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

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.

SENATOR ALESI: Here.
THE SECRETARY: Senator Andrews.
SENATOR ANDREWS: Present.
THE SECRETARY: Senator Balboni.
SENATOR BALBONI: Present.
THE SECRETARY: Senator Bonacic.
SENATOR BONACIC: Here.
THE SECRETARY: Senator Breslin.
SENATOR BRESLIN: Present.
THE SECRETARY: Senator Brown.
SENATOR BROWN: Here.
THE SECRETARY: Senator Bruno.
SENATOR BRUNO: Here.
THE SECRETARY: Senator Connor.
(No response.)
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Here.
THE SECRETARY: Senator Diaz.
SENATOR DIAZ: Aqui.
THE SECRETARY: Senator Dilan.
SENATOR DILAN: Present.
THE SECRETARY: Senator Duane, excused.
Senator Farley.

SENATOR FARLEY: Here.
THE SECRETARY: Senator Flanagan.
SENATOR FLANAGAN: Here.
THE SECRETARY: Senator Fuschillo.
SENATOR FUSCHILLO: Here.
THE SECRETARY: Senator Golden.
(No response.)
THE SECRETARY: Senator Gonzalez.
SENATOR GONZALEZ: Here.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Here.
THE SECRETARY: Senator Hassell-Thompson.
SENATOR HASSELL-THOMPSON: Here.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Here.
THE SECRETARY: Senator Klein.
SENATOR KLEIN: Here.
THE SECRETARY: Senator L. Krueger.
SENATOR LIZ KRUEGER: Here.
THE SECRETARY: Senator C. Kruger.
SENATOR CARL KRUGER: Present.

THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Here.
THE SECRETARY: Senator LaValle.
SENATOR LaVALLE: Present.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Here.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Here.
THE SECRETARY: Senator Little.
SENATOR LITTLE: Present.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Present.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: Present.
THE SECRETARY: Senator Marchi, excused.
Senator Maziarz.
(No response.)
THE SECRETARY: Senator Meier.
ACTING PRESIDENT MEIER: Present.
THE SECRETARY: Senator Montgomery, excused.
Senator Morahan.
SENATOR MORAHAN: Here.

THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Present.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: Here.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: Here.
ACTING PRESIDENT MEIER: Senator Bruno, a quorum is present.
SENATOR BRUNO: Thank you, Mr. President.
And I believe that I have a resolution at the desk. I would ask that it be read in its entirety and move for its immediate adoption.
ACTING PRESIDENT MEIER: The Secretary will read.
THE SECRETARY: By Senator Bruno, Extraordinary Session Senate Resolution Number 1, appointing a committee to inform the Governor that the Senate is convened in Extraordinary Session.
"RESOLVED, That a committee of two be appointed to inform the Governor that in compliance with his proclamation of

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

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

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

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Bruno,

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

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

Senator Bruno.

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

ACTING PRESIDENT MEIER: The Secretary will read the titles.

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolutions are adopted.

Senator Bruno.

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

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

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

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

ACTING PRESIDENT MEIER: Senator Bruno.

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report is accepted.

Senator Bruno.

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

ACTING PRESIDENT MEIER: The Secretary will read.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator

Golden.

SENATOR GOLDEN: Thank you, Mr. President.

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

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

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

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

routine here, but . . .

(Comments from Senate body.)

SENATOR SCHNEIDERMAN: Thank you. Mr. President, if you --

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

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

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

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

(Laughter.)

SENATOR SCHNEIDERMAN: You want to start?

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

come into the 2006 session.

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator

Bruno.

SENATOR BRUNO: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Volker.

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

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

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

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

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

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

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

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

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

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

along.

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

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

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

ACTING PRESIDENT MEIER: Senator Paterson.

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

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

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

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

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

that day and that everybody agreed.

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

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

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

While many of the guns come from

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

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

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

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

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

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

Now, even more than ever, our

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

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

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

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

ACTING PRESIDENT MEIER: Senator Golden.

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

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

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

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

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

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

presents and a real good new year.

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

ACTING PRESIDENT MEIER: Senator Balboni.

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

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

appreciate the job that they do.

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

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

Thank you, Mr. President.

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

Debate is closed, then.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

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

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

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

have opening day there, January 4th.

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

(Laughter.)

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

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

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

(Laughter.)

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

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

(Comment from Senator Andrews.)

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

(Laughter.)

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

Counsel, can you make a decision on

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

Thank you, Mr. President.

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

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

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

ACTING PRESIDENT MEIER: Senator Bruno.

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

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

Order in the chamber, please.

Senator Bruno.

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

ACTING PRESIDENT MEIER: The Senate will stand at ease.

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

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

ACTING PRESIDENT MEIER: Senator Bruno.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Bruno.

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

ACTING PRESIDENT MEIER: The Secretary will read.

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

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

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

SENATOR BRUNO: Move we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

SENATOR PATERSON: Explanation.

SENATOR BRUNO: Senator Golden.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

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

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

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

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

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

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

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

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

So thank you.

ACTING PRESIDENT MEIER: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Debate is closed, then.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

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

ACTING PRESIDENT MEIER: The Secretary will read.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

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

Senator Bruno.

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

ACTING PRESIDENT MEIER: The Secretary will read.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

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

Senator Bruno.

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

ACTING PRESIDENT MEIER: The Secretary will read the title.

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

Extraordinary Session of the Legislature sine die.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Bruno.

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

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

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