 for residential property, and those are
14 usually fire code requirements. We've had a
15 lot of tragedies in the City of New York with
16 people occupying buildings contrary to the C
17 of O, dying in the fires as a result.

18 "In sum, the bill would reward
19 illegal conversions to the detriment of the
20 safety and the quality of life of the
21 residents of these buildings and would
22 negatively affect the city's industrial
23 employment and tax base.

24 "Unknown numbers of the buildings
25 would be covered, regardless of the

1 appropriateness of the residential uses in the
2 neighborhood, the appropriateness of the
3 illegal units in the building or their
4 proximity to other manufacturing uses, or the
5 underlying safety of the units, fire or for
6 residential use."

7 These are very, very compelling
8 statements. They come from the City of
9 New York. And obviously the Building
10 Department and other agencies within the City
11 of New York had an input into it.

12 Now, Senator Dilan has indicated to
13 me that as a result of these concerns, chapter
14 amendments are being prepared. I've not seen
15 them, and so obviously I don't know their
16 complete content. But if they address these
17 concerns in some meaningful way, then
18 obviously we should consider them.

19 But I suggest to the sponsor that
20 in view of this statement, these facts that
21 have been presented to us by the City, that it
22 would be appropriate to put those chapter
23 amendments together and bring this bill back
24 with the chapter amendments and we'll consider
25 it in the light of those changes or proposals.

1 To me, that makes a great deal of sense.

2 But I think to move forward on this
3 bill today with this memo in front of us is a
4 big mistake, and so I will be voting no.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Are there any other Senators who wish to be
7 heard on the bill?

8 Seeing none, debate is closed.

9 The Secretary will please ring the
10 bells.

11 Read the last section.

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

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Call the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Dilan, to explain his vote.

19 SENATOR DILAN: Yes, thank you
20 very much, Mr. President.

21 I just want to indicate that this
22 bill makes four important changes to the Loft
23 Law of multiple dwellings.

24 First, it makes the law permanent,
25 and it also brings lofts and commercial

1 buildings that have been converted to
2 residential use without proper certificates of
3 occupancy under the Loft Law.

4 Also, it provides owners of newly
5 covered buildings with two years to bring
6 their buildings into compliance and allows
7 them to legally collect rent during that
8 period.

9 And lastly, it provides protections
10 to tenants in newly covered buildings and
11 allows them to have input into the
12 legalization process necessary to bring these
13 buildings to code.

14 Also, I just want to indicate that
15 the memorandum that was issued by the City of
16 New York is -- it was like a five-page memo
17 and addresses issues that are not necessarily
18 true. I don't know who put the memo together.

19 But in essence, to respond to
20 Senator Padavan, the expected number of
21 buildings that will be affected by the passage
22 of this bill is about 300 buildings and will
23 affect 3,036 units, mostly in Lower Manhattan
24 and Brooklyn.

25 And safety is the major concern.

1 By doing this bill within two years, you will
2 ensure that there will be fire safety within
3 these buildings. And I urge my colleagues to
4 vote for it. Thank you.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 Senator Dilan to be recorded in the
7 affirmative.

8 Announce the results.

9 THE SECRETARY: Those recorded in
10 the negative on Calendar Number 758 are
11 Senators Alesi, Bonacic, DeFrancisco, Farley,
12 Flanagan, Fuschillo, Golden, Griffo, Hannon,
13 Lanza, Larkin, LaValle, Leibell, Libous,
14 Little, Marcellino, Maziarz, McDonald,
15 Nozzolio, Padavan, Ranzenhofer, Robach,
16 Saland, Seward, Skelos, Volker, Winner and
17 Young.

18 Ayes, 32. Nays, 28.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 The bill is passed.

21 Senator Klein, that completes the
22 reading of the controversial calendar.

23 SENATOR KLEIN: Mr. President, I
24 have two motions.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Returning to the order of motions and
2 resolutions.

3 Senator Klein.

4 SENATOR KLEIN: On behalf of
5 Senator Serrano, on page 23 I offer the
6 following amendments to Calendar Number 448,
7 Senate Print Number 7128, and ask that said
8 bill retain its place on Third Reading
9 Calendar.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 So ordered.

12 SENATOR KLEIN: On behalf of
13 Senator L. Krueger, on page 29 I offer to
14 Calendar Number 581, Senate Print Number 4784,
15 and ask that said bill retain its place on
16 Third Reading Calendar.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 So ordered.

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

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Klein, the desk is clear.

23 SENATOR KLEIN: There being no
24 further business, Mr. President, I move that
25 we adjourn until Wednesday, June 9th, at

1 3:00 p.m.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 There being no further business to come before
4 the Senate, on motion, the Senate stands
5 adjourned until Wednesday, June 9th, at
6 3:00 p.m.

7 (Whereupon, at 6:08 p.m., the
8 Senate adjourned.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25