ALBANY, NEW YORK

May 11, 1994

10:00 a.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order. Senators will please find their seats.

Please rise with me for the Pledge of Allegiance to the Flag.

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

We're pleased to have with us today the Reverend Peter G. Young, Pastor of the Blessed Sacrament Church, Bolton Landing, New York, for the opening prayer.

REVEREND PETER G. YOUNG: Thank you, Senator.

Let us pray.

Dear God, we call upon You to bless the esteemed members of this Senate chamber so that they can carry out their mission of changing this state and making it even better.

Despite our failures, we bring together the time and the talent and the dedication that we can share with others. Grant

us health and energy in setting right what we find wrong and an opportunity to nourish and practical desire to build up than rather tear down, to reconcile instead of polarize, to go out on a limb rather than crave security.

Never to let us forget that it is far better to light the one candle than to curse the darkness, and to join then in their united leadership to make this state a great state, as it is, and even better.

In Your name, now and forever.

Amen.

ACTING PRESIDENT FARLEY: Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Tuesday, May 10. The Senate met pursuant to adjournment. Senator Farley in the chair upon designation of the Temporary President. Prayer by Reverend Peter G. Young of the Blessed Sacrament Church of Bolton Landing. The Journal of Monday, May 9, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing

no objection, the Journal will stand approved as read.

The order of business:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Wright.

Oh, I'm sorry. Senator Present.

SENATOR PRESENT: It's all right.

SENATOR WRIGHT: Mr. President. On behalf of Senator Maltese, on page 39, I offer the following amendments to Calendar Number 693, Senate Print Number 7446, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR WRIGHT: On behalf of

Senator Velella, on page 28, I offer the following amendments to Calendar Number 349, Senate Print Number 5615C, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection.

Senator Present.

SENATOR PRESENT: Recognize Senator Tully, please.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Yes, Mr. President. I have a privileged resolution at the desk. I ask that you direct the reading of the title at this time.

ACTING PRESIDENT FARLEY: Secretary will read the title of Senator Tully's resolution.

THE SECRETARY: Legislative Resolution by Senators Tully and Wright, proclaiming the week of May 8th through the 14th, 1994, as National Hospital Week in the

State of New York.

ACTING PRESIDENT FARLEY: On the resolutions, all those in favor, aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Will you recognize Senator Marchi, please.

ACTING PRESIDENT FARLEY: Senator Marchi.

SENATOR MARCHI: Mr. President. I have a privileged resolution that I would like to advance here and request that it be read in its entirety.

ACTING PRESIDENT FARLEY: The Secretary will read Senator Marchi's resolution in its entirety.

THE SECRETARY: Legislative Resolution, by Senator Marchi, commending the courageous life and achievements of Captain John J. Drennan, Jr. of the New York City Fire

Department.

Whereas, this Legislative Body learned with sorrow of the death on May 7, 1994, of Captain John J. Drennan of Eltingville, Staten Island, from burns suffered while fighting a fire in Manhattan on March 28, 1994.

People throughout America had focused on Captain Drennan's 40-day hospital ordeal during which he fought bravely for life after suffering third-degree burns while responding to a two-alarm fire in SoHo, Greenwich Village.

Captain Drennan, 49, in company with firefighters James F. Young of Queens and Christopher J. Siedenburg of Great Kills, Staten Island, had been searching the building when overheated gases exploded in a flashover; the explosion took the lives of Fireman Young, 31, and Fireman Seidenburg, 25, and sent Captain Drennan to the Burn Center at New York Hospital Cornell Medical Center.

His courageous fight for life gripped the city, state, and nation and brought

home to everyone the constant danger routinely endured by firefighters in New York, justly acclaimed as "New York's Bravest", and in communities throughout America.

Because this Legislative Body takes official notice periodically of the deeds performed for the public good by exemplary individuals such as Captain Drennan and his colleagues and because it chooses to do so now, let it be known to all that John J. Drennan was a hero by every definition of the word; a decorated firefighter, he joined the New York City Fire Department on November 30, 1968, serving with Engine Company 6, Manhattan, for five years, after which he transferred to Ladder Company 79, West Brighton, Staten Island.

Industrious on and off the job, he studied for years in pursuit of his goal of becoming a fire officer and in 1982 was promoted to lieutenant and assigned to the 32nd Battalion in Brooklyn; in 1986, he transferred to Ladder Company 114 in Brooklyn.

Captain Drennan's admirable

career was marked by many instances of bravery, and he was decorated for several of them; in 1976, he was presented with the M. J. Delehanty Medal and a citation for trying to save a mother and daughter trapped in their home in West Brighton.

In 1978, while off duty, Captain Drennan ran into a burning building near his home to look for trapped victims; for this act of courage and quick thinking, he was presented with the Meritorious Act Award.

In 1982, Captain Drennan and another firefighter rescued two infants from a tenement fire in Bay Ridge, Brooklyn, and performed mouth-to-mouth resuscitation; the firemen saved the infants' lives.

Captain Drennan served his community in the Fire Department and in work with young people; he became the football coach at Tottenville High School in 1972 and won acclaim for his quiet, positive approach to the game and its young players; his associates praised him as a major positive influence on his

players.

In 1977, he moved on to become the assistant football coach at Wagner College at which he was a 1967 graduate with a degree in elementary education.

Out of love for working with youngsters and sports, he also officiated at high school, college, and sand lot football and softball games and Staten Island touch tackle league games.

Captain Drennan was known to professional and personal friends as a model husband and father; he and his courageous wife, Alvina, were blessed with four children - Jessica, Adrienne, Justine and John Joseph, III; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberation to commend the courageous life and achievements of Captain John J. Drennan, Jr., of the New York City Fire Department; and be it further

Resolved, that this Legislative Body extend its heartfelt sympathies to the

families of Firemen James Young and Christopher Seidenburg, along with the gratitude of the citizens of New York for the countless acts of heroic devotion to duty performed in the public interest every day; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to Mrs. Alvina Drennan and her family, and to the families of Firemen James Young and Christopher Siedenburg.

ACTING PRESIDENT FARLEY: Senator Marchi on the resolution.

SENATOR MARCHI: Mr. President. I know that the community of Staten Island was profoundly shocked with the death of this extraordinary and valorous individual. Not only for the experience that he went through and the deeds that he had accomplished but he was so intimately involved in the life of the community that it was like a member of the family, everyone's family, having suffered a great personal loss.

It's a further tribute to the

ready disposition and availability of our fire fighters, who are always available, constantly available, making even the supreme sacrifice even against the greatest odds if it means the slightest possibility of saving death and assisting people in great need because of a calamity, the likes of which they experience many times over.

There is considerable work going on in developing protective clothing that will not only enable survivorship under these circumstances but will also not be limiting, and it would appear that that equipment is almost at hand now, and the equipment would not be limiting in the exercise of physical exertion or faculties and at the same time afford protection even under the very -- most extreme heat.

I don't know if many of you have ever gone to fire control school, maybe in the service or what not, but you get into heat exceeding a thousand degrees. It is possible to survive but it is -- the hazard is there, and certainly people like Captain Drennan

commends -- commends his sacrifice to the community that he served in a very special way.

So anyone that wants to join in the resolution, I'm sure will be welcome.

ACTING PRESIDENT FARLEY: The resolution is open to anyone that wishes to sponsor.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Yes.

SENATOR PRESENT: Why don't we follow the procedure we set and provide everybody be a sponsor of this resolution with the exception of those who decline.

ACTING PRESIDENT FARLEY: Yes. See the desk if you don't care to be on the resolution.

No. We didn't adopt it yet.

All in favor of the resolution say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Goodman, please.

ACTING PRESIDENT FARLEY: Senator Goodman.

SENATOR GOODMAN: Mr. President. On February 26, 1994, the city, state, and nation lost an extraordinary pioneer in the field of audio design and a noted philanthropist and patron of the arts who gave generously of his wealth to support innumerable arts institutions and many individual artists.

His name is one which will be familiar to all of us -- Avery Fisher. I dare say virtually everyone in this room at one time or another has been in the Avery Fisher Hall at Lincoln Center which is named after the gentleman to whom I'm referring, who had unique pioneering skills in inventing a series of transistorized radio receivers and record players that brought the term "high fidelity" to it's true meaning in the 1960s, '70s and '80s.

Upon perfecting this design and

having the good fortune to prosper to an extraordinary degree in the furtherance of the Fisher Audio Component Company, Mr. Fisher sold his company and then turned his efforts, as he put it, to repaying his debt. In doing this, he supported innumerable noted musicians these included such famed names as Andre Watts, Murray Perahia, Richard Goode, Emanuel Ax and Horacio Gutierrez, Yo-Yo Ma, Lynn Harrell and violinist Elmar Oliveira, and clarinetist Richard Stoltzman.

Mr. President, Avery Fisher made a gift of $10.5 million toward the renovation and maintenance of the Philharmonic Hall at Lincoln Center, and it was in recognition of that great generosity that the hall was renamed the Avery Fisher Hall.

May I just say on a personal note, it had been my privilege to know and to see Mr. Fisher on a number of occasions involving the arts in New York City, and one of the striking features of this unique man was his great sense of humor. He was a man of

humility. He had a common touch. He loved his fellow musicians and he loved his fellow human beings, and there could have been nothing that brought him greater pleasure than to sit in the hall named after him on innumerable occasions listening to the some of the greatest concerts of these past decades.

Mr. President. I would like to move this resolution, waive its reading, and ask the Senate to unanimously salute an extraordinary individual and a great patron of the arts.

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

THE SECRETARY: Legislative Resolution, by Senator Goodman, honoring the life and accomplishments of Avery Fisher.

ACTING PRESIDENT FARLEY: All in favor of the resolution, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Is the resolution open, Senator Goodman?

SENATOR GOODMAN: Yes, indeed, it is, Mr. President.

ACTING PRESIDENT FARLEY: The resolution is open. Everyone on it?

SENATOR PRESENT: The same procedure we've established.

ACTING PRESIDENT FARLEY: Same procedure. If you do not wish to be on the Avery Fisher resolution, notify the desk.

Senator Daly.

SENATOR DALY: Mr. President. On behalf of Senator Libous, please place a sponsor star on Calendar Numbers 806, 853, 854 and 856.

ACTING PRESIDENT FARLEY: The bills are starred.

SENATOR DALY: Mr. President. I move that the following bill be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate 5081.

ACTING PRESIDENT FARLEY: Without

objection.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Waldon, please.

ACTING PRESIDENT FARLEY: Senator Waldon.

SENATOR WALDON: Thank you very much, Senator Present.

Mr. President. My colleagues. We have with us today the very distinguished Assemblywoman from the Rockaways, the Honorable Audrey Pheffer, and she has been kind enough to escort Deacon Hitter and 36 children, 36 outstanding young children, so that we know the future of this country is going to be in great hands, from St. Francis De Salle School in that part of the district that I serve known as the Rockaways.

These are fourth graders soon to be college seniors, I'm sure, and I would like my colleagues to look into the gallery and see their beautiful faces, to see their attentive looks as they pay attention to the proceedings

of this august body.

And I wish that each would join me in welcoming them to Albany and to the Senate.

(Applause.)

Thank you very much, Mr. President.

ACTING PRESIDENT FARLEY: On behalf of the Senate, let me welcome you fourth graders to the Senate. We're pleased to have you here. Come back and visit us again.

SENATOR WALDON: Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: I think we're ready for the noncontroversial calendar.

ACTING PRESIDENT FARLEY: We have some substitutions.

SENATOR PRESENT: Mr. Cornell has some substitutions.

ACTING PRESIDENT FARLEY: If we may do those first.

Secretary will read the substitutions.

THE SECRETARY: On page 4 of today's calendar, Senator Cook moves to discharge the Committee on Health from Assembly Bill Number 10090 and substitute it for the identical Calendar Number 904.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 6, Senator Velella moves to discharge the Committee on Finance from Assembly Bill Number 5972B and substitute it for the identical Calendar Number 923.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: Senator Tully moves to discharge the Committee on Finance from Assembly Bill Number 6862C and substitute it for the identical Calendar Number 924.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 7,

Senator Marchi moves to discharge the Committee on Finance from Assembly Bill Number 9288 and substitute it for the identical Calendar Number 928.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 8, Senator Johnson moves to discharge the Committee on Finance from Assembly Bill Number 9380A and substitute it for identical Calendar Number 935.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 10022 and substitute it for identical Calendar Number 937.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 8, Senator Farley moves to discharge Committee on Finance from Assembly Bill Number 10487 and substitute it for identical Calendar Number 939.

ACTING PRESIDENT FARLEY:

Substitution ordered.

THE SECRETARY: On page 9, Senator Seward moves to discharge the Committee on Energy from Assembly Bill Number 562A and substitute it for the identical Calendar Number 947.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 10, Senator Solomon moves to discharge the Committee on Judiciary from Assembly Bill Number 8483 and substitute it for the identical Calendar Number 960.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 12, Senator Maltese moves to discharge the Committee on Crime Victims, Crime and Correction from Assembly Bill Number 169 and substitute it for the identical Calendar Number 974.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 13,

Senator Oppenheimer moves to discharge the Committee on Veterans from Assembly Bill Number 9826 and substitute it for the identical Calendar Number 982.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 16, Senator Stavisky moves to discharge the Committee on Transportation from Assembly Bill Number 3908A and substitute it for the identical number 1000.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 19, Senator Levy moves to discharge the Committee on Transportation from Assembly Bill Number 9241 and substitute it for the identical Calendar Number 1025.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 19, Senator Levy moves to discharge the Committee on Transportation from Assembly Bill Number 2235A

and substitute it for the identical Calendar Number 1028.

ACTING PRESIDENT FARLEY: Substitution ordered.

Noncontroversial.

THE SECRETARY: On page 34, Calendar Number 596, by Senator Daly, Senate Bill Number 6899B, an act to amend the Insurance Law and the Workers' Compensation Law.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 654, by Senator Hannon.

SENATOR GOLD: With the consent of the sponsor, may we lay that over for the

day, please?

ACTING PRESIDENT FARLEY: Lay the bill aside. He's not here.

Senator Present, do you want to lay it aside for the day?

SENATOR PRESENT: For the day.

ACTING PRESIDENT FARLEY: For the day.

THE SECRETARY: Calendar Number 663, by Member of the Assembly Pheffer, Assembly Bill Number 825, an act to amend the Insurance Law, in relation to notice of the availability of uninsured motorist coverage.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 691, by Senator Volker, Senate Bill Number 7414, an act to amend the Penal Law and the Administrative Code of the City of New York.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 699, by Senator Volker, Senate Bill Number 7574, an act to amend the Criminal Procedure Law, in relation to corrective remedies.

ACTING PRESIDENT FARLEY: 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.)

ACTING PRESIDENT FARLEY: I'm sorry, Senator Gold, what -

SENATOR GALIBER: I asked for it.

ACTING PRESIDENT FARLEY: Senator Espada in the negative.

SENATOR GALIBER: No, no, no, no. I ask that the bill be laid aside.

ACTING PRESIDENT FARLEY: Senator Leichter is in the negative.

SENATOR GALIBER: No. Let me try again.

ACTING PRESIDENT FARLEY: Do you want to lay it aside?

SENATOR GALIBER: Yes, I asked that the bill be laid aside.

ACTING PRESIDENT FARLEY: I'm sorry. I didn't hear you. Lay the bill aside.

THE SECRETARY: Calendar Number 727, by Senator Hannon.

SENATOR GOLD: With the consent of the sponsor, will you please lay it aside for the day. He has already told me.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for today.

THE SECRETARY: Calendar Number 733, by Senator Cook, Senate Bill Number 4754A,

to grant permanent competitive Civil Service status to a certain employee.

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

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 57. Nays 1. Senator Leichter -

SENATOR GALIBER: Can you withdraw the roll call? I'm awful sorry. Lay that bill aside.

ACTING PRESIDENT FARLEY: Withdraw the roll call. Lay the bill aside.

THE SECRETARY: Calendar Number 750, by Senator Tully, Senate Bill Number 1015B.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number

757, by Senator Stafford.

SENATOR OPPENHEIMER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 758, by Senator Cook, Senate Bill Number 2279, an act to amend the Highway Law.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 773, by Senator Saland.

SENATOR MENDEZ: Lay it aside.

SENATOR GOLD: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR GOLD: Sponsor agreed to lay it aside for the day.

ACTING PRESIDENT FARLEY: For the day.

SENATOR PRESENT: Lay it aside.

THE SECRETARY: Calendar Number 787, by Senator Cook, Senate Bill Number 7697, an act to amend the Education Law and the Public Health Law.

SENATOR GOLD: Senator Cook, lay that aside for the day, please.

SENATOR COOK: Sure.

SENATOR GOLD: Thank you very much.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 804, by Senator Lack, Senate Bill Number 1322B, an act to amend the Labor Law, in relation to enacting the Advanced Technology Act of 1994.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 804. In relation to Calendar Number 804: Ayes 57. Nays 1. Senator Libous recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 805, by Senator Spano, Senate Bill Number 2028A, an act to amend the Labor Law, in relation to the amount of unemployment benefits payable.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 807, by Senator Spano, Senate Bill Number 5207A, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 808, by Senator Spano, Senate Bill Number 7011, an act to amend the Labor Law, in relation to the time allowed for meal periods.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 816, by Senator Saland, Senate Bill Number 5765B, authorizing the Town of Wappinger, County of Dutchess, to discontinue the use of land.

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

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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 818, by Senator Skelos, Senate Bill Number 6344A General Municipal Law, in relation to authorizing an early bird Bingo game.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT FARLEY: Lay the bill aside. Withdraw the roll.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 823, by Senator Stafford, Senate Bill Number 7023, authorizing the Town of Waverly, County of Franklin, to discontinue use of and transfer

certain parklands.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 833, by Senator Maltese, Senate Bill Number 1648, an act to amend the Correction Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 834, by Member of the Assembly Ramirez, Assembly Bill Number 7960.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number

852, by Senator Libous, Senate Bill Number 7039, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT FARLEY: 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 57. Nays 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Nozzolio, Senate Bill Number 7669, an act to amend the Election Law, in relation to combining election districts.

ACTING PRESIDENT FARLEY: 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 58.

ACTING PRESIDENT FARLEY: That bill is passed.

Senator Present, that's the first time through.

SENATOR PRESENT: Mr. President. Let's take up the controversial calendar.

ACTING PRESIDENT FARLEY: Before we do that -- Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 663 and also Calendar Number 807.

ACTING PRESIDENT FARLEY: Senator Kuhl will be recorded in the negative on Calendar 663 and Calendar 807.

SENATOR KUHL: Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Skelos, I would ask the

star be removed on number 317.

ACTING PRESIDENT FARLEY: The star is removed at the request of the sponsor.

Controversial.

THE SECRETARY: On page 39, Calendar Number 691, by Senator Volker, Senate Bill Number 7414, an act to amend the Penal Law and the Administrative Code of the City of New York.

SENATOR MALTESE: It's laid aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for today.

SENATOR MALTESE: I'm sorry.

ACTING PRESIDENT FARLEY: Senator Maltese.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yes. Senator Maltese was kind enough to agree to put over a different bill for Senator Galiber, but this one, if he wants to explain it, we can go with

it right now.

ACTING PRESIDENT FARLEY: Senator Maltese, Calendar 699, for Senator Volker.

SENATOR MALTESE: No.

ACTING PRESIDENT FARLEY: I'm sorry. 691. I apologize. It's also on behalf of Senator Volker.

SENATOR MALTESE: This bill would exempt from the fee for license as a gunsmith dealer in firearms or for license to have and carry a concealed pistol for any qualified retired bridge and tunnel officer, sergeant or lieutenant of the Triborough Bridge and Tunnel Authority or a qualified retired uniform court officer. This follows a prior amendment to the law that exempted or waived all fees for retired police officers. And basically the justification is that all these positions -

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold, why do you rise?

SENATOR GOLD: I think we have heard a good explanation. I just wanted to tell

the members that this bill apparently was vetoed by the Governor. Last year, there was a memo in opposition by the city, and they repeated that memo in opposition today; however, I believe last year when it did pass and went to the Governor, it was 57 to 1 with only one member in the negative -- Senator Leichter.

If there is nothing else to say, we can just take a vote on it.

ACTING PRESIDENT FARLEY: 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 56. Nays 2. Senators Goodman and Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 699, by Senator Volker.

SENATOR GOLD: Lay it aside for one day.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 733, by Senator Cook, Senate Bill Number 4754A, to grant permanent competitive Civil Service status to a certain employee.

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

SENATOR PRESENT: Lay it aside temporarily and come back to it.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: By unanimous consent may I be recorded in the negative on Calendar Number 807, please.

ACTING PRESIDENT FARLEY: 807, Senator Padavan will be in the negative.

THE SECRETARY: Calendar Number 750, by Senator Tully, Senate Bill Number 1015B, an act to amend the Public Health Law, in relation to utilization review agents.

SENATOR GOLD: Senator Tully yield to one question?

SENATOR TULLY: Yes, Mr. President.

SENATOR GOLD: Senator, this one, I believe we passed this unanimously last year?

SENATOR TULLY: M-m h-m-m.

SENATOR GOLD: Was the opposition that is on the bill this year registered last year?

SENATOR TULLY: No, until -- as a matter of fact, that's a good question. Mr. President. Senator Gold. Until May 2nd, the only opposition I was aware of came from Empire Blue Cross and Blue Shield. And we just received a memo from several consumer groups who had not opposed nor had they made any comments on this bill in the last two and a half years.

So it's a -- the points are

really highly debatable, and the fact that the memo was prepared by persons who hadn't discussed this bill with my office is very clear. It's a very unusual method of opposition in my opinion.

SENATOR GOLD: Well, if the Senator will yield to a question. My notes indicate that the National Association of Social Workers supports it; the Health Care Association supports it, the Medical Society; but there are now some groups that have filed in opposition.

Has there been any contact with your office with these groups to discuss it?

SENATOR TULLY: None whatsoever, Senator. Mr. President, none whatsoever.

SENATOR GOLD: Just for the purposes of the record. I mean we've got the Center for the Medical Consumers, Citizens Action, National Center for Patients Rights, NYPIRG, New York Statewide Senior Action Council, Nursing Home Committee Coalition, Blue Cross-Blue Shield, all of which apparently now have filed something in opposition. Is that

correct, Senator?

SENATOR TULLY: That's correct. Mr. President. I might indicate that -

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: -- while you've read some of the opposition, in support on the other hand is the Medical Society of the State of New York, the Health Care Association of New York State, the Greater New York Hospital Association, the Nassau-Suffolk Hospital Council, the Value Behaviorial Psych -- Health, rather, formerly American Psych Management, Nassau County Psychological Association, the National Association of Social Workers, the American College of Gynecologists, the Four Winds Hospital, Legal Action Center, and a very, very famous place, Senator Gold, the Tully-Hill Alcoholism and Drug Treatment Center.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect April 1, 1995.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on 663 and 807, please.

ACTING PRESIDENT FARLEY: Without objection.

THE SECRETARY: Calendar Number 757, by Senator Stafford, Senate Bill Number 435, an act to amend the Highway Law, in relation to prohibiting abandonment of Crane Pond Road in the Town of Schroon.

ACTING PRESIDENT FARLEY: Senator Oppenheimer.

SENATOR OPPENHEIMER: This bill has been before us on many other occasions. It would specifically override the state land master plan for the Adirondacks. It would throw

into doubt our commitment to wilderness areas. This area which is the Pharaoh Mountain area is classified as wilderness in our state land master plan, and this classification does not allow for motor vehicles.

SENATOR STAFFORD: Would the Senator from -- excuse me.

SENATOR OPPENHEIMER: That's all right.

This classification does not allow for motorized vehicles in the area. Actually about half of the Adirondack area is considered wild forest which does permit motor vehicles.

SENATOR STAFFORD: Mr. President. I apologize.

ACTING PRESIDENT FARLEY: Senator Stafford.

SENATOR STAFFORD: I apologize, but I would ask the Senator from Westchester, have you ever been in the Crane Pond area?

SENATOR OPPENHEIMER: No, I haven't.

SENATOR STAFFORD: Well, I have, and it's interesting. You can stand in the middle of it and hear the cars on the Northway. That's how much sense it makes for this to be wilderness area.

SENATOR OPPENHEIMER: Thank you, Senator. In dividing up the Adirondacks into wild areas and wilderness areas, the object was to try and provide for wilderness areas that were close into the population centers for precisely the reason that people in more compacted areas where there is more density need to have the ability to go back to nature and to have the calming effects of wilderness.

So this is very threatening to the state land master plan and to the parks regulatory scheme and, therefore, I would urge us to vote against this bill.

In the past, last year, the following Senators voted against the bill: Dollinger, Espada, Gold, Jones, Leichter, Montgomery, Ohrenstein, Oppenheimer and John Sheffer, who isn't here.

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: 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: Those recorded in the negative on Calendar Number 757 are Senators Connor, Dollinger, Espada, Gold, Goodman, Leichter, Markowitz, Ohrenstein, Onorato and Oppenheimer. Ayes 48. Nays 10.

ACTING PRESIDENT FARLEY: That bill is passed.

Senator Present.

SENATOR PRESENT: Can we go back to Senator Cook's bill, Calendar 733.

ACTING PRESIDENT FARLEY: 733.

Before we go back, Senator Seward.

SENATOR SEWARD: Yes, Mr. President. I was out of the chamber at the time

that Calendar 663 and Calendar 807 passed, and I ask unanimous consent to be recorded in the negative on those two bills.

ACTING PRESIDENT FARLEY: Without objection, you will be in the negative.

Senator Cook's bill.

THE SECRETARY: Calendar Number 733, by Senator Cook, Senate Bill Number 4754A, to grant permanent competitive Civil Service status to a certain employees.

SENATOR GALIBER: Explanation.

SENATOR GOLD: Mr. President. Senator Cook yield to one question?

SENATOR COOK: Yes.

SENATOR GOLD: Senator, you have been with us as we have gone through the rigors on these issues, and, finally, we wind up with a bill, under the leadership of Senator Trunzo, which we believed set up a procedure, and Senators Leichter and Galiber and myself and some others were wondering why this person would not be eligible to take advantage of the procedures that we set up by statute.

SENATOR COOK: Senator Gold.

Mr. President.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR COOK: Senator Gold. This isn't a retirement bill. This is a situation where -- and, coincidently, not that it will mean anything, but it was requested by the prior Republican administration and also by the present Democrat administration of the village.

SENATOR GOLD: Senator, you may be giving me the answer. In other words, Senator, you're telling me that the administrative procedure that we set up would not be available with this kind of a request.

SENATOR COOK: This is not a retirement.

SENATOR GOLD: I know it isn't.

SENATOR COOK: So that procedure is not available.

SENATOR GALIBER: I just want an explanation.

SENATOR COOK: The explanation is that this particular individual was appointed in 1985 as the building inspector, has been serving since that time apparently to the satisfaction -- and that's why I said that both parties had requested this -- has apparently been serving to the satisfaction of everybody since that period of time.

At some point, the county Civil Service Department came to the village and said they had to fire this guy and take somebody off their existing list. The village is not adverse to hiring their next building inspector off the list if, indeed, the rule has now changed, but they really don't think they ought to have to fire the guy that's been working satisfactory for them all these years and to hire somebody else.

SENATOR GALIBER: Senator yield to a question? It's a question with a kind of analogy. In the City of New York, we have what they call a provisional list. Sometimes those provisional persons are on the list for ten

years, fifteen years. I think the court officers some years ago went through this. There comes a time when we post an exam, and those persons who pass the exam are now in line for those jobs; therefore, the provisionals have to be laid off.

Is this a comparable situation where a person has not passed an examination? A test has been given. There now is a list. And because that particular person with the endorsement of both parties or with the okay or approval or not objecting who are saying, "We are going to bypass the Civil Service rules and regulations as applies to provisionals and make this person, by operation of law, permanent, which bypasses the rules."

SENATOR COOK: Senator, it is -

SENATOR GALIBER: Same thing?

SENATOR COOK: Senator, it is not quite the same thing, because the person was never a provisional. The person was, in effect, an exempt. He was not in a position that at the time that he was appointed in 1985 required him

to have Civil Service status. He was an appointee of -

SENATOR GALIBER: Would you yield to another question.

SENATOR COOK: Yes.

SENATOR GALIBER: If you tell us it is so -- if you say so, it is so -- that the Republicans and the Democrats both agree, why can't he maintain his exempt status?

SENATOR COOK: Well, because the County Civil Service Department has now told the village that they will no longer honor him on the payroll without some kind of legislation to, in effect, grandfather him in.

SENATOR GALIBER: That's almost the provisional category that I mentioned before.

SENATOR COOK: Well, except that he was never appointed as a provisional.

SENATOR GALIBER: That's a procedural matter.

SENATOR COOK: Well, no, it isn't, Senator. The difference is that when

you're -

SENATOR GALIBER: If I may.

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: I'm sorry. No, I was -- we're moving this back and forth.

ACTING PRESIDENT FARLEY: I know.

SENATOR COOK: The difference, Senator, is that when you are appointed a provisional, you are appointed to a civil service position on a provisional basis until such time as a list is developed.

When this person was appointed, it was an exempt position. So there was no list. And, in fact, he never had any expectation of being on the list; and when, apparently, an examination was given by the county at some point to develop a list, he didn't even realize that he had to be on it because he had been serving all these years; and assumed, naturally, that since he was already there, he wasn't going to have to be on the Civil Service list.

SENATOR GALIBER: Okay.

SENATOR COOK: But it is the point that he was at the time an exempt position but not a provisional position.

SENATOR GALIBER: But he -

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: Yes. One further question. But, in effect, what he is doing is that there now has been posted an exam.

SENATOR COOK: Now has been posted a list. A list.

SENATOR GALIBER: Okay. And the list is there as a result of an exam, I would imagine.

SENATOR COOK: Yes.

SENATOR GALIBER: So, therefore, those persons who are now eligible to fulfill that exempt job, and what we're attempting to do here is to say for past service, or whatever the case may be, that you want by operation of law to make him permanent without -- put him on the list without examination.

SENATOR COOK: Mr. President. To be absolutely frank about it, yes, my suspicion is that the list is a countywide list. There may well not be anybody even from that village. They may be able to do it by simply saying it has to be somebody from the village; however, I don't think that still passes that -- deals with the Civil Service Commission's requirement that it be somebody off the Civil Service list list.

What we're basically saying is they've changed the rules in the middle of the game on the guy. He served for almost ten years in a position that was supposed to be exempt, where he never expected he was going to have to take an examination. All of a sudden, they've come out with a list and they're being told you've got to fire this guy because he didn't appear on the list.

SENATOR GALIBER: Ulster County?

SENATOR COOK: Sullivan County.

ACTING PRESIDENT FARLEY: Senator Connor.

SENATOR CONNOR: Yes. Mr.

President. If the Senator would yield.

SENATOR COOK: Yes.

SENATOR CONNOR: Is it the case that the job was reclassified?

SENATOR COOK: Yes, that's exactly the situation.

SENATOR CONNOR: Aren't there general law provisions in Civil Service Law about what happens when a position which is filled by an individual is reclassified from the exempt to the competitive class?

SENATOR COOK: Senator, we believe that. The village believed that. Unfortunately, the county Civil Service Commission doesn't believe that, and it's a matter of controversy between the village and the county at this point.

SENATOR CONNOR: If the Senator will yield for a further question?

ACTING PRESIDENT FARLEY: I'm sure he will.

SENATOR CONNOR: The point of my question is, has this gone to court? Is there a

need for legislation now? My belief is when someone is serving in an exempt job and they come along and reclassify not him but the job, that you don't oust him; that that's for the future.

SENATOR COOK: And that's exactly what they're trying to do. I think, Senator, the situation is that the county has basically said, "If you get a bill, we will accept that"; otherwise, they are going to have to go into court. It is, indeed, exactly what you have described. They have had an exempt position; they've reclassified.

SENATOR CONNOR: Mr. President. Will the Senator yield for one further question?

SENATOR COOK: Yes.

SENATOR CONNOR: My point is that if it's not clear that the general Civil Service Law covers this situation, there's a dispute between the county and the village, Senator, why not amend the Civil Service Law and make it clear that it's always been the intent of this Legislature, not with regard to this one

position or the one individual, that when a job is classified in the Civil Service as exempt and subsequently the Civil Service Commission comes in and says, "We're going to make that part of the competitive class," that you don't oust the people who were legally appointed under the Civil Service Law to the position when it was exempt, a general provision that helps not just this one individual but somebody somewhere else in the state who falls in this same category?

SENATOR COOK: Mr. President.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR COOK: Senator Connor, real answer? It'll probably take ten years to get a general law. As you well know, we may be able to deal with this situation short term. I think that probably you're correct. We ought to try to amend the Civil Service Law in general to deal with that; but we've got a situation, we want to deal with it, and that's in all practical terms why we're doing it.

ACTING PRESIDENT FARLEY: There

is a home rule message here at the desk.

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 58.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR STACHOWSKI: Mr. President. Can I have unanimous consent to be recorded in the negative on Calendar Number 757 and 808?

ACTING PRESIDENT FARLEY: 757 and 808.

Senator Levy.

SENATOR LEVY: Request unanimous consent to be recorded in the negative on 757.

ACTING PRESIDENT FARLEY: 757, Senator Levy will be in the negative.

Senator Montgomery.

SENATOR MONTGOMERY: Yes. Mr.

President. I would like unanimous consent to be recorded in the negative on Calendar 757, also.

ACTING PRESIDENT FARLEY: 757, Senator Montgomery is in the negative.

Senator Spano.

SENATOR SPANO: Mr. President. Is Calendar 807 still in the house?

ACTING PRESIDENT FARLEY: Yes, it is.

SENATOR SPANO: I'd like to move that we reconsider the vote by which the bill was passed.

ACTING PRESIDENT FARLEY: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT FARLEY: The bill is before the house.

SENATOR SPANO: Please place a sponsor star on the bill.

ACTING PRESIDENT FARLEY: Would you star the bill for Senator Spano.

SENATOR ONORATO: Mr. President.

ACTING PRESIDENT FARLEY: Senator Onorato.

SENATOR ONORATO: May I have unanimous consent to be recorded in the negative on Calendar Number 808?

ACTING PRESIDENT FARLEY: 808, Senator Onorato is in the negative.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 808, please?

ACTING PRESIDENT FARLEY: 808, Senator Connor is in the negative.

SENATOR GOLD: Is 808 still in the house?

ACTING PRESIDENT FARLEY: Yes, it is.

SENATOR GOLD: I move to reconsider the vote.

ACTING PRESIDENT FARLEY: That was 807 that was reconsidered. This is 808.

SENATOR GOLD: Yes.

ACTING PRESIDENT FARLEY: It's still in the house.

SENATOR GOLD: What?

ACTING PRESIDENT FARLEY: No, it's not. It's out of the house. 808 is out of here.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: I think Senator Spano has asked unanimous consent to explain his vote on 808. Would anybody mind if he does that?

ACTING PRESIDENT FARLEY: Senator Spano, do you want to -- the bill is out of the house.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Spano.

SENATOR SPANO: Mr. President. I'm not sure how to handle it procedurally, but I know there was a question relative to 808.

And just with unanimous consent, I can make just a quick statement on the bill, that the language in this bill mirrors language that was contained in a collective bargaining agreement with the United Food and Commercial Workers. They've signed off on the bill. There are no memos against the bill. The food merchants and the employees have both signed off on that passage.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator Stavisky.

SENATOR STAVISKY: Mr. President. Without objection, unanimous consent to be recorded in the negative on 757.

ACTING PRESIDENT FARLEY: 757, Senator Stavisky is in the negative.

Senator Stachowski.

SENATOR STACHOWSKI: Could Senator Spano yield for a question?

ACTING PRESIDENT FARLEY: Without objection, I guess so.

SENATOR STACHOWSKI: I know you made a brief statement. For the edification of

people on our side, if you recall when this bill passed in committee that we had some concern about -- and, I don't know, I think we did it without recommendation in committee, just because there was a concern. And I can't remember which union had the concern, because my counsel from the Labor Committee's father passed away, and she's not available. There was a problem because the full-time employees -- there was a problem because full-time employees felt they were being discriminated against in this legislation because now part-timers didn't have to be -- they could be at work at any point and still get a lunch period. It was something of that nature, and I can't remember the entire piece that I had on that. And, unfortunately, she's not around and that's why we have that problem, and you're catching the negative votes.

SENATOR SPANO: Mr. President. On the day we passed the bill and up until today, we've received no memos of opposition. No one has expressed any concern to us.

We have memos in support from the

Food Merchants, the Retail Council, and we reached out to United Food and Commercial Workers Union and they support this bill because it does comply with the language that they bargained with as part of the collective bargaining.

SENATOR STACHOWSKI: Mr. President. Can I ask another question?

ACTING PRESIDENT FARLEY: There's no objection. Go ahead.

Are you objecting, Senator Galiber?

SENATOR GALIBER: I want to know if the bill is in the house or not?

ACTING PRESIDENT FARLEY: It's not even in the house.

SENATOR GALIBER: No objection.

ACTING PRESIDENT FARLEY: It's gone over to the Assembly.

SENATOR STACHOWSKI: If people want to vote no, they vote no. I was going to ask you to get it back if you could, but just let it go. And if people want to vote no -- I'm

going to stay on the no because I can't recall if it's that particular union that had the problem or not. But, unfortunately, we got caught in a situation where our counsel, through no fault of her own, is not here available, so.

ACTING PRESIDENT FARLEY: Senator Stachowski, you are "No" on 80 -

SENATOR STACHOWSKI: Yes, I already did that.

ACTING PRESIDENT FARLEY: All right. Regular order, I guess.

Hold on. Senator Holland.

SENATOR HOLLAND: With unanimous consent, I would like to be recorded in the negative on Calendar 663.

ACTING PRESIDENT FARLEY: 663, Senator Holland is in the negative.

Senator Jones. I'm sorry.

SENATOR JONES: Yes, I would like to be recorded in the negative on Calendar 757, please.

ACTING PRESIDENT FARLEY: 757, Senator Jones is in the negative.

THE SECRETARY: Calendar Number 833, by Senator Maltese, Senate Bill Number 1648, an act to amend the Correction Law.

ACTING PRESIDENT FARLEY: 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: Those recorded in the negative -- those recorded in the negative on Calendar Number 833 are Senators Connor, Espada, Galiber, Leichter, Mendez, Montgomery, Smith and Waldon. Ayes 50. Nays 8.

ACTING PRESIDENT FARLEY: Bill is passed.

Senator Larkin.

SENATOR LARKIN: Mr. President. I ask unanimous consent to be recorded in the negative on Calendar 663.

ACTING PRESIDENT FARLEY: Without objection, Senator Larkin will be in the

negative on Calendar Number 663.

THE SECRETARY: Calendar Number 834, by Member of the Assembly Ramirez, Assembly Bill Number 7960, an act on repeal Section 114A of the Correction Law, relating to keeping of a daily record.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT FARLEY: Senator Waldon.

SENATOR WALDON: Would Senator Maltese be kind enough to yield to a question?

SENATOR MALTESE: Yes.

SENATOR WALDON: Senator, I believe this is the bill we dealt with last year. Is that correct?

SENATOR MALTESE: Yes, it is, Senator Waldon.

SENATOR WALDON: I'm sorry.

SENATOR MALTESE: Yes, it is.

SENATOR WALDON: Mr. President, if I may continue. Has anything change in this bill from that time?

SENATOR MALTESE: Mr. President.

Nothing has change in the bill since Senator Waldon and I debated the bill and since Senator Waldon went from opposition to the bill to support of the bill. It is exactly the same bill.

SENATOR WALDON: Then, it is my understanding, as a result of our last debate, that the records are kept rather vigorously and rigorously other than the log book through the computer situation that we discussed at that time and other means. Is that correct?

SENATOR MALTESE: Mr. President. In reply to Senator Waldon's question, not only kept rigorously -- and I have documentation as to how they are kept -- but since our debate when I indicated that the superintendent's log was not presently being kept, I was advised by the Commissioner of Correction that, in fact, a superintendent's log is kept in addition thereto.

SENATOR WALDON: Thank you very much, Mr. President. Thank you, Senator Maltese.

ACTING PRESIDENT FARLEY: 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.)

ACTING PRESIDENT FARLEY: Senator Hoffmann to explain her vote.

SENATOR HOFFMANN: I had requested to speak prior to calling the roll and wasn't observed, but I will just briefly -

ACTING PRESIDENT FARLEY: I apologize.

SENATOR HOFFMANN: No problem, Mr. President. I would just briefly like to explain that I see an analogy here to another issue that has come before many of us, and that's the issue of court stenographers. Many of us have received communication from stenographers, from attorneys, from defendants, from judges, requesting that we not eliminate the practice of court stenographers even though

there are now audio recording devices which are considered to be more state of the art and more expedient. The reason given for that request are the fact that the use of the stenography material is more accessible and is a time-tested way of obtaining information necessary to reconstruct a trial.

In this situation, the same can be said for a daily log book. Although it is probably technically true that the records may be available some place else via computer or some other record keeping system, the accessibility, the ease, and the convenience of having a daily log book become vital in reconstructing an incident that takes place within prison walls.

I think that's necessary not only for the rights of the inmates but also for the correction officers own liability issue and, ultimately, for the taxpayers of the State of New York who might be facing the defense of correction officers or a Department of Correction lawsuit in the event that there is an

action brought against the Department of Corrections by an injured party.

So I'm going to continue opposing this and urge that my colleagues not rush so quickly into eliminating a time-tested procedure that is not an onerous burden. Keeping a daily log may in fact be slightly duplicative, but it is in the best interest of protection of the taxpayers as well as the inmates and the correction officers of this state to maintain it.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Are you voting in the negative?

SENATOR HOFFMANN: I vote no.

THE SECRETARY: Those recorded in the negative on Calendar Number 834 are Senators Connor, Espada, Galiber, Gold, Hoffmann, Leichter, Mendez, Montgomery, Ohrenstein and Stavisky. Ayes 48. Nays 10.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present.

SENATOR PRESENT: Do you have any housekeeping? Mr. Cornell?

ACTING PRESIDENT FARLEY: Are there any motions on the floor? Seeing none.

SENATOR PRESENT: On behalf of Senator Levy, I'd like to announce an immediate conference of the Majority in Room 332.

ACTING PRESIDENT FARLEY: There will be an immediate conference of the Majority in Room 332.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: There being no further business, I move that we adjourn until Monday, May 16, at 1:00 p.m. intervening days to be legislative days. The members should be advised that they are subject to the call of the Majority Leader for session upon 24 hours notice.

ACTING PRESIDENT FARLEY: The Senate will stand adjourned until Monday at the regular hour. Immediate conference of the

majority in Room 332. Intervening days will be legislative days. The members are subject to the call of the majority leader.

Senate stands adjourned.

(Whereupon, at 1:54 p.m., Senate adjourned.)