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9 ALBANY, NEW YORK

10 March 3, 1998

11 3:01 p.m.
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14 REGULAR SESSION
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18 SENATOR MICHAEL A.L. BALBONI, Acting President

19 STEVEN M. BOGGESE, Secretary
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1 P R O C E E D I N G S

2 ACTING PRESIDENT BALBONI: The
3 Senate will come to order. I ask everyone
4 present to please rise and say the Pledge of
5 Allegiance.

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

8 In the absence of clergy, may
9 we bow our heads in a moment of silence.

10 (A moment of silence was
11 observed.)

12 Reading of the Journal.

13 THE SECRETARY: In Senate
14 Monday, March 2nd. The Senate met pursuant to
15 adjournment. Prayer by the Reverend Iris
16 Tucker. The Journal of Friday, February 27th,
17 was read and approved. On motion, Senate
18 adjourned.

19 ACTING PRESIDENT BALBONI:
20 Without objection, the Journal stands approved
21 as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing

1 committees.

2 The Secretary will read.

3 THE SECRETARY: Senator
4 Stafford, from the Committee on Finance,
5 reports the following bills:

6 Senate Print 242, by Senator
7 Johnson, an act to amend the State Finance
8 Law;

9 310, by Senator Skelos, an act
10 to amend the Executive Law;

11 1684, by Senator Farley, an act
12 to amend the Executive Law;

13 2210, by Senator Padavan, an
14 act to amend the Executive Law;

15 3029, by Senator Holland, an
16 act to create the Piermont Library District;

17 3083, by Senator Padavan, an
18 act to amend the State Finance Law;

19 3766, by Senator Stafford, an
20 act to amend the Executive Law;

21 3899, by Senator DeFrancisco,
22 an act to amend the Executive Law;

23 4129-A, by Senator Marcellino,
24 an act authorizing the Commissioner of General
25 Services;

1 5161, by Senator Goodman, an
2 act to amend the Arts and Cultural Affairs
3 Law, and

4 6247, by Senator Wright, an act
5 providing for the transfer of funds.

6 Senator Hannon, from the
7 Committee on Health, reports:

8 Senate Print 737, with
9 amendments, by Senator Johnson, an act to
10 amend the Public Health Law;

11 934, by Senator Velella, an act
12 to amend the Public Health Law;

13 1125, by Senator Libous, an act
14 to amend the Public Health Law;

15 1488, by Senator Trunzo, an act
16 to amend the Public Health Law;

17 1736-B, by Senator Hannon, an
18 act to amend the Public Health Law;

19 2657, by Senator LaValle, an
20 act to amend the Public Health Law;

21 3659, by Senator Hannon, an act
22 to amend the Public Health Law; and

23 4422, by Senator Velella, an
24 act to amend the Public Health Law.

25 Senator Seward, from the

1 Committee on Energy and Telecommunications,
2 reports:

3 Senate Print 4278, by Senator
4 Seward, an act to amend the Public Service
5 Law;

6 4279, by Senator Seward, an act
7 to amend the Public Service Law;

8 4282, by Senator Seward, an act
9 to amend the Public Service Law.

10 All bills ordered direct for
11 third reading.

12 ACTING PRESIDENT BALBONI:
13 Without objection, all bills directly to third
14 reading.

15 SENATOR SKELOS: Mr. President,
16 at this time, if we could take up the
17 non-controversial calendar.

18 ACTING PRESIDENT BALBONI:
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 21, by Senator Volker, Senate Print 3407-A, an
22 act to amend the Criminal Procedure Law, in
23 relation to the authority of police officers.

24 SENATOR PATERSON: Lay aside.

25 ACTING PRESIDENT BALBONI: Read

1 the last section. Lay aside for Senator
2 Paterson.

3 THE SECRETARY: Calendar Number
4 101, by Senator Volker, Senate Print Number
5 5007, an act to amend the Criminal Procedure
6 Law, in relation to criminal actions.

7 ACTING PRESIDENT BALBONI: Read
8 the last section.

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

12 ACTING PRESIDENT BALBONI: Call
13 the roll.

14 (The Secretary called the
15 roll.)

16 THE SECRETARY: Ayes 37.

17 ACTING PRESIDENT BALBONI: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 188, by Senator Kuhl, Senate Print 5994, an
21 act to amend the Agriculture and Markets Law,
22 in relation to exempting working search dogs.

23 ACTING PRESIDENT BALBONI: Read
24 the last section.

25 THE SECRETARY: Section 3.

1 This act shall take effect on the first day of
2 January.

3 ACTING PRESIDENT BALBONI: Call
4 the roll.

5 (The Secretary called the
6 roll.)

7 THE SECRETARY: Ayes 37.

8 ACTING PRESIDENT BALBONI: The
9 bill is passed.

10 THE SECRETARY: Calendar number
11 201, by Senator Maltese, Senate Print 2440, an
12 act to amend the Vehicle and Traffic Law, in
13 relation to increasing the penalty for
14 obstructing access.

15 ACTING PRESIDENT BALBONI: Read
16 the last section.

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

20 ACTING PRESIDENT BALBONI: Call
21 the roll.

22 (The Secretary called the
23 roll.)

24 THE SECRETARY: Ayes 37.

25 ACTING PRESIDENT BALBONI: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 209, by Senator Stafford, Senate Print 150, an
4 act to amend the Environmental Conservation
5 Law, in relation to county responsibility.

6 ACTING PRESIDENT BALBONI: A
7 local fiscal impact note is at the desk. Read
8 the last section.

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

11 ACTING PRESIDENT BALBONI: Call
12 the roll.

13 (The Secretary called the
14 roll.)

15 THE SECRETARY: Ayes 37.

16 ACTING PRESIDENT BALBONI: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 210, by Senator Stafford, Senate Print Number
20 389, an act to amend the Environmental
21 Conservation Law, in relation to non-hazardous
22 municipal landfill.

23 ACTING PRESIDENT BALBONI: Read
24 the last section.

25 THE SECRETARY: Section 2.

1 This act shall take effect immediately.

2 ACTING PRESIDENT BALBONI: Call
3 the roll.

4 (The Secretary called the
5 roll.)

6 THE SECRETARY: Ayes 37.

7 ACTING PRESIDENT BALBONI: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 215, by Senator Cook, Senate Print 5739-A.

11 SENATOR PATERSON: Lay aside,
12 please.

13 ACTING PRESIDENT BALBONI: Lay
14 it aside, by Senator Paterson.

15 SENATOR PATERSON: Lay aside.

16 THE SECRETARY: Calendar Number
17 219, by Senator Wright, Senate Print 3890, an
18 act to amend the County Law, in relation to
19 merger of departments.

20 ACTING PRESIDENT BALBONI: Read
21 the last section.

22 THE SECRETARY: Section 3.

23 This act shall take effect immediately.

24 ACTING PRESIDENT BALBONI: Call
25 the roll.

1 (The Secretary called the
2 roll.)

3 THE SECRETARY: Ayes 37.

4 ACTING PRESIDENT BALBONI: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 228, by Senator Marcellino, Senate Print 1135,
8 an act to amend the Penal Law, in relation to
9 criminally negligent homicide.

10 ACTING PRESIDENT BALBONI: Read
11 the last section.

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

15 ACTING PRESIDENT BALBONI: Call
16 the roll.

17 (The Secretary called the
18 roll.)

19 THE SECRETARY: Ayes 37.

20 ACTING PRESIDENT BALBONI: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 229, by Senator Saland, Senate Print 1290, an
24 act to amend the Penal Law, in relation to the
25 minimum period of imprisonment for certain

1 persistent violent felony offenders.

2 ACTING PRESIDENT BALBONI: Read
3 the last section.

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

7 ACTING PRESIDENT BALBONI: Call
8 the roll.

9 (The Secretary called the
10 roll.)

11 THE SECRETARY: Ayes 37.

12 ACTING PRESIDENT BALBONI: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 230, by Senator Holland, Senate Print 1957, an
16 act to amend the Penal Law, in relation to
17 fixing sentences for persons committing crimes
18 while on parole.

19 ACTING PRESIDENT BALBONI: Read
20 the last section.

21 THE SECRETARY: Section 6.
22 This act shall take effect on the first day of
23 November.

24 ACTING PRESIDENT BALBONI: Call
25 the roll.

1 (The Secretary called the
2 roll.)

3 THE SECRETARY: Ayes 37.

4 ACTING PRESIDENT BALBONI: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 231, by Senator Kuhl, Senate Print Number
8 1977, an act to amend the Penal Law, in
9 relation to criminal possession of a weapon in
10 the third degree.

11 ACTING PRESIDENT BALBONI: Read
12 the last section.

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

16 ACTING PRESIDENT BALBONI: Call
17 the roll.

18 (The Secretary called the
19 roll.)

20 THE SECRETARY: Ayes 39.

21 ACTING PRESIDENT BALBONI: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 232, by Senator Saland, Senate Print 2016, an
25 act to amend the Penal Law, in relation to

1 consecutive sentences of imprisonment for
2 conviction.

3 ACTING PRESIDENT BALBONI: Read
4 the last section.

5 THE SECRETARY: Section 3. This
6 act shall take effect on the first day of
7 November.

8 ACTING PRESIDENT BALBONI: Call
9 the roll.

10 (The Secretary called the
11 roll.)

12 THE SECRETARY: Ayes 40.

13 ACTING PRESIDENT BALBONI: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 233, by Senator Johnson, Senate Print 2522-A.

17 SENATOR PATERSON: Lay aside.

18 ACTING PRESIDENT BALBONI: Lay
19 aside for Senator Paterson.

20 THE SECRETARY: Calendar Number
21 275, by Senator Present, Senate Print 2753, an
22 act to amend Chapter 557 of the Laws of 1992
23 relating to sewer rent revenues.

24 ACTING PRESIDENT BALBONI: Read
25 the last section.

1 THE SECRETARY: Section 2.

2 This act shall take effect immediately.

3 ACTING PRESIDENT BALBONI: Call
4 the roll.

5 (The Secretary called the
6 roll.)

7 THE SECRETARY: Ayes 40.

8 ACTING PRESIDENT BALBONI: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 279, by Senator Rath, Senate Print 289, an act
12 to amend the Criminal Procedure Law, in
13 relation to prohibiting issuance of an order
14 of recognizance or bail.

15 ACTING PRESIDENT BALBONI: Read
16 the last section.

17 THE SECRETARY: Section 4.

18 This act shall take effect on the 30th day.

19 ACTING PRESIDENT BALBONI: Call
20 the roll.

21 (The Secretary called the
22 roll.)

23 THE SECRETARY: Ayes 40, nays
24 one, Senator Leichter recorded in the
25 negative.

1 ACTING PRESIDENT BALBONI: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 280, by Senator Skelos, Senate Print 306, an
5 act to amend the Criminal Procedure Law, in
6 relation to limiting plea bargaining for
7 sexual offenders.

8 SENATOR LEICHTER: Lay aside.

9 ACTING PRESIDENT BALBONI: Lay
10 aside for Senator Leichter.

11 THE SECRETARY: Calendar Number
12 284, by Senator Skelos, Senate Print 589-B, an
13 act to amend the Penal Law and the Criminal
14 Procedure Law, in relation to providing for
15 the life imprisonment of pedophiles.

16 ACTING PRESIDENT BALBONI: Read
17 the last section.

18 THE SECRETARY: Section 6. This
19 act shall take effect -

20 SENATOR LEICHTER: Lay aside.

21 ACTING PRESIDENT BALBONI: Lay
22 aside for Senator Leichter.

23 THE SECRETARY: Calendar Number
24 286, by Senator Libous, Senate Print 1915, an
25 act to amend the Penal Law, in relation to

1 parole for certain sex offenders.

2 ACTING PRESIDENT BALBONI: Read
3 the last section.

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

7 ACTING PRESIDENT BALBONI: Call
8 the roll.

9 (The Secretary called the
10 roll.)

11 THE SECRETARY: Ayes 41.

12 ACTING PRESIDENT BALBONI: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 288, by Senator Hannon, Senate Print 3660, an
16 act to amend the Criminal Procedure Law, in
17 relation to imposing plea bargain
18 limitations.

19 SENATOR LEICHTER: Lay aside.

20 ACTING PRESIDENT BALBONI: Read
21 the last section. Lay aside, please.

22 THE SECRETARY: Calendar Number
23 300, by Senator Nozzolio, Senate Print 177-C,
24 an act to amend the Executive Law, the Penal
25 Law, the Correction Law and the Mental Hygiene

1 Law, in relation to treatment of sex
2 offenders.

3 ACTING PRESIDENT BALBONI: Read
4 the last section.

5 SENATOR LEICHTER: Lay aside.

6 ACTING PRESIDENT BALBONI: Lay
7 aside for Senator Leichter. That completes
8 the non-controversial calendar.

9 SENATOR SKELOS: Mr. President,
10 there will be an immediate meeting of the
11 Racing, Wagering and Gaming Committee in the
12 Majority Conference Room.

13 ACTING PRESIDENT BALBONI:
14 There will be an immediate meeting of the
15 Committee on Racing and Wagering in the
16 Majority Conference Room.

17 SENATOR SKELOS: I believe
18 there are some substitutions at the desk. I
19 would ask they be made.

20 ACTING PRESIDENT BALBONI:
21 Secretary will read.

22 THE SECRETARY: On page 10,
23 Senator Holland moves to discharge from the
24 Committee on Higher Education Assembly Bill
25 Number 3920-A and substitute it for the

1 identical Third Reading Calendar 180.

2 ACTING PRESIDENT BALBONI: So
3 ordered.

4 THE SECRETARY: On page 10,
5 Senator Hannon moves to discharge from the
6 Committee on Higher Education Assembly Bill
7 Number 8546-A and substitute it for the
8 identical Third Reading Calendar 182.

9 ACTING PRESIDENT BALBONI: So
10 ordered.

11 Senator Hannon? Senator
12 Skelos.

13 SENATOR SKELOS: Request we
14 return to reports of standing committees. I
15 believe there is a report of the Finance
16 Committee at the desk. I ask that it be read
17 and that you recognize Senator Stafford.

18 ACTING PRESIDENT BALBONI:
19 Return to the order of business the report of
20 standing committees. Senator Stafford.

21 Secretary will read.

22 THE SECRETARY: Senator
23 Stafford, from the Committee on Finance,
24 reports the following nomination:

25 Member of the Public Service

1 Commission, James D. Bennett, of Garden City.

2 ACTING PRESIDENT BALBONI:

3 Senator Stafford.

4 SENATOR STAFFORD: Mr.

5 President, it's again a pleasure for me to
6 rise and again compliment the Governor in the
7 nominees that appeared before us, in addition
8 to those that are listed here today. Fine
9 appointments, and for the first nomination of
10 Jim Bennett, I yield to the Senator from
11 Nassau, Senator Hannon.

12 ACTING PRESIDENT BALBONI:

13 Senator Hannon.

14 SENATOR HANNON: Mr. President,
15 it gives me extremely great pleasure to move
16 the nomination of Mr. James Bennett for
17 appointment to be a member of the Public
18 Service Commission.

19 In this day and age where great
20 challenges in energy and telecommunications
21 lie before this state in terms of implementing
22 deregulation, in terms of implementing
23 protection for the consumer, I think there can
24 be no better an individual to be moved to this
25 appointment than Mr. Bennett, who brings

1 considerable background in public life, in
2 business and in the energy field by being a
3 member of LIPA, the Long Island Power
4 Authority, for the last two years.

5 Mr. Bennett began his career as
6 a councilman for the town of Hempstead, moved
7 to supervisor of that township, a township of
8 over 800 citizens -- 800,000 citizens,
9 embracing all of the general problems that
10 development brings to a government and dealing
11 with those quite ably for over a decade. At
12 the same time, he has been in the practice of
13 law in the suburbs of New York City, also
14 running his family business, giving him a
15 sharp lesson in what it takes to run a
16 business in the high energy cost area of New
17 York City.

18 For the last few years, he has
19 served ably through the repercussions that the
20 Long Island Power Authority has had. I think
21 all of this leads him to be ably qualified to
22 be a recommendation of this body for accepting
23 the recommendation of the Governor.

24 So move.

25 ACTING PRESIDENT BALBONI:

1 Thank you, Senator Hannon.

2 The Chair recognizes Senator
3 Seward.

4 SENATOR SEWARD: Thank you, Mr.
5 President.

6 I want to echo what Senator
7 Hannon just said about our nominee, James D.
8 Bennett, to be a member of the Public Service
9 Commission.

10 Mr. Bennett, two weeks ago,
11 appeared before our Senate Committee on Energy
12 and Telecommunications. We had a wide ranging
13 discussion with the Committee members on a
14 whole variety of issues. Mr. Bennett will be
15 going on the Public Service Commission at a
16 very, very critical time, because the
17 Commission is continuing to implement the
18 provisions of competitive opportunities for
19 seeding and also on the telecommunications
20 side, of course, we've just had the second
21 anniversary of the passage of a federal
22 Telecommunications Act which is also doing
23 much to bring additional competition in the
24 telecommunications side, so there continue to
25 be some very serious issues coming before the

1 Public Service Commission, and following our
2 committee meeting, I went away fully confident
3 that Mr. Bennett would make an outstanding
4 contribution to this state as a member of the
5 Public Service Commission.

6 On the personal side, obviously
7 he has a very intelligent and very analytical
8 mind which is very important. He has an
9 outstanding record of public service and,
10 because of his service as a member of the Long
11 Island Power Authority, he very quickly has
12 gained a good working knowledge of the energy
13 issues under the very difficult circumstances
14 there on Long Island.

15 So I'm very pleased to stand to
16 second his confirmation and to publicly
17 congratulate the Governor for making an
18 outstanding choice and to wish Jim Bennett
19 well as a member of the Public Service
20 Commission. I know the people of this state,
21 the ratepayers of this state are going to
22 benefit from his service.

23 ACTING PRESIDENT MAZIARZ:

24 Thank you, Senator Seward.

25 Senator Balboni.

1 SENATOR BALBONI: Thank you,
2 Mr. President.

3 I think it's indeed appropriate
4 that the first time I address this body it's
5 on a nomination. We have a friend and someone
6 who I've admired for over a decade. Jim
7 Bennett represents so many wonderful things
8 from Long Island and from the state that we
9 can be proud of and that is readily seeable
10 when you take a look at his resume:

11 A valedictorian from his class
12 in Cornell. His father was esteemed surrogate
13 for Nassau County for many, many years, but I
14 rise to give you just one other piece that
15 perhaps you would not see on the resume. That
16 is a man with infinite patience, an infinite
17 ability to accept information, to assimilate,
18 to consider it and, frankly, to give judgment
19 not hastily, but with measured and thoughtful
20 consideration.

21 Jim Bennett is going to be a
22 wonderful addition to the Public Service
23 Commission because he represents the heart and
24 soul of what is Nassau County and what is Long
25 Island and New York.

1 Thank you, Mr. President.

2 ACTING PRESIDENT MAZIARZ: The
3 question is on the nomination of -- I'm sorry,
4 Senator Marcellino.

5 SENATOR MARCELLINO: Yes, Mr.
6 Chairman.

7 I couldn't miss the opportunity
8 to rise in support of a good friend and
9 colleague in Nassau County government, Jim
10 Bennett. Jim Bennett will make an excellent
11 addition to the Public Service Commission. I
12 think he will serve this state well and
13 certainly has served his constituents in the
14 town of Hempstead very well over the years in
15 Nassau County. He's made it a better place to
16 live, and this is a good thing for the state
17 of New York and the Governor is to be
18 congratulated for this fine appointment.

19 Congratulations, Jim.

20 ACTING PRESIDENT MAZIARZ:
21 Senator Skelos.

22 SENATOR SKELOS: Mr. President,
23 it's my pleasure to stand and second the
24 nomination of Jim Bennett. Jim Bennett may
25 have moved to Garden City about 20 years ago,

1 but I recall Senator Hannon, he agreed, he
2 really belongs to Rockville Centre which is my
3 own home community, the community he grew up
4 in, where he practices law today, and has
5 various other interests.

6 I've known Jimmy all my life.
7 My father tells me that, when Jimmy was a
8 youngster, he used to pull him on his sled
9 when there was snow, so the Bennetts and the
10 Skeloses go back many, many years.

11 I also know Jimmy to be an
12 outstanding practitioner of the law. Gordie
13 mentioned to me that they went to Cornell Law
14 School together, and I also know him to be a
15 man of impeccable integrity and certainly he
16 will have the interests of the ratepayers not
17 only of Long Island but of the entire state in
18 the forefront, in the forefront of his mind
19 when he makes those very, very important
20 decisions.

21 So, Jimmy, I congratulate you
22 personally, and I thank the Governor for this
23 very, very fine nomination.

24 ACTING PRESIDENT BALBONI: The
25 question is on the confirmation of James

1 Bennett as a member of the Public Service
2 Commission. All in favor signify by saying
3 aye.

4 (Response of "Aye.")

5 Opposed nay.

6 (There was no response.)

7 James Bennett is hereby
8 confirmed as a member of the Public Service
9 Commission.

10 Congratulations, Jim, and wish
11 you a good tenure.

12 (Applause)

13 Chair recognizes Senator
14 Stafford. I'm sorry. Before that, the
15 Secretary will read.

16 THE SECRETARY: Senator
17 Stafford, from the Committee on Finance,
18 reports the following nomination:

19 Member of the Board of Trustees
20 of the State University of New York, Randy A.
21 Daniels of New York City.

22 SENATOR STAFFORD: We have some
23 people not in the chamber. Could we just lay
24 that aside for one minute. People will be
25 coming in the chamber.

1 ACTING PRESIDENT BALBONI:

2 Nomination is laid aside temporarily.

3 SENATOR STAFFORD: Just for a
4 minute.

5 ACTING PRESIDENT BALBONI:
6 Secretary will read.

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

10 Member of the Board of Trustees
11 of Cornell University, Jerold R. Ruderman,
12 Esq., of Scarsdale.

13 SENATOR STAFFORD: Move the
14 nomination.

15 ACTING PRESIDENT BALBONI:
16 Question is on the confirmation of Randy
17 Daniels as a member -- I'm sorry, Jerold
18 Ruderman as a member of the Board of Trustees
19 of Cornell University. All in favor signify
20 by saying aye.

21 (Response of "Aye.")

22 Opposed nay.

23 (There was no response.)

24 Jerold Ruderman is hereby
25 confirmed as a member of the Board of Trustees

1 of Cornell University. Congratulations.

2 Secretary will read.

3 THE SECRETARY: Senator
4 Stafford, from the Committee on Finance,
5 reports the following nomination:

6 Member of the Empire State
7 Plaza Art Commission, Amy Solomon, of Delmar.

8 SENATOR STAFFORD: Move the
9 nomination, please.

10 ACTING PRESIDENT BALBONI: The
11 question is on the confirmation of Amy Solomon
12 as a member of the Empire State Plaza Art
13 Commission. All in favor signify by saying
14 aye.

15 (Response of "Aye.")

16 Opposed nay.

17 Senator Paterson.

18 SENATOR PATERSON: Mr.
19 President, I would just like to suggest that
20 the Committee has made a wise decision.

21 ACTING PRESIDENT BALBONI:
22 Thank you, Senator Paterson.

23 As I said, all those in favor
24 signify by saying aye.

25 (Response of "Aye.")

1 Opposed nay.

2 (There was no response.)

3 Amy Solomon is hereby confirmed
4 as a member of the Empire State Plaza Art
5 Commission.

6 Secretary will read.

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

10 Member of the Advisory Council
11 on Alcoholism and Substance Abuse Services,
12 Ginay Marks-Landro, of Brooklyn.

13 SENATOR STAFFORD: Move the
14 nomination.

15 ACTING PRESIDENT BALBONI: The
16 question is on the confirmation of Ginay
17 Marks-Landro as a member of the Advisory
18 Council on Alcoholism and Substance Abuse
19 Services. All in favor signify by saying
20 aye.

21 SENATOR GENTILE: Mr.
22 President.

23 ACTING PRESIDENT BALBONI: The
24 Chair recognizes Senator Gentile.

25 SENATOR GENTILE: Thank you,

1 Mr. President.

2 Just want to commend the
3 Governor on this appointment. I know Ginay
4 Marks-Landro, know her husband. I know her
5 son, and she's already served nine
6 distinguished years on the Governor's Advisory
7 Council, so I commend him for continuing that
8 service.

9 The past, oh, I'd say 20, 25
10 years, Ginay Marks-Landro has ably served
11 Brooklyn as a prevention specialist in drug
12 and alcohol and other substance abuse
13 programs. She has -- she has also designed
14 and implemented citywide AIDS and suicide
15 prevention training for the school
16 administrators and health personnel, and a
17 prevention -- substance abuse prevention
18 designed for elementary and junior high
19 school.

20 She has ably served the people
21 of Brooklyn. She's ably served on this
22 advisory council. She will continue to do
23 so. I congratulate her, her family, and, of
24 course, the Governor for continuing this
25 appointment.

1 Thank you, Mr. President.

2 ACTING PRESIDENT BALBONI:

3 Thank you, Senator Gentile.

4 The question is on the
5 confirmation of Ginay Marks-Landro as a member
6 of the Advisory Commission on Alcoholism and
7 Substance Abuse Services. All in favor
8 signify by saying aye.

9 (Response of "Aye.")

10 Opposed nay.

11 (There was no response.)

12 Ginay Marks-Landro is hereby
13 confirmed as a member of the Advisory Council
14 on Alcoholism and Substance Abuse Services.

15 Secretary will read.

16 THE SECRETARY: Senator
17 Stafford, from the Committee on Finance,
18 reports the following nominations:

19 Members of the Citizens Policy
20 and Complaint Review Council, Thomas K. Cross,
21 of LaGrangeville and J. Theodore Hilscher,
22 Esq., of Catskill.

23 SENATOR STAFFORD: Move the
24 nomination, please.

25 ACTING PRESIDENT BALBONI: The

1 question is on the confirmation of Thomas K.
2 Cross and Theodore Hilscheer as members of the
3 Citizens Policy Review and Complaint Council.
4 All in favor signify by saying aye.

5 (Response of "Aye.")

6 Opposed nay.

7 (There was no response.)

8 Thomas K. Cross and Theodore
9 Hilscher are hereby confirmed as members of
10 the Citizens Policy Review and Complaint
11 Council.

12 SENATOR SKELOS: Mr.
13 President.

14 ACTING PRESIDENT BALBONI:
15 Senator Skelos.

16 SENATOR SKELOS: I believe we
17 have one more nomination to deal with at this
18 time. Would you please call up the nomination
19 of Randy A. Daniels.

20 ACTING PRESIDENT BALBONI:
21 Secretary will read.

22 THE SECRETARY: Senator
23 Stafford, from the Committee on Finance,
24 reports the following nomination:

25 Member of the Board of Trustees

1 of the State University of New York, Randy A.
2 Daniels of New York City.

3 SENATOR STAFFORD: Mr.
4 President, as I mentioned with the previous
5 nominee, we're very impressed with this
6 nominee also, and I yield to the Senator from
7 Suffolk, Senator LaValle.

8 ACTING PRESIDENT BALBONI:
9 Senator LaValle.

10 SENATOR LAVALLE: Thank you,
11 Senator Stafford.

12 Colleagues, we have before us
13 the nomination of Randy Daniels, and I must
14 say that the Governor should be congratulated
15 on this nomination -- nominee.

16 The nominee came before the
17 Higher Education Committee as he did this
18 morning before the Finance Committee, and I
19 think anyone who was there and listened to his
20 presentation would be touched by that
21 presentation and discussion of talking about
22 family, being one of ten children and talking
23 about some of the values that his parents gave
24 to them in going out into the world, and the
25 importance of higher education, particularly

1 public higher education, that Mr. Daniels is a
2 product of.

3 I think his background is, like
4 many of the nominees that come before us, just
5 excellent. But more than what he has learned
6 and what he has done is probably the answers
7 to some of the questions that he gave to the
8 Higher Education Committee. It showed deep
9 sensitivity about the State University, a deep
10 interest in students, and he made that
11 eminently clear. He made it clear that he was
12 sensitive to those students who had particular
13 needs, that we should not abandon them and we
14 should be helpful to them, but he made it
15 clear that he believed in standards, and that
16 is very important at this time as we try as a
17 Legislature to give to the State University in
18 a fiscal way the things that they need to be
19 all that they can and should be as a state
20 university, and so I think Randy Daniel is an
21 excellent nominee and one that I am asking for
22 your support as I move the nomination.

23 Thank you, Senator.

24 ACTING PRESIDENT BALBONI:

25 Thank you, Senator LaValle.

1 Senator Olga Mendez. Out of
2 the chamber?

3 SENATOR MENDEZ: Mr. Chairman.
4 Mr. President, I also do rise in support of
5 the nomination of Randy A. Daniels as a
6 trustee of the SUNY university system and I
7 want to congratulate very warmly our Governor
8 for submitting this gentleman to a task that
9 nowadays has become increasingly difficult.

10 Mr. Daniels impressed as
11 Senator Mendez -- as Senator LaValle
12 mentioned, impressed everybody with his
13 presentation. He is a man of clear
14 intelligence, a man who has been able to
15 combine, Mr. President, being a workaholic, at
16 the same time making the time to maintain a
17 loving family. His wife and his two daughters
18 are here today.

19 His commitment to public
20 education and, of course, higher education,
21 came through very, very clearly, and I think
22 that -- that our higher educational system of
23 the state of New York is going to, in fact,
24 benefit through his services. I have known
25 him for a while. I consider him my friend,

1 and he is in a sense one of those wonderful
2 success stories that we love to hear about
3 happening to an African-American in our
4 country. He was one of ten children. His
5 father was a self-supporting man who
6 maintained a home where the values of hard
7 work and commitment were stressed.

8 So, Mr. President -- so, he's
9 -- as I said before, his presentation has
10 been welcomed by everybody and everybody was
11 impressed. So, again, it is with pride that I
12 stand before you in this chamber to support
13 this nomination.

14 Thank you, Mr. President.

15 ACTING PRESIDENT BALBONI:

16 Thank you, Senator Mendez.

17 Senator Velmanette Montgomery.

18 SENATOR MONTGOMERY: Yes, thank
19 you, Mr. President.

20 I rise to also second the
21 nomination of Mr. Daniels. I am very pleased
22 to know that we have a person who not only
23 knows the value of higher education, but is
24 also very, very much immersed in economic
25 development in the state of New York, and I

1 believe that at this time in our development
2 and our history that the combination of higher
3 education and economic development are
4 paramount to the future of this state; and so
5 we're very fortunate, I think, to have a
6 person who knows both of those very well.

7 As I said to Mr. Daniels when
8 we were -- we were voting for his nomination
9 in committee, that when we came to vote today,
10 if he would be sitting on the Republican side
11 of the house and so we can't look at him
12 directly, but I want him to know that he has
13 very strong support and admiration and respect
14 on the Democratic side, and I'm only very
15 happy to join the Governor in a few of the
16 things that we totally agree with the Governor
17 on, and that is this nomination.

18 So, Mr. Daniels, we're proud to
19 be able to vote for you today, and we look
20 forward to continuing to work with you in
21 terms of your mission as trustee of State
22 University, as well as your understanding and
23 your goal of making that institution the
24 economic engine of our state.

25 Thank you, Mr. President.

1 ACTING PRESIDENT BALBONI:

2 Thank you, Senator Montgomery.

3 Senator Smith.

4 SENATOR SMITH: Thank you, Mr.
5 President.

6 I too rise to second the
7 nomination of Randy Daniels as a member of the
8 Board of Trustees of the State University of
9 New York.

10 I too, as Senator Mendez,
11 consider Randy a friend. He's a person that
12 you can pick up the phone and talk to and if
13 you disagree, he's still willing to listen,
14 and oftentimes he might even change his mind.

15 He is a respected person, not
16 only in the African-American community, but
17 all of the communities of the city of New
18 York. He's joined today by his lovely wife
19 and children, who play a major role in his
20 life and the decisions that he makes,
21 especially those on behalf of young people.
22 He knows the struggles that our young people
23 have in obtaining an education and he will do
24 the right thing by us and he is making the
25 decisions that will give them the right to

1 have a good education as a move forward in
2 life.

3 I want to thank the Governor
4 for this nomination because it is truly one
5 that is deserved, and I know that Randy will
6 not sell us short and he will always make us
7 proud and I thank the Governor.

8 ACTING PRESIDENT BALBONI:
9 Thank you, Senator Smith.

10 Senator Seabrook.

11 SENATOR SEABROOK: Yes, Mr.
12 President.

13 I rise in seconding this
14 nomination for the 50th year anniversary of
15 the State University. It is certainly apropos
16 to have an individual such as Randy Daniels to
17 serve on the board of the State university and
18 Randy Daniels certainly is one who exemplifies
19 the qualities that are necessary for the State
20 University and what it represents, and I think
21 that here is an individual who has risen above
22 all expectation, that he has an international
23 perspective as well as a national perspective
24 and he has the ability to work across the
25 board, and Randy must be commended for his

1 ability to work with Democrats as well as
2 Republicans and he has served Democratic
3 mayors in the past, and I'm certain that he
4 understands the role and responsibility and
5 the social commitment in understanding the
6 creation of the State University, and so I
7 think that it is certainly a fantastic choice
8 for an individual who certainly understands
9 his role and responsibility to the community,
10 and he's also a good church member as well.
11 He served as a deacon in the church and I
12 think that that's part of his real commitment
13 and understanding about human faults and human
14 values and understanding that the policy of
15 the State University is really to afford those
16 who are in need in terms of educating and
17 providing them with the opportunity to be
18 productive citizens in the state of New York.

19 So I rise for this occasion to
20 say that he is truly a fantastic choice and
21 one that would represent all of us well as a
22 member of the State University Board of
23 Trustees, and may he continue to strive on and
24 do just as our motto is, to excel and he will
25 do just that.

1 So, good luck and much success.

2 ACTING PRESIDENT BALBONI:

3 Thank you, Senator Seabrook.

4 The question is on -- oh,
5 excuse me. Senator Paterson, you wish to
6 speak on the nomination?

7 SENATOR PATERSON: Thank you,
8 Mr. President.

9 I think everything that needs
10 to be said has been said. I'd just like to
11 get up to add my voice to those who are
12 supporting Mr. Daniels who hails from my
13 district and who aspires to the SUNY board.
14 He has served not only the people of our area
15 but the people of the state well in many other
16 capacities, particularly his outstanding work
17 on the Empire State Development Corporation.
18 We hope that he will be an independent voice
19 for children, and that he will speak to the
20 needs of those children all over the state.
21 This has been his history.

22 He combines a rare combination
23 of skills, those of independence when
24 necessary and extreme loyalty when necessary,
25 and we think that his ability to distinguish

1 between those elements makes him well
2 qualified to be a board member, and I'm very
3 happy, very pleased to welcome him and his
4 family to the chamber. They have at times
5 undergone great adversity, which is something
6 that I assume has made him stronger.

7 Thank you very much.

8 ACTING PRESIDENT BALBONI:

9 Thank you, Senator Paterson.

10 The Chair recognizes Senator
11 Hoffmann.

12 SENATOR HOFFMANN: Thank you,
13 Mr. President.

14 I was very pleased today during
15 the Finance Committee to hear the responses
16 that Mr. Daniels gave to a question I raised
17 about the Ag and Tech schools in New York
18 State. Having noted in his resume that he has
19 had experience in developing countries where
20 agriculture is clearly the basis of the
21 economy and survival of the citizens in those
22 countries and knowing that he had experience
23 in broadcast journalism covering agriculture
24 in the Midwest and the automotive industry, I
25 am especially pleased.

1 Morrisville Agriculture and
2 Technical College in New York State is the
3 proud host of a new automotive program. It is
4 also one of the foremost agricultural colleges
5 in the United States, and yes, in years past
6 we have seen the SUNY administration literally
7 put the Ag and Tech schools on the auction
8 block. It was only a couple of years ago where
9 we fought back a terrible attempt led by some
10 people in the inner sanctum of SUNY to cut
11 loose those schools and to instead resort to a
12 rather out-of-date urban or suburban elitist
13 approach to education, and important as it is
14 for everyone to be fluent in foreign languages
15 and to understand global issues and to speak
16 in detail about fine literature, it is also
17 important for us to continue funding those
18 programs that turn people out who are work
19 place ready.

20 Morrisville has the highest
21 level of employability upon graduation of any
22 SUNY school in the system the last I checked,
23 and I for one am very pleased to see that the
24 Governor has nominated, and we are about to
25 confirm an individual who understands and will

1 help increase that reliance on our technical
2 and agricultural institutions, not only the
3 four-year institutions.

4 ACTING PRESIDENT BALBONI:

5 Thank you, Senator Hoffmann.

6 Seeing no other Senators
7 wishing -- oh, Senator Roy Goodman.

8 SENATOR GOODMAN: Yes, Mr.
9 President.

10 It gives me a great deal of
11 pleasure to add a word of full support for
12 Randy Daniels in this important post. The
13 State University of New York is obviously a
14 major educational institution with the
15 greatest commitment to the public and a man of
16 diversified background and demonstrated
17 community concern, I think, serves the public
18 interest extremely well.

19 I've known Mr. Daniels for some
20 years. He's been involved in many projects
21 within the city of New York and I believe that
22 he will make an excellent addition to the
23 board, and I'm delighted to second his
24 nomination.

25 ACTING PRESIDENT BALBONI:

1 Thank you, Senator Goodman.

2 The question is on the
3 confirmation of Randy A. Daniels as member of
4 the Board of Trustees of SUNY. All in favor
5 shall signify by saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 Randy A. Daniels is hereby
10 confirmed as a member of the Board of Trustees
11 of SUNY.

12 Congratulations, Mr. Daniels.

13 (Applause)

14 Also present in the chamber to
15 day are Mr. Daniels' wife Jacqueline, daughter
16 Tori and daughter Ashley. Welcome and
17 congratulations.

18 (Applause)

19 SENATOR SKELOS: Mr.
20 President.

21 ACTING PRESIDENT BALBONI:
22 Senator Skelos.

23 SENATOR SKELOS: If we could
24 return to motions and resolutions, I move that
25 we adopt the Resolution Calendar in its

1 entirety, except for Resolution Number 2744.

2 ACTING PRESIDENT BALBONI:

3 Motion to adopt the Resolution Calendar. All
4 those in favor say aye.

5 (Response of "Aye.")

6 Opposed nay.

7 (There was no response.)

8 The motion is adopted.

9 SENATOR GOLD: Mr. President.

10 ACTING PRESIDENT BALBONI:

11 Senator Gold.

12 SENATOR GOLD: Yes, with the
13 permission of the Majority Leader, may I offer
14 a -- with the permission of the Majority
15 Leader, I have a privileged resolution at the
16 desk, and I would just move the resolution be
17 passed.

18 SENATOR SKELOS: No objection.
19 Will you please read the title and move for
20 its immediate adoption.

21 ACTING PRESIDENT BALBONI: The
22 Secretary will read.

23 THE SECRETARY: By Senator
24 Gold, Legislative Resolution honoring Naomi
25 Green on the occasion of her designation as

1 recipient of the 1998 Humanitarian Award on
2 Sunday, March 8th, 1998.

3 ACTING PRESIDENT BALBONI:

4 Question is on the resolution. All those in
5 favor signify by saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The resolution is adopted.

10 SENATOR SKELOS: Mr. President,
11 would you please take up Resolution Number
12 2744. I ask that it be read in its entirety.

13 ACTING PRESIDENT BALBONI:

14 Secretary will read.

15 THE SECRETARY: By Senator
16 Marcellino, Legislative Resolution 2744,
17 commending Dr. L. Eudora Pettigrew upon the
18 occasion of her retirement after 12
19 distinguished years as president of SUNY
20 College at Old Westbury.

21 WHEREAS, it is the practice of
22 this legislative body to take note of and
23 publicly acknowledge individuals of remarkable
24 integrity and character whose endeavors have
25 enhanced the growth of education in this great

1 state; and

2 WHEREAS, Dr. L. Eudora
3 Pettigrew will be stepping down after 12 years
4 as president of SUNY College at Old Westbury.
5 This unique institution has been called the
6 "People's College" because its mission is to
7 provide an education for minorities, older
8 students and others who are not traditional
9 students; and

10 WHEREAS, after 40 years of
11 service as a higher education professional,
12 Dr. Pettigrew will retire from her 12-year
13 role as president of SUNY College at Old
14 Westbury on June 1st, 1998. She has spent the
15 last 24 years of her distinguished career in
16 academic administration; and

17 WHEREAS, in addition to her
18 tenure at SUNY Old Westbury, Dr. Pettigrew
19 served six years as Associate Provost at the
20 University of Delaware and six years as Chair
21 of the Department of Urban and Metropolitan
22 Studies at Michigan State University. Prior
23 to her years as an administrator, she served
24 the faculty in both two-year and four-year
25 colleges as well as in major research

1 universities; and

2 WHEREAS, during her tenure at
3 SUNY Old Westbury, Dr. L. Eudora Pettigrew
4 heightened the visibility of the college by
5 forging new partnerships with Long Island's
6 educational, corporate and industrial
7 communities. Her leadership also stimulated
8 growth within the college community where
9 enrollment increased and new programs were
10 developed during her administration. She
11 expanded the diversity at the college by
12 revitalizing and initiating faculty and
13 student exchange programs in Europe and Asia
14 while working tirelessly to establish
15 scholarships for students who otherwise could
16 not study abroad; and

17 WHEREAS, in 1994 as a member of
18 the Board of Directors of the American
19 Association of State Colleges and
20 Universities, and a member of the AASCU
21 Committee on International Education, Dr.
22 Pettigrew led an AASCU delegation of
23 university presidents on a trip to China. In
24 1995, as Chair of the SUNY Commission on
25 Africa, she led a SUNY delegation to South

1 Africa. She is currently a member of the
2 Executive Committee of the International
3 Association of University Presidents and Chair
4 of the IAUP/UN Commission on Disarmament
5 Education, Conflict Resolution and Peace. She
6 has addressed major conferences in Russia,
7 Taiwan, China, Japan, Spain, Egypt, and
8 Palestine, and she developed and chaired a
9 workshop on conflict resolution at the United
10 Nations Women's World Conference in Beijing in
11 1995; and

12 WHEREAS, the Economists Allied
13 for Arms Reduction invited Dr. Pettigrew to
14 serve on its advisory committee and the UN
15 Secretary General and the Secretary General of
16 UNESCO have appointed her to a commission to
17 make an in-depth study of the University of
18 Peace in Costa Rica; and

19 WHEREAS, in October 1997 Dr. L.
20 Eudora Pettigrew was named a Distinguished
21 Alumna of Southern Illinois University; and

22 WHEREAS, Dr. Pettigrew's
23 retirement as president of SUNY College at Old
24 Westbury is a transition point in her
25 remarkable career as she moves on to serve the

1 international higher education community. The
2 students at SUNY Old Westbury, however, will
3 continue to benefit from her vision, her 12
4 years of dedication to the college, and her
5 legacy of academic excellence.

6 NOW, THEREFORE, BE IT RESOLVED,
7 that this legislative body pause in its
8 deliberations to commend Dr. L. Eudora
9 Pettigrew upon the occasion of her retirement
10 for her significant contributions to the field
11 of education in New York State; and

12 BE IT FURTHER RESOLVED, that a
13 copy of this resolution, suitably engrossed,
14 be transmitted to Dr. L. Eudora Pettigrew.

15 ACTING PRESIDENT BALBONI:
16 Senator Skelos, on the nomination.

17 SENATOR SKELOS: Mr. President,
18 before you recognize Senator Marcellino, there
19 will be an immediate meeting of the Consumer
20 Protection Committee in the Majority
21 Conference Room.

22 ACTING PRESIDENT BALBONI:
23 There will be an immediate meeting of the
24 Consumer Protection Committee in the Majority
25 Conference Room.

1 Senator Marcellino.

2 SENATOR MARCELLINO: Thank you,
3 Mr. President.

4 Mr. President, I am proud to
5 rise and speak on this nomination -
6 nomination! -- this resolution because this is
7 a resolution honoring a person who is engaged
8 in a profession that I consider one of the
9 most honorable, and that is the education
10 profession. With all due respect to my friends
11 in other professions, this one is mine and Dr.
12 Pettigrew is a unique individual.

13 She took over a university that
14 was in decline and was having major problems
15 and in a period of time when money to
16 institutions like it was also in decline. She
17 turned it around. She turned it around, and it
18 became known in the community as the "People's
19 College" because she's a people person. She
20 knows how to reach out. She knows how to make
21 things happen. She reached out into
22 communities and told people who otherwise
23 would not have an opportunity to go to college
24 that you can come here, and this is a place
25 for you, and this will always be a place for

1 you here. But -- and it was a big but, there
2 are no free rides. If you come here, we'll
3 give you every opportunity and all the
4 assistance you need, but you're going to have
5 to produce and maintain standards, and she has
6 always stood for that and her university has
7 always stood for that, and during her 12-year
8 tenure that university has improved and
9 enrollment has gone up and it is a proud place
10 to be, and it's in my district, and I'm proud
11 to represent it.

12 Dr. Pettigrew is a credit to
13 the educational community. She's a credit to
14 the people of the state of New York and as a
15 president, she's a credit to her profession
16 and I respect her. I wish her well. The
17 education -- international education
18 community's gain is our loss in this state.

19 She will now have the time to
20 do what she pleases. She tells me she likes
21 to get up early in the morning, as do I, as an
22 early riser, but now she'll be able to sleep a
23 little bit later. I believe around 6:00
24 o'clock in the morning she'll be able to
25 sleep. This is something unique.

1 Dr. Pettigrew is a special
2 person, and I am proud to recommend the
3 passage of this resolution. Dr. Pettigrew, we
4 don't do too many things around here
5 unanimously, but this is going to be one of
6 them. So, ladies and gentlemen, I urge you to
7 pass this resolution on behalf of a very
8 wonderful person and a fine educator.

9 Thank you.

10 ACTING PRESIDENT BALBONI:

11 Thank you, Senator Marcellino. The question
12 is on the resolution.

13 Senator Montgomery.

14 SENATOR MONTGOMERY: Yes. I
15 rise again to compliment Senator Marcellino on
16 honoring this great woman in education, who
17 has really essentially made Old Westbury what
18 it is, and has sort of brought along what I
19 understand to be the youngest and one of the
20 smaller campuses, brought it into the system
21 and moved it into a position where it will be
22 a premier educator of young people into the
23 next century.

24 I know that she has shown an
25 extreme amount of commitment to young people,

1 to students. She's been here any number of
2 times to advocate for those students, and she
3 has a vision which she has worked very hard to
4 put into place at Old Westbury, and because of
5 her extensive outreach to those of us who were
6 not necessarily knowledgeable about Old
7 Westbury, she's brought that institution alive
8 for us in terms of making sure that we know
9 what's happening.

10 We know the kinds of struggles
11 and the kinds of issues and the kinds of
12 programs that have been -- that have been
13 brought there by her work; so I'm very, very
14 honored to have known her as a president, and
15 as one of the few African-American women to
16 lead a major institution in this country. I
17 admire your work -- her work, and I am very,
18 very honored and pleased and happy that you
19 are now going to retire, but I know that
20 you're going to continue to share your wealth
21 of wisdom, knowledge and experience with us in
22 this state and with young people throughout
23 the country.

24 So thank you, Mr. President.

25 ACTING PRESIDENT BALBONI:

1 Thank you, Senator Montgomery.

2 Senator Waldon, you wanted -
3 did you wish to speak?

4 SENATOR WALDON: I thank you
5 very much, Mr. President.

6 I walked over just to see if
7 Dr. Pettigrew is the lady I thought she was,
8 from out at the campus. She's a super person
9 and a very enthusiastic leader, and so I'm
10 just here to say "me too" to all of the
11 encomiums and accolades that have been
12 presented on her behalf by my astute
13 colleagues both from the Island and from the
14 real center of the universe, Brooklyn.

15 Thank you very much.

16 ACTING PRESIDENT BALBONI:
17 Thank you, Senator Waldon.

18 The question is on the
19 resolution. Will all those in favor signify
20 by saying aye.

21 (Response of "Aye.")

22 All those opposed nay.

23 Senator Stavisky?

24 The resolution is adopted.

25 Congratulations.

1 (Applause)

2 SENATOR STAVISKY: Mr.

3 President.

4 ACTING PRESIDENT BALBONI:

5 Senator Stavisky.

6 SENATOR STAVISKY: Will the
7 record reflect had I been in the chamber, I
8 would have voted for Randy Daniels to be a
9 member of the Board of Trustees of the State
10 University of New York, without objection.

11 SENATOR SKELOS: Without
12 objection.

13 ACTING PRESIDENT BALBONI: Let
14 the record so reflect.

15 SENATOR SKELOS: If we could
16 return to the controversial calendar now,
17 we'll start off with Calendar Number 215, by
18 Senator Cook.

19 ACTING PRESIDENT BALBONI:
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 215, by Senator Cook, Senate Print 5739-A, an
23 act to amend the Education Law, in relation to
24 improving school safety.

25 SENATOR STACHOWSKI:

1 Explanation.

2 ACTING PRESIDENT BALBONI:

3 Explanation has been asked for. Senator Cook.

4 SENATOR COOK: Mr. President, I
5 think that it has been evident for many years
6 that there's a need for this legislation, but
7 particularly now that we are pressing towards
8 standards of higher performance in the
9 schools, it becomes even more important.

10 What this legislation attempts
11 to do is to establish a continuum of
12 disciplinary procedures within the schools so
13 that those students who are very seriously
14 attempting to learn will have the opportunity
15 to learn in an atmosphere that is conducive to
16 learning, without being disrupted by fellow
17 students who do not perhaps have the same
18 intention or perhaps the same motivation.

19 The bill is, as I have
20 characterized it on other occasions, both a
21 velvet glove and an iron fist, because we
22 recognize that there are, in fact, reasons why
23 sometimes students have behavior problems in
24 school, and we attempt to deal with those
25 problems in this bill and in other ways; but

1 at the same time the bill insists that
2 students, when they come into school, when
3 they walk through that door, that they
4 recognize that they're no longer on the
5 street, that they, in fact, are in a place of
6 learning, that they have a purpose for being
7 there, and that it is a different atmosphere
8 than it is when they're outside on the
9 street.

10 So the first provision of the
11 bill is to require -- and let me -- I guess I
12 ought to also inject, Mr. President, that much
13 of what's in this bill is not brand new, that
14 it is either in its entirety or in pieces
15 already in effect in many of the school
16 districts and school buildings around the
17 state, and we're not really attempting to
18 reinvent the wheel here, but what we have
19 tried to do is to organize this into a
20 comprehensive continuum so that we do affect
21 this need in a constructive way.

22 One of the weaknesses of the
23 past, in my opinion, has been that we have
24 been utterly reactive in dealing with what we
25 have characterized as school violence, and we

1 have passed and, in fact, have in this bill
2 some provisions that deal with school
3 violence; but the emphasis that we have tried
4 to take is also in the area of prevention,
5 dealing with students first at the level of
6 expectation, so that they know what is
7 expected of them and, secondly, to deal with
8 students at that area -- at that point in time
9 when perhaps they are not conforming to
10 whatever regulations are necessary for the
11 operation, the orderly functioning of the
12 school, and to deal with those at an early
13 point before they become the kind of violence
14 problem that they may become later on.

15 So we want to look at this as,
16 if you will, an early intervention system, and
17 part of the reason of having this law is to
18 require that the schools first establish their
19 standards, secondly that they enforce those
20 standards, whatever they may be, and they will
21 be by district or by school they will be done
22 separately and individually, but thirdly that
23 the students who are then becoming problems,
24 that they will be identified and hopefully
25 those problems will be dealt with.

1 The first provision of the bill
2 then is to require each school to develop a
3 code of conduct. Most schools probably
4 already have these, but it is important that
5 there, in fact, be written expectations so
6 that every student, as I have previously said,
7 understands that there are standards of
8 conduct that are expected of them when they're
9 in the school building, that may be different
10 from what's expected of them on the street or,
11 in fact, even in their own homes.

12 And secondly, that that code of
13 conduct provide the -- a description of
14 exactly what the consequences will be when
15 students do not conform to that code of
16 conduct, and thirdly, to provide the
17 information so that every student and every
18 parent will be advised as to what those
19 standards are and that they will then know
20 what the requirements will be.

21 Now, the next step down the
22 road -- and let's assume that there will be
23 some intermediate steps which we haven't
24 talked about, because obviously much of what
25 will happen is rather informal and that is

1 that those students who are not able to
2 conform to the rules will be dealt with by the
3 teachers. They will be dealt with in informal
4 ways in the school system, but we do reach
5 that point when the student becomes so
6 disruptive to the classroom that it becomes
7 necessary for the good of all the other
8 students in the room, for that particular
9 student to be excluded from the classroom.

10 There has been a great deal of
11 criticism of this particular provision,
12 particularly coming, I would say, from the
13 School Boards Association and from the
14 Superintendents Association because they have
15 resisted giving this kind of authority to
16 teachers, and I understand the concern that
17 this could be abused. But there are a couple
18 of provisions in there that ought to be noted,
19 and the first being that the building
20 principal -- that this decision by the teacher
21 to exclude the student from the classroom for
22 up to ten days is reviewable by the building
23 principal, and if the building principal
24 determines that the -- that the exclusion from
25 the classroom is not made on good grounds,

1 that there is, in fact, some kind of
2 personality problem on the part of the teacher
3 that's causing some of this problem or this
4 difficulty or that the teacher for some reason
5 is punishing the child for some reason that
6 has nothing to do with the classroom, that in
7 fact that principal -- that building principal
8 has -- has the ability to say no, this child
9 cannot be excluded from the classroom because
10 you've not given to me the reason why you sent
11 this child out of the classroom; and let me
12 tell you what is currently happening and what
13 the teachers tell us is the problem right now,
14 is that all too often the child is sent from
15 them -- by them to the principal's office.
16 The principal simply calls them on the
17 telephone and says, This is your problem. The
18 class room is your place. You have the
19 responsibility for dealing with disciplinary
20 problems in your class. The kid is coming
21 back to your classroom; and so consequently
22 the teacher then is caught up in having to
23 deal with a disciplinary problem that is
24 robbing all the rest of the students in that
25 class of their ability to learn in a correct

1 learning atmosphere.

2 So we've tried to make this
3 balanced so that first the teacher has the
4 right to exclude the student, but in fact
5 there is a check that, if the principal -- the
6 principal may, in fact, call the teacher in
7 and say whatever the reasons why you excluded
8 this child and to make a judgment in terms of
9 whether that is an appropriate action.

10 There is also a hearing process
11 by which the parent may have a hearing within
12 72 hours if they do not agree with the
13 exclusion from the classroom, so that the -
14 the second echelon, if you will, is there.

15 Then we get to the velvet glove
16 portion of it, which is what I was talking
17 about before which says that then the school
18 is required to provide an alternate
19 educational program for this child. We really
20 are not interested in excluding people from
21 classrooms, and we certainly aren't -- we
22 certainly are not interested in suspending
23 them from school, because this only encourages
24 and reinforces in some of students the desire
25 to be excluded from the classroom and excluded

1 from the school and, more than that, it
2 doesn't deal with the more basic problem of
3 why is that child not able to function within
4 the school setting.

5 So we have to provide that
6 there has to be an alternative. There has to
7 be an alternative to the classroom suspension.
8 The next step then is the ability to actually
9 suspend the student from the school totally.

10 Now, that may be a very subtle
11 difference, but it still has a kind of a next
12 step implication, but still within the state
13 regulations there is a requirement that this
14 student has to be continued. The educational
15 program for the student has to be continued.

16 There are those who say this is
17 terribly expensive. I think it is, but it is
18 not, in my opinion, justifiable that -- to
19 abandon these children simply because we are
20 not able to deal with them in the regular
21 classroom setting and, hopefully, it is in
22 this context that we are then able to
23 understand to some degree at least why -- why
24 this particular child can't function in the
25 setting that -- in the educational settings

1 that other children are functioning in.

2 So we have reached that point,
3 and this, I think, really brings us down the
4 path here of what I would call the
5 disciplinary portion, and discipline I like to
6 use in the broadest sense of the term, in not
7 just enforcing rules, but what the
8 expectations are, what the standards are,
9 that's what the relationship is, is to
10 following a standard and to lay that standard
11 out, and that's what discipline really is.

12 So then we finally do reach the
13 point of violence inside the school and so we
14 then have the iron fist portion of the bill,
15 one portion which is to protect the school
16 employees by requiring that acts of violence
17 be reported, and to protect the school
18 employees from civil liability as they do
19 report acts of violence, so that the parents
20 cannot sue the school because the school or
21 the teacher or another employee reported an
22 act by the child.

23 A second is that these
24 incidents within the school need to be
25 reported to the state Education Department so

1 that we have a better understanding of exactly
2 what types of acts of violence are occurring
3 and how frequently they are occurring. We get
4 the stories of the isolated incidents and
5 perhaps we're not getting an accurate picture.
6 Perhaps there are fewer incidents than we
7 think there are. Perhaps there are more.
8 Perhaps we just need to understand what those
9 incidents are.

10 We make it a felony to assault
11 a school employee. The problem with the mis
12 demeanor provisions that we currently have is
13 that they don't seem to deter some of the acts
14 of violence, and let me say that this protects
15 not just the employee, but it also protects
16 students. If someone comes onto the grounds
17 of the school and does not belong there, and
18 creates an act against a child who is in the
19 school, they also have the same penalties
20 against them.

21 And then finally, we try to
22 deal with the idea of the problem of
23 possession and use of weapons, particularly
24 firearms, on school properties, by increasing
25 the penalties for those particular

1 violations. So I think that is a sort of a
2 run-through of what the provisions of the bill
3 are.

4 ACTING PRESIDENT BALBONI: The
5 Chair recognizes Senator Hoffmann.

6 SENATOR HOFFMANN: Thank you,
7 Mr. President.

8 I want to compliment my
9 colleague, Senator Cook, who is one of the
10 most distinguished members of this body, on
11 having done yeoman service on this issue and
12 I'm sure that he speaks for all of us in the
13 chamber today and for thousands of other New
14 York State residents and parents about our
15 concern for safety in the classroom and for
16 the ability of teacheres to be able to teach
17 without the fear of disruptive students making
18 their lives difficult.

19 I think that there are some
20 wonderful qualities in this bill, and I think
21 that the intent to provide a safe learning
22 environment is one of the most noble things
23 that we have tackled this legislative session
24 so far.

25 Having said that, however, I am

1 at this point compelled to vote against this
2 particular bill because I believe that it
3 still needs more work. I, with all due
4 respect to Senator Cook and his excellent
5 staff work in this area, I have to note that I
6 find it somewhat interesting that even the
7 most prestigious teachers organizations in
8 this state have not been inclined to support
9 the measure. I have no memorandum in support
10 from NYSUT or from NEA, even though I went to
11 some pains today to see if they had provided
12 one.

13 I do, however, have a
14 memorandum in opposition from the New York
15 State School Boards Association. I represent,
16 at last count, 28 different school districts
17 in the 48th Senate District, and I have great
18 admiration for the people who are brave enough
19 to run for board of education. I never had the
20 guts to run for that particular office. I
21 started my political adventures as a member of
22 the Syracuse City Council, but I know that the
23 men and women who are willing to serve as
24 school board members take a great deal of heat
25 and they also expose themselves to a great

1 deal of risk, and if the school boards and the
2 school districts that will have to address the
3 legal questions that would arise in the event
4 that a teacher is charged with having over
5 stepped his or her jurisdiction through this
6 measure, should it be enacted into law.

7 I'm also aware because of the
8 School Boards Association memo, aware of the
9 particular scenario which could occur in which
10 a principal is actually put on the defensive
11 and would have to prove that the teacher had
12 overstepped or had done something wrong.

13 Now, I believe all of these are
14 issues which could be addressed. I believe
15 that it's possible for us to come up with a
16 measure where the state of New York could
17 provide teachers the ability to have students
18 removed quickly, promptly, safely from a
19 classroom when they pose a threat to other
20 students, but given the very vast scope of
21 this particular bill before us today and the
22 noted absence of support from the teachers
23 themselves, coupled with some very articulate
24 opposition from school boards which find
25 themselves in a potential position of

1 liability, I would urge my colleagues to
2 register a no vote.

3 ACTING PRESIDENT BALBONI:
4 Thank you, Senator Hoffmann.

5 Senator Leichter.

6 SENATOR LEICHTER: Mr.
7 President, if Senator Cook would yield,
8 please.

9 ACTING PRESIDENT BALBONI:
10 Senator Cook, do you yield?

11 (Senator Cook nods head.)

12 ACTING PRESIDENT BALBONI:
13 Senator Cook yields.

14 SENATOR LEICHTER: Senator
15 Cook, Senator Hoffmann has made some of the
16 points that I was going to make, and let me
17 just preface my question to you by saying I
18 appreciate your addressing this problem. It's
19 a complex, difficult problem, and I know that
20 you've worked hard on this and are trying in a
21 very conscientious manner to provide some help
22 and support for schools throughout this state
23 and for teachers. Through my wife, I know
24 what a difficult and what an important job it
25 is and maybe sometimes in our effort to try to

1 be helpful, we're really creating more
2 problems, and I think Senator Hoffmann has
3 dealt with that.

4 I'm just somewhat puzzled by
5 the provision you have. This is on page 8 in
6 section 4, the protection of school employees
7 and others who make a charge where the student
8 has committed certain offenses, and what
9 disturbs me is, and what I want to question
10 you about is, you say that anybody who makes
11 one of these complaints about a student shall
12 have immunity from any criminal and/or civil
13 liability.

14 My question to you is, suppose
15 it turns out that somebody made a charge
16 maliciously, falsely. Are you saying that
17 that person cannot be prosecuted by the
18 district attorney?

19 SENATOR COOK: Mr. President, I
20 think this is similar to the provision that we
21 have with reports of child abuse or other
22 instances where the -- the report triggers an
23 investigation and it really is not a criminal
24 charge per se. In other words, if a person
25 goes to the degree where they perhaps were -

1 were entering a criminal complaint, then those
2 issues that you're talking about would enter
3 in, but the problem that we have encountered
4 or the schools tell us they encounter, is that
5 both teachers and administration are somewhat
6 reluctant to -- to report the incidents to the
7 district attorney simply because they then, as
8 the person reporting, end up having to defend
9 themselves against the very kind of suit that
10 you're talking about, and that's really the
11 provision here, that if simply reporting the
12 incident to the district attorney, which is
13 then the district attorney's responsibility to
14 determine whether there's criminal -- actually
15 any criminal activity cannot -- that they can
16 not be sued under that circumstance.

17 SENATOR LEICHTER: Mr.

18 President, if Senator Cook will continue to
19 yield.

20 Senator, I understand what
21 you're aiming at. I suggest that you may have
22 missed the target or that there's a better way
23 to hit the bull's eye. I think it's -- you
24 just provide that in the event of complaint
25 made in good faith, I think to immunize people

1 who make a complaint maliciously knowing of
2 its falsity, that in those instances the
3 district attorney will want to prosecute and
4 should prosecute because this is an open -
5 this is really an open invitation for those
6 who are so inclined, and I'm sure there's very
7 few, but to slander their neighbors, if you
8 will, or children down the block because
9 nobody can take any action against them, and I
10 think that you can cure that just by saying
11 that it was made in good faith or not made
12 maliciously.

13 You might want to under all
14 circumstances -- I might support that -
15 protect them from civil liability because even
16 if you say as long as it was made in good
17 faith and somebody is going to bring a
18 complaint and say it wasn't made in good faith
19 and that person will have to defend themselves
20 to that extent, but I think that to preclude
21 criminal liability or criminal prosecution, I
22 really think is going too far and I would just
23 commend that language to you, Senator, because
24 I think that would cure what I think is a -
25 is a significant problem with the bill.

1 Mr. President, on the bill,
2 just very briefly.

3 ACTING PRESIDENT BALBONI: On
4 the bill, Senator Leichter.

5 SENATOR LEICHTER: Senator
6 Cook, I think that the memorandum in
7 opposition of the New York State School Boards
8 Association, I think, really states some very
9 compelling reasons to be against this -
10 against this bill.

11 I would also point out that not
12 every instance of violence or not the general
13 conditions for violence can be cured just by a
14 code of conduct and stronger discipline, and I
15 support, by the way, a code of conduct, and I
16 think discipline is clearly important in a
17 school setting, but I think some of the
18 problems we have, particularly in inner city
19 schools, also relate to the overcrowding, they
20 relate to the terrible deteriorated condition
21 of the schools. They relate to very difficult
22 conditions that teachers work under. They
23 relate to the fact that you have students that
24 English is a second language and we may need
25 more assistance and help.

1 So there are things that we may
2 need to do here to support the school system
3 that cannot be cured just by giving teachers
4 the authority to throw students out of the
5 classroom.

6 We have a responsibility to put
7 money into the school system, to try to deal
8 with some of these problems. Yes, money can't
9 cure everything, but you certainly can't cure
10 it without providing greater monetary support
11 than we have, and I don't think anybody should
12 fool themselves by passing this bill or a bill
13 like this, that you are really making a major
14 step or conclusive step against violence in
15 the schools.

16 I think, Senator Cook, for the
17 reasons Senator Hoffmann said and the School
18 Boards Association, that this bill really
19 needs more work.

20 ACTING PRESIDENT BALBONI:

21 Thank you, Senators Leichter and Cook. Before
22 we go on, would my colleagues suffer a brief
23 interruption to give the stenographer a moment
24 to collect her thoughts and her paper.

25 (Short pause)

1 ACTING PRESIDENT BALBONI: I
2 believe we're ready to proceed. Senator
3 Montgomery.

4 SENATOR MONTGOMERY: Mr.
5 President, I rise to join my colleagues,
6 Senators Hoffmann and Leichter, in expressing
7 some concern and opposition to this
8 legislation.

9 While I understand what Senator
10 Cook would like to see his emphasis on, having
11 the districts in the state develop a code of
12 conduct, there are some real concerns about
13 the fact that, one, we are extending the
14 maximum period of suspension, with little
15 cause, to ten days from five, and we're also
16 placing the authority to suspend students from
17 schools with teachers, pretty much without any
18 recourse for that student, at least within 72
19 hours. For 72 hours, or up to 72 hours or
20 perhaps even more because the bill says
21 something about when 72 hours or however long
22 the parental investigations *** shall upon
23 request be given an opportunity for an
24 informal conference with the principal to
25 discuss the reasons for the removal, within 72

1 hours of the pupil's removal or as soon
2 thereafter as reasonably practicable, so
3 theoretically it should -- it could take quite
4 a bit longer than 72 hours.

5 The problem with New York City
6 in particular, Senator Cook, is that as I have
7 experienced it, particularly and specifically
8 as a parent, in classrooms, that teachers are
9 very reactive and overwhelmed with the fact
10 that they may have a fourth grade with over 30
11 students, and certainly that's probably not
12 the experience that you have in districts in
13 your -- in school districts, in school
14 classrooms in your district, but it certainly
15 is in mine and because of that teachers have
16 very little time and opportunity to spend with
17 individual students, some of whom may have
18 issues that bring them to act out, sometimes
19 in an anti-social way.

20 If there was an opportunity for
21 teachers to refer students to someone who
22 could work with them individually, it seems to
23 me that that would be an option that made much
24 more sense than having them or giving them the
25 authority to use suspension as a means of

1 addressing problems that students may have.

2 There are some contradictions
3 here, one of which I would like to point out
4 to my colleague and Senator Cook, and that is
5 on page 7, the bill says that the code of
6 conduct shall be developed by the board in
7 consultation with teachers, community members,
8 parents or students attending such district,
9 students and any other representatives that
10 the board deems appropriate, but nonetheless,
11 the Senator, in the first part of the bill,
12 gives the teacher the authority to suspend
13 students for various causes including having a
14 disruptive student or a student that the
15 teacher deems to be interfering with academic
16 work.

17 So it seems to me that you put
18 the cart before the horse. I certainly
19 appreciate the provision to develop a code of
20 conduct in consultation with all of the
21 members of the school community, inside and
22 outside, but if we give the teacher the
23 authority to suspend students, it seems to me
24 that we set up a situation where automatically
25 that the teacher is operating outside of what

1 may eventually develop as a community code of
2 conduct and in -- in many instances, it seems
3 that this might cause a further conflict
4 between teacher and parent and teacher and
5 other parts of the community, because the
6 community already is very suspect of the fact
7 that there are very many suspensions, and that
8 very often there are personality conflicts
9 that arise between students and teachers and
10 in addition there are students who just act
11 out because they're expressing other problems
12 that they have, and that there is no one there
13 to address those problems and so they are
14 suspended and all of this eventually evolves
15 back to being viewed as the fault of the
16 teacher, and so I don't think, Senator Cook,
17 we want to set up a situation where we have -
18 we escalate the sense of alienation of
19 community from teacher.

20 So, for those reasons, in
21 addition to the reasons expressed so
22 eloquently by my colleagues, I would oppose
23 this legislation once again.

24 ACTING PRESIDENT BALBONI:

25 Thank you, Senator Montgomery.

1 Read the last section.

2 THE SECRETARY: Section 22.

3 This act shall take effect immediately.

4 ACTING PRESIDENT BALBONI: Call
5 the roll.

6 (The Secretary called the
7 roll.)

8 ACTING PRESIDENT BALBONI:
9 Senator Paterson, to explain his vote.

10 SENATOR PATERSON: Thank you,
11 Mr. President.

12 Quite often, in pieces of very
13 valuable legislation such as the one that's
14 set forth today by Senator Cook, there is
15 somewhat of an over-emphasis on what would be
16 the principle of the legislation and perhaps a
17 cursory development of the substantive changes
18 that need to be made.

19 This is an excellent bill that
20 comes at a time when teachers in our
21 classrooms need greater protection and we need
22 greater enforcement, I guess, against those
23 who would restrict not only their ability to
24 teach but of the other students to learn.
25 However, I see some issues in this particular

1 legislation involving due process, the fact
2 that, for instance, students can be suspended
3 for up to ten days without a hearing
4 arbitrarily through the decision of one
5 teacher. Everyone is fallible and this is why
6 we try not to make these decisions
7 independently, and I think that this needs to
8 be addressed along with some other changes.

9 I'm going to vote for the
10 legislation because of the content of its
11 protections and the value that we are trying
12 to establish in having a strict enforcement of
13 rules in our school system. I understand that
14 the Assembly is also going to pass similar
15 legislation, and hopefully with the conference
16 committees that the Majority Leader and the
17 Speaker have worked to develop over the past
18 three and a half years, we will be able to
19 inevitably pass a stronger bill that protects
20 not only the students but the civil liberties
21 of all individuals.

22 SENATOR GOLD: Mr. President.

23 ACTING PRESIDENT BALBONI:

24 Senator Gold, to explain his vote.

25 SENATOR GOLD: Thank you, Mr.

1 President.

2 Mr. President, by coincidence
3 -- it's good timing, Senator Cook -- by co
4 incidence some people from the UFT were in to
5 see me today to discuss school issues, and
6 it's very difficult to expect teachers to be
7 able to do all we ask of them, when you have
8 40 students in a kindergarten class, when you
9 talk about passing legislation to make smaller
10 classes, and there's no place for the
11 classes.

12 There was one school that we
13 were talking about, I think it was P.S. 80 in
14 Queens -- an excellent school where they have
15 used the behind the curtain space in the
16 auditorium for classrooms. They've taken
17 classrooms, cut them in half.

18 The point is that I believe
19 teacher safety and student safety is very
20 important, Senator Cook, and I'm glad that
21 you're putting this bill forward and, while I
22 have some questions in my mind about the
23 propriety of the section as referred to by
24 Senator Paterson, I too am going to vote for
25 the bill, but I would urge upon the members of

1 this house while you pass this bill with
2 complete sincerity and understanding, the
3 problems that have been identified by Senator
4 Cook, you've got to understand where some of
5 these problems come from and they have come
6 from overcrowding. They have come from
7 teachers and they have come from safety issues
8 within the school, and you can't just grab one
9 of the flags, you've got to grab all of the
10 flags.

11 So I'm really hoping now that
12 the bond issue went down, the revenue
13 estimates are out today and they range from, I
14 think, about 400 million over the Governor's
15 estimate from the -- from the Assembly side to
16 a billion three over the Governor's estimate.
17 I think we ought to be thinking about what are
18 we going to do to make the schools safer by
19 getting classroom sizes down and constructing
20 some new schools.

21 I'm going to vote in the
22 affirmative.

23 ACTING PRESIDENT BALBONI:

24 Thank you, Senator Gold.

25 Announce the results, please.

1 THE SECRETARY: Those recorded
2 in the negative on Calendar Number 215 are
3 Senators Hoffmann, Leichter, Mendez,
4 Montgomery, Sampson, Santiago and submit
5 Smith. Ayes 52, nays 7.

6 ACTING PRESIDENT BALBONI: The
7 bill is passed.

8 SENATOR SKELOS: Mr. President,
9 would you please call up Calendar Number 21,
10 by Senator Volker.

11 ACTING PRESIDENT BALBONI: The
12 Secretary will read.

13 THE SECRETARY: Calendar Number
14 21, by Senator Volker, Senate Print 3407-A, an
15 act to amend the Criminal Procedure Law, in
16 relation to the authority of police officers.

17 SENATOR VOLKER: Mr. President.

18 ACTING PRESIDENT BALBONI:
19 Senator Volker.

20 SENATOR VOLKER: Mr. President,
21 are you going to ask for an explanation?

22 SENATOR GOLD: Explanation. I
23 owe you one.

24 SENATOR VOLKER: Let me just
25 say, I was reading the transcript from last

1 year and realized that this bill passed last
2 year, the day that I just returned from a
3 police officer's funeral that had been killed
4 and there was quite a bit of collateral
5 discussion on this issue and it is ironic that
6 here we are almost exactly a year later and
7 another Buffalo police officer was just killed
8 last week and was buried this morning.

9 Although the situation was considerably
10 different in that the person was pursuing an
11 individual on foot and he was killed by a
12 passing car, it remains a very tragic and sad
13 event, obviously, but I think the real irony
14 of it is I just happened to look at the
15 account of last year's debate and I realized,
16 as you can imagine, it's exactly the same
17 situation, that is, we are in a Tuesday in
18 March and that funeral happened earlier in the
19 day and we are in another Tuesday in March one
20 year later and the exact same occurrence.

21 Anyway, so everybody
22 understands, this was called -- you will note
23 this bill was introduced last year -- this is
24 a Governor's program bill, was introduced
25 March 4th, '97 and you will note it's an "A"

1 print. Essentially the "A" print is -- it
2 makes it the Police and Public Protection Act
3 of 1998 instead of 1997. I think there was
4 just one other technical correction. It is
5 exactly the same bill as we passed last year.

6 You might ask me this question
7 and I'll answer it right now. What's the
8 difference between this bill and the bill that
9 we passed, I believe about three weeks ago -
10 two or three weeks ago -- January 27th? Thank
11 you, David. My counsel here just told me
12 January 27th, my learned counsel, I might
13 add.

14 The first part of the bill is
15 exactly the same. It talks about -- we
16 debated it at great length -- on the issue of
17 police stops based upon an objective, credible
18 evidence that -- by a police officer. The
19 police must have -- then can act in whatever
20 is necessary under the circumstances, must not
21 be arbitrary, capricious, and so forth, but
22 can act in an objective, credible way. That,
23 of course, we debated at great length here
24 several weeks ago.

25 The part of this bill that's

1 different is the second part of the bill that
2 essentially deals with the issue of
3 suppression of evidence. There's two parts to
4 it. One says that if evidence is suppressed
5 -- evidence of tangible property is
6 suppressed, and that's -- I don't think that's
7 the most controversial part of it -- the court
8 has to set forth its findings and reasons as
9 to why the -- it determined that the defendant
10 did not abandon the property.

11 This relates to a number of
12 cases where defendants have contended in court
13 the property that was clearly theirs because
14 they weren't in direct contact with the
15 property, and I won't get into some of the
16 cases. Courts have -- several courts have
17 determined that they had abandoned the
18 property. In other words, one case the fellow
19 dropped it as he was running and -- running
20 around the corner and was arrested and they
21 found, I believe burglary tools or whatever it
22 was and the judge determined that since they
23 couldn't directly connect him with that bag
24 and couldn't absolutely say that that was his
25 bag, even though the fellow had dropped it and

1 there was some evidence that had seen him with
2 the bag, that it wasn't his and it was
3 abandoned. It wouldn't necessarily change
4 that but it would have the court set forth the
5 reasons why they determined that the property
6 was or was not abandoned.

7 The second part -- the other
8 part of the bill, which I suppose is the most
9 controversial, relates to a series of cases
10 that relate to the so-called good or bad faith
11 criteria where a law enforce... where a law
12 enforcement officer or somebody had evidence
13 suppressed because the court determined that
14 there was some sort of technical violation of
15 the law but where it can be determined that
16 there was no finding of bad faith but the
17 person acted in good faith but made some sort
18 of mistake. This is called the so-called bad
19 faith rule. Virtually the entire country -
20 the federal government operates under that
21 provision.

22 There had been determinations
23 by courts in New York that seem to go way
24 beyond Mapp versus Ohio and People versus
25 Lauria, which are the major cases in this area

1 and say that the New York State Constitution,
2 they've interpreted it, that it goes beyond
3 the national -- or the federal Constitution,
4 even though I might point out, as I think you
5 are aware -- at least most of you are aware -
6 the state constitutional language is exactly
7 the same as the federal constitutional
8 language on rights.

9 So what this bill would
10 basically do, it says, the bill prohibits the
11 suppression of evidence based solely upon
12 allegation, violations of the state
13 constitutional provision against unreasonable
14 search procedures or any statutory provision.
15 The court may suppress in the normal -- under
16 federal constitutional standards and that, by
17 the way, is what we debated last year at some
18 length. Just so that you know, this bill
19 passed 39 to 19 after extensive debate and
20 that is essentially the bill.

21 SENATOR GOLD: Mr. President.

22 ACTING PRESIDENT BALBONI:

23 Senator Gold.

24 SENATOR GOLD: Yeah. Would the
25 Senator yield to just a couple of questions?

1 SENATOR VOLKER: Certainly.

2 SENATOR GOLD: Senator, I'm not
3 sure I understood the last thing you said.
4 Are you saying that this prohibits a judge
5 from suppressing evidence if he feels it's a
6 violation of the state Constitution?

7 SENATOR VOLKER: No, no,
8 absolutely not. Where -- if it's a violation
9 -- if the determination is that the state
10 Constitution is superior to the federal
11 Constitution, that is, if a decision is that
12 the interpretation is that the state
13 Constitution somehow supersedes the federal
14 Constitution, the answer is, in effect, that's
15 what -- that is true, that we would say that
16 if it's a violation of the statute, quite
17 clearly, it could be suppressed and if it's a
18 violation of the federal Constitution -
19 constitutional rules which is identical to the
20 state, clearly it could be suppressed.

21 SENATOR GOLD: Senator, if
22 you'll yield to one question.

23 SENATOR VOLKER: Sure.

24 SENATOR GOLD: Suppose for the
25 sake of argument that the highest court in

1 this state gets a case where a judge
2 suppressed something because it's a violation
3 of the state Constitution and the Court of
4 Appeals says that your statute here is in
5 violation of the state Constitution,
6 therefore, unenforceable, aren't we back to
7 square one? The Legislature can't do anything
8 about that, can we?

9 SENATOR VOLKER: I suppose they
10 could. Of course, I would assume that would
11 be appealed to the Supreme Court which, I
12 would assume would rule it -- probably rule
13 that decision as not valid, but you make a
14 good point. I suppose that could happen. If
15 the Court of Appeals again wants to try to
16 supersede the Legislature, as in certain cases
17 it's done -- not very often. Senator,
18 remember, these cases are not directly
19 attacking the Legislature. They are -
20 collaterally attack legislation that we've
21 done. At the same time they have said that
22 the state Constitution, even though its
23 language is identical to the federal, in
24 effect, is superseding the federal
25 constitutional rules.

1 SENATOR GOLD: Mr. President.

2 Mr. President.

3 ACTING PRESIDENT BALBONI:

4 Senator Gold.

5 SENATOR GOLD: Mr. President,
6 on the bill.

7 I'm just going to address this
8 point because I know -- I think Senator Waldon
9 wanted to speak and a few weeks ago when I
10 debated the other bill, the record will
11 indicate I made reference to a lot of Senator
12 Waldon's remarks from last year because I
13 thought his argument was very excellent. So
14 I'm going to leave that to Senator Waldon, but
15 I just wanted to say, Senator Volker, that
16 this provision that we just discussed is
17 really a merry-go-round because I can't
18 believe the United States Supreme Court would
19 accept a case where the state Court of Appeals
20 in New York said that we passed something
21 which violates the New York State Constitution
22 and, therefore, they won't enforce it. I
23 assume that the United States Supreme Court
24 will leave that for our court to deal with,
25 and I would remind you of the law case that

1 every, every, every law student remembers,
2 Marbury versus Madison where the United States
3 Supreme Court, for the first time, ruled on
4 this issue of taking power, declaring statutes
5 unconstitutional and it worked because the
6 court took away power from itself, and I think
7 you're creating a similar situation. I mean,
8 you're talking about whether we can
9 effectively tell a court that it can't
10 exercise what it believes is a constitutional
11 function, and I don't think we can get away
12 with that, Senator Volker.

13 On the other point on page 2, I
14 am also a little confused because my
15 understanding of the law -- and maybe I'm not
16 understanding your argument -- is if a police
17 officer sees somebody running away and
18 throwing something on the ground, I think the
19 police officer can pick that up and testify
20 that the person threw it away. I don't
21 understand the abandonment argument. It may
22 be that I just didn't catch it when you were
23 putting it forth, but you may want to explain
24 that, but I'm going to vote against the bill
25 principally because of page 1 of the bill, as

1 I explained it a few weeks ago, and relying
2 upon what Senator Waldon has said on this in
3 the past and what he might very well say today
4 about it.

5 ACTING PRESIDENT BALBONI:

6 Senator Volker.

7 SENATOR VOLKER: Just before,
8 Senator, let me just respond, if I might, just
9 to the -- you're right. My counsel and I were
10 discussing the issue, and you're right. The
11 possibility of a ruling by the Court of
12 Appeals and then an appeal is very unlikely.
13 I'm saying that could happen. What we're
14 really trying to do here, though, is establish
15 statutory authority on the suppression issue.

16 One of the arguments that have
17 been made in these courts is, the courts have
18 said, well, we fall back on the Constitution
19 of New York absent some statutory authority to
20 the contrary. Well, what this really is is
21 this is statutory authority in a sense to the
22 contrary. I mean, I understand what you're
23 saying is probably true. You could get in the
24 merry-go-round effect. If the Court of
25 Appeals actually rules and says, we don't care

1 what your statute says, our Constitution, we
2 think gives us authority to supersede the
3 federal rules, you're probably right. The
4 likelihood that the United States Supreme
5 Court is going to over... it's possible but
6 more than likely, we -- it's our opinion, and
7 I think the Governor's opinion and the people
8 that drafted this bill, that we are creating a
9 statutory authority here on suppression and,
10 therefore, saying to the Court of Appeals that
11 we're not going to argue with you on what the
12 state or federal does but we're giving you
13 statutory authority on suppression and we
14 think the Legislature has the right to do
15 this.

16 ACTING PRESIDENT BALBONI:

17 Senator Waldon.

18 SENATOR WALDON: Thank you very
19 much, Mr. President.

20 Would the gentleman yield to a
21 question or two?

22 SENATOR VOLKER: Sure.

23 ACTING PRESIDENT BALBONI:

24 Senator Volker, do you yield?

25 SENATOR VOLKER: Certainly.

1 SENATOR WALDON: Senator

2 Volker, we went around Robin Hood's barn last
3 year on this and it was at times electric and
4 at times eclectic. I read the bill again and
5 I'm as confused this year as I was last year,
6 and when I look at line 12, on page 1 and it
7 reads "In addition, when engaged in criminal
8 law enforcement duties, a police officer may
9 approach a person in a public place located
10 within the geographical area of such officer's
11 employment when he has an objective, credible
12 reason not necessarily indicative of
13 criminality and to the full extent permissible
14 under the Constitution of this state and the
15 United States may ask such questions and take
16 such other actions as the officer thinks
17 appropriate."

18 One, in New York City, once an
19 officer is sworn in as a police officer, every
20 day until he or she retires after that is 24
21 hours, 7 days a week a police officer. So
22 there is no such time unless they're out of
23 the jurisdiction or on vacation, not on and
24 not carrying their shield that they are not
25 functioning as a law enforcement police

1 officer, not peace officer.

2 So my question is, would there
3 ever be a time for my jurisdiction when an
4 officer would not be engaged under that
5 circumstance in criminal law enforcement
6 duties?

7 SENATOR VOLKER: Senator -
8 excuse me.

9 ACTING PRESIDENT BALBONI:
10 Senator Volker.

11 SENATOR VOLKER: First of all,
12 I don't agree with that assessment and let me
13 tell you why. A police officer is not on duty
14 24 hours a day. I know that that is the
15 methodology, but the truth is that the duty of
16 a police officer to act relates to what he is
17 doing as a police officer on duty. I think it
18 would be -- I suppose there could be a
19 situation where a police officer might be -
20 for some very good reasons might want to act
21 even while he was not on duty, for instance,
22 if he sees a felon or something of that
23 nature, but I think it's pretty clear that -
24 what we're talking about here, and that's why
25 this language is quite specific. It deals

1 with a police officer who is acting within his
2 responsibilities at the time, and I don't buy
3 the fact that police officers, by the way, are
4 on duty 24 hours a day. That's not quite
5 correct. The only problem is if you happen to
6 see a crime committed in your presence, then
7 as a police officer you are supposed to do
8 something about it, but you are not supposed
9 to act as a police officer when you're not
10 acting as a police officer; in other words,
11 when you're not actually on duty.

12 I think there are some people
13 who tend to believe that but it's not really
14 true. Your duty is to act as a police officer
15 when you are on duty and you only respond
16 after that or need to respond after that if a
17 crime is, in effect, committed in your
18 presence or if you are -- for some reason,
19 someone demands that you do something that
20 needs to be done, but I don't think that -
21 frankly, to me it's somewhat incomprehensible
22 that this bill would be used by a police
23 officer who is not on duty.

24 SENATOR WALDON: Would the
25 gentleman continue to yield, Mr. President?

1 SENATOR VOLKER: Certainly.

2 ACTING PRESIDENT BALBONI:

3 Senator Volker, do you continue to yield?

4 SENATOR WALDON: I don't want
5 to split hairs with you, Senator Volker, but
6 it is my understanding -- and I have not been
7 a police officer since 1975 -- that if you are
8 out in the street, you finish your tour of
9 duty, it's the weekend and you're off and
10 something occurs which requires police
11 presence and action, you are automatically on
12 duty, and I do know from the trial room that
13 officers who fail to act, that is, when I was
14 still a police officer, fail to act, were not
15 in uniform but sworn police officers for the
16 city of New York, are subject to severe
17 penalty, but let me move along to where I
18 would like to solicit and elicit some
19 edification, if you would be so kind.

20 Is there a time when the police
21 officer is enforcing the laws which are not
22 criminal law under this particular proposal?

23 SENATOR VOLKER: I don't think
24 this really has anything to do with what sort
25 of laws you're enforcing. I think, in fact,

1 you have to look at this in terms of a
2 reasonable and prudent person. If there is no
3 -- remember what we're saying here. We're
4 talking about a reasonable -- an objective,
5 credible reason.

6 What we're trying to do here is
7 to realize that we have professional police
8 officers -- and I think the interesting thing
9 about this, a lot of the criticism is that
10 police officers do wrong things. Well, then
11 if they do wrong things, then they're not
12 acting objectively and credibly and,
13 therefore, they are subjected to the kind of
14 cases that are some of these cases that we're
15 talking about where they could lose the case.
16 In fact, they could be brought up on charges
17 in certain cases, whatever.

18 So what we're talking about
19 here is a reasonable police officer acting in
20 a reasonable manner, and I think the problem
21 is we try to conjure up improper police
22 procedures and all that sort of thing. If
23 they are, then they're subject to the same
24 problems that certain police officers would
25 have now, and this wouldn't give them any

1 particular additional powers if they don't act
2 in a proper and objective manner.

3 SENATOR WALDON: Would the
4 gentleman continue to yield?

5 SENATOR VOLKER: Certainly.

6 ACTING PRESIDENT BALBONI:
7 Yes.

8 SENATOR WALDON: Senator
9 Volker, it reads here, quote, "Credible reason
10 not necessarily indicative of criminality",
11 meaning the officer can do something when this
12 event or this set of circumstances evidences
13 itself. Would the officer ever enforce civil
14 law? Is there a reason for a police officer
15 to be involved with anything other than
16 criminal law?

17 SENATOR VOLKER: I don't think
18 this has much to do -- I don't think a law
19 enforcement officer would enforce civil law
20 and, by the way, especially not off duty. I
21 don't think there would be any occasion where
22 a police officer off duty that I can think of
23 would be -- unless he's -- for some reason,
24 someone in the public says something just
25 happened and that person violated the law or

1 whatever. Other than that, it seems to me
2 that this is talking about rational police
3 procedure and acting off duty, for instance,
4 to take care of zoning violations or things of
5 that nature, which I assume you're relating to
6 which is civil, wouldn't seem to fit into
7 objective, credible kinds of situations, and I
8 think you would be in the same kind of problem
9 you would be in right now, by the way, because
10 a police officer who acts when he's off duty
11 and doesn't have any, I think reasonable
12 reason to do so, acts in his own peril.

13 SENATOR WALDON: I'm sorry.

14 ACTING PRESIDENT BALBONI:

15 Senator Waldon, please.

16 SENATOR WALDON: The
17 conversation, I apologize for jumping, but
18 would the gentleman continue to yield?

19 ACTING PRESIDENT BALBONI:

20 Yes. Would you continue to yield, Senator?

21 SENATOR VOLKER: Certainly.

22 SENATOR WALDON: Thank you, Mr.
23 President.

24 ACTING PRESIDENT BALBONI: My
25 pleasure.

1 SENATOR WALDON: Senator, I
2 guess the point I'm trying to arrive at is
3 that police officers really only deal with
4 criminality. It's not their role to deal with
5 enforcement of civil statutes. They don't
6 take -- summarily take action on the street in
7 regard to civil violations. They're not there
8 to promote tort situations in Supreme Court.
9 They're there to deal with criminality and if
10 such is the case, would, one, they ever do
11 anything other than be aware of criminality
12 committed in their presence or at least they
13 thought it was, did someone advise them it was
14 or it's about to be or their sixth sense as a
15 police officer tells them it could be, and if
16 so, would they ask any questions related to
17 anything other than criminality? Isn't that
18 what we're really trying to do as police
19 officers in this state, to maintain the peace,
20 to suppress crime, to ensure the safety and
21 security of neighborhoods and, therefore, the
22 police are there as our first line of defense
23 to deal with criminals and criminality.

24 SENATOR VOLKER: Al, I think
25 some of my former -- my colleague police

1 officers would probably say to you that they
2 would wish all they had to deal with is
3 criminal conduct. As you well know, they have
4 to deal with dogs. They have to deal with
5 traffic. They have to deal with all sorts of
6 things and police officers, by the way, when
7 they're on duty, sometimes have to even deal
8 with zoning violations and all sorts of things
9 because, as the people who are sort of the
10 neighborhood eyes and ears at times, they're
11 asked to get into things that sometimes, I
12 think law enforcement officers think they
13 would rather not get into.

14 Dog problems, in fact, from the
15 jurisdiction that I was in, sometimes would
16 become enormous problems and we couldn't just,
17 for instance, call the dog warden very easily
18 because sometimes the dog warden would come,
19 sometimes it wouldn't come, but my point is
20 that law enforcement officers, you well know,
21 get into all sorts of areas short of
22 criminality and there are times when you have
23 to ask some people questions that don't relate
24 necessarily to criminality but may relate to,
25 for instance, violations of zoning codes and

1 things because it just falls to you as part of
2 your duty as the representative of the
3 community.

4 SENATOR WALDON: Would the
5 gentleman, Mr. President, yield once more?

6 SENATOR VOLKER: Sure.

7 ACTING PRESIDENT BALBONI: Yes,
8 he does.

9 SENATOR WALDON: Thank you, Mr.
10 President.

11 Dale, it hasn't changed from
12 last year to this year, my concerns, and my
13 concern last year and this year again is that
14 this gives license to police officers who have
15 no cause other than a whim to stop someone, to
16 question them, to engage them in activity and
17 to perhaps arrest them where there's no
18 probable cause, no reasonable suspicion, no
19 causal factor as historically has been
20 required in this nation and in this state for
21 police to stop people while abroad.

22 Last year we discussed
23 momentarily, if I recall correctly, I felt
24 they could also go to someone's house and
25 effectuate this and you said, no, that is not

1 the case. So I'm not going to deal with that
2 this year, but my concern last year was this
3 license to do whatever one deemed necessary on
4 a whim not necessarily related to criminality,
5 and it is my belief that police officers, if
6 they have reasonable suspicion about a crime,
7 they should do whatever is necessary, but just
8 on a whim, it shouldn't be permitted.

9 And so I ask you once again,
10 and I won't revisit this too long; I want to
11 move on to the second part of the proposal, is
12 that still the case, that the officer can,
13 with no real perspective that a crime has been
14 committed, is about to be committed, could
15 have been committed, abroad in a public place
16 can just stop someone because that person
17 piques his interest?

18 SENATOR VOLKER: Al, if I
19 thought that that were correct, I wouldn't
20 sponsor this bill. I'll be perfectly honest
21 with you. If I believed that law enforcement
22 people could and would stop people on a whim,
23 credibly -- I'm going to use the word credibly
24 because that's what we use in this bill -
25 then I would not sponsor this bill, because I

1 do not happen to agree with you that this will
2 create a major change objectively in what
3 happens in the street. I believe that where
4 this may create a change, I say to you once
5 again, is in how cases are looked at by the
6 courts.

7 I am not foolish enough to
8 think that any bill that I am going to sponsor
9 in this Legislature, in my opinion, is going
10 to make a major change in the streets, unless
11 maybe it's the death penalty or something of
12 that nature. If I thought that this would
13 encourage bad police officers and allow them
14 to do things that they shouldn't do in the
15 street, I would not even sponsor that bill.

16 I believe this bill, more than
17 just not allowing that, I think will create a
18 better situation with police officers in the
19 street and would allow them a more rational
20 ability to deal with difficult situations in a
21 more rational way and if they don't deal with
22 it in an objective, credible way, then they're
23 going to run into the same problems that some
24 have run into under the old law, and in all
25 honesty, they deserve to, because what we're

1 looking for here is rational conduct. We're
2 not looking for any kind of situation where
3 we're giving more police powers. What we are
4 trying to do is to develop a more rational
5 ability to conduct discussions in the street
6 than has been occurring now because of what
7 some of the interferences that has occurred
8 from the courts.

9 SENATOR WALDON: Would the
10 gentleman continue to yield, Mr. President?

11 ACTING PRESIDENT BALBONI:
12 Senator Volker, do you continue to yield?

13 SENATOR VOLKER: Sure.

14 ACTING PRESIDENT BALBONI: The
15 Senator continues.

16 SENATOR WALDON: Thank you.

17 If we may, Senator, I would
18 like to go to the second page of your
19 proposal, line 15, and what in essence says
20 that if an officer violates previously
21 understood in this nation and in this state
22 constitutional guarantees against illegally
23 seized evidence, that the judge cannot bar
24 that evidence from the proceeding, meaning
25 that evidence can't be suppressed because it

1 was tainted by illegal seizure. Is that still
2 your understanding of what's provided here,
3 and that is the intent of what you're
4 providing here?

5 SENATOR VOLKER: No. The
6 intent is to conform New York law to standard
7 procedures across the country in what is the
8 federal statute in Mapp versus Ohio, and that
9 is that -- and that is to eliminate something
10 that has occurred. A number of cases in New
11 York that seems to indicate that the courts
12 have ruled that even if there is no showing of
13 bad faith, that items can be -- can be
14 excluded or can be suppressed, evidence can be
15 suppressed because there was some -- something
16 improperly done not going to the heart of the
17 case because obviously if it's shown that the
18 person's constitutional rights were clearly
19 violated under the federal Constitution, that
20 evidence has to be excluded, but what this -
21 what this is saying here is that we're going
22 beyond the federal Constitution and,
23 therefore, that the state law -- we're putting
24 in statute that state law should be, in
25 effect, in concert with the rest of the

1 country and should not go beyond what the rest
2 of the country is considering in these kind of
3 cases.

4 SENATOR WALDON: Thank you very
5 much, Senator Volker.

6 Mr. President, on the bill.

7 ACTING PRESIDENT BALBONI:
8 Senator Waldon, on the bill.

9 SENATOR WALDON: Last year,
10 Dale, when we went around this, I believe, if
11 I recall correctly, I spoke of some situations
12 I witnessed with my eyes, personally observed,
13 where on the corner of 222nd Street and 116th
14 Avenue was one and the other one was in Nassau
15 County, police officers stopped young black
16 men driving their autos. In one situation it
17 was a salt and pepper team -- that's the one
18 which occurred on my corner -- and the other
19 situation, the officers were white. In both
20 instances they stopped the car, removed the
21 passengers, searched the passengers, searched
22 the car, trunk, glove compartment, under the
23 seats and then told the young men, you can
24 leave.

25 I was able to get to the first

1 car in time to question the young men myself
2 and to tell them after they shared their
3 information that I wished to become their
4 advocate. They said they were told there was
5 a shooting at PS 176, which is about 12 to 14
6 blocks from my home and that they fit the
7 description. I took -- I gave them my phone
8 number at the district office and asked them
9 to call me. I then called the 105th. There
10 had been a shooting. The auto involved was a
11 red car. This was a gray car. The men
12 described in the shooting were not these two
13 young men who were college students who were
14 home on vacation, Christmas break. Thirdly,
15 there was no way that from the time of the
16 shooting and the time of the stop that there
17 could be any necessary correlation because so
18 much time had passed and they claimed they
19 were in hot pursuit.

20 In the second situation, the
21 young man, once I told him I'm Senator Waldon,
22 Nassau County and I would like to help you, he
23 said, I don't want any problems. These guys
24 will come and haunt me if I get involved with
25 you, and he took off.

1 The other two young men never
2 called, even though I gave them the DO phone
3 number, told them what I would be prepared to
4 do for them. So the sergeant on duty repaired
5 to my home and tried to brush off what had
6 happened. I had a conversation with the then
7 precinct commander and advised him that, you
8 know, this was wrong and the falsification of
9 the process and the records was wrong and he
10 gave me his word that he would try everything
11 he could to stop it but we couldn't find the
12 officers who were involved. They were the
13 prime combat unit.

14 Most complaints I receive in my
15 district office, which is located in St.
16 Albans, and if you walk two blocks from where
17 I am, the homes start at 500,000, Addison Park
18 -- start at 500,000 -- is that their children
19 are on vacation or coming home from vacation
20 Christmastime and in the summer, driving in
21 cars their families can well afford to pay
22 for, are rousted by the police. They exit
23 parties from homes in the community and the
24 police stop and search them, put their hands
25 in their pockets. These are young men, some

1 of whom are like my son and his friends,
2 graduated from Yale, Harvard, future doctors,
3 future business people. This is not a
4 neighborhood replete with criminals, but there
5 are officers who feel with the current law,
6 not what you're proposing, Senator, with the
7 current law, that they have a license to
8 search these young men and to search their
9 vehicles.

10 My fear is if they are
11 violating constitutional intent now, if we
12 give them further license, how far will they
13 take their illegal searches and seizures? How
14 many other young, innocent black men will be
15 intimidated because a zealous police officer
16 decides to stop him and question him?

17 The parents in my community are
18 in a state of frenzy about this situation. I
19 have had meetings with 105, the 113th, the
20 103rd, the 100th, the 101st precinct
21 commanders. I've had meetings with the
22 borough commander, borough commander south and
23 north, all of them, Charlie Mattice has been
24 in consultation with me constantly about this
25 issue. It may not be happening in Whitestone.

1 It may not be happening in Forest Hills. It
2 may not be happening in Bayside or Bayside
3 Harbor, but it is happening in St. Albans and
4 Cambria Heights, Queens Village, Rochedale
5 Village, Rosedale and the Rockaways.

6 Now, when you get out to the
7 poor neighborhood out in the Rockaways where
8 the projects are, it is unbelievable what the
9 cops are doing, unbelievable at times. That
10 doesn't mean every police officer, and I am
11 not trying to indict all police officers.

12 What I'm saying is that there
13 is an element in the police force which feels
14 it has a license to do all of these things
15 which are, in my opinion, in violation of
16 constitutional guarantees and the true intent
17 and letter of the law.

18 So I don't think we have to
19 give them greater power. If we want a police
20 state, give them the power. If we want
21 fascism, give them the power, but if what we
22 want is for this state and this nation to
23 stand for what it has at least theoretically
24 stood for for a long, long time, I think this
25 is the wrong course of action to take and for

1 that and all of the other reasons I gave you
2 last year, despite my admiration and respect
3 for you, I can't go along with you again.

4 I'll have to vote in the
5 negative.

6 Thank you very much, Mr.
7 President. Thank you, Senator Volker.

8 ACTING PRESIDENT BALBONI: Read
9 the last section.

10 Senator Paterson.

11 SENATOR PATERSON: Thank you,
12 Mr. President.

13 I just have a couple of
14 questions for Senator Volker. I'll try to be
15 brief.

16 ACTING PRESIDENT BALBONI:
17 Senator Volker, will you yield?

18 SENATOR VOLKER: It's a
19 privilege.

20 SENATOR PATERSON: Through you,
21 Mr. President. Senator, you discussed
22 bringing New York State in what you termed
23 compliance with the other states with respect
24 to the test for the suppression of evidence,
25 and I somewhat wish you would explain that

1 because my interpretation of what we have now
2 is basically a two-prong system in which the
3 police must reach a certain threshold before
4 it is viable legally to conduct the kind of
5 search that they do.

6 The other states have really
7 what is a good faith test which is that as
8 long as the police officer showed good faith,
9 perhaps the states will accept it. What it
10 appears exists in this legislation is that
11 we're going beyond the good faith test to a
12 level which is higher, to a higher threshold
13 where you must prove bad faith on the part of
14 the police officer, something that I don't
15 know how a defendant would be able to prove in
16 order to show that there was an unreasonable
17 search.

18 Don't you think that goes
19 beyond what is existing in most of the other
20 states where the federal test applies?

21 SENATOR VOLKER: Senator, I
22 don't agree with you. In fact, let me say,
23 let's not mix the two issues here, the issue
24 of objective, credible, as far as the stop.
25 Let's talk about -- I guess we're talking

1 about suppression.

2 What we are trying to do here
3 is establish a statute that, from what I
4 understand, is very, very close to what
5 statutes -- that are statutes in a number of
6 the states and which will comply -- which
7 basically sets us into a situation where we
8 are still governed, quite clearly, by federal
9 -- the federal rule on searches and seizures
10 and the reason we are using the terms is
11 because these are terms that are used in a
12 number of cases, in fact, have been used in
13 some of the cases that the courts -- certain
14 cases have used here, I think even in New
15 York, if I'm not mistaken, but which is not
16 considered to be the general rule now, and
17 that is if there is a -- what amounts to,
18 although a violation of a technical rule, very
19 often these relate to how search warrants are
20 obtained, for instance, and although the
21 search warrant was obtained, there might be
22 something that was not done completely
23 properly. So we're saying as long as there
24 isn't a showing that the police officer or law
25 enforcement officer, whoever it was, acted in

1 bad faith -- and keeping in mind the
2 situation, we're establishing a statute here
3 to be used, in effect, by the Court of Appeals
4 -- I don't think we're certainly establishing
5 any kind of a situation that would be greater
6 than any other state in the Union that we are
7 aware of and, in fact, as I say, it would
8 level us ultimately with the federal
9 government, which seems to be the test that
10 these other places are using.

11 SENATOR PATERSON: Thank you,
12 Senator.

13 If the Senator would yield for
14 another question.

15 SENATOR VOLKER: Sure.

16 SENATOR PATERSON: The issue of
17 the credibility of stopping someone extends
18 beyond what would be means of criminality to
19 questions the police officer might ask, not
20 necessarily related to criminality. I may
21 have asked you this question on January 21st
22 and -- but I would ask you again. What would
23 you consider a reason for a police officer to
24 stop a citizen over some issue that does not
25 relate to criminality?

1 SENATOR VOLKER: Well, we used,
2 I think at the time, to question somebody who
3 may appear to be ill. There's a series of
4 things that, under the circumstances, might
5 cause a reasonable person to stop and question
6 somebody or check as to the person's
7 situation, and I use the potential illness -
8 I use that quite clearly. I've also used in
9 the past the person's apparent condition at
10 the time. There's a number of things that
11 could, under the circumstances occur, and it
12 seems to me that you've got to keep in mind
13 that this is an objective, credible
14 evidentiary situation and, as I said to
15 Senator Waldon, I really do not believe that
16 this would create any particular change except
17 that it will create a potential change in the
18 end result where a case is being tested in the
19 courts.

20 I mean, you know, Senator
21 Waldon talked about some bad situations. Bad
22 situations are bad situations. We're not
23 going to -- if somebody is acting
24 unreasonably, then that is wrong and we are
25 not going to do anything that is going to

1 change that. They're still going to have to
2 answer when they -- when they act wrongly, but
3 we should not make law based on a bad
4 situation. We should make law based on the
5 fact that we're going to try to make sure that
6 good police officers are given the best
7 opportunity to fulfill their duties and, you
8 know, that's at least the opinion, I think of
9 myself and I think the Governor who sponsored
10 this bill.

11 SENATOR PATERSON: Mr.

12 President, I want to thank Senator Volker for
13 graciously answering these questions and going
14 through this. It seems that we -- every two
15 weeks, we're debating the same issue, and
16 Senator Volker is always gracious enough to
17 take our questions.

18 He mentioned Senator Waldon's
19 comments about bad situations and Senator
20 Waldon was pretty clear delineating some of
21 the geography in Queens County and the places
22 where the bad situations occur and the places
23 where perhaps the conduct of the police
24 officer is more in compliance with the
25 standard of professionalism that he observed

1 as a police officer for many years in New York
2 City.

3 Senator Waldon was not here on
4 the day that we discussed this before and what
5 we talked about in that debate was just the
6 issue of raising that kind of concern that
7 Senator Waldon raised, and it's the concern
8 that there are -- this is a very delicate
9 balance that we have in what is a democracy
10 and at the same time trying to execute law
11 enforcement to its fullest capacity.

12 The fact is that there have
13 been numerous situations with poor law
14 enforcement in what have been traditionally
15 under-serviced communities, communities that
16 are comprised of minorities in this country,
17 communities that are comprised of individuals
18 from perhaps a poorer economic standard and
19 that in those areas, there have been
20 documented greater incidence of perhaps
21 over-reaching on the part of police officers
22 in the execution of law enforcement and that
23 it has been very difficult traditionally to
24 try to have some kind of redress for this.

25 Back in the mid-'80s, the

1 mayor of the city of New York once remarked
2 that there was a perception of police
3 brutality, that it really didn't exist. It
4 was highly isolated, but that it was something
5 that was a perception of those who lived in
6 certain neighborhoods and not two weeks after
7 he made this comment, there was an incident
8 involving the use of a stun gun in the 106th
9 Precinct on April 22nd, 1985 that changed even
10 the mayor of New York's perception of what
11 police brutality could be. In 1991, in March
12 there was an incident involving Rodney King
13 that changed the country's perception of what
14 excessive force might be on the part of police
15 officers.

16 It is not my opinion that any
17 greater number of police officers discriminate
18 than any other workers in society. It is not
19 my opinion that police officers are any more
20 biased than any other group in society. It's
21 not my opinion that police officers are any
22 less professional and, in fact, probably are
23 put in the position of having to display the
24 highest degree of restraint and
25 professionalism and patience with the general

1 public.

2 The issue is that in instances
3 where there are violations, that these
4 violations have a strong, strong repercussion
5 because it is part of that delicate balance
6 that we try to establish in our society
7 between the freedoms guaranteed to us by the
8 Constitution and our desire to protect
9 individuals from the violation of those
10 freedoms of other citizens.

11 What I see in this legislation
12 is that in many ways it blurs the translation
13 of constitutionality when it comes to the
14 issues of stopping citizens. This is really
15 not a piece of legislation that, in my
16 opinion, relates to criminality. It's a piece
17 of legislation that relates to what are the
18 restrictions of freedoms in society and, as
19 Senator Waldon said, this is the United States
20 of America. We have to not only raise the
21 flag in some instances, we have to raise them
22 in all instances. We cannot allow the
23 freedoms that are guaranteed to us to be
24 violated in the fashion that can exist in this
25 particular legislation and unlike in the

1 federal standard right now, that allows for a
2 good faith exception on the part of police
3 officers. This bill specifically mentions
4 that there must be a demonstration of bad
5 faith on the part of the police officer to
6 render the investigation to taint the actual
7 investigation process.

8 So what we're actually seeing
9 is that unless the defendant can show this on
10 the part of the police officer, which I think
11 is next to impossible unless the incident was
12 videotaped, then you're not going to have an
13 opportunity to really have any redress in
14 these types of situations.

15 There are not many times that
16 I've chosen to address these types of events
17 on the floor of this chamber even when I knew
18 they probably existed, but this is one of
19 those times that I can address it because of
20 the overwhelming evidence that Senator Waldon
21 referred to before. This is something that
22 has really created a number of problems in
23 which I think the police department eventually
24 is victimized just as much as our society is
25 because we are trying to exact standards that

1 really go over the line when we compare them
2 to what is adequate in a democracy.

3 When we take evidence under
4 Section -- Article I, Section 12 of the
5 Constitution which has language that is
6 exactly duplicating that which exists in the
7 Fourth Amendment and try to undermine it
8 through the kind of legislation that the
9 Governor's proposing in this particular
10 instance, we are really trampling on some of
11 the most delicate protections that are -- that
12 exist in our Constitution.

13 Right now historically crime is
14 on -- is on the demise. Police officers have
15 exercised their authority quite well in terms
16 of reducing crime and being effective. There
17 is -- there's no overwhelming public policy
18 that shows that there is a need to pass this
19 particular piece of legislation. There have
20 not been violations to the rights of police
21 officers, particularly where they were trying
22 to stop individuals because of some cause
23 related to criminality and to extend to
24 individuals this kind of power, we think is
25 certainly unhealthy. It is not the fault of

1 the police that they are human and that they
2 are fallible, but it is the fault of society
3 if we don't establish strict protections for
4 police officers just as we are having strict
5 protections for private citizens, and so in -
6 with this piece of legislation, it's just our
7 opinion that it goes too far. It's
8 over-reaching and it has tipped the balance of
9 what are democratic values in such a way that
10 any one police officer perhaps out of 1,000
11 who would violate this standard could cause a
12 great deal of damage and in my opinion could
13 compromise the integrity of the police
14 department itself.

15 And so I very much concur with
16 what Senator Gold and Senator Waldon said
17 earlier and urge that there not be passage of
18 this legislation on this vote.

19 SENATOR SKELOS: Last section.

20 ACTING PRESIDENT BALBONI: Last
21 section.

22 THE SECRETARY: Section 5. This
23 act shall take effect immediately.

24 ACTING PRESIDENT BALBONI: Call
25 the roll.

1 (The Secretary called the
2 roll.)

3 SENATOR WALDON: To explain my
4 vote.

5 ACTING PRESIDENT BALBONI:
6 Senator Waldon, to explain his vote.

7 SENATOR WALDON: Thoughts of
8 Senator Paterson triggered my recall that the
9 Koerner Commission reports from many years
10 ago, 30 or 31 years ago, said that if we don't
11 do something in this nation in terms of the
12 way we are applying the law, the execution of
13 the law, that we're truly creating a society
14 separate but equal, one black, one white, and
15 that is what has happened. We have now in our
16 state a drive to create state-of-the-art
17 prisons but we're not creating sufficiently
18 state-of-the-art classrooms.

19 Most regrettably last year the
20 people of the state, I believe foolishly,
21 voted against the bond issue in regard to
22 restructuring and refurbishing and taking care
23 of business for our children in regard to
24 schools. Huge, huge mistake. In New York
25 City alone, we need 600 classrooms per year

1 for the next ten years just to stay up, not to
2 get ahead, just to maintain enough classroom
3 space for the students who are coming in.

4 In regard to legislation of
5 this nature in this separate but equal
6 society, New York City is paying out in
7 settlements for actions of police brutality,
8 obscene amounts of money. Despite the fact
9 that crime is dwindling and despite the fact
10 that we have a very, very tight hold on crime
11 from this administration, meaning Mayor
12 Giuliani's administration, the police are
13 creating more problems for the City that we
14 are paying the highest amount in terms of
15 settlements in the history of New York City in
16 regard to actions of police abuse.

17 So I don't see any need to
18 continue this separate but equal society that
19 we are creating. We are the cream of the
20 crop. I think we are the 61 best minds of
21 this state, with all due respect to my
22 colleagues in the Assembly, to deal with
23 thorny issues, issues of great philosophical
24 concern for our future as a state.

25 ACTING PRESIDENT BALBONI:

1 Senator Waldon.

2 SENATOR WALDON: But I think
3 it's a mistake -- 30 seconds, please. I think
4 it's a mistake for us to do what we're doing
5 here today and to not recognize that we failed
6 to take action 31 years ago regarding the
7 Koerner Commission report and this is just
8 another glitch, another bump in the road of
9 failure.

10 I vote nay.

11 ACTING PRESIDENT BALBONI:

12 Thank you, Senator Waldon.

13 Senator Dollinger.

14 SENATOR DOLLINGER: To explain
15 my vote.

16 Mr. President, I learned an
17 interesting lesson in Black History Month. I
18 went to a presentation and a young person got
19 up and read the arrest record of Martin Luther
20 King, Jr., and my recollection is that there
21 were at least two instances in which he was
22 arrested for doing one thing, failing to
23 follow the direction of a police officer. The
24 direction was that you cannot shout out in
25 protest and that you must leave a public

1 place. That conviction was overturned by, I
2 believe the Supreme Court of the great state
3 of Alabama, and rightfully so.

4 His rights were violated in a
5 court in a state that perhaps at that time was
6 not receptive to the issue of equal rights,
7 nonetheless recognized that police have no
8 place in this country telling people that they
9 cannot exercise their rights given to them by
10 our Constitution.

11 This bill -- and I've talked
12 before on this floor about the impact it has
13 on the exclusionary rule which I continue to
14 support, but it seems to me that if Martin
15 Luther King, Jr. were standing in this chamber
16 today and asked to vote on a bill that said a
17 police officer, without any evidence of
18 criminality, may ask any question and do
19 anything else that he considers appropriate
20 rather than what the Constitution says is
21 appropriate, is wrong and Dr. Martin Luther
22 King, Jr. would stand here and vote no, and I
23 would join him, and I vote no.

24 ACTING PRESIDENT BALBONI:
25 Senator Montgomery, to explain her vote.

1 SENATOR MONTGOMERY: Yes, Mr.
2 President, to explain my vote.

3 I think perhaps all of us,
4 certainly I am guilty of the attitude that if
5 it's not happening to me, it's not happening
6 and perhaps Senator Volker does not understand
7 because it probably has never happened to him
8 or it doesn't happen in his neighborhood or in
9 his district or in his part of the state to
10 constituents, but this is the number one issue
11 in parts of New York State, particularly where
12 there are black and Latino neighborhoods and
13 some other groups. There are also some issues
14 in terms of Asian communities. The
15 relationship between the police and the
16 community is the paramount issue as has been
17 pointed out so eloquently by Senator Waldon
18 and, in fact, it was a major issue with the
19 Black Panther party and the development of
20 that party came about specifically because of
21 this problem and the riots, the subsequent
22 riots and the incident with Rodney King and
23 the subsequent riots in Los Angeles, and we
24 can go on and on with these incidents that
25 have come about specifically because there is

1 a major conflict in the relationship between
2 law enforcement and the African-American
3 community and other communities.

4 This legislation only would
5 serve to escalate that kind of relationship,
6 and I think it is irresponsible to propose
7 such a bill, to put in statute the authority
8 for any law enforcement officer to stop people
9 even if there is no evidence of criminality.
10 It will signal specifically to the
11 African-American community that we in this
12 Legislature do not consider that issue as
13 important as it is to black people in this
14 country and as well in this state.

15 So I am adamantly opposed to
16 it. I think that even police officers would
17 be opposed to it because they want to improve
18 the relationship, many of them do, with the
19 community, and so this is not something, I
20 think, that is universally desired by law
21 enforcement.

22 So I hope that we will all vote
23 negative on this legislation today.

24 Thank you.

25 ACTING PRESIDENT BALBONI:

1 Thank you, Senator Montgomery.

2 SENATOR MONTGOMERY: I am
3 voting no.

4 ACTING PRESIDENT BALBONI:
5 Announce the results.

6 THE SECRETARY: Those recorded
7 in the negative on Calendar Number 21 are
8 Senators Abate, Breslin, Connor, DeFrancisco,
9 Dollinger, Gonzalez, Kruger, Leichter,
10 Markowitz, Mendez, Montgomery, Nanula,
11 Onorato, Paterson, Rosado, Sampson, Santiago,
12 Smith, Stavisky and Waldon. Ayes 39, nays 20.

13 ACTING PRESIDENT BALBONI: The
14 bill is passed.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 233, by Senator Johnson, Senate Print 2522-A,
18 an act to amend the Penal Law, in relation to
19 including sales of controlled substances as an
20 underlying offense.

21 ACTING PRESIDENT BALBONI: Read
22 the last section.

23 THE SECRETARY: Section 3.
24 This act shall take effect on the first day of
25 November.

1 ACTING PRESIDENT BALBONI: Call
2 the roll.

3 (The Secretary called the
4 roll.)

5 THE SECRETARY: Those recorded
6 in the negative on Calendar Number 233 are
7 Senators Leichter, Montgomery and Paterson.
8 Ayes 56, nays 3.

9 ACTING PRESIDENT BALBONI: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 280, by Senator Skelos, Senate Print 306, an
13 act to amend the Criminal Procedure Law, in
14 relation to limiting plea bargaining for
15 sexual offenders.

16 SENATOR LEICHTER: Mr.
17 President.

18 ACTING PRESIDENT BALBONI:
19 Senator Leichter.

20 SENATOR LEICHTER: Yes. Would
21 Senator Skelos yield, please?

22 SENATOR SKELOS: Lay it aside
23 for the day.

24 ACTING PRESIDENT BALBONI: Lay
25 it aside for the day.

1 THE SECRETARY: Calendar Number
2 284, by Senator Skelos, Senate Print 589-B, an
3 act to amend the Penal Law and the Criminal
4 Procedure Law, in relation to providing for
5 life imprisonment for pedophiles.

6 ACTING PRESIDENT BALBONI: Read
7 the last section.

8 THE SECRETARY: Section 12.
9 This act shall take effect on the first day of
10 November.

11 ACTING PRESIDENT BALBONI: Call
12 the roll.

13 (The Secretary called the
14 roll.)

15 THE SECRETARY: Ayes 58, nays
16 1, Senator Leichter recorded in the negative.

17 ACTING PRESIDENT BALBONI: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 288, by Senator Hannon, Senate Print 3660, an
21 act to amend the Criminal Procedure Law, in
22 relation to imposing plea bargaining
23 limitations.

24 ACTING PRESIDENT BALBONI: Read
25 the last section.

1 THE SECRETARY: Section 6.
2 This act shall take effect on the first day of
3 November.
4 ACTING PRESIDENT BALBONI: Call
5 the roll.
6 (The Secretary called the
7 roll.)
8 THE SECRETARY: Ayes 58, nays
9 1, Senator Leichter recorded in the negative.
10 ACTING PRESIDENT BALBONI: The
11 bill is passed.
12 Senator Smith, do you wish to
13 be counted in the negative on that last bill?
14 (Senator Smith shakes head.)
15 ACTING PRESIDENT BALBONI: The
16 Chair recognizes Senator Smith.
17 SENATOR SMITH: Thank you, Mr.
18 President.
19 I request unanimous consent to
20 be recorded in the negative on Calendar Number
21 233.
22 ACTING PRESIDENT BALBONI:
23 Without objection.
24 The Secretary will read.
25 THE SECRETARY: Calendar Number

1 300, by Senator Nozzolio, Senate Print 177-C.

2 SENATOR SKELOS: Lay it aside
3 for the day.

4 ACTING PRESIDENT BALBONI: Lay
5 it aside for the day.

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

8 ACTING PRESIDENT BALBONI: Yes,
9 Senator Skelos. I'm informed there is some
10 housekeeping at the desk.

11 Senator Montgomery.

12 SENATOR MONTGOMERY: Yes, Mr.
13 President. I would like unanimous consent to
14 be recorded in the negative on Calendars
15 Number 101 and 231.

16 SENATOR SKELOS: No objection.

17 SENATOR MONTGOMERY: Thank you.

18 ACTING PRESIDENT BALBONI:
19 Without objection.

20 SENATOR MONTGOMERY: Thank
21 you.

22 Senator Montgomery, would you
23 please give us the number again.

24 SENATOR MONTGOMERY: 101 and
25 Calendar 231.

1 ACTING PRESIDENT BALBONI:

2 Thank you, Senator.

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

5 ACTING PRESIDENT BALBONI: Yes,
6 Senator. We have reports from standing
7 committees.

8 The clerk will read.

9 THE SECRETARY: Senator Alesi,
10 from the Committee on Consumer Protection,
11 reports the following bills:

12 Senate Print 4266, by Senator
13 Alesi, an act to amend the General Business
14 Law;

15 4432, by Senator Alesi, an act
16 to amend the General Business Law;

17 4912-A, by Senator Alesi, an
18 act to amend the General Business Law; and

19 5122-C, by Senator Alesi, an
20 act to amend the General Business Law and the
21 Executive Law.

22 Senator Larkin, from the
23 Committee on Racing, Gaming and Wagering,
24 reports:

25 Senate Print 4025, by Senator

1 Larkin, an act to amend the Racing,
2 Pari-mutuel Wagering and Breeding Law;

3 4174, by Senator Larkin, an act
4 to amend the Business Corporation Law;

5 4186, by Senator Larkin, an act
6 to Amend the Racing, Pari-mutuel Wagering and
7 Breeding Law;

8 6057, by Senator Hannon, an act
9 to provide for the claiming and award of a
10 lottery prize; and

11 6077, by Senator Cook, an act
12 to amend at Racing, Pari-mutuel Wagering and
13 Breeding Law.

14 Senator DeFrancisco, from the
15 Committee on Tourism, Recreation and Sports
16 Development, reports:

17 Senate Print 4117, by Senator
18 DeFrancisco, an act to amend the Navigation
19 Law.

20 All bills ordered direct for
21 third reading.

22 ACTING PRESIDENT BALBONI:
23 Without objection, all bills to third
24 reading.

25 SENATOR SKELOS: Please

1 recognize Senator Present.

2 ACTING PRESIDENT BALBONI:

3 Senator Present.

4 SENATOR PRESENT: Mr.

5 President, on behalf of Senator Trunzo, on
6 page 16, I offer the following amendments to
7 Calendar 267, Senate Print 5322, and ask that
8 it retain its place on the Third Reading
9 Calendar.

10 ACTING PRESIDENT BALBONI: The
11 amendments are received.

12 SENATOR PRESENT: Mr.
13 President, on page 18, I offer the following
14 amendments to Calendar 293, Senate Print
15 4112-A, and ask that it retain its place.

16 ACTING PRESIDENT BALBONI: The
17 amendments are received and both bills will
18 retain their place on the Third Reading
19 Calendar.

20 Senator Paterson.

21 SENATOR PATERSON: Mr.
22 President, first I would like to say that I
23 thought you did an excellent job today.

24 ACTING PRESIDENT BALBONI: Why,
25 thank you, Senator.

1 SENATOR PATERSON: And this
2 being the birthday of one of our colleagues,
3 Senator Connor, I know you'll join me in
4 wishing Senator Connor, who's 28 years old
5 today, a very happy birthday.

6 ACTING PRESIDENT BALBONI: 28
7 once again. Congratulations, Senator Connor.
8 Senator Skelos.

9 SENATOR SKELOS: Is there any
10 housekeeping at the desk?

11 ACTING PRESIDENT BALBONI: No,
12 there is not, Senator.

13 SENATOR SKELOS: There being no
14 further business, I move we stand adjourned
15 until Wednesday, March 4th, at 11:00 a.m.

16 ACTING PRESIDENT BALBONI: On
17 motion by Senator Skelos, the house stands
18 adjourned until March 4th, at 11:00 a.m.

19 (Whereupon, at 5:39 p.m., the
20 Senate adjourned.)

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