ALBANY, NEW YORK

January 20, 1998

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Would you please rise and repeat after me the Pledge of Allegiance.

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

May we bow our heads in a moment of silence.

(A moment of silence was observed.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Saturday, January 17. The Senate met pursuant to adjournment. The Journal of Friday, January 16, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing

committees.

The Secretary will read.

THE SECRETARY: Senator Hannon, from the Committee on Health, reports the following bills:

Senate Print 2877-B, by Senator Marchi, an act to amend the Public Health Law and others;

5993-A, by Senator Marchi, an act to amend the Public Health Law.

Senator Volker, from the Committee on Codes, reports the following bills:

487, by Senator DeFrancisco, an act to amend the Criminal Procedure Law;

538, by Senator Present, an act to amend the Penal Law;

887, by Senator Volker, an act to amend the Criminal Procedure Law;

1134, by Senator Marcellino, an act to amend the Criminal Procedure Law;

1189, by Senator Velella, an act to amend the Criminal Procedure Law;

1422, by Senator Cook, an act to amend the Criminal Procedure Law;

1537, by Senator DeFrancisco, an act to amend the Criminal Procedure Law;

1538, by Senator DeFrancisco, an act to amend the Criminal Procedure Law;

1539, by Senator DeFrancisco, an act to amend the Criminal Procedure Law;

1708, by Senator Volker, an act to amend the Criminal Procedure Law;

2525, by Senator Maziarz, an act to amend the Criminal Procedure Law;

3069, by Senator Padavan, an act to amend the Criminal Procedure Law;

3456, by Senator Volker, an act to amend the Criminal Procedure Law and others;

3503, by Senator Skelos, an act to amend the Criminal Procedure Law;

3792, by Senator Volker, an act to amend the Penal Law; and

5007, by Senator Volker, an act to amend the Criminal Procedure Law.

All bills ordered direct for third reading.

ACTING PRESIDENT MARCELLINO: Without objection, all bills directly to third

reading.

Reports from select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On page 6, I offer the following amendments to Calendar Number 17, Print Number 889, on behalf of Senator Volker.

ACTING PRESIDENT MARCELLINO: Without objection.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that there is a privileged resolution at the desk. I would ask that it be read in its entirety and then move for its immediate adoption.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: By Senator Bruno, et al: Legislative Resolution honoring Stephen F. Sloan, Secretary of the New York

State Senate, upon the occasion of his retirement.

WHEREAS, it is the privilege of this legislative body to honor individuals who have faithfully served the people and the government of the state of New York with dedication and conscientious service, and

WHEREAS, December 31, 1997, marked the conclusion of Stephen F. Sloan's 30-year career in public service; for the past 16 years he served with distinction as Secretary of the New York State Senate, the longest tenured Secretary in the history of the Senate; and

WHEREAS, originally from Otsego County, Stephen Sloan earned a Bachelor of Science degree in Forest Management from Michigan State University and Master of Science and Ph.D. Degrees in Resources Management from the State University College of Environmental Science and Forestry at Syracuse University. As we all know, environmental issues and legislation have always been near and dear to his heart; and

WHEREAS, he began his career

with the Senate as a budget analyst with the Senate Finance Committee in 1969. He left Albany briefly from 1971 to 1974 to serve as a senior staff member of the President's Council on Environmental Quality in Washington, D.C.;

In 1974, Stephen Sloan returned to Albany, rejoining the Senate staff as Director of the Senate Task Force on Critical Problems. He takes great pride in the success of the "I Love New York" tourism promotion, beverage container deposit program, and State Office of Business Permits recommended by the task force during his tenure as director.

Stephen Sloan was given the task in 1976 of creating a research operation to serve the members of the Senate. He became the first Director of the Senate Research Service and established one of the most effective and comprehensive legislative research operations nationwide. The Senate Research Service provides service to the Senate through analysis of individual inquiries from Senate members. He was responsible for developing many of the regular Senate research publications but the award

winning Summary of Legislation and the Issues in Focus series stand out as unique and widely acclaimed; and

WHEREAS, in 1982, Stephen Sloan was elected by the members of the Senate to be the Secretary of the Senate; as the chief operating officer of the Senate he was responsible for all administrative and support operations and ensured that the Senate's operation was efficient and met the highest standards of accountability and ethical business practices. He was responsible for preparing and managing the Senate's budget, meeting the human resources needs of all Senate staff and providing general operations support to Senate offices statewide.

The Secretary of the Senate's realm does duties -- of duties is broad. Effective and timely support for the Senate members and the legislative process is of premier concern. Stephen Sloan worked to bring modern practices to all of the operations that facilitate the law-making process including the Journal Clerk's office, Document Room, Local Fiscal Impact Note Office

and the Sergeant-at-Arms. He oversaw the Senate's Student Program Office which has brought hundreds of graduate and undergraduate college students to the Senate to experience how the legislative process works; and

WHEREAS, Stephen Sloan has also carried out the additional responsibilities of the Secretary of the Senate, of counseling members of the Senate on a wide range of issues and of maintaining liaison with the Governor and his aides, with the leadership of the Assembly, with the state Comptroller, the state agency commissioners, and with the public and the media.

Among the highlights of Stephen Sloan's career as Secretary of the Senate is the creation of the Senate Office Automation Project which initially brought computeriza tion to the Senate and has now been upgraded to meet the needs of the future; also the creation of a state of the art telecommunica tions network to give Senate members the ability to more effectively serve their constituents and to allow all Senate offices statewide to work together more closely.

Finally, and perhaps most importantly, his strong sense of professionalism and integrity was imparted to the Senate staff on a daily basis.

That he loved working with people was evident over the progression of burgeoning responsibilities and demanding sessions. Stephen Sloan served the Senate and the people of the state of New York with loyalty, honor and distinction, giving his time and talent in untiring dedication to his position and purpose; and

WHEREAS, he desired to retire to enjoy more time with his family, his wife Mimi, his daughters Kimberly and Pamela, and to pursue his many outdoor pastimes and, of course, to foster the growth of his widely known duck collection.

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to express its highest respect and deepest appreciation to Stephen F. Sloan recognizing the significance of his contribu tions to the effective operation of the Senate over 16 years of faithful service as Secretary

of the Senate, marked by integrity, dedication and achievement, and to extend to him a heartfelt wish for a future as rich and rewarding as his preeminent career; and

BE IT FURTHER RESOLVED that a copy of this resolution suitably engrossed, be transmitted to Stephen F. Sloan.

ACTING PRESIDENT MARCELLINO: Recognize Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

I'd like to welcome Steve Sloan -- I see he's here with his mother Marion, and welcome you here to the chamber -- and I am very pleased, Mr. President and my colleagues, to be able to get up and talk for a few minutes about Steve Sloan and the work that he did in this chamber, in the Senate and in state government, over the past 30 years. 30 years! Started as a budgets analyst in '69, became Secretary to the Senate, the highest staff position here in the Senate, in '82, and from '82 until just recently he served the Senate with honor, with distinction and in a way that is going to be very

difficult for anyone to duplicate.

He has left us here with probably technically one of the best functioning legislatures in the country, by way of processing information. Technically, you all know what we have done over these last few years with communications systems, with computers, with whatever else would help us do our jobs more efficiently and better. Steve was always out front, on the leading edge.

When I took over as Majority Leader, we were in a $7 million deficit with the Senate budget. In a very short period of time -- and it couldn't have happened without Steve Sloan at my side and at our side helping us find what we could cut, correct what we could correct and, Steve, I just want to thank you on behalf of the Senate for that. I can tell you now, that in a very short period of time we operate at a surplus -- at a surplus -- and that is management, and I give Steve Sloan a lot of the credit for that.

There isn't anyone that has been in public service that has done any more to improve the quality of life for New Yorkers

than Steve Sloan. So it really is -- and we say this often, but it's so true that it's with mixed emotions that I congratulate him after 30 years of rewarding service.

But I can tell you truly that I was sorry when Steve said that, at the end of the year, he was going to take retirement, sorry because I knew when I needed help, it was always there, and you know, I'll have to confess, Steve, to you now, that early in our relationship I used to play a little game and I would hit the button for Steve Sloan, and I would think I was going to ask a question that he would take a while to respond to, like I figure it would take him a day or two. Almost always Steve would say, "Oh, I got that right here. That's right on my desk, just a second," and literally within a minute or so, he would give me the response.

So I wondered to myself, what on earth his desk looked like, because no matter what I asked him, it was right there in front of him, so what I learned, of course, was that he knew how to access the information instantly and just gave it to me, and I can't

tell you how important that is when you're trying to do things. You're trying to make decisions like with one of your staff allowances, which I think none of you have an interest in, but I would then say, "Steve, what does this look like? Is this out of order," and I'd say, you know, "get it back to me by tomorrow." He'd say, "Just a minute, I got that right here," and he would give me the information. Now, whenever it was denied, that was my decision. When it was approved, I can tell you now, it was Steve saying it was O.K., so Steve, I'm going to just send you on your way with our best wishes from this house, from me, my gratitude for all of the hours, all of the days and all of the weeks that you spent here making me look good, helping the Senate doing all the good things that we have done.

My congratulations to your mom who's there with you, to your wife Mimi, to your children and you be in good health and enjoy these next weeks and months, and I'm sure we're going to be spending some time together as you go forward.

Good luck. Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Mr. President.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. I rise also to say to Steve how much we're going to miss him, and how much we appreciate his friendship. Let me say, Steve, I'm so glad that you've got your mother here because everybody needs to have their mother hear all this puffery that's going to be going on about you.

But you know, when you talk about class, Steve Sloan has it. You know, he has a job that you could make a lot of enemies, because he has to say no, and he does have to say no to different requests for people, and so forth, and -- but this guy always did it with a lot of class, and let me just say this: Steve Sloan, Dr. Steve Sloan, a Ph.D., he has intelligence. He has honor. He also made this entire body look good. When he took over, he opened up to public information and scrutiny. We had nothing to hide here

because of Steve Sloan, and you did an outstanding job for us.

I, being from the Capital District, spent a lot of time in his office, and coming in to do legislative days and many other things. Steve was always there, always provided answers, always was able to help everybody, and he treated both sides of the aisle here with dignity, and again, as I said, with class.

Steve, you've had a great career, a great service to us and to the state of New York. He was head of our Senate Research and made it one of the premier legislative research bodies in the country. You've done a great job at one of the most important Senate positions, and we're very, very proud of you, and I wish you well.

I had the good fortune of having his daughter Kim in class, and I'll tell you, she -- your children and your family are a great credit to you, and let me just say I wish you well, and I wish you happiness, and I know that you're going to be going on to do a lot more.

I don't think -- I can't see Steve Sloan in retirement, and I wish you well, Steve.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Farley.

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

Looking into Steve Sloan's office gives you a new appreciation, perhaps a deeper one of the old adage, if it walks like a duck and speaks like a duck, because those of you who have been in Steve's office know it's totally adorned from top to bottom one end to the other, and you ask -- the Majority Leader asked what was on his desk. Ducks. He has a passion for ducks.

Well, unfortunately for some, he has a passion for shooting ducks, but I will honestly say that any occasion I ever had to walk into his office -- and I didn't do that too often -- usually with a request of some sort, I didn't feel like a sitting duck. I felt like someone he wanted to genuinely help, and that he felt it was his job to. He

is an individual, I think, with a depth of knowledge, and everyone said this -- certainly Senator Bruno did and Senator Farley did - that is enormous, but beyond that, his ability to relate to each of us at a level we could understand and respond to our needs in a fashion that we felt, even if we didn't get everything we wanted, or even if we didn't get anything we wanted but you walked away knowing that he really understood what your job was all about and what you were trying to do.

In his letter to all of us, he explained that he was going to spend his retirement years fishing and hunting, and I wrote him a note back and asked to let me know where he was when he was fishing because I want to be there with, for one reason: Knowing how efficient he's been here, if he's going fishing somewhere I know damned well he's going to catch fish, and I want to be there with him.

Thank you, Steve.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Padavan.

Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

So much has already been said about Steve Sloan and his career here in the Senate, and very appropriately and well said by other members, but one thing that hasn't been mentioned about Steve this afternoon is about Steve's roots. His roots are in the little hamlet of Springfield Center in Otsego County, northern Otsego County, up along Route 20, which is in my home county and it's something that Steve and I have shared over the years together, both coming from Otsego County, and, in my judgment, Steve brought all the best of what I call small town values here to the state Capitol, particularly in the way that he dealt with those around him. He brought those small town values of honesty, forthrightness, in dealing with people here in the Senate.

Steve, you've been a great help over the years to me personally as a member of this body, and as a staff member prior to being elected myself, and I just want to stand and say a big thank you to you. You've always

been a true professional. You've brought the Senate into the 20th Century. In fact, I think you've prepared us for the 21st Century in terms of the way we operate here.

You're obviously intelligent, always accommodating as best you can. You provided so much sound advice over the years, always looking out for the best interests of the Senate, and the members and all the staff here in this body, always no matter what the circumstances of a discussion, always courteous and effective.

Steve, you're one classy guy. We're going to miss you here, but as one resident of Otsego County to another, we wish you well, and certainly very pleased to see your mom, Mrs. Sloan, in the gallery visiting here today.

Best of luck to all in the future.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Seward.

Senator Goodman.

SENATOR GOODMAN: Mr. President, Steve Sloan is a man of unusual

talent and skill, but especially great powers of diplomacy. The thing that interests me about the ducks in his office is that they give rise to a question: Shall I put these on your bill?

ACTING PRESIDENT MARCELLINO: Ohhh, ho,ho. We'll give you a chance to retract that if you want, Senator.

SENATOR GOODMAN: Thank you, Mr. President. I stand on my earlier statement.

Steve is, without doubt, one of the ablest administrators that I've known and when I first got to know him it was when he was wearing his hat as Senate Research Director. I became deeply impressed with his capacity to ferret out even the most obstruse pieces of information for our guidance. He's a clear thinker and obviously a man of very high I.Q. and intellect, but more importantly has a great sense of ability to deal with people and to be immensely cooperative in fulfilling their needs.

Steve, it's very hard for me to believe that you and I have been companions in

this process for 30 years. You wear it well, my friend, and I can only say that it's my hope as time goes on, you will continue to show your youthful exuberance as you've always done before.

I'd particularly like to thank you for one very special favor you've done for me and for Senator Markowitz. On every budget night when we've been in the chamber all night, we've had a compact, a bipartisan compact, with Marty Markowitz, and I hope that in revealing this it will not give rise to an urge on the part of any other members to participate, but you've made your office available. Marty Markowitz has the deep leather arm chair, and I have the part of the couch that is not occupied by the ducks, where we go in for some rest between debates, and I hope that your successor will take very seriously the fact that this is imperative to keep a Democrat and Republican alive and well and in good shape for the strains of the budget debate.

And, Steve, I want you to know we've developed a great sense of abiding

affection for you, and I'd like to say to your mother, you should be very proud of your progeny because he's a man who enjoys the respect of every member of this Senate chamber and anyone who's had anything to do with the state government. He's a class act, a high quality individual of complete and impeccable integrity, great diplomacy and, in short, we think he's a pretty good fellow.

Godspeed and good luck, Steve.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Goodman.

Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, I want to refer to Senator Bruno's remarks because he spoke about a conversation that was very important and that was this conversation when he told Steve that there was a $7 million deficit because there was a conversation, and Senator Velella was in the room and, when he heard it, he said right away, "That's easy to solve the problem; take it out of the Minority," and thankfully for us, Steve Sloan was there for

us, because he said, "No, no, maybe 90 percent but not all." He was always there.

Actually, I'm glad Senator Bruno took you off the hook today saying that you did all the good stuff, and he did all the hard stuff, because I've always admired people who work for a living and it's no secret that, in Albany, the person below runs this house, such as Steve was doing, works for the Majority, and you can't live here unless you face up to that fact, and putting that in perspective, the fact is that Steve Sloan was a gentleman to me all these years. He was a gentleman to our members. You would do for us what you could, and we had to understand the fact that you did work for the Majority and within that framework you made it easier for me to do my job, and I'm grateful for it, and I think you have earned good health in this retirement, and I hope it's only good things for you and, if you get back what you've earned, you'll be very happy.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Gold.

Senator Markowitz.

SENATOR MARKOWITZ: Thank you very, very much and, Senator Goodman, thank you for those nice remarks a few moments ago. The truth of the matter is that Steve Sloan and I spent many a night together sharing the same space, but in keeping with the Majority, he slept at his desk, Senator Goodman got the couch, and I got the arm chair.

But whenever you were in that office, you knew you shared it with a lot more than human beings. Those stuffed ducks, those wooden ducks, those plastic ducks -- ducks, ducks, ducks! All I know is we may be losing Steve in service to the Senate, but the duck population in America and New York, watch out. Full time, baby, his shot gun's on his arms. Take a look at those pictures with - smiling with those ducks up and down, on his shoulders, in his hand. Those poor, poor ducks.

One year, Steve, you remember because each Christmas and during your years, I would buy you ducks, all right and proud to say that I contributed greatly to your duck collection -- duck wallets, duck T-shirts,

ducks, ducks, ducks, whatever had a duck and one year I ran out of ducks to buy, and I saw a vendor in the streets of Manhattan - probably your district, Senator Goodman -- and I said to the vendor, "I need a duck badly," and he sold me a stuffed animal. He said it was a duck, and I later found out -- in fact, I realized on my trip up here that I bought him a "big bird", and I want to thank you for not disclosing to the press that this Senator didn't know the difference between a duck and a big bird. Thank you, Stephen Sloan.

The truth of the matter is that Steve was and is a person that, although he said no to me 99 percent of the time, "no," "rejection," "forget about it," "it's not available, never has been, never will be," he said it in such a way that you had to like him because that's the way you are. You're a good guy. You're a real super person. You really are, Steve, and I always hope that some day soon we convert you to the Democratic Party. I still have that hope out because someone like you with that amount of sensitivity belongs on this side of the

aisle.

Good luck. Good luck, ducks.

ACTING PRESIDENT MARCELLINO: Senator Markowitz has to learn how to control himself.

Senator Paterson.

SENATOR PATERSON: Mr. President, after that, there's really very little to say other than the fact that Steve Sloan wrote us all a letter to let us know he was leaving. It indicated a lot of what his vision was, and hopefully what he tried to accomplish in his particular time, and we in the Minority appreciated it, understood it. There's always been a battle between the Majorities and Minorities, in just about all the houses of Legislatures in this country about the distribution of resources, and, as Senator Markowitz said, although 99 percent of the time we were in disagreement with the decision, I felt that it was always done in a professional and responsible way, and, therefore, I'd like to lend my voice to all those who are wishing Steve best wishes in his continued career, and to thank his family for

the time that they allowed him to share with us.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Paterson.

Senator Stafford.

SENATOR STAFFORD: Senator Paterson was going to thank Senator Markowitz but I guess I'll have to do that.

I'm one of the few that are going to complain. I know people won't believe this but, as I look around, I'm sure everyhone would agree with me. I'm just going to complain that someone of Steve's caliber has decided to be sensible and to change courses. I don't think any of us sometimes think that people like him, or didn't think, we know that people like Steve Sloan, they don't retire. They just, as I say, change courses.

I've been around here a while, and I've watched people's responsibility and I guess about the best thing you can say about anybody if they have responsibility and have to be a messenger, and I know we all know what that's like, but if we have to be a messenger,

and when you're finished with what you're doing and you still have good will, you have just about as much as anybody can have, and the gentleman we're speaking about today does have and again he has just about as much as anyone can have.

And finally, with the lady on his left, as some of us have been reminded at times. We have to remind him that the river never rises higher than its source.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Stafford.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I too would like to say a few words about Steve. I'll leave the ducks to Markowitz, and Joe touched on all the business things.

I had the opportunity to work with Steve on one of the quieter parts, the Senate gym, the members' gym, and the interesting thing is that the media constantly tried to make that like it was an exclusive beautiful room that had all the ultimate of

equipment in plush surroundings, and they wanted to come in and take photographs and see people working out and, quite honestly, it would have been very difficult for members to deal with the media at that point and be the ones to say no, and Steve took that burden on himself and he was the heavy, and did that in a nice way where he didn't get beat up in the press either, and it was refreshing to work with him and actually for those of us that use the facility, Steve's one of the people that kept it going because he stayed on top of things even when sometimes the other side was switching people and our person wasn't up to speed on what was going on and making sure it was clean and the equipment worked and for that, working with him, I've always thanked him because he was very helpful and that all the members that do use it are better off for it, and it's just one of the many facets of his job that he did so well, and I just wanted to congratulate him and wish him luck in the future.

ACTING PRESIDENT MARCELLINO:

Thank you, Senator Stachowski.

Senator Skelos.

SENATOR SKELOS: Mr. President, I too rise in paying tribute to Steve.

Senator Paterson, Senator Markowitz mentioned you said no to them 99 percent of the time. I don't understand it. You said yes to me 99 percent of the time, and I did appreciate that. Must be my charm and my personality, the way I handled it but, as has been said by both Majority members and Minority members, especially when you first come to the Senate as I did in 1985, I -- you really treated all of us with respect. You made our lives a lot easier up here. You made our offices more efficient, and quite honestly by making our offices more efficient and you've served all of our individual constituents. The better we can serve them, the better job that we're doing.

So, Steve, I wish you nothing but happiness and good health. Maybe I'll join you on the pond with Senator Padavan. Maybe I'll even join you hunting the ducks, but most of all good luck to you, Steve.

ACTING PRESIDENT MARCELLINO:

Thank you, Senator Skelos.

Senator Kuhl.

SENATOR KUHL: Thank you, Mr. President.

I just want to rise and congratulate the the Sen...Senator Sloan, the 61st or 62nd Senator. Steve, congratulations on your retirement and certainly good health and, like so many people here, certainly you've been intimately involved in our work, most recently in my role as the Assistant Majority Leader in charge of house operations. As you know, we went through a reform move which really now is, I think, the envy of many people here, and we now report our expenditure reporting and thank you for your help in doing that, and thank you for leading the charge.

But to follow up somewhat on what Dean has said, I personally want to thank you for lending a human side to this institution. We all talk about the institution as being a great institution and it's rather foreboding for an individual to come and join the Senate and not know anybody

here, as an outsider, and I want to thank you for not really taking us under, each individual as we arrived here, but I want to thank you from the standpoint of having the time to give individual attention to each one of our problems, whether it was something as minute as, well, why don't I have a lamp for a table, or what is the matter with or why am I being put out in this parking spot or whatever it may be. You found, I think, the time and the interest to at least inquire as to what each one of our individual problems were, and that individual attention, that humane side of dealing with this foreboding body, I think, is an attribute that few people bring to this institution.

So thank you so much for making my life much easier here, and I'm sure I speak for all the members, and good luck.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Kuhl.

Senator Lachman.

SENATOR LACHMAN: I'd like to rise as a relatively new member of this chamber, and speak in honor of Dr. Sloan

because I think very few of us realize that he has a Ph.D. He's a scholar as well as an administrator and manager, and I remember just a few short years ago when I came here for the first time in a special election, I think it was the end of February when the snows were on the ground, and I thought I knew something about state government through teaching it, but I learned very quickly that the theory of state government is quite different than the governance of the state by a state Legislature and I want to thank you, Steve, for always being for a Minority member of this chamber, honest, candid and considerate, and for having a very fine staff who followed in those traits and who we know will continue to follow in those traits.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Lachman.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

I too want to join, Steve, in congratulating, wishing you well. I, as

Senator Lachman mentioned, was elected to this institution in a special election. I think I was elected on a Tuesday, was down here two or three days later to be sworn in, and that transition was made a whole lot smoother, Steve, because of the help and assistance that you gave me at that time and I sincerely appreciated it then. I appreciate it even more today, and I just want to congratulate you, and wish you the best of luck.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Maziarz.

Senator Onorato.

SENATOR ONORATO: Mr. President, I rise, too, to join my colleagues in saying a special thank you to Steve Sloan. I don't know about some of the remarks that my colleagues on this side of the aisle stated. I called Steve on many, many occasions since 1983, and I want to thank him personally for my state of the art computer, my talking type writer, my television set, my answering telephone that he gave me, all the state of the art equipment that I asked him for I got,

but I got the boxes only, with a note in it, "The rest will be following." He never refused me anything, but I went one step further than Marty Markowitz.

The problem with Marty was that he didn't know the difference between a duck and a bird. Marty's version of the bird was a goose, so I didn't approach him for a goose, and I looked under that bird and there was all of those supplies, and he sent them to me in a very, very timely fashion.

But all jesting aside, I do want to thank Steve for the courtesies that he's extended to me over the past 15 years and now that he's leaving us, I wish him and his family all the best things that I wish for me and my family.

Good luck, Steve.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Onorato.

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

My first encounter with Steve Sloan was the day after election 1990. About

9:30 in the morning, a phone rings and somebody answered, for Senator-elect Larkin, and they said, By the way, it's some man named Steve Sloan. After 12 years in the Assembly they weren't exactly a household word in our office at that time, but I asked him what did he want, and he said, you know, Senator, we'd like to start with you getting everything ready, the records this, that, what your needs are, your new office, and all of that.

I brought two people up from my district who were with me and going to work with me in the Senate, and they left here with an attitude that said, Holy God, do you realize how sincere and conscientious. They said -- one of the ladies said, You were talking to him and I was outside and there was another member in the Minority was going in to see him and said, You'll find him to be wonderful. He treats everybody alike.

And all the time I've been here with Steve, there are some things that I've wanted. You know, I wanted to win the lottery. He didn't help me there, but everything that was reasonable and

responsible, I found him to want to make the Senate work, not just the members, but the Senate as a whole in its responsibility to the people.

We're going to miss you, Steve. I promise to park in my own slot from now on, and I just want to tell you how much I appreciate it, and my staff back home asked me today to make sure that they -- that I said to you, to thank you for what you did in organizing us to be a member of this body.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Larkin.

Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Mr. President.

I too rise with my colleagues to say to Steve Sloan, I thank you for being fair, for being there, for being a friend. I wish you well with the family, and I just thank you for being you.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Gonzalez.

Senator Johnson.

SENATOR JOHNSON: Yes, Mr. President.

I too would like to add my voice to those expressing appreciation for the good works of Steve Sloan over the years, being very solicitous of the Senate, and of the records of the Senate and the welfare of the members. I've always found him to be open, friendly, courteous, helpful, all the good attributes you'd like, and I find he's also a sportsman. Marty made a speech about the ducks, the geese, the whatever, but I know Steve is going to enjoy his retirement and I kind of envy him.

I think gettin' out young and fit, he's going to have a great life and we're certainly happy for you, Steve, and appreciative for everything you've done for us in the past.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Johnson.

Senator Leibell.

SENATOR LEIBELL: Thank you,

Mr. President.

Steve, I just want to echo the accolades you've heard today from my colleagues. Certainly as coming from the other house to this house a number of years ago, one of the first people I had the opportunity to work with was you and you did a great job not only for me and my staff but, as you've heard from so many of the other members, for both the Majority and the Minority here.

You always recognized the importance of the work we were all about and you recognized the importance for us to have the assistance from staff in order for us to do our jobs and to represent our constituents.

I can certainly tell you that for a relatively new Senator, you made my life a great deal easier. I'm most grateful for that. I thank you for that, and I wish you many years of happy retirement.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Leibell.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I want to rise to congratulate Steve Sloan. I want to tie in with a point that Senator Kuhl made that he referred to Steve Sloan as the 62nd Senator. I have to admit, Senator Kuhl, when I first came here I thought that the Secretary of the Senate was like the Secretary of the Communist Party. You know, when you got elevated to the Secretary, you were in charge and the Senators sort of followed, so Steve Sloan may be 62nd on the list of Senators, but I think he was number one in our hearts for a long time.

In addition, I think Steve probably recognizes when I stand up that he will miss the "Dear Steve" letters signed by "Franz and Rick", Franz Leichter, who is not here and I'm going to pinchhit for him in saying that we probably wiped out several dozen acres of the Adirondack forest with the sheafs of mail that we sent to -- in the form of "Dear Steve" letters and, as Steve knows, they always had an interesting little last sentence, and it was usually Franz and I

rattling our legal sabres of something akin, Steve, that said, Either do this or we'll sue you, something like that, but the best part about dealing with Steve was, and in all those discussions, and they did lead to some very good things, I commend Steve for doing, the quarterly reporting, restrictions on the mailing practices, a bunch of things that we've done in the last four or five years, to put it as Senator Bruno has constantly referred to it, so we run the Senate like a business; and, Steve, I commend you for doing that and leading the fight to get those things done.

But through all those letters, through all that correspondence, the good thing about my relationship -- and I think Franz Leichter would say this as well - is that Steve would always let us know through some door what he was going to do. Sometimes we may not get a response to the letter immediately but the word would get back to us somehow, and he always kept us informed. He was candid with us, he talked about policies and who makes them and how they're made and

the importance of democratic government, the importance, as much as it's difficult for someone in the Minority to respect the power of the Majority, it is nonetheless the part of our democracy and something that we must all attest to and subscribe to.

So, Steve, I congratulate you on your retirement. I may write you -- Franz and I may write you just one last letter. We'll end, no postscript, but it will be addressed just as the other ones. It will be addressed "Dear Steve" and it will be signed "Franz and Rick." Godspeed!

ACTING PRESIDENT MARCELLINO: Thank you, Senator Dollinger.

Senator Marchi.

SENATOR MARCHI: Mr. President, I don't think we've had as many expressions. We've had unanimity in this body on many occasions but I don't think we had so many that treated the vital consideration which I'm sure is appreciated by your mother, if not by yourself, and one was his professionalism, his erudite, academic intellectual process which commands and commanded great praise from

everybody that got up practically.

This wasn't a casuist who happened to chance on good policies. This is an individual with deep preparation, academic and otherwise, and professionally for the responsibility that he assumed and going beyond that we go to the personal and sometimes the execution of policies calls for various responsiveness and sometimes they're pleasant, sometimes perhaps they don't meet the requirements of the -- of the request, but I can't think of any circumstance in my own life, whether it was O.K., or, well, there's a problem here, where he wasn't absolutely on target, and I was equally pleased and I think those were few and rare between, because when they did occur, I had just broadened my knowledge of some of the problems that had to be contended with in the execution of the high responsibilities that he discharges.

So I remember leaders back, I guess it was when I first came here, Martin Van Buren was the Secretary of the Senate, but none of them hold a candle to Steve, and certainly I join my colleagues in wishing you

a fruitful and a life full of the expectations which you have every right to portend and that you continue to draw great satisfaction from all of your pursuits.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Marchi.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I'm sure, Steve, you're finding it difficult to keep your head above water with this flood of kudos. I apologize for having been out of the chamber and missing much, and I probably can't add too much that's substantive to what's already been said, but I'd feel terribly remiss if I didn't rise and add to the chorus of genuinely felt, deeply and heartfelt kindnesses that we're attempting to reciprocate for the multitude of kindnesses that you time and again were able to provide to us.

You're, I think, one of the class acts that I've ever come across in all of my dealings in either house of this Legislature. You've always been a gentleman

and somehow or other miraculously, even when you said no, I felt guilty. Why I should have felt guilty, I do not know, but it's a marvelous ability and if only I had it, I'd probably be far more successful.

A gentleman through and through, certainly capable, certainly bright, certainly extraordinarily decent. You will be missed, and I cannot in any way, shape or form convey to you my deep appreciation for having had the opportunity to have worked with you, to have benefited from knowing you and my knowledge of you.

God bless you, your family, your loved ones, and may your retirement be everything you would wish it to be.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Saland.

Senator Rath.

SENATOR RATH: Thank you, Mr. Chairman.

Steve, from the far western door of the state of New York, best wishes to you and good luck. There's always a phrase that I would think of you, think of this

phrase when I would see you working with some of us, when you were trying to gather us and get papers to us and whatever and the phrase was always "herding cats" that always made me laugh because if you would ever try to imagine herding cats it would be like impossible, but somehow the great diversity of the state of New York lends itself to the great diversity of the members of this body and, as you dealt with all of us with patience and equinimity you did that to the joy and the everlasting gratitude of all the members of this house.

And so, as you move forward into a new time of life, new challenges, new places to explore, where the ducks are unlimited, may you go forward with great success and great happiness unlimited.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Rath.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is passed.

On behalf of the colleagues, my colleagues in the Senate, Steve, we wish you the best of everything. Get all the ducks you can possibly get. Get all the fish you can possibly fish and, most importantly, may it be in good health for the rest of your days.

God bless you!

(Standing applause)

Senator Volker, we'd like to go back to motions if we could for a moment. Senator Kuhl, you have a motion for us?

SENATOR KUHL: Yes, I do.

Mr. President, on page 8 I offer the following amendments to Calendar Number 38, Senate Print Number 2088, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Libous, would you please place a sponsor's star on

Calendars Number 1, 2, 3, 4 and 5.

ACTING PRESIDENT MARCELLINO: Those bills will be starred at the request of the sponsor.

Secretary will read -

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT MARCELLINO: -- substitutions.

SENATOR VOLKER: May I please have the title read on Resolution Number 2213 by Senator Wright, and move for its immediate adoption.

ACTING PRESIDENT MARCELLINO: Secretary will read.

THE SECRETARY: By Senator Wright, Legislative Resolution 2213, calling upon the United States Congress to pass H.R. 2955, to amend Section 110 of the Legal Immigration Reform and Immigrant Responsibility Act of 1996.

ACTING PRESIDENT MARCELLINO: The question is on the resolution.

SENATOR DOLLINGER: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: This is a question on the resolution, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Perhaps if the sponsor could just explain the resolution, then I have a procedural motion I'd like to make, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Wright, do you yield for a question on the resolution?

SENATOR WRIGHT: I will, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator yields, Senator Dollinger.

SENATOR DOLLINGER: If he would just explain through you, Mr. President, the basis for this, we could do this quickly.

SENATOR WRIGHT: Very quickly, as you can see in the short title, we're calling upon Congress to take some action. We're memorializing Congress as we have on a number of issues. This one happens to be

changes in the Immigration Act that Congress has initiated that will have an adverse impact on cross border movement on many New York State border entry points that border on Canada.

With the stricter reporting requirements of individuals coming across our border, there will be inordinate delays. That will adversely affect commerce, adversely affect tourism, and we historically have had very open borders with our Canadian neighbors and there is a great deal of trade and exchange back and forth; so as our Congressional representatives both in Buffalo and in my area, the Thousand Island area, we have international bridges, we have a great deal of crossing the border, we're memorializing Congress and asking them to move and to move promptly in remedying those in those reporting requirements and basically to exempt Canadians.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, is this resolution in order

pursuant to IX Rule 9 (b) of the Senate rules?

ACTING PRESIDENT MARCELLINO: Yes, it is, Senator.

SENATOR DOLLINGER: And could you just explain why, Mr. President, through you?

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: I believe the resolution is properly before us. The rule that was referred to by Senator Dollinger is when -- Senator Wright's resolution does affect domestic policy whereas sometimes resolutions have come up that have been held that have not been reported to the floor because they would memorialize Congress to affect foreign policy of other nations. That's why his resolution is properly before the house.

SENATOR FARLEY: Mr. President.

ACTING PRESIDENT MARCELLINO: Yes, we understand that it's Rule Number VI, Section 9 (b).

SENATOR DOLLINGER: Correct, Mr. President. Is it in order? It raises a point of order.

ACTING PRESIDENT MARCELLINO: Excuse me.

SENATOR DOLLINGER: Is this resolution in order?

ACTING PRESIDENT MARCELLINO: This resolution would be in order because it pertains to the affairs, business, rights, benefits, obligations of New York State.

SENATOR DOLLINGER: Mr. President, I'm going to vote in favor -

ACTING PRESIDENT MARCELLINO: Senator, if you could just -- Senator Farley.

SENATOR FARLEY: Just as a point of information, Senator Dollinger, it was just last week that the Council of State Governments of Northeastern States passed a resolution similar to this, urging all the states, and incidentally unanimously passed by all the states represented there, urging the different legislative bodies to do this resolution and incidentally, it was passed

also unanimously by the Council of State Governments Executive Committee this December, addressing this.

As you are well aware, coming from a border city of the tremendous problem that has been -- is happening in crossing the border and the hours and hours of delay and because of this we're urging them to look at this and to try to alleviate this terrible problem for commerce and to everything else, and almost every state particularly bordering Canada and, incidentally, it's more or less talking about Canada as opposed to the -- as opposed to Mexico, so we're very anxious and there seems to be unanimity throughout the United States on this issue.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Again through you, Mr. President, the reason why I asked that this resolution be put over until today, I agree with both Senator Farley and Senator Wright. This is an important issue that relates to New York State. It does relate to domestic policy, domestic policy in

the United States, this is an act of Congress, and I simply rise today because I have a resolution that's been before -- been on the Senate calendar -

SENATOR SKELOS: Mr. President, if I could raise a point of order, I think it would be germane if Senator Dollinger wishes to discuss Senator Wright's resolution but to go off on a resolution that he has that is not before the house is not germane to the issue before this house right now, and that's Senators Wright's resolution.

SENATOR DOLLINGER: Well, I -

ACTING PRESIDENT MARCELLINO: Senator, excuse me, but Senator Skelos' point is well taken. The -- Senator Dollinger, I have to rule you out of order because in effect your remarks are not germane to the resolution before us.

SENATOR DOLLINGER: Well, let me show you how they are germane. This resolution deals with the relationship between Canada and the United States. It allows and urges the United States Congress to facilitate greater immigration access by Canadians coming

into the United States, the international relationship between Canada and the United States.

All I want to do is talk about one other aspect of that relationship and that is a resolution that has been before this house for the better part of the last eight months, which asks that this house go on record -

ACTING PRESIDENT MARCELLINO: Senator, your resolution is not before the chamber. It's simply -- we are debating or discussing Senator Wright's resolution. If you wish to discuss Senator Wright's resolution, then you are in order. If you wish to bring in another resolution that has to be brought before the floor.

SENATOR DOLLINGER: Mr. President, Senator Wright's resolution deals with the relationship between Canada and the United States. All I want to do is talk about one other aspect of that which I should add has an effect on the affairs, the business, the rights, the benefits and the obligations of New York State.

ACTING PRESIDENT MARCELLINO: The only problem is your resolutions is not before us. Senator Wright's resolution is before us. So we should be discussing the resolution that is before us, not one that is being proposed.

SENATOR DOLLINGER: And all I'm attempting to do is -

ACTING PRESIDENT MARCELLINO: Senator, if you wish to discuss it -- I don't want to be rude, but if you wish to discuss the resolution, you should bring it before the chamber. We'll be happy to hold it then and happy to discuss it then.

SENATOR DOLLINGER: Through you, Mr. President, that's the whole point of why I'm standing here today. I can't get it here. If you can think of some other way I can get it before this body, I'll be glad to do it but I'm stuck in a position -

ACTING PRESIDENT MARCELLINO: Senator, we're here to discuss a resolution that is on the floor that has been raised appropriately, that has been heard and read and is ready for a vote. If you wish to

discuss that resolution, we'll be happy to hear you.

SENATOR DOLLINGER: And, Mr. President, I simply -

ACTING PRESIDENT MARCELLINO: And if you have a resolution that is not before us, we cannot hear it; it is out of order, sir.

SENATOR DOLLINGER: I won't make any other references, I'll just -

ACTING PRESIDENT MARCELLINO: Senator Paterson, why do you rise? Excuse me, Senator.

SENATOR PATERSON: Point of order, Mr. President.

On this particular resolution as I understand it what Senator Dollinger is doing, even if he does raise his resolution, it's merely as a buttress to his argument that he is debating Senator Wright's resolution. If he talks about the fact that he brought a resolution forward or he can't get the resolution on the floor, he's consulting a seer or something to find a way to get his resolution on the floor, that is really just a

parallel he's drawing to make his point which is really on the subject that we're discussing which is Senator Wright's resolution.

SENATOR DOLLINGER: Senator Wright's resolution, through you, Mr. President, if I've still got the floor.

ACTING PRESIDENT MARCELLINO: You have the floor, sir, on Senator Wright's resolution if you wish.

SENATOR DOLLINGER: On Senator Wright's resolution.

Senator Wright's resolution which I support deals with the relationship between Canada and the United States. I applaud that relationship; it's one that my community benefits from.

I simply raise another issue that this resolution ought to consider, and that's the role of the International Joint Commission and the St. Lawrence River Board of Control. It is the subject of a document which has been at one point submitted to this house but has never made it to the floor.

I would wish that Senator Wright who has advocated for this change that

would benefit his community would look at the broader picture and perhaps expand his resolution, perhaps amend the resolution to ask that the International Joint Commission and the St. Lawrence River Board of Control comply with a little democracy, a little due process, give us access to agenda. Minutes and notes. That's all I ask. That's -- for some reason that issue doesn't seem to be a part of our discussion here.

I'm going to vote in favor of Senator Wright's resolution, but I wish the policy were evenhandedly applied to all issues that deal with the relationship between Canada and the United States. It's an important issue, Senator Wright; you're right to raise it in this context. It's a shame that we can't discuss it further when it directly affects New York State.

SENATOR SKELOS: Move the resolution.

ACTING PRESIDENT MARCELLINO: Question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Secretary will now read substitutions, Senator Skelos, if you would.

SENATOR SKELOS: Please make the substitutions.

THE SECRETARY: On page 12, Senator Volker moves to discharge from the Committee on Investigations, Assembly Bill Number 8717 and substitute it for the identical Third Reading Calendar 85.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Will you take up the non-controversial calendar, please.

ACTING PRESIDENT MARCELLINO: Secretary will read the non-controversial calendar. Can we have some order in the chamber, please.

THE SECRETARY: Calendar Number 8, by Senator Leibell, Senate Print 2021, an act to amend the General Municipal Law, in relation to participation in certain health

insurance plans.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 33, by Senator Velella, Senate Print 4062, an act it amend the Insurance Law, in relation to deleting obsolete references.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 34, by Senator Farley, Senate Print 2144, an act to amend the Banking Law and the Criminal Procedure Law, in relation to the regulation of licensed transmitters of money.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 44, by Senator Stafford, Senate Print 799.

SENATOR MONTGOMERY: Lay aside.

ACTING PRESIDENT MARCELLINO: Lay aside.

THE SECRETARY: Calendar Number

75, by Senator Nozzolio, Senate Print 5229, an act to amend the Executive Law, in relation to making available to their victims the proceeds of civil recoveries.

ACTING PRESIDENT MARCELLINO: Read the last -- lay the bill aside, please.

THE SECRETARY: Calendar Number 76, by Senator Marcellino, Senate Print 1391, an act to amend the Environmental Conservation Law, in relation to the drawing off of water for storage reservoirs.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 77, by Senator Larkin, Senate Print 2369, an

act to amend the Navigation Law, in relation to liability of volunteer firefighters.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 82, by Senator Holland, Senate Print 4120-A, an act to amend the Social Services Law, in relation to county responsibility.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 85, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 8717, an act to amend the Tax Law, in relation to the imposition of sales and use taxes by the county of Erie.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, that completes the reading of the non-controversial calendar.

SENATOR SKELOS: Can we have the reading of the controversial calendar,

please.

ACTING PRESIDENT MARCELLINO: Secretary will read Senate 799.

THE SECRETARY: Calendar Number 44, by Senator Stafford, Senate Print 799, an act to amend the Labor Law, in relation to licenses to possess and use explosives.

ACTING PRESIDENT MARCELLINO: Senator Stafford, an explanation has been requested by Senator Montgomery.

SENATOR STAFFORD: I think we all agree that there should be licensing in this situation, and I -- am I interrupting something?

SENATOR MONTGOMERY: Explanation, please.

SENATOR STAFFORD: I thought I was interrupting.

SENATOR MONTGOMERY: No, no, I'm listening.

SENATOR STAFFORD: Pardon me? Pardon me?

SENATOR MONTGOMERY: I was just listening for your explanation.

SENATOR STAFFORD: Thank you.

I think we all agree that we -- you got a question?

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT MARCELLINO: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Senator, or Mr. President I guess I would just like to ask Senator Stafford, in light of the fact that we have such a problem with the threat of terrorism -

SENATOR STAFFORD: Of what?

SENATOR MONTGOMERY: With domestic terrorism, where people are utilizing explosives and collecting, amassing caches of weapons and ammunition, and what have you, my concern is that this bill sort of weakens our capacity to sort of monitor just what is happening in terms of the sale of those kinds of things.

SENATOR STAFFORD: Well, I think you made your point, and it gives us an opportunity to clarify.

SENATOR MONTGOMERY: O.K.

SENATOR STAFFORD: And I think it would be important to all of us, and I

appreciate you bringing this to our attention.

ACTING PRESIDENT MARCELLINO: Senator, if you would, please, the stenographer -- if you could just face the microphone a little more, because we can barely hear you and the Chair wishes to be educated, please.

Thank you, Senator.

SENATOR STAFFORD: Yes. I think that all of us are very concerned about the issue that was just raised, and I certainly understand that.

I would point out that this is something that is used in business often involved in industry, and all we're doing is trying to make it as -- let's put it this way. We're trying to do it, still have the safeguard that has it sensible and have it complete which it will be; and I would like to make this point and I know how sensitive it is. If I was one to lose anybody, any license, be it a permit of a license law, it's more than serious and I understand that, and I would point this out, that here we're dealing

with people who use this professionally and in business, and it really doesn't go toward or speak to those who are dealing in an illegal situation.

This really doesn't affect, and I would certainly support you in supporting any legislation that would move towards helping us help and support measures that would stem illegalities, maiming and loss of life. I understand that.

ACTING PRESIDENT MARCELLINO: Senator Montgomery.

SENATOR MONTGOMERY: Just briefly, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: I'm still going to -- I accept Senator Stafford's explanation, but I think, however, it's similar to our arguments about licensing, licensing for guns. They are certainly legal and most people, or many people do acquire them legally, but somehow they end up being used for illegal purposes, and I think that in the instance particularly of explosives, but

also all of the materials, the objects that are covered by this legislation, I would want us to have more, not less of a capacity to at least monitor them, through the licensing process on a more frequent basis.

So I would just be opposed to weakening the law that is already in place, so I'm voting no on this bill.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays one, Senator Montgomery recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

May we read Senate 5229, Calendar Number 75.

THE SECRETARY: Calendar Number 75, by Senator Nozzolio, Senate Print 5229, an act to amend the Executive Law, in relation to making available.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, Senator Paterson has asked for an explanation.

SENATOR NOZZOLIO: Mr. President, this measure amends the Executive Law in relation to making available to the victims of crime the proceeds from civil recoveries of inmates who sue while incarcerated for civil wrongs, that all too often inmates who have been successful in their litigation have taken the proceeds of that litigation and put it in their pockets, in their attorneys' pockets, while their victims of crime -- and we're talking about very serious criminality, rape, robbery, murder, the victims of those crimes have no recovery under the Crime Victims Act. This bill remedies that situation.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Thank you,

Mr. President.

It seems almost hard to believe that a bill such as this is coming to the floor at this time and it's long overdue. Long overdue. It's actually an excellent effort to insure the victims of crime.

If Senator Nozzolio would yield for a question.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, do you yield for a question?

SENATOR NOZZOLIO: Certainly, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson, he yields.

SENATOR PATERSON: Mr. President, Senator Nozzolio just said that the monies would go into the criminal's pockets, the prisoners, and also into the pockets of their attorneys. Would any money that would be collected by a prisoner in a civil suit first pay their attorneys prior to going to the victims?

SENATOR NOZZOLIO: Mr. President, as I understand these proceedings

that when, in the rare cases and the inmate litigation is too pervasive in all areas from bad haircuts to melted ice cream cones to not enough channels on their cable television, those types of litigation are not the litigation we're talking about.

We're talking about in the rare circumstances for an individual like Roy Lawrence who sued the state of New York for damages because of infringements of his rights of free speech. For some reason, a federal judge decided that Roy Lawrence's rights of free speech were infringed and that the fact that he was in prison because he raped an individual, a woman in New York City, had nothing to do with the fact that his rights of free speech were impinged upon.

This federal judge in New York, who I dare say should be impeached for this type of award, gave Roy Lawrence $150,000 because his rights of free speech were in fringed and gave his law firm, Paul Weiss Rifkin, $550,000 to represent him in this matter.

Mr. President, as I understand

the procedure, the law firm got paid, Roy Lawrence got paid. The woman who was raped got not a cent from the Crime Victims board.

SENATOR PATERSON: Mr. President, if Senator Nozzolio would yield.

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, sir.

SENATOR PATERSON: Senator, what I'm still not sure about, in your bill would the prisoner who seeks private counsel and engages in some kind of a civil suit, and the example you described is quite compelling. I'm just asking about the legislation that you propose to cure it. Would the prisoners' legal fees or even legal expenses, I would add, be paid prior to the point that the victim would collect?

SENATOR NOZZOLIO: Mr. President, I'll answer that question by saying that this measure would hold any judgment recoverable to the inmate in abeyance for 60

days following the submission following the submission then of written notice to the Crime Victims Board. The Crime Victims Board would have the opportunity then to make a claim as would any other creditor, of the inmate, and I assume that under your question, Senator Paterson, that an attorney could make a claim against that award as well.

I think what mostly happens though in these proceedings is that the court does award separate attorneys' fees, that normally an individual that is a successful litigant in federal court or in state court is awarded separate legal fees, that that would not be part of a judgment award. We're suggesting here that the judgment award be held in abeyance until the Crime Victims Board has notice and that the proceeds of that judgment award, not the attorneys' fees order of the court, but that the judgment award order of the court be subject to crime victims compensation.

SENATOR PATERSON: Thank you, Senator.

Mr. President, I'm just

somewhat confused by the proposal that is coming before us today and what it really attempts to do. If, in fact, the attorneys are not going to be paid and Senator Nozzolio might want to show us in the legislation where the attorneys would be paid, then the effect of the legislation would be to chill any actions brought in civil liability by the prisoner.

If that's the case, then it's a little bit different than trying to secure the monies for the crime victims. If the latter is what Senator's -- Senator Nozzolio's choice is, then I wholeheartedly endorse it because it really is an excellent measure that will insure the rights of crime victims and certainly both can be accomplished being - insuring the rights of crime victims and not changing the law such that if a prisoner, for instance, was beaten by guards or something and sued somebody civilly, they would still have an opportunity to collect. The victim might also have the opportunity to collect but it would be very hard to bring a lawsuit if you can't get a lawyer who would actually sue

because the lawyer's fear is that they're not being paid.

That's why I raised this, because I don't feel that in the legislation it makes it clear enough that the lawyer would actually be paid, and so that's really something that I think, if this bill comes before us again, because of the strong statement it makes on behalf of crime victims, I think we owe it to those crime victims to make sure that we don't get -- have mixed signals sent about either the right to bring an action or even the ability of one who is defending an action as really an officer of the court, to be compensated for their work.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: Senator Gentile, I understand, Senator Dollinger have some requests.

Senator Gentile.

SENATOR GENTILE: Yes, Mr. President. I would ask unanimous consent to be recorded in the negative on Calendar Number 85.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I also request unanimous consent to be recorded in the negative on Calendar Number 85.

ACTING PRESIDENT MARCELLINO: Without objection, so ordered.

Senator Skelos.

SENATOR SKELOS: Is there any

other housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: None that I know of, sir.

SENATOR SKELOS: There being no further business, I move we adjourn until Wednesday, January 21st, at 3:00 p.m.

ACTING PRESIDENT MARCELLINO: On motion, the Senate stands adjourned until Wednesday, January 21st at 3:00 p.m.

(Whereupon at 4:24 p.m., the Senate adjourned.)