

>> NEIL KELLEHER: The first thing I'm going to do is something I don't think I should do.

If I care anything at all about my life. That is to apologize for what we did to you this afternoon and I guess what I'm saying is, I'm afraid to apologize because if I was out there with you, I wouldn't accept it.

>> AUDIENCE MEMBER: Oh, we accept it--

(Applause.)

>> NEIL KELLEHER: But there's only one steering wheel in this bus and it was my day to drive.

(Chuckles.)

>> NEIL KELLEHER: Our reason for the delay was because we were hung up in some communications with Albany having to do with language and perhaps improper language that was in something we were going to deal with today and some additions to it.

And that is primarily the reason why we waited that long.

And I want you to know that I promised my wife I would be home at 4:00 o'clock

(Chuckles.)

>> NEIL KELLEHER: Thank God, I'm 85 or she would --

She would probably by this time decide I ran off with one of the attractive Commissioners here.

(Laughter.)

>> NEIL KELLEHER: Incidentally, if there's anybody else got that kind of thought, at least share it with me.

(Laughter.)

>>: I'll go, I'll go.

(Chuckles.)

>> NEIL KELLEHER: I've got to tell you a story.

This is a true story.

I've got every kind of a doctor. I've got nine doctors.

Every part of my body is covered by at least one doctor.

My urologist is a man from India. An absolutely fantastic guy.

You talk about a guy who cares about his

patients.

He's too serious sometimes.

So over a period of seven or eight years, I had had just about everything available to the doctor in terms of examination without going right in and taking out my hoo ha.

(Laughter.)

>> NEIL KELLEHER: I had that treatment that you get --

It's an examination where you put your two legs over the top of these metal racks?

I think you women who have children had something to do with those.

This is a true story! This is a true story. (Much general discussion and laughter in the audience).

>> NEIL KELLEHER: That's exactly what I'm talking about, the ones that go like this.

So anyway, on top of that after that bout, I guess a year later he decided that he wanted --

That was an outpatient exam.

The following year he gave me the roter-rooter, which requires a certain exercise by the doctors and then you spend five days in the hospital walking up and down the hallways carrying a bag of you know what inside your bath robe.

I'll get right to the punch line because he said to me one day.

Very serious man and I'm telling you the truth.

He said to me, Mr. Kelleher, the monotones of the Indians, it's beautiful, the accent, whatever it may be.

He said you have had just about every examination possible.

He said you're coming along okay. He said you're right at this age --

This is probably four or five years ago.

He said you're right at that age where I wonder what effect these treatments I'm giving you, these roter-rooter things --

That's my language, not his.

He said I have to get some idea of how much damage I might have done in the process.

He said how would you feel if I asked you to

try a little Viagra.

>>: No!

>> NEIL KELLEHER: And it wasn't Viagra. It was something called muse.

I thought the pronunciation was moose and I got me into a lot of trouble.

But it was called muse.

I said doctor, let me say this to you.

If this is very important to you in terms of my condition and perhaps for future reference with other patients, I probably would do it.

Unless it's absolutely necessary, I would just as soon not.

He got all apologetic.

Oh, Mr. Kelleher, no, no, he said it's fine. I said okay, fine.

Let's talk about it another time. He said do you mind?

I want to ask you a question, Mr. Kelleher.

He said do you mind telling me why you are reluctant?

He said there's no, there's nothing negative that can happen to you as a result of taking this medication.

Except I find --

I'm not going to go there.

But he said would you mind telling me why you decided that you would rather not?

Well, I said doctor, it's a very simple explanation.

I said if I tried that drug and it worked, I can't remember what the hell you do next.

(Laughter.)

(Applause.)

>>: Where the hell --

>> DOUGLAS KELLNER: You have any more stories?

>> NEIL KELLEHER: No.

>> HELENA MOSES DONOHUE: I don't have any stories.

I just also have an apology that we took so long today.

We were attempting and we have been attempting to resolve this issue.

It's imperative for us to do this because it will affect generations to come.

As you know better than most people.

Now, as soon as Allison comes in, we have worded this proposal and we will give it to you exactly the way we feel that it should be worded.

And then we will vote on it.

And whatever the results are, I hope that it works for you and I hope it works for the state of New York. We'll send somebody out to get her.

Just a second.

(Pause.)

(General discussion)

>> HELENA MOSES DONOHUE: Now, tell them now.

Enough is enough.

>> NEIL KELLEHER: Yeah. It really happened.

>>: Did you hear norm's story before about the infomercial.

>> NEIL KELLEHER: Did you hear that if you use it and such-and-such hasn't happened in so many hours, head for the hospital?

I wouldn't head for the hospital.

>>: You're going to be more famous than you thought because this is going to be webcast tomorrow.

(Chuckles.)

(Loud discussions in the audience).

>> NEIL KELLEHER: We've got to come to the bottom of this shit later.

>> HELENA MOSES DONOHUE: I hope so.

>> NEIL KELLEHER: Did they find her? (Pause.)

>> NEIL KELLEHER: You done good.

Dominion?

Dominion?

>>: Did you explain that this is an important decision?

>> NEIL KELLEHER: Thank you very, very much again for the --

(Applause.)

>> NEIL KELLEHER: I wish I could find a good reason for it, but I can't.

I thought the Assembly was crazy.

I was over there for 26 years and come over

here to get a little peace and quiet.

Apparently it gets too quiet sometimes.

Anyway, I would like to make the following proposal, introduce the following resolution, I believe it is, for the approval of four machines that has been the result of a great deal of conversation.

I'm speaking for those people you obviously are familiar with up here.

And some changes, as a matter of fact, today.

Or rather touching some bases to be sure what the impact, what the result will be.

I would like to have Allison, would you describe them?

>> ALLISON: Absolutely.

Resolution number --

The resolution is that the following voting machines shall be approved as ballot marking devices.

The Dominion, the Liberty, and the following ballot marking devices shall be approved with conditions.

The Avante DRE, pending approval by the co-executive directors of a scanner to be attached for independent verification.

And the Automark pending approval of a firm ware change to allow the system to display a full-face ballot.

>> NEIL KELLEHER: Do I have a second on the motion?

>> HELENA MOSES DONOHUE: Second.

>> NEIL KELLEHER: Seconded.

All those approved say eye?

>> HELENA MOSES DONOHUE: Aye.

>> DOUGLAS KELLNER: You going to discuss it at all?

>> NEIL KELLEHER: If you want to. Don't be bashful.

Don't be bashful.

>> DOUGLAS KELLNER: Obviously I don't approve of the resolution as written.

While you were out, I know we had gotten word you were going to come back at 3:30.

While you were out I did go on for about half an hour explaining the outline of my views on the subject.

And just to repeat it for the record, I have no problem with approving the Dominion machine and I have no problem with approving the Automark.

I would approve the Automark unconditionally, but I can probably go along with your request that there be a firmware change.

The, it is somewhat inconsistent, however, to be having conditional approvals at this point because of the time line.

And that we are under serious pressure to keep the calendar moving and to get the selection process moving.

And that is why we had agreed to a January 10 deadline for the submission of the systems that would be considered by the State board for approvals to the Commissioners.

So --

So at this point I will vote against this resolution.

I will offer a separate resolution following that to approve the Dominion and Automark machines and if you are inclined to support that, then we could discuss whether to make it conditional on the firmware change.

>> NEIL KELLEHER: Thank you, Doug. Do I hear a second?

Did you introduce an amendment by any chance in that language?

>> DOUGLAS KELLNER: No.

>> NEIL KELLEHER: All right.

>> TODD VALENTINE: Already seconded. He voted.

>> NEIL KELLEHER: Okay.

On my motion or on Allison motion for the approval of the four machines, I'll call the roll call.

Doug?

>> DOUGLAS KELLNER: No.

>> NEIL KELLEHER: Helen?

>> HELENA MOSES DONOHUE: Yes.

>> NEIL KELLEHER: And the chair votes yes.

As far as I'm concerned, that's all the business we were going to deal with tonight unless you have some parting words to share--

>> DOUGLAS KELLNER: Well, I'm going to make

a motion that we approve the Dominion machine and then after we vote on that motion, I will make a separate motion with respect to the Automarks.

So I would call for a vote on the motion to approve the Dominion machine.

>> HELENA MOSES DONOHUE: Discussion on your motion.

>> DOUGLAS KELLNER: Actually, I'm sorry. We shouldn't be calling it Dominion because none of the paperwork that was submitted uses that name.

It's the Sequoia Image Cast.

>> NEIL KELLEHER: Is there a second on that motion?
(There is no response.)

>> NEIL KELLEHER: If not, it will not bring about a call for a vote.

>> DOUGLAS KELLNER: All right.

And then I will make a motion that we approve for selection by the counties the ES&S Automark submission and the premiere Automark submission.

>> NEIL KELLEHER: Do I have a second on that motion?

>>: No, no.

>> NEIL KELLEHER: If not, it obviously can't be voted on.

Any more, anything else to be brought before the board?

Doug?

>> DOUGLAS KELLNER: So at this point I just want to emphasize that at least on my part the decisions were made on the basis of my analysis of the statutes as I reported in summary fashion earlier.

I believe that we are under court order to proceed.

I would ask my fellow Commissioners if by their vote against or their refusal to vote on the Dominion machine they are indicating --

I'm sorry, I'm using Dominion again.

Their refusal to vote on the Sequoia Image Cast, they are indicating that they believe that the Sequoia Image Cast does not comply with the New York legal standards.

>> ALLISON: It was a package deal.

It was a package deal.

>> NEIL KELLEHER: Do you want to add on --

>> ALLISON: Commissioner, with all due respect, we too, our Commissioners reviewed every machine for its legal compliance with New York state statute.

We offered a deal of four machines that do pass New York state statutes.

Two of them with amendments.

We simply feel that this is a \$50 million expenditure and is the machine that is intended to be used by the disabled for the next generation.

We feel it is extremely important and that the county should have a choice.

These four machines are excellent options. We offer them as a package deal.

>> DOUGLAS KELLNER: Okay.

Well, so I just want to emphasize that basically then I understand that the Republican Commissioners are arguing that the Dominion and the Liberty comply with New York law.

I've set forth my reasons why I believe that the --

I'm sorry, I did Dominion again.

The Sequoia Image Cast and the Liberty machine, that the Republicans are arguing comply with New York law.

I set forth my reasons on why I believe the Liberty machine does not comply with New York law because it does not produce a ballot and a ballot marking device needs to produce a ballot as New York law prescribes.

Secondly, because the Liberty machine does not provide for independent verification as required by seven-202.

So on that basis, I think we need to notify the Department of Justice that the Commissioners are not able to agree on sending a machine to the counties for selection and I would ask that we agree that that should happen first thing tomorrow morning.

>>: Do we agree on that?

>>: We agree.

>> TODD VALENTINE: We will agree to send a joint e-mail.

>> STANLEY ZALEN: Saying there's a failure

to select because it takes three votes?

>> TODD VALENTINE: Yes.

>> DOUGLAS KELLNER: Okay.

We should discuss the date for our next meeting.

>> NEIL KELLEHER: You understand, of course, that the intention of myself and Allison was to, after a great lengthy discussions over the past couple of weeks, was to make several machines available to you people that you can finally get your teeth into and make up your mind just what direction you want to go.

That's why we spent a great deal of time today talking about language that was involved in all four contracts having to do with the different manufacturers.

That's where I am right now, still am.

And I feel a lot better about what we did, in some instances did not do today.

I feel a lot better if I knew you would be able to take out of here tonight the opportunity to scan, look over your self those four machines and give you a chance to digest it and certainly you had to wait long enough to finally get something in your hands that you can consider and get on with your work.

The time, I know, is of the essence.

I'm sorry it worked out that way, but today we intended to give you a choice that was worthwhile.

That's why we came up with four machines.

And as far as I'm concerned, that's where we should leave it right there.

>> HELENA MOSES DONOHUE: The question was asked when our next meeting would be.

We are prepared to meet tomorrow.

>> DOUGLAS KELLNER: Okay, I'm here.

>> STANLEY ZALEN: 11:00 a.m.?

>> HELENA MOSES DONOHUE: 11:00 o'clock okay?

>> NEIL KELLEHER: That should be okay.

>> STANLEY ZALEN: Todd, if there's going to be a meeting of the Commissioners tomorrow at 11, then I don't believe we will be notifying DOJ until after that meeting.

Right?

Agreed?

Very good.

>> ALLISON: Okay, the meeting is tomorrow at 11.

Let them know --

>> NEIL KELLEHER: We'll meet tomorrow at

11.

The board will meet tomorrow at
11:00 o'clock.

And hopefully you won't have to sit in these same seats for a long
length of time waiting for some kind of a product to come from this
end.

Rest assured if that happens we'll make sure that we scatter
through the corridors and make sure you're brought back in here.

We owe you at least that much.

So the board will now stand adjourned until 11:00 o'clock
tomorrow morning right here.

Thank you.

Thank you very, very much. (The
meeting adjourned.)