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ALBANY, NEW YORK

May 11, 1993

3:40 p.m.

REGULAR SESSION

ST. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

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

2 THE PRESIDENT: Senate will
3 please come to order. The Senators will please
4 find their places.

5 I'd like to ask everyone present
6 to rise and repeat the Pledge of Allegiance with
7 me.

8 (Whereupon, the Senate joined in
9 the Pledge of Allegiance to the Flag.)

10 Please be seated.

11 In the absence of clergy, may we
12 now bow our heads in a moment of silence.

13 (Whereupon, there was a moment of
14 silence.)

15 Secretary will read the Journal.

16 THE SECRETARY: In Senate,
17 Monday, May 10. The Senate met pursuant to
18 adjournment. Senator Farley in the chair upon
19 designation of the Temporary President. The
20 Journal of Friday, May 7, was read and
21 approved. On motion, Senate adjourned.

22 THE PRESIDENT: Hearing no
23 objection the Journal stands approved as read.

1 Presentation of petitions.
2 Messages from the Assembly.
3 Messages from the Governor.
4 Reports of standing committees.
5 The secretary will read.

6 THE SECRETARY: Senator Stafford
7 from the Committee on Finance reports the
8 following nomination:

9 Commissioner of Transportation,
10 John C. Egan of Slingerlands.

11 THE PRESIDENT: Senator Levy.

12 SENATOR LEVY: Mr. President.

13 It's a genuine honor and privilege to have the
14 opportunity to rise to move the confirmation of
15 the nomination of John Egan to be Commissioner
16 of Transportation for New York State.

17 I have known John for almost 25
18 years. I first met him when he served as a
19 principal executive with OGS, and I worked with
20 him when he was the chief executive and
21 commissioner of the Office of General Services.

22 John Egan has a long and a
23 distinguished and a successful career in

1 government. He is dedicated; he is hard
2 working; and history shows and tells us that
3 when John Egan heads an agency it runs like a
4 smooth, almost noiseless engine. And given the
5 more than \$20 billion-plus transportation
6 financing package that we have just put in place
7 and its cornerstone piece -- its cornerstone
8 jewel, a \$9 billion-plus historic state highway
9 and bridge program for construction and for
10 rehabilitation, we need that touch.

11 I think it's fair to say, Mr.
12 President, that New York State is at a critical
13 juncture. We need a smooth and an experienced
14 hand to administer this \$9 billion plan,
15 quickly, efficiently and on time, especially on
16 time to create jobs, promise jobs and promise
17 progress.

18 John Egan is a problem solver, a
19 consensus builder. His hallmark and tradition
20 has been success, achievements and
21 accomplishments, and I know that he is going to
22 be a successful Commissioner of Transportation.

23 I congratulate John on his

1 appointment. I look forward to working with him
2 as all of us do. I commend the Governor on this
3 outstanding appointment, and it's an honor and
4 privilege, Mr. President, to move the
5 confirmation of the nomination of John Egan to
6 be Commissioner of Transportation.

7 THE PRESIDENT: Senator Stafford.

8 SENATOR STAFFORD: Mr.
9 President. After that very fine delivery from
10 Senator Levy, anything that I could say would
11 add very, very little. I certainly second
12 everything he has said.

13 I would point out this is the
14 third time the Commissioner has been here being
15 confirmed. He was appointed by Governor Carey
16 to be the OGS Commissioner and then appointed by
17 Governor Cuomo to be OGS Commissioner, and now
18 here with the Department of Transportation
19 Commissioner.

20 Now, I knew that before his
21 career was over, he'd be in transportation
22 because he had the best homemade soap box derby
23 in Dannemora. We lived on a hill and, by the

1 way, we lived next door to each other. His
2 radiator was a 25-gallon pail. He had the
3 wheels on it and the seat. And, of course, up
4 in that area of the state, we're always on the
5 cutting edge of development, and this was one of
6 the first soap box derbies that was ever built.
7 In later years, I guess people went -- they had
8 the national championships.

9 I remember also, as far as
10 transportation was concerned, when he went in
11 the Army he had a red Jeep, and he left that for
12 his brother and I, and we thought it was quite
13 -- we thought we knew everything except we
14 didn't have licenses to drive, so he knew that
15 we probably wouldn't be driving it.

16 I would point out also he's been
17 a volunteer as far as fire fighting is
18 concerned. He's been quite a -- a real
19 dedicated volunteer fireman. When he was in
20 high school, the Dannemora School, we were on
21 the ground level. Whenever the fire siren would
22 ring, he would jump out the window and go to the
23 fire. That had to be stopped, though, because

1 the fire siren was ringing too often. Some of
2 his friends were making it possible for him to
3 get out.

4 I assure you that all of us who
5 have known Jack Egan -- I have known him for
6 over 50 years -- realize the dedication that he
7 has to his work, and I can point out also
8 something that's very interesting. I think it
9 showed that he was going to succeed. He was
10 very involved with on-the-job training before it
11 was popular. He was working in stationary
12 engineer work. And about three houses down, we
13 had an engineer who taught all of us a great
14 deal. But Sam, as we knew him in Dannemora, and
15 all of his colleagues would work with Chief Ruiz
16 and, as I say, today, this is something that's
17 more formal, but he was the type that was
18 involved with education before it was mandatory
19 or, as I say, popular.

20 Everyone here today is going to
21 say, again, how committed he is, how concerned
22 he is. He is always available, always has a
23 sense of humor. And when he says no to you, you

1 think he said yes. Then by the time you get
2 home, you realize it was no, but he broke it to
3 you easily.

4 And on a serious note, Mr.
5 President, in this day and age when we seem to
6 be criticizing everybody -- I know legislators
7 aren't immune, either, but criticizing people
8 who work in government, John Egan, again,
9 exemplifies and is an example of our system, our
10 system supporting and making it work, making
11 everyone available.

12 As I've said a number of times,
13 we often say, "What can I do?" He went right up
14 through the ranks, I might add, from grade 1 to
15 the top in two departments. So, as I say, it
16 shows in his examples that we do have
17 opportunities. He has taken advantage of them.
18 And, again, he is a real example of the system
19 working.

20 Thank you, Mr. President.

21 SENATOR MEGA: Mr. President.

22 THE PRESIDENT: Senator Mega.

23 SENATOR MEGA: Mr. President. I

1 want to second everything that has been said and
2 said so well about John Egan. He is a problem
3 solver, as was indicated. He is dedicated to
4 getting things done and representing that
5 portion of government that he is assigned to at
6 a particular time. I've always found him
7 responsive when I've had a problem, and I'm sure
8 that he's been that way with anyone else who's
9 had a problem where he's had jurisdiction.

10 So, John, I rise to wish you well
11 and compliment you on being appointed to this
12 very important job, and I perceive you as being
13 the right man at the right place at the right
14 time for the kind of things that have to be done
15 in that area.

16 So congratulations and good luck.

17 THE PRESIDENT: Senator Farley.

18 SENATOR FARLEY: Thank you, Mr.
19 President. I rise to second the nomination of
20 John Egan.

21 I don't think anybody in my
22 tenure in the Legislature has served this state
23 any better than John Egan. His reputation as an

1 administrator is unparalleled, and I'd like to
2 compliment the Governor for this choice in one
3 of the most difficult and challenging
4 departments or agencies that this state has.
5 And believe it or not, we are fortunate and
6 blessed to have somebody who is willing to
7 assume that responsibility. He has served us so
8 well in this state.

9 And, John, I wish you the best
10 and I look forward to working with you, and I
11 think that everybody in this house is excited
12 and thrilled about this appointment.

13 THE PRESIDENT: Senator
14 Stachowski.

15 SENATOR STACHOWSKI: I also rise,
16 Mr. President, to second the nomination of John
17 Egan. John has been a success wherever he's
18 been. It's been a pleasure to work with him.
19 I'm sure that not only are we looking forward,
20 but John is looking forward now to building
21 things instead of prisons. He'll be building
22 roads and bridges, and he's going to enjoy that
23 immensely. It's much more enjoyable than

1 building prisons with the Dormitory Authority.

2 But I think that the fact is that
3 John has always been a great manager. I think
4 no place more can we use a good manager at a
5 time like this than in DOT. It will be a
6 pleasure to have someone there that responds to
7 your inquiries at a rapid manner. Whether it's
8 yes or whether it's no, at least you get an
9 answer, and I'm looking forward to having the
10 opportunity to work with John as we turn to some
11 of the less than satisfactory infrastructure in
12 New York and some of the roads that are planned
13 that aren't there yet in reality and make New
14 York State a better place to live and work.

15 THE PRESIDENT: Senator
16 Leichter.

17 SENATOR LEICHTER: Yes, Mr.
18 President. My colleagues. I would be an
19 ingrate if I didn't get up and voice my pleasure
20 at seeing John Egan appointed and confirmed for
21 the important position of Commissioner of the
22 Department of Transportation, because John Egan
23 has always been so responsive when I have called

1 on him.

2 You know, when we have these
3 confirmations of commissioners, we sometimes get
4 carried away and there is little hyperbole and
5 maybe some exaggeration. You can not exaggerate
6 the service that John Egan has done for the
7 people of the state of New York. He has just
8 been superb.

9 And I'm so glad my good friend
10 Senator Stafford made a point. It's an
11 important point that John Egan worked his way up
12 through the civil service of this state because
13 it shows the dedicated, competent people that we
14 have. And as Senator Stafford also rightfully
15 pointed out, at the time when there is so much
16 criticism of government and people in
17 government, let us think of John Egan and there
18 are other John Egan's in our civil service who
19 work so hard with such dedication and are paid
20 so much less than somebody with John Egan's
21 caliber and competence could get in the private
22 sector, but he has made his life serving the
23 public.

1 As we all know, we have heads of
2 agencies that say they are not going to do
3 anything and they don't do anything. Then we
4 have heads of agencies who promise and don't do
5 anything. And then we have John Egan who
6 promises and who always delivers.

7 I'm happy to second his
8 nomination.

9 THE PRESIDENT: Senator Marchi.

10 SENATOR MARCHI: Thank you, Mr.
11 President. It's interesting to see the wide
12 range of comments that are coming out of the
13 membership. It just covers the whole spectrum.
14 And the point you made, Senator Leichter, about
15 originating and developing these fine talents in
16 the service of the public -- civil service.
17 They have been so much maligned and abused; and
18 yet, here we have an outstanding example of
19 service that draws its strength from experience
20 with people.

21 And who else but an enlightened,
22 ennobled public servant will represent that
23 point of view, the public need and the public

1 welfare? I don't care how you dress an up and
2 how much you adorn other qualities and
3 professions, but there is always a narrower
4 interest involved. But John Egan -- and I have
5 known him maybe between 30 and 40 years -- he
6 has exemplified this quality, and he has stepped
7 into a number of thorny situations where people
8 advance their point of view and he is available
9 and they have access to him, but it's always an
10 access and an availability that provokes
11 respect.

12 So if they respect a person,
13 sometimes a decision has to be not to your
14 liking but you respect the process by which he
15 made his judgment, and he is capable of making
16 the tough judgments, and he is capable of doing
17 it in a variety of circumstances, the fact that
18 he is stepping into very, very important shoes.

19 As Senator Levy has pointed out,
20 this is of vital importance to the people of
21 this state, and it's very easy to get into
22 considerations of conflict. But when we know
23 that the person is honest, that he has the total

1 good of the people of this state and the welfare
2 of this state, it is certainly -- to those of us
3 who are here in the business of addressing those
4 needs, it gives us added confidence and
5 satisfaction to know that in the discharge of
6 these delicate responsibilities John Egan will
7 be there at the helm making the tough decisions,
8 the right decisions and, in any event, those
9 decisions that spring from his own logic and the
10 wide disciplines that he has served and his
11 honest and conscientious judgment.

12 So I wish you well, John, and I
13 know that -- I don't know you as long as -- he
14 called you Jack. I know you as John. But, in
15 any event, under either guise, you certainly
16 have our affection and respect and certainly our
17 support in the endeavors which you are
18 undertaking.

19 THE PRESIDENT: Senator
20 Masiello.

21 SENATOR MASIELLO: Thank you, Mr.
22 President. I, too, would like to second the
23 nomination of John Egan.

1 John, obviously, without being
2 redundant, I just want to say that I
3 congratulate you. I'm looking forward to
4 working with you. You have been a terrific
5 public servant to not only this Legislature but
6 the people of the state of New York.

7 You are always there willing and
8 able to try to solve problems. You are
9 accessible. You're professional. You like to
10 work with people and it shows. It shows in your
11 personality, and it shows in the results that
12 you accomplish.

13 And I want to thank you for
14 everything you've done for the people in Buffalo
15 and Western New York, and I look forward to
16 working with you in your new capacity to be an
17 excellent public servant for them and for the
18 entire state of New York.

19 And with that, I want to thank
20 you for everything you have done and
21 congratulate you and look forward to working
22 with you for a better New York State.

23 Thank you.

1 THE PRESIDENT: Senator Nolan.

2 SENATOR NOLAN: Mr. President.

3 John, I don't know I've been in -- this is my
4 tenth term in the Senate, and it seems every
5 time I turn around that one governor or another
6 is calling upon you to perform some Herculean,
7 outstanding task. When there is a problem some
8 place, whether it was Governor Carey or whether
9 it's Governor Cuomo, calls on John Egan to solve
10 the problem. No matter what agency it is, John
11 can be depended upon to make sure that he makes
12 the chief executive look good at whatever task
13 he is performing.

14 John, of course, is obviously a
15 resident of my district. More importantly, he
16 is my friend, and that to go through a litany of
17 things that John Egan has done for the people of
18 this state has already been said. John started
19 at the lowest level. As other people have
20 pointed out, he has gone on to great heights.

21 And all I can say, John, is thank
22 you on behalf of the people in my district in
23 Albany County and on behalf of the people of

1 this great state for all of the great things
2 that you have done, for all of the dedicated
3 public service that you have given, and we'll
4 certainly look forward to working with you over
5 the next several years in your new position.

6 So, John, again, welcome to the
7 Senate and keep up the good work.

8 THE PRESIDENT: Senator Galiber.

9 SENATOR GALIBER: Thank you, Mr.
10 President. Every now and then in government
11 some very good things happen, and it's the sense
12 of this body that if we were to take a vote now,
13 for the first time in a long while, John, we
14 would be unanimous in your confirmation. That's
15 rare in this body.

16 I have been privileged to know
17 John Egan for so many, many good years, and
18 those have been good years. John, all the good
19 things that have been said about you, I can
20 simply say amen and sit down, because all of
21 them are true.

22 But from a personal standpoint, I
23 know you have always been available. You have

1 been a people person. You have been concerned
2 with people throughout the state of New York.
3 It was not just a geographical matter with you,
4 upstate and downstate, but the same engineers
5 that you have given to us in government that
6 have kept you moving in government for so very
7 long has been one of your real assets.

8 I personally want to thank you
9 that when I came here some 20 years ago
10 concerned about persons who heretofore had been
11 left out of the process that you were one with
12 your commitment to sit down and work out certain
13 matters to see to it that everyone had an equal
14 opportunity. And I want to personally thank you
15 for that.

16 As you go into DOT with a
17 reputation of excellence and commitment and
18 industry, I say merely that DOT has not been
19 doing what in my judgment they should be doing.
20 There are some of us who have suggested that the
21 middle management people, whether it be DOT or
22 some place else, are the ones who are calling
23 the shots, those who outlive commissioners and

1 outlive administrations, but your history in
2 government and your ability to have a hands-on
3 effect on what you have been part of, whether
4 it's OGS or whether it was with the Dormitory
5 Authority, no middlemen, no middlepersons are
6 going to be able to dictate to you a policy as
7 it has happened in the past. An answer will
8 come from you. And as Senator Stafford said,
9 it's always not yes or the one we want to hear,
10 but you have such a pleasant smile when you tell
11 someone that it can't happen.

12 So I welcome you to the next step
13 in government, and I'm glad that you are going
14 through the same process as another good friend
15 -- and I call you "good friend," who have work
16 ed yourself up through the system. "Work hard,
17 make a success of yourself" that very rarely
18 happens in government, but it's happened in your
19 case and only one other case I can make refer
20 ence to in my tenure here in the Senate, and
21 that's with Bill Hennessy, a good friend of
22 mine, who came up through the ranks and showed
23 us that the system, in fact, does work.

1 And to you, too, my hat goes off
2 to you and our Governor, who we don't always
3 agree with, but in his wisdom in troubled areas
4 he has sent you and another friend of mine into
5 these departments with a view toward remedying
6 some of the problems.

7 DOT, as I said -- and I'll end on
8 this note. I'm very happy that you are going
9 into that state agency. There is a lot of help
10 that is needed. There a lot of direction that
11 is needed there. Selling off things in DOT,
12 selling off property in my back yard to
13 privatize it in certain areas, I'm sure you are
14 going to take a hard look at that.

15 So I'm proud to get up and second
16 the motion for a very good friend of mine and
17 congratulate you for your -- I started to say
18 promotion. I'm not sure whether it's a
19 promotion or not, but for your movement and
20 thank you for your friendship through the
21 years. You have been very good to us.

22 THE PRESIDENT: Senator Hoffmann.

23 SENATOR HOFFMANN: Thank you, Mr.

1 President. I am delighted to rise and second
2 the nomination of Commissioner John Egan for
3 this important position, and I share the
4 enthusiasm that so many of my colleagues have
5 already voiced about working with an individual
6 whose talents we already know, whose
7 professionalism is beyond reproach, and who has
8 one of the very best lines of communication with
9 those of us who are often on the front line.

10 I am a little bit at a loss,
11 though, to understand a few of my colleagues who
12 made a reference to having been turned down
13 gently by Commissioner Egan in the past, in
14 reference to him saying no with a smile. Maybe
15 I'm just lucky, but I don't remember him ever
16 saying no, and I would just like to continue our
17 relationship that way, John.

18 I think Commissioner Egan is the
19 right man for the right job at a difficult
20 time. I'm sure he understands, as the rest of
21 us do, that we have a very serious problem with
22 roads and bridges. On a national scale, we are
23 ranked near the bottom. We also have a limited

1 number of resources. We all realize that we are
2 going to have to tighten our belts and prepare
3 for some hard decisions ahead. We stand ready
4 to work with you, John, on that.

5 We appreciate the fact that you
6 know the entire state. Sometimes the
7 confirmation process is based upon false hope or
8 assumption or fervent prayer that the person the
9 Governor has sent up is somebody we will be able
10 to work with. In this case, our confirmation
11 powers take on an entirely different meaning
12 because most of us in this chamber have a good,
13 solid, first-hand working relationship with this
14 individual.

15 Very proud to be supporting you
16 today. Wish you the very best of luck,
17 commissioner.

18 THE PRESIDENT: Senator Daly.

19 SENATOR DALY: Mr. President. I
20 can remember very few instances where so many of
21 my colleagues have risen to pay their respects
22 to a person who we were appointing on any given
23 day, and there is little I can add to the

1 accolades that have already been paid, but I
2 would be remiss, indeed, if I did not stand to
3 personally pay my respect and demonstrate my
4 admiration for a man who I consider a paradigm
5 of the public servants in this state. New York
6 State is lucky to have people like John, and I
7 hope that this meeting today, this confirmation
8 today clearly demonstrates to his family the
9 high regard and great respect in which he is
10 held.

11 John, we're lucky to have you;
12 we're delighted to have you.

13 THE PRESIDENT: Senator
14 Oppenheimer.

15 SENATOR OPPENHEIMER: I would
16 like to 18th the nomination instead of second
17 the nomination of John.

18 I think it's been said several
19 times, but you are perceived and indeed are by
20 all of us perceived as the quintessential public
21 servant. You have spent years in the field in a
22 variety of roles. I have worked with you as
23 long ago as maybe 15 years ago when I was Mayor

1 of Mamaroneck. You got the job done then. You
2 get the job done each time. And we are
3 certainly hopeful that the monies that are in
4 the pipeline and waiting to be spent under your
5 watchful eye will be moved ahead, the projects
6 will be advanced, and that we will see you
7 getting the job done for all of us around the
8 state.

9 And I would just like to add that
10 not only are you a person of competence and
11 skill in moving things along, but you are a
12 person who is very warm and someone that we
13 connect up to as a friend. And your generous
14 spirit and your consideration of each of us is
15 very much appreciated by all of us, and I think
16 that's why we felt so unanimously about you,
17 John. Happy to be here with you.

18 THE PRESIDENT: Senator Stavisky
19 is recognized. And there will be order in the
20 chamber.

21 SENATOR STAVISKY: I don't know
22 whether it is in recognition of your pending
23 confirmation that we have former members of the

1 Senate, former staff members who are here. You
2 didn't need so many troops to lobby in your
3 behalf. You have many friends here among the
4 current composition of the New York State
5 Senate.

6 I tried to discourage John Egan.
7 I told him about 2,000 bridges, overhead high
8 ways and spans just in the downstate New York
9 area that were in need of inspection and perhaps
10 renovation because of the rust combination which
11 is eating away at the metal and the water that
12 is destroying even the concrete supports, and I
13 couldn't discourage him. He seemed ready to
14 tackle that kind of daunting issue.

15 I talked about the commuter
16 railroads and the subways, which really ought to
17 be inspected on a regular basis by a statewide
18 agency to make certain that we can avoid
19 mistakes such as the problems that have arisen
20 on some branches of the New York City subway,
21 the subway that goes to Queens. No sooner had
22 we replaced the track than we discovered that
23 the support structure was in need of total

1 renovation.

2 So there are many calls upon his
3 services. And in spite of the best shot at
4 discouragement, he said he still wanted to do
5 the job. Why should we stand in his way? We
6 have supported his service in the state in a
7 variety of ways. He's been a commissioner.
8 Then he became executive director. I know you
9 don't want to be known as director. You'd
10 rather be known as commissioner. So if we can
11 restore him to his proper title and rang as a
12 Commissioner of Transportation of the state of
13 New York, we should do it with enthusiasm and
14 unanimity.

15 THE PRESIDENT: The question
16 occurs on the coronation -- I mean the
17 confirmation.

18 (Laughter.)

19 SENATOR GOLD: Mr. President.
20 Point of information. I just had to drive to
21 Syracuse and back. Are we still on Egan?

22 (Laughter.)

23 THE PRESIDENT: Yes. The

1 question occurs on the confirmation of the
2 nominee. All those in favor, aye.

3 (Response of "Aye.")

4 Those opposed, nay.

5 SENATOR MENDEZ: Mr. President.

6 THE PRESIDENT: Senator Mendez is
7 recognized.

8 SENATOR MENDEZ: Yes, I couldn't
9 let this go. I thought that I was on the list,
10 when I signal you.

11 THE PRESIDENT: I should have
12 understood your signal.

13 (Laughter.)

14 SENATOR MENDEZ: Yes. Well,
15 anyhow, I really cannot let this go without
16 standing up and also saying some few words on
17 account of the nomination of Commissioner Egan.

18 I have known the man for many,
19 many years. It is no accident that all my
20 colleagues here have spoken along the lines that
21 we have heard about his competence, about his
22 excellent skills and interpersonal
23 relationships. And, for one, I must say that I

1 have always been very grateful for his
2 understanding that in the issue of minority
3 hiring and equal opportunity for small
4 businessmen and minority businessmen and women's
5 business, he has been a first, establishing the
6 kind of policy that would ensure that equal
7 opportunity, in fact, do occur for all the
8 residents of the state of New York.

9 So above everything that has been
10 said about you, John, I just will simply add
11 well-deserved and as a famous phrase in an TV
12 program that I used to watch long, long ago, I
13 would say to you, "John, you're the greatest."

14 SENATOR GOLD: Mr. President.

15 THE PRESIDENT: Senator Gold.

16 SENATOR GOLD: Yes. Can the
17 record just indicate that if former Senator, now
18 Congressman, Ackerman had a vote, he would vote
19 for Commissioner Egan also.

20 THE PRESIDENT: Unless there is
21 any other Senator who wishes recognition, then
22 the question occurs on the confirmation of the
23 nominee.

1 All those in favor, aye.
2 (Response of "Aye.")
3 Those opposed, nay.
4 (There was no response.)
5 The ayes have it. The nominee is
6 confirmed.
7 Congratulations, John.
8 (Applause.)
9 The Secretary will read.
10 THE SECRETARY: Senator Stafford,
11 from the Committee on Finance, reports the
12 following nomination:
13 Banking Member of the state
14 Banking Board, Spencer S. Crow of Arkport.
15 THE PRESIDENT: Senator Farley.
16 SENATOR FARLEY: It's pretty
17 tough to make a confirmation following John
18 Egan, but let me just say Spencer Crow, a
19 nominee for reappointment to our Banking Board,
20 is truly an outstanding person.
21 When we are talking about the
22 savings institutions or what's now called the
23 community bankers, it's their 100th anniversary,

1 and we have a number of them with us here
2 today. Spencer Crow is in the gallery. Let me
3 just tell you a little bit about him.

4 He is president of the Maple City
5 Savings Association. This is a savings and
6 loan, one of the most sound in the country and
7 also a state chartered saving and loan
8 association, which is -- there's not that many
9 of them left in this state, but he has been a
10 hallmark and an example of an outstanding state
11 chartered savings and loan association.

12 He has also been of great
13 personal help to me as a member of the Banking
14 Board and somebody we should be very proud of.
15 And I commend the Governor for making this
16 outstanding appointment of Spencer Crow to the
17 Banking Board.

18 And I move his nomination.

19 THE PRESIDENT: The question
20 occurs on the confirmation of the nominee. All
21 those in favor, say aye.

22 (Response of "Aye.")

23 Those opposed, nay.

1 (There was no response.)
2 The ayes have it. The nominee is
3 confirmed.

4 Congratulations, Mr. Crow.

5 (Applause.)

6 Secretary will read.

7 THE SECRETARY: Senator Stafford,
8 from the Committee on Finance, reports the
9 following nominations:

10 Member of the state Board of
11 Parole Leo S. Levy of Albany and Henri C.
12 Raffalli of New Hyde Park.

13 Member of the Board of Trustees
14 of the State University of New York, Arnold B.
15 Gardner, Esq., of Buffalo and Miles L. Lasser of
16 Jamestown.

17 Member of the Advisory Board on
18 Public Work, Harold L. Joyce of Albany.

19 Director of the New York State
20 Environmental Facilities Corporation, Victoria
21 S. Kennedy of Manlius.

22 Member of the Niagara Frontier
23 State Park, Recreation and Historic Preservation

1 Commission, George M. Martin, Esq., of Buffalo.

2 Member of the Board of Directors
3 of the New York Convention Center Operating
4 Corporation, Joseph E. Spinnato of Woodbury.

5 THE PRESIDENT: The question
6 occurs on the confirmation of the nominees.

7 All those in favor, say aye.

8 (Response of "Aye.")

9 Those opposed, nay.

10 (There was no response.)

11 The ayes have it. The nominees
12 are confirmed.

13 Secretary will read.

14 THE SECRETARY: Senator Goodman
15 from the Committee on Investigations, Taxation,
16 and Government Operations reports the following
17 Senate bill directly for third reading:

18 Senate Bill Number 4904, by
19 Senator DeFrancisco and others, an act to amend
20 the Tax Law, in relation to the establishment of
21 a flood victims tax credit for eligible
22 taxpayers in certain counties.

23 THE PRESIDENT: Without

1 objection, third reading.

2 Senator Mega.

3 SENATOR MEGA: Mr. President. On
4 behalf of Senator Lack, on page 13, I offer the
5 following amendments to Calendar Number 218,
6 Senate Print Number 2342, and ask that said bill
7 retain its place on -

8 THE PRESIDENT: Without
9 objection, so ordered.

10 SENATOR MEGA: On behalf of
11 Senator Spano, on page 13, I offer the following
12 amendments to Calendar Number 195, Senate Print
13 Number 1005, and ask that said bill retain its
14 place on Third Reading Calendar.

15 THE PRESIDENT: Without
16 objection, so ordered.

17 SENATOR MEGA: Mr. President.
18 Third Reading Calendar -- I don't have page
19 numbers, but Calendar Number 630, Calendar
20 Number 631, Calendar Number 632, and Calendar
21 Number 633, would you place a sponsor star on
22 all those bills.

23 THE PRESIDENT: The bills are

1 starred.

2 Senator Holland.

3 SENATOR MEGA: And -

4 THE PRESIDENT: Oh, I'm sorry,

5 Senator Mega.

6 SENATOR MEGA: I'm sorry. And

7 Calendar Number 637, a sponsor star.

8 SENATOR FARLEY: That bill is

9 starred.

10 SENATOR MEGA: Thank you, Mr.

11 President.

12 THE PRESIDENT: Senator Holland.

13 SENATOR HOLLAND: Mr. President.

14 Could I ask a sponsor star be placed on Calendar
15 346 for Senator Skelos, please.

16 THE PRESIDENT: The bill is

17 starred.

18 Senator Seward.

19 SENATOR SEWARD: Yes, Mr.

20 President. I would like to place a sponsor star
21 on Calendar Number 623.

22 THE PRESIDENT: The bill is

23 starred.

1 SENATOR SEWARD: Thank you.

2 THE PRESIDENT: Senator Maltese.

3 SENATOR MALTESE: Mr. President.

4 I offer the following privileged legislative
5 resolution and ask that its title be read.

6 THE PRESIDENT: Secretary will
7 read.

8 THE SECRETARY: By Senator
9 Maltese, Legislative Resolution commemorating
10 the Beatification of Marie Louise Trichet,
11 foundress of the Daughters of Wisdom and in
12 recognition of the 290th Anniversary of the
13 congregation.

14 THE PRESIDENT: On the
15 resolution. All those in favor, say aye.

16 (Response of "Aye.")

17 Those opposed, nay.

18 (There was no response.)

19 The ayes have it. The resolution
20 is adopted.

21 Senator Present.

22 SENATOR PRESENT: I move we adopt
23 the Resolution Calendar with the exception of

1 Resolutions 1306 and 1312.

2 THE PRESIDENT: All those in
3 favor, say aye.

4 (Response of "Aye.")

5 Opposed, nay.

6 (There was no response.)

7 The ayes have it. The
8 resolutions are adopted.

9 Senator Dollinger.

10 SENATOR DOLLINGER: Mr.
11 President. Just one of the resolutions that I
12 would like to have the title read and just be
13 heard on for a moment, Mr. President.

14 THE PRESIDENT: Which?

15 SENATOR DOLLINGER: Number 1170.
16 It's the first one on the first page of the
17 Resolution Calendar, if the title could just be
18 read.

19 (Whereupon, Senator Farley was in
20 the chair.)

21 ACTING PRESIDENT FARLEY:
22 Secretary will read the title of the resolution.

23 THE SECRETARY: Legislative

1 Resolution Number 1170, by Senator Dollinger,
2 calling upon the Federal Emergency Management
3 Agency to provide with dispatch a definition of
4 "flood" for the purpose of resolving the
5 question of wave damage claims under the Federal
6 Flood Program.

7 ACTING PRESIDENT FARLEY: Senator
8 Dollinger, on the resolution.

9 SENATOR DOLLINGER: Yes, Mr.
10 President. This is what I think is a critical
11 issue in the days of high water. Those of us
12 who have districts that abut either Lake Ontario
13 and the Finger Lakes recognize that that high
14 water has caused a severe problem for our
15 constituents.

16 But it's not just the issue of
17 the high water. It's the issue of what happens
18 when there is wave damage and a wind storm that
19 stirs up the water and causes additional damage
20 as a consequence of the wave action itself.

21 There has been, Mr. President, a
22 controversy under the Federal Emergency
23 Managements Agency's Flood Insurance Program,

1 because in the past, the Flood Insurance Program
2 has not covered wave damage. We have a number
3 of pronouncements from FEMA which suggest that
4 wave damage should be covered but, frankly,
5 we've never had a definitive opinion. The lack
6 of a definitive opinion has created a great deal
7 of uncertainty among the insurance agents and
8 among the residents who abut these lakes. The
9 insurance agents aren't sure they can sell a
10 policy that will have covered wave damage, and
11 constituents and residents are unwilling to buy
12 the policies because they can't get a guarantee
13 that wave damage is covered from the agent
14 that's selling it.

15 So we think it's critical that
16 FEMA, the Federal Emergency Management Agency,
17 issue a definitive rule that will hold that wave
18 damage caused in periods of high water is a
19 covered loss under the policy and that the
20 consumer and the constituent that lives abutting
21 the lakes will be able to recover for the
22 damage.

23 I would just point out, Mr.

1 President, that this same program or a
2 relatively comparable program was in effect in
3 1973 during the last period of high water in
4 Lake Ontario. Many policies were sold. Many
5 policies were attached by banks as part of
6 mortgage requirements. And, yet, when all the
7 claims were filed, they were rejected and the
8 federal government held at that time that wave
9 damage -- or excuse me. The insurance companies
10 determined that the wave damage was not covered.

11 So what we hope to do here is to
12 bypass that log jam and eliminate the uncertain
13 ty and the confusion that seems to be a part of
14 the Federal Emergency Federal Management's wave
15 flood control problem, and it's my hope that we
16 would unanimously send to them a resolution
17 asking for this clarification because it will be
18 critical to our constituents so that they can
19 recover for wave damage caused by the storms in
20 high water periods.

21 I would simply point out, Mr.
22 President, and offer to any of my colleagues,
23 and I know many of them do represent

1 constituencies that abut both lakes and other
2 bodies of water that are affected by the high
3 water conditions in western New York.

4 If anyone would like to join me
5 as a co-sponsor on this resolution, Mr.
6 President, I'd invite that, through you.

7 ACTING PRESIDENT FARLEY: Thank
8 you. The resolution is open to anybody. Please
9 inform the desk if you wish to be a co-sponsor.

10 Senator Present.

11 SENATOR PRESENT: Mr. President,
12 would you recognize Senator Holland, please.

13 ACTING PRESIDENT FARLEY: Senator
14 Holland.

15 SENATOR HOLLAND: Mr. President,
16 I have a privileged resolution at the desk, and
17 I ask that most of it be read.

18 ACTING PRESIDENT FARLEY:
19 Secretary will read it, the privileged
20 resolution.

21 THE SECRETARY: Legislative
22 Resolution Number 1312, by Senator Holland,
23 honoring and welcoming the ten students and

1 staff member of Moscow School 64 upon the
2 occasion of the group's participation in the
3 United States-Russian High School Exchange
4 Program hosted by the parents and students of
5 Ramapo and Spring Valley High Schools.

6 Whereas, it is the sense of this
7 legislative body to act in accord with its
8 long-standing traditions honoring those
9 organizations and individuals whose ideals and
10 efforts are directed to promoting and preserving
11 the brotherhood of mankind through a better
12 understanding of the cultures and languages of
13 the people of other lands.

14 Attendant to such accord, the
15 Legislature of the state of New York is hereby
16 moved to join with faculty, administration,
17 parents and student bodies at Ramapo and Spring
18 Valley High Schools as they render greetings,
19 gratitude and best wishes to the visiting
20 students and faculty of Moscow School 64,
21 participating in the United States-Russian
22 Exchange Program during the month of April 1993.

23 In a unique experience of

1 cultural enlightenment provided under the
2 official United States-Russian High School
3 Exchange Program sponsored by the National
4 Association of Secondary School Principals, the
5 honored guests of Moscow School 64 will visit
6 Ramapo High School in April of 1993 and stay
7 with parents of the students of Ramapo and
8 Spring Valley High Schools.

9 During a trip to Russia in
10 February of 1993, students of history and
11 government teacher, Mr. Cairns, had the
12 opportunity to meet the visiting students and
13 their "sister" school.

14 Senior students of Mr. Cairns'
15 Participation in Government class, those who
16 elect to take his Russian history course and
17 others who wish to take part, will have the
18 opportunity to become involved in the
19 internationally recognized humanitarian effort
20 of Chernobyl Fund for victims of radiation; and
21 upon the visitors' return to Russia, each
22 student will be provided with one box of medical
23 supplies destined for victims of the Chernobyl

1 nuclear disaster.

2 This program and experience stand
3 as quintessential examples of fitting tribute to
4 all who would extend themselves to foster unity,
5 cooperation and the patrimony of understanding
6 and cooperation among the peoples of an
7 interdependent world.

8 This legislative body is so moved
9 to add its welcome praise in recognition of the
10 distinguished guests from Moscow School 64,
11 during their visit to the United States and the
12 Ramapo High School; confident of the value of
13 their experience in shaping their promising
14 future and the role they will play in building
15 bridges to span the gulf between world peoples
16 and cultures; now, therefore, be it

17 Resolved, that this Legislative
18 Body pause in its deliberations to join with the
19 Ramapo and Spring Valley High School communities
20 in welcoming these distinguished guests and
21 participants of the United States-Russian
22 Exchange Program on the occasion of their visit
23 during the month of April 1993; recognizing also

1 the value of the United States-Russian Exchange
2 Program in fostering international relations and
3 the significance of Ramapo High teacher Mr.
4 Cairns' contributions to strengthen the
5 experience through authentic humanitarian
6 activities; and be it further

7 Resolved, that copies of this
8 resolution, suitably engrossed, be transmitted
9 to the faculty representative of Moscow School
10 64, the principals of Ramapo and Spring Valley
11 High Schools and Mr. Cairns of Ramapo High
12 School.

13 ACTING PRESIDENT FARLEY: Senator
14 Holland.

15 SENATOR HOLLAND: Mr. President,
16 in this chamber today, we have a number of
17 honored guests who have traveled halfway around
18 the world to visit the United States, the state
19 of New York and Albany.

20 These visitors, ten students and
21 a teacher, representing Moscow School 64 are
22 part of an international exchange program
23 sponsored by the East Ramapo School District

1 located in Rockland County. These Russian
2 students and their teacher are here to get a
3 flavor for the United States, how we live and
4 how our democracy works.

5 I am honored to welcome this
6 group, their American host families and East
7 Ramapo School District faculty and
8 administrators to Albany today.

9 Mr. President, these are very
10 special guests for me as I had the opportunity
11 to visit these students earlier this year when I
12 traveled to Moscow, Russia, with several
13 Rockland County residents on behalf of the
14 widely recognized Ramapo-Chernobyl project.
15 While in Russia, our group delivered cases and
16 cases of medical supplies to needy individuals
17 who have been affected by the Chernobyl
18 radiation disaster.

19 During the trip, our group had
20 the opportunity to visit the English speaking
21 school, Moscow School 64, and tour its grounds.
22 Two of the Russia students, Masha Appak and Lena
23 Inozemtseva -- don't giggle -- provided us with

1 a tour of their school and, at the conclusion of
2 the tour, Kostya Kremnev played guitar for the
3 American group while Anna Lugovaya played the
4 piano. It is wonderful to have visited them
5 where they study and now, five months later,
6 they visit our state and where we work.

7 In addition, Mr. President, I'd
8 like to point out that our group had the
9 opportunity to view a Russia that few people
10 have probably seen. In addition to School 64,
11 we visited a collective farm, the Kremlin, Red
12 Square, Lenin's Tomb, a children's hospital
13 where the children have thyroid cancer from the
14 Chernobyl disaster, and the Palace of the
15 Congresses.

16 These Russian students are taking
17 part in an exchange program between their
18 school, Spring Valley High School and Ramapo
19 High School. While these Russian students are
20 touring the United States, an equal number of
21 American students from East Ramapo High School
22 District recently visited School 64 and Russia.

23 These participating schools and

1 students have started a program that sends a
2 message to every local, state and federal leader
3 of this nation. Through working together we can
4 solve the problems of this world. I applaud
5 their efforts to build bridges of friendship and
6 to act on a global scale, not just a local one.

7 I'd like to recognize, if you
8 would bear with me, the teachers and students
9 from School 64 sitting to my right. First the
10 teacher, Nina Sukhareva; then Marsha Appak, who
11 toured the school with me; Lena Inozemtseva -
12 stay with me -- Denis Kapitonov; Alexander
13 Rybchuk -- I got that one pretty close -- Lena
14 Soloviova, Marat Akdjegitov.

15 Stand up, the people that we've
16 mentioned. If you recognize the name, stand
17 up. Anna Trifonova; Anna Lugovaya, who is the
18 piano player; and Kostya Kremnev, the
19 guitarist.

20 Also joining the Russia group on
21 the Senate floor is Sid Farber, the principal of
22 the Spring Valley High School; Martin Goldmeer,
23 the new principal of the Ramapo High School; and

1 Ramapo social studies teachers, Steve Perell -
2 Steve visited Russia with us and has been over
3 there a couple times this year, I believe -
4 also Don Cairns and Pat DeFrancesco. Pat is the
5 coordinator of the Ramapo Chernobyl project.

6 I'd like to further recognize Don
7 Cairns as the engine behind the Ramapo Chernobyl
8 Fund and the Foreign Exchange Program. Don and
9 Pat organized the trip we took earlier this
10 year, where we distributed nearly \$400,000 worth
11 of medical supplies to needy men, women and
12 children who have been affected by the Chernobyl
13 accident. And I'd like to point out that the
14 Ramapo Chernobyl project has distributed more
15 than \$5 million worth of medical supplies over
16 the last several years. This is a great
17 achievement.

18 In addition, Don Cairns has
19 visited Belarus and the Soviet Union many
20 times and has gotten his students actively
21 involved and interested in international affairs
22 not just on the state and federal level but also
23 on the international level.

1 I commend him and everyone
2 involved in these programs for a job well done.

3 In addition, I would like to
4 recognize the students and parents who are
5 hosting these Russian students. They are
6 located in the gallery directly in front of me.
7 I thank them for their contribution to the lives
8 of these Russia students and for making their
9 visit to the United States so special and
10 unforgettable.

11 I ask that these notable guests
12 be welcomed to the state and that all of the
13 associated courtesies be extended to them, and
14 thank you very much, Mr. President.

15 ACTING PRESIDENT FARLEY: Thank
16 you, Senator Holland.

17 Let me say on behalf of the New
18 York State Senate how pleased we are to have you
19 in our country.

20 Welcome to the faculty. We're
21 very proud of what you are trying to accomplish.

22 And to the guests in the gallery,
23 we also welcome you.

1 And on behalf of the Senate,
2 we're grateful to have you here and for what you
3 are doing and best wishes, and come back and
4 visit us again.

5 Thank you very much.

6 (Applause)

7 Now we will adopt the
8 resolution. On the resolution on behalf of the
9 Russian students, all those in favor say aye.

10 (Response of "Aye.")

11 Those opposed, nay.

12 (There was no response.)

13 The resolution is adopted.

14 All the resolutions have been
15 adopted. We do have some substitutions.

16 Senator Present, what's your
17 pleasure?

18 SENATOR PRESENT: Adopt the
19 resolutions.

20 ACTING PRESIDENT FARLEY: We have
21 done that.

22 THE SECRETARY: On page 5 of
23 today's calendar, Senator Skelos moves to

1 discharge the Committee on Insurance from
2 Assembly Bill Number 505 and substitute it for
3 the identical Calendar Number 714.

4 ACTING PRESIDENT FARLEY:
5 Substitution ordered.

6 THE SECRETARY: On page 25,
7 Senator Trunzo moves to discharge the Committee
8 on Civil Service and Pensions from Assembly Bill
9 Number 6989A and substitute it for the identical
10 Third Reading 610.

11 ACTING PRESIDENT FARLEY:
12 Substitution ordered.

13 THE SECRETARY: On page 28,
14 Senator Skelos moves to discharge the Committee
15 on Education from Assembly Bill Number 4463 and
16 substitute it for the identical Third Reading
17 638.

18 ACTING PRESIDENT FARLEY:
19 Substitution is ordered.

20 Senator Present.

21 SENATOR PRESENT: Mr. President,
22 can we have the title of Resolution 1306 read
23 and adopted.

1 ACTING PRESIDENT FARLEY: You
2 certainly may. 1306, would you read the title.

3 THE SECRETARY: Legislative
4 Resolution Number 1306, by Senator Marino,
5 Legislative Resolution calling upon the Congress
6 of the United States to rescind the action of
7 the Office of Management and Budget in combining
8 Long Island, Westchester, New York City and
9 northern New Jersey into one primary
10 metropolitan statistical area.

11 ACTING PRESIDENT FARLEY: On the
12 resolution. All those in favor, aye.

13 (Response of "Aye.")

14 Those opposed, nay.

15 (Response of "Nay.")

16 The resolution is adopted.

17 Senator Present.

18 SENATOR PRESENT: Mr. President,
19 I believe we're ready to take up the
20 noncontroversial calendar.

21 ACTING PRESIDENT FARLEY: We are
22 if you are.

23 Senator Present, Senator Maltese

1 would like to be recognized to open up a
2 resolution. Is that agreeable before we start
3 that?

4 SENATOR PRESENT: Yes.

5 ACTING PRESIDENT FARLEY: Senator
6 Maltese.

7 SENATOR MALTESE: Mr. President,
8 Legislative Resolution 1343, expressing
9 sincerest sorrow upon the occasion of the death
10 of Jim Valvano, the head coach at North Carolina
11 State, I would like to open that resolution to
12 all members of the house.

13 ACTING PRESIDENT FARLEY: If the
14 members would approach the desk or let the desk
15 know, for Mr. Valvano's untimely death, please
16 let the desk know.

17 We're ready for the calendar.
18 The Secretary will read. Noncontroversial.

19 THE SECRETARY: On page 14,
20 Calendar Number 290, by Senator Padavan, Senate
21 Bill Number 1577, Administrative Code of the
22 city of New York.

23 ACTING PRESIDENT FARLEY: There

1 is a home rule message at the desk.

2 Read the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect immediately.

5 ACTING PRESIDENT FARLEY: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 56.

9 ACTING PRESIDENT FARLEY: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 334, by Senator Saland, Senate Bill Number 796A,
13 an act to amend the General Business Law.

14 SENATOR GOLD: Lay it aside.

15 ACTING PRESIDENT FARLEY: Lay it
16 aside.

17 SENATOR GOLD: Can you give me
18 one half a second, please?

19 ACTING PRESIDENT FARLEY: Senator
20 Marchi.

21 SENATOR MARCHI: Mr. President,
22 if you will consent to a -- just a brief
23 interlude, we have some distinguished guests

1 that are here today. They come here annually in
2 response to a gathering of the clan of the St.
3 John's University here in Albany, and they will
4 be hosted by the Governor within the hour, and
5 some of them are in the galleries at the present
6 time. I look up here, and I believe they are
7 deployed. Father Jim Smith; Dean Rudolph
8 Hassel, St. John's University School of Law; the
9 Presiding Justice of the Second Department, Guy
10 Mangano, and a former colleague of ours; also a
11 former Senator -- I shouldn't say former, we
12 have that title for life -- Al Lewis; and
13 Senator and Judge Frank Pino; Assemblyman Joe
14 Kunzeman; John Monteleone; and I am assured that
15 there are other distinguished members of the
16 federal and state bar and bench up there; and if
17 I had their names, I would be introducing them.
18 But I want to guarantee this body that we have a
19 very impressive array of stars up here in the
20 gallery, and I know that you will extend your
21 welcome in your own inimitable fashion, Mr.
22 President.

23 ACTING PRESIDENT FARLEY: Thank

1 you, Senator Marchi. To the stars in the
2 gallery, we're so honored to have you here with
3 us and we hope you will come back and visit us
4 again. We need stars in the gallery.

5 Senator Gold, are you -- okay.
6 Let's continue. 511.

7 THE SECRETARY: Calendar Number
8 511, by Senator Cook, Senate Bill Number 1653A,
9 an act to amend the Education Law.

10 ACTING PRESIDENT FARLEY: Read
11 the last section.

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

14 ACTING PRESIDENT FARLEY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 56.

18 ACTING PRESIDENT FARLEY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 516, by Senator Saland, Senate Bill Number 3642,
22 an act to amend the Public Officers Law.

23 ACTING PRESIDENT FARLEY: Read

1 the last section.

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

4 ACTING PRESIDENT FARLEY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 56.

8 ACTING PRESIDENT FARLEY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 537, by Senator LaValle, Senate Bill Number
12 1432, General Municipal Law and the Town Law.

13 SENATOR LAVALLE: Lay it aside.

14 ACTING PRESIDENT FARLEY: Lay it
15 aside.

16 THE SECRETARY: Calendar Number
17 539, by Senator Stachowski, Senate Bill Number
18 1766A, authorizing the town of Cheektowaga to
19 lease certain parklands.

20 ACTING PRESIDENT FARLEY: There
21 is a home rule message here at the desk.

22 Read the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT FARLEY: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 56.

6 ACTING PRESIDENT FARLEY: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 568, by Senator Cook, Senate Bill Number 4156,
10 authorizing the Commissioner of General Services
11 to sell certain lands in the town of Ulster.

12 ACTING PRESIDENT FARLEY: Read
13 the last section.

14 THE SECRETARY: Section 2. This
15 act shall take effect immediately.

16 ACTING PRESIDENT FARLEY: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 56.

20 ACTING PRESIDENT FARLEY: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 574, by Senator Johnson.

1 ACTING PRESIDENT FARLEY: Lay it
2 aside.

3 THE SECRETARY: Calendar Number
4 600, by Senator Cook, Senate Bill Number 3027,
5 an act to amend the Insurance Law, in relation
6 to the purchase of prescription drugs.

7 SENATOR GOLD: Lay it aside.

8 ACTING PRESIDENT FARLEY: Lay it
9 aside.

10 THE SECRETARY: Calendar Number
11 602, by Senator Velella.

12 SENATOR GOLD: Lay it aside.

13 ACTING PRESIDENT FARLEY: Lay it
14 aside.

15 SENATOR PRESENT: Lay it aside
16 for the day.

17 ACTING PRESIDENT FARLEY: Lay it
18 aside for today.

19 THE SECRETARY: Calendar Number
20 618, by Senator Holland, Senate Bill Number 35,
21 amend Chapter 154.

22 SENATOR DALY: Lay it aside.

23 ACTING PRESIDENT FARLEY: Lay it

1 aside.

2 SENATOR DALY: On behalf of the
3 sponsor, Mr. President, will you star Calendar
4 618.

5 ACTING PRESIDENT FARLEY: The
6 bill is starred at the request of the sponsor,
7 618.

8 THE SECRETARY: Calendar Number
9 619, by Senator Cook, Senate Bill Number 1651,
10 creating an inter-agency council.

11 ACTING PRESIDENT FARLEY: Read
12 the last section.

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

15 ACTING PRESIDENT FARLEY: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 56.

19 ACTING PRESIDENT FARLEY: The
20 bill is passed.

21 THE SECRETARY: 620, by Senator
22 Velella, Senate Bill Number 2562.

23 SENATOR PRESENT: Lay it aside.

1 ACTING PRESIDENT FARLEY: Lay it
2 aside.

3 SENATOR PRESENT: For the day.

4 ACTING PRESIDENT FARLEY: For the
5 day.

6 THE SECRETARY: Calendar Number
7 621, by member of the Assembly Bennett, Assembly
8 Bill Number 6857, Executive Law, in relation to
9 the definition and provisions of rural areas.

10 ACTING PRESIDENT FARLEY: Read
11 the last section.

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

14 ACTING PRESIDENT FARLEY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 56.

18 ACTING PRESIDENT FARLEY: The
19 bill is passed.

20 THE SECRETARY: 622, by member of
21 the Assembly Bennett, Assembly Bill Number 6856,
22 Executive Law, in relation fought preparation
23 and submittal of the annual report of the Office

1 of Rural Affairs.

2 ACTING PRESIDENT FARLEY: Read
3 the last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect immediately.

6 ACTING PRESIDENT FARLEY: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 56.

10 ACTING PRESIDENT FARLEY: The
11 bill is passed.

12 THE SECRETARY: 624, by member of
13 the Assembly Grannis, Assembly Bill Number 2929,
14 General Business Law, in relation to the sale of
15 dogs and cats.

16 ACTING PRESIDENT FARLEY: Read
17 the last section.

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

20 ACTING PRESIDENT FARLEY: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 55, nays 1.

1 Senator DeFrancisco -

2 ACTING PRESIDENT FARLEY: Senator
3 DeFrancisco.

4 SENATOR DeFRANCISCO: May I
5 explain my vote.

6 ACTING PRESIDENT FARLEY: You
7 certainly may.

8 SENATOR DeFRANCISCO: This bill
9 would require a notice to be posted of pet
10 purchasers' rights to have the pet checked out
11 by a veterinarian and returned within fourteen
12 days if there's a problem. Present law already
13 requires the store to give a written notice to
14 each person they sell an animal to, and I think
15 it's a little bit of overkill now to require a
16 posted sign in addition to the written notice.
17 I understand the need to tell consumers what
18 their rights are, but I guess the next step
19 might be to require a written notice to read the
20 posted sign so that they make sure they know
21 that there's a posted sign. At some point, the
22 right to give notice has to give way to
23 reasonable business practices, and that's why

1 I'm voting no.

2 ACTING PRESIDENT FARLEY:

3 Negatives raise their hands, please.

4 THE SECRETARY: Ayes 54, nays 2.

5 Senators Daly and DeFrancisco recorded in the
6 negative.

7 ACTING PRESIDENT FARLEY: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 626, by Senator Sears, Senate Bill Number 4208,
11 Agriculture and Markets Law, in relation to
12 requirements for unit pricing of consumer
13 commodities.

14 SENATOR GOLD: Lay it aside.

15 ACTING PRESIDENT FARLEY: Lay it
16 aside.

17 THE SECRETARY: Calendar Number
18 627, by Senator Marchi, Senate Bill Number
19 1120A, authorizing the city of New York to
20 reconvey its interest in certain real property.

21 ACTING PRESIDENT FARLEY: There
22 is a home rule message here at the desk.

23 Read the last section.

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

3 ACTING PRESIDENT FARLEY: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 54.

7 ACTING PRESIDENT FARLEY: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 628, by Senator Padavan, Senate Bill Number
11 1126, authorizing the city of New York to
12 reconvey its interest in certain real property.

13 ACTING PRESIDENT FARLEY: Read
14 the last section. Oh, before you read the last
15 section, there is a home rule message here at
16 the desk.

17 Now you can read the last
18 section.

19 THE SECRETARY: Section 2. This
20 act shall take effect immediately.

21 ACTING PRESIDENT FARLEY: Call
22 the roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 56.

2 ACTING PRESIDENT FARLEY: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 629, by member of the Assembly Abbate, Assembly
6 Bill Number 3644, authorizing the city of New
7 York to reconvey its interest in certain real
8 property.

9 ACTING PRESIDENT FARLEY: There
10 is a home rule message at the desk on this bill.
11 Read the last section.

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

14 ACTING PRESIDENT FARLEY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 56.

18 ACTING PRESIDENT FARLEY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 634, by Senator Hannon, Senate Bill Number 4409,
22 an act to amend the General Municipal Law.

23 ACTING PRESIDENT FARLEY: Read

1 the last section.

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

4 ACTING PRESIDENT FARLEY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 56.

8 ACTING PRESIDENT FARLEY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 638, by member of the Assembly DiNapoli,
12 Assembly Bill Number 4463, Education Law, in
13 relation to estimated expenses for the ensuing
14 year of certain school districts.

15 ACTING PRESIDENT FARLEY: Read
16 the last section.

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

19 ACTING PRESIDENT FARLEY: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 56.

23 ACTING PRESIDENT FARLEY: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 639, by Senator Stafford, Senate Bill Number
4 4237, an act relating to state aid to North
5 Warren Central School District.

6 ACTING PRESIDENT FARLEY: There
7 is a local fiscal impact note at the desk.

8 Read the last section.

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

11 ACTING PRESIDENT FARLEY: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 56.

15 ACTING PRESIDENT FARLEY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 640, by Senator Larkin, Senate Bill Number 4343,
19 authorize the Department of Education to
20 apportion transportation aid.

21 ACTING PRESIDENT FARLEY: Local
22 fiscal impact note is here at the desk.

23 Read the last section.

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

3 ACTING PRESIDENT FARLEY: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 56.

7 ACTING PRESIDENT FARLEY: The
8 bill is passed.

9 THE SECRETARY: 642, by Senator
10 Saland, Senate Bill Number 45 -

11 SENATOR PRESENT: Lay it aside.

12 ACTING PRESIDENT FARLEY: Lay it
13 aside.

14 THE SECRETARY: Calendar Number
15 644, by Senator Saland, Senate Bill Number 4560,
16 an act to amend the Family Court Act.

17 SENATOR PRESENT: Lay it aside.

18 ACTING PRESIDENT FARLEY: Lay it
19 aside.

20 THE SECRETARY: Calendar Number
21 -

22 SENATOR PRESENT: Mr. President.

23 ACTING PRESIDENT FARLEY: Senator

1 Present.

2 SENATOR PRESENT: Would you have
3 called up 642. Inadvertently I asked it be laid
4 aside.

5 ACTING PRESIDENT FARLEY: Call up
6 642.

7 THE SECRETARY: Calendar Number
8 642, by Senator Saland, Senate Bill Number 4544,
9 an act to amend the Executive Law.

10 ACTING PRESIDENT FARLEY: Read
11 the last section.

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

14 ACTING PRESIDENT FARLEY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 56.

18 ACTING PRESIDENT FARLEY: The
19 bill is passed.

20 644 has been laid aside.

21 THE SECRETARY: Calendar Number
22 645, by Senator Volker, Senate Bill Number 1142,
23 an act to amend the Real Property Law.

1 ACTING PRESIDENT FARLEY: Read
2 the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect immediately.

5 ACTING PRESIDENT FARLEY: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 56.

9 ACTING PRESIDENT FARLEY: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 649, by member of the Assembly Weinstein,
13 Assembly Bill Number 5866, Estates, Powers and
14 Trusts Law.

15 ACTING PRESIDENT FARLEY: Read
16 the last section.

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

19 ACTING PRESIDENT FARLEY: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 56.

23 ACTING PRESIDENT FARLEY: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 650, by member of the Assembly Lasher, Assembly
4 Bill Number 4349, General Obligations Law.

5 ACTING PRESIDENT FARLEY: Read
6 the last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect immediately.

9 ACTING PRESIDENT FARLEY: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 56.

13 ACTING PRESIDENT FARLEY: The
14 bill is passed.

15 THE SECRETARY: 659, by Senator
16 Holland, Senate Bill Number 1806, an act to
17 provide for payment to providers for certain
18 claims.

19 ACTING PRESIDENT FARLEY: Read
20 the last section.

21 THE SECRETARY: Section 2. This
22 act shall take effect immediately.

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 56.

4 ACTING PRESIDENT FARLEY: The
5 bill is passed.

6 THE SECRETARY: 661, by Senator
7 Spano, Senate Bill Number 4337.

8 SENATOR GOLD: Lay it aside.

9 ACTING PRESIDENT FARLEY: Lay it
10 aside.

11 THE SECRETARY: Calendar Number
12 662, by Senator Holland, Senate Bill Number
13 4479, an act to amend -

14 SENATOR GOLD: Lay it aside.

15 ACTING PRESIDENT FARLEY: Lay it
16 aside.

17 THE SECRETARY: Calendar Number
18 666, by Senator Lack, Senate Bill Number 3498,
19 an act to amend the Penal Law.

20 ACTING PRESIDENT FARLEY: Read
21 the last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect immediately.

1 ACTING PRESIDENT FARLEY: Call
2 the roll.
3 (The Secretary called the roll.)
4 THE SECRETARY: Ayes 56.
5 ACTING PRESIDENT FARLEY: The
6 bill is passed.
7 THE SECRETARY: Excuse me. Ayes
8 55, nays one, Senator Montgomery recorded in the
9 negative.
10 ACTING PRESIDENT FARLEY: The
11 bill is passed.
12 THE SECRETARY: Calendar Number
13 667, by Senator Volker, Senate Bill Number 3866,
14 an act to amend the Criminal Procedure Law.
15 ACTING PRESIDENT FARLEY: Read
16 the last section.
17 THE SECRETARY: Section 2. This
18 act shall take effect immediately.
19 ACTING PRESIDENT FARLEY: Call
20 the roll.
21 (The Secretary called the roll.)
22 THE SECRETARY: Ayes 56.
23 ACTING PRESIDENT FARLEY: The

1 bill is passed.

2 THE SECRETARY: 672, by Senator
3 Volker, Senate Bill Number 4209, Criminal
4 Procedure Law.

5 ACTING PRESIDENT FARLEY: Read
6 the last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect immediately.

9 ACTING PRESIDENT FARLEY: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 56.

13 ACTING PRESIDENT FARLEY: The
14 bill is passed.

15 THE SECRETARY: 673, by Senator
16 Saland, Senate Bill Number 4417, Criminal
17 Procedure Law and the Family Court Act.

18 SENATOR GOLD: Lay it aside.

19 ACTING PRESIDENT FARLEY: Lay it
20 aside.

21 THE SECRETARY: Calendar Number
22 674, by Senator Hannon, Senate Bill Number 4460,
23 Civil Practice Law and Rules.

1 ACTING PRESIDENT FARLEY: Read
2 the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect immediately.

5 ACTING PRESIDENT FARLEY: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 56.

9 ACTING PRESIDENT FARLEY: The
10 bill is passed.

11 THE SECRETARY: 679, by Senator
12 Stafford.

13 SENATOR STACHOWSKI: Lay it
14 aside.

15 ACTING PRESIDENT FARLEY: Lay it
16 aside.

17 THE SECRETARY: Calendar Number
18 680, by Senator Padavan, Senate Bill Number
19 1275, an act to amend the Vehicle and Traffic
20 Law and the Administrative Code of the city of
21 New York.

22 ACTING PRESIDENT FARLEY: There
23 is a home rule message here at the desk.

1 Read the last section.

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

4 ACTING PRESIDENT FARLEY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 56.

8 ACTING PRESIDENT FARLEY: The
9 bill is passed.

10 THE SECRETARY: 681, by Senator
11 Cook, Senate Bill Number 2273, an act to amend
12 the Highway Law.

13 ACTING PRESIDENT FARLEY: There
14 is a home rule message here at the desk.

15 Read the last section.

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

18 ACTING PRESIDENT FARLEY: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 56.

22 ACTING PRESIDENT FARLEY: The
23 bill is passed.

1 THE SECRETARY: Calendar Number
2 682.

3 SENATOR STACHOWSKI: Lay it
4 aside.

5 ACTING PRESIDENT FARLEY: Lay it
6 aside.

7 THE SECRETARY: Calendar Number
8 683, by Senator Mega, Senate Bill Number 3005,
9 Vehicle and Traffic Law, in relation to the
10 inspection of motor vehicles.

11 ACTING PRESIDENT FARLEY: Read
12 the last section.

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

15 ACTING PRESIDENT FARLEY: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 56.

19 ACTING PRESIDENT FARLEY: The
20 bill is passed.

21 THE SECRETARY: 684, by Senator
22 Maltese, Senate Bill Number 3228, Vehicle and
23 Traffic Law, in relation to providing for \$1.50

1 fee for a ten-year non-driver identification
2 card.

3 ACTING PRESIDENT FARLEY: Read
4 the last section.

5 THE SECRETARY: Section 2. This
6 act shall take effect immediately.

7 ACTING PRESIDENT FARLEY: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 56.

11 ACTING PRESIDENT FARLEY: The
12 bill is passed.

13 Senator Present, that's the first
14 time through.

15 SENATOR PRESENT: Mr. President,
16 let's take up the controversial calendar.

17 ACTING PRESIDENT FARLEY:
18 Controversial calendar. But, before that,
19 Senator Libous.

20 SENATOR LIBOUS: Thank you, Mr.
21 President. Could I put a sponsor star on two of
22 my bills?

23 ACTING PRESIDENT FARLEY: You

1 certainly may.

2 SENATOR LIBOUS: Calendar Number
3 625 and Calendar Number 686.

4 ACTING PRESIDENT FARLEY: 625 and
5 686 are starred at the request of the sponsor.

6 SENATOR LIBOUS: Thank you.

7 ACTING PRESIDENT FARLEY:
8 Secretary will read controversial.

9 THE SECRETARY: On page 16,
10 calendar Number 334, by Senator Saland, Senate
11 Bill Number 7896A, an act to amend the General
12 Business Law.

13 SENATOR PRESENT: Lay it aside
14 temporarily.

15 ACTING PRESIDENT FARLEY: Lay it
16 aside temporarily.

17 THE SECRETARY: Calendar Number
18 537, by Senator LaValle, Senate Bill Number
19 1432.

20 SENATOR PRESENT: Lay it aside
21 for the day.

22 ACTING PRESIDENT FARLEY: Lay it
23 aside for the day.

1 THE SECRETARY: Calendar Number
2 574, by Senator Johnson, Senate Bill Number
3 1961, an act to amend the Environmental
4 Conservation Law.

5 ACTING PRESIDENT FARLEY:
6 Explanation. Senator Johnson.

7 SENATOR JOHNSON: Mr. President,
8 this is a bill for the conservation of striped
9 bass, the preservation of the species. It would
10 end all commercial exploitation of striped bass,
11 permit only a recreational fishery as is in
12 place in most of the states from Maine down to
13 Pennsylvania.

14 New Jersey made striped bass a
15 game fish only a few years ago. Right now,
16 Delaware and North Carolina are doing it. This
17 is required to protect the species from over
18 exploitation which has taken place under the
19 management of the DEC.

20 With some complicity from the
21 commercial fishermen, they have succeeded in
22 overharvesting this past year, doing damage to
23 the fishery and calling into question the

1 survival of the species, the reproduction of the
2 species.

3 In 1984, we did a bill changing
4 the size limits of striped bass from 16 inches
5 to 24 inches in order to permit the striped bass
6 to live long enough to reproduce. At that time,
7 with incomplete information provided by the
8 United States Marine Fisheries Commission of
9 which I am one of the commissioners, it was
10 assumed that the majority of the striped bass
11 females would be mature by the time they reached
12 the 24-inch length. We found out now that they
13 don't mature until 37 inches, and we have had a
14 limit for some years on the exploitation of fish
15 up to 36 inches by recreational fishermen,
16 essentially protecting them.

17 One of the other problems which
18 has come in trying to restore the stock of
19 striped bass is that the recoupment, or the
20 propagation, of survivable eggs to become an
21 infant fish and ultimately to survive has been
22 much lower than normal, much lower than
23 anticipated, particularly in Chesapeake Bay

1 which historically has provided for 90 percent
2 of the striped bass along the Eastern Coast,
3 Eastern Seaboard. The recoupment has been so
4 bad in Maryland and Virginia and the area
5 encompassed in the Chesapeake Bay that they are
6 nowhere near reproducing sufficient to keep the
7 fishery going. It's better in the Hudson
8 River. But the end result is that with the bad
9 recoupment down south and not too good here, the
10 stock has depreciated over the years.

11 We got a recreational fishery of
12 1.16 million recreational fishermen who have the
13 season, and they can only take one fish a day.
14 At the same time, two years ago, in response to
15 political pressure -- now, the fishery had been
16 closed for commercial fishermen, commercial
17 exploitation. Two years ago, in response to
18 political pressure from members of the ASFMC,
19 particularly Virginia, Maryland, and as well as
20 New York, they permitted the opening of the
21 commercial fishery in 1990, and the fishery
22 landings have gone up; but when you boil it all
23 down, it's still not a great commercial

1 importance in this state. We had 357 commercial
2 fishermen last year. The average harvest is
3 less than 500 pounds at \$3 a pound.

4 The new standard proposed because
5 of the overfishing, by DEC, would permit only
6 134,000 pounds which would be essentially 345
7 pounds per fisherman or about a thousand dollars
8 of value.

9 Now, fishermen obviously fish for
10 many other species, as well as fish, clams,
11 lobsters, and so on, so they're not dependent
12 upon this for a livelihood, but they have been
13 overexploiting it, and the amount of fish killed
14 by commercial fishermen has been almost equal to
15 that -- 357 commercial fishermen -- almost been
16 equal to that killed, not necessarily taken but
17 killed, by recreational fishermen who number
18 over a million people. So as you can see, the
19 commercial overexploitation is a danger to the
20 survival of these fish.

21 I think there's much evidence
22 been presented not only that the DEC would
23 continue the commercial fishery despite the

1 hazards of the recruitment and survival of the
2 fish, but they might even be intending to go
3 back to the most wasteful method of fishing
4 which is haul seining, and I think the DEC has
5 demonstrated in the last few years that due to
6 political pressure in the AFSCMC itself, whose
7 restrictions they say they abide by, they are
8 down there at the same time, team up with
9 Maryland and Virginia, to try to provide further
10 exploitation by commercial fishermen.

11 It's not a good situation. It's
12 got to change. Other states, as I say, from
13 Maine, New Hampshire, Connecticut, Pennsylvania,
14 New Jersey have no sale, no commercial fishery.
15 It's being explored at this time because of the
16 problems by Delaware and North Carolina,
17 Maryland, Virginia. They're also proposing to
18 control this and make it only a game fish
19 species on the East Coast as, indeed, it is on
20 the West Coast and has been for the last sixty
21 years.

22 So this is a bill which is very
23 timely. It has a lot of support. It's not

1 going to harm the commercial fishermen to any
2 great extent. It's going to help protect the
3 stock, and I think that's a very salutary reason
4 for this bill to be here today.

5 ACTING PRESIDENT FARLEY: Senator
6 LaValle.

7 SENATOR LAVALLE: Mr. President,
8 on the bill. I know that for many of our
9 colleagues, they often say to me and I know to
10 Senator Johnson, When are we going to have our
11 annual debate over one of the fishing bills?
12 And, indeed, throughout the years, my senior
13 colleague from Suffolk and I do enter into a
14 debate over the management of -- of the marine
15 life.

16 I must preface my remarks by
17 saying that as chairman of our Committee on
18 Environmental Conservation, Senator Johnson has,
19 not only the years he's been chairman but prior
20 to that, really devoted himself to trying to
21 maintain a quality of our marine life.

22 Today's debate is a very, very
23 important one, and it's one that I come to the

1 floor today and would hope that our colleagues
2 have an open mind, because too many times we
3 come to the debate and we make remarks for the
4 record. But today, I believe the facts and the
5 evidence are so very, very clear. They are so
6 clear that I'm going to lay out and spend some
7 time establishing a record here.

8 Now, let me just make one other
9 point. Senator Johnson represents, as many of
10 us do in this great forum, a point of view and a
11 particular interest. He represents the sports
12 fishermen on this issue and on many other
13 issues. I have represented the point of view of
14 the commercial fishermen who have a deep and
15 long history in the First Senatorial District.
16 And I believe that if I were not to get up in
17 many of these debates, the point of view of the
18 commercial fishermen would not really be
19 represented, because Senator Johnson represents
20 1.1 million sports fishermen. I am representing
21 in this debate people whose livelihood -- 357
22 commercial fishermen. 357 commercial fishermen.

23 Now, Senator Johnson opened his

1 remarks and said that his legislation is one of
2 conservation to protect the marine life. He
3 doesn't want to see exploitation. He doesn't
4 want to see damage to the species. The numbers
5 are so clear, are so clear. The people that
6 Senator Johnson represents catch 80 percent of
7 the striped bass. The people that I am
8 representing catch 20 percent of the striped
9 bass. The people that Senator Johnson
10 represents, the record that we have, caught
11 837,000 pounds, and the folks that I represent
12 caught 226,000 pounds.

13 Now, if we are worried and we are
14 talking about management of the species, I've
15 got to tell you, the numbers just defy logic
16 from Senator Johnson's point of view. I mean 80
17 percent versus 20 percent, 800,000 pounds that
18 his people catch versus 200,000 pounds, and
19 we're saying we're worried about the species and
20 we want to push out the group that is catching
21 20 percent? I mean I just -- it is mind
22 boggling.

23 I'm going to recite these figures

1 over and over again because it really in this
2 debate -- the debate is that simple because it's
3 illogical.

4 Now, my senior colleague is quite
5 a crafty legislator. I've got to believe that
6 this legislation is on the floor of the Senate
7 because the DEC is considering regulations or
8 there is some other reason that this legislation
9 is before us. I must say that I believe the
10 Governor is on record, as is the Department,
11 that they are opposed to this legislation. So
12 that assuming that this legislation would pass
13 today, the Governor has indicated that he would
14 veto it, and his Department has not only
15 presented a memorandum opposed, but I have never
16 seen in the years that I have been here a
17 memorandum from the DEC that strongly opposes a
18 bill before us.

19 Now, one of the problems the
20 people who I represent who have been involved in
21 the marine fisheries as commercial fishermen for
22 hundreds of years, and this has been handed down
23 from one generation to another. Who are these

1 people? Well, one of my constituents -- and I
2 have many who are authors in Eastern Long
3 Island. Peter Matthiessen wrote a book called
4 Men's Lives: The Surfmen and the Baymen of the
5 South Fork. And I have talked so many times
6 about some of the names of the commercial
7 fishermen who are recorded in history, the
8 Havens and the Lesters, the Kings and many, many
9 other names, but I think that Peter Matthiessen
10 lays out -- I'm going to, hopefully, not bore
11 you, but I think Matthiessen lays it out very,
12 very well. And it's some -- part of the problem
13 about the commercial fishermen and why they are
14 just many times buried under and legislation
15 passes here.

16 Matthiessen says: "They are
17 tough, resourceful, self-respecting and also,
18 some say, hidebound and cranky, too independent
19 to organize for their own survival. Yet even
20 their critics must acknowledge a gritty spirit
21 that was once more highly valued in this country
22 than it is today because their children can no
23 longer afford to live where their families have

1 harvested the sea and the land for 300 years.
2 These South Fork Baymen, old time Americans, who
3 still speak with the Kentish and Dorset
4 inflections of Elizabethan England, may soon
5 become rare relics from the past like the
6 Atlantic white whales, a cow, a calf, that in
7 the winter of 1984-85 had been appearing here
8 and there off the ocean beach."

9 Matthiessen also talks about -
10 just to give you a perspective of who these
11 people are and what they do and what they are up
12 against as commercial fishermen; and indeed,
13 they are the true commercial fishermen. They
14 are not part-timers who have a job and just go
15 out and fish, do lobstering, or fish and sell it
16 to our restaurants.

17 Matthiessen says here, "Full-time
18 baymen -- there are scarcely 100 left on the
19 South Fork -- must also be competent boatmen,
20 netmen, carpenters, and mechanics and most could
21 make good money at a trade, but they value
22 independence over security preferring to work on
23 their own schedule responsible only to their own

1 families. Protective of their freedom to the
2 point of stubbornness, wishing only to be left
3 alone, they have never asked for and never
4 received direct subsidies from the town or
5 county, state or federal government. Being
6 self-employed, they receive none of the modern
7 social supports such as unemployment insurance
8 and sickness compensation; and because their
9 income is uncertain and irregular, they can
10 rarely obtain bank loans and mortgages. Yet
11 every year, they find themselves taxed harder
12 for their boats and trailers, trucks and
13 gasoline, shellfish digging and shipping
14 licenses, docking lines, scallop opening
15 license, permits to take certain species."

16 And you've seen Senator Johnson
17 here session after session passing legislation
18 requiring permits and seasons, and these are the
19 very people who have to deal with the
20 regulations that have been imposed.

21 Just one more piece that I would
22 like to read because I think it reflects how
23 long this debate has been going on that Senator

1 Johnson and I have talked about, whether it be
2 striped bass or other issues. This issue on
3 striped bass goes back to the 1930s, and the
4 East Hampton Star had in one of its pieces,
5 February 2, 1934, and it goes to show you how
6 things change but they don't change, "The sports
7 fishing organizations are seeking such
8 legislation here on the east end of Long Island
9 as our people do not want. It affects the
10 freedom of our bays to everyone and permits only
11 such fishing methods as their bill might
12 approve."

13 And so I'm going to read you some
14 other editorials of today. South Hampton Press
15 talks about, "Debate has begun in the state
16 legislature over a proposal to declare the
17 striped bass a game fish prohibiting the sale of
18 any wild stripers. The bill has been filed in
19 the Legislature at the behest of groups
20 representing recreational fishermen. Those
21 groups sanctimoniously declare that it is their
22 abiding concern for the welfare of the
23 threatened bass that motivates them. 'Greedy

1 commercial fishermen threaten the survival of
2 the noble striper,' they declare. Hogwash!
3 Recreational fishermen kill far more stripers
4 than do commercial fishermen. They land more
5 stripers than do commercial fishermen, and they
6 kill even more stripers than they land because
7 so many of the stripers released by recreational
8 fishermen die soon thereafter. The simple truth
9 is that the recreational fishermen are putting
10 far more pressure on striped bass populations
11 than commercial fishermen are."

12 And I read you the statistics.
13 80 percent versus 20 percent. 800,000 pounds
14 versus 226,000 pounds. I leave it to you to say
15 who is destroying the marine resource.

16 The East Hampton Star -- this is
17 now 1993 not 1934 -- "The 1992 Chesapeake spawn
18 of striped bass was one of the three largest in
19 the last 20 years. So large, in fact, that
20 officials feared the bass would consume
21 Maryland's entire crop of valuable crabs." And
22 it goes on, "Despite all this, a bill introduced
23 in the New York State Legislature two weeks

1 ago..." This editorial, by the way, appeared in
2 February. "... two weeks ago would hand striped
3 bass over entirely to recreational anglers. The
4 bill's sponsor, Senator Owen Johnson..." and it
5 goes on and on talking about the sports
6 fishermen, much as it did some sixty years ago.
7 It's like the clock had stopped.

8 Resolution -- we get resolutions
9 all the time from our towns. Resolution from
10 the town of East Hampton. It's the same town,
11 some of you may have read, where there was a
12 demonstration by Billy Joel, by the Supervisor
13 Tony Bullock, and many others, pointing out the
14 problems and the woes and the imbalance on this
15 issue that our commercial fishermen must face.
16 And they gave us a resolution opposing the
17 striped bass game fish bill. "That the town
18 board of the town of East Hampton opposes
19 Assembly Bill A-3390 and Senate Bill 1961 in the
20 strongest terms possible and calls into question
21 the moral and scientific justification for
22 conferring game fish status on one of long
23 Island's most popular eating fish; and further

1 be it resolved..." Et cetera, and on and on and
2 on.

3 Now, let me get to the
4 department's position. And I know that all of
5 us have had problems with the DEC. I must tell
6 you that I have not seen in a more public way a
7 memorandum in bold type strongly opposing this
8 legislation. "Department of Environmental
9 Conservation strongly opposes this legislation
10 which eliminates the department's authority to
11 regulate striped bass and which bans the sale
12 and commercial harvesting of striped bass in New
13 York. The ban on the sale of commercial
14 harvesting of striped bass is unwarranted and
15 without scientific basis. Current restrictions
16 on commercial and recreational catch of striped
17 bass are sufficient to protect the resources and
18 there is no need -- no need to further reduce
19 harvest at this time. If such a need develops,
20 it would be necessary to reduce both -- both
21 commercial and recreational catch because New
22 York's recreational catch far exceeds commercial
23 landings. New York's recreational harvest

1 totalled 12.4 percent and 14.4 percent of the
2 total coastwide harvest for striped bass for the
3 years 1990 and 1991. While the state's
4 commercial harvest for the same time two years
5 comprised only 2.2 percent and 2.3 percent,
6 respectively."

7 So again, the facts and if you
8 listen to the facts, they just overwhelmingly
9 support defeat of this legislation.

10 There was a letter by the
11 director of the DEC legislative unit. "I'm
12 writing to correct an error in the March 29
13 edition of the Legislative Gazette." The letter
14 goes on, of course, opposed to Senator Johnson's
15 bill. There's something very key here. It
16 says, "If a need develops to further protect
17 striped bass, it is more likely that the
18 recreational harvest which exceeds the
19 commercial harvest by about 3 to 1 would be
20 curtailed." So once again, the DEC is saying
21 wait a minute. Wait a minute. Look at the
22 numbers. It's not the commercial fishermen who
23 are causing the problem. It's the recreational

1 fishermen. There must be another reason why we
2 have this legislation on the floor, and why
3 we're trying to keep the commercial fishermen
4 from making a living, doing something they've
5 done for hundreds of years and change the
6 balance in this state from one class of
7 individuals to another and also deprive -
8 deprive, ladies and gentlemen, in restaurants
9 across the state, the ability to enjoy striped
10 bass. The only people who would be able to
11 enjoy it are those who catch it.

12 Senator Johnson talked about the
13 Atlantic States Marine Fisheries Commission. In
14 a piece here again, "Based on the most
15 scientific information available, the Hudson
16 stock continues to be in good condition while
17 the Chesapeake and Delaware stocks are
18 improving."

19 Some of you might recall the
20 debate. There were members who were not here in
21 1984, when the legislation passed increasing the
22 size of striped bass. And at that time, I said
23 over and over again the problem wasn't that we

1 were catching too many. The problem down in the
2 Maryland Chesapeake area was one of pollution,
3 one of pollution, and we are doing a lot to
4 reverse that.

5 The East Hampton Town Baymen's
6 Association goes on to document over and over
7 again, why are they picking on us? Why is the
8 Legislature proposing this bill when the figures
9 show very, very clearly that we, the commercial
10 fishermen, are only catching 20 percent, or
11 226,000 pounds, as opposed to the recreational
12 fishermen who are catching 80 percent or 837,000
13 pounds. Since no purpose of conservation would
14 be accomplished by making bass a game fish, what
15 is the point of depriving consumers of a
16 preferred item on the menus of restaurants as
17 well as in the home?

18 And, lastly, Brookhaven Baymen's
19 Association, "That indicates very, very clearly,
20 we would like to emphasize, that strict
21 coastwide management set forth by the ASMFC
22 including size and gear restrictions, limited
23 entry, record keeping and quotas as implemented

1 by the New York State DEC has, in fact, resulted
2 in the strong rebound of the species."

3 So, my colleagues, I say to you
4 today and I've tried to lay out as factually as
5 I can what I believe are really bogus arguments
6 on the part of my colleague, Senator Johnson.
7 This argument has been going on for literally
8 decades and probably there will be two
9 legislators, maybe from Long Island, from other
10 parts of the state, 20 or 30 years from now on
11 this floor exceeding our lifetime, political
12 lifetime, I would think, Senator Johnson,
13 arguing, making the same arguments, and the
14 arguments really are very, very simple. It's
15 the recreational fishermen wants something that
16 the commercial fishermen of. They've redefined
17 who a commercial fisherman is.

18 As you know in many parts of Long
19 Island, commercial fishermen are really people
20 who have a full-time job, have some extra time
21 during the work week or week ends, go out, clam,
22 catch fish, catch lobsters, sell them to
23 restaurants. They have used the legislative

1 process because their numbers using the 1.1
2 million sports fishermen as both a shield and a
3 sword has produced legislation that you have so
4 skillfully devised and gotten through both
5 houses. But, Senator, I must tell you that this
6 legislation at this time is not warranted. It
7 really isn't, and it means a whole lot of
8 difference to the people in my district who work
9 as commercial fishermen, whose families have
10 worked as commercial fishermen and who an author
11 devoted an entire book and who, as everyone
12 knows the name Billy Joel, a song to these
13 people who really by the sweat of their brow
14 have really made an investment in our county,
15 have produced for the people I think something
16 really decent and we should not destroy it. We
17 should not destroy it.

18 So I ask my colleagues to look at
19 the facts, the evidence that I think is
20 overwhelming, and I ask your support for the
21 commercial fishermen of my district and vote no.

22 (Whereupon, Senator Volker was in
23 the chair.)

1 ACTING PRESIDENT VOLKER: Senator
2 Solomon.

3 SENATOR SOLOMON: Thank you, Mr.
4 President. Will Senator Johnson yield, please?

5 ACTING PRESIDENT VOLKER: Senator
6 Johnson, do you yield?

7 SENATOR JOHNSON: Yes.

8 ACTING PRESIDENT VOLKER: Senator
9 Solomon. Senator Johnson yields.

10 SENATOR SOLOMON: As you know, I
11 try and go recreational fishing. I just have
12 two questions after reading the DEC memo. One,
13 is there a different size limit for commercial
14 fishermen than recreational fishermen?

15 SENATOR JOHNSON: Yes.

16 SENATOR SOLOMON: There is. Can
17 you tell me what the size limit for commercial
18 fishermen is?

19 SENATOR JOHNSON: Yes. It's 24
20 to 39 inches.

21 SENATOR SOLOMON: Is that in the
22 coastal area or south of the Washington Bridge?

23 SENATOR JOHNSON: Well, yes, from

1 George Washington Bridge south.

2 SENATOR SOLOMON: It's 24 inches?

3 SENATOR JOHNSON: No -- yes,
4 twenty... For commercial 24 to 39 inches. It's
5 36 inches for recreational fishermen.

6 SENATOR SOLOMON: Okay. That's
7 question number 1. So commercial fishermen are
8 allowed -

9 ACTING PRESIDENT VOLKER: Senator
10 yields.

11 SENATOR SOLOMON: Senator,
12 correct me if I'm wrong, but if I go out
13 recreational fishing in New York Bay, out in
14 Graves End Bay and I catch a 33-inch striped
15 bass and the commercial fisherman catches it, I
16 have to throw that 33-inch striped bass back but
17 the commercial fisherman can keep that 33-inch
18 striped bass?

19 SENATOR JOHNSON: That's correct.

20 SENATOR SOLOMON: Okay. Just
21 another question, Senator Johnson.

22 ACTING PRESIDENT VOLKER: Senator
23 Johnson, do you continue to yield?

1 SENATOR JOHNSON: Yes.

2 SENATOR SOLOMON: Does he yield?

3 ACTING PRESIDENT VOLKER: He
4 yields.

5 SENATOR SOLOMON: Does the
6 department -- the department memo, at the bottom
7 of the department memo, it indicates that they
8 seem to be thinking about changing the 36-inch
9 minimum and lowering it for recreational
10 fishermen. Have you had any discussions with
11 them? Are they considering that change this
12 year?

13 SENATOR JOHNSON: Well, no, as a
14 matter of fact, it has been permitted for
15 recreational fishermen to take 28-inch fish, but
16 -- I mean the ASMFC plan would permit 28-inch
17 fish, but the recreational fishermen in their
18 desire to preserve the species and to insure
19 their reproduction have asked the department to
20 stay with 36 inches for recreational fishermen,
21 and that's what's been done. We could have gone
22 to 28 if we chose to do so. Well, I mean
23 because we're interested -- the recreational

1 fishermen are interested in the continuation of
2 the species not just getting all the meat they
3 can get as quick as they can get it.

4 SENATOR SOLOMON: Mr. President,
5 if Senator Johnson will continue to yield?

6 ACTING PRESIDENT VOLKER: Senator
7 Johnson, will you continue to yield?

8 SENATOR SOLOMON: What I'm
9 concerned about, Senator, is that in my area the
10 -- I guess you call them recreational, but the
11 people who run small charter boats in the Sheeps
12 Head Bay-Graves End area have complained that in
13 fact it's almost impossible in that Graves End
14 Bay-Sheeps Head Bay area to land a 36-inch
15 striped bass today. It's maybe one out of a
16 hundred. Whereas, they had felt the problem
17 being that New Jersey, which is literally only
18 two miles away and across the bay, had a lower
19 limit and they would much rather have a limit
20 just a few inches lower, possibly 28 inches, 30
21 inches, and that's what they are concerned
22 about. I'm just wondering whether the
23 department according to this memo has been

1 having discussions about changing that limit
2 now?

3 SENATOR JOHNSON: Senator, do you
4 have a question? Did I miss the last point of
5 your question?

6 SENATOR SOLOMON: Thank you. I
7 think -- okay. The people that hire small
8 charter boats out in the Graves End-Sheeps Head
9 Bay area have said that it's very rare to catch
10 a 36-inch striped bass in that area. Generally,
11 it might be one out of a hundred, one percent of
12 the fish landed might be 36 inches. They've
13 also stated only a few miles away in the New
14 Jersey waters you can catch fish at a lower
15 limit. I believe it's 28 inches.

16 I'd just like to know whether or
17 not -- because this bill freezes the limit -
18 whether or not the department has been
19 considering or talking about making that change
20 in this year? Because they really consider it a
21 blight on their business, on the small charter
22 business, having that 36-inch limit.

23 SENATOR JOHNSON: Well, Senator,

1 if this bill passes, the DEC will not have
2 regulatory control over the striped bass any
3 more, and this limit will stay into effect as
4 did our 24-inch from 16 inches in 1984 until
5 it's changed by the Legislature.

6 We feel, unfortunately, though
7 the case might be made by some people that this
8 is a political bill, actually the political
9 activities are taking place in the ASMFC and the
10 Department of Environmental Conservation;
11 whereas, the people who are interested in the
12 survival of these species want this limit to
13 stay in effect and this ban on commercial
14 exploitation in order to guarantee the
15 continuation of the species. That means we can
16 change it, as we're -- as we would be
17 attempting to do now, if that was the desire of
18 the Legislature to do so and if the recruitment
19 out there demonstrates that there is a
20 continuing -- a population large enough to
21 continue the reproduction of the species.

22 SENATOR SOLOMON: One last
23 question, Mr. President.

1 ACTING PRESIDENT VOLKER: Senator
2 Johnson yields.

3 SENATOR SOLOMON: Does New Jersey
4 bar commercial fishermen, Senator? Are you
5 aware?

6 SENATOR JOHNSON: Yes. New
7 Jersey, Connecticut, Rhode Island, New
8 Hampshire, Maine. The only place where it's
9 open is Massachusetts, and that's just a hook
10 and line fishery.

11 And that's one of the problems
12 with the Noble Knights of the Sea as portrayed
13 by Senator LaValle, that their attitude as
14 recently expressed by their director. Arnold
15 Leo said, "We have the right to catch all the
16 striped bass we want, whenever we want, by
17 whatever means we want." And that's one of the
18 reasons why they have killed many more fish than
19 they have ever taken because of their gill nets,
20 their pound nets, and of course the now banned
21 haul seine method which suffocates all of the
22 fish whether they are desirable or not and
23 leaves very few in the net actually of legal

1 size to be sold but the rest are dead,
2 nevertheless.

3 SENATOR SOLOMON: Thank you.

4 ACTING PRESIDENT VOLKER: Senator
5 Johnson.

6 SENATOR JOHNSON: If I may I
7 would just like to sum up that there have been
8 many abuses by the -

9 ACTING PRESIDENT FARLEY: Senator
10 Johnson. Senator Dollinger is looking for
11 recognition.

12 SENATOR JOHNSON: Oh, I didn't
13 know, Senator.

14 SENATOR DOLLINGER: Yes, Mr.
15 President. I want to apologize to my colleague,
16 through you, Mr. President. He was going to sum
17 up. I just had a couple brief comments on this
18 bill.

19 I come to the striped bass debate
20 I guess with a different perspective from
21 several of my colleagues. I've never seen one,
22 never caught one, and never tasted one. But I
23 do have a lesson that comes to you from Western

1 New York that involves trout, salmon and frankly
2 the resource that we have in abundance in Lake
3 Ontario, and it's just an example that I think
4 we should all think about as we discuss, and I
5 have to acknowledge Senator LaValle's very
6 powerful plea for both an industry and for his
7 community.

8 One, I guess I'm surprised. As I
9 read it, Senator LaValle -- and certainly jump
10 up and correct me if I'm correct -- what DEC is
11 doing and what Senator Johnson is trying to
12 avoid or trying to eliminate is a fishing
13 industry. Is that correct? I mean DEC in their
14 current policy will protect this commercial
15 fishing industry, people who make their
16 livelihood in the commercial fishing business,
17 which -- as most of the members of this chamber,
18 I'm sure, have heard this before -- DEC is often
19 accused of not doing. Since it's usually DEC
20 that's accused of putting people out of
21 business, I find it ironic that DEC is in the
22 business of protecting the commercial fisheries
23 in this case.

1 But the example of Lake Ontario
2 and the fishing horticulture of Lake Ontario is
3 one that should be kept in mind as this debate
4 occurs. In the late 1880s, Lake Ontario was
5 filled with lake trout. There was an enormous
6 commercial fishery based in Lake Ontario because
7 of the abundance of lake trout. By the early
8 part of this century, it was wiped out, no
9 indigenous predator fish of any major size in
10 Lake Ontario. It was through the action of DEC
11 that the introduction of the chinook and the
12 Coho salmon and all of the trout back into the
13 lake occurred.

14 We're now -- Senator Daly, who
15 isn't here, he and I have talked a number of
16 times about the continuing DEC management of the
17 fishery population in the lake. There has been
18 a proposal to reduce the stocking this year by
19 50 percent as a consequence of a diminution in
20 the fish that's the target of the predator, a
21 little fish called the alewife.

22 The lesson in all this, I think,
23 Mr. President, is that, as I see it, DEC is in

1 an unusual posture here of protecting a
2 commercial fishery. And I, for one, who have
3 had my disputes with DEC about the wisdom of
4 their choices in regulation of the fish in my
5 neck of New York State, nonetheless, I have to
6 agree that in this instance it appears as though
7 DEC's regulation is reasonable, and I, for one,
8 am very concerned about the future of the
9 commercial fisheries.

10 As I said, I'm new to this
11 industry, but I hear one of my colleagues
12 suggesting that a major portion of his district
13 and its financial livelihood may be adversely
14 affected if Senator Johnson's bill takes
15 effect. So under those circumstances, although
16 I haven't had the pleasure of tasting striped
17 bass, in this case I will join my colleague
18 Senator LaValle and vote against this measure.

19 ACTING PRESIDENT FARLEY: Senator
20 Johnson, do you want to sum up?

21 SENATOR JOHNSON: Yes, I would
22 like to say, Mr. President, that with 357
23 fishermen and with the amount of fish they took

1 on average, it's less than \$1500 a person, with
2 the new quota which is prescribed this year
3 because of overfishing last year. In addition
4 you might want to know the way they have
5 continued overfishing. These commercial
6 fishermen get paid by the pound. So they might
7 catch so many fish of 28, 29, 34, 36-inch,
8 whatever, and in order that they have a limited
9 number of tags, they would throw away the fish
10 which were the shortest and keep the largest
11 ones. So they succeeded in overfishing by
12 essentially throwing away very valuable fish;
13 that they could be sold or they could be caught
14 by recreational fishermen, but because they
15 wanted to maximize their income, they threw away
16 the smaller ones of limited range and kept the
17 larger ones, just wasting the resource.

18 I might say that their gear
19 restrictions allow for a lot of waste. The
20 commercial by-catch wasted was 57,000 pounds in
21 -- let me see. No, 57,000 pounds. Gill netting
22 was 21,000 pounds. And during the closed
23 season, they had another by-catch mortality of

1 37,000 pounds. And that is where the argument
2 was made in Nick Harris' column that even though
3 the quota for commercial fish was much less than
4 could be caught by recreational fishermen, the
5 fact is that their gear killed so many more fish
6 that were never commercially used or exploited
7 but just simply killed because of their
8 harvesting practices.

9 In addition, there was continued
10 reports of fraud in the tagging system. When we
11 did the bill in 1984, there were 30 commercial
12 fishermen. Now there are 357. Why is that?
13 Because their tags were really -- many people,
14 before they were formally commercial fishermen
15 and got tagged, sold or gave these tags to
16 friends who then exploited that fishery. So we
17 didn't protect the 30 families or the 30
18 people. We protected a lot of entrepreneurs who
19 got in there and saw a fast way to make a dollar
20 resulting in overharvesting of these fish.

21 I think it's demonstrated fairly
22 clearly that the DEC cannot manage this fishery
23 not only because of what I just said but because

1 of the simple fact that when the Young of the
2 Year Index, which has been a traditional method
3 of measuring recruitment didn't suit the
4 purposes of the commercial fishermen in Maryland
5 and Virginia and New York, they ended up using
6 something else called "adaptive management"
7 which again has been proven to be a failure.

8 There is not going to be any
9 particular impact in general on the commercial
10 fishermen certainly not of any great magnitude
11 to their livelihood, but it would be a bad
12 impact -- if we continue this type of political
13 management of the fishery, it will be a bad
14 impact on the fishery.

15 And you might be interested to
16 know that though the DEC opposes this bill this
17 year, in 1983 they opposed the 24-inch limit,
18 going from 16 to 24; but yet, in 1984, when the
19 light finally came on and they realized what
20 they have had been doing, permitting this
21 continued fishing to go on, then they came out
22 with a memo in support the following year. I
23 suggest it will be the same thing this year when

1 they realize that this management plan, which
2 has been demonstrated not to work in the past
3 year, will be demonstrated again if they
4 continue to have this theory, not to work and
5 they will have to support a measure like this to
6 eliminate the commercial exploitation and
7 guarantee the survival of the fishery.

8 ACTING PRESIDENT VOLKER: Senator
9 Gold.

10 SENATOR GOLD: Yes. Will Senator
11 Johnson yield to a question?

12 ACTING PRESIDENT VOLKER: Senator
13 Johnson, will you yield to Senator Gold?

14 SENATOR JOHNSON: Yes.

15 SENATOR GOLD: Senator, first,
16 just a comment. If you say that the passage of
17 this bill will not have a great financial impact
18 on the fishermen, then I gather that they can't
19 be taking that much. So I don't know what that
20 fuss is all about.

21 SENATOR JOHNSON: They don't take
22 much, Senator, but they kill many. That was the
23 argument that I'm making.

1 SENATOR GOLD: I'm sorry. Can
2 you explain it to me, please? It doesn't have to
3 be a long, drawn-out thing, but I missed that
4 point.

5 SENATOR JOHNSON: Yes. If you
6 like, I will just quote from here because it's a
7 convenient way -

8 SENATOR GOLD: No, just very
9 briefly, in 30 seconds. You are saying that
10 they are not taking the fish, but they're
11 killing them. That's what I'm trying to
12 understand.

13 SENATOR JOHNSON: That's right.
14 It's the question of how many do
15 you keep and catch. Recreational anglers caught
16 755,000 fish and kept 42,000. The rest they
17 returned to the water.

18 SENATOR GOLD: Can I ask you a
19 question, Senator?

20 SENATOR JOHNSON: Yes.

21 SENATOR GOLD: All right.
22 Senator, I am very concerned about numbers. I
23 was away a week end ago, and I was on a little

1 tour boat, and somebody said that there are only
2 1300 Manatees, for example, left in the world.
3 And I said to myself, "How do you go about
4 counting them?"

5 You are now telling me that there
6 were 750,000 fish caught, 42,000 kept. I just
7 don't know how that numbering is done. When a
8 person goes out with their son or daughter on a
9 Saturday or Sunday morning and goes fishing and
10 they bring back the striped bass, is there a
11 phone number that they call to say how many fish
12 they caught and how many they are keeping?

13 SENATOR JOHNSON: Senator, you
14 would be interested to know, perhaps, that the
15 National Marine Fishery Service spends a lot of
16 money on surveys. All the figures are here.
17 The amount of fish caught each year by each
18 method, autotroll, pound net, gill, handlines,
19 et cetera. From 1939 to 1977 happens to be on
20 this chart; and further updating your
21 statistical services are constantly taking -- in
22 fact, here is the annual report of the DEC to
23 the New York -

1 SENATOR GOLD: Thank you.

2 SENATOR JOHNSON: -- to the
3 ASMFC, and that report is here as well -

4 SENATOR GOLD: Thank you, Senator.

5 SENATOR JOHNSON: -- on the most
6 recent season. So the figures are available.

7 SENATOR GOLD: Right.

8 SENATOR JOHNSON: And the
9 situation, though there are very few commercial
10 fishermen, they've actually caught or killed as
11 opposed to selling, as many as the recreational
12 fishermen.

13 SENATOR GOLD: Thank you. Mr.
14 President, may I speak on the bill?

15 ACTING PRESIDENT VOLKER: Senator
16 Gold on the bill.

17 SENATOR GOLD: Mr. President,
18 Minority Leader, my colleagues, I love math. I
19 love numbers and it always fascinates me about
20 what people do with statistics. I've been doing
21 some gun control legislation and I've read
22 figures, and I'm just trying to figure out how
23 many times people use guns to protect

1 themselves. Somebody said Oh-oh, there's a
2 court that said over 600,000 times a year people
3 are drawing their guns. When I did the study, I
4 found out that the guy that did it, how he came
5 out with that number, God only knows. He did
6 that number based on New York City figures. I
7 mean this guy is on another planet.

8 Now, I don't know how you figure
9 out how many fish are caught by sport fishermen
10 who go out on a boat. They catch fish; they go
11 home. They give some to the neighbors, they
12 cook it and whatever and somebody decides at the
13 end of the year that there was so many fish,
14 41,000 fish got caught out of 750,000 fish.

15 Now, it's ludicrous. I am
16 somebody who is concerned about conservation. I
17 think it's disgusting that there are creatures
18 that have become endangered because of man, and
19 I am in total agreement with -- with the -- and
20 I have great empathy for those guys' arguments
21 but they got to be based on something. They
22 really have to be based on something.

23 Now, it's no secret in this house

1 that I am not enamored of the Department of
2 Environmental Conservation. I think sometimes
3 they serve us memos with no back-up, which is
4 ridiculous. I think that there are times, as I
5 pointed out, Senator Johnson, that their
6 enforcement seems absurd. But you don't throw
7 out the baby with the wash water -- bath water,
8 and you don't just throw away the Department.

9 This department is regulating an
10 industry, and, in all fairness, I listened to
11 Senator LaValle, and I think that you have to
12 come to this floor with some burden of proof
13 that -- this isn't a trial, Senator Johnson. I
14 concede that, but does the Department that seems
15 to think it's doing its job, where you claim
16 that it's going to do nothing to affect
17 adversely the fishermen and, in my opinion, that
18 says to me that they catch a lot of fish. If
19 they're not catching a lot of fish, what do we
20 have to make a big stink over them for? And then
21 the answer is that if they're catching a lot of
22 fish and they're endangering a species then your
23 statement is not correct, that it can't have an

1 impact on the industry because it will.

2 So I think that there's a huge
3 gap here in terms of information, and credible
4 information. Senator Johnson, you are always
5 credible to me, but you are, after all, reading
6 other people's information so not meant to be
7 personal, so I -- the Department involved
8 strongly opposes this legislation, and while I
9 am the first one to ignore them when they don't
10 back it up, when they have backed it up with a
11 memo, and based upon some of the comments I've
12 heard on this side of the aisle, when the time
13 comes we will ask for a slow roll call on the
14 legislation.

15 ACTING PRESIDENT VOLKER: Read
16 the last section.

17 Senator -- I'm sorry. Senator
18 LaValle.

19 SENATOR LAVALLE: Yes, if I may,
20 Mr. President.

21 ACTING PRESIDENT VOLKER: Senator
22 LaValle on the bill.

23 SENATOR LAVALLE: A few closing

1 remarks. Once again, facts and figures do not
2 bear out a position why this bill should be on
3 the floor and why it deserves an affirmative
4 vote.

5 Senator Johnson, this bill means
6 a lot of money to the east end of Long Island
7 and to people who have made investment in
8 fishing. This could mean anywhere between
9 three-quarters of a million to a million dollars
10 for eastern -- eastern Long Island.

11 I simply say, and you have laid
12 out in other debates the -- why we should comply
13 with management plans for the Atlantic Coast
14 Fisheries Commission, and I -- and we are in
15 compliance. Now, if the signs show that the
16 fish are in jeopardy, no one should be
17 harvesting -- harvesting the fish, but to allow
18 one group who clearly are catching 80 percent of
19 the fish, I mean I just don't understand how you
20 can say, well, we're just going to knock out the
21 20 percent.

22 So I just ask if there is a
23 problem, and I know we all have a problem with

1 DEC, feel that the regulation, and so forth,
2 should not be in the hands of the Department, it
3 should be done statutorily and compromises
4 should be worked out. I think people should sit
5 down and work those out, but to eliminate a
6 group of people from the resource, I think, is
7 very, very difficult.

8 You know, when this debate began
9 back in Suffolk County, there were meetings and
10 hearings, and so forth. I asked someone what
11 was a game fish because I didn't know what the
12 category meant, and it's my understanding, and I
13 could be wrong, but it would be put with salt
14 water gamefish such as the white/blue marlin,
15 the sailfish and the long-bill sailfish, so we
16 would be putting the striped bass in that
17 category, gamefish, and I just think, again, it
18 defies logic to put the striped bass in with
19 those kinds of fish that clearly most people
20 would say would be identifiable as gamefish.

21 So, once again, I ask for your
22 support in voting against this legislation.

23 ACTING PRESIDENT VOLKER: Read

1 the last section.

2 SENATOR GOLD: Slow roll call.

3 ACTING PRESIDENT VOLKER: Slow
4 roll call.

5 THE SECRETARY: Section 10. This
6 act shall take effect immediately.

7 ACTING PRESIDENT VOLKER: Read
8 the roll slowly.

9 THE SECRETARY: Senator Babbush
10 excused.

11 Senator Bruno.

12 SENATOR BRUNO: Yes.

13 THE SECRETARY: Senator Connor.

14 SENATOR CONNOR: No.

15 THE SECRETARY: No.

16 Senator Cook.

17 SENATOR COOK: Yes.

18 THE SECRETARY: Senator Daly.

19 (There was no response.)

20 Senator DeFrancisco.

21 SENATOR DeFRANCISCO: Yes.

22 THE SECRETARY: Senator

23 Dollinger.

1 SENATOR DOLLINGER: No.
2 THE SECRETARY: Senator Espada.
3 SENATOR ESPADA: No.
4 THE SECRETARY: Senator Farley.
5 SENATOR FARLEY: Aye.
6 THE SECRETARY: Senator Galiber.
7 SENATOR GALIBER: No.
8 THE SECRETARY: Senator Gold.
9 SENATOR GOLD: No.
10 THE SECRETARY: Senator
11 Gonzalez.
12 (There was no response.)
13 Senator Goodman.
14 SENATOR GOODMAN: Yes.
15 THE SECRETARY: Senator
16 Halperin.
17 SENATOR HALPERIN: Yes.
18 THE SECRETARY: Senator Hannon.
19 SENATOR HANNON: Yes.
20 THE SECRETARY: Senator
21 Hoffmann.
22 (There was no response.)
23 Senator Holland.

1 SENATOR HOLLAND: Yes.

2 THE SECRETARY: Senator Johnson.

3 SENATOR JOHNSON: Mr. President,
4 may I explain my vote.

5 ACTING PRESIDENT VOLKER: Senator
6 Johnson to explain his vote.

7 SENATOR JOHNSON: We have had
8 some discussion of economic impact on some
9 people. I didn't put it that way. I really put
10 it on the fact that the political manipulation
11 of the ASMFC by New York's commissioner, not
12 myself as one of them, but the commissioner
13 representative of DEC and those representing the
14 states of Virginia and Maryland, have caused
15 them to cease to use the scientific method which
16 has been revered for the 60 years and come up
17 with an entirely new method of management and
18 what they call that is "adaptive management".

19 That means political management.
20 That means political mismanagement, so instead
21 of using the young of the year Index which show
22 a faltering rate of reproduction, they decided
23 to use other -- other indexes, for example, the

1 previous year's fishing effort and how that
2 worked out. Some part of the young of the year
3 index, also spawning stock, biomass, and they've
4 been creative in this respect, disregarding the
5 impact on the -- on the fishery for political
6 purposes.

7 It has been said as well that the
8 -- that there's been no -- no compensation to
9 the commercial fishermen for the loss of the
10 striped bass fishery which took place quite a
11 few years ago. The simple fact is, in 1986, the
12 Governor through the DEC has given striped bass
13 -- given a striped bass emergency assistance
14 program. They've given over a million dollars
15 in loans to those people during that time to get
16 out of the striped bass fishery and to get into
17 other commercial fishery activities. So the
18 commercial fishermen who were there at the time
19 the 1984 bill was passed did not suffer any
20 great loss, in fact were encouraged to do other
21 types of fishing because we didn't know when and
22 if this would ever -- this other fishery would
23 ever come back again.

1 In addition to that, there have
2 been contracts given out -- contracts given out
3 for them to do haul seining for research
4 purposes on behalf of the DEC.

5 SENATOR LAVALLE: Mr. President.

6 ACTING PRESIDENT VOLKER: Senator
7 LaValle, why do you rise?

8 SENATOR LAVALLE: Do Senators
9 still have two minutes to explain their vote or
10 have we extended that?

11 ACTING PRESIDENT VOLKER: I think
12 Senator Johnson was just about to finish up.

13 SENATOR JOHNSON: Oh, yes. I was
14 defining economic value, so while there might be
15 a few hundred thousand dollars value to
16 commercial fishermen there's 1.5 billion, 1.6
17 million people involved in the recreation
18 fishing. Certainly the spawning stock, the fish
19 in the water belong to all of us, not just to a
20 few commercial fishermen.

21 I vote aye.

22 ACTING PRESIDENT VOLKER: Senator
23 Johnson in the affirmative. Senator Johnson in

1 the affirmative. Continue the roll.

2 THE SECRETARY: Senator Jones.

3 SENATOR JONES: No.

4 THE SECRETARY: Senator Kuhl.

5 SENATOR KUHL: Aye.

6 THE SECRETARY: Senator Lack.

7 SENATOR LACK: Aye.

8 THE SECRETARY: Senator Larkin.

9 SENATOR LARKIN: Aye.

10 THE SECRETARY: Senator LaValle.

11 SENATOR LAVALLE: No.

12 THE SECRETARY: Senator

13 Leichter.

14 SENATOR LEICHTER: Yes.

15 THE SECRETARY: Senator Levy.

16 SENATOR LEVY: Aye.

17 THE SECRETARY: Senator Libous.

18 SENATOR LIBOUS: Aye.

19 THE SECRETARY: Senator Maltese.

20 (There was no response.)

21 Senator Marchi.

22 (There was no response.)

23 Senator Marino. Aye.

1 Senator Markowitz.
2 (There was no response.)
3 Senator Masiello.
4 (There was no response.)
5 Senator Mega.
6 SENATOR MEGA: Yes.
7 THE SECRETARY: Senator Mendez.
8 (There was no response.)
9 Senator Montgomery.
10 (There was no response.)
11 Senator Nolan.
12 SENATOR NOLAN: Yes.
13 THE SECRETARY: Senator
14 Nozzolio.
15 SENATOR NOZZOLIO: Aye.
16 ACTING PRESIDENT VOLKER: Senator
17 Montgomery is here now.
18 THE SECRETARY: Senator
19 Ohrenstein.
20 SENATOR OHRENSTEIN: No.
21 THE SECRETARY: Senator Onorato.
22 SENATOR ONORATO: No.
23 THE SECRETARY: Senator

1 Oppenheimer.
2 SENATOR OPPENHEIMER: Yes.
3 THE SECRETARY: Senator Padavan.
4 SENATOR PADAVAN: Yes.
5 THE SECRETARY: Senator Pataki.
6 SENATOR PATAKI: Yes.
7 THE SECRETARY: Senator
8 Paterson.
9 (There was no response.)
10 Senator Present.
11 SENATOR PRESENT: Aye.
12 THE SECRETARY: Senator Saland.
13 SENATOR SALAND: Yes.
14 THE SECRETARY: Senator
15 Santiago.
16 (There was no response.)
17 Senator Sears.
18 SENATOR SEARS: Yes.
19 THE SECRETARY: Senator Seward.
20 SENATOR SEWARD: Yes.
21 THE SECRETARY: Senator Sheffer.
22 SENATOR SHEFFER: Yes.
23 THE SECRETARY: Senator Skelos.

1 SENATOR SKELOS: Yes.
2 THE SECRETARY: Senator Smith.
3 SENATOR SMITH: No.
4 THE SECRETARY: Senator Solomon.
5 SENATOR SOLOMON: Yes.
6 THE SECRETARY: Senator Spano.
7 SENATOR SPANO: Aye.
8 THE SECRETARY: Senator
9 Stachowski.
10 SENATOR STACHOWSKI: Yes.
11 THE SECRETARY: Senator
12 Stafford.
13 SENATOR STAFFORD: Aye.
14 THE SECRETARY: Senator
15 Stavisky.
16 SENATOR STAVISKY: Yes.
17 THE SECRETARY: Senator Trunzo.
18 SENATOR TRUNZO: Yes.
19 THE SECRETARY: Senator Tully.
20 SENATOR TULLY: Aye.
21 THE SECRETARY: Senator Velella.
22 SENATOR VELELLA: Yes.
23 THE SECRETARY: Senator Volker.

1 SENATOR VOLKER: No.
2 THE SECRETARY: Senator Waldon
3 excused.
4 Senator Wright.
5 SENATOR WRIGHT: Aye.
6 ACTING PRESIDENT VOLKER:
7 Absentees.
8 THE SECRETARY: Senator Daly.
9 (There was no response.)
10 Senator Gonzalez.
11 (There was no response.)
12 Senator Hoffmann.
13 SENATOR HOFFMANN: Yes.
14 THE SECRETARY: Senator Maltese.
15 SENATOR MALTESE: Aye.
16 THE SECRETARY: Senator Marchi.
17 SENATOR MARCHI: Aye.
18 THE SECRETARY: Senator
19 Markowitz.
20 SENATOR MARKOWITZ: Yes.
21 THE SECRETARY: Senator
22 Masiello.
23 (There was no response.)

1 Senator Montgomery.

2 SENATOR MONTGOMERY: No.

3 THE SECRETARY: Senator

4 Paterson.

5 (There was no response.)

6 Senator Santiago.

7 (There was to response.)

8 ACTING PRESIDENT VOLKER:

9 Results.

10 THE SECRETARY: Ayes 41, nays

11 13.

12 ACTING PRESIDENT VOLKER: The

13 bill is passed.

14 Senator Present.

15 SENATOR PRESENT: Mr. President,

16 is there any housekeeping to be done?

17 ACTING PRESIDENT VOLKER:

18 Negative, Senator.

19 SENATOR PRESENT: Mr. President,

20 there being no further business, I move that we

21 adjourn until tomorrow at 11:30 a.m.

22 ACTING PRESIDENT VOLKER: Senate

23 is adjourned until tomorrow at 11:30 a.m.

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(Whereupon at 5:55 p.m., the
Senate adjourned.)