ALBANY, NEW YORK

December 17, 1993

2:28 p.m.

REGULAR SESSION

LT. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

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

(The assemblage repeated the Pledge of Allegiance to the Flag.)

There being no visiting clergy, I'd like to ask everyone present to observe a moment of silence.

(A moment of silence was observed.)

Secretary will read the Journal.

THE SECRETARY: In Senate, Thurs day, December 16th. The Senate met pursuant to adjournment. The Journal of Wednesday, December 15th, was read and approved. On motion, Senate adjourned.

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

Senator Onorato, I notice it's

not in your job description but would you please close that door.

SENATOR ONORATO: It would be my pleasure.

THE PRESIDENT: Thank you.

SENATOR ONORATO: Read the last section.

THE PRESIDENT: When it's your bill, I will, I guarantee you.

Senator Present, do you want to proceed with the -

SENATOR PRESENT: Can we return to reports of standing committees.

THE PRESIDENT: Secretary - Secretary will read.

THE SECRETARY: Senator Marino, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 6222, by Senator Daly, an act to amend the Business Corporation Law;

Senate Bill Number 6223, by the Committee on Rules, an act to amend the Highway

Law;

Senate Bill Number 6224, by Senator Lack, an act to amend the Workers' Compensation Law; and

Senate Bill 6225, by the Committee on Rules, Racing, Parimutuel Wagering and Breeding Law.

All bills reported directly for third reading.

THE PRESIDENT: Without objection, third reading.

Senator Spano.

SENATOR SPANO: Housekeeping, Mr. President.

THE PRESIDENT: Yes.

SENATOR SPANO: The -- I'd like to call up my bill 2020-B, having passed both houses and not delivered to the Governor.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Spano, Senate Bill Number 2020-B, an act to amend the Mental Hygiene Law, in relation to the

reinvestment of funds into community-based services.

SENATOR SPANO: Ask to reconsider the vote by which the bill was passed and have the bill restored to third reading calendar.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 50.

SENATOR SPANO: Now move to recommit to the Committee on Rules with instructions to the Committee to strike out the enacting clause.

THE PRESIDENT: So ordered.

SENATOR PRESENT: Senator Present.

SENATOR PRESENT: Recognize Senator Stachowski, please.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: On behalf of Senator Masiello, I'd like to call up his

privileged resolution that's at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senator Masiello, commending Judson Price, leader of the Winslow Avenue Black Club for his consummate courage.

THE PRESIDENT: On the resolution, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The resolution is adopted.

Senator Trunzo.

SENATOR TRUNZO: Mr. President, I believe there is a privileged resolution at the desk, ask that its title be read and immediate adoption.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senator Trunzo, expressing

sincerest sorrow upon the death of Kyle M. Hart, Director of the District Office, 3rd New York - 3rd New York Senatorial District.

THE PRESIDENT: On the resolution, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The resolution is adopted.

Senator Present.

SENATOR PRESENT: Senator Nozzolio, please.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I have a privileged resolution at the desk, that I rise with great sorrow to ask the clerk to read. It recognizes the untimely death of our friend and colleague, Assemblyman Frank Talomie. I ask the clerk to read.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative

Resolution, by Senators Nozzolio, Marino and Kuhl, mourning the death of Assemblyman Frank G. Talomie, Sr., on December 1, 1993.

WHEREAS, it is the sense and duty of this legislative body to mourn publicly the death of an esteemed colleague whose life was characterized by a selfless commitment to service to the people of the United States of America, New York State and western New York;

In deference to this duty and in full accord with its long-standing traditions, it is the sense of this legislative body to mourn the death of our beloved friend, Assemblyman Frank G. Talomie, Sr., who was taken from us on December 1, 1993;

Frank G. Talomie, Sr. embodied the epitome of public service and exemplified this commitment over the battle fields of World War II, in the Assembly Chamber and across the 129th Assembly District;

Frank G. Talomie began his life in public service with a distinguished and honorable military career which began in 1942

when he enlisted in the United States Army Air Force Cadet Program;

Commissioned on June 12th, 1943, Frank G. Talomie served as an instructor in the night fighter program, served in the Pacific Theatre during World War II and fought in the heralded invasion of Iwo Jima, considered by many to be the most important United States victory in the Pacific Theatre;

Frank G. Talomie embarked upon a distinguished career in public service as an assistant court clerk, was quickly promoted to special court clerk in 1958, and was elected Ontario County Clerk in 1970, serving as Commissioner of Jurors since 1971;

He was elected to the Assembly in 1980 and was re-elected to six more successive terms, enjoying the immense popularity among his constituents and a reputation for unparalleled constituent service among his colleagues;

Assemblyman Talomie, at the time of his death, served as chairman of the Joint Conference Committee, ranking minority member of

the Committee on Local Government, member of the Committees on Veterans Affairs and Tourism, Arts and Sports Development, the New York State Legislative Commission on State/Local Relations and the Minority Task Force on Economic Growth;

In addition to his dedication and devotion as a state legislator, Frank G. Talomie was also active in his community in a number of philanthropic and service organizations including Winnel Post, American Legion; Geneva Rotary Club; American Heart Association, Clifton Springs Hospital and Clinic Advisory Group; Moose Club, Sons of Italy and the Knights of Columbus.

Frank G. Talomie is survived by Mona, his wife of 50 years; his son, Frank G. Jr.; his daughter Patricia and three grand children;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to mourn the death of Assemblyman Frank G. Talomie, Sr., an esteemed and admired colleague who demonstrated a commitment to

public service which should serve as an example to all that hold public office, and

BE IT FURTHER RESOLVED that copies of this resolution, suitably engrossed, be transmitted to his wife and children.

SENATOR NOZZOLIO: Mr. President.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On behalf of Senator Kuhl, Senator Marino and myself, we would like to open up sponsorship of this resolution.

THE PRESIDENT: I think all members would probably want to sponsor this resolution.

On the resolution, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The resolution

is adopted.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Maltese, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: That's Senate Print 2042.

THE PRESIDENT: Without objection, so ordered.

Senator Present.

SENATOR PRESENT: Can we take up Calendar 1714.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 1714, by the Senate Committee on Rules, Senate Bill Number 6223, an act to amend the Highway Law, in relation to the Long Island Suburban Highway Improvement Program.

THE PRESIDENT: There is a message of necessity at the desk.

SENATOR PRESENT: I move we accept the message.

THE PRESIDENT: On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is accepted or adopted, and the message is accepted.

Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50 -- ayes 49, nays three, Senators Dollinger, Hoffmann and Jones recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Let's take up Calendar Number 1715.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 1715, by the -- by Senator Lack, Senate Bill Number 6224, an act to amend the Workers' Compensation Law. Senator Lack moves to discharge the Committee on Rules from Assembly Bill Number 8934 and substitute it for the identical Senate Bill 6224.

THE PRESIDENT: Substitution ordered.

SENATOR PRESENT: Mr. President, I understand there's a message at the desk.

THE PRESIDENT: Yes, there is.

SENATOR PRESENT: I move that we accept the message.

THE PRESIDENT: On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to, and the message is accepted.

Senator Lack.

SENATOR LACK: Thank you, Mr. President.

There is an old unwritten rule that Senator Anderson, when he was Majority Leader, told me the first year I was here and that is that if a bill is passing or there are no problems with it -- thanks, Joe, leave it - leave it alone.

I apologize in advance for those who have been here longer than I that that's not going to happen today, and I'll have a few things to say about Workers' Compensation, particularly after the performance I witnessed last night in our other house, in the Assembly, which passed the bill 146 to nothing.

For some of you in this house, that is a little sense of deja vu since we did the same thing with virtually the same managed care bill earlier this year. You're not at all mistaken, and do not mistake, we did pass a managed care Workers' Compensation bill unanimously in this house on July 5th, before we

adjourned.

One might ask, why in the middle of December we are back again passing a Workers' Compensation piece of legislation.

If you're in my age group you grew up watching television and, among other things you watched on television, watching television, an announcement from the Soviets that they had just invented television. I saw that again last night, and that brings us to why, Joe, unfortunately we're going to spend a few minutes discussing Workers' Compensation and I, unfortunately, invite all of you to become part of a bully pulpit, and which I hope will be many more changes that will take place in the Workers' Compensation system in the years to come.

To dispense with the mechanics of the bill vis-a-vis Workers' Compensation managed care, the bill 6224 that we are passing today in the Senate, as to the mechanics of how managed care will operate, is virtually the same as S. 5886-C which all of you voted for in July, so

unless there are actual questions on it, I won't bore you with the actual mechanics of how the managed care system would function. There certainly are additions to this bill.

One, as many of you know, there have been ongoing discussions between the Senate, the Assembly and the Governor's office for years on the elimination of the 13 percent differential, the surcharge that Workers' Compensation patients pay with respect to the hospital care. Any unilateral elimination of that surcharge solves one problem, its impact upon the Workers' Compensation system, but creates another problem, the cost to the hospitals for loss of -- loss of the surcharge and solving one problem and not the other problem solves absolutely nothing.

This bill reflects what hopefully will be the results of a bill we'll be considering later today, the NYPHRM resolution, which will have a phased-out reduction of the 13 percent differential. This bill says, assuming that that reduction happens, then the Workers'

Compensation Rating Board, not a government agency, should consider an appropriate reduction in Workers' Compensation rates in the state of New York as a result of the differential; whatever reduction in differential is agreed to in NYPHRM should be reduced in regs. That, together with a piece on changes in assessments, will be the immediate short-term impact for reduction in rates.

Now, the first question that's always asked is, what is that reduction going to be? Again, that is not done by act of the state Legislature but by action of the Workers' Compensation Rating Board, and the estimates range from five percent up to I've heard ten percent, assuming the Workers' Compensation Board meets and makes those reductions to the 14.4 percent increase in rates that were in effect on October 1st of this year.

During the Assembly debate last night, Assembly Majority Leader Michael Bragman made more than a few comments about the purity and responsibility of the Assembly in having

discovered in July which, according to the Assembly, is when the calendar begins for the year, in July that there were problems in the Workers' Compensation system and that they immediately reacted to it, and by September they were able to hold a series of hearings in Albany, Rochester and Buffalo, together with a roundtable -- though I think the table might have been square, but a roundtable in Syracuse somewhat later, and developed an Assembly package of 19 bills which the Assembly then considered in a one-house one-day session on November 15th.

First comments: The legislative session begins in January. The Governor's State of the State message reflected a concern by the Governor of rising Workers' Compensation costs and the need to at least try to meet that by beginning a reform in the Workers' Compensation system for managed medical care. In February, March, April, May and June before the Assembly began its year in July, the Senate and the Governor met 18 times to discuss Workers'

Compensation and managed care. The Assembly was invited to all 18 of those meetings and showed up less than half the time to the meetings.

A bill was developed. The bill 5886-C that passed this house unanimously, and last time I checked unanimously that was with the support of all Senate Republicans and all Senate Democrats, as a program bill that was slugged at the request of the Governor, a bipartisan approach worked out between the Republican majority of this house and the Democratic Governor of the state of New York, at least the first in my 15 years in the Senate.

The second comment that I should tell you here today, has the people on my staff, and I will again change practice and mention my own committee director, Connie Varcasia, who when we went up over a hundred hours in negotiating this bill, I think we stopped counting, who has spent countless weeks and months doing the bill, Bill Doherty, assistant counsel to the Senate Majority and Greg Serio, of Senate Velella's staff, who advised on the

insurance portions of the bill, and all worked very hard in bringing this to a three-way fruition. But we also have Susan Whitely, Assistant Counsel to the Governor, David Wright who is assistant to the Secretary to the Governor and Director of Public Papers. Can you get a subscription to that? I don't know what they are, but it sounds good. Angela Dickinson -- Dickson, from the Director of Office Policy and Management for the Governor, who is sitting in the chamber today, and, you know, as one of those who routinely criticizes the Governor when it's appropriate, it certainly is time to thank the Governor and his staff for their participation on a bipartisan, non-partisan basis to develop this piece of legislation, and great credit also goes to Liz Moore who, as you know, is Counsel to the Governor, but if you ask her what she does if she wasn't counsel to the Governor, she'd tell you she's a labor lawyer and had great personal interest in working out this piece of legislation.

The reason I don't want to go

into, unless you want me to, the actual tenets of this bill, is that it's not so much what the bill does, it's what the bill represents that's important today. For the first time in over 50 years, we are passing a reformation of the Workers' Compensation system that is not linked to benefit increases in the system.

For almost 50 years in this state Legislature, the only way we have been permitted to look at the Workers' Compensation system is as an adjunct to an increase in benefits. That has always meant that 98 percent of the time is spent on what should the benefits rise to and two percent of the time is devoted towards reforming the system, and the word "reform" in Workers' Compensation was considered in -- at least up until today, a pejorative and somehow harming workers by trying to change the Workers' Compensation system.

We are changing that today. This is not about benefits. This is about providing a more efficient way for workers to get through the Workers' Compensation system if they're

injured and return to work.

If this serves as a precedent, it should lead us down the path of looking at further reforms. Those who have wanted to maintain the status quo, thousands of people in this state whose living depends on the Workers' Compensation system not changing have opposed this bill. Some of those people are in law firms, some of those people are in medical practices. Some of those people are employees of the Workers' Compensation Board, all of whom know that if there are reformations in the Workers' Compensation system which make the system more efficient, more responsible to those who actually need the system, they will receive less out of it themselves in terms of payment, and they don't want that to change. We begin those changes today.

Last night, in response to a question, Assemblyman Bragman challenged Assemblyman George Winner to explain to him, Majority Leader Bragman, how, if there is a change in what's called Dole v. Dow, which I

don't think I have to explain on this floor, how that could save the people of the state of New York money.

Dole v. Dow, a 1972 Court of Appeals decision, today costs as an insurable risk between 167 million and 350 million to the people of the state of New York without any benefit whatsoever. Assemblyman Bragman has refused to allow the Assembly to consider the implications of Dole v. Dow on the Workers' Compensation system and what could happen if it was eliminated in terms of a reduction of cost.

Not too long ago, I was in Syracuse and went to the Syracuse newspapers - Gus Bliven, who was here, was at the editorial board meeting that I went to, and he remarked then that he was sorry that Assemblyman Bragman wasn't there in person so that we could thrash out the differences between the Senate and the Assembly, particularly on issues like Dole v. Dow.

Of course, I couldn't speak last night on the Assembly floor, and Assemblyman

Bragman, if he were here this afternoon, can't speak on the Senate floor. So if Peter Lyman of the Syracuse papers would want to extend the invitation for Assemblyman Bragman and I in his home town to show up at the same place at the same time to thrash out the differences between the Senate and the Assembly on issues like Dole v. Dow and further reform of the Workers' Compensation system, I would be happy to respond positively to that information and, as a matter of fact, if Mr. Bragman would like, we can go all over the state and visit as many editorial boards as he'd like and we can discuss the differences between the two houses on more reform issues in Workers' Compensation and who can do what.

Every newspaper I have seen from Buffalo to Rochester to Syracuse to Utica to Albany, to the New York Daily News, to NEWSDAY on Long Island who has taken a look at what the Senate has outlined in Workers' Compensation and the managed care package and what the Assembly finally came around and outlined, has opted for

the Senate package.

As late as December 6th, the Albany Times-Union, in an editorial said, Pass Workers' Comp. Reform. The Albany Times-Union always states an issue and then their opinion right up at the top, and they said, "The Assembly claims the Senate is driving up insurance costs by delaying action on needed legislation. Our opinion: The criticism is misguided. Lawmakers should adopt the Senate bill."

That has been repeated in paper after paper the length and breadth of this state.

There are in the years to come, with the precedent setting of the passage of this bill today, many immediate issues that we can continue to do to reform the Workers' Compensation system. I know the second floor is willing to discuss all of them. The Senate is willing to discuss all of them. The challenge as to the Assembly in this state to join us in that and to begin with, I throw a further chal

lenge out to the Senate -- to the Assembly.

Forty-two states in the United States index benefits for Workers' Comp. They automatically increase according to a central index. New York is one of the eight states that do not, and the reason we have not is because the only time we can talk about the Workers' Compensation system is when we handle benefits. But with the passage of this historic legislation, that's now changed, and the Senate will immediately throw out to the Assembly an exchange:

New York can, in January 1994, become the 43rd state to index benefits if the Assembly will join us in repealing Dole v. Dow and reducing Workers' Compensation rates another 6 percent in January as well, and if the Assembly doesn't want to do that, I'll be glad to join Mr. Bragman once again at all editorial boards or any place else and we can discuss the differences between the houses and why the Assembly wouldn't want to do that for our own sake as well as the sake of all working men and

women in the state of New York.

This bill has been a long time coming. It certainly has been a difficult negotiation. It's here; I'm very happy and pleased that the Assembly passed it unanimously following what we did earlier this year. I'm also pleased at the response from both sides of the aisle after we left session in this house, from many of you who have maintained an interest in the problems in the Workers' Compensation system and your desire to continue to explore changes in that system so that New York joins the ranks of those states who have progressively made their Workers' Compensation system more efficient and better for workers throughout their state.

Thank you.

THE PRESIDENT: Last section. Oh, I'm sorry. Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I rise today, I guess, in an unusual position. I hear the chairman of the

Labor Committee saying good things about the second floor. I sometimes wonder whether, as we approach Christmas, our attitudes change, but I do have to -- I'm someone who's raised a finger at the other side of the aisle and been critical of things that have happened.

This day I rise, I think, in a sense of obligation to point a finger of praise. I believe that this bill is a good bill. I believe it's one that does great things for the compensation system, establishes a system that will be more responsive to the developing concepts of medical care for those who are injured on the job.

I want to commend the Senate Labor Committee and its chairman for the fine work in this bill and also add the thanks of my community. I'm one of those from a strong manufacturing community that has a large number of employers who are interested in the types of changes that are incorporated in this bill, and Senator Lack has listened not only to the general voice of business in Rochester but

specifically to Eastman Kodak Company, my largest employer, and I greatly appreciate it.

I would be remiss, however, in not passing one other finger of praise across the aisle. I didn't get a chance to speak on the community reinvestment bill yesterday, but I would extend the same credit to Senator Spano for his work in that. That's a landmark piece of legislation. I'm proud that we're doing a second landmark piece today.

I do have one caution, however, to throw into this bill, and I'm pleased to see that the 18-month study by the Cornell Industrial Labor Relations School is in this bill, because I predict, at least in my community, there will be a tidal wave of movement to managed care in Workers' Comp.

I am concerned about the limitations. I've talked to the chairman; I understand that they're sizeable enough to accommodate a large number of employers, but the bill addresses regional concerns and then sets up a series of employer varieties that will be

considered in coming into the managed care system.

It's at least my prediction that in my community there will be a rush to managed care. There will be large numbers of employers, and my other concern is the method of applying for the managed care system. It seems to me many of the small employers that I represent have all their Workers' Compensation care handled through their insurance carrier. They simply pay a bill, the agent shows up once every couple years to take a check to tell him what his coverage is and many of the small employers may not have the facility to apply to get into managed care which could be, under certain circumstances depending on how many people apply, could be a complicated process for a small employer.

I know that the bill makes a provision for employer associations, and I think that that's a good step in the right direction, but I think there's also the possibility that small employers will look at the administrative

cost of having someone on their staff go out and figure out how to apply and put the paperwork together and make all of the other arrangements that may deter small employers from joining this system.

If the managed care system works, the great benefit of it should be to smaller employers which could find a significant reduction in their compensation costs. So it's my hope that, with that caution, the Industrial Labor Relations School at Cornell will study that particular aspect, the issue of small business participation as well as regional participation in the managed care system, to see whether this bold venture that we're, I think, properly putting before the people of this state today, to see whether the promise of that venture actually comes to pass for employers who desperately need it.

But I think this is a good bill. I think it's an important step. I again reiterate my commendation to the Labor Committee and its chairman for its fine work.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: I'd just like to rise as the ranking member of the Labor Committee and commend Senator Lack for his fine work in representing the Senate in negotiations and getting this bill to the point where it is today, a conclusion that everyone seems to be happy with.

I'd also, not to be contrary to him, but I'd also like to commend the Assembly on having their hearings and their roundtables and inviting all the interested parties that wanted to testify in each location, afford them the opportunity to testify because I think it served the purpose in relieving a lot of the concerns and bringing out the concerns of the various interested parties with any kind of bill that would make changes in Workmen's Compensation and those concerns are legitimate ones.

People are concerned that they might be returning to an old system of a company

doctor, not that they are, but they had concerns that they might be and, if it took time, it took meetings to clarify that and make them comfortable with that, then I commend them for taking that time and having those meetings and making people more comfortable with the change that was going to take place in very serious part of their daily lives, what happens to them if they get hurt on the job, and what kind of treatment they'll get afterwards, and I think that's a legitimate concern, and I'm glad that the Assembly took the time to do that, and I'm also commending Senator Lack for taking the time during his off-session time to travel the state and meet with all the editorial boards and give his opinion on what was important to be done in Workmen's Compensation and what the Senate's position was, so that they knew both sides while the Assembly was holding their meetings, Senator Lack was visiting the editorial boards, and I commend him for taking the time in doing that.

I'd also like to commend Senator Lack, not only as the chairman of Labor, but as

an attorney because, you know, attorneys don't always like to do pro bono work. But Senator Lack, in a busy negotiating time and after all of that was done, he took the time to serve as pro bono counsel to Assemblyman Winner during the debate, to help him with his answers when Senator -- Assemblyman Bragman was asking him those very difficult questions on Dole v. Dow that he apparently didn't have the wherewithal to answer. His counsel wasn't as familiar as Senator Lack was, so he left his group, went to his side and served as pro bono counsel, and I hope he doesn't submit a bill. That will make me feel bad that I gave him all this credit for doing it pro bono, and I'm sure that both of them will be more than happy and have more than enough energy to travel around the state debating all those various issues because they both seem to like to do those kind of things.

I also would like to commend all of the interested parties, both the business people and the union people that have voiced their concerns and went along with the

negotiations and stayed on top of this and always made their concerns known, and also the Governor's people, for bringing this to where it is, and we as the Minority are very happy to have the opportunity to finally get to vote for a bill that's agreed upon by everybody and that will serve as a way to help correct some of the problems with Workmen's Comp., hopefully bring down the costs in Workmen's Compensation and make our system much better to deal with.

I'd also like, and I would have been wrong if I didn't mention that I'm glad that finally some of the commission's recommendations are also included, because a lot of people took a lot of time serving on that Commission on Workmen's Compensation and came up with some pretty good pieces that will help with some structural changes that, in the long run, will make it a better system, and after having mentioned all these things, I'm glad that I'll have a chance to vote yes on a bill that I hope, after we pass it, everybody doesn't start yelling at me again like last time that nobody

was opposed at the point of passage.

I don't want to see you after the fact again and everybody yelling at us, how dare you pass this bill unanimously, so I hope that this bill is unanimously passed, and I commend all the parties that took the time to do all that work on it.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Mr. President, I ask that we stand at ease for a while.

THE PRESIDENT: The Senate will stand at ease.

(Whereupon at 3:07 p.m., the Senate stood at ease until 3:16 p.m.)

THE PRESIDENT: The Senate will resume its business.

SENATOR PRESENT: Mr. President, would you recognize Senator Ohrenstein, please.

THE PRESIDENT: Senator Ohrenstein. And there will be order in the chamber.

SENATOR OHRENSTEIN: Mr. President, I rise on the order of personal privilege here.

Hopefully, in another hour or two we'll be gone here and, hopefully, we'll be gone for the rest of the year, and the next time we see each other it will be after we've enjoyed the Holidays and we're ready and energized for a new year, so I wanted to deliver myself of one delightful chore before we leave here, and that is to say goodbye to one of our colleagues.

I know we are -- we have a number of missing members today, unfortunately. They're not here and they're gone. I'm talking about Chris Mega, and Senator Halperin, all of whom fled from this chamber, so that we didn't have, in certain instances, the opportunity to say goodbye to them.

This particular -- in this particular instance, we do, and I'm talking about our good friend, Tony Masiello. We now have a mayor in our midst, a real mayor, the mayor of Buffalo, and, needless to say, all of us on this side of the aisle are extremely proud of Tony. He has had a terrific year. He got married; he has a new baby, and he got elected mayor of Buffalo. I don't know, the fortunes - God's fortunes are shining upon you, Tony. You better wait for the zinger. No, it won't come because you're too good a person.

Anyhow I thought I would like to start off in wishing Tony Godspeed and farewell. Tony Masiello has been an extraordinary member of our Conference, and an extraordinary friend to me personally. Tony is the Assistant Minority Leader here on our side and is also the chairman of our campaign committee, and in those -- in both of those capacities, he has made an enormous contribution for all of us personally here on the Democratic side. And for me personally, and he's made a

contrib... a great contribution to the New York State Senate.

He is a great -- to begin with, a great legislator. He cares about the people he represents. He's bright and intelligent and innovative. He understands the issues that are before us. He has deep feelings about them. He knows how to express them and he worked damned hard to make certain that the people of Buffalo and the people of Erie County were properly represented and got their share of the financial help and of the substantive help that they were entitled to.

His legislative record is long and distinguished. He's had his stamp on many, many innovative programs that we have created here for the cities of this state and particularly for northwestern New York. I think we're going to be hearing from Tony as the years go by because he will undoubtedly amass as distinguished a record as -- as mayor as he has as legislator.

The city of Buffalo, like all

other cities in this state, needs a lot of help. It needs leadership, and it needs a lot of work, and I don't know of anybody who could do -- who has the capacity and the qualities and the talents to do that more than Tony Masiello. So the city of Buffalo is very, very fortunate and, to use the old adage, their gain is our - our loss.

As far as the Democratic Conference is concerned, as I said, Tony has been one of our leaders, and he has been an extraordinary leader. As campaign chairman, he has led our effort for the past six years. I know that that may not be the greatest music to the ears of those of you on the other side of the aisle, but you have to concede one thing: You've known you've been in a fight when Tony was at the helm and we've had some good fights and, after all, what are we in this for as politicians to at least go to battle every two years and fight for the things that we stand for, for our principles and for ourselves and for the privilege of leading the New York State

Senate, and Tony has been at the forefront, has helped us organize, has helped us in a thousand different ways and, of course, has been of untold assistance to me.

He -- Tony also is the chairman of the Democratic Senate Operations Committee and, in that capacity, he has discharged a very unique function. I don't know how you make - do committee assignments on the Republican Conference. We do it through the committee that Tony heads. We have some standards and rules and traditions in terms of how we promote people, where we assign people, but we also have a desire to make certain that every member of the Democratic side has a committee list which they're interested in, which is helpful to their district and Tony has been the -- the master negotiator in trying to keep 26 people happy, and I have to tell you, he has succeeded by and large because I hear very, very few complaints on that -- on that score, and so, for years, Tony has succeed -- has done that function every two years and has spent probably two months at

that very, very arduous function.

For me personally, Tony will be a great loss. We've been -- we are probably 20 years apart in -- in age, but we have been and are very, very good personal friends, and I'm going to miss him. I'm going to miss his friendship. During several years, a couple years ago, when I was having my own problems Tony was constantly at my side, constantly there to help and to do whatever had to be done in order to enable me to continue my function here and to fight whatever battles I had to fight and ultimately to prevail. So I thank him for that.

I'm glad he was here, and I know we're going to remain friends forever, and I - I hope I will never need him again, at least in that capacity, but he's certainly proved his friendship to me.

I'm glad that his wife, Kathleen, has just entered the chamber, one of the beautiful women that -- who graced the staff of the Senate, the Minority Senate Finance

Committee, and Kate was an extraordinary staff member, very able, and made an enormous contribution on her own, and we thank her and I'm sorry that Tony stole her from us, but again, his gain -- his gain is our loss and, of course, she's sitting there with the most recent addition to the Masiello family, this beautiful little young lady, who has been the first product of this particular union.

So to Tony and to Kate, thanks for everything. Thanks for your friendship, and thanks for all of the years, Tony, and good luck to the three of you and good luck to the city of Buffalo.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Well, I'm going to try not to do any zingers, because you said I can't do that, but Tony and I go back a long way. I can remember when my high school played his high school. I was a lot younger and I was there, and his high school played a great game mostly because Tony Masiello carried them

all the way to double overtime. Unfortunately, we won.

Then I remember Tony when I was in high school still, and he was a great basketball player at Canisius College. I used to go with the rest of the kids to watch Canisius play, and he was one of our idols and he was a great basketball player at Canisius, very tenacious, obviously not that tall for his position. If you have played basketball with him, you know he's a great shooter, doesn't jump very well, but a very good basketball player.

Then he went to the Common Council, and Tony Masiello rose quickly in the Common Council, became Majority Leader and then he had a few taxes that we'd like to forget and most of us did, except that my father and his father only remember the one tax, and I won't mention it here because it's not part of this.

Then Tony went on to the Senate and a lot of people said, Well, Tony, you shouldn't run, but he did anyway, and he came to the Senate and he's a great Senator, and then

somehow unbeknownst to me, I wind up here in the Senate and some place I didn't expect to end up, and I was fortunate enough to, when I got here, to end up Tony Masiello's roommate. And all the jokes aside about everything else, everybody goes through certain problems in their lives, and they hope they have a good friend when they hit 'em and, fortunately, I was very blessed because I had a good friend, Tony Masiello, and for that I'll always thank you, Tony.

But as far as him becoming an assigner of committees, I have had the lousiest committee assignments. I've got more committees than anybody on this side. He told Fred to put me on the ethics commission, and he won't let me off. Everyone else is gone that was originally on the ethics commission. I have to still be on it.

Since he became head of the campaign committee, I've never gotten any help from him. It's all on my own. But other than that, he's been, like I said, my closest friend here. I'm going to miss him. I think he's going

to be a great mayor. I'm tickled that he won for mayor. I know it's something that a lot of us could never figure out, people would come up to me and I told them then, I said I couldn't answer it because they'd say, you know, Tony is a really good Senator, and that's a real nice job. Why does he want to be mayor? And I couldn't answer it except with this, I'd say because it's something he always wanted to do. It's something he believed in, and it's something that, by doing, he feels he can make a difference in our community, and I believe that also, and I believe Tony will be a great mayor.

I'm going to miss Tony Masiello as I'm sure I won't, I'll see plenty of him because as mayor, knowing how the cities operate, he'll be here a lot asking for our help, asking for legislation, but most importantly, asking for money.

I have to share with you one story because one of the other things I'm going to miss is when we first came down we used to drive home at the end of the session all the

time and take a lot of stuff back and all the way home for the first hour or so Tony would regale me with all the different ways he's going to be working out in a couple of weeks. He's going to be in this new program, lifting weights, running every day because he -- he lives not far from Delaware Park where everybody runs, and there's all these health-conscious people, and he was going to do this every year and I'll miss those conversations, and it finally culminated with a phone call one year. He said, you know, "I was looking in the shopper, the swap sheets, and there's a Soloflex available. What do you think? Give me your honest opinion," and I said, "Tony," you know, "you know how you get into things real hard when you first get into them," I said. "For two months, you'll get magnificent workouts because it's a great machine for what you're looking for. You'll get toned up; it's fast; it's clean and then in two months you can buy plants for that wooden base and you can hang your cleaning on it when you come back from the cleaners. I

don't think you should buy it." And Tony gave me his honest opinion of my opinion and we both laughed, and he saved the money and used it for something that he could use better.

I'll miss those conversations. I'll miss his rent check. I'll obviously miss his friendship, but I'm glad that, because we became roommates here in Albany, and the Senate's a wonderful experience, but I'm most fortunate in coming here that I got to be such a close friend of Tony Masiello.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Mr. President, I rise also to add my congratulations that Senator Masiello is going to be Mayor Masiello, for a few years of wonderful service in the state Senate, Kate and baby Masiello, is tucked in his father's arms. Somehow Tony Masiello is an institution in the city of Buffalo and indeed the county of Erie, a public servant of great stature in many ways, great stature.

Everyone came to know him first, as Senator Stachowski indicated, as a basketball

star and somehow we never thought Tony Masiello would ever grow up. He would always be the young bon vivant and that may have been changed a little bit, I'm not really sure, Tony, but I think you're trying at any rate.

We're very proud of you in the city of Buffalo, and you have certainly taken your stardom from Canisius right into the public life that you have been so involved with for so many years, with your deep concern for the city of Buffalo and truly during your campaign and the ad's that were coming through and the language, I thought this man, although I don't know him well, he truly is a son of the city of Buffalo, and to be a son of the city of Buffalo I guess that puts you in the same league with the county of Erie, and having just come from the county of Erie -- I am here now -- you will be back there after the first of the year, and I -- and I know that you've had a reputation not only for hard work, but sincere efforts at cooperation and, as Senator Stachowski said, you will be back and forth often as we know mayors

of the city of Buffalo and executives from the county of Erie come back and forth. We will be here; you will find us.

And so good luck, Tony, and Godspeed and may all of your new years be as happy as I'm sure 1994 will be.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Mr. President, it's always difficult, for me, I guess who likes to think so highly of this institution to see someone who has been a close personal friend for years go.

I have said it on a number of occasions and, of course, I have to be a little careful, because being a somewhat prominent Republican, sometimes I'm accused of being a little too bipartisan. In all candor, I happen to believe that Tony Masiello is certainly the right person for the city of Buffalo at this time, but in one way I feel sorry for him because for those of you that don't know, there's been a virtual love-in going on in the city of Buffalo for the first time in my memory

of the press on a public official who is still alive, because we have said in Buffalo that, generally speaking, the only time that the Buffalo news and many of the local press people say anything nice about anybody is after they die. But Tony has certainly been getting a good deal of good press.

I think a good part of it is his own personality, and I think the fact that there is a lot of hope for the future, as well there should be, but it is a very difficult job. Any city in this state, in this day and age, in fact my contention, anyone in public office today, given the nature of the animosity that all of us must face for a public that I think has been turned by, I think many things that maybe aren't even true, but that's beside the point, make it extremely difficult to be in public office and it takes an immense amount of courage to run for an executive office, I believe today such as the mayor of the city of Buffalo.

I've known Tony for many, many years. We've worked together extremely well.

In fact, during the campaign, there was a lot of references to the fact that Tony Masiello seemed to be able to get things done even though he was a minority party member and some of the press people in Buffalo who had just taken to the usual partisan kind of thing were informed by some people that the western New York delegation, without question has, I think as one of the delegation that works together very hard, Republicans and Democrats, as I think many of you know, we meet together on a regular basis and attempt to do things for our area as best we can and, of course, Tony, in a very rather ticklish position being the reapportionment guy, sometimes it somewhat strained the relationships, but I think it's a tribute to Tony that he was able to get through it in the manner in which the delegation not only stayed together, but I think the friendships that were made in this house and I think in this Capitol remained under sometimes obviously somewhat difficult conditions.

My first connection with Tony

Masiello is something that most people, I don't think, are aware of. I said it occasionally, that in my younger days -- and I'm a little older than Tony -- that's why this happened. I was connected with Canisius basketball in a much lesser position than Tony was, and I was sent by the coach and general manager to scout the Catholic league play-offs, and the reason I went was that I was supposed to scout Cardinal Doherty, and a senior on this team who was averaging, oh, I don't know, about 40 points a game. And so I went, and my report when I came back was, Well, this fellow scored like 52 points, took about 45 shots and made about 25 of them, and I said, Well, he's O.K., but, I said, I must tell you something. In the report, I said there's a sophomore at Cardinal Doherty named Tony Masiello. He's young, he's awkward, but he's going to be a great one. If I were you, telling the coach at the time, if I were you, this is the guy I would keep my eye on, because some day he could be a great one for Canisius, one of the few times in my life that my

prophecies were to come true, and a few years later Tony Masiello was to become one of the top basketball players that Canisius College ever had.

I also wanted to tell one other little story that my roommate, Ken LaValle, and I probably shouldn't tell about, Mrs. Masiello. A couple of years ago, Kate McHugh was running for the City Council of Albany. It just happened that Senator LaValle and I have an apartment that was within the City Council district. Somehow a sign, and a picture of Kate McHugh ended up in our window, and although Kate was unsuccessful, we did the best we could to be helpful, although we were not able to vote or whatever, but I just want to tell you that story.

But at any rate, I can only say to you, Tony, it -- and I've said it to you before, that I certainly wish you the best of luck, the old good news/bad news. The good news is that you have acquired what you wanted to do and I know that, as Billy said, both of us just

kind of scratched our heads because we know very well it's something that you've always wanted to do, and I think you're very much suited for it. I really do.

We will certainly miss you here. You have really been a tower of strength here. My own very best wishes in behalf of Carol to you, my wife Carol, also to you and to Kate and, of course, the baby who doesn't know what she's getting into, but as somebody who's had three kids that have gone through the political life, I can tell you that mine, I think, have done all right. In fact, my first-born was born the year after I was elected and he seems to have turned out pretty well. He's a senior at Canisius College and doing pretty well, following in the footsteps of myself and, of course, your college also.

I wish you again the best, and Godspeed and we will try to see if we can help the city of Buffalo in the best way possible during the coming years, and with Senator Stachowski here, I'm sure everything will work

out fine.

Thank you.

THE PRESIDENT: Senator Daly.

SENATOR DALY: Thank you, Mr. President.

Tony, after listening to Bill Stachowski tell us how badly you treat him as a friend, it just proves one thing to me, Stachowski will do anything to say he has a friend.

And I note also that in the last reapportionment, they gave you one-third of my district, and you lasted one year. I don't know what that says about me or says about you, but I know one thing, you're leaving the Erie County delegation. They've kicked me out of the Erie County delegation. Tony, I think you and I will agree that the Erie County delegation has trouble right now.

But seriously, an afternoon such as this when we say goodbye to a colleague, is all too often bittersweet. While we are happy and rejoice in his achievements and his new

challenge, we certainly are saddened by the thought that he won't be with us any more to go through the doldrums and the excitement and everything else that encompasses this chamber.

Everybody has said, and let me just repeat what a valued member of the western New York delegation you have been, Tony, been friendly, cooperative, and a man I know I enjoyed, and I know the rest of the delegation enjoyed working with. You and I have had some fun on the floor debating some bills and some issues, but it never came off the floor. Our differences have never resulted in any personal differences. Just goes to prove putting up with me what a big man you really are, and, in fact, I would like to say that our relationship has improved over the years as I've gotten to know you better, and you've gotten to accept me better.

But, Tony, certainly I join your colleagues from western New York and your colleagues from throughout New York State in wishing you and Kate a great future. I'm sure

and I know what the city of Buffalo means to you. I know how much you love it, and that deep and intense feeling which you have, I'm sure, will be translated into great things for the city of Buffalo.

I also know that we will see you return to Albany at least once a year, perhaps twice with an empty suitcase, hoping to go back with a full one. We'll be very happy to listen to you, Tony. I don't know what the result will be, but God bless you and the best of luck.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

When I first came to this chamber, I sat next to Senator Masiello for about a day and then he had my seat moved away and I've never really held it against him.

I remember sadly the first time that I ever heard Senator Masiello speak was in tribute to my predecessor, Senator Leon Bogues, and for some reason I can still remember

everything he said. A couple of weeks later, he spoke on the issue of the divestiture in South Africa, and especially on the inability to have the issue and the legislation sponsored by Senator Montgomery discussed on the floor. He talked about the need for participation as being far more important than whether or not we agree or we disagree. And so that was a prelude to a number of years in which Senator Masiello introduced amendments on issues such as aid to dependent families and day care and certain labor issues, and discussed them and debated them particularly well.

I, too, remember some of his debates with Senator Daly. I thought they were both excellent. Of course, I had the luxury of agreeing with Senator Masiello a little more often, and think that he will be a tremendous, tremendous mayor of Buffalo.

I find him to be a great personal friend. He, of course, distinguished himself long before he came to this chamber, as a basketball player at Canisius. He had an

excellent style, of course. Anyone that's ever seen him play knows that he's not fleet of foot, and was pretty much known by his adversaries as performing poetry in place.

And so -- but again he is -- has been an outstanding member of this chamber, and I really never thought you would leave Tony because there were a couple of times there were disputes among members about committee assignments, and I deferred to some of my colleagues, Tony, because I thought you'd remember. I guess he'll remember it, but you'll be in no position to help me at this point, but we'll miss you just the same.

So to you and Katherine and Ariel, good luck in your endeavors. It will be good news for Buffalo, but we will be focusing on the fact that it won't be good news for us. And so, Tony, I really wish you weren't leaving. I wish Senator Stachowski was leaving.

THE PRESIDENT: Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

I know I should never follow Senator Paterson because he also uses my line, but I still love you.

Some five years ago I came here a little frightened, a little green, having never served in a legislative body, and I found a next door neighbor, Tony Masiello. Tony sort of guided me and taught me the ropes and even at times he's kept me there saying some of the things that I should not have said. Tony has always been there when I needed to talk to someone, when I needed to get some advice.

Tony, this is my opportunity to thank you. I will miss you very greatly; you deserve all of the best, and I know that you will give your best to Buffalo. You're blessed with a beautiful wife and a lovely child and may your love continued. God bless you and your family.

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

I, as chairman of the Higher

Education Committee, very, very fortunate with the members on my committee who participate to the fullest. This year, however, I not only lost Senator Sheffer, who was a wonderful par ticipant of the committee, but now I am losing Senator Masiello who has been enthusiastic and a wonderful member of the committee. He has supported many initiatives, and one that was very near and dear to my heart and was controversial at the time, but Tony didn't shrink from the challenge, and that was the Truth in Testing issue, and many other issues that, if it was right he was there regardless of of the adversary, the time. He was a very, very strong supporter to make sure that the higher educational institutions in western New York were well taken care of.

This fall, on a trip to western New York, I was before the editorial board and, lo and behold, just before the primary found myself in a position of supporting Tony Masiello and was able to talk in a very forceful way because of not only his participation on many

different things that he has done for western New York, but because of his role in higher education, and I spoke forcefully, Tony, because the night before I saw an ad on -- of your opponent dealing with criminal justice and putting police out on the streets, so I felt maybe you needed a little -- a little extra help.

But we will certainly miss you because you have always, regardless of your point of view or opposition, it has always been thoughtful and measured, and I am sure that you are going to be a wonderful mayor.

Historically, any person who has had a dream has always been able to fulfill that dream because they move towards fulfilling a vision, and I know that you will do a wonderful job for not only the city of Buffalo but for western New York. While we will always extend a helping hand, I'm sure that the cup will always be half empty, Tony, so I hope you will remember that.

THE PRESIDENT: Senator Galiber.

SENATOR GALIBER: Thank you, Mr. President.

Tony, I'm going to take it from a different perspective like my leader said that this was a delightful occasion. I guess in a sense it is, but my view is that this is a sad occasion for me and our colleagues, some of them at least especially those of us who have been around for a while and remember the old days when handshakes were important and a person's word was important and we weren't going so fast as we are today to miss our neighbors.

You have always been compassionate and concerned about your fellow persons as you come in contact with them. I, too, will miss you dearly, you and your family, and I want you to remember that those persons, especially on the other side of the aisle who suggested that they will be helpful to you when you come back in your capacity as mayor of Buffalo, I only hope that they remember that as you bring that cup that we mentioned before.

Tony had a proclivity and a

grace, if you will, and a sensitivity to work with you to the point that you would be relieved of your shoestrings if you weren't careful, and he did it with such grace. Never before has anyone talked me into giving up my position on Banks, on Investigations, on Ethics, and a number of other good committees that, by the way, you understand that you receive, you get these committees only by longevity and in some instances on the level of laws and rules.

But he did it so nicely and so gracefully, "Joe, I'd like your help on this. Would you do me a small favor; will you give up Banks? Will you give up something else more important," and he did it gracefully, and to your family, Tony, it's been a good year for all parties concerned and my sensitivities about youngsters, I want you to promise us, I'm sure you promised your wife and your family, but keep it, in a busy public life that you don't get so involved that you leave your family on the side. Nothing is worth that, and I'm sure you understand that you have a most difficult job.

Someone once said the -- was it David? -- the second hardest job in the world or first hardest, being mayor of any major city. I don't know why you would take it. There are some of us who recognize that when we get a opportunity to move up the ladder, usually things are so bad by the time you get it that you shouldn't have taken it.

But you'll do Buffalo proud, and in the course of doing so, you will do New York State proud because your experience and your exposure here and your graciousness and your understanding and your integrity and your honesty and your word and how you treated people will maybe, not maybe but certainly will make a vast difference in your new role as mayor of Buffalo.

I shall personally miss you. You've been a good friend. Probably you don't realize how good a friend you have been to me, but one thing I'm assured of that once you acquire the friendships and the relationships you never lose them. So I will be seeing you

again. I wish you Godspeed and take care of that good family of yours. I know you will. Best of luck and happy New Year and Merry Christmas to you.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

I had the unique experience of probably conducting more joint hearings with Tony Masiello during the redistricting/ reapportionment process a year or so ago. Some of the assignments that Fred has given you, the Minority Leader, the committee on whatever that is, with the committee assignments in your house and the campaign committee and redistricting, I really wonder at times what kind of a friend could your Minority Leader be to you.

But I think really what the Minority Leader recognized in you, Tony, is the fact that, number one, you are a gentleman. Number two, picking up on what Senator Galiber said that your word is your bond, and a hand

shake means something to you and also you have the sensitivity of understanding the human nature of politics and, in particular, when you do go through either a campaign or a redistricting process, you need that sensitivity and, quite honestly, even more so when you are sitting on the Minority side.

One little experience was in Syracuse when we were conducting one of our 20 or so hearings. I believe it was a Saturday morning and we were there, and my wife Gail was there, I believe Kate was there, and Kathy Murphy, and we went at it. We really went at it, and at one point Gail got up and left. I saw her leave, and I said, "What's the matter?" She said, "I thought I was going to get nauseous the way the two of you were going at each other." But that -- that afternoon we had lunch and that night we had dinner and eventually it all came together. Your Conference was represented ably under the circumstances and at all times you had an advocate that was always there thinking about each and every single

member of the Conference, not only from a political point of view but also just from a human nature point of view because there is nothing more wrenching, I believe, politically than that process.

So Tony, I know that Buffalo is lucky to have you as their mayor. I have to still root for the Jets and the Giants. How ever, they have an advocate now that I believe will be respected here in Albany on a bipartisan basis, and I know that Senator Daly, Senator Volker, a number of people have indicated that we look forward to working with you. We may not be able to accomplish everything that you may want for your great city, but we will be there to work with you on a bipartisan basis when we can, to assist you, because you love your city.

You're a good public official and you deserve the assistance that we look forward to giving to you.

So to you, to Kate and your beautiful daughter Ariel, we will miss you. We look forward to seeing you at future dates up

here as I'm sure we will. You're a good friend and God bless you, Tony.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Thank you, Mr. President.

I would be remiss if I didn't get up to at least say a few words about my very dear colleague, Senator Masiello. I can't attest to the disappointments expressed by Senator Paterson, Senator Galiber and Senator Stachowski. I found Tony only to be a delight when it came out to committee assignments, and I certainly want to thank him for fulfilling all of my desires. The only one he didn't fulfill was when I requested that he make me the Minority Leader.

I can attest to Tony's prowess on the basketball court, whether he has speed or not, but I can certainly attest to his eating capacity, and I had a very fond nickname for him, "the wandering fork", because Tony never hesitated to eat part of my food because most of you know that, when I go out to eat, I don't

have that great of an eating capacity, so it's an -- it's a fight for survival getting caught between Stachowski and Masiello to finish my meal, but thank God, and on the shopping trips that we make I'm certainly going to miss that. We go to Cohoes, the Crossgates Mall and the Wolf Road shopping center on our spare time and perhaps you've seen some of the results of those shopping sprees and, Tony, I know you're going to make an excellent mayor.

You've had all of the back ground capacity for it, you've had the legislative capacity, and now you're going into the executive branch and I'm sure you're going to do an outstanding job in that capacity and, as the holiday season is approaching us now and you're going to be leaving us, I want to wish you and your family everything that I wish for my family. May God bless you.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Mr. President, we've heard a lot of good things and heartfelt comments about our colleague, Tony Masiello, and

the amazing thing is, everything I heard was true because I think that's what Tony Masiello has been, really a very straightforward, very honest, very decent, very warm person. It's been a delight to serve with you, Tony.

Maybe one measure of how much pleasure it's been is when you said that you were here 13 years. I couldn't believe it because it seemed like such a short time and most things in Albany seem endless. But it has been a real pleasure serving with you and, as I try to think over our relationship, our work here together and your quality, the one that really struck me is that you were able always to take very strong principled positions. I never saw you bend, maybe bend a little, certainly not break, but never depart from your principle. But you were always able to do this, to take your positions, without offending anybody.

I think everybody always respected your positions, respected you, and your personal warmth, your friendship, your willingness to deal with people on a very human

basis never disappeared as you pursued whatever position, no matter how strongly you felt and I don't think anybody here would say that Tony Masiello didn't feel strongly on the issues, I think particularly issues affecting the most disadvantaged in our society.

You were a real fighter for those people, but you always did it in a way, in a - with strength, but at the same time without offending or attacking people and losing the high regard and respect that people have for you as an individual.

Tony, we're really going to miss you, but I think it's great for the city of Buffalo. You're taking on one of the biggest challenges in our society, as Senator Volker so well said and others have said, to be the mayor of an urban city. But you went into politics to make a difference, to make a change, to accomplish something. You're willing to take on the toughest task.

Godspeed. You'll do well, and we'll miss you. Thank you.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you. I still remember the very warm welcome that I received from Senator Masiello when I arrived almost ten years ago now, and I was impressed at the time because Tony has displayed a real compassion for minorities, for underprivileged people and most unique a characteristic for a job, for women as well. I don't think I'd ever seen a basketball player before who understood even the rudimentary feminist terminology, but Tony did and, Tony, on a number of times on the floor, in conference and in his legislative activities, was able to articulate needs for women of this state and I'm impressed by that, Tony, and the people of Buffalo are going to be getting a wonderful mayor who really does have a great breadth of experience.

There will even be a problem for me when you come to Albany, of course, because you removed me from the Finance Committee, so when you come looking for money, I won't be in any position to do much, and I'll remember the

conversation I had with you when I called you about a campaign I was in a couple of years ago and I said, "Tony, they're spending $500,000 to take me out, I really need some help," and Tony said, "We'll send somebody up to see what you're doing wrong."

So, Tony, I'll be happy to send somebody up to Buffalo to see what you're doing wrong when you need some help. I believe that colleagues should remember that kind of involvement and look out for each other when we move on to other things. In fact, Tony, I have a whole stack of resumes from people in Syracuse who are looking for an opportunity to relocate now to another city and Buffalo is probably their first choice. So I'll forward all of those to you right away.

Tony has been resting these 13 years in the Senate. Life in the Minority gives everybody here on this side of the aisle a chance to reflect a little bit on ways that things could be done better. Tony's internal ized a lot and he's grown in that time. I've

seen it, we've all grown over here, but Tony now has an opportunity to really let loose some of that pent up energy, and he's got a wealth of creative talent that the people of Buffalo will now enjoy.

And Tony, I know that when you go to Buffalo as mayor, you aren't going to forget the lessons in humility that we've learned here and I'm confident that you will always treat everyone the way that we would always like to have been treated here.

I think Buffalo is getting an outstanding mayor, and I'm proud of the fact that you will be a credit to this body as a former Senator bringing new stature to this body in your capacity as mayor.

Good luck and Godspeed.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: I don't know what Buffalo will ask from the state of New York during the budget hearings. Buffalo has no right to ask for additional state aid. We've

already helped Buffalo enough by contributing one of the brightest and best persons to serve in government at any level, and I think that that is a contribution that far surpasses any financial aid that we can give to the city of Buffalo.

Needless to say, you will not let us get away with that. You will consider it the opportunity to come here with your friends as an opportunity to help your constituents which you have done throughout your career.

Tony Masiello is not provincial. He is a statewide public official who under stands the needs downstate, upstate. Any of us would be proud to have a Tony Masiello running for mayor of any city or any county in the state of New York, because we could do no better.

I'm very saddened by your departure, but so very happy for you because you've been a warm and understanding friend to so many people in this chamber. You have made it possible for people to serve who often have different perspectives, but because you can see

the justice in the advocacy by every member of this chamber, you bring people together.

There are few people who are kinder but few people who are tougher when the going gets tough. The competitive spirit of sports you've kept, but the enlightening compassionate spirit that is within you, you have also kept. You have kept us as your warm and deeply indebted friends. That friendship doesn't disappear.

Come back, Mr. Mayor. This chamber is your home.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Mr. President, I believe that Senator Leichter in a way put his finger on it. Everything that's been said rings true because they are true and if we had a system of prospective retrieval and you can get all these words back, maybe you wouldn't have decided not to run at all, but you do bring qualities and each and every member here in this chamber, I've seen it now over the last 40 years, and it's so true, each individual, each

person brings special and unique qualities that endear and that we treasure and in this setting, it has a special meaning.

Earl Brydges used to quote Oscar Wilde, the -- on the Ballad to the Reading Jail about "who lives more lives than one more lives than one must die" and in that sense there is a special quality to the life that we share with each other, and it's nurtured and encouraged by people like yourself.

I mean you are the quintessential gentleman. You're the person who exercises his responsibilities with logic, with respect. You improve the entire chamber by your presence, and we feel -- we feel this so deeply. You're going to be the mayor of the second largest city in the state, arguably some years hence from now the third largest city in the state, but we won't put it on a qualitative level because anything that you're -- that you're the captain of, qualitatively cannot be assigned anything but a first place.

Tony, God's blessings and our

prayers go with you, but only on the promise that you will not be a stranger, and I'm sure that you're a member of the Senate Club and God help you if you don't show up punctually at every one of those annual reunions and more often.

ACTING PRESIDENT FARLEY: Senator Masiello.

SENATOR MASIELLO: Mr. -

ACTING PRESIDENT FARLEY: Oh, wait; Senator Stafford would like to say something before.

SENATOR STAFFORD: I certainly am not going to be out in left field when it comes to Buffalo Bills tickets. You know, I'm not going to be left out, as I say, when the Buffalo Bills tickets are available. I mean, you know, you learn certain things.

But I would only say, and again sometimes you hesitate to stand up when a number of people have talked because everything has been said, but when I first got here, really when it came to friendship, the party, political

party meant absolutely nothing, minuscule, absolutely nothing and if it was like that, many of us wouldn't be in it. Frankly, I think it's getting back more of that today.

But I would say Tony Masiello is the type of fellow that sure, he serves his district. He -- in fact, I think he's even been involved in campaigns on his side, but that doesn't mean that he isn't a real, real friend. So we wish him well. Particularly for those people who aren't as old as I am, there was a time when Buffalo was the second largest city in the United States of America.

Now, maybe, who knows, maybe we'll be going that way, so we wish you well.

ACTING PRESIDENT FARLEY: Senator Masiello.

SENATOR MASIELLO: Thank you very much, Mr. Chairman, Senator Farley.

This is very difficult for me, so I'm going to try to be as brief as possible, but as sincere as possible and I'd be a little embarrassed if you saw the biggest Italian in

Albany crying here on the Senate floor.

So to all of you, thank you so much for the 13 years of very fond memories and experiences, and to my great friend and mentor and coach, Fred Ohrenstein, I've learned a lot and thank you. You've been there for me also.

To my roommate of 13 years, Billy Stachowski, I've never lived with anybody 13 years, I mean up 'til now. I'd rather not comment on the rest of that, but certainly you've been a great friend. And to my new roommate, really Albany has been very, very good to me. It's given me great memories and great relationships, and certainly first and foremost my beautiful wife, Kathleen, who I met here just a couple years ago, and my beautiful daughter Ariel, who is sitting there peacefully right now. Ariel certainly is a Masiello. She loves to eat, she loves to sleep, and she -- hopefully she will have her mother's brains and will be in real good shape.

But really seriously, I think what's impressed me most about the past 13 years

here in Albany is not the elegance of this chamber which is probably maybe the most mag nificent legislative chamber in the country, and it certainly hasn't been the content of every important piece of legislation that we've passed every year, but really what's first and foremost and really most impressive to me are the people that I've met here, the great diversity, the great strengths of the people who make up the New York State Senate; and I think one thing my opponents did during the campaign was to underestimate Tony Masiello only because they never had the opportunity and the experience that I had had to learn from great minds and people with great hearts and people who had vision and understanding of how government should work, and that was really to my benefit, and I could not have won this year, this election, if it wasn't for my time here in Albany and the relationships I made here. But also as a student of government and as a student of politics, sitting here in the same seat for 13 years, Dave, I'm sorry I moved you instead of

myself, but certainly watching and observing some of the finest people that I've ever had to work with, and I don't know what else to say.

Obviously I'm going to be back. I'll probably have tin cans in my hand, some will be half full and some will be half empty. But to my colleagues not only in this room who I rub shoulders with, but I think tremendous people on our staff who have done a lot to make me look good and smart which is difficult to do, I want to thank you also, and we're going to be back again, and my heart will always be here. I got a great family. The good Lord has blessed me in many ways, my parents and my brothers and sisters, and to my great friends and certainly 13 years in the Senate, is right up there with the best of them.

Thank you very much, ladies and gentlemen. (Applause) I got a plane to catch. I got to go back to Buffalo and be mayor.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Calendar 1716.

ACTING PRESIDENT FARLEY:

Calendar Number 1716, Secretary will read it.

THE SECRETARY: Calendar Number 1716, Senate Bill Number 6225, by the Committee on Rules, Racing, Pari-Mutuel Wagering and Breeding Law.

Senator Marino moves to discharge the Committee on Rules from Assembly Number 8935 and substitute it for the identical Third Reading 1716.

SENATOR PRESENT: Mr. President, I understand there's a merge of necessity at the desk. I move we accept it.

ACTING PRESIDENT FARLEY: The substitution is ordered. There is a message at the desk. All in favor of accepting the message say aye.

(Response of "Aye.")

Those opposed nay.

(There was no response.)

The message is accepted. You can read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -- ayes 55, nays one, Senator Rath recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present.

Let's have a little order here.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Levy, I'd like to announce there will be a Majority Conference at 7:30 p.m.

ACTING PRESIDENT FARLEY: There will be a Majority Conference at 7:30 p.m.

SENATOR PRESENT: I now ask the Senate stand at ease until 8:00 p.m.

SENATOR STACHOWSKI: I'd just like to announce there will be a Minority Conference at 7:30 p.m.

ACTING PRESIDENT FARLEY: There

will be a conference of the Minority at 7:30 also.

Senator Present.

SENATOR PRESENT: Mr. President, I would urge all members to be here at the appointed hour and be out of here at a reasonable hour. If they're here, we can do it.

ACTING PRESIDENT FARLEY: The Senators are asked to be here at 7:30 for a conference so that we can get out of here at a reasonable hour tonight.

The Senate stands in recess.

(Whereupon at 4:17 p.m., the Senate recessed.)

(Whereupon, at 10:13 p.m., Senate reconvened.)

ACTING PRESIDENT KUHL: Senate will come to order. We will return to motions and resolutions.

Senator Daly.

SENATOR DALY: Mr. President. On page number 4, I offer the following amendments to Calendar Number 1713, Senate Print Number 6222, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Without objection, so ordered.

(Whereupon, at 10:14 p.m., Senate was at ease.)

(Whereupon, at 10:25 p.m., Senate reconvened.)

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President. Can we take up Calendar 1713.

ACTING PRESIDENT KUHL: Clerk will read.

THE SECRETARY: Calendar Number 1713, by Senator Daly, Senate Bill Number 6222A, an act to amend the Business Corporations Law and the Civil Practice Law and Rules.

SENATOR STACHOWSKI: Explanation.

SENATOR PRESENT: Mr. President. Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR PRESENT: I move that we accept the message.

ACTING PRESIDENT KUHL: Without objection, message accepted.

Senator Daly, an explanation has been asked for.

SENATOR DALY: Mr. President. This bill deals with changing the Business Corporation Law in New York State in regards to shareholder derivative suits. Shareholder derivative suits are suits that are brought by individual shareholders in the name of the corporation, mainly against the individual directors claiming that the director breached their fiduciary responsibilities to the

corporation. The question arises why should we make changes to the law?

SENATOR PRESENT: Senator Daly. May I interrupt for just a moment.

Mr. President. I made a motion that we accept the resolution. Shall we take a vote on that -- the message -- so that it's properly done.

ACTING PRESIDENT KUHL: Without objection, the message is accepted.

SENATOR PRESENT: No.

ACTING PRESIDENT KUHL: No?

SENATOR PRESENT: Vote, "all in favor..."

ACTING PRESIDENT KUHL: On the motion, all those in favor, signify by saying aye.

(Response of "Aye.")

Contrary, nay.

(There was no response.)

The message is accepted.

SENATOR DALY: Mr. President. The question rises -- or arises why we should

change this law. It's become evident that New York State's Business Corporation Law has fallen badly out of step with developments in corporate governance and finance. In fact, it is claimed that if a lawyer is being consulted by his client who wants to locate his corporation in New York State, the lawyer could be accused of legal malpractice if he did not bring to the client's attention the many disadvantageous aspects of locating in New York State.

This particular bill is intended to discourage what are known as strike suits, frivolous derivative actions brought, frankly, in the hope of an out-of-court settlement.

The bill does the following things. First of all, as far as universal demand is concerned, before filing a derivative suit, a shareholder would have to wait 90 days after giving independent directors of the corporation the opportunity to determine whether the suit was in the best interest of the corporation. In determining as far as requirements for directors' determination and

response to demand, in determining whether maintenance of a derivative suit is in the best interest of the corporation, the independent directors need to be adequately informed and have to reach their determination in good faith with disinterested independence.

Basically, what the bill does is it follows and is designed to preserve and give full effect to the basic principles of New York State law as stated in the Court of Appeals in Auerbach versus Bennett, that "Shareholders derivative claims belong to the corporation and that it is the essence of the responsibility and role of the board of directors to determine whether the maintenance of such suits is in the best interests of the corporation."

If an a shareholder decides to file a derivative suit, then independent members of the board of the corporation or members appointed by independent members of the board of corporations -- of the board of the corporation would determine whether or not the suit was in the best interest of the corporation and whether

the suit, very frankly, was a viable and good suit.

In summation, Mr. President, what we're trying to do with this law -- with this bill is to begin to change the corporate image -- I should say the state image that corporations and business in New York State have of this state.

I hope that in future months we will come up with more legislation. There is legislation that my Committee on Corporations and Authorities is already considering for next session, and we feel very strongly that we must look at the entire Business Corporation Law and bring New York State into the 21st century which, hopefully, we will be able to face in eight years.

In addition to this bill, we're considering the establishment in New York State or allowing the establishment of limited liability companies and again reviewing the BCL for further changes.

That's what the bill will do, Mr.

President.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR OHRENSTEIN: Mr. President.

ACTING PRESIDENT KUHL: Senator Ohrenstein.

SENATOR OHRENSTEIN: Pursuant to the rules of the Senate, Senator Gold, yesterday, filed a motion to suspend the rules in order to discharge Senate 5787, and a bill previously passed by the Assembly, and I would like to take this motion up at this time while we're standing at ease pending the completion of

business.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President. I think Senator Ohrenstein is out of order. We're not at that point in our procedure where we accept and receive such motions.

SENATOR OHRENSTEIN: May I then ask unanimous consent that we take up this motion at this time.

ACTING PRESIDENT KUHL: Senator Ohrenstein, may I rule on the first motion that you made. And the chair would recognize Senator Present's argument and rule you out of order on that motion.

SENATOR OHRENSTEIN: Is that a debatable point?

ACTING PRESIDENT KUHL: It is not a debatable motion, sir.

SENATOR OHRENSTEIN: Then I appeal the ruling of the chair.

ACTING PRESIDENT KUHL: That you are entitled to, sir.

SENATOR PRESENT: We have a vote on your ruling.

ACTING PRESIDENT KUHL: That will require a vote.

Those people that -

SENATOR OHRENSTEIN: Wait. Can I be heard?

ACTING PRESIDENT KUHL: Senator Ohrenstein -

SENATOR OHRENSTEIN: My parliamentarian.

ACTING PRESIDENT KUHL: Glad to see you are getting good advice. It is not an arguable motion that you are making, but you can explain your vote, as you are being told.

SENATOR OHRENSTEIN: I ask that my name -- my name -- let's be real formal about this.

I ask that my name be called be called. Mr. President.

ACTING PRESIDENT KUHL: I would remind you that you are allowed two minutes to explain your vote.

SENATOR OHRENSTEIN: Yes, sir. I will strictly abide by that reminder.

ACTING PRESIDENT KUHL: Thank you.

SENATOR OHRENSTEIN: Mr. President. It's clear what's happening here. We have filed a motion pursuant to the rules in order to commence -- in order to attempt to have a debate on Senate 5787, which is a bill previously passed by the Assembly on June 7, 1993, which would ban certain assault weapons, possession of certain assault weapons in the State of New York.

I have -- simultaneously with the filing of this motion by Senator Gold, I had written a letter to the Majority Leader asking the Majority to discharge this bill so we might debate it and either reject it or pass it.

Since that request was not adhered to, we obviously filed this motion to suspend the rules in order to have this debate.

I am now told that as a matter of technical matter that we can not debate this

motion until the end of the agenda. We all know that we will not be out of here for another hour or two, which would mean that this debate is going to be held sometime past midnight.

I just want to put you on notice I'm not going to fall for this game. We've had plenty of time today, all day long, to debate this motion by simply waiving the technicality which we waive 27 times a day, 157 times during a session, in order to advance the taking of business.

We have a right to debate this motion. It's a motion to suspend the rules. It's a perfectly legal motion. You want to take it up at the end of the technical agenda. We violate this technical agenda every day in order to advance the business of this session.

This is part of the business of this session because we have moved to suspend the rules which we have a right to do, and this deliberate evasion I think does you no good. It does no credit to the Senate, and it certainly does you no credit on this issue.

If you are afraid to debate this bill on assault weapons, why don't you say so. If you are not afraid, why don't you allow me this debate right now when we have the time rather than putting us under the pressure of keeping everybody here uselessly sometime at 12:00, 1:00 or 2:00 in the moring to have an useless debate.

Mr. President. I vote to overrule the chair.

ACTING PRESIDENT KUHL: The chair would state that a vote in the affirmative is a vote to sustain the ruling of the chair.

Based on that, all those in favor.

SENATOR VELELLA: Mr. President. Are we on a roll call?

ACTING PRESIDENT KUHL: We are right now, yes.

SENATOR VELELLA: I would like to ask for a slow roll call. I resent the fact that people are grandstanding in this chamber and their members aren't here to back up their

position. We have our members here. We're going to vote on the bill. Let's have the other side vote on the bill, too.

I ask for a slow roll call.

ACTING PRESIDENT KUHL: Are there five members in the chamber requesting a slow roll call vote? If so, would they please stand.

(Whereupon, at least five members were standing.)

Request has been made.

Clerk will call the roll.

Slowly.

Once again, chair would remind the members that a vote in the affirmative is a vote to sustain the ruling of the chair. The ruling was that Senator Ohrenstein's motion was out of order. With that, the clerk will call the roll, slowly.

THE SECRETARY: Senator Babbush excused. Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: Mr. President.

I rise to explain my vote.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes, Mr. President. I'm going to vote -- despite the great and enormous respect I have for the member now presiding, I think he is in error in his ruling, and I'm voting to overrule the chair.

I think a more important principle is at stake here. I think rules and procedures are designed to facilitate the orderly conduct of business in this chamber, and they ought not be used in this house to frustrate, through technicalities, a legitimate debate particularly when we are officially in session. We all know we will be at ease for - regrettably at ease for the next couple of hours; that we will waste time; that we will once again skulk about in the middle of the night to do business, and call it that, "of the people" while people are at peace in their homes, hopefully.

But not all the people are at

peace in their homes in this state. Read the newspapers every day: Children are being killed in the streets of this state. Innocent victims. Commuters brought down by semi automatic weapons.

While this Senate stands at ease tonight, it will refuse to have a debate on an issue that is now not -- not the bugaboo of a small band of New York City Liberals. It's a national issue. Gun control is a national issue. Eliminating assault weapons, controlling and regulating them is a national issue. Guns proliferate throughout the country and none lead this more than in New York State.

The slaughter is out there, but the Majority in this house would use a technicality to frustrate a debate on this motion so we can stand at ease through half of the night.

I note no.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DeCarlo.

SENATOR DeCARLO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. I rise to explain my vote.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: I share the concern of my colleagues Senator Connor and Senator Ohrenstein. I guess I'm just amazed, ladies and gentlemen on the other side of the aisle. We came in for a special session this year in December in the holiday season; and what were we told?

Well, we were told we have to keep NYRA alive. We've got to do simulcasting in the winter season so that we can keep our racing season alive.

We were told a couple minutes ago that the corporations of this state are out there clamoring for changes in their shareholder derivative actions because their pocketbooks might somehow be affected, and their judgments about how to run a corporation might be questioned by their shareholders. We were told that that was important and that we should come together just before this holiday in the middle of December, debate that bill, pass that bill, for the good of our corporate culture.

We were told that we had to pass a memorandum of understanding on transportation so that the MTA could continue to function, money would be freed up in Central Hudson, and that we would continue to have the process of transportation construction go forward. We were told that that was very important.

We appointed people to boards and courts and commissions and to departments because that was very, very important.

But what you're telling the people of this state today, now, in this

eleventh hour on a Friday night, is that it's not worth it to debate a bill that could save their lives. It will stop part of the killing that goes on in this state.

I'm amazed that the rules and procedures of this body are being used to thwart what is the right thing to do.

Gentlemen and lady, your rules and procedures are going to continue to kill people in this state unless we have a legitimate debate about this bill that has already passed one house and a bill that may not solve all the problems of violence but, I dare say, will begin to send a message in this state that we, the members in this body, will no longer tolerate it.

Don't let our rules and procedures deny the people of this state the power to be not only safe in their homes but free for even a small amount of the violence that these weapons cause every day in our state.

Let's have the debate. Let's

have a real vote instead of a vote on technicalities.

ACTING PRESIDENT KUHL: Senator Dollinger, how do you vote?

SENATOR DOLLINGER: I vote no.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Farley.

SENATOR FARLEY: I vote yes.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Yes.

ACTING PRESIDENT KUHL: Why do you rise?

SENATOR BRUNO: Just a point of information. It's my understanding that this is not debatable what is before the house now? This issue is not debatable?

ACTING PRESIDENT KUHL: Senator Bruno, we are on a roll call, a slow roll call. Each member is allowed to explain his vote, under the rules, for two minutes.

SENATOR BRUNO: And is someone at

the chair keeping a two minute time frame?

ACTING PRESIDENT KUHL: There is a recording of the time being kept by the clerk.

SENATOR BRUNO: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Clerk will continue the roll call.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: May I have my name called.

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: Thank you, Mr. President. Grandstanding, indeed! That was the observation made of myself by my colleague on the other side of our great county.

The very issue that we are discussing or attempting to discuss and through some technicality prohibited from doing so, last year we were concerned about the very issue we want to discuss, violence and the guns that are involved.

How can we come here and not

discuss at all after what occurred in Long Island on the train the violence that occurred because of someone stepping out of bounds, whatever the causal factors may have been for that person to do that?

But to come here for special session and on some technicality refuse to let us discuss that, to say to us that it is not important that so many people are dying.

You should have been here last week or week before last. We had a conference here. It just happened to be African-American youngsters, but could be any youngsters. I spent the entire three days crying, stopped going to the sessions. When a mother in the City of New York tells us that she lost three children, three sons, over a period of 18, 19 months, within a range of 300 yards, three of her sons, and to have the mothers testify about the violence that occurs in the cities of New York and the hamlets throughout the State of New York and suggest that we're grandstanding, suggest that we can't talk about it.

We've got -- if you read your mail today -- I'm sure you did -- to see where Richard Girgenti at the New York State Religious Leaders Conference in November of 1930, 1933, "Violence and the fear of violence are robbing this state and nation of its vitality and spirit.

Grandstanding, indeed! Generations of Americans -

ACTING PRESIDENT KUHL: Senator Galiber. Senator Galiber.

SENATOR GALIBER: Yes.

ACTING PRESIDENT KUHL: Excuse me just a minute.

Senator Present, why do you rise?

SENATOR GALIBER: Is this on a technicality or -

SENATOR PRESENT: On a technicality, Senator Galiber. I think your two minutes has lapsed.

ACTING PRESIDENT KUHL: How do you vote, Senator Galiber?

SENATOR GALIBER: I vote against the technicality.

THE SECRETARY: Senator Gold, excused. Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

(There was no response.)

Senator Hoffmann.

SENATOR HOFFMANN: No.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: To explain my vote.

ACTING PRESIDENT KUHL: Senator Jones to explain her vote.

SENATOR JONES: Yes. I'm not going to speak at all to the issue that we are attempting to debate here. I would just like to

speak about my colleagues' right to discuss it.

If there are rules here, then it's quite clear to me, after a year here, that they can be bent or changed to achieve desired purposes. I think my colleagues have a right to discuss this.

I don't think anybody should be proud of the way we do business in this house that we're sitting here at this hour on a holiday season. I think it's a disgrace the way we do business.

I think the rules can certainly be bent in this case, as well, if that's what you are calling this technicality, and I think we have a right to discuss something of importance.

I vote no.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leichter.
(There was no response.)
Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARKOWITZ: Aye.
THE SECRETARY: Senator Marino.
(Indicating "Aye.")
Aye.
Senator Markowitz.
(There was no response.)
Senator Masiello.
(There was no response.)
Senator Mendez, excused. Senator Montgomery.
SENATOR MONTGOMERY: To explain

my vote.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to explain my vote on this issue. I think the issue that we're attempting to get on the floor for debate is so much more important than the technicality that is being used to prevent that debate, and I have a feeling like we're all sitting here debating a technicality while our children are being killed in the streets, people on their way home being shot down like animals in the woods as if someone were hunting, while people walk the streets of New York with weapons that are illegal when it comes to sports and hunting.

We're not talking about interfering with anybody's pleasure and sport. We're talking about eliminating guns from our streets that are meant solely to kill other people. We now have -- in parts of my district, it is more dangerous for one to leave their home than it is for one -- or it was for soldiers to

be on the field in Vietnam.

So I am very, very disturbed. Rome is burning, if you will, and we debate a technicality. This, ladies and gentlemen of the chamber, is the level to which we have sunk in terms of hiding our heads in the sand to avoid debating an issue which means life and death to people in this state. I am embarrassed by it. I'm ashamed of it, and I certainly don't like this moment in our history and in the activity of our Legislature, especially the activity in our Senate.

So I vote no on the technicality because I think that more than ever, if there was ever any other moment in time that we should be debating that issue, it's right now.

I vote no, Mr. President.

THE SECRETARY: Senator Nolan.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Ohrenstein.

SENATOR OHRENSTEIN: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Ohrenstein.

SENATOR OHRENSTEIN: I would just like to put this matter into perspective. Last Tuesday evening, a week ago last Tuesday evening, a terrible event happened on the Long Island Railroad and six innocent people were murdered in cold blood and countless others were maimed. The following day, Senator Marino issued a press release deploring this violence and saying amongst other things that the fact that an individual with such a penchant for violence could obtain a dangerous weapon despite New York's tough handgun laws confirms once again the need for strong federal action on firearms control. The Senate's Republican Majority supports such action as the only effective means of keeping guns out of the hands of such dangerous assassin.

I issued a release subsequent to this release, agreeing with Senator Marino about

the violence and deploring the conditions under which it ensued. But I called upon Senator Marino and the Republican Majority to put on the floor the bill which is at issue here, Senate S.5787, a bill to ban assault weapons in the State of New York and a bill which was passed by the Assembly last June and which would become law were we to pass it today.

I join with you in calling for federal action, but we know that that could take months or years because of the activities of the National Rifle Association and others opposed to any kind of gun control, and action by the feds will be years way. We can take action today to ban assault weapons.

I then wrote a letter to Senator Marino on December 14, which was on Wednesday, asking him one more time to put this bill on the floor during this special session. I wrote in that letter, "Many members of the..."

ACTING PRESIDENT KUHL: Excuse me, Senator Ohrenstein.

Senator Present, why do you rise?

SENATOR PRESENT: I think that Senator Ohrenstein had his first two minutes at the beginning of this roll call vote. I think you have exceeded two minutes more.

SENATOR OHRENSTEIN: Well, can I finish my sentence?

SENATOR PRESENT: Finish the sentence, please.

SENATOR OHRENSTEIN: At the end of my letter, I said, "Many members of the Senate Democratic conference have expressed a strong desire to vote on the assault weapon bill during the special session. I have, therefore, asked Senator Gold to file a motion to suspend the Senate rules if that is what is necessary to allow us to vote on this bill. I hope we will not have to take this action, and I look forward to working cooperatively with you on this issue so Thursday's session will be marked by decisive action to insure safer streets for all New Yorkers."

I ask you again to work with us and not to quibble with us on some

technicality.

I vote no.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Mr. President. To explain my vote.

ACTING PRESIDENT KUHL: Senator Onorato to explain his vote.

SENATOR ONORATO: Colleagues, I ask you. It's a frustrating situation, especially on this side of the aisle, that we have to go through some of these type of maneuvers to get something to vote on. We can't get any of our bills out of committee to begin with and to be here on the week before Christmas, one of the most sacred days around, for the Prince of Peace -- the birth of the Prince of Peace to come before us, we are asking you to join with us and helping with that cause of bringing a little bit more peace in this world by banning assault weapons.

I don't think it's a very unreasonable request to ask to be debating a bill like this, especially in view of the fact

that we are up here for two days. We voted on four bills in two days' time, and we're standing at ease at this particular moment. Why not have some meaningful legislation put before this house.

I vote no on the chair's ruling.

THE SECRETARY: Senator Oppenheimer.

(There was no response.)

Senator Padavan.

(There was no response.)

Senator Pataki.

SENATOR PATAKI: Yes.

THE SECRETARY: Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson, to explain his vote.

SENATOR PATERSON: Mr. President. In explaining my vote, I would like to ask the chair for a ruling. I understand I'm alloted two minutes. Would I be willing to transfer that two minutes to another Senator, would that be permissible?

ACTING PRESIDENT KUHL: I think that would call for the suspension or amendment to the rules, Senator, and I am not in a position to do that. So you have two minutes, or what's left of it to explain your vote.

SENATOR PATERSON: Well, in addition to using part of my two minutes, Mr. President, can you tell me who is in position to change that?

ACTING PRESIDENT KUHL: Any member at the right time can make the motion. You know that. It's part of the rules which you, I'm sure, have been through and those are what we are following here tonight.

SENATOR PATERSON: All right. With the remaining part of my two minutes, I would just like to say that I think that the rules as they stand now should be held void for vagueness, Mr. President, since this is a measure that we take very often by departing from the regular rules in order to go back to motions and resolutions, as we want in this particular case.

There are children in this city right now who, on average, are within -- have a one in sixteen chance of being victims of a violent crime from a weapon such as a gun. This rate is higher than the risk that young men and women took when they volunteered for this country's service in Vietnam. And so that would signify to me that we are a nation quite under siege, and I thought that at this special session of the Legislature, at this time when we are really sending a message to people throughout the state that because of unusual circumstances we are going back into regular session, that it would have been far more foresighted for us to take up this debate about assault weapons and to ban them or to not ban them but at least to let the public know that we were addressing the issue.

I am disappointed in the ruling that the chair made.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: How do you vote, Senator Paterson?

SENATOR PATERSON: I vote no, Mr. President.

ACTING PRESIDENT KUHL: Thank you.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: To explain my vote.

ACTING PRESIDENT KUHL: To explain his vote.

SENATOR PRESENT: I remind the members that we are only voting on the ruling of the chair. We are not voting on any other issue.

I vote yes.

ACTING PRESIDENT KUHL: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator

Santiago.

(There was no response.)

Senator Sears.

(There was no response.)

Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

(There was no response.)

Senator Smith.

ACTING PRESIDENT KUHL: Senator Smith to explain her vote.

SENATOR SMITH: Thank you, Mr. President. These are extraordinary times, and our children are dying in the streets, and it's people who make decisions off the top of their heads to change rulings with very little rationale that make it impossible for people of good will to discuss matters that are important to those that we represent. It's a sad day for the State of New York when we, as their elected officials, can not openly discuss the things that matter to them and try to protect lives.

We come here and we waste the

taxpayers' money. Four bills in two days. I hope that this bears well on your conscience at this holiday time that you can not even bend the rules enough to allow us to take care of something that is important to the taxpayers who pay our salaries.

I vote no, Mr. President.

THE SECRETARY: Senator Solomon.

(There was no response.)

Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Although I may personally find this bill technically flawed, I think that Senator Ohrenstein deserves an opportunity to be able to debate it on the floor, and for that reason I vote no.

THE SECRETARY: Senator

Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

(There was no response.)

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Aye.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon to explain his vote.

SENATOR WALDON: Thank you, Mr. President. Approximately 2,000 years ago, there was no room at the inn; and tonight in this house, there is no room in our procedures to deal with a monumental problem.

We can find time to debate expansion of prison cells. We can find time to

debate issues not related to the loss of life, but tonight we can not deal with the 67 million guns owned by private citizens. We can not deal with the 1.5 million handguns made in the U.S. in 1992, every 14 seconds.

We can't deal with almost $2.3 billion worth of injuries from people going to emergency rooms resulting from handguns.

Across this country, a handgun related death occurs every 20 minutes. More than 640,000 crimes are committed every year with handguns, murders, robberies, rapes.

Every year, 37,000 Americans are killed by handguns in this country. In Korea, we lost 33,651 personnel. In Vietnam, 47,364. We're not listening.

Firearms kill more people between 15 and 24 years of age than all natural causes combined. The first eleven months of 1993, New York City recorded 5,064 shootings.

The first seven months of 1993, guns were used in 74 percent of homicides in New York City accounting for 823 deaths. Last year,

they were used in 77 percent of city homicides accounting for 1,541 deaths. We're not listening.

Time magazine conducted a poll. They asked the question, "Do you favor stricter gun control laws?" Seventy percent of the people who answered favored the control. "Do you favor mandatory registration of all guns?" Seventy-eight percent of the people who answered favored registration.

Bringing it home to the district I represent, every 95 seconds -

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Last sentence. I'm concluding.

ACTING PRESIDENT KUHL: Senator Waldon. Please excuse me.

Senator Present, why do you rise?

SENATOR PRESENT: Time.

SENATOR WALDON: My last sentence. I'm concluding, Mr. President.

SENATOR PRESENT: One sentence.

SENATOR WALDON: I thank you, Senator Present.

Every 95 seconds a child of African-American heritage is born into poverty. That's bad enough. That is bad enough from the richest country on earth. Worst than that is every six hours a child of African-American heritage dies from firearms.

My brothers and sisters in spirit and fact, we are not fulfilling our responsibility as members of this house. There is still no room in this house.

ACTING PRESIDENT KUHL: Senator Waldon, how do you vote?

SENATOR WALDON: No.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Mr. President to explain my vote.

ACTING PRESIDENT KUHL: Senator Wright to explain his vote.

SENATOR WRIGHT: I find it interesting that there is a great deal of

reference this even<to technicalities when, in fact, we're talking about the rules of the house, and I, too, have been here but one year, and they are the same rules we started in and the same rules we're finishing with this evening.

So to use the issue of technicality, they are the rules that we have been governed by for a year now. I think everybody on this side of the aisle and I know on that side of the aisle as well, as well as our colleagues in the Assembly, are well aware of the seriousness of this issue. Nobody is trying to minimize that in any way whatsoever, but I don't think it's simply the issue of assault weapons, and I think we would like to see the same kind of commitment and intensity when we talk about the death penalty, when we talk about creating additional prison cells, when we talk about other measures to curtail crime, not simply a singled-focused issue.

The holiday seaso< **REPAIRED** lovely opportunity to provide analogies and

religious symbolism, which unfortunately simply makes good copy. This is being utilized this evening not out of questions of good will or good faith but because it's good politics. There is an opportunity here to be utilized to acquire copy.

I don't think that's fair to the members of this side of the aisle. I don't think it's fair to any of the colleagues in the house. I think we recognize our obligations. I think we recognize there is more to this issue than simply assault weapons, and I think you will see that dealt with.

From my perspective, this is a political issue not an issue of good will and good faith. I have vote yes, Mr. President.

ACTING PRESIDENT KUHL: Clerk will call the absentees.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

(There was no response.)

Senator Leichter.

(There was no response.)

Senator Libous.

(There was no response.)

Senator Markowitz.

(There was no response.)

Senator Masiello.

(There was no response.)

Senator Nolan.

SENATOR NOLAN: I would like to rise to explain my vote.

ACTING PRESIDENT KUHL: Senator Nolan to explain his vote.

SENATOR NOLAN: I would like to urge my colleagues on the other side of the aisle to reflect and maybe consider changing their vote on this on Senator Ohrenstein's bill. And to that end, I would like to ask every member in this chamber to stand and to say a silent prayer for two minutes for the victims

of the LIRR massacre last week.

(Whereupon, the members of the Senate were standing for two minutes.)

ACTING PRESIDENT KUHL: Senator Nolan, how do you vote.

SENATOR NOLAN: I vote in the negative.

THE SECRETARY: Senator Oppenheimer.

(There was no response.)

Senator Padavan.

(There was no response.)

Senator Santiago.

(There was no response.)

Senator Sears.

(There was no response.)

Senator Skelos.

(There was no response.)

Senator Solomon.

(There was no response.)

Senator Stavisky.

(There was no response.)

ACTING PRESIDENT KUHL: Results.

THE SECRETARY: Ayes 29. Nays 13.

ACTING PRESIDENT KUHL: The ruling of the chair is sustained.

Senator Present, for an announcement.

SENATOR PRESENT: Mr. President. I would like to announce an immediate meeting of the Rules Committee in Room 332 and ask that the chamber stand at ease.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in Room 332.

The Senate will stand at ease.

(Whereupon, at 11:07 p.m., the Senate was at ease.)

(Whereupon, at 11:24 p.m., the Senate reconvened.)

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Present.

SENATOR PRESENT: Can we return to reports of standing committees please.

ACTING PRESIDENT KUHL: We will. Clerk will read the Rules report.

THE SECRETARY: Senator Marino from the Committee on Rules reports the following bills directly for third reading:

Senate Bill Number 6226, by Senator Tully and others, an act to amend the Public Health Law, the State Finance Law, the Education Law, Chapter 624 of the Laws of 1986 amending the Public Health Law.

Also Senate Bill Number 4715A, by Senator Velella, an act to amend the Insurance Law, in relation to permitting motor vehicles no-fault insurance policyholders, covered persons, insurers and self-insurers.

Both bills reported directly for third reading.

ACTING PRESIDENT KUHL: Without objection, third reading.

Senator Present.

SENATOR PRESENT: Call up Calendar 1718, please.

ACTING PRESIDENT KUHL: Clerk

will read Calendar 1718.

THE SECRETARY: Calendar Number 1718, by Senator Tully, Senate Bill Number 62...

Excuse me. Senate Bill Number 4715A, by Senator Velella, an act to amend the Insurance Law, in relation to permitting motor vehicle no-fault -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Senator Stachowski, we're on Third Reading Calendar I assume.

SENATOR STACHOWSKI: I'm waiting for someone to come out here. Can you just hold it for a second?

ACTING PRESIDENT KUHL: Senator Present?

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Can we call up Calendar 1718. I believe there is a message of necessity at the desk, and I move that we accept

the message.

ACTING PRESIDENT KUHL: There is a message. Wait a minute.

SENATOR PRESENT: I stand corrected. Calendar 1717.

ACTING PRESIDENT KUHL: Yes, there is some confusion on the numbers, Senator.

Clerk will call up 1717.

THE SECRETARY: Calendar Number 1717, by Senator Tully and others, Senate Bill Number 6226, an act to amend the Public Health Law, the State Finance Law, the Education Law, Chapter 624 of the Laws of 1986 amending the Public Health Law.

ACTING PRESIDENT KUHL: You're correct, Senator, there is an a message of necessity at the desk.

SENATOR PRESENT: I move that we accept the message.

ACTING PRESIDENT KUHL: All those in favor of accepting the message, signify by saying aye.

(Response of "Aye.")

Contrary, nay.

(There was no response.)

The ayes have it. The motion is accepted. Message is accepted.

Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR TULLY: Mr. President. May I have my name called, please.

ACTING PRESIDENT KUHL: Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

Over 15 months ago, the Council on Health Care Financing began its most recent evaluation of New York's all payor hospital inpatient reimbursement system. This evaluation

included a report prepared by the Center for Health Policy Studies, which showed that many of New York hospitals are experiencing huge losses and negative operating margins.

This agreed-to bill amends the Public Health Law, Education, and other laws by making adjustments to the inpatient hospital reimbursement system and other important reforms to the current health care system.

The primary feature of this bill is the continuation of NYPHRM for two years beginning January 1, 1994.

At this particular time, Mr. President, I would like to indicate that this legislation would not have been possible without the contributions of Senator Marino, Senator Cook, and Senator Holland; majority central staff including Angelo Mangia, Gayle Yeomans, Robin Frank, Dave Wollner, Barbara Howard and Margaret Sellers; two people from the Legislative Commission on Rural Resources, Ron Brach and Laura Sherry; Mark Kissinger from Senator Holland's staff; and, of course, my

entire staff who all worked together to produce this important health legislation.

I would like to compliment all of the negotiators on this matter from the Assembly and the Governor's office in producing this very important three-way piece of legislation.

And I like to wish a very, very happy holiday to all of my colleagues and a merry Christmas and the best of the new year to all of the staff who are listening.

Thank you very much.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: I wish to recall the vote by which that last bill passed. Reconsider the vote. Can I reconsider the vote?

ACTING PRESIDENT KUHL: Senator, you wish to reconsider the vote by which Senate Calendar Number 1717 passed this house; is that correct?

SENATOR MONTGOMERY: I would like to change my vote, and I want to explain my

vote.

ACTING PRESIDENT KUHL: On the motion for reconsideration. All those in favor, signify by saying aye.

The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, thank you.

I'm going to vote no on this bill as a protest because I am very disappointed that we do not have in this bill an expansion of services to adolescents. We have no services that are targeting adolescents in this bill. We are not providing primary care in the State of New York to adolescents, and this bill has not corrected that failure in our state.

And so as a statement of my extreme disappointment, I am going to vote no because I think there is no excuse for us to be moving forward at all and leaving out an entire segment of the population in the State of New York as we move to try and provide health care to our people.

Thank you.

ACTING PRESIDENT KUHL: Senator Smith to explain her vote.

SENATOR SMITH: Thank you, Mr. President.

I, too, join with my colleague Velmanette Montgomery in this protest vote, and I also vote in the negative.

ACTING PRESIDENT KUHL: Senator Hoffmann to explain her vote.

SENATOR HOFFMANN: I wonder if Senator Tully would yield for a brief question or possibly two?

ACTING PRESIDENT KUHL: Senator Hoffmann, we're on a roll call at this time.

SENATOR HOFFMANN: I believe we

had moved to reconsider the vote. Was I incorrect in understanding that?

ACTING PRESIDENT KUHL: And we took a roll call, and we're on a roll call.

SENATOR HOFFMANN: Is there a possibility that Senator Tully could answer a question within the roll call? Is that technically not possible?

I thought we had reconsidered. I don't want to create a big problem. I just wanted to ask a simple question.

SENATOR OHRENSTEIN: Mr. President.

ACTING PRESIDENT KUHL: Senator Ohrenstein.

SENATOR OHRENSTEIN: We could reconsider the vote a second time, or else let Senator Hoffmann ask a question and we will be done with it.

ACTING PRESIDENT KUHL: Senator Hoffmann, if you'd like to ask Senator Tully a question.

SENATOR HOFFMANN: Thank you, Mr.

President.

Senator Tully, could you explain very briefly to me what the impact of the increased 46 million for TB costs will mean on a statewide basis? Is this in fact a statewide figure? Is it site specific or hospital specific; and will it be used for such things as negative pressure rooms?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Tully.

SENATOR TULLY: The $46 million recognizes the cost for all TB hospitals in the state for tuberculosis.

SENATOR HOFFMANN: For all hospitals currently treating tuberculosis cases?

SENATOR TULLY: That's correct.

SENATOR HOFFMANN: Statewide?

SENATOR TULLY: Yes.

SENATOR HOFFMANN: That would be including those which have been affected

negatively by the influx of inmates that have been transferred into some rooms -

SENATOR TULLY: Answer to that is in the affirmative, Mr. President.

SENATOR HOFFMANN: Thank you, Senator Tully -

ACTING PRESIDENT KUHL: Any other Senators wishing to explain their votes?

SENATOR HOFFMANN: -- appreciate your cooperation.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Senator Marino moves to discharge the Committee on Rules from Senate Bill Number 6226 and sub' the identical Assembly Bill 8936.

ACTING PRESIDENT KUHL: Without objection, we're going to substitute the Assembly bill for the Senate bill.

Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54. Nays 2. Senators Montgomery and Smith recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Now 1718.

ACTING PRESIDENT KUHL: Clerk will read.

THE SECRETARY: Calendar Number 1718. Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 6277A and substitute it for the identical Calendar Number 1718.

ACTING PRESIDENT KUHL: Substitution is ordered.

Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Will you recognize Senator Larkin please.

SENATOR LARKIN: Mr. President. I have a privileged resolution at the desk.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: I have a privileged resolution at the desk.

ACTING PRESIDENT KUHL: That you do, Senator.

Clerk will read the title.

THE SECRETARY: Legislative resolution, by Senator Larkin, expressing sincerest sorrow upon the occasion of the death of Lawrence R. Belello Sr., former Republican chairman of Orange County and the Town of New Windsor, New York.

ACTING PRESIDENT KUHL: The

question is on the adoption of the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution as adopted.

Senator Present.

SENATOR PRESENT: Mr. President. There being no further business, I move we adjourn subject to the call of the Majority Leader.

ACTING PRESIDENT KUHL: There being no business, the Senate stands adjourned.

(Whereupon, at 11:40 p.m., Senate adjourned.)