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ALBANY, NEW YORK
January 18, 1994
4:27 p.m.

REGULAR SESSION

SENATOR NICHOLAS A. SPANO, Acting President
STEPHEN F. SLOAN, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT SPANO: Senate
will come to order.

All please rise for the Pledge of
Allegiance to the Flag.

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

In the absence of clergy, may we
please bow our heads for a moment of silence.

(Whereupon, there was a moment of
silence.)

Reading of the Journal.

THE SECRETARY: In Senate,
Sunday, January 16. The Senate met pursuant to
adjournment. Senator Bruno in the chair upon
designation of the Temporary President. The

1 Journal of Saturday, January 15, was read and
2 approved. On motion, Senate adjourned.

3 ACTING PRESIDENT SPANO: Hearing
4 no objection, the Journal stands approved as
5 read.

6 Presentation of petitions.

7 Messages from the Assembly.

8 Messages from the Governor.

9 Reports of standing committees.

10 Secretary will read.

11 THE SECRETARY: Senator Bruno
12 from the Committee on Commerce, Economic
13 Development and Small Business, reports the
14 following bills directly for third reading:

15 Senate Bill Number 1744A, by
16 Senator Bruno and others, an act to amend the
17 Executive Law.

18 2389, by Senator Wright and
19 others, State Administrative Procedure Act.

20 4106, by Senator Wright and
21 others, State Administrative Procedure Act.

22 4107, by Senator Wright and
23 others, State Administrative Procedure Act.

1 4615A, by Senator Bruno and
2 others, an act to amend the Executive Law.

3 4616A, by Senator Bruno and
4 others, Economic Development Law.

5 4617A, by Senator Bruno, State
6 Administrative Procedure Act.

7 All bills reported directly for
8 third reading.

9 ACTING PRESIDENT SPANO: Without
10 objection, third reading.

11 Substitutions.

12 THE SECRETARY: On page 5 of
13 today's calendar, Senator Volker moves to
14 discharge the Committee on Investigations,
15 Taxation and Government Operations from Assembly
16 Bill Number 9032 and substitute it for the
17 identical Third Reading 23.

18 ACTING PRESIDENT SPANO:
19 Substitution ordered.

20 Motions and resolutions.

21 SENATOR PRESENT: Mr. President.
22 I move that we adopt the resolution calendar on
23 our desk.

1 ACTING PRESIDENT SPANO: The
2 question is on the adoption of the resolution
3 calendar.

4 All those in favor, signify by
5 saying aye.

6 (Response of "Aye.")

7 Opposed, nay.

8 (There was no response.)

9 The resolution calendar is
10 adopted.

11 Any other motions or resolutions?

12 (There was no response.)

13 Senator Present, we are ready to
14 begin the calendar.

15 SENATOR PRESENT: Mr. President.

16 Let's take up the noncontroversial calendar,
17 please.

18 ACTING PRESIDENT SPANO:

19 Secretary will read noncontroversial.

20 THE SECRETARY: On page 4,

21 Calendar Number 1, by Senator Volker.

22 SENATOR GOLD: Lay it aside.

23 ACTING PRESIDENT SPANO: Lay it

1 aside.

2 THE SECRETARY: Calendar Number
3 4, by Senator Holland, Senate Bill.

4 SENATOR GOLD: Lay it aside.

5 ACTING PRESIDENT SPANO: Lay it
6 aside.

7 THE SECRETARY: Calendar Number
8 7.

9 SENATOR GOLD: Lay it aside.

10 ACTING PRESIDENT SPANO: Lay it
11 aside.

12 THE SECRETARY: Calendar Number
13 8, by Senator Volker, Senate Bill Number 364, an
14 act to amend the Penal Law.

15 SENATOR GOLD: Lay it aside.

16 ACTING PRESIDENT SPANO: Lay it
17 aside.

18 THE SECRETARY: Calendar Number
19 10, by Senator Padavan.

20 SENATOR GOLD: Lay it aside.

21 ACTING PRESIDENT SPANO: Lay it
22 aside.

23 THE SECRETARY: Calendar Number

1 13, by Senator Levy, Senate Bill Number -
2 SENATOR GOLD: Lay it aside.
3 ACTING PRESIDENT SPANO: Lay it
4 aside.
5 THE SECRETARY: Calendar Number
6 14, by Senator Tully.
7 SENATOR GOLD: Lay it aside for
8 Senator Galiber, please.
9 ACTING PRESIDENT SPANO: Lay it
10 aside.
11 THE SECRETARY: Calendar Number
12 15, by Senator Daly, Senate Bill Number -
13 SENATOR GOLD: Lay it aside.
14 ACTING PRESIDENT SPANO: Lay it
15 aside.
16 THE SECRETARY: Calendar Number
17 18, by Senator Cook, Senate Bill Number 4739.
18 SENATOR PRESENT: Lay it aside.
19 ACTING PRESIDENT SPANO: Lay it
20 aside.
21 THE SECRETARY: Calendar Number
22 19, by Senator Cook, Senate Bill Number 4787, an
23 act to amend the Education Law.

1 SENATOR DOLLINGER: Lay it aside.

2 ACTING PRESIDENT SPANO: Lay it
3 aside.

4 SENATOR GOLD: Senator Dollinger
5 asked to lay it aside.

6 THE SECRETARY: Calendar Number
7 20, by Senator Daly, Senate Bill 4795, an act to
8 amend the Education Law.

9 ACTING PRESIDENT SPANO: Read the
10 last section.

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

13 ACTING PRESIDENT SPANO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 40.

17 ACTING PRESIDENT SPANO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 21, by Senator Cook, Senate Bill Number 5640, an
21 act to amend the Education Law.

22 SENATOR PRESENT: Lay it aside.

23 ACTING PRESIDENT SPANO: Lay it

1 aside.

2 THE SECRETARY: Calendar Number
3 22, by Senator LaValle, Senate Bill Number 1050,
4 an act to amend the Tax Law.

5 SENATOR GOLD: Lay it aside
6 temporarily for Senator Leichter.

7 ACTING PRESIDENT SPANO: Lay it
8 aside.

9 THE SECRETARY: Calendar Number
10 23, substituted earlier today, by the Assembly
11 Committee on Rules, Assembly Bill Number 9032,
12 an act to amend the Tax Law, in relation to the
13 imposition of sales and use taxes in the County
14 of Erie.

15 ACTING PRESIDENT SPANO: Read the
16 last section.

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

19 ACTING PRESIDENT SPANO: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 39. Excuse
23 me. Ayes 38. Nays 2. Senators Dollinger and

1 Jones recorded in the negative.

2 ACTING PRESIDENT SPANO: The bill
3 is passed.

4 Senator Stafford, that completes
5 the noncontroversial calendar.

6 SENATOR PRESENT: I didn't hear
7 you.

8 ACTING PRESIDENT SPANO: I do
9 that all the time to you. Like I was saying,
10 Senator Present, that completes the
11 noncontroversial calendar.

12 SENATOR PRESENT: I hear you this
13 time. Mr. President. Let's take up the
14 controversial calendar, please.

15 ACTING PRESIDENT SPANO:
16 Secretary will read.

17 THE SECRETARY: On page 4,
18 Calendar Number 1, by Senator Volker, Senate
19 Bill Number 64, an act to amend the Criminal
20 Procedure Law.

21 SENATOR VOLKER: Lay this aside
22 temporarily.

23 SENATOR PRESENT: Lay it aside.

1 ACTING PRESIDENT SPANO: Lay it
2 aside temporarily.

3 THE SECRETARY: Calendar Number
4 4, by Senator Holland, Senate Bill Number 211,
5 an act to amend the Penal Law.

6 ACTING PRESIDENT SPANO: Senator
7 Gold.

8 SENATOR GOLD: Mr. President.

9 ACTING PRESIDENT SPANO: Senator
10 Gold.

11 SENATOR GOLD: My problem is just
12 one of logistics. There are some bills that are
13 going to be coming up, such as the Volker bill
14 and the Holland bill which we have had before,
15 and the debates I don't anticipate as being very
16 long or complicated, but I am concerned that a
17 number of members -- thirteen and fourteen in
18 each case -- will want to vote in the negative,
19 and I don't see them here. My only alternative,
20 therefore, would be a slow roll call which I
21 don't want to do.

22 I know some people have been
23 delayed by the Governor's presentation. So I

1 don't know what to tell you. Perhaps with -- I
2 know it's a procedure we don't like to do,
3 Senator Present. But, for example, 22, I know
4 there is only one no vote we have, is Senator
5 Leichter. If you wanted to call that, you might
6 be able to get rid of that quickly, or whatever
7 procedure you want to follow.

8 SENATOR PRESENT: If we can just
9 stand at ease and maybe they will come in. I
10 don't want to start taking them out of order and
11 jumping all over.

12 SENATOR GOLD: Well, if you read
13 the rules, you will find out, Senator, that you
14 are the boss and I am not.

15 SENATOR PRESENT: Good answer.
16 Stand at ease.

17 ACTING PRESIDENT SPANO: Senate
18 will stand at ease.

19 (Whereupon, the Senate was at
20 ease.)

21 Senator Present.

22 SENATOR PRESENT: Mr. President.

23 Let's start with the controversial calendar

1 again. We will go through it. If they are laid
2 aside by Senator Gold, we will go through it
3 again a second time.

4 ACTING PRESIDENT SPANO: We will
5 begin the controversial calendar, starting at
6 page 4, Calendar 1.

7 Secretary will read.

8 THE SECRETARY: Calendar Number
9 1, by Senator Volker, Senate Bill Number 64, an
10 act to amend the Criminal Procedure Law.

11 SENATOR GOLD: Explanation.

12 ACTING PRESIDENT SPANO: Senator
13 Volker.

14 SENATOR VOLKER: This is a bill
15 which passed the Senate the last several years
16 and which, very honestly, we've been discussing
17 with the Assembly, and I thought last year we
18 would have it passed, but for various reasons we
19 didn't.

20 It is a bill which would allow
21 police officers to be videotaped or to be -- to
22 have their testimony presented to a grand jury
23 by a remote electronic hook-up. These are

1 police officers who are not witnesses to a
2 crime, who are not the sort of people who would
3 be cross-examined in a grand jury room.

4 This has been, by the way, the
5 subject of several demonstration projects, has
6 been, in fact, tested in New York City on a very
7 limited basis, and I understand it's been tested
8 across the country, and it is believed that this
9 sort of system could save millions of dollars in
10 the State of New York, particularly I think in
11 New York City where a police officer's time
12 could be conserved by having special places for
13 these people to be able to give their testimony.

14 SENATOR GOLD: Mr. President.

15 ACTING PRESIDENT SPANO: Senator
16 Gold.

17 SENATOR GOLD: Yes, I appreciate
18 the Majority Leader giving us a little time. I
19 think everyone who was concerned is now in the
20 chamber or around the chamber.

21 As Senator Volker indicated, we
22 have debated this in the past. Senator Galiber
23 and myself and Leichter, Montgomery, Ohrenstein,

1 Paterson, Santiago and Smith have voted in the
2 negative.

3 Anybody has any other comments?
4 Otherwise, we can read the last section.

5 ACTING PRESIDENT SPANO: Read the
6 last section.

7 SENATOR LEICHTER: Mr. President.

8 ACTING PRESIDENT SPANO: Senator
9 Leichter, do you wish to be recognized?

10 SENATOR LEICHTER: Just to
11 explain my vote.

12 ACTING PRESIDENT SPANO: Senator
13 Leichter, let's first read the last section and
14 then we'll recognize you.

15 THE SECRETARY: Section 3. This
16 act shall take effect on the first day of
17 November.

18 ACTING PRESIDENT SPANO: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT SPANO: Senator
22 Leichter to explain his vote.

23 SENATOR LEICHTER: Mr.

1 President. I wouldn't mind if we got rid of
2 grand juries altogether; and, as you may
3 remember, the former Chief Justice recommended
4 that we do that. But it seems to me that if you
5 have grand juries and you are going to require
6 people to testify and if the D.A. thinks that
7 the testimony of somebody is significant enough
8 to present to the grand jury, then it seems to
9 me that person should be before the grand jury
10 and the grand jurors ought to have the ability
11 to gauge the witness's truthfulness by his
12 demeanor on the stand. They ought to have the
13 opportunity to ask questions.

14 I can't understand why we would
15 say, "Well, some witnesses have to appear; but
16 some witnesses, well, they are more tangential
17 so they don't have to appear." I think maybe
18 the answer is let's get rid of the grand juries
19 and really save money.

20 Mr. President. I vote in the
21 negative.

22 ACTING PRESIDENT SPANO: Senator
23 Leichter in the negative.

1 THE SECRETARY: Those recorded in
2 the negative on Calendar Number 1 are Senators
3 Galiber, Gold, Leichter, Montgomery, Ohrenstein
4 and Smith. Ayes 46. Nays 6.

5 ACTING PRESIDENT SPANO: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 4, by Senator Holland, Senate Bill Number 211,
9 an act to amend the Penal Law.

10 ACTING PRESIDENT SPANO: Read the
11 last section.

12 SENATOR DOLLINGER: Mr.
13 President.

14 ACTING PRESIDENT SPANO: Senator
15 Dollinger.

16 SENATOR DOLLINGER: Mr.
17 President. I rise -- I believe there are a
18 series of amendments at the desk.

19 ACTING PRESIDENT SPANO: We have
20 one amendment at the desk, Senator Dollinger.

21 SENATOR DOLLINGER: One
22 amendment?

23 ACTING PRESIDENT SPANO: Yes.

1 SENATOR DOLLINGER: The
2 amendment, Mr. President, which I propose to
3 this bill is to take the Assembly version of the
4 assault weapon ban and permitting process that
5 was passed yesterday in extraordinary session -

6 ACTING PRESIDENT SPANO: Excuse
7 me, Senator Dollinger.

8 Senator Present, do you wish to
9 be recognized?

10 SENATOR PRESENT: Mr. President.
11 A copy of this proposed amendment has been sent
12 to this desk. And after reviewing it, I find
13 that the amendment offered to Senator Holland's
14 bill is out of order since it is not germane to
15 the original purpose of the bill and, therefore,
16 violates Senate Bill Rule 6, Section 46 -- 4(B),
17 wherefore, it purports to amend a completely
18 different section of the law.

19 Therefore, I ask that you rule
20 Senator -- is it -- Senator Dollinger's
21 amendment out of order.

22 SENATOR DOLLINGER: Mr.
23 President. If I can be -

1 ACTING PRESIDENT SPANO: Senator

2 -

3 SENATOR DOLLINGER: Mr.

4 President. I don't know whether I can be heard
5 on the issue of a request for the chair to be
6 ruled out of order.

7 ACTING PRESIDENT SPANO: Let me
8 first rule on Senator Present's motion, and then
9 we will listen to you.

10 It is the ruling of the chair
11 that your amendment is not germane to the bill
12 and is, therefore, out of order.

13 Senator Dollinger.

14 SENATOR DOLLINGER: Mr.

15 President. I appeal the ruling of the chair.

16 ACTING PRESIDENT SPANO: On the
17 appeal of the ruling of the chair. All those in
18 favor -

19 SENATOR DOLLINGER: Mr.

20 President. May I be heard on the issue of the
21 appeal of the ruling of the chair?

22 ACTING PRESIDENT SPANO: On the
23 ruling of the chair. All those in favor,

1 signify by saying aye.

2 SENATOR DOLLINGER: Excuse me,
3 Mr. President. I would like to be heard on the
4 appeal of the ruling of the chair.

5 ACTING PRESIDENT SPANO: Senator
6 Dollinger, by all means. Sorry.

7 SENATOR DOLLINGER: Mr.
8 President. This is an amendment, and I think it
9 is germane because this deals with the issue -
10 the underlying bill deals with the issue of
11 providing auxilliary police with a weapon, a
12 weapon that they don't currently have the
13 authorization to utilize. And we're about to
14 give -- if the will of this body is in the
15 majority, as it appears, since most of these
16 bills seem to have the support of the Majority
17 these days, that the Majority will give Mace to
18 auxilliary police, ideally because the purpose
19 of that is to aid them in crime fighting. What
20 I can't understand, Mr. President, why it's not
21 germane to the issue of fighting crime to
22 eliminate assault weapons from being able to be
23 purchased by everybody in this state simply by

1 showing a driver's license, why it isn't germane
2 to public safety to eliminate weapons that are
3 killing people in our streets? And why I can't
4 seem to understand why this is not germane to
5 the issue of fighting crime and creating safer
6 streets. It certainly seems to me that we'll
7 save more lives by banning assault weapons than
8 we will be by providing auxilliary police who
9 may not be properly trained with Mace. I can't
10 understand the logic on the other side of the
11 aisle.

12 I would just point out to
13 everybody in this chamber this is day two of the
14 wait, day two of the hostage crisis, day two
15 when the people of this state are being deprived
16 of an assault weapon ban that the majority of
17 the people in this state support, and which they
18 ought to have and which should be a part of the
19 law of this state; and it's far more important,
20 far more significant than giving Mace to our
21 auxilliary police.

22 I believe, Mr. President, it is
23 germane to the issue of creating safe streets.

1 It is germane to the issue of reducing crime.
2 And it is germane to the entire issue that's
3 raised by this ban -- or this bill that will
4 permit Mace to be used by auxilliary police
5 officers. It is relevant. And, certainly, I
6 wouldn't want to face the people of this state
7 and say banning assault weapons isn't germane to
8 reducing crime and reducing violence.

9 I don't understand the logic, Mr.
10 President.

11 ACTING PRESIDENT SPANO: The
12 question is on the overruling -- the appeal of
13 the ruling of the chair. Affirmation, in the
14 affirmative sustains the ruling; negative over
15 rules the ruling.

16 All those in favor, signify by
17 saying aye.

18 (Response of "Aye.")

19 Opposed, nay.

20 (Response of "Nay.")

21 It is the opinion of the chair
22 that the affirmatives have it; therefore,
23 sustaining the ruling of the chair.

1 Read the last section.

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

4 ACTING PRESIDENT SPANO: Call the
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT SPANO: Yes,
8 Senator Gold.

9 SENATOR GOLD: Is this on the
10 bill?

11 ACTING PRESIDENT SPANO: We just
12 read the last section. Would you like us to
13 withdraw that, Senator Gold?

14 SENATOR GOLD: Yes, could you?
15 Just for a moment, yes.

16 ACTING PRESIDENT SPANO: Sure.
17 Senator Gold.

18 SENATOR GOLD: Because I know -
19 Senator Holland, I've got a missile here which I
20 know you are going to be very interested in. My
21 notes from last year -- my notes indicated that
22 last year the Democratic Mayor of the City of
23 New York was opposed to this bill as was the

1 Police Conference of New York. I have in my
2 hand a memorandum from Robert M. Harding, who
3 represents the Republican Mayor of the City of
4 New York, and this very distinguished Republican
5 Mayor of the City of New York says, "Dear
6 Senator Gold: Please tell Senator Holland to
7 take this -- well, the idea is he is opposed to
8 it. He is opposed to it, and I would just say,
9 Senator Holland, that on the first or second day
10 that we're really handling legislative matters,
11 it's the wrong signal to send to Rudy that his
12 people in this house just don't have any respect
13 for his opinion.

14 So I know that this will change
15 the tide on the bill, and I just wanted to point
16 that out, and I would hope everybody would, in
17 fact, vote in the negative.

18 ACTING PRESIDENT SPANO: Read the
19 last section.

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

22 ACTING PRESIDENT SPANO: Call the
23 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 4 are Senators
4 Dollinger, Espada, Gold, Jones, Markowitz,
5 Mendez, Montgomery, Ohrenstein, Onorato,
6 Oppenheimer, Santiago and Smith. Ayes 45. Nays
7 12.

8 ACTING PRESIDENT SPANO: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 7, by Senator Volker, Senate Bill Number 247, an
12 act to amend the Criminal Procedure Law.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

15 SENATOR GOLD: Explanation.

16 ACTING PRESIDENT SPANO: Senator
17 Volker.

18 SENATOR VOLKER: Mr. President.
19 This is a bill relating to another bill relating
20 to the waiver of immunity before a grand jury.
21 The bill basically says -- and it relates to a
22 series of cases and one in particular, a very
23 bad case in Buffalo called People versus

1 Johnson, whereby a defendant waived his right of
2 immunity to testify before a grand jury; but, as
3 so often is the case, the argument was that he
4 did not waive it in the presence of the grand
5 jury. Anybody who has been around the grand
6 jury room realizes that probably, at least it
7 seems to me, most of the waivers actually don't
8 technically happen in the presence of the grand
9 jury. For years, that sort of process was going
10 on.

11 What this bill would really do,
12 it says that the waiver must be informed and
13 voluntary but eliminates the requirement that
14 the waiver must occur in the presence of the
15 grand jury which is really a technicality that's
16 been actually known more by its lack of
17 observance than observance over the past few
18 years.

19 SENATOR GOLD: Mr. President.

20 ACTING PRESIDENT SPANO: Senator
21 Gold.

22 SENATOR GOLD: Yes, it's another
23 situation which we've had many times before

1 where, based upon one assistant D.A. not
2 handling a case properly, we're asked to change
3 the whole criminal law.

4 Senator Connor, Espada, Galiber,
5 myself, Markowitz, Mendez, Montgomery,
6 Ohrenstein, Oppenheimer, Santiago, Smith,
7 Solomon, Stavisky and I assume DiCarlo will join
8 us if he is here, but -

9 Last section.

10 ACTING PRESIDENT SPANO: Read the
11 last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect on the first day of
14 November.

15 ACTING PRESIDENT SPANO: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Those recorded in
19 the negative on Calendar Number 7 are Senators
20 Espada, Galiber, Gold, Markowitz, Mendez,
21 Montgomery, Ohrenstein, Oppenheimer, Santiago
22 and Stavisky. Ayes 47. Nays 10.

23 ACTING PRESIDENT SPANO: The bill

1 is passed.

2 Senator Galiber.

3 SENATOR GALIBER: Mr. President.

4 I seek unanimous consent to be recorded in the
5 negative on Calendar Number 4.

6 ACTING PRESIDENT SPANO: Without
7 objection.

8 THE SECRETARY: Calendar Number
9 8, by Senator Volker, Senate Bill Number 364, an
10 act to amend the Penal Law.

11 SENATOR GOLD: Mr. President.

12 ACTING PRESIDENT SPANO: Senator
13 Gold.

14 SENATOR GOLD: I believe that we
15 had a debate on this one, too. This is one, I
16 believe, Senator Volker, where there are matters
17 which are already crimes in New York but you
18 want them included under the Organized Crime
19 Control Act. Am I right?

20 SENATOR VOLKER: That's right.

21 SENATOR GOLD: Yes, Mr.
22 President. In the negative were Senators Connor
23 and Espada, Galiber, Gold, Montgomery and

1 Ohrenstein. Why don't we read the last section.

2 ACTING PRESIDENT SPANO: Read the
3 last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the first day of
6 November.

7 ACTING PRESIDENT SPANO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Those recorded in
11 the negative on Calendar Number 8 are Senators
12 Espada, Gold, Leichter, Ohrenstein, Santiago,
13 Smith and Waldon. Also Senator Montgomery.
14 Ayes 49. Nays 8.

15 ACTING PRESIDENT SPANO: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 10, by Senator Padavan, Senate Bill Number 546,
19 an act to amend the Criminal Procedure Law.

20 SENATOR GOLD: Mr. President.

21 ACTING PRESIDENT SPANO: Senator
22 Gold.

23 SENATOR GOLD: Yes. This bill

1 which would allow prosecutors to appeal from
2 sentences which they thought were unduly lenient
3 is another one we've had in the past, with
4 Senator Connor, Dollinger and Espada, Galiber,
5 Gold, Montgomery, Ohrenstein, Smith, joined by
6 two very, very enlightened and distinguished
7 members of this house, Senator DeFrancisco and
8 Senator Marchi.

9 How about talking it up on your
10 side? Last section.

11 ACTING PRESIDENT SPANO: Read the
12 last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect on the first day of
15 November.

16 ACTING PRESIDENT SPANO: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Those recorded in
20 the negative on Calendar Number 10 are Senators
21 DeFrancisco, Dollinger, Espada, Galiber, Gold,
22 Marchi, Montgomery, Ohrenstein, Santiago, Smith
23 and Waldon. Ayes 46. Nays 11.

1 ACTING PRESIDENT SPANO: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 13.

5 SENATOR PRESENT: Lay it aside
6 for the day.

7 ACTING PRESIDENT SPANO: Lay it
8 aside for the day.

9 THE SECRETARY: Calendar Number
10 14, by Senator Tully, Senate Bill Number 152A,
11 an act to amend the Criminal Procedure Law.

12 ACTING PRESIDENT SPANO: Read the
13 last section.

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

16 ACTING PRESIDENT SPANO: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 57.

20 ACTING PRESIDENT SPANO: The bill
21 is passed.

22 THE SECRETARY: On Calendar
23 Number 14, those recorded in the negative are

1 Senators Galiber and Smith. Ayes 55. Nays 2.

2 ACTING PRESIDENT SPANO: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 15, by Senator Daly, Senate Bill Number 624, an
6 act to amend the Public Authorities Law.

7 ACTING PRESIDENT SPANO: Senator
8 Gold.

9 SENATOR GOLD: Yes. Will Senator
10 Daly yield to a question?

11 SENATOR DALY: Yes.

12 ACTING PRESIDENT SPANO: Senator
13 Daly will yield.

14 SENATOR GOLD: Senator Daly, does
15 this bill still discriminate against Assemblyman
16 Rappleyea?

17 SENATOR DALY: No, sir.

18 Mr. President. This bill does
19 not discriminate against Assemblyman Rappleyea
20 or Senator Ohrenstein.

21 SENATOR GOLD: There are minority
22 appointments?

23 SENATOR DALY: I don't see any

1 party mentioned in here. No, sir. Actually,
2 there's no Minority or Majority appointments,
3 for that matter. We select the Majority Leader
4 of the Senate and the Speaker of the Assembly,
5 and they, in turn, if they wish to appoint
6 someone else can appoint anyone they wish from
7 either side of the aisle, Mr. President.

8 SENATOR GOLD: In other words -
9 if the gentleman will yield to a question. In
10 other words, if Senator Marino were to put all
11 of the members' qualifications into a computer
12 and it determined that the real talent was on
13 this side of the aisle, he could make total
14 Democratic appointments; is that correct?

15 SENATOR DALY: Without doubt, Mr.
16 President.

17 SENATOR GOLD: Sounds terrific.
18 Sounds terrific. I would encourage everyone on
19 this side of the aisle to vote no on the bill
20 because I think that Assemblyman Rappleyea, a
21 distinguished graduate of Cornell University,
22 deserves better.

23 ACTING PRESIDENT SPANO: Senator

1 Leichter.

2 SENATOR LEICHTER: Mr.

3 President. I think there is another reason to
4 vote against the bill besides the trenchant
5 point that my good friend, Senator Gold, made.
6 You know, if it ain't broke, you don't have to
7 fix it. The Dormitory Authority is one of the
8 state agencies, public bodies, if you will -
9 it's not the only one, but it's certainly one of
10 the best example we have of a well-functioning
11 agency. I don't know why, Senator Daly, you
12 would want to mess around with its board of
13 directors and why you'd want to politicize it in
14 this fashion. It's worked well. I think all
15 appointees of the Dormitory Authority are
16 subject to the advice and consent of the
17 Senate. Why do we need to mess with it? I
18 really think it's a mistake, and I would urge
19 everybody to vote against the bill.

20 SENATOR DALY: Mr. President.

21 ACTING PRESIDENT SPANO: Senator
22 Daly.

23 SENATOR DALY: I, too, agree that

1 the Dormitory Authority has been functioning
2 well; and as we note, the Dormitory Authority
3 has had another change and will continue to have
4 change. We don't base this bill on what's
5 happening now. We're basing this bill on what
6 will happen in the future and to prevent bad
7 things from happening. And, certainly, the
8 Dormitory Authority is growing in
9 responsibilities, and we do believe that the
10 Legislature should have a voice in what the
11 Dormitory Authority is doing not only in the
12 year 1994 but in the year 2004.

13 We think that the state would be
14 well represented if the Legislature, in
15 particular, the Majority Leader of the Senate
16 and the Speaker of the Assembly, had a voice in
17 the operation of the Dormitory Authority through
18 active representation on the board of directors.

19 ACTING PRESIDENT SPANO: Read the
20 last section.

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

23 ACTING PRESIDENT SPANO: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Those recorded in
4 the negative on Calendar Number 15 are Senators
5 Espada, Galiber, Gold, Leichter, Markowitz,
6 Montgomery, Ohrenstein, Onorato, Santiago,
7 Smith, Stachowski and Stavisky. Ayes 45. Nays
8 12.

9 ACTING PRESIDENT SPANO: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 18, by Senator Cook, Senate Bill Number 4739.

13 SENATOR PRESENT: Lay it aside
14 for the day.

15 ACTING PRESIDENT SPANO: Lay it
16 aside for the day.

17 THE SECRETARY: Calendar Number
18 19, by Senator Cook, Senate Bill Number 4787, an
19 act to amend the Education Law.

20 SENATOR GOLD: May we lay it
21 aside for the day?

22 SENATOR COOK: Yes.

23 ACTING PRESIDENT SPANO: Lay the

1 bill aside for the day.

2 THE SECRETARY: Calendar Number
3 21, by Senator Cook, Senate Bill -

4 SENATOR PRESENT: Lay it aside
5 for the day.

6 ACTING PRESIDENT SPANO: Lay it
7 aside for the day.

8 THE SECRETARY: Calendar Number
9 22, by Senator LaValle, Senate Bill Number 1050,
10 an act to amend the Tax Law.

11 ACTING PRESIDENT SPANO: Read the
12 last section.

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

15 ACTING PRESIDENT SPANO: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 57.

19 ACTING PRESIDENT SPANO: The bill
20 is passed.

21 ACTING PRESIDENT SPANO: Senator
22 Present, that completes the controversial
23 calendar.

1 Excuse me, Senator Present.

2 Senator Galiber.

3 SENATOR GALIBER: Yes. Unanimous
4 consent again, if it is possible, on Calendar
5 Number 8, I would like to be recorded in the
6 negative.

7 ACTING PRESIDENT SPANO: Without
8 objection.

9 Senator Present.

10 SENATOR PRESENT: Mr. President.
11 We're looking for Senator Waldon, and can we
12 just stand at ease. Senator Waldon was not here
13 when we passed our resolution calendar, and I
14 believe Senator Waldon would like to speak on
15 resolution 2406.

16 ACTING PRESIDENT SPANO: Senator
17 Santiago.

18 SENATOR SANTIAGO: I request
19 unanimous consent to be recorded in the negative
20 on Calendar Number 1.

21 ACTING PRESIDENT SPANO: Calendar
22 Number 1?

23 SENATOR SANTIAGO: Yes.

1 ACTING PRESIDENT SPANO: Without
2 objection.

3 Senator Smith.

4 SENATOR SMITH: Mr. President. I
5 would request unanimous consent to be recorded
6 in the negative on Calendar Number 7, please.

7 ACTING PRESIDENT SPANO: Without
8 objection.

9 Senator Waldon.

10 SENATOR WALDON: Thank you, Mr.
11 President. My colleagues. I had the good
12 fortune of serving in the Congress of the United
13 States, if only for a brief period; and from
14 that experience, some fond moments remain with
15 me and some fond memories of personalities.
16 Without a doubt the biggest person in a very
17 large pool of important people, and I'm talking
18 in terms of his stature, was the Speaker while I
19 was there, Tip O'Neill.

20 I recall the first day that I met
21 him after being sworn in. He asked me to stop
22 by his office with my wife and children, just to
23 express his welcoming, I guess, to the house.

1 And this giant of a man wrapped his arms around
2 my wife and told her what she had to do to
3 insure that I was able to function well in the
4 House representing the people.

5 And then he invited me back a
6 week or so later and gave me some of his
7 pointers as to what politics was all about, and
8 he told me the story of the time that he was
9 traveling through the streets, and asked a lady
10 had she voted who lived down the street from
11 him, and she said "Yes," and he asked her had
12 she voted for him because he was running for
13 office for the first time, and she said, "No."
14 And he said, "Well, I live right up the street
15 from you. You have known me since I was a
16 child. You have known me going through the
17 local parish school. How could you not vote for
18 me?" And she said, "You didn't ask."

19 And he said, "Always remember
20 that. Everything is local, and you have to
21 really reach out and extend yourself to the
22 people whom you wish to represent."

23 He got his name because was he

1 was a heck of a good baseball player, and he was
2 able to -- like some guys with the Dodgers when
3 I was growing up, Ed Stancke, for one, could
4 just constantly foul the ball off. And that's
5 why he was called Tip O'Neil.

6 He changed the House of
7 Representatives. He made sure that the old
8 guard, where the committee chairmen ran each and
9 everything, was some how mollified and so those
10 other institutions within the house had some
11 power.

12 I would like to share with you a
13 statement that was Tip O'Neill's credo, and I
14 would like to extend to all the members of this
15 house, which may have occurred when I was out of
16 the chamber, an opportunity to participate in
17 this resolution. Tip O'Neill learned from his
18 father, and I quote, "Do the best you can for
19 your neighbor; never forget from where you come;
20 and see if you can improve the lot of your
21 fellowman." Tip O'Neill set a standard for all
22 legislators at the local, state and national
23 level to aspire to.

1 I submitted this resolution for
2 our consideration because this was a giant of
3 American politics. This was a great man, and
4 what he offered to us as a nation has so
5 improved our governance of ourselves that he
6 will for a long-long time be a star in the
7 firmament of politics. It was a pleasure to
8 have served with him. It is my honor to submit
9 this resolution on his behalf and on his
10 family's behalf.

11 And I thank you, Mr. President,
12 for your indulgence.

13 ACTING PRESIDENT SPANO: Senator
14 Waldon, the resolution has previously been
15 adopted and will remain open for all members of
16 the Senate who would like to join in its
17 sponsorship.

18 Senator Present.

19 SENATOR PRESENT: Mr. President.
20 There being no further business, I move that we
21 adjourn until tomorrow at 3:00 p.m.

22 ACTING PRESIDENT SPANO: Senate
23 will stand adjourned until tomorrow at 3:00 p.m.

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(Whereupon, at 5:09 p.m., Senate
adjourned.)