

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

December 21, 2005

3:22 p.m.

EXTRAORDINARY SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The
Senate will please come to order.

I ask everyone present to rise and
join me in the Pledge of Allegiance to the
Flag.

(Whereupon, the assemblage recited
the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT MEIER: In the
absence of clergy, may we bow our heads in a
moment of silence.

(Whereupon, the assemblage
respected a moment of silence.)

ACTING PRESIDENT MEIER: The
chair hands down a proclamation from the
Governor.

SENATOR BRUNO: I would ask that
the reading be waived and that the
proclamation be filed.

ACTING PRESIDENT MEIER: So
ordered. The proclamation will be filed in
the Journal.

The Secretary will call the roll to
ascertain a quorum.

THE SECRETARY: Senator Alesi.

1 SENATOR ALESI: Here.
2 THE SECRETARY: Senator Andrews.
3 SENATOR ANDREWS: Present.
4 THE SECRETARY: Senator Balboni.
5 SENATOR BALBONI: Present.
6 THE SECRETARY: Senator Bonacic.
7 SENATOR BONACIC: Here.
8 THE SECRETARY: Senator Breslin.
9 SENATOR BRESLIN: Present.
10 THE SECRETARY: Senator Brown.
11 SENATOR BROWN: Here.
12 THE SECRETARY: Senator Bruno.
13 SENATOR BRUNO: Here.
14 THE SECRETARY: Senator Connor.
15 (No response.)
16 THE SECRETARY: Senator
17 DeFrancisco.
18 SENATOR DeFRANCISCO: Here.
19 THE SECRETARY: Senator Diaz.
20 SENATOR DIAZ: Aqui.
21 THE SECRETARY: Senator Dilan.
22 SENATOR DILAN: Present.
23 THE SECRETARY: Senator Duane,
24 excused.
25 Senator Farley.

1 SENATOR FARLEY: Here.
2 THE SECRETARY: Senator Flanagan.
3 SENATOR FLANAGAN: Here.
4 THE SECRETARY: Senator
5 Fuschillo.
6 SENATOR FUSCHILLO: Here.
7 THE SECRETARY: Senator Golden.
8 (No response.)
9 THE SECRETARY: Senator Gonzalez.
10 SENATOR GONZALEZ: Here.
11 THE SECRETARY: Senator Hannon.
12 SENATOR HANNON: Here.
13 THE SECRETARY: Senator
14 Hassell-Thompson.
15 SENATOR HASSELL-THOMPSON: Here.
16 THE SECRETARY: Senator Johnson.
17 SENATOR JOHNSON: Here.
18 THE SECRETARY: Senator Klein.
19 SENATOR KLEIN: Here.
20 THE SECRETARY: Senator L.
21 Krueger.
22 SENATOR LIZ KRUEGER: Here.
23 THE SECRETARY: Senator C.
24 Kruger.
25 SENATOR CARL KRUGER: Present.

1 THE SECRETARY: Senator Larkin.
2 SENATOR LARKIN: Here.
3 THE SECRETARY: Senator LaValle.
4 SENATOR LaVALLE: Present.
5 THE SECRETARY: Senator Leibell.
6 SENATOR LEIBELL: Here.
7 THE SECRETARY: Senator Libous.
8 SENATOR LIBOUS: Here.
9 THE SECRETARY: Senator Little.
10 SENATOR LITTLE: Present.
11 THE SECRETARY: Senator Maltese.
12 SENATOR MALTESE: Present.
13 THE SECRETARY: Senator
14 Marcellino.
15 SENATOR MARCELLINO: Present.
16 THE SECRETARY: Senator Marchi,
17 excused.
18 Senator Maziarz.
19 (No response.)
20 THE SECRETARY: Senator Meier.
21 ACTING PRESIDENT MEIER: Present.
22 THE SECRETARY: Senator
23 Montgomery, excused.
24 Senator Morahan.
25 SENATOR MORAHAN: Here.

1 THE SECRETARY: Senator Nozzolio.

2 SENATOR NOZZOLIO: Present.

3 THE SECRETARY: Senator Onorato.

4 SENATOR ONORATO: Here.

5 THE SECRETARY: Senator
6 Oppenheimer.

7 SENATOR OPPENHEIMER: Here.

8 ACTING PRESIDENT MEIER: Senator
9 Bruno, a quorum is present.

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

12 And I believe that I have a
13 resolution at the desk. I would ask that it
14 be read in its entirety and move for its
15 immediate adoption.

16 ACTING PRESIDENT MEIER: The
17 Secretary will read.

18 THE SECRETARY: By Senator Bruno,
19 Extraordinary Session Senate Resolution
20 Number 1, appointing a committee to inform the
21 Governor that the Senate is convened in
22 Extraordinary Session.

23 "RESOLVED, That a committee of two
24 be appointed to inform the Governor that in
25 compliance with his proclamation of

1 December 16, 2005, the Senate is convened in
2 Extraordinary Session and is ready to proceed
3 with business.

4 "The Temporary President appointed
5 as such committee Senators Golden and M.
6 Smith."

7 ACTING PRESIDENT MEIER: The
8 question is on the resolution. All those in
9 favor signify by saying aye.

10 (Response of "Aye.")

11 ACTING PRESIDENT MEIER: Those
12 opposed, nay.

13 (No response.)

14 ACTING PRESIDENT MEIER: The
15 resolution is adopted.

16 The chair appoints Senators Golden
17 and M. Smith to wait upon the Governor that
18 the Senate is ready to proceed.

19 SENATOR BRUNO: Mr. President, I
20 believe there's another resolution at the
21 desk. I would ask that it be read in its
22 entirety and move for its immediate adoption.

23 ACTING PRESIDENT MEIER: The
24 Secretary will read.

25 THE SECRETARY: By Senator Bruno,

1 Extraordinary Session Senate Resolution
2 Number 2, appointing a committee to inform the
3 Assembly that the Senate is convened in
4 Extraordinary Session.

5 "RESOLVED, That a committee of two
6 be appointed to wait upon the Assembly and
7 inform that body that, in compliance with the
8 proclamation of the Governor on December 16,
9 2005, the Senate is convened in Extraordinary
10 Session and is ready to proceed with business.

11 "The Temporary President appointed
12 as such committee Senators Young and Serrano."

13 ACTING PRESIDENT MEIER: The
14 question is on the resolution. All those in
15 favor signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT MEIER: Those
18 opposed, nay.

19 (No response.)

20 ACTING PRESIDENT MEIER: The
21 resolution is adopted.

22 Senators Young and Serrano are
23 appointed to wait upon the Assembly that the
24 Senate is ready to proceed.

25 Senator Bruno.

1 SENATOR BRUNO: Mr. President, I
2 believe there are another two resolutions at
3 the desk. I would ask that just the titles be
4 read and move for their immediate adoption.

5 ACTING PRESIDENT MEIER: The
6 Secretary will read the titles.

7 THE SECRETARY: By Senator Bruno,
8 Extraordinary Session Senate Resolution
9 Number 3, empowering the Temporary President
10 to appoint officers and employees necessary
11 for the Extraordinary Session.

12 And by Senator Bruno, Extraordinary
13 Session Senate Resolution Number 4, providing
14 for the introduction of bills in the Senate
15 during the Extraordinary Session.

16 ACTING PRESIDENT MEIER: The
17 question is on Extraordinary Session
18 Resolutions 3 and 4. All those in favor
19 signify by saying aye.

20 (Response of "Aye.")

21 ACTING PRESIDENT MEIER: Those
22 opposed, nay.

23 (No response.)

24 ACTING PRESIDENT MEIER: The
25 resolutions are adopted.

1 Senator Bruno.

2 SENATOR BRUNO: Mr. President, I
3 would ask for an immediate meeting of the
4 Rules Committee in Room 120 and ask that the
5 Senate stand in a very short recess while the
6 committee meets.

7 ACTING PRESIDENT MEIER:
8 Immediate meeting of the Rules Committee in
9 Room 120. The Senate will stand at ease.

10 (Whereupon, the Senate stood at
11 ease at 3:28 p.m.)

12 (Whereupon, the Senate reconvened
13 at 3:33 p.m.)

14 ACTING PRESIDENT MEIER: Senator
15 Bruno.

16 SENATOR BRUNO: Mr. President,
17 colleagues, I would ask that the Rules
18 Committee report be read into the record at
19 this time.

20 ACTING PRESIDENT MEIER: The
21 Secretary will read the report of the Rules
22 Committee.

23 THE SECRETARY: Senator Bruno,
24 from the Committee on Rules, reports the
25 following bill direct to third reading:

1 Extraordinary Session Senate Print Number 1,
2 by Senator Golden, an act to amend the Penal
3 Law.

4 SENATOR BRUNO: I would move to
5 accept the report of the Rules Committee.

6 ACTING PRESIDENT MEIER: All in
7 favor of accepting the report of the Rules
8 Committee signify by saying aye.

9 (Response of "Aye.")

10 ACTING PRESIDENT MEIER: Those
11 opposed, nay.

12 (No response.)

13 ACTING PRESIDENT MEIER: The
14 report is accepted.

15 Senator Bruno.

16 SENATOR BRUNO: Mr. President,
17 can we at this time have Senate 1 read.

18 ACTING PRESIDENT MEIER: The
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 1, by Senator Golden, Senate Print Number 1,
22 an act to amend the Penal Law, in relation to
23 the possession and sale of firearms.

24 SENATOR PATERSON: Explanation.

25 ACTING PRESIDENT MEIER: Senator

1 Golden.

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

4 This bill would deal with the
5 trafficking of guns into the city and state of
6 New York. We presently have a structure where
7 you have 20 guns and not serve any time. It's
8 a D felony, and we've seen time after time
9 where people have not been sentenced and done
10 more than a year in jail.

11 This bill would reduce that and put
12 it down to three guns, making that a D felony;
13 five guns, the sale of five guns, making it a
14 C felony; and the sale of 10 guns or more,
15 making it a B felony, putting serious time for
16 those that would possess and sell guns here in
17 the State of New York.

18 ACTING PRESIDENT MEIER: Senator
19 Schneiderman.

20 SENATOR SCHNEIDERMAN: Thank you.
21 Mr. President, on the bill.

22 ACTING PRESIDENT MEIER: Senator
23 Schneiderman, on the bill.

24 SENATOR SCHNEIDERMAN: I haven't
25 quite adjusted to this lounge-singer sort of

1 routine here, but . . .

2 (Comments from Senate body.)

3 SENATOR SCHNEIDERMAN: Thank you.

4 Mr. President, if you --

5 ACTING PRESIDENT MEIER: Just a
6 second. Can we have some order here.

7 SENATOR SCHNEIDERMAN: If Senator
8 Balboni doesn't want to be here, there are
9 other vehicles --

10 ACTING PRESIDENT MEIER: Senator
11 Schneiderman.

12 SENATOR SCHNEIDERMAN: Senator
13 Balboni I know would rather be someplace else.
14 But that's a different issue.

15 ACTING PRESIDENT MEIER: Well,
16 we'd rather have him someplace else too, but
17 that's another matter.

18 (Laughter.)

19 SENATOR SCHNEIDERMAN: You want
20 to start?

21 ACTING PRESIDENT MEIER: Senator
22 Schneiderman.

23 SENATOR SCHNEIDERMAN: On this
24 bill, and let's -- this is a very serious
25 matter, and I appreciate the fact that

1 accomplishing anything in the New York State
2 Legislature these days is considered to be a
3 difficult chore. It shouldn't be this
4 difficult to get things done that everyone
5 agrees about.

6 These provisions are essentially
7 identical to provisions in a bill we passed
8 earlier, in 2004 and in 2002. These
9 provisions are essentially identical to
10 provisions that were included in a bill that
11 passed the Assembly earlier this session.

12 I don't think that anyone in this
13 house objects to passing a bill that makes it
14 tougher, increases penalties for those
15 involved in the illegal trafficking of guns.
16 The concern of many people here, on my side of
17 the aisle and some people on the other side of
18 the aisle and in the other house, is that this
19 is only one piece of a ten-piece puzzle. It
20 is not enough. This bill does not stop the
21 flow of illegal guns into the hands of
22 criminals who use them against police and use
23 them against our families.

24 I must say, when I picked up the
25 New York Post last week -- and I hope our

1 great chair of the Codes Committee is here
2 with us -- and I saw the op-ed column by
3 Senator Volker in which he said "We must
4 reinforce the laws to better intercept deadly
5 and illegal weapons before they get into the
6 hands of the individual criminals who use
7 them," I said, Hallelujah, we're here. We're
8 here. We're now going to collaborate together
9 on stopping the flow of illegal guns.

10 Let's be honest, though. This is
11 one step towards that goal. It does not
12 accomplish the goal. There are many other
13 things that we can do.

14 The objection many of us have had
15 to this approach is that it leaves out so
16 much. We know that the flow of illegal guns,
17 as Senator Volker so articulately put it, into
18 the hands of the individual criminals who use
19 them, has to be stopped at the source.

20 And I hope that passing this bill
21 does not mean that anyone on the other side of
22 the aisle thinks the issue of regulating the
23 gun dealers who start the flow of illegal guns
24 to criminals by diverting them from the legal
25 marketplace is over. We're going to bring

1 that issue up again in the coming year. We're
2 going to bring that issue up again in the 2006
3 session. There is not somebody down at the
4 Glock and Smith & Wesson plant who says, Oh,
5 10 o'clock, time to stop making the legal
6 guns, let's start making the illegal guns.
7 They all start as legal guns.

8 And we know from the Bureau of
9 Alcohol, Tobacco & Firearms that during the
10 last five-year period they studied, every gun
11 used in a crime in the United States came from
12 7 percent of the gun dealers. There are a
13 small number of dealers in New York State and
14 elsewhere in the country who divert guns to
15 the illegal market for profit. We know it
16 happens. We can take steps to stop it.
17 That's the stuff that's left on the table when
18 we dropped what was in the Assembly bill.

19 I'm glad we got something done.
20 Better something than nothing. As my great
21 leader said, I'd rather have the Senate bill
22 than nothing.

23 Let's not pretend, though, that
24 this issue is gone for the year. We have more
25 things to do to protect our families and to

1 protect our police officers. We should be
2 banning armor-piercing bullets. We should be
3 regulating the gun dealers who divert guns
4 into the illegal marketplace. We should be
5 passing a bill that passed the Assembly to
6 make it impossible for violent felons to get
7 gun licenses. That's a bill that again was
8 killed in this house.

9 This is not an issue that's going
10 away. This is an issue in which I'm sorry to
11 say the Senate has more often than not been an
12 obstacle to progress on the issue of gun
13 safety. Let's take this as a first step.

14 If this is a first step, then I
15 will go back to my reaction to Senator
16 Volker's column and say if we're really
17 turning -- if you guys are really serious
18 about gun safety, if we're finally breaking
19 with the NRA and we're going to start passing
20 the bills in this house that have passed the
21 Assembly and routinely died here, I want to go
22 back to saying hallelujah. I love picking up
23 the newspaper, reading something by Senator
24 Volker, and saying, My God, this man is
25 brilliant. I want to go back to that as we

1 come into the 2006 session.

2 But if we are going to pretend that
3 this bill inoculates us on the issue, if we're
4 not going to take responsibility as a house
5 for killing the good commonsense gun-safety
6 bills that passed the Assembly, then I'm not
7 saying hallelujah. Then it's going to be
8 shame on us throughout 2006.

9 So thank you, Senator Golden,
10 thanks to all for getting something done,
11 everyone here who managed the political
12 Christmas miracle of us actually passing an
13 agreed-upon bill with the Assembly. But let's
14 not pretend that our work is done in this
15 area.

16 I'm going to vote in support of
17 this bill, and I hope to have the opportunity
18 to vote in support of the other good
19 gun-control and gun-safety bills that passed
20 the Assembly last year that will pass in the
21 coming year, and we can truly take all of the
22 steps necessary to protect our police officers
23 and our families.

24 Thank you, Mr. President.

25 ACTING PRESIDENT MEIER: Senator

1 Bruno.

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

4 Senator Schneiderman, thank you for
5 your comments. Thanks for your support. And
6 I couldn't agree with you more. We have a
7 great American in Senator Volker and Senator
8 Golden. These people, like the rest of you
9 that are here during this season, care, care
10 about protecting the innocent people out there
11 and punishing people who use guns illegally.
12 That's what this is about. This is all about
13 keeping illegal guns out of people's hands so
14 that they then can't perpetrate a crime
15 against police officers, especially, or the
16 general public.

17 And we don't -- this isn't the
18 forum, necessarily, to expand a debate, but we
19 totally agree that we are governing, that this
20 is work in progress. This is not a final
21 solution, a final resolution of this issue.
22 We wish that it were, as you do.

23 But let me just mention, this is
24 not about the NRA. This is not about the
25 Second Amendment to the Constitution of the

1 United States that gives individuals the right
2 constitutionally to bear arms. Now, that
3 wasn't done in a casual way. That was done
4 for a purpose. And the trite statement that's
5 been made over and over and over is still
6 true: When you outlaw guns generally, only
7 outlaws will have guns. And that is true, if
8 you think about it.

9 So we're in the same place. This
10 is a huge stride towards protecting the public
11 and law enforcement officers. It's
12 tremendous. And we have to commend everyone
13 that's involved -- here, with the Assembly,
14 with the Governor, who got us back here.

15 But, Senator and Senators, it's not
16 over. This debate is going to continue until
17 there isn't a single illegal gun, one illegal
18 gun in the hands of a person that shouldn't
19 possess it, ought to be a felony and a serious
20 crime. It ought to be punished seriously.

21 Well, you know what? We couldn't
22 get that done. We couldn't get that done. We
23 want to do it, and we will do it. And maybe
24 we'll do it in January or February. But we
25 are together on where we are. And I

1 appreciate your comments and your
2 observations, because you're absolutely right.

3 And we have about five more minutes
4 before the next bill, which isn't here yet, in
5 case anybody cares. Okay? About five
6 minutes.

7 Senator Volker probably has five
8 minutes' worth, Senator Paterson I'm sure has
9 a few minutes' worth. But this is critically
10 important to the debate. So we are using this
11 valuable quality time together in a very
12 productive, constructive way. Thank you.

13 ACTING PRESIDENT MEIER: Senator
14 Volker.

15 SENATOR VOLKER: Thank you. I
16 will try to be brief.

17 I want to thank Senator
18 Schneiderman for what he had to say. I didn't
19 realize that, you know, he thought I was so
20 good. But let me just say this. In all
21 honesty, Senator, I have to tell you something
22 about the report the feds made. As far as I
23 know, not one of the gun dealers they talked
24 about is in New York. Something you should
25 realize, 95 percent of the illegal guns on the

1 streets of New York originate in Virginia and
2 all over the place. Not one thing we can do
3 with gun dealers in this state would have any
4 impact on them.

5 But what we are doing today is, in
6 the criminal penalties that we are now doing,
7 we are impacting on them. And we are
8 impacting on their ability even to deliver
9 into this state.

10 I understand, I know all about it,
11 that there's people around that think that you
12 can just restrict honest people and that
13 they're the people that commit the crimes.
14 That's silly. The New Yorkers Against Gun
15 Violence are -- they're nice people, but they
16 don't understand what -- they don't understand
17 anything. And I've looked at their numbers,
18 by the way, and of course I realize they're
19 never going to give anything to me. But they,
20 unfortunately, are part of the problem.
21 Because not going after the people that use
22 the guns gets you more violence. There's no
23 question about it.

24 The police, by the way, on the next
25 bill that Senator Golden -- and I want to say

1 and I want to commend him immensely. I
2 just -- in the conference, I call him the Top
3 Cop. And I mean that. I think police
4 officers all over this state and particularly
5 in New York City should thank him for what
6 he's done here.

7 Although I have to say, and he
8 would be the first one to admit it, that
9 unfortunately the Assembly at this point
10 couldn't bring themselves to do the fix on the
11 death penalty for police officers.

12 I will tell you something. If you
13 remember last year during the debate toward
14 the end of the session, I said:
15 Unfortunately, what will drive the Assembly to
16 do the fix on the death penalty is maybe a
17 couple of cops will get killed, probably in
18 New York City, or a bunch of people. Well,
19 it's happened, unfortunately.

20 And they will do it, I will tell
21 you right now, before next year is over,
22 because they're not going into the election
23 with this hanging over their heads. But they
24 can't do it now, and that's up to them. The
25 police are happy, at least, that we've moved

1 along.

2 Maybe the most important thing here
3 is assaults on police, which have been
4 undervalued for years. And now this bill
5 allows the prosecutors in New York City and
6 law enforcement people to really go after
7 illegal guns. It's been silly. I mean, in
8 New York City, unless you got a felony, you
9 might as well -- it's like a traffic violation
10 in upstate New York.

11 What this bill does, you mark my
12 words, there will be a lot of prosecutions for
13 illegal guns in New York City, and a lot of
14 the flow of guns into this state is going to
15 cease. Because this is something that should
16 have been done a long time ago. And you can
17 talk all about honest dealers and that we
18 should restrict them and all that other
19 nonsense. It doesn't work. It never has
20 worked. We don't know of one killing that all
21 the regulation that we've done on guns has
22 prevented.

23 But we do know that there's some
24 things that need to be done, and in this bill
25 and the next bill we do those things.

1 ACTING PRESIDENT MEIER: Senator
2 Paterson.

3 SENATOR PATERSON: Thank you, Mr.
4 President. And thank you, Senator Volker.

5 I concur with everything else
6 that's been said about Senator Volker,
7 including the fact that I underestimated the
8 damage at the refineries in the Gulf, and
9 Senator Volker's material that he gave me on
10 September 20th was very helpful.

11 And I just thought I would tell you
12 all that there is a collegial relationship
13 that we have here in spite of our political
14 differences. And when there is research that
15 establishes a fact, that we accept that.

16 That being said, I would like to
17 point out to Senator Volker that New Yorkers
18 Against Gun Violence are in support of this
19 bill, that the Senate Democratic Conference is
20 in support of this bill and voted unanimously
21 in support of it in 2004.

22 We did not vote at that time in the
23 midst of a special session. There was no
24 political expediency or even anything other
25 than the fact that the bill came to the floor

1 that day and that everybody agreed.

2 I think if there is an issue that
3 to a certain degree makes us feel that there's
4 more to do, it's that the penalties that exist
5 in this bill occur after a tragedy such as the
6 ones we've witnessed in the past couple of
7 weeks. It is not really preventative unless
8 you accept that some of the most heinous
9 criminals are really deterred from their
10 conduct by the penalty phase. Maybe some of
11 them are.

12 But, Senator Volker, I think both
13 you and I have worked in law enforcement and
14 we know that there are, tragically, some
15 people out there who do need to be punished to
16 the full extent of the law, do need to get
17 life without parole, and unfortunately are
18 undaunted by any kind of deterrence that we
19 try to build into the legislation.

20 What we are suggesting is that
21 there be a greater preventative measure taken
22 by the Legislature in a reasonable manner that
23 we hope will take the guns out of the hands of
24 people who would do this harm.

25 While many of the guns come from

1 Virginia and we can't do anything about it, a
2 statistic I read was that in Buffalo that
3 60 percent of the guns used illegally, in
4 illegal shootings, actually came from New York
5 State.

6 And what we're saying is that a low
7 percentage of the gun dealers are getting
8 involved in this trafficking. I daresay a
9 higher percentage of them stay out of trouble
10 than the percentage of those of us in this
11 chamber seem to. So it's not an indictment of
12 the gun dealers per se; it is that problem
13 that we've always had in society where we are
14 obliged to support those who are in the same
15 situation that we're in, yet they're not
16 acting in the same conduct that we would
17 expect.

18 And in those cases, whether they be
19 a percentage of the population that acts in an
20 illegal fashion or a percentage of any
21 profession that are the bad apples in that
22 profession, we are compelled to protect the
23 citizens of New York by penalizing illegal
24 conduct, as we're doing in S1, but also, I
25 would hope, in a very short period of time, by

1 penalizing those who in many respects are the
2 catalyst for that behavior farther up the
3 road.

4 And if this was a special session
5 in which we were commanded to come here
6 because we've all been touched by the terrible
7 ordeal that the families of two New York City
8 police officers have faced in the last couple
9 of weeks, then I think we should have done
10 everything possible. And still can. That's
11 the silver lining around this; there's still
12 time. We'll be back here in a couple of
13 weeks, and I hope we will address it.

14 When I was in the district
15 attorney's office twenty years ago, I used to
16 wish that there was greater diversity in the
17 uniformed services. I didn't see enough
18 people from my neighborhood or who looked like
19 me in the police department. Unfortunately,
20 that diversity has started to appear, and five
21 of the last six officers who have been killed
22 in the line of duty in the New York City
23 Police Department were from African-American
24 or Hispanic communities.

25 Now, even more than ever, our

1 communities share in the tragic, sick feeling
2 that we all had having to attend the funeral,
3 as Senator Bruno, Senator Klein, and I did one
4 week and one day ago, of Officer Daniel
5 Enchautegui and see his family and recognize
6 how this was probably the highest achievement
7 that anyone in that family had ever garnered,
8 to become a New York City police officer. You
9 would have thought that this gentleman had
10 become a doctor or a lawyer or a celebrated
11 athlete. That's the way his family revered
12 him. And especially in our communities, long
13 denied the opportunity to serve in law
14 enforcement and to distinguish ourselves in
15 the uniformed services.

16 So we certainly understand the
17 devastating effects of crime, since those from
18 our communities are most often the victims,
19 and now even those from our communities are
20 also the victims when they're trying to
21 protect others.

22 And so it is in that spirit I'm
23 glad that we came back here. I hope that
24 we'll think about it in the next couple of
25 months and work together, perhaps to cast out

1 some of the measures that really aren't going
2 to, in the end, statistically make a
3 difference -- but to have an open mind, as I
4 think we demonstrated and our colleagues in
5 the Assembly demonstrated today about what can
6 make a difference.

7 ACTING PRESIDENT MEIER: Senator
8 Golden.

9 SENATOR GOLDEN: On the bill.
10 Thank you, sir.

11 I'd like to thank the Majority
12 Leader, the Minority Leader and my colleagues
13 on both sides of the aisle, and the Assembly,
14 for coming together on this bill. This is a
15 very important bill for the city and state of
16 New York. It's very important for the people
17 that live in this city and state. But it's
18 also very important for the police officers
19 and their families across this great state.

20 You know, in that same paper that
21 was quoted before, the New York Post, last
22 week they pointed out how many people were
23 arrested in 2004 for possession of a gun, and
24 it was over 4800 people arrested for
25 possession of a gun in 2004. The shocker is

1 that only 1121 people did any time in jail.
2 That means 77 percent of those people did no
3 time at all. And the real shocker on top of
4 that is that out of the 1121, only 143 people
5 served more than a year in jail.

6 This bill will go a long way in
7 that puzzle. But we definitely have to come
8 back and look at that single gun that is
9 devastating the families across this city and
10 state. We want to raise that so you get 3 1/2
11 years in jail for carrying a single gun on the
12 streets of New York. And if we can do that,
13 we will cut down on homicides and violent
14 crimes across the city and state and maintain
15 all of the gains that we have gained since
16 1993, '94, '95, and throughout the '90s and
17 early 2000s.

18 But we need the legislation to do
19 that, and we need the partnership with both
20 sides of the aisle in both houses to make it
21 happen. Hopefully, this is a sign of the
22 times to come, so we can start saving lives,
23 saving the people in the city and state of
24 New York, those New York City police officers,
25 and give them real Christmas and Hanukkah

1 presents and a real good new year.

2 Thank you, ladies and gentlemen. I
3 vote aye, by the way.

4 ACTING PRESIDENT MEIER: Senator
5 Balboni.

6 SENATOR BALBONI: Mr. President,
7 I rise because one of the officers, the other
8 officer who lost his life in the line of duty
9 was Officer Dillon Stewart, who lived in
10 Elmont, New York, was a Haitian immigrant, and
11 when I went to the wake and saw the family and
12 saw his colleagues, you saw the picture of
13 somebody who just got up every day and did his
14 job, but also took care of his neighbors back
15 in the neighborhood. And when he went to the
16 job, he didn't have many expectations, he was
17 just there to advance as much as he could.
18 But he always knew that there was a risk.

19 And I think what this whole
20 incidence -- what these shootings should
21 continue to remind us, that every day when you
22 go to work and you strap on a gun, there's an
23 element of danger no matter what you do. And
24 oftentimes we look at our men in blue as just
25 fixtures of our society, and we don't always

1 appreciate the job that they do.

2 In addition, I want you to know
3 we're back here today and we have this
4 penchant for beating up on each other. We
5 have this penchant for sitting and saying that
6 we are dysfunctional as a legislature. And
7 yet two of our public protectors fall in the
8 line of duty, and we come back right before
9 Christmas. And we don't come back to posture,
10 we come back to achieve and to win a result.
11 That's because the two houses of the
12 Legislature and the Governor decided this is
13 such a crucial, crucial issue.

14 So let's not, in this spirit of
15 holiday, be too hard on ourselves. And
16 perhaps there is more work to do; I know there
17 is too. But let's at least acknowledge that
18 we can respond when we want to. We can be
19 there for the people of New York when we need
20 to. And that we should never take the people
21 who serve and protect us for granted.

22 Thank you, Mr. President.

23 ACTING PRESIDENT MEIER: Any
24 other Senator wish to be heard on the bill?

25 Debate is closed, then.

1 Read the last section.

2 THE SECRETARY: Section 8. This
3 act shall take effect immediately.

4 ACTING PRESIDENT MEIER: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 56.

8 ACTING PRESIDENT MEIER: The bill
9 is passed.

10 Senator Bruno.

11 SENATOR BRUNO: Mr. President, we
12 are waiting, literally, momentarily for this
13 next bill. And counsel just shared that it is
14 printed and they're just doing some of the
15 proofreading. So we should have it any
16 minute.

17 By way of communicating what
18 affects our lives, I am told that the Senate
19 chamber should be ready by opening day,
20 January 4th. And I appreciate your indulgence
21 here. It works, but it isn't as convenient in
22 terms of the mechanics of doing the session as
23 being in the Senate chamber.

24 But that's supposed to be done. So
25 barring any unforeseen circumstance, we'll

1 have opening day there, January 4th.

2 And the Senate calendar we were
3 trying to close with the Assembly and weren't
4 totally closed. Our new calendar, going into
5 next year, we were hoping to be able to
6 distribute that today, but I don't believe
7 that that can get done. We're pretty well
8 together. There was some discussion about the
9 close of session in June. We wanted to stay
10 here until December; the Assembly wanted to
11 leave sometime in June. So, you know, we're
12 in range.

13 (Laughter.)

14 SENATOR BRUNO: But I expect --
15 I'm sure that we are close enough so that
16 calendar is going to be closed and
17 distributed. And we'll mail it out, if it's
18 done, by the end of this week.

19 We had some debate over whether we
20 do a unibill or separate bills for this next
21 bill. Apparently, I guess, that delayed it a
22 little bit. But we're by the mechanics of
23 that. So when we finish this, then we are
24 done. And I don't expect that we will have
25 the pleasure of spending any time together

1 between now and January 3rd or 4th in formal
2 session. And I know that that is probably a
3 great disappointment to many of you.

4 (Laughter.)

5 SENATOR BRUNO: But I didn't
6 expect to have this pleasure here today. But
7 the work that we're doing is extremely
8 important, critically important, and I want to
9 thank you for your support in being here and
10 participating in governing here on behalf of
11 the people of this state, law enforcement
12 officers especially.

13 So, Mr. President, do you have any
14 other -- or does Senator Paterson -- any words
15 here that are critically important for us to
16 be functioning?

17 (Comment from Senator Andrews.)

18 SENATOR BRUNO: It's nice to see
19 that you're still here.

20 (Laughter.)

21 SENATOR BRUNO: Mr. President, we
22 can't pass a bill without having it physically
23 here in front of us, can we? Now that we know
24 it's printed and numbered?

25 Counsel, can you make a decision on

1 that? Has it ever been done, now that we know
2 that the bill is printed? Can we bring it up
3 and talk about it? Oh, we need a message?

4 Thank you, Mr. President.

5 ACTING PRESIDENT MEIER: The
6 Senate will stand at ease pending receipt of
7 the message and the bill.

8 (Whereupon, the Senate stood at
9 ease at 4:06 p.m.)

10 (Whereupon, the Senate reconvened
11 at 4:33 p.m.)

12 ACTING PRESIDENT MEIER: Senator
13 Bruno.

14 SENATOR BRUNO: Can we ask for an
15 immediate meeting of the Rules Committee in
16 Room 120.

17 ACTING PRESIDENT MEIER:
18 Immediate meeting of the Rules Committee in
19 Room 120.

20 Order in the chamber, please.

21 Senator Bruno.

22 SENATOR BRUNO: Other members
23 stay very close to the chamber. Thank you.

24 ACTING PRESIDENT MEIER: The
25 Senate will stand at ease.

1 (Whereupon, the Senate stood at
2 ease at 4:35 p.m.)

3 (Whereupon, the Senate reconvened
4 at 4:42 p.m.)

5 ACTING PRESIDENT MEIER: Senator
6 Bruno.

7 SENATOR BRUNO: Mr. President, I
8 believe that there is a report from the Rules
9 Committee at the desk. And I would ask that
10 we accept that at this time.

11 ACTING PRESIDENT MEIER: The
12 Secretary will read the report of the Rules
13 Committee.

14 THE SECRETARY: Senator Bruno,
15 from the Committee on Rules, reports the
16 following bill direct to third reading:
17 Extraordinary Session Senate Print Number 3,
18 by Senator Golden, an act to amend the Penal
19 Law and the Criminal Procedure Law.

20 ACTING PRESIDENT MEIER: All in
21 favor of accepting the report of the Rules
22 Committee signify by saying aye.

23 (Response of "Aye.")

24 ACTING PRESIDENT MEIER: Those
25 opposed, nay.

1 (No response.)

2 ACTING PRESIDENT MEIER: The
3 report of the Rules Committee is accepted.
4 Senator Bruno.

5 SENATOR BRUNO: Mr. President,
6 can we at this time take up Calendar Number 2.

7 ACTING PRESIDENT MEIER: The
8 Secretary will read.

9 THE SECRETARY: Calendar Number
10 2, by Senator Golden, Senate Print Number 3,
11 an act to amend the Penal Law and the Criminal
12 Procedure Law, in relation to enacting the
13 Crimes Against Police Act.

14 SENATOR BRUNO: Is there a
15 message of necessity from the Governor?

16 ACTING PRESIDENT MEIER: There is
17 a message at the desk, Senator.

18 SENATOR BRUNO: Move we accept
19 the message.

20 ACTING PRESIDENT MEIER: All
21 those in favor of accepting the message of
22 necessity signify by saying aye.

23 (Response of "Aye.")

24 ACTING PRESIDENT MEIER: Those
25 opposed, nay.

1 (No response.)

2 ACTING PRESIDENT MEIER: The
3 message is accepted.

4 The bill is before the house.

5 Read the last section.

6 SENATOR PATERSON: Explanation.

7 SENATOR BRUNO: Senator Golden.

8 ACTING PRESIDENT MEIER: Senator
9 Golden.

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

12 Again, I'd like to start by
13 thanking the leader on both sides of the house
14 here, and colleagues on both sides of the
15 house, for getting this accomplished. And of
16 course the Assembly.

17 This is a very important bill for
18 the city and state of New York. And this is
19 something, looking at the parents of Danny
20 Enchautegui at his funeral, and Dillon
21 Stewart's wife and grandmother, and talking
22 with her, this bill will bring them some joy
23 to show that the New York City police officers
24 and peace officers across the state of
25 New York will have now a aggravated murder on

1 the statute for killing a police officer,
2 which is a mandatory sentence of life without
3 parole.

4 It's a good first start, and I
5 believe it sends a good message across the
6 city and state of New York.

7 The second part of that will be it
8 creates a new crime of aggravated criminal
9 negligent homicide involving the accidental
10 death of a police officer, and that puts a
11 penalty of 3 1/2 to 20 years. And it creates
12 two new crimes of aggravated manslaughter in
13 the first and second degree for causing the
14 death of a police officer. And that's the
15 first degree, a B felony, which would
16 designate 10 to 30 years, and the second
17 degree, a C violent felony, with a determinant
18 sentence of 7 to 20 years.

19 And it creates a new crime of
20 menacing a police or peace officer and moves
21 that to a D felony, which would give a
22 2-to-8-year sentence to the one who would
23 menace a police officer with a weapon.

24 So I want to thank the Governor,
25 the Senate, the Assembly. This is a good

1 first start and a good Christmas present,
2 Hanukkah present to the officers across this
3 city and state. And hopefully we can come
4 back in January and deal with more of this
5 legislation that will help keep crime down and
6 stop these rancid shootings of police
7 officers -- nine police officers wounded, two
8 state correction officers wounded, and two
9 New York City police officers killed in the
10 past six months.

11 So thank you.

12 ACTING PRESIDENT MEIER: Senator
13 Diaz.

14 SENATOR DIAZ: Thank you, Mr.
15 President.

16 Let me first express my condolences
17 to the families of Police Officer Dillon
18 Stewart and Police Officer Daniel Enchautegui
19 and to all of those families who have lost a
20 loved one in the line of duty.

21 As the father of a New York City
22 police sergeant, I could sympathize with their
23 pain, knowing that at any time my family could
24 be next. I want to make it clear that I fully
25 support those brave men and women of the

1 New York City Police Department who risk their
2 lives in their daily work.

3 However, saying that, I would like
4 to share with you some of my concerns about
5 this legislation. First, according to the
6 statistics reported in the New York Post on
7 Monday, December 19, 2005, in New York City
8 during this current year, 2005, there have
9 been 509 killings, homicides.
10 Sixty-two percent were committed with guns.
11 59 percent of victims were blacks, and
12 29 percent were Hispanics. Eight percent of
13 those victims were white.

14 These statistics show that out of
15 509 homicides or killings in New York City,
16 86 percent of those victims were blacks and
17 Hispanics.

18 These statistics I suppose include
19 grocery store owners and workers of stores
20 called bodegueros. These I also suppose
21 include taxi drivers, especially livery car
22 drivers, called "gypsies" or other names.
23 These statistics I also suppose include senior
24 citizens and every other citizen in the black
25 and the Hispanic community.

1 After reading these statistics, I
2 have to ask myself the following questions.
3 If blacks and Hispanics, bodegueros, taxi
4 drivers and senior citizens are the ones
5 getting killed the most, why support
6 legislation that applies only for those that
7 kill members of the police department and not
8 bodegueros and taxi drivers?

9 My daughter, my only daughter is a
10 member of the New York City Police Department.
11 She's a sergeant, as I said before. At any
12 time, I repeat, my family could be subject to
13 the same suffering as the Enchautegui family
14 and that of many other police officer
15 families.

16 Nonetheless, nonetheless, I have to
17 ask myself if the life of a police officer is
18 worth more than the life of a bodeguero, a
19 taxi driver, a senior citizen, or any other
20 New Yorker. Are we sending a message to
21 criminals out there telling them that if they
22 want to kill someone, that they are better off
23 choosing a bodeguero, a taxi driver, a senior
24 citizen, or anybody else because they will get
25 a lesser sentence that way?

1 I am in support of legislation that
2 increases penalties on anyone that kills or
3 that takes the life of a police officer or
4 anyone else. I believe that if we are going
5 to send a message to criminals, and if we want
6 to stop crimes in New York City or in New York
7 State once and for all, we have to toughen
8 penalties for the killing of anyone.

9 By the way, what should be the
10 penalty for a police officer that, with
11 malice, abuse and/or negligence takes the life
12 of a civilian? Would this piece of
13 legislation apply to such a police officer
14 that is found guilty of such crime in a court
15 of law?

16 Back on October 12, Police Officer
17 Bryan Conroy shot and killed Mr. Ousmane
18 Zongo. Police Officer Conroy was found guilty
19 of criminally negligent homicide. The penalty
20 given to Police Officer Conroy for the killing
21 of Mr. Zongo was five years probation and 500
22 hours of community service.

23 Finally, I ask, what is our message
24 today to New Yorkers? It is that a police
25 officer's life is worth more than other life?

1 And also, does this legislation
2 apply equally to those individuals that don't
3 know when the victim is a police officer?
4 Example, if someone goes into a home and finds
5 someone with his wife and gets outraged and
6 shoots and kills that person and then that
7 person happens to be a police officer, would
8 that person get the penalty because he killed
9 a police officer without knowing that that
10 person was a police officer?

11 Ladies and gentlemen, my daughter
12 is a police officer. I love my daughter. I
13 love police officers. I cannot support this
14 legislation, and I will be voting against it.

15 ACTING PRESIDENT MEIER: Any
16 other Senator wish to be heard?

17 Debate is closed, then.

18 Read the last section.

19 THE SECRETARY: Section 15. This
20 act shall take effect immediately.

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Those recorded in
25 the negative on Calendar Number 2 are Senators

1 Diaz and Parker. Ayes, 54. Nays, 2.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 Senator Bruno.

5 SENATOR BRUNO: Mr. President, I
6 have Resolution 5 at the desk. I would ask
7 that it be read in its entirety and move for
8 its immediate adoption.

9 ACTING PRESIDENT MEIER: The
10 Secretary will read.

11 THE SECRETARY: By Senator Bruno,
12 Extraordinary Session Senate Resolution
13 Number 5, appointing a committee to inform the
14 Governor that the Senate has completed
15 business and is ready to adjourn.

16 "RESOLVED, That a committee of two
17 be appointed to inform the Governor that the
18 Senate has completed its business and is ready
19 to adjourn.

20 "The Temporary President appointed
21 as such committee Senators Fuschillo and
22 Valesky."

23 ACTING PRESIDENT MEIER: The
24 question is on the resolution. All those in
25 favor signify by saying aye.

1 (Response of "Aye.")

2 ACTING PRESIDENT MEIER: Those
3 opposed, nay.

4 (No response.)

5 ACTING PRESIDENT MEIER: The
6 resolution is adopted.

7 Senators Fuschillo and Valesky are
8 appointed to wait upon the Governor that the
9 Senate has completed its business.

10 Senator Bruno.

11 SENATOR BRUNO: Mr. President, I
12 believe I have Resolution 6 at the desk. I
13 ask that it be read in its entirety and move
14 for its immediate adoption.

15 ACTING PRESIDENT MEIER: The
16 Secretary will read.

17 THE SECRETARY: By Senator Bruno,
18 Extraordinary Session Senate Resolution
19 Number 6, appointing a committee to inform the
20 Assembly that the Senate has completed
21 business and is ready to adjourn.

22 "RESOLVED, That a committee of two
23 be appointed to inform the Assembly that the
24 Senate has completed its business and is ready
25 to adjourn.

1 "The Temporary President appointed
2 as such committee Senators Flanagan and
3 Savino."

4 ACTING PRESIDENT MEIER: The
5 question is on the resolution. All those in
6 favor signify by saying aye.

7 (Response of "Aye.")

8 ACTING PRESIDENT MEIER: Those
9 opposed, nay.

10 (No response.)

11 ACTING PRESIDENT MEIER: The
12 resolution is adopted.

13 Senators Flanagan and Savino are
14 appointed to wait upon the Assembly that the
15 Senate has completed its business.

16 Senator Bruno.

17 SENATOR BRUNO: Mr. President, I
18 believe I have a concurrent resolution at the
19 desk. I ask that the title only be read and
20 move for its immediate adoption.

21 ACTING PRESIDENT MEIER: The
22 Secretary will read the title.

23 THE SECRETARY: By Senator Bruno,
24 Extraordinary Session Concurrent Resolution
25 Number 7, relative to the adjournment of the

1 Extraordinary Session of the Legislature sine
2 die.

3 ACTING PRESIDENT MEIER: The
4 question is on the resolution. All those in
5 favor signify by saying aye.

6 (Response of "Aye.")

7 ACTING PRESIDENT MEIER: Those
8 opposed, nay.

9 (No response.)

10 ACTING PRESIDENT MEIER: The
11 resolution is adopted.

12 Senator Bruno.

13 SENATOR BRUNO: Mr. President, I
14 would like to wish all of my colleagues happy
15 holidays, Happy Hanukkah, Merry Christmas,
16 Happy New Year, be healthy, and whatever else
17 you'd like to add.

18 Thank you, Mr. President. Thank
19 you, colleagues. Be well.

20 (Whereupon, at 4:55 p.m., the
21 Senate adjourned.)

22

23

24

25