

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
FIRST SPECIAL SESSION
SENATE TRANSCRIPT

9th Legislative Day

December 21, 1999

PRESIDING OFFICER: (SENATOR WATSON)

The First Special Session of the 91st General Assembly will please come to order. And will the Members please be at their desks, and will our guests in the gallery please rise? Our prayer today will be given by Senator Pat O'Malley.

SENATOR O'MALLEY:

(Prayer by Senator O'Malley)

PRESIDING OFFICER: (SENATOR WATSON)

Pledge of Allegiance. Senator Sieben.

SENATOR SIEBEN:

(Pledge of Allegiance, led by Senator Sieben)

PRESIDING OFFICER: (SENATOR WATSON)

Reading of the Journal.

SECRETARY HARRY:

Senate Journals of Saturday, December 18th, and Sunday, December 19th, 1999.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Myers.

SENATOR MYERS:

Mr. President, I move that the Journals just read by the Secretary be approved, unless some Senator has additions or corrections to offer.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Myers moves to approve the Journals just read. There being no objection, it is so ordered. Senator Myers.

SENATOR MYERS:

Mr. President, I move that reading and approval of the Journal of Monday, December 20th, in the year 1999, be postponed, pending arrival of the printed Journal.

PRESIDING OFFICER: (SENATOR WATSON)

Senator -- Senator Myers moves to postpone the reading and approval of the Journal, pending arrival of the printed

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transcripts. There being no objection, it is so ordered. Senator Myers.

SENATOR MYERS:

Mr. President, I move that reading and approval of the Journals of Friday, December 17th; Saturday, December 18th; Sunday, December 19th; and Monday, December 20th, in the year -- Oh! Sorry.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Myers, that was for the Second Session, and we'll wait until we convene the Second Session. Thank you. The First Special Session will stand in recess until the call of the Chair.

(SENATE STANDS AT EASE)

(SENATE CONVENES SECOND SPECIAL SESSION)

(See Second Special Session Transcript)

(SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR WATSON)

The First Special Session shall reconvene. Senator Smith, for what purpose do you rise, ma'am?

SENATOR SMITH:

Mr. President, Ladies and Gentlemen, I -- the Democrats would request a caucus meeting right now in the -- Senator Emil Jones' Office.

PRESIDING OFFICER: (SENATOR WATSON)

Very good.

SENATOR SMITH:

Thank you.

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PRESIDING OFFICER: (SENATOR WATSON)

Senator Karpel, for what purpose do you rise?

SENATOR KARPIEL:

Thank you, Mr. President. Also to announce a Republican Caucus in Senator Philip's Office immediately. It'll be about a fifteen-minute caucus.

PRESIDING OFFICER: (SENATOR WATSON)

We will recess to the call of the Chair.

(SENATE STANDS IN RECESS/SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR WATSON)

Senator Weaver.

SENATOR WEAVER:

Mr. President, I'd like to announce a Rules Committee meeting in five minutes in the Anteroom. Rules Committee. Five minutes.

PRESIDING OFFICER: (SENATOR WATSON)

There will be a Rules Committee meeting in five minutes.

Senator Geo-Karis, for what purpose do you rise, ma'am?

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I'm delighted to introduce to the Senate four very nice people, the wife of Senator David Sullivan, Dru, D-R-U, and her two sons -- their two sons and daughters: Brendan and Michael, and Shannon and Erin. They're in the President's Gallery. Let's welcome them to the...

PRESIDING OFFICER: (SENATOR WATSON)

Will our friends in the gallery please rise? Welcome to Springfield. Senator Burzynski, for what purpose do you rise?

SENATOR BURZYNSKI:

Just an inquiry of the Chair. I understand that the Senate

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softball team has been working very hard over the last week and a half now, in preparation for the spring, and that there is a date that is scheduled for the annual Senate/House softball game. And I was wondering if you would impart your wisdom upon us.

PRESIDING OFFICER: (SENATOR WATSON)

Well, the Chair will tell you it's April the 4th, during the snowstorm. Senator Luechtefeld, for what purpose do you rise?

SENATOR LUECHTEFELD:

Thank you, Mr. President. I -- I think something I need to make you aware of. I know that you're very interested in this, being the coach of the softball team. Our shortstop has gained a lot of weight and I think there needs to be some sort of -- some sort of a program or possibly trade for him, at a later date.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Dudycz, for what purpose do you rise?

SENATOR DUDYCZ:

Thank you, Mr. President. One of our Members of the Senate is celebrating a very momentous day in her life today. Senator Christine Radogno is celebrating her 29th birthday, and I'd like for everybody to wish Senator Radogno, once again, a happy 29th birthday. Hello. And when our colleagues from the Democratic side come out of their -- their caucus, wherever they're at, they can also come out here and join us in wishing Senator Radogno a very happy birthday. And as soon as they come out here, we can vote on very important legislation and go home and celebrate Christmas with our families.

PRESIDING OFFICER: (SENATOR WATSON)

The Associated Press requests permission to take still photography here in the Senate, and Channel 20 News also asks leave to videotape the proceedings. WGN-TV and IIS. Leave granted? Leave is granted. Those of you in the gallery that are wishing to videotape the proceedings, it's customary that you ask

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leave to do so. We have three -- so far, three TV affiliates have asked for leave. We'd appreciate it very much if those of you who have not, if you would submit those -- those requests to the -- our Sergeant-at-Arms. Senator Tom Walsh, for what purpose do you rise?

SENATOR T. WALSH:

Thank you, Mr. President. I just want to make an announcement. As you've noticed, Barbara Brey, who normally is working the soundboard, is -- has not been with us for the last couple of weeks. She has been in St. John's Hospital and has just had an operation, and they hope that we -- she will be back home at Christmastime. But as all of us go home, we do want to remember Barbara in our prayers. She's a very nice lady, always quiet, and we certainly don't want Dirk to be there for too much longer. He's not too much fun to look at down there either. So, do remember Barbara Brey in our -- in your prayers.

PRESIDING OFFICER: (SENATOR WATSON)

WMAQ-TV requests leave to tape the proceedings. Any objection? Leave is granted. We have more requests for leave to videotape the proceedings. We have Channel 5 News out of Chicago, NBC affiliate. We have WAND-TV. We have WBBM-TV, and we have WLS-TV. And Fox Network 32 out of Chicago. All asking leave to videotape the proceedings. Any objection? Leave is granted. Senator Jones, for what purpose do you rise, sir?

SENATOR E. JONES:

Yeah. Thank you, Mr. President. I rise on a point of personal privilege.

PRESIDING OFFICER: (SENATOR WATSON)

State your point, sir.

SENATOR E. JONES:

You know, yesterday, as the Leader on this side of the aisle, a Member sitting in the Chair, where you sit, Senator Watson, and

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I asked her for recognition. And I know we've been down here for going on two weeks, which is unusual. I know the Members come down, both sides of the aisle. They sit around, they wait, they wait and they wait. So yesterday, when you decided you wanted to go into caucus, I asked to be recognized by Senator Geo-Karis, who was sitting in -- in the -- in the Chair - and I know -- she and I, who served in the Illinois House, we came in together; we came over here to the Senate - and she refused to recognize me on this side of the aisle. I know she's not blind. And I know she can hear, and I know she has a voice. But the arbitrary rudeness that exists from those who sit in that Chair, showing total disrespect to Members on this side of the aisle. You decided to go into caucus. I wanted to raise a question as to what my Members shall do, because I don't know what you're caucusing on, and so they could be informed, so they could be informed whether to hang around here or go to their offices or go out to get dinner. But you know what you're going to do. You know that when you went into that caucus, you possibly was coming out here maybe to run a vote. Then you come out an hour later and adjourn the Body. That's being totally -- totally wrong as it relate to having a concern for your fellow colleagues. And I was shocked. I was really shocked that the person sitting in the Chair presiding, whom I've known for so many years, who I know hear quite well, to take a stand and not even follow the dictates of procedure and recognize the Leader on this side of the aisle. I represent the Members on this side of the aisle. They would like to know whether or not they should go to dinner, should they hang around. You know. You know. And I resent that. I hear people talking about this little, nice, old lady carrying a gun and we got to protect her. But if they act like the little, old lady that -- that sat there yesterday, perhaps it should be a felony. But that's wrong, and you've done it consistently during the days that

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we've been here in Special Session, and I think she owes the -- the Members on this side of the aisle an apology, because they wanted to know. They kept asking me, "Should we get dinner?" "Should we send out to get food?" "Are we going back in Session?" It's wrong to do that, and I think you should exert a little more courtesy from that podium because it's wrong, it's wrong, it's wrong. And I was really shocked at the lady that I have known nearly twenty-eight years would all of a sudden go blind, all of a sudden could not hear, all of a sudden could not even respect the Members on this side of the aisle, who have been sitting around not knowing which way to go. That's not -- that's not the proper way that you run a -- that you run a Chamber, and I think she owes an apology to the Members on this side of the aisle.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, this little, old lady, to whom you refer, may be little, may be old, but I'm still very young in point of years. And if I did offend you, I am very sorry, because I've always had high regard for my Mediterranean friend, Senator Jones. However, your colleague asked how long the caucus would be, and I told him forty-five minutes and that -- that we would recess at the call of the Chair. As to what the plans were to be later, I was not aware what the plans would be, so I could not give you a fallacious answer. And if I did offend you, I'm terribly sorry, because I dearly love you and the rest of my colleagues on the other side, because I do have Democrats in my family down the line. So, believe me, it wasn't meant to be offensive. And I hope that you will feel the same way as I do about you. And I am sorry if I offended you, but I thought the question was answered, and that's why I -- when I was getting off the chair.

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PRESIDING OFFICER: (SENATOR WATSON)

Senator -- Senator Jones.

SENATOR E. JONES:

Well, I accept your apology, but it gets back to the same question I raised. You didn't know what I was going to even ask you, and I didn't know that you have gotten so good that you could read my mind. But I was due the proper respect of being recognized, and then you would have known what I was going to ask you. But -- but to pretend that you didn't hear or could not see, that's the piece that disturbed me, and that's what I'm talking about. It's been consistent over the years. All of us are tired, we're distressed and so forth, but I accept your apology, true enough. But, however, don't try to read my mind as to -- to the point where you know what I'm going to ask you. You did not even know what I was going to ask you.

PRESIDING OFFICER: (SENATOR WATSON)

Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measure has been assigned: Be Approved for Consideration - Senate Amendment 1 to House Bill 2610.

PRESIDING OFFICER: (SENATOR WATSON)

We're on today's Calendar, actually. Should have that on your desk, on the Special Session. On page 2 of the Calendar, House Bills 3rd Reading. House Bill 33. House Bill 2610. You may note that we have switched the -- the sponsorship has switched from Senator Maitland to Senator Petka. Senator Petka, do you wish this bill returned to 2nd Reading for the purpose of an amendment? He does. And Senator Petka seeks leave of the Body to return Senate Bill -- I'm sorry, House Bill 2610 to the Order of 2nd Reading for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 2610.

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Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY HARRY:

Amendment No. 1, offered by Senators O'Malley, Petka and Philip.

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

Thank you, Mr. President. Ladies and Gentlemen of the Senate, I do stand here to move for the addition of Amendment No. 1 to House Bill 2610. As we all know, we have been engaged here now since last Monday in a very important series of public policy debates involving the reenactment of the Safe Neighborhoods legislation that those of us who were serving at the time and are here, I'm sure voted for. We are now, I believe, Ladies and Gentlemen, and I think it's clear to the people of Illinois, at an impasse. We are unable to resolve between us, with a three-fifths majority, and move forward legislation in both Chambers to the Governor's Desk. Having said that, I -- I circulated the amendment that is before us, after it was drafted this past Saturday morning. What this amendment does, Ladies and Gentlemen, is simply reenact those elements of the Safe Neighborhoods legislation that we are in agreement on. The one element that we are not in agreement on relates to possession, and the vast majority of the remainder of the legislation, I am confident in my previous statement, we do have agreement on. We all know that reasonable people can reach a point where they can disagree. We have had the opportunity in this caucus to put forward at least nine propositions to be shared with the other caucuses. Our lead negotiators from this caucus, of course, have been Senator Petka and Senator Hawkinson. And I want to take a moment just to compliment them, not only for their work, but, as an attorney, to

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emphasize that I believe the bill that we heard and voted on last Thursday represented not only brilliant legal work, but I believe, as that proposition moves forward and is continued to be refined, will ultimately lead to a resolution on this one element of the original legislation which we do not agree about. Having said that, I would also suggest to you that if we fail to support the proposition that is now before us, which is the reenactment of the ninety-nine percent or more of the original legislation that we agree, we have not done for ourselves and for the people of Illinois that which we are obligated to do. If any of us believe what has been said by some of us in the press, that thousands of criminals will be left out on the street for failing to reenact this legislation, then I would submit to you that we would be duly bound to move forward with this amendment, added to House Bill 2610, and do the people's business and allow the good work of the negotiators in all the caucuses and from the Second Floor to continue, either before year-end or when we come back in the spring Session, to come to a resolution and, frankly, I believe, with the good minds that have been working on this, a brilliant resolution of this vexing issue that has kept us here in this week of Christmas. For that reason, I move the adoption of Amendment No. 1 to House Bill 2610.

PRESIDING OFFICER: (SENATOR WATSON)

WCIA Channel 3, here in Springfield, asks permission to videotape. Is leave granted? Leave is granted. Just so you know, I guess maybe you've recognized the fact that not both boards are working - we have -- one on the left is out; the one on the right is working. Y2K is taking effect a little early maybe. But just so you know, we have one board which is working. Discussion? Senator Cullerton.

SENATOR CULLERTON:

Thank you, Mr. President, Members of the Senate. Senator

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O'Malley, the other night I explained a -- and presented a -- a bill that passed the House with ninety-two votes and received twenty-nine votes here that would have made -- reenacted the same law that you are attempting to reenact and would have covered the unlawful use of weapons statute and would have made it a felony, because right now, because of the Supreme Court, it's a misdemeanor. Now, you voted Present on that bill. Apparently, you didn't want to make it a felony. And in this bill, you are also not making unlawful use of a weapon a felony. So my question to you is: Why does this bill not contain unlawful use of weapon being a felony, in your bill?

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

Senator Cullerton, as a matter of fact, the -- unlawful use of a weapon, other than in the circumstances where we are separated and not in agreement, within not Pat O'Malley and John Cullerton, but the General Assembly, that is contained in this amendment. Senator, I'm -- I'm going to stand corrected on that. Those provisions, you are correct, are not in there. And I, frankly, do not have a problem with those. I am told by staff that that element was taken out of the draft of the amendment.

PRESIDING OFFICER: (SENATOR WATSON)

Senator -- Senator Cullerton.

SENATOR CULLERTON:

This proposal of yours retains unlawful use of a weapon as a misdemeanor. I'm asking you, why do you not want to make -- personally, you, as the sponsor, why not make unlawful use of weapon a felony? Are you not in favor of that?

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

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Senator Cullerton, as a matter of fact, I am in favor of it, and -- and let me tell you that the Supreme Court is the one that has made that element a misdemeanor.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Cullerton.

SENATOR CULLERTON:

Well, the Supreme Court has made it a misdemeanor. We're here, and we've been here, to correct that by reenacting that law to make it a felony. You have presented a bill which does not make it a felony. It keeps it a misdemeanor. And I simply asked you, if you say you're in favor of making it a felony, you didn't vote for the bill the other night that would have made it a felony. You've presented a -- a bill here now which makes it -- keeps it a misdemeanor. And I simply asked you, if you're in favor of keeping it a felony, why don't you put it in your own bill?

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

Senator Cullerton, as a matter of fact, in 1994, I voted for Safe Neighborhoods. On Thursday night, I voted for that version which contained a felony provision. You voted Present. We switched our votes on Friday, and frankly, Senator, you were the one who had the opportunity to explain to us what the Friday night legislation meant. And frankly, you did not convince as many people in this Chamber as Senator Petka convinced the night before to support his version. Having said that, Senator Cullerton, and trying to be answering to your question, I have made my point clear that I am supportive of doing it under certain circumstances, and my Present vote should not be misconstrued.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Cullerton.

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SENATOR CULLERTON:

Well, then we're making progress, because the bill that I presented had passed the House with ninety-two votes, needed thirty-six votes here. There were some Members who were not present who are here now, and you, apparently, are willing to vote Aye for a bill that will make UUWs a felony. So I would suggest one option would be to have Senator Walsh stand up again and make his motion to concur with the -- the House amendment to the Senate bill. That would be one way of doing it. Rather than ask you another question, let me just say this: You know and I know that this bill that you're presenting does not make unlawful use of weapons a felony. That's the whole reason why we've been down here in this controversy. And the reason why we've been down here is because about fifteen people a day in Illinois have been arrested since the Supreme Court ruled, and these people are, in many cases, very tough criminals who are being charged with misdemeanors instead of felonies. And that's what the majority -- the overwhelming majority, I believe, of the people in the State want to have those bad actors arrested and charged with a felony. Now, we have tried, we have really tried, to take care of the hunters and the -- and the sportsmen and even the people who are trying to have a weapon for their own protection, even though it's illegal, to give them a -- one chance so that they're not going to be felons. And we have definitely tried to do that, and we presented that proposal to you and you didn't vote for it. So now we're going to try to go home for Christmas and let the people who are being charged with unlawful use of weapon continue to be charged with a misdemeanor, and I think that's not what we should be doing and that's not a reason for -- for us to advance this legislation.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Rauschenberger.

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SENATOR RAUSCHENBERGER:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. I think this is the first time I've risen to speak on this issue, and I -- I just thought maybe we ought to put a little bit of this in perspective. We ought not to let the good become the enemy of the perfect, since we have no way of reaching consensus in either Chamber or across the caucuses about what is perfect in -- in dealing with the issue of unlawful possession of a weapon. I just want to liberally quote, briefly, from the proponent who presented the Governor's bill and remind everybody that the -- the origin of this bill is Mayor Daley's Safe Neighborhoods Act, which Mayor Daley needed to pass to protect the City of Chicago. Senator O'Malley's amendment contains ninety-eight percent of that Act, with the exception of the one provision we don't have agreement on. "This bill will make aggravated DUI a Class 4 felony. Mothers Against Drunk Driving are very strongly in favor of this provision", was the quote from the proponent the other night. "We are expanding...driving while license suspended and revoked provisions to include violations of restricted driving permits. Attempted first degree murder increases..." These are the provisions that Mayor Daley and -- and my Cook County State's Attorney say they need. All of these are included. All of the good things that -- that -- that Senator Cullerton explained to us the other night are here except for the one provision we don't have consensus on. I could go on, but -- remember, gunrunning's in here. It -- unlawful possession of a firearm or ammunition, separated offenses. Aggravated discharge of a firearm, unlawful sale of a firearm, you know, on and on and on. So, I -- I just want to remember -- remind everybody that this is, perhaps, as far as we can come in the Special Session. It is ninety-nine percent of what the Mayor has asked for, what the Cook County State's Attorney has asked for. It's ninety-nine percent of what Senator

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Cullerton asked for. Let's not let the perfect be the enemy of the good, and I'd appreciate supporting Senator O'Malley.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator del Valle.

SENATOR DEL VALLE:

...you -- thank you, Mr. President. Senator Rauschenberger, it's for the reasons that you just stated that I will be voting Present on this amendment, because there are many provisions in here that are extremely, extremely important. But the real solution to our problem is to reenact this entire measure. Certainly that's what the Supreme Court said we have to do. We have to reenact it. They didn't find the one gun provision to be unconstitutional. What they found to be unconstitutional was the way we packaged, the way we handled the entire piece of legislation. And I think a lot of people have -- have been misled about that. But I think that it's -- it's very important that we recognize that, since December 2nd, hundreds of weapons in the City of Chicago alone - we don't have statistics for other parts of the State - have been confiscated and that many individuals who would have been charged with felonies had to be charged with misdemeanors. Now, if we enact this bill and we go home, that means that more months will go by, many months will go by - maybe we won't do anything with this by April 15th and additional months will go by - more years -- maybe years will go by and individuals who should have been convicted as felons will be charged with misdemeanors, and that will translate into more gun violence on the streets of Chicago and in other parts of the State. And I don't think that's what we want to do. Let's reenact this and then come back next spring and then you can introduce legislation to change this and give everyone an opportunity to vote, just like you did before. You got a bill to the Governor's desk before that he vetoed that allowed the change to be made. Try it again. Try

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it again. In the meantime, don't allow us in areas, particularly like the areas that I represent, where we desperately need this measure in order to reduce gun violence, in order to save lives, don't walk away from here without giving us that type of protection. That's what you're doing. And in months, we can be talking about thousands and thousands of firearms that are illegally on the street that will not be confiscated and arrests will not be made, and people will be able to skirt -- whatever law is in the books, they'll be able to skirt it, as a result of our failure to act to do what is right here. So let's try it next spring. And I remind you that most of you, those who were here at the time, if not all of you, voted Yes for the Safe Neighborhood Act. You voted Yes. All we're asking you to do today is to allow us to continue with this provision that has been very, very effective in the City of Chicago, and then if you're opposed, you have a chance. That's what the legislative process is all about. It allows you to keep coming back and you come back and you represent your constituency, you represent hunters, you represent whoever you want to represent, but you're given an opportunity next Session to change the law. And you put it to a vote and then the Governor can make his decision then. But, please, I urge our Members to vote Present because there are important features in this bill that we do support, but not without the gun felony provision.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Hendon.

SENATOR HENDON:

Thank you, Mr. President, Members of this Body. This is another complicated vote for us. On Saturday, when I went home, my wife and I sat down and watched "It's a Wonderful Life", that Christmas movie with Jimmy Stewart. And - I've probably seen it three hundred or so times - I cried at the end like I always do.

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And it said -- one thing they said in there is, "No man is a failure who has friends." And I would like that to be my theme. But, unfortunately, I have to rise today to, I guess, make a few enemies, because -- it's going to be amazing to see how certain people vote. This has been a very tough discussion. One esteemed colleague of this Body, who I know has a great deal of respect for the Supreme Court, stood on this Floor and belittled the Supreme Court the other day, talked about the highest court in this land as if it was nothing. Another Member, esteemed civil rights attorney, used my name in the discussion and said he has sympathy for my position and the position of my constituents, who are also his constituents, as he is African-American, but yet he says he will deal with their problems in the year 2000. Even my friends who are minorities and Latino will end up voting a political vote rather than voting for the realities of this bill because somebody asked them to. Well, when are we going to stand up and do what's right? When are we going to deal with, Senator O'Malley, the main issue, the main problem that I've had with this bill, which is -- which is the enforcement provision where it's not being enforced equally to all people? And the only way to make sure that -- on the gun possession part of this, that everyone gets the same thing is to make it a misdemeanor for everybody. And I would just like a commitment, if I could get it from the new sponsor of this legislation, since I haven't had the discussion with him, that after we pass this out, and especially if you find those who you thought may not vote with you to vote with you for this, will you be decent enough, when we come back, to deal with equal enforcement protections under the law, when it comes to this legislation?

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

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Senator Hendon, I alluded to that, frankly, although I did not go it -- to it in detailed remarks, in my opening comments. I believe that the work that began with the good idea put forward and largely contained in the legislation that we voted on on Thursday night as the beginning and the basis to accomplish that. Now, that's this Member's position. I believe, as we continue to work on that issue, beginning right after this vote and continuing right through until something happens, they have laid the groundwork with that thought, the concept that they put forward, for us to do exactly what it is you want to do. Why? To go after prosecutorial discretion and make sure that the appropriate measures that are kneaded into it to -- to make sure that justice is meted out in a fair and impartial manner is there, to make sure that prosecutorial misconduct is rooted out of the system. So I think they are right on point where they were. That is a more detailed explanation of my opening remarks, but you couldn't have my more interested and avid support for what it is you are asking.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Hendon.

SENATOR HENDON:

Thank you, Mr. Sponsor, Senator O'Malley. I am very pleased to hear that, and I do also want to commend Senator Petka, who has become a very good friend of mine, and we both have grown together in this Chamber, Senator Hawkinson and Senator Cullerton, for their work on this measure. I do want to point out, once again, finally, for the record, because I did get calls when I went back to Chicago, and after I explained to the father who called me, the bishop who called me, and the police officers, who I have a great deal of respect, who called me about the selective prosecution, where ninety-one percent of all those arrested under this bill for the past four years have been African-American or Latino, we truly need to address that. And I will take you at your word that we

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will address that eventually. And if I offended any of my friends for pointing out their inconsistencies and things they said on this Floor, I, like my dear friend, Adeline Geo-Karis, apologize. But I had to say it because you know when you are contradicting yourself that is exactly what you're doing and you should support a measure that you believe in and not vote whichever way a higher person asks you to vote for, because none of 'em are God.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Dudycz.

SENATOR DUDYCH:

Thank you, Mr. President. I -- I've got a unique perspective, as Senator Munoz does, on this particular issue as a police officer, but -- unlike my colleague, Senator Munoz, I -- I sponsored the original Safe Neighborhoods legislation. I supported the Governor's bill, House Bill 1285. I voted Aye for that one, and I voted Aye for Senate Bill 224. Ladies and Gentlemen, if you listen to the debate today, we are at an impasse. We are at an impasse. I stand in support of this legislation and I'm going to vote for it because this bill reenacts the Safe Neighborhood legislation almost in its entirety. Yes, there's a provision that it omits. It omits the references to the issue of felony versus misdemeanor when -- in reference to UUW. Everything else is in there. Now, we've had -- we've had -- we've had discussions and we're all tired and we're all very, very strong with our own convictions, but we want to get out of here. We've had -- to the last of my accounting, we've had ten or eleven different proposals that one side or the other side could not agree upon. So what do we do? We stand there, hold our breath until we get our way? That's the only thing left for us to do. You stand on your side, we stand on our side, and we all hold our breath. And maybe the public will like that because we'll all collapse. But, you know, we have to do something. We have to do

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something. I supported every issue that came out here, and I think we have to do something because, you know, it's only eighty-two hours to Christmas. And to some -- other known fact that you may not know: In three weeks from tomorrow, we're back here, Ladies and Gentlemen, with the spring Session. In three weeks we're coming back and we're going to work on all legislation that we deem as important. Now, we're going to -- we're going to come back three weeks, after a Christmas break, or we're going to come back every three days for the next three weeks until it is January 12th. I think this is a -- this is a proposal that we can live with. This enacts 99.9 percent of the provisions of Safe Neighborhoods. Of course it doesn't have the UUW provision that I believe is extremely important. I supported it. I still support it and I think it should be in there. But we can't get the necessary votes of both houses to do it. So instead of holding our breath and waiting till the other side gives in, let's vote for this provision. Let's spend Christmas with our families. Let's come back in three weeks and resolve that one issue that we cannot resolve today.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Obama.

SENATOR OBAMA:

Thank you, Mr. President. I'm going to try to be brief. I think everybody is aware that no one is more eager to get out of here than me. I'm supposed to be on a beach. It's eighty-five degrees in Honolulu last I checked. I would prefer not being here, as much as I enjoy everybody's company. But I -- I do want to just mention -- how we've gotten into this train wreck and to see if we can get a permanent resolution to this, as opposed to a temporary resolution, which I think is what you're offering, Senator O'Malley. On Thursday night, Senator Petka, working with Senator Hawkinson, arrived at language that would have created a

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two-tiered penalty, a felony or a misdemeanor, at the State's attorney's discretion, for a UUW. I was one of the people who did not support that, not because I did not think the effort was sincere, but because I felt that the notion of creating different punishments for the exact, same offense, without any clarity as to why one person would be charged with a felony and another, misdemeanor, would present some constitutional problems. But I understood the intent, and I did not object to the intent that was put forward. We then came back and Senator Cullerton, along with the House, came up with a different variation on the same theme. Under this variation, we would create a system where it was entirely a felony but, in fact, if it was a first offense and the person, generally, was a law-abiding citizen, a hunter who hadn't stored it properly, if it was President Philip who had simply put his bag in the back of his van and wasn't sure about the technicalities, then he would have a probationable offense with an automatic expungement. That was our second try - basically the same theme, a different effort. The third time, today, Senator Emil Jones put out another version. Senator Emil Jones has offered -- and I think this is an excellent idea that gets at the concerns that everybody on that side of the aisle has had, which is that we would create a felony offense and a misdemeanor offense, depending on the kinds of weapons you're carrying. Basically, the provision would say that there are category one weapons: handguns, sawed-off shotguns, sawed-off rifles, other firearms that are small enough to store on their person, that to unlawfully possess and carry those weapons would be a felony; but, on the other hand, if you were going to be carrying a rifle or shotgun, a spring gun, other firearm that were used for hunting, then that would be a misdemeanor. Now, it strikes me that that proposal by Senator Jones essentially gets at every single concern that has been addressed on the other side, and it's in LRB right

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now being drafted. My suggestion would be that if we're sincere about the notion of getting guns out of the hands of criminals but still protecting the law-abiding citizen who's a hunter, like Senator Philip, then, in fact, we could probably arrive at a resolution today on that issue.

PRESIDING OFFICER: (SENATOR WATSON)

Senator, that's not what's before us. We'd -- we'd appreciate it if you would confine your remarks to the -- the amendment.

SENATOR OBAMA:

I -- I understand. I'm going to -- I'm going to make one last comment, Mr. President. I don't think I've gone on too long. All I'm suggesting is this: That it seems -- it would be in all of our interests, as opposed to having another Special Session, potentially, hanging over our heads, with constitutional issues raised in terms of whether the Governor can call another Special Session, whether he has to call us down here, whether he's going to send the State troopers to get us, that if we could arrive at a sensible agreement that protected hunters and the other person's that that side of the aisle and some people on this side of the aisle are concerned about, that we should, in fact, try to do so in the next day or two. And so my question, then, would be - and this is directed at Senator O'Malley - whether or not there have been any discussions on that side of the aisle with respect to Senator Jones' proposal? And if so, are there any specific reasons as to why this could not provide a working framework to arrive at the desired compromise that we're all interested in?

PRESIDING OFFICER: (SENATOR WATSON)

Once again, that doesn't really pertain to the amendment that's before us, but, as courtesy to -- to you, Senator, we'll let Senator O'Malley respond.

SENATOR O'MALLEY:

Senator Obama, you know, thank you for your extended remarks,

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and I say that with respect. I had mentioned earlier, there have been a number of propositions and proposals that have come forward from this caucus. Your specific question of me is about this recent proposal offered -- or, authored and offered by Senator Jones, whether I'm familiar with it and whether it's been put in any a mix. I am informed from staff that we do not have that proposal. But I can say this to you: We have forwarded eleven proposals. We understand that there's Senate Bill 224 that was voted on on Friday night, and then there, of course, have been negotiations around all of these proposals and that legislation from Friday night and Thursday night. It's clear to me that if there is another proposal, that it is worthy, especially if it is coming from Senator Jones with your support, worthy of serious consideration. And I think that all of these proposals, as they have evolved and the ones that you are bringing forward or recommending at this point in time, need to be part of forming the basis for the solution to the dilemma that is before us. And the dilemma before us was put well by Senator Dudycz: We are at an impasse. What this proposal does that is embodied in this amendment is simply reenact those provisions that we can all agree on, and by enacting them sooner rather than later, protecting Illinois citizens on the streets of Chicago, the streets of East St. Louis and everywhere else that we can do all in our power by acting swiftly and decisively here in the Senate today.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, no one in Illinois should want to make a felon out of a nurse with a pistol in her car's glove box, which the bill that my colleague on the other side sponsored, and -- and he clothed it very nicely by saying, "Oh, it would be probation", and didn't mention the fact

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that it would be a felon -- a felony charge until the end. And the bill that we passed, Senator Petka's bill -- Petka-Hawkinson, was a reasonable approach to the problem. And I do not believe that first-time offenders who have a State gun permit should be convicted of anything but a misdemeanor to start. If they do it a second time, that's a different story. We are firmly committed to tougher gun control legislation, and this amendment has everything in there for the Safe Neighborhoods bill that we passed and the Supreme Court ruled unconstitutional because of other factors in it. And I think we should pass this amendment because it has all of the Safe Neighborhoods bill -- problems -- rather, statements in it except what we just talked about. We don't want to make felons out of good citizens because they make a mistake and carry a gun in their car, when they're apprehended for speeding. So I...(microphone cutoff)...favorable consideration of this amendment.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Molaro.

SENATOR MOLARO:

Thank you, Mr. President. And, finally, I don't know if anybody heard what Senator Geo-Karis just said, but I have about two minutes and -- and -- because I am going to reserve the right to speak to this bill on 3rd Reading. I think everybody understands we're on 2nd Reading on an amendment. Is that not correct?

PRESIDING OFFICER: (SENATOR WATSON)

That is correct.

SENATOR MOLARO:

Okay. Well, finally, Senator, thank you for just saying it, because that happens to be where we're at, and I'm going to ask Senator O'Malley a couple of questions. First of all, so we're clear, because I thought Senator Hendon said he's looking for a

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law that clearly makes possession of a handgun in an automobile with -- loaded, within easy access, a misdemeanor, and I thought you said, Senator O'Malley, "I couldn't agree with you more." Now, so -- okay -- well, you -- you have a chance to take that back...

PRESIDING OFFICER: (SENATOR WATSON)

Once again, that's not what's before us.

SENATOR MOLARO:

Well, I'm going to ask then. When we vote for this bill -- says it's 99.9 percent Safe Neighborhood back. When we're done voting for this bill and if this bill became the law of the land until we change it - no guarantees when - then it is -- is it a fact that the unlawful possession of a firearm, a loaded gun in your car within any access, simple possession, is a misdemeanor? 'Cause I want to make sure what we're voting for here.

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

First of all, Senator Molaro, to answer your question very simply: It is a felony under age eighteen. But to try and say -- and I -- and I appreciate the good intentions you have in bringing forward with your question. What Senator Hendon asked me about was specifically related to the question of prosecutorial discretion, if not prosecutorial misconduct, and that's what my answer was in response to.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Molaro.

SENATOR MOLARO:

Then I'll put it straight, because I can't seem to get a straight answer here. I -- I don't want anybody to think my intentions are good or bad. I just want a straight answer. If you're eighteen to age ninety-five and after this bill is passed,

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with the way the law is today, after Cervantes and everything else, with this bill and if passes and becomes the law of the land, is it the fact that if you are stopped with possession of a loaded weapon, that it is a misdemeanor?

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

Senator, I would believe that whether this amendment were to become law or not, that what you are describing is probably what the law is. And I will take your word that that's what the law is.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Molaro.

SENATOR MOLARO:

If we were in a court of law, I'd ask you to object, that he's not responding to the question. You know, I -- I don't want anybody to take my word. You're sponsoring this legislation. I'd like you to answer that question, as to what it is, so we know and we can move and get on. Senator Geo-Karis had the courage, at least, and so did Senator Hendon, to say what we've been doing down here the last nine days. We've agreed on 99.9 percent of this bill since the day we got here. So you're not coming up with something new. We've agreed with this. We're here for one reason. We finally caught the imagination of the public. That's why half the guys in the press have the same shirt on, and the reason they're here is because the public is demanding right now, right here: Is it going to be a felony or is it going to be a misdemeanor? Get up and say so. Let's vote on it and get out, not let's come up and say we're going to vote on what we can agree on and the hard stuff we're going to leave for some other time. That's not what we're here for. And that's exactly what this amendment does. Now, unless us -- I'll ask this in the form of a

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statement, rhetorical, and then if it's the wrong answer, and then you can tell me and then I'm done. The answer is that after Cervantes this came to be a misdemeanor. Unlawful possession is a misdemeanor. A loaded gun in your car is a misdemeanor. A loaded gun on the seat right next to your right hand is a misdemeanor for everybody from eighteen to age ninety. The Governor called us in, specifically said, let -- especially the second one, "Let's reenact it the way it was, to a felony." What you're doing is giving a clear victory to the people who want this to be a misdemeanor. Now, that's okay if that's where the votes are. That's what this country's all about, but at least let's have the courage to say, "I want to keep it a misdemeanor, let's vote for this", and take that victory that carrying a loaded gun and having a loaded gun in your car is going to be a misdemeanor and stay a misdemeanor, and that's what we're going to do by voting for this amendment.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Trotter.

SENATOR TROTTER:

Thank you very much, Mr. President, Members of the Senate. You know, we've heard the cogent arguments, the compassionate and the passionate arguments, on both sides of the issues: misdemeanor, felony, so on down the line. But what got us here in the first place is that the courts held that what we had done in bundling had unconstitutionally put that piece of legislation together. So what happened is, our Governor, within his powers, submitted a Proclamation -- issued a Proclamation that said that on December 2nd, the Illinois Supreme Court in *People versus Cervantes*, and it gives the docket number and it ruled that that Public Act 88-680 violated the single-subject clause. Then it -- there was a couple other "whereases" there as well. But in his "Therefore", he said: Pursuant to Article IV, Section 5(b) of the

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Illinois Constitution of 1970, I, George H. Ryan, Governor of the State of Illinois, hereby call and convene the 91st General Assembly in Special Session to commence on December 13th, to consider only the reenactment of provisions contained in Public Act 88-680 as subsequently amended, and then it went on and said we shall be holding this Special Session limited to the consideration of House Bill 2711 and Senate Bill 391. Well, we convened that Special Session and he convened the Second Special Session, and in that he said that we will be only convening and listening to bills -- Senate {sic} Bill 2711 and 391. Well, we're now in that Second Session. According to his Proclamation, by Constitution, we're only supposed to be listening to those bills that he narrowly said we're supposed to be addressing. So I ask you a constitutional question here, Senator O'Malley: Is what we're doing today constitutionally correct? Can it hold up, constitutionally, at the end of all of this debate that we're going through today?

PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley.

SENATOR O'MALLEY:

Senator Trotter, I am advised by counsel that this amendment is constitutional and will hold up.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Trotter.

SENATOR TROTTER:

Can you quote where? I mean, this -- this is their opinion; however, according to our Proclamation, we only can be addressing this bill -- the bills 2711 and 391. We are now looking at Senate Amendment No. 1 to House Bill 2610. Where does that come up under the Governor's Proclamation?

SENATOR O'MALLEY:

Senator Trotter, I have two additional responses for you. One

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is that you may want to direct that to the Chair, but I would tell you that, consistent with the Illinois Constitution, we are convened at the direction of the Governor in Special Session to continue -- to discuss and act on the subject matter of this legislation. And that is what the Constitutions provide -- provides we must do in a Special Session and that that is what the Governor must tell us. So I am advised that what we are doing is constitutional and consistent with the call, and if you wish to direct more specifics to the -- the -- the President of the Chamber, then perhaps you wish to do that.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Trotter.

SENATOR TROTTER:

I'm be apprised -- being apprised by our legal staff that that is -- it doesn't fall within the scope in which the Governor has placed this -- this Session into being and this is contrary to the Attorney General's decision that he just made the other day. So was there...

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion?

SENATOR TROTTER:

...further information?

PRESIDING OFFICER: (SENATOR WATSON)

Senator Munoz.

SENATOR MUNOZ:

Thank you, Mr. President and Members of the Senate. I commend the sponsors for trying to work out this bill, but the problem we're going back to is with the UUW, keeping it a felony, and in this bill, it still states it's a misdemeanor. As I've stated, and a number of our Members during debate over the last week or so have stated, the number of weapons that have come back on the street, it's been approximately five to six hundred weapons that

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have been confiscated alone on the streets of Chicago, not counting how many people out there are carrying firearms now. Because for every person that they lock up, believe me, there's probably about twenty more that are carrying these types of weapons, whether it's to do bodily harm, whether it's for protection against drug money or other gang-affiliated members. As I stated, my district, which I represent, have flooded my office over the last couple of weeks with numerous calls for supporting and bringing back the Safe Neighborhoods Act bill with the carrying of a weapon to be a felony. I can't go back home to my district and tell them that I voted for anything other than making the UUC a felony. Thank you.

PRESIDING OFFICER: (SENATOR WATSON)

...Dillard.

SENATOR DILLARD:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. I wasn't going to rise to speak on the amendment, but hearing some conversation from the other side of the aisle and especially Senator Molaro, I just think we need to clarify a couple of things. Believe it or not, our caucus, through Senator Philip, is the only caucus that's come forward with a plan to allow this to be a felony. Senator Philip, I know, in meetings with the Governor and the other Legislative Leaders, especially yesterday, offered to continue through next July the felony provisions of the Safe Neighborhoods Law. So when you get up and you say that you're only going to vote for something that keeps this a felony, that's been offered by Senator Philip and our caucus. It's the Supreme Court, Ladies and Gentlemen, as I said the other night, that made this a misdemeanor, not us. But I do want to point out that every other caucus but ours has rejected offers over the last nine days that would have kept this particular provision in there to make it a felony. So Senator Philip offered to continue the

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felony provisions, and every other caucus has rejected it over the last couple of days. So when you stand up and say that you're only for something that's not a felony -- if the felony's not in there, we've offered that. So I just want to make the record clear that we have offered to keep this a felony through next July, and it's been rejected.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This House Bill 2610 is a bill, obviously, that was resurrected by the President of the Senate and the Republican Majority in this Chamber, and we have voted, I guess, now, on about three or four various amendments with respect to House Bill 2610. And I have, for the last several days, made the argument that at least the Governor has led and told us what bills to consider during the Special Sessions, and House Bill 2610 is not one of them. Now, I don't quarrel with the things that are in this particular bill, but as you and I know, that this is clearly unconstitutional. You know that this is simply politics for another roll call. And you know that the public good is not being served by virtue of passing this bill over to the House, knowing full well that the Speaker's not going to call it, the Governor's not for it, and we are still locked in a frenzy of trying to -- to appease all of the various political leaders. The fact is, is that this bill is unconstitutional. The fact is we ought not to vote for it. I'm prepared to vote Present and stay here tonight, if it's necessary. It's my understanding the Governor's going to call another Special Session if it passes. So be it. I'm prepared to stay, but let's get something that's within the call. Let's get something that's constitutional. Let's get this thing worked out. But this doesn't do it today. Thank you.

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PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Jones.

SENATOR E. JONES:

Yeah. Thank you, Mr. President. No, I -- I really didn't plan to speak on this particular issue because every time there's an argument on this issue, individuals try to squirm out and try not to do what we were called here to do. I've been in those meetings. The Speaker of the House, the Minority Leader of the House, the Governor and myself, all have offered, consistently, the bill in its original form, which we all support. So it's not true that nothing has come from us. But to come on the Senate Floor and say you are presenting a bill that resolves the issue that ninety-nine percent of we all support is not the reason why we're here. If you were genuinely supportive of the felony charge, Mr. Sponsor, then you would have put that bill in its original form and let your colleagues on the other side of the aisle vote you down. If the original Senate sponsors -- sponsor of the Safe Neighborhood Act who stand up and boasts that he's for the felony provision but will not put forth the legislation on this Floor, then it's all politics and game playing. I waited and waited and waited to see whether or not we could come together. The proposal that I have presented to Senate President Pate Philip and all the other Leaders resolved the issue as it relate to the hunters and those individuals in the urban areas. Unlike my colleague, I do recognize that there is a problem, but I'll be damned if I will come down here to this Senate and to see young men and women shot down in the streets of the City of Chicago and -- and give a license to those individuals to carry those -- those firearms just as a misdemeanor. I cannot support that. And I don't give a darn who the Mayor of the City of Chicago is. I have a constituency, and my constituency don't want those individuals roaming the -- roaming the streets -- roaming the streets with those weapons,

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using -- and -- and the only charge will be a misdemeanor. When I go to the airport, there are a lot of laws on the books. I'm not bringing a bomb on the airport -- I'm not going to bring a gun. But I must stand there and be frisked before I go through there. To listen to some of the arguments, we should not be frisked. Sometimes you must suffer some inconvenience so that you can have the right to do many things you want to do in a civil society. But I don't want to make it easy for those individuals who are bent on robbing, maiming and killing individuals to have access to weapons that are destroying your neighbors, your sons and your daughters. That's the issue that's before us. The compromise that I offered is the one that solves the argument as it relate to the hunters. If that is true. But I firmly believe -- I firmly believe that you on the other side of the aisle do not want a resolution to this issue. If you are pimping for those who want to -- want to go out here and say we should have concealed weapons and carry, stand up and have the guts to say so. But quit talking about the hunters downstate, because the figures show they have not been arrested, they have not been convicted. So that is not the issue that brings us to this point today. I come from Chicago, and I see many young men and women die as a result of those individuals having access or the ability to carry those guns. I want it a felony, and any law-abiding citizen, be it the little nurse that Senator Geo-Karis talk about or the schoolteacher or that businessperson, if they know it's a law against carrying that weapon, then they are breaking the law.

PRESIDING OFFICER: (SENATOR WATSON)

You know what? Just a moment. It's your Members, Senator, I'm trying to control so people will listen to you. You have something to say. It's your Members, sir, that I'm trying to keep quiet. Thank you.

SENATOR E. JONES:

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I want to thank you, Mr. President. But I want you to be consistent about the -- the courtesy of our Members, not only on this issue, but when -- other times, such as Senator Larry Walsh when he wanted to put his bill on Postponed Consideration. Let's be consistent about caring about my Members. But -- so, therefore, it should remain a felony. And, Mr. Sponsor, if you were genuinely sincere instead of dodging the -- the question using those -- "legalese", as they call it, if you was genuinely sincere that it should be a felony, then you would have put it in the bill and have your colleagues over there vote it down. But let's not go through -- let's not go through this pretense that we're trying to do something. I'm tired of spending all these extra days here, but I am prepared to stay till hell freezes over till we resolve it. But let's not talk about the -- the hunters, let's not talk about the little nurse, let's not talk about the schoolteacher or the businessperson, because that person needs to know, that person needs to know that if you're carrying a gun illegally, you are breaking the law, regardless to who you are. But in most instances, those individuals' cases have been thrown out of court. We want the gangbanger. We want that person that is making our lives unsafe in the City of Chicago and the County of Cook. So, Senator O'Malley -- Senator O'Malley, you indicated that you voted for the original bill, which you were for the felony as it relate to UUW. What's so shocking to me is for you to present a bill to us that does not carry out your hundred-percent views on UUW. If you had presented that bill and it would have lost, then I would think you would be genuinely trying to do something about the issue. But I haven't seen any bill with your name on it, other than this one you have before us that is to keep it a misdemeanor so that those persons who do carry those weapons, that your district abut mine's on, can go out and cause harm to citizens. And I think that's the wrong approach to take.

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PRESIDING OFFICER: (SENATOR WATSON)

Senator O'Malley, to close.

SENATOR O'MALLEY:

Thank you, Mr. President. Well, we've all had a lot to say, considering this is an amendment. I guess I'm going to try and take 'em in some order. Some of it might be in reverse. Let me deal with my good neighboring Senator Jones first. My dear friend -- by the way, our families go way back. We've known each other for years. Senator Jones, I'm prepared to stay here because that's the people's business, but what I'm not prepared to do and the reason I brought forward this amendment was to say to the people of Illinois, back home, who are saying they want this law, as much of it as we possibly can agree on, enacted as soon as possible. That's what this is about. Everything else is window dressing. My dear friend, Senator Molaro, I almost want to get as excited as you do. Bobby, we all know what the law is. We can bring our counsel in, you can bring yours in, we can debate it some more. That's just the point. We are at an impasse. We cannot agree. The vote on Thursday night said that. The vote on Friday confirmed it. So what are we supposed to do? We're supposed to leave gangbangers on the streets of Chicago, which this bill is primarily directed at, to continue to do what they want to do, unfettered from the thirty sentencing enhancements, from the enactment of gunrunning as a crime in this State, from the enhancement of the additional aggravating factors that are contained in the legislation? Let's deal with reality now. Where's my good friend, Senator Dudycz. He stood up here the other day, on Thursday night, and he read a litany of things into the record. I'm not going to go as far as he did or as far as Senator Cullerton went on Friday night. But they said that night, each one of them, if you vote No, then you're voting against these things. Well, let me tell you: The difference between this bill

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and those other two bills couldn't be simpler. It's not about whether you vote No. It's about whether you fail to support, because if you fail to support, let's read the record. Let's summarize. I won't go into the litany, but I'll give you some of 'em. This is what -- this is what we're failing to do. We're failing to increase penalties for unlawful sale of firearms, unlawful possession of firearms and armed violence. We're failing to increase penalties for intimidation or harassment of jurors. We fail to create the offense of gunrunning. We fail to increase the penalty for defacing identification marks on firearms. We fail to make it a felony to possess a firearm in violation of conditions of bail. We fail to increase the minimum and maximum penalties for the offenses of attempted first degree murder, aggravated battery with a firearm, aggravated discharge of a firearm. We fail to expand the scope of the offenses of prostitution, solicitation of a sexual act, pandering, pimping, juvenile pimping and exploitation of a child. We fail to expand the scope of the Act pertaining to the sexual exploitation of a child. We fail to increase the penalties for possession of a firearm without a valid FOID Card. And we fail to increase the penalty for certain types of aggravated DUI. Ladies and Gentlemen, it's not about a Yes or a No or a Present; it's about failing to support. Now, whoever, in their infinite wisdom, here in the State of Illinois wants to oppose this legislation by failing to vote Yes, then be my guest and be accountable to the people of the State of Illinois, that you - that you - have had the audacity to say to the people of Illinois, thousands of people will not be sentenced, thousands of people will go out on the streets of Chicago and East St. Louis and do grave dishonor, injustice to our residents, our constituents and our friends, our neighbors, indeed our family. I say to you, let's support this legislation. Let's move it forward, put it on House Bill 2610.

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Let's send it to the House of Representatives. Let them do the same thing, and at the very same time, let us resolve, both in this Chamber and across the Rotunda, to work together to build a consensus about the very thing that we find ourself at impasse on. In the meantime, let's put back on the books the very things that so many of us have talked about back home for the -- last five years to make a difference in the lives of the State of Illinois and its citizens. Thank you.

PRESIDING OFFICER: (SENATOR WATSON)

All those in favor, say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Any further Floor amendments approved for consideration?

SECRETARY HARRY:

No further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR WATSON)

3rd Reading. On the Order of 3rd Reading, we have House Bill 2610. Read the bill, Mr. President -- Mr. Secretary.

SECRETARY HARRY:

House Bill 2610.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

Thank you, Mr. President, Members of the Senate. It's been said that none are so blind as those who choose not to see. After sitting here in -- in debate on legislation over the last eight -- eight days, which seems like eight weeks, I am truly amazed and truly shocked at the lack of civility that is sometimes displayed in honest, simple disagreement over public policy. I've heard people say, in this Chamber, if we do not -- if -- if we pass this legislation, that we will be permitting bad people to go away

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unscathed, without any punishment whatsoever, that we need legislation with the very -- the -- the provisions that put us at an impasse in the legislation, and if we don't get it, we're not going to be able to arrest bad people. What are you talking about? Even as the law exists right now, after the Supreme Court made a very unfortunate decision, a person who is arrested will be charged and convicted of at least a misdemeanor, at least up to a year in jail, and in most instances, with any type of conduct in the past, a felony. But more importantly, by passing this legislation, as Senator del Valle stated during the course of the debate, he's looking to confiscate weapons, that's exactly what's in this piece of legislation. Any offense that's related with a firearm, any type of offense which results in the conviction under this Act and under the Criminal Code and you have a firearm, it's history. It's history. A confiscation order will be presented and the weapon will be confiscated and, most likely, destroyed. And we talk about pounding our chest or let's -- getting tough on crime. I don't remember a single dissenting vote when we sent a package to the Governor that said if you use a firearm - use a firearm - in a crime, fifteen the first time, twenty-five the second time, life imprisonment, and if you use it to kill somebody, off with your head. But we're going to be saying that the whole key - the whole key - to combatting crime in this State is prosecution discretion in terms of charging in a felony offense. The Cook County State's Attorney's Office, last week, when they were questioned by myself, said as a practical matter, even where people are arrested, that most of them who are law-abiding, first-time offenders don't get prosecuted for the offense or have their -- the offenses reduced. So what are we talking about here? What are we talking about? ...years ago, a supermajority in the Senate and a supermajority in the House recognized a provision that was placed into the Public Act

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declared -- that was declared unconstitutional by a subterfuge, by a ruse, by a -- by illicitly breaking a compromise and a deal, putting something in by the sneak, and seventy-three people in the House and thirty-six people in the Senate said, "No, that's not what we had in mind." Right now, right now we have the opportunity to enhance penalties for attempt murder, armed violence, for aggravated discharge of a firearm, for weapons violations related to violation of bail bond, domestic violence penalties. But while Rome truly burns, you fiddle. It's time to stop the nonsense. Pass this bill, return to civility. Let's truly enjoy what the season was to be about: Peace on Earth, goodwill to each and every person. That's what I'm looking forward to. I hope that's what you're looking forward to, and we can do that and start right now. Vote Aye. Send this bill where it belongs, to the House and to the Governor, and get on with the business of protecting the wealth, health, safety of the people of this State. The time is here, the time is now.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Weaver.

SENATOR WEAVER:

I would move the previous question.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Weaver has moved the previous question. There are four speakers. Further discussion? Senator Cullerton.

SENATOR CULLERTON:

Thank you, Mr. President, Members of the Senate. I just thought that it might be helpful, since I've been involved in some of these negotiations, to just -- just quickly give you and the public a -- a recap of what we have been trying to work on this week, which has resulted in the debate on this bill. We started when the Governor asked us to reenact the Safe Neighborhoods Law, and in the Governor's Proclamation, he specifically asked us to

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deal with the issue of unlawful use of weapon and whether or not it should be a felony or a misdemeanor. And in an effort to do that, we then looked at the Criminal Code. We found an analogy with the type of probation, which is called "410 probation", which is affordable to certain drug offenders, and we met with the representatives of all the caucuses and laid out this proposal. The Attorney General had a task force. The Attorney General reenacted that task force at another meeting and asked us to pursue that issue. As a result of that meeting, there were some concerns raised, primarily from the Republican side of the aisle and the -- on the -- primarily from the Republican side of the aisle in the Senate, and they were concerns about the length of the probation, the time before expungement, whether the probation is mandatory or an option for a judge, whether the expungement is automatic or something the State's attorney can object to, clarifying the transportation issue which we talked about, the effect on your FOID Card, the effect on the right of an arrestee to possess other guns. We addressed all of those issues, in good faith, and we came to an agreement with the House, both sides of the aisle. And then we came over here and the motion to concur with the House amendment to the Senate bill went to the Rules Committee. The Rules Committee voted it out of the Rules Committee onto the Floor, and we debated that issue. We had a proposal that first-time offenders of the UUW law with clear criminal records and FOID Cards would be eligible for a type of probation that would result in a dismissal after only as little as six months and an expungement one year thereafter. And that only received twenty-nine votes. There were other proposals that were offered by different caucuses, including the Senate Republicans, and, believe me, we all looked at them very carefully. And the first question we asked when we looked at your proposals were: Is it constitutional? Now, I know a lot of nonlawyers kind of roll

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their eyes and say, "Oh, my God, why are we even bothering with this constitutional/unconstitutional stuff", but after all, that is why we're here. And there's one important thing to remember. When you make a proposal, for example, that a State's attorney can make it either a felony or a misdemeanor, and it's up to that State's attorney's discretion - that might be a great solution to get us out of here, but we looked at that and the Attorney General looked at it and said, there's a possibility or even a probability that that's unconstitutional. And here's the problem, when one of those bills is declared unconstitutional, it reverts down to a misdemeanor. So to vote for a bill that has the potential of being unconstitutional, you automatically bring it down to a misdemeanor, and any conviction while it's on the books, before it's declared unconstitutional, is then overturned and you're releasing people. So that's why, in good faith, we could not accept a bill that would revert back to being unconstitutional. As a matter of fact, I even suggested at one point, let's put in that bill that might be unconstitutional that if -- that if it's declared unconstitutional, it'll become a felony. And nobody wanted to do that. Nobody wanted to take the chance of it being declared unconstitutional and being a felony. So the fact of the matter is, we have been working today on another compromise. And I appreciate the fact that we -- that it's complicated, that it just came out of the Reference Bureau and I think we probably do need some time to look at it to explain it to your side of the aisle. I'm convinced that it's the type of compromise that we all can live with. But, for now, we apparently have run out of patience and run out of time and we're left with this -- this particular vote. And everybody knows this is a little bit of a game. There's things in here -- everything in here most people would -- would vote for and already has voted for. This -- the House is clearly not going to vote on this because they say it's

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not within the -- the Proclamation. So it's unfortunate that we've lost patience. It's unfortunate we haven't done anything. And I'll tell you one more time why it's so important. It does make a difference whether something's a felony or a misdemeanor. I agree with Senator Petka and I know that a misdemeanant can be sentenced for up to one year in jail, but they haven't been traditionally. They just haven't been. And it had a tremendous deterrent effect when, four or five years ago, we made this particular offense a felony. And it had -- it worked. We have evidence that it worked. And it's very unfortunate that we're going to be leaving here today without making this particular offense a felony with the safeguards that we built in for those people who might be trying to protect themselves who are otherwise law abiding or hunters. It's very unfortunate. I just wanted to make sure that you knew and the -- the press knew that we have been working down here. We have been trying to reach an agreement, and we are going to reach an agreement. Not in this bill. Some other bill. But it's going to happen, hopefully sooner rather than later.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Hendon.

SENATOR HENDON:

Thank you, Mr. President. I was not going to rise to speak on final passage because I said everything I wanted to say during the amendment. However, my name was mentioned in the discussion during the amendment. I wanted to clear up some things. My esteemed colleague, Senator Bobby Molaro, implied -- actually, he said that I was in support of criminals and - thank you, Mr. President - people carrying loaded guns, cocked and ready to kill somebody, on the front seat of their car. Nothing could be further from the truth, and I'm certain, since Senator Molaro has known me more than a decade, that he knows that's not what I said,

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nor what I meant or implied in any kind of way. However, I guess, since this is such a volatile issue, people will go after their friends. I'm a big boy, I can take it. And I'm sure Senator Molaro and I'll be friends after we leave here. However, I want to make it clear to my esteemed colleague that he should be a little bit careful here, since he represents a sixty-percent African-American district and he happens to be Italian. I am certain that he is not going to imply that he does not care about the fact that the majority of the people being arrested in his district are black and he received about forty percent - I looked at the numbers, Senator Molaro - of the African-American vote. So they didn't mind voting for Bobby, but maybe they didn't know that Senator Molaro would support such legislation when he knows that seventy-one percent of all those being arrested are African-American. I know he doesn't want the black people from his district to think that, and I won't -- so I -- I want to give him the opportunity to come back behind me and clear that up, because he needs to do so. In addition, I talked about, the last time, all the funerals I've been in in my district. Fourteen shot in one -- two weekends. Six funerals. I spoke at every one of 'em, my esteemed colleague. I am as tough on crime as anybody in this room, but I am against selective prosecution. I am against selective enforcement, and that is the issue that I raise and you are clear on it. You know exactly that that is the issue that I raise. In closing, let me say this, gunrunning, which is the biggest problem in my community, is in this bill that we're about to vote on. Because those black kids who were shooting at each other, they were -- fourteen years old was the average age, throwing hand grenades. None of them made those hand grenades in their basement. None of them made those -- those pistols in public housing. They were brought in. So I'm voting for this gunrunning provision and I expect and -- you to do the same. If

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you're the whip for the City of Chicago, get up and say that.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Molaro. Senator Molaro.

SENATOR MOLARO:

Well -- yes. I -- I do have a question. Senator Hendon obviously -- thank you, Mr. President. Senator Hendon obviously gets excited when he speaks, and he does that so I'm sure he's okay. Senator O'Malley usually doesn't. I want to make sure. Pat, are you okay? Just want to make sure you're all right over there. Well, obviously, it's getting a little heated. First of all, I was glad to see what I just saw. We -- for three or four days, we've -- all we've been talking about how -- said some nice things about Senator Petka and Senator Hawkinson. And everybody said some nice things. Good intentions, all of that. Maybe the people back at home don't want to see that civility anymore. Maybe they want us to go at it. Maybe they want us to -- to really take off the gloves and come up with some solution. The only point that I'm trying to make, and I'll continue to make -- 'cause if we had a court reporter, I'd read it back. I don't think I said that Senator Hendon is for people having a loaded gun cocked, ready to kill somebody. I don't know what the exact words were, but I'll -- I'll say what I did say. So -- so we can stick with this. There is no doubt that we have all tried to compromise. I'm not going to repeat the same speeches. We know the whole malarkey about guns and abortion and religion and arguing. We probably knew that ten days ago. It's probably very difficult to compromise. We all agree on 99.9 percent. 99.9 percent of us agree on ninety-nine -- percent of the Safe Neighborhood bill. However, the Governor knew that, the Attorney General knew that, when they sat down and drafted the legislation. Otherwise, they would have drafted it a different way. They drafted it to force us to deal with whether or not possession of a

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loaded firearm, a loaded gun in your car or on your person, when you're arrested should be treated as a misdemeanor or a felony. Now, I'll grant you, if the Governor wants it to be a felony, then, unfortunately, the Governor has to get thirty-six votes in this Chamber and seventy-one over there, and no matter how long he keeps us, he still has to get those votes. That certainly is true. Okay? Now, I don't want to hear what Senator Hendon just said and I don't want to hear what Senator O'Malley eloquently pointed out, that there are some great provisions in this bill. I don't want to admit that. I don't want to hear it. Unfortunately, they're right. There are some great provisions in this bill. However, they don't want to hear it, but, unfortunately, I'm right, that when we're done with this legislation, keeping a loaded handgun on your person or in your car and easily accessible remains a misdemeanor. That is a fact. It's also a fact the other provisions. So all I was trying to be -- point out is that we -- we owe it to ourselves and to the people of the State of Illinois, who think we're down here for one reason. They think we're down here -- I -- you know, I don't know what TV anybody else is watching, maybe it's part of fantasyland. Every time I watch TV it strictly doesn't talk about whether illegal aliens can get a FOID card. It doesn't talk about all the other provisions in this bill. Governor Ryan, Senator Philip, Senator Jones, all the new TV stars that this has spawned, talk about strictly one thing: Should simple possession of a handgun, loaded, be a felony or be a misdemeanor? That's what we're down here for. And all I was saying is that it's simple. You cannot have it both ways. If you want to vote for this, yes, you get some nice stuff. If you want to vote No, that stuff doesn't pass. We understand that. But we are down here by the Governor and for the people of the State of Illinois to make sure whether it should be a felony or misdemeanor, and that's what we're here to do and

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that's what this vote is about. If you vote Yes, you are making simple possession of a firearm a felony -- I mean, a -- a misdemeanor, and if you vote No, you're moving to make it a felony. Thank you.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Trotter.

SENATOR TROTTER:

Thank you very much, Mr. President, Members of this Chamber. I asked a question earlier to Senator O'Malley, which wasn't quite answered. However, I'm -- I'm not going to ask the question -- question again. But what I'm -- but, Senator Petka, you were absolutely correct, when you said we need to stop the nonsense. We also need to stop the rhetoric. We're not here because this legislation was a misdemeanor or a felony. We are here, clearly, because what we did five years ago was unconstitutional. So as long as we -- we keep on having these discussions and even talk about passing a piece of legislation that we know is nothing more than, at this point in time, feel-good legislation. Because we're going to feel good about getting out of here, we're going to feel good about going home for Christmas, feel good about being home for New Years, and then two, three months down the line, some judge is going to say, "You fools have, once again, done what I told you you had done in the first place: passed a piece of legislation that was unconstitutional." Now, are we going to be known as the do-nothing Legislature, or are we going to be the Legislature that actually came down here and resolved a problem, fixed a problem that we made in the first place? So what we need to do is look at this legislation, and let's do exactly what the Governor said. Let's keep it under that focus, under that scope in which he asked in his Proclamation, and let's not debate this bill. Let's do exactly what he said, and let's start looking at those Senate bills that he said that we only can look at under his

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Constitution and our Constitution here in the State of Illinois.

PRESIDING OFFICER: (SENATOR WATSON)

The final speaker, Senator Dillard.

SENATOR DILLARD:

...you, Mr. President, Ladies and Gentlemen of the Senate. Just want to point out a couple of things. And Senator Demuzio and other Members have inquired as to whether we fall within the Governor's call of the Special Session. As I mentioned the other day, the Attorney General, in 1972, issued an opinion number S548, where he said -- or, concluded that a Special Session may act on pending bills previously acted upon or introduced and pending in the regular Session so long as their compliance with the passage requirement and the subjects are the call of the Special Session or if the call of the Special Session specifically recites pending legislation. We are a separate and independent and equal branch of government and empowered by the Constitution to conduct our business within a constitutional and statutory framework. And providing that those requirements are met, the General Assembly may conduct its business at the will of this Body. The Third Special Session of the 81st General Assembly considered other bills not specifically enumerated in the Governor's call. So the subject matter of the bill at hand, containing the subject matter of the provisions of Public Act 88-680, does fall within the purpose of the Special Session as stated in the Governor's Proclamation. Finally, this bill is in compliance with the passage requirements as provided in the Senate Rules, the Constitution of the State of Illinois, and the Statutes, and I believe it's, therefore, properly before this Body, and I'd urge an Aye vote.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka, to close.

SENATOR PETKA:

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Thank you, Mr. President, Members of the Senate. Before I go into a very brief summary, I simply want to correct something - a misstatement of the law, an obvious misstatement of the law. Senator Molaro, I want you to listen up. Okay? You have repeatedly made reference to the fact that if there is a, quote, "loaded weapon" in the vehicle, that this -- this constitutes the offense of unlawful use of weapon. I have a surprise for you. An unloaded weapon, a non-firing weapon, a weapon that does not have a chamber capable of firing, is also a deadly weapon within the unlawful use of weapons, because - and I can tell you why I know that; because I argued the case in the Appellate Court - a weapon like that can be used as a bludgeoned -- a bludgeon, something they can whack you over the head. So don't be throwing red herrings and skunks into the woodpile, because we're not dealing with a loaded weapon. It can be, yes, but it doesn't have to be. In fact, it can be unloaded. It can be incapable of -- of killing anybody. I don't mind an honest, open debate on issues that are real, but, once again, when -- we're dealing with a misnomer, something unfortunately we in the General Assembly did which we really ought to correct. Those of you in the media have used the term unlawful use of weapons. I wish you would understand this. What we're talking about is the unlawful possession, possession of a -- of a weapon in the wrong place. Because when you take that weapon that is being possessed and then use it against another to harm or attempt to harm, that's when we have enormous penalties that kick in. Enormous. Fifteen additional years, twenty-five, and life. Please, please don't be swayed by the siren's song that a person -- that what -- that what the debate is about, and especially that the Senate Republicans have finally decided that hard-core felons should be treated as misdemeanants. You are -- you are talking to one who, from the time that I was a young boy, was taught differently. I not only talked about it, but I acted

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it out. And you can go to the Department of Corrections. I don't get a lot of Christmas cards from there. A lot of folks over there are still unhappy about the prison sentences they got when I was State's attorney. But more than that, I still have members in my own family in law enforcement as -- there's nephews who serve on police departments. So I'm not going to jeopardize their life because of a provision that we have a legitimate, bona fide difference of opinion. But unless we get down to the business that we were called to get down to business about, and that is to enhance the penalties that the Supreme Court lowered as a result of a violation of our Constitution, at least in their opinion. The business at hand is to enhance the penalties of literally sixty different statutes, most of them dealing with firearms. So let your heart not be troubled, folks. Let's do the right thing. You know, it's Christmastime. Let's do the right thing for -- for once. Let's do the right thing, pass this bill out, send it over to the House. Maybe, just maybe, they, for once in a long time, will do the right thing. And we will truly, truly have to -- can talk to our folks back home and say, "You know what? We did what you asked us to do. We did it in a way that we didn't compromise ourself. We didn't compromise the integrity of the people of this State." And to all, please vote Aye.

PRESIDING OFFICER: (SENATOR WATSON)

The question is, shall House Bill 2610 pass. Those in favor will vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 33 voting Yes, 3 voting No, 21 voting Present. House Bill 2610, having not received the required three-fifths majority, is declared failed. Before all of you start milling around and we lose control here, I want to make an announcement that's very important. The intent of the Chair is

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to adjourn for three days, pursuant to constitutional provisions. When the Senate convenes on Friday and thereafter, shall be in a perfunctory -- a perfunctory Session, unless otherwise noted with proper notification to the Members. Is there any further business to come before the Senate? If not, Senator Dudycz moves that the Special Session stand adjourned until 9 a.m., Friday, December 24th, 1999.

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