ALBANY, NEW YORK

March 25, 1993

12:10 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order. Senators will find their seats. If you will please rise with me for the Pledge of Allegiance to the Flag.

(Whereupon, the Senate joined in the Pledge of Allegiance to the Flag.)

Today, we are pleased to have with us the Reverend Dr. Robert Hess of the Delmar Reformed Church of Delmar, New York, for the opening prayer.

Reverend Hess.

THE REVEREND DOCTOR ROBERT HESS: Thank you. Let's unite in prayer together.

Great God, lover of justice. You watch over the ways of all people. Continue to urge this great body not to forget people You remember.

You are with us in the search for economic justice. It is not Your will that some should eat well, while others go hungry. May all of us see that in the long term it is in our interests to see that people prosper.

Save us from reaping short-term advantages at the expense of a future generation's peace.

Keep us from condemning the weakness of others; keep us from turning our backs on the appearance of others, so that we may be enablers that those others may find their way again.

You are with us in the search for truth. Help us to be honest and not mislead the public. When we live too much with compromise, we fail to use what we know to create what we ought to be.

You are with us in our search for community. A divided society is not Your will. May our laws be just to all groups. Move us to be peace makers.

From all of us, Jewish servants, who know you so well as the God of Abraham and Sarah, and Christian servants, who pray in the name of Jesus Christ, we are all bound in one family to serve Your purpose.

Amen.

ACTING PRESIDENT FARLEY: The Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Wednesday, March 24. The Senate met pursuant to adjournment. Senator Farley in the chair upon designation of the Temporary President. Prayer by Rabbi Butman, Director of the Lubavitch Youth Organization of Brooklyn. The Journal of Tuesday, March 23, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as read.

The order of business:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Maltese.

SENATOR MALTESE: Mr. President. I would like to offer up a resolution and ask that its title be read.

ACTING PRESIDENT FARLEY: Secretary will read the title to Senator Maltese's resolution.

THE SECRETARY: Legislative Resolution, by Senator Maltese and others, commemorating the 82nd anniversary of the Triangle Shirtwaist Factory fire on Thursday, March 25, 1993, and acknowledging the International Ladies Garment Workers Union effort to make American working conditions the safest in the world.

ACTING PRESIDENT FARLEY: Senator Maltese.

SENATOR MALTESE: Mr. President. The resolution is open to all Senators and would be open at the desk.

I speak on this resolution now as I have in prior years because of its importance. The recent World Trade Center explosion and some of the related occurrences

and situations loading up to it make it even more urgent that many of the problems that existed on that Saturday, March 25, 1911, are still with us.

Mr. President. As we go through our average working day, many of us bemoan the fates and crab about some of the things that trouble us. We do not think back often enough to the days of our immigrant parents and grand parents and the trials and tribulations that they suffered upon their recent arrivals.

That Saturday evening was a regular work evening for many of the people in the Lower East Side and the general Greenwich Village and Washington Square area. The workday, as it did in most days, started very early in the morning and ended just about dusk.

Most of the immigrants that worked in that factory were Italian and Jewish from Russia and from the general Germany and Poland area of Europe. The people lived in cold water flats with little heat, a little electricity. The advent of indoor plumbing was

not with us at that time.

Most of the families were very large. And as evident from the people who worked in that fire -- in that factory, they started, many of them, at 13, 14 and 15, and it was regarded as a big advantage to be able to get your daughters and your wives and your nieces -- and it was predominantly women.

On that tragic Saturday when 147 people perished, the majority of the persons that perished and were there -- almost 600 in number -- were women. Many of them were family units, two, three and even four from one family.

And, Mr. President, nobody knows how the fire started, but the working conditions were abysmal. The place was crowded. And as indicated by the name of the factory, the Triangle Shirtwaist Factory, they made shirt waists which were one of the first manufactured garments worn by the new women of the day and popularized by Charles Dana Gibson as the so-called "Gibson girl." It's ironic that these

sweatshop conditions existed at a time when the Gibson girl was the popular girl of playing golf and tennis and kind of an aristocratic, elite type of new woman.

On that tragic day, a fire burst out and it quickly spread to the shirtwaists and the material and all the accoutrements of a very crowded, sloppily run shirtwaist factory. Sprinklers were non-existent in the factory, although they were required in other areas. The factory owners of the day had only three weeks prior turned down the installation of sprinklers.

In addition, because the owners were troubled by pilferage, some of the fire exits were locked so that employees could not exit. The employees were working predominantly on the eighth, ninth and tenth floor. Unfortunately, the fire ladders of the day could only reach to the sixth floor. When the alarm sounded, mainly by word of mouth, most of the employees on the other floors managed to escape, including the executive employees who went over

the roof from the tenth floor. The majority of the employees trapped were trapped on the ninth floor.

Mr. President. I pray the indulgence of the body to simply refer to the paragraphs of the resolution.

Nobody told the ninth floor. By the time they knew, they were caught between the fires above and below. Some ran for the elevators, others for the doors to the stairs. One set of doors was locked. The doors to the other stairway opened inward and, at first, the crush made it impossible to open them. Soon the stairs were cut off by the fire.

The elevator operators did their best, each making seven or eight trips through the smoke and flames. But as the fire grew, it forced one after another of the waiting crowd to leap into the open shaft until finally the elevators could not rise because they were jammed by bodies.

And, whereas the rest of the ninth floor workers were forced to the windows,

they stood on the ledges as long as they could waiting for the fire ladders, but the City's longest ladders reached only to the sixth floor, and the fire reached out to the windows after them.

Mr. President. Like many immigrants on the Lower East Side, my grandfather Serphino had immigrated to the Lower East Side. And his wife, 38 years of age, was in that fire as were her two daughters Rosalia and Lucia.

The Lower East Side and the surrounding areas were decimated. Even in my youth, many years later, the elderly men and women would speak of the fire, and many of the women, as was the custom of the '30s and '40s, were still dressed in black from that fire.

As I said earlier, as we complain about some of the troubles that we go through, we should think back of the sacrifices of those early immigrants. The diseases, the scourges, that took so many of them that I remember as a young man, scarlet fever, diphtheria, TB,

whooping cough, all that took youngsters and took young babies.

This fire was a tragic occurrence. It took many of the young women from the neighborhood. We can think of these families like my grandfather's family with two young sons that in the morning had a wife and two sisters and by evening no longer had a family, of the months afterwards that it took the surviving relatives to identify the bodies by pieces of jewelry.

Mr. President. Some of those conditions were corrected by sweeping labor laws and sweeping fire laws. The Triangle fire should be remembered. Its victims should be remembered. But we should remember them even more importantly by revising and taking care that such a tragedy could not occur again.

Mr. President, I recommend the adoption of this resolution.

ACTING PRESIDENT FARLEY: Senator Leichter on the resolution.

SENATOR LEICHTER: Mr.

President. I did not know this resolution was going to be on, and I came in and heard the very moving statements by my good friend Senator Maltese and to bring to our mind a very important historical and very shocking event that occurred in New York.

I just wanted to add one thing to it, Senator Maltese, and that is, as you and I know and I think as most people in this chamber know, we have sweatshops right now. And it shocked me some years ago when I went and noticed in my district, which was then northern Manhattan, signs up for sewing operators. And I was interested. I saw so many of these.

So I went into one of these places. One was on the second floor of a taxpayer and another one was in a superintendent's apartment and I realized the sweatshops were back. And I did some studies - this was in 1982-1983 -- issued a report that showed that there are probably more persons working under sweatshop conditions now, or at least then, than there were when the shirtwaist

fire occurred.

I do want to acknowledge that some action has been taken by the Legislature. I think the Department of Labor has recently done a good job in inspecting these premises, but let's be aware that we still have that problem. Some 70 or 80 years I guess since this great tragedy occurred, a similar tragedy could occur. So it's not just enough to recognize what occurred and to honor those who lost their lives but also to understand that we have a responsibility to see that these conditions which exist now are eliminated.

So thanks you very much, Senator Maltese, for that resolution.

ACTING PRESIDENT FARLEY: On the resolution. All those in favor, say aye.

((Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Maltese has indicated that resolution is open to anybody who wishes to

sponsor it, so please let the desk know. Senators Ohrenstein, Padavan, Markowitz, Leichter, Marchi, DeFrancisco, Pataki, Solomon, Trunzo.

Senator Present.

SENATOR PRESENT: Mr. President. Would you recognize Senator Marchi, please, and then following that, Senator Mega.

ACTING PRESIDENT FARLEY: Senator Marchi and then Senator Mega.

Senator Marchi.

SENATOR MARCHI: Mr. President. There is a resolution at the desk. I request that it be read in its entirety, and I will speak briefly to it.

ACTING PRESIDENT FARLEY: Secretary will read Senator Marchi's resolution in its entirety.

THE SECRETARY: Legislative Resolution Number 833, by Senators Marchi and Espada, honoring the memory of police officer Luis Lopez of Staten Island, who was killed while on duty as an undercover narcotics

officer.

Whereas, this legislative body has learned with sorrow of the death on Wednesday, March 10, 1993, of Luis Lopez, 35, of Staten Island, a much decorated undercover narcotics officer who was killed, investigators said, during the course of an effort to catch suspected drug dealers in the act of selling ten pounds of marijuana.

Luis Lopez was an extraordinary police professional who brought to his work a fierce determination to curb the havoc wrought upon his community by illegal drug sales.

Officer Lopez, up to and including the moment of his death at the hands of a gunman during a buy and bust operation in East Village of Manhattan, had pursued one of the most distinguished careers in police annals.

His tragic passing made him the first New York City police officer killed in the line of duty in 1993.

Officer Lopez earned numerous commendations and awards from his superiors

during his eight-year tenure with the police department. Community Board 1 of Staten Island named him "police rookie of the year" for his successful struggles against drug dealers. The Staten Island Advance designated him "Advance police officer of the month" in 1989, and the Staten Island Chamber of Commerce named him the chamber's officer of the year the same year.

Officer Lopez' performance won him assignment in 1989 to the elite Organized Crime Control Bureau's Manhattan South Narcotics Unit.

This outstanding policeman earned a reputation as one who could speak effectively to young people about drugs and crime and one who knew virtually all of the young persons in the many crime-ridden neighborhoods.

In a profession and police force in which extreme bravery is routine, Mr. Lopez enjoyed a reputation for uncommon valor, repeatedly entering neighborhoods and locations brimming with danger. Pursuing suspected drug dealers fleeing apprehension in automobiles down

darkened streets, closing in on armed men believed to be trafficking in illegal narcotics, Officer Lopez well exemplified Ernest Hemingway's definition of living life all the way up, practicing his perilous profession with courage and grace.

He was a model familyman who was blessed with the love and support of his wife Nellie and their two children Luis, Jr., 14 and Tina 13, to whom the hearts and prayers of all decent New Yorkers go in overflowing measure.

Because it is the custom of this legislative body to pay tribute to the individuals who perform extraordinary services in behalf of the common good of the people of this state and because the life of Officer Luis Lopez is more than worthy of official state recognition; now therefore be it.

Resolved, that this legislative body pause in its deliberations and reflect on the immeasurable good done by this peerless police professional and declare its profound thanks for his contributions and those of all

men and women who battle daily against the depraved individuals who commit crimes against society, especially those who prey on young people and all others vulnerable to addiction or already trapped in the horror of drug dependency; and be it further

Resolved, that the life and records of Police Officer Luis Lopez cut short by the killer's bullets while he was in the line of duty be forever recalled and appreciated by the people of New York State; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to Mrs. Lopez and the two Lopez children.

ACTING PRESIDENT FARLEY: Senator Marchi on the resolution.

SENATOR MARCHI: Mr. President. Our agenda of privileged resolutions have touched on -- this is the second inflicted wound, self-inflicted wound that people have suffered. And I speak of the many victims of the insidious effects of drugs and their presence on the streets and the availability of

them, and then we have this fine young police officer who has been defined as an individual with uncommon valor, receiving numerous citations in recognition for the service he rendered within a relatively brief period, eight years.

Within eight years, this man had done so much, and then he laid down his life. Whether that is an act that was made in vain, we know that it was not in vain. But it also needs to be recognized as we approach the problem not in response to laying down our lives necessarily but where we can be effective in this war on drugs.

We have been discussing this across the chamber on prevention programs, on their availability to the harsh disciplines of restricted revenues, of creating a better climate, exhorting a greater sense of values, all of these factors give us an opportunity to enrich and to respond to the giving and sacrificing of a life in the defense of values that no reasonable person can possibly argue

with.

So this young man was only with us in the service of law enforcement for a brief period, eight years and, as the resolution pointed out, leaving a family, a loving wife Nellie, and two children, young children, at a very tender age with this grief and our response, which I am certain is natural, inevitable and heartfelt, our expression of condolences to Nellie Lopez and her family.

So that we can in our future deliberations, hopefully, do as much as we can to give added meaning to the sacrifice that this exemplary hero offered, and that he not only served it by laying down his life against those who would raise a clenched fist against the well-being pf children and people that live in our city but also in providing a generating force for the enrichment of lives in that city by the example that he set for all of us.

Mr. President, I move the resolution.

ACTING PRESIDENT FARLEY: On the

resolution. All those in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Mega.

SENATOR GALIBER: Is the resolution open for others?

ACTING PRESIDENT FARLEY: Senator Marchi.

SENATOR MARCHI: It most certainly is.

ACTING PRESIDENT FARLEY: Would you raise your hand.

SENATOR MARCHI: And I was focusing on the content, but Senators Espada and Mega have joined me, and certainly we would welcome any names that wish to be added to the resolution.

SENATOR MEGA: Mr. President. On the resolution.

ACTING PRESIDENT FARLEY: On the resolution. I'm sorry, Senator Mega.

SENATOR MEGA: Yes. I wasn't going to speak to the resolution. Senator Marchi did such an outstanding job. But I think it might be the right thing to do as far as this house is concerned if every member was placed on that resolution so that the wife and the two children could see that as a body we're supportive of the contents.

ACTING PRESIDENT FARLEY: That is up to the acting Majority Leader and the Minority Leader.

SENATOR GOLD: No problem.

SENATOR PRESENT: Fine.

ACTING PRESIDENT FARLEY: We don't normally do that but, unless there is any objection, if there is somebody who does not want to be on it, you are going to have to approach the desk, otherwise all members of the Legislature will be on that resolution.

Senator Mega, did you have another motion or something?

SENATOR MEGA: Yes. To the mundane business of the house. On behalf of the

sponsor, Senator Johnson, place a sponsor star on Calendar Number 249.

On behalf of Senator Skelos, Calendar Number 125, Senate Print 1984, please place a sponsor's star.

Thank you.

ACTING PRESIDENT FARLEY: Without objection.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Unfortunately, I was not in the house yesterday at session during the time that there was a vote taken on Calendar Number 233. I was at a hearing, and I could not get away. But had I been in the house, I would have voted no on that. I would like the record to show.

ACTING PRESIDENT FARLEY: The record will so show that that would be the case.

Senator Markowitz.

SENATOR MARKOWITZ: Yes. I, too, would -- had I been here -- which I was here, but as you know, it was a very busy afternoon and we didn't exactly start on time, of

course -- I would have voted in the negative on Calendar Number 233, Senate 1843. Definitely would have voted in the negative.

ACTING PRESIDENT FARLEY: Senator Markowitz if he had been here, as he was here, would have voted no. The record so indicates.

We have a Senator Paterson resolution, Senator Present. Is it all right to adopt that?

SENATOR PRESENT: Can we take that up later when Senator Paterson is here?

ACTING PRESIDENT FARLEY: O.K.

SENATOR PRESENT: I think only in fairness to him.

ACTING PRESIDENT FARLEY: O.K.

SENATOR PRESENT: So let's proceed with the non-controversial calendar.

ACTING PRESIDENT FARLEY: Non-controversial.

THE SECRETARY: On page 21, Calendar Number 212, by Senator Larkin, Senate Bill Number 2150, an act to amend the Social Services Law, requiring operators of homeless

facilities to conduct outstanding warrant checks.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 235.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 236, by Senator Volker, Senate Bill Number 2420, an act to amend the Penal Law, in relation to aggravated assault upon a police officer.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The

bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Volker, Senate Bill Number -

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 238, by Senator Tully.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside. For the day, did you say?

SENATOR PRESENT: Yes.

ACTING PRESIDENT FARLEY: For the day.

THE SECRETARY: Calendar Number 24, by Senator Skelos, Senate Bill Number 29B, an act to amend the Penal Law, in relation to carjacking.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Withdraw the roll call. Lay it aside.

THE SECRETARY: Calendar Number

243, by Senator Trunzo, Senate Bill Number 1767, civil service law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 244, by Senator Trunzo, Senate Bill Number 2964, Retirement and Social Security Law, in relation to salary reductions.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56. Nays 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 245, by Senator Trunzo, Senate Bill Number 3512, an act to amend the Civil Service Law, in relation to providing civil service status to -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 246, by Senator Trunzo, Senate Bill Number 3520, Education Law, in relation to orders made in matrimonial and support actions.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 247, by Senator Stafford, Senate Bill Number 437, Environmental Conservation Law.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 248, by Senator Daly, Senate Bill Number 1095, Environmental Conservation Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 250, by member of the Assembly Connelly, Assembly Bill Number 3778, an act to amend Chapter 395 of the Laws of 1978, relating to moratoriums on the issuance of certificates of environmental safety.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 251, by Senator Cook.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 252, by Senator Trunzo, Senate Bill Number 2558, Environmental Conservation Law, in relation to used oil disposal kits.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 253, by Senator Trunzo, Senate Bill Number 2563, repeal certain provisions of the Environmental Conservation Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 254, by Senator Cook, Senate Bill Number 3271A, Environmental Conservation Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 255, by Senator Johnson.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay the bill aside.

THE SECRETARY: Calendar Number 256, by Senator Present, Senate Bill Number 2108, Insurance Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay the bill aside.

THE SECRETARY: Calendar Number 261, by Senator Velella, Senate Bill Number 3156, an acted to amend the Insurance Law.

SENATOR GOLD: Lay it aside for Senator Solomon, please.

ACTING PRESIDENT FARLEY: Lay it

aside.

THE SECRETARY: Calendar Number 263, by Senator Hannon, Senate Bill Number 3420, amend Chapter 915 of the Laws of 1982, amending the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present, that's the first time through.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: May we take up Senator Paterson's resolution at this time?

ACTING PRESIDENT FARLEY: Senator

Paterson's resolution. Would the Secretary read the title.

Senator Present, could we lay it aside for a moment. The desk needs to get - it's not quite ready yet. It's coming right back in a moment, and I see Senator Paterson on the scene.

SENATOR PRESENT: Let's go to the controversial calendar, and we'll pick it up.

ACTING PRESIDENT FARLEY: Thank you. We can return to that. Controversial -

We have the resolution. Senator Paterson's resolution. Would you read the title please.

THE SECRETARY: Legislative Resolution, by Senator Paterson, commemorating the 100th Anniversary of St. Paul Baptist Church of Harlem, New York, to be celebrated on Sunday, March 28th, 1993.

ACTING PRESIDENT FARLEY: On the resolution, all those in favor, aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

Senator Paterson's resolution is adopted.

Controversial.

THE SECRETARY: On page 21, Calendar Number 212, by Senator Larkin, Senate Bill Number 2150, an act to amend the Social Services Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Larkin.

SENATOR LARKIN: Mr. President. This bill was introduced at the request of our communities that surround Camp LaGuardia. Camp LaGuardia is a shelter for men from New York City that's been active for a number of years. It normally had a capacity of 1,051. And up until about three years ago, there were never more than 500 people at the camp.

At that time, the average age of the person at the camp was in the mid-50s. The last three years, the age of the individuals arriving at the camp is between 28 and 32. This

new influx of individuals we have found are nothing more than troublemakers. They are a nuisance to the camp and a nuisance to the surrounding communities.

We have worked very hard with the city of New York Human Resource Administration to ask them to provide criminal checks before the individuals are sent to Camp LaGuardia. They have been saying for a year and a half that they were going to start something. They have not, and they have failed to do it.

Constantly, our courts in the towns of -- Chester, the village of Chester, the village of Washingtonville, village of Blooming Grove, town and village of Monroe, their courts are clogged with individuals from Camp LaGuardia.

During the period July '89 to April of '90, 64 residents were found to have outstanding warrants against them of crimes that ranged from murder/rape to armed robbery. We have a litany of the crimes of these individuals. We have tried our best to have a

working agreement with the Human Resource Administration. And their answers are continually, "We're going to work on it."

Just yesterday, there was a raid at the camp by State Police and New York City police. I would like to read a part of it for you, Senator Gold.

They arrested seven individuals yesterday for outstanding warrants for armed robbery, attempted murder, drugs. Some of these individuals had an arrest record, according to the State Police, as long as your arm. The city of New York Police Department doesn't object to making the checks. The State Police feel for the safety of the area that they should be done.

We are only asking for normal protection for the individuals in our community. The community is alerted. They have gone to the court to give the Callahan-Carey consent and ask for relief. There were 1300 signatures sent to Judge Schuyler, who is now looking at it. We feel that our people that

surround the community, the community that surrounds the camp, should be afforded the same safety and protection that any other area is entitled to.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yes. Will Senator yield to a question?

SENATOR LARKIN: Yes, Senator.

SENATOR GOLD: Senator, you said that yesterday there was a raid and they were able to apprehend seven people who had warrants against them.

SENATOR LARKIN: Yes, sir.

SENATOR GOLD: I take it they were able to do that legally and without this legislation. Is that correct?

SENATOR LARKIN: It was initiated by the city of New York, finally, sir. It's a one-time incident.

SENATOR GOLD: But, Senator - Mr. President. Senator, I gather they did it legally, and they did it without this

legislation. Isn't that correct?

SENATOR LARKIN: Yes, Senator. But my answer to you also has to be followed up with why should we be involving the local State Police to make a raid on a camp? Had these individuals been checked before they were sent to Camp LaGuardia, we wouldn't have this dual action of bringing New York City police officers all the way from New York City, 75 miles up the road, to enjoin with the State Police.

As a matter of fact, the captain of the State Police said it would be easier for all around if the City had arrested the individuals before they came to camp.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: I would just like to point out to the members that there is a memorandum in opposition from the New York State Catholic Conference. And if I could just read the one short paragraph, I think it's very clear as to the basis of their opposition.

"The New York State Catholic Conference considers this legislation ill advised since this stigmatizes homeless families and individuals as potential criminals requiring outstanding warrantships. Homelessness is a serious problem in our state. It disrupts the lives of thousands of our fellow citizens.

"The experience of homelessness is devastating enough by the loss of self-esteem, loss of privacy, and significant obstacles it presents to full participation in our society. To add the insinuation of criminality to homelessness, undermines respect for the human dignity of those who find themselves homeless."

On that basis, they ask that it be defeated.

ACTING PRESIDENT FARLEY: Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President. My colleagues.

Would Senator Larkin yield to a question?

ACTING PRESIDENT FARLEY: Senator Larkin.

SENATOR LARKIN: Yes.

SENATOR WALDON: Senator, can you tell us the percentage of women who are heads of households who are amongst the homeless?

SENATOR LARKIN: Mr. President. I can't hear him.

SENATOR WALDON: Senator, can you tell us the percentage -

SENATOR LARKIN: Not you. All these other people.

ACTING PRESIDENT FARLEY: Senator Waldon. Apparently there's too many conversations going on in the chamber, and I would ask that you please hold your conversations outside the chamber.

Senator Waldon, you have the floor.

SENATOR WALDON: Thank you very much, Mr. President. Senator Larkin, can you please tell us the percentage of women who are heads of households who are amongst the

homeless?

SENATOR LARKIN: No, this is a men's shelter.

SENATOR WALDON: This bill only applies to men?

SENATOR LARKIN: This shelter that we're referring this matter to.

I don't know how many in the New York City shelters are women. No, I don't. We're informed that there are 7,000 people in the shelters of New York City. One-seventh of them are in Orange County at Camp LaGuardia.

SENATOR WALDON: My question again, sir -- Mr. President, if I may -- is what percentage of women who are single parent heads of households are amongst the homeless?

SENATOR LARKIN: I don't know.

SENATOR WALDON: Let me state, then, Mr. President, if I may continue.

ACTING PRESIDENT FARLEY: Yes.

SENATOR WALDON: It is my understanding that the overwhelming majority are women. Would your bill apply to women equally

as it does to men?

SENATOR LARKIN: Senator Waldon, the bill is very clear that this pertains to a check before individuals are sent to a shelter. It originally was designed for only our facility at Camp LaGuardia. But after listening to other people, the bill was written broadly enough to cover everything.

We are not only talking about the safety of the individuals that live around the camp. We are talking about the safety and security of people in the shelter. We don't want women in those shelters to be abused nor do we want men who are in those shelters to be abused.

The specific point that I cited which was the basis of our legislation was the tremendous problem we're having in Orange County.

ACTING PRESIDENT FARLEY: Senator Waldon.

SENATOR WALDON: Thank you, Senator Larkin.

If I may, Mr. President, is it appropriate now to speak on the bill?

ACTING PRESIDENT FARLEY: Certainly.

SENATOR WALDON: Thank you.

ACTING PRESIDENT FARLEY: You have the floor.

SENATOR WALDON: Senator Larkin, the point that I was trying to elicit from you which would help us in our deliberations is that this bill would disparately impact women, women who are mother, single parent, heads of household, and children, simply because it stigmatizes them because they must first submit to this search which would, in a financial sense, burden the state, but would further discriminate against them.

And it is my understanding from visiting the shelters, Senator Larkin and my colleagues, that no one really wants to be there. It is not a choice situation. They have no other choice.

And I think for those who are on

the lowest rung of the ladder, who are looped together and locked together as the dregs of society, to drag them through this other screening process is unnecessary and is a waste of governmental time and governmental money.

And based upon that, I would encourage all of my colleagues to vote in the negative on this issue.

ACTING PRESIDENT FARLEY: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm very distressed about this, also. I can relate what occurs in my county as far as the numbers that were requested. The number of women and children that are homeless in the county of Westchester are about 75 percent of our homeless population. We have tried very hard to work with the homeless population and have made great gains, I would say. We are doing our utmost to help them become self-sufficient, and they are very, very receptive.

I feel this population certainly, were they able, would find the housing and pay

the rent and be delighted. This population needs to be supported through education, through job training, through skills development. They do not need to be maligned, and I'm very much opposed to this bill.

ACTING PRESIDENT FARLEY: I got Senator Leichter, then Padavan, and then Dollinger. I'm going to start getting a list here, I think.

SENATOR LEICHTER: Mr. President. I am really amazed to find a bill like that. It is one of the most mean-spirited bills that I have seen in many a year. Narrow minded. It displays the hostility that people who live in areas where maybe they are not always brought in touch with some of the problems that exist in our society, and then to dump in this way upon the people who are really the most unfortunate in our society that we ought to have some compassion for and to have this sort of a bill -- this is the sort of a bill you would expect in a police state.

It probably would be

unconstitutional. What basis is there, saying if you're homeless, you are going to be subject to this sort of a check? Also, the bill doesn't work. I mean it makes no sense. Do you know who comes to these homeless shelters comes at 10:00 o'clock at night. Are you going to run a police check on them and say, "No, until we get that police check back in 48 hours or 72 hours, you stay out in the cold, you and your children."

I mean really, what are we about? I would like to see you put up a bill, Senator Larkin, that deals with homelessness instead of putting out a bill that stigmatizes them, that places this sort of a burden that is so contrary to the principles of our country.

I know you get up and you are wonderful on bills for the flag. How about bills that deal with the basic American principles. That, I think, would be maybe a better test of a commitment to the principles of our country.

I'm sorry to be so harsh, but I

think it's a mean-spirited bill. And if Camp LaGuardia is a problem -- and let me say, some of these homeless shelters are problems. There is no question about it. They can burden a community. We ought to deal with that.

I know that many of these people come from the city of New York, which, by the way, is still part of the state of New York, Senator Larkin, and probably provides a great deal of more tax revenue to the state than the district you represent.

But, yes, we have an obligation to your community to work with you to try to deal with that. I acknowledge that, but don't do it in this fashion and impose this impossible burden in an effort to try to provide shelter for homeless people.

ACTING PRESIDENT FARLEY: All right. We have Senator Padavan next.

SENATOR PADAVAN: Thank you, Mr. President.

I think there is an aspect of this bill that might cause, Senator Leichter,

you to reflect about your statement about it being mean spirited, if you give it some thought.

First, the way I read the bill, there is nothing in here that says that you can't admit a family or an individual. It simply says, upon admission, there must be some kind of a check that relates to an outstanding warrant.

When I read the reports, some of them done by organizations, some of them done by the City, some of them done by advocates and some of them in our daily newspapers, about workers going out in the train stations, into our parks, on our streets, in the middle of the night, in the middle of the winter, trying to coax people to come into a shelter so they don't freeze to death, or whatever may happen to them, out of the subways, and so on, and one of the things I hear and read most frequently as the reason these poor and certainly in-need individuals give for not wanting to go to the shelter is because they are afraid.

They say very directly, by going to that shelter, I'm going to get knifed in the middle of the night. I'm going to have my personal belongings stolen. There's drugs being sold and all kinds of things.

Now, obviously, that problem varies from shelter to shelter. Some are run very well. Some are overcrowded, or for other reasons, they are not run well. But I'm simply suggesting to you that you give some thought to the fact that individuals in the shelter are entitled to the same kind of oversight protection as people outside the shelter.

And if I were one of those unfortunate people, I would be comforted by the fact that I'm being brought or I'm going to a place where some reasonable effort has been expended to insure that the guy in the bunk next to me doesn't have a warrant out for him for some serious crime of violence.

Now, I don't think that's mean spirited. I think it's a very practical fact, and I would urge that, you know, we consider

that aspect of what this bill provides.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold, why do you rise?

SENATOR GOLD: Will the Senator yield to a question?

ACTING PRESIDENT FARLEY: Senator Padavan, will you yield?

SENATOR PADAVAN: Yes.

SENATOR GOLD: Senator, does the New York State Catholic Conference or any of the subdivisions of the Catholic Church run any of these homes?

SENATOR PADAVAN: Senator, I'm sure they do. I know they do. The fact remains that they don't run all of them.

SENATOR GOLD: Will the Senator-

SENATOR PADAVAN: Let me just answer your question more fully.

SENATOR GOLD: Surely.

SENATOR PADAVAN: I have a great deal of respect for the Catholic Conference, and I certainly have a great deal of empathy for the

words contained in that memorandum that you shared with us.

But at the same time, I have a great deal of concern for the homeless, many of whom are disabled. At least a third are mentally ill. The committee I chaired put out a report in 1985 called, "Shelters: Sanctuaries of Neglect," and in that report we cited conditions that still exist today; the fact that many of the occupants of these shelters are not receiving proper services, which I acknowledge has already been said, are being imposed upon and, in a sense, threatened by the environment in which they exist. So I'm fully aware of all aspects of the shelter issue.

But I repeat again, with all due respect to the Catholic Conference, I think the occupants of those shelters are entitled to some kind of feeling of security, so they will come in out of the cold and not feel endangered while they are doing so.

SENATOR GOLD: Mr. President. Will the Senator yield to another question?

SENATOR PADAVAN: Sure.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR GOLD: Senator, do you believe that the Catholic Conference or the subdivisions that run these homes share a concern for the safety of the people that they are taking into these shelters and the people that they are urging to come off the streets and live in these homes?

SENATOR PADAVAN: I would state very categorically that all sponsors, particularly voluntary, who provide shelters - some of them in church basements, some of them in armories and wherever they may be -- share the concerns that that memorandum embodies.

But it doesn't -- it doesn't belie the simple fact that criminal activities have gone on in those shelters. We read about them all the time, and they are not activities of a criminal nature conducted by people from outside the shelters. They are people inside the shelters, and they vary.

There are some shelters where they have absolutely no problems at all and some where there are serious problems. And again, I repeat, I share the concerns expressed here. No one wants to stigmatize anybody. No one wants to make a misery even more miserable in any fashion. At the same time, I think these people, these individuals, are entitled to some kind of security. And this bill helps to accomplish that fact.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Will the sponsor yield to one question?

ACTING PRESIDENT FARLEY: Senator Larkin, will you yield to Senator Dollinger?

SENATOR LARKIN: Yes.

SENATOR DOLLINGER: As I understand this, this will apply to any homeless project receiving financial assistance pursuant to this article. My question is, what facilities get assistance pursuant to article,

whatever that is, of the Social Service law?

What I'm simply trying to do is find out what the scope of this bill is. Is it meant to apply to every homeless shelter in New York State, simply those in New York City, or simply those funded through a particular grant?

SENATOR LARKIN: Senator, it's going to pertain to anyone that receives assistance, as spelled out right here. We originally tried to get it to just one specific area. And the partners on the other side - homeless shelters operators said, from the City, that why should they be the lone people being under the watch. Everybody should be. That's why you have everybody included in here.

SENATOR DOLLINGER: Again, will my colleague yield to one other question, Mr. President?

SENATOR LARKIN: Yes.

SENATOR DOLLINGER: So as I understand it, it would apply to any homeless shelter in New York State? That's the intent of the bill?

SENATOR LARKIN: Let me read you the purpose. This change would mandate that the city of New York do a warrant check on any person who requests to be placed in a homeless shelter owned by the city of New York and notify the local law enforcement agency of the whereabouts of the applicant if an outstanding warrant exists.

SENATOR DOLLINGER: Okay. I'm just trying to understand. Does it apply to the city of Rochester or -

SENATOR LARKIN: City of New York.

SENATOR DOLLINGER: -- just the city of New York?

SENATOR LARKIN: City of New York.

SENATOR DOLLINGER: Only to the city of New York?

SENATOR LARKIN: Exactly what I just read, Senator.

SENATOR DOLLINGER: Okay. Mr. President, if I can be heard.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: If I can be heard on the bill.

ACTING PRESIDENT FARLEY: On the bill.

SENATOR DOLLINGER: Senator Leichter has stolen, frankly, a portion of what I wanted to talk about. I think there has been an interesting debate about the psychology of the homeless. I'm not sure what the psychology of the homeless is, whether they would visit a shelter more with this protection in place or not.

But I'm not so sure, based on Senator Padavan's comments, that anyone who is in the shelter business has come up to us and said that they want this bill. I interpret the Catholic Conference that is in the shelter business as saying that they don't want this bill because of the detrimental impact it would have on the homeless shelter system.

And with all due respect to the

proponent, I agree with my colleague Senator Leichter. What we're doing is taking homeless shelters and turning them into arrest centers. And I oppose the bill.

ACTING PRESIDENT FARLEY: Senator Smith.

SENATOR SMITH: Thank you, Mr. President. I don't know if any of my colleagues have had the opportunity to visit a homeless shelter.

Prior to coming to the Senate about five years ago, I served on something that's called a community planning board and chair of a social services committee. And one of the responsibilities was to also chair an advisory committee for our local shelter, which now happens to be in Senator Santiago's district.

People come in, as Senator Leichter said, 10:00, 11:00, 12:00 o'clock at night. They are bussed in at all hours. This bill is virtually impossible to enact.

What concerns me even more

greatly is the people in the shelter are not always the criminals. Sometimes the streets that they have to walk through and the families that surround them can be more of a criminal than those people, by the racial slurs and the taunting and the throwing of eggs and apples and anything else that's available to them at these people only because they're homeless.

Maybe we need to deal with human behavior rather than always taking the other view of burdening those who have even less. It's not oftentimes that I agree with Senator Leichter, and I'm not mean spirited.

SENATOR LARKIN: Neither am I.

SENATOR SMITH: However, in this instance, I think his comments were very accurate, and I encourage all of my colleagues to please vote against this bill.

And I'm also greatly concerned, Senator, since you are not from the city of New York that you take it upon yourself to write bills that dictate to the city of New York.

ACTING PRESIDENT FARLEY: Senator

Connor.

SENATOR CONNOR: Thank you, Mr. President. Will Senator Larkin yield to a question?

ACTING PRESIDENT FARLEY: Senator Larkin, are you still yielding?

SENATOR LARKIN: Yes, Senator.

SENATOR CONNOR: Thank you, Senator. Senator, as I read the bill, it seems to apply to any facility that gets social services money anywhere in the state. The sponsor's memo talks about New York City.

Is it possible that in that revision you referred to at the insistence of the other side where you made the bill apply to the whole statewide social services that you didn't change the sponsor's memo, and it doesn't just apply to New York City?

SENATOR LARKIN: The bill is statewide, like I said.

SENATOR CONNOR: The bill is statewide. The sponsor's memo says the City.

Senator yield to another

question?

SENATOR LARKIN: Yes.

SENATOR CONNOR: Senator, is it envisioned that this warrant check would be run before the person received services and shelter and food?

SENATOR LARKIN: Senator, the people in the city of New York whom we discussed this with said they -- if they were required, they wouldn't have any trouble getting them in and then doing the check, as it was mentioned, earlier, that someone comes in at 10:00 or 12:00 o'clock at night. According to the people from the Human Resource Administration, the greatest numbers come in during the day.

I only can tell you from my observation of one in the City at Borden Avenue, and one at Camp LaGuardia, they didn't feel it would be a major problem to them.

SENATOR CONNOR: Okay. Senator, one further question. In my district there's the Catherine Street shelter, and it's been a problem for different reasons. For the borough

of Manhattan, it's what they call the EAU, the Emergency Assessment Unit. And for the entire city of New York, evenings and week ends, it is the Emergency Assessment Unit for homeless families. You cannot come in there and apply for shelter unless your kids are with you. People come in -- women come in with infants, children of all ages. People come in with four and five kids.

Now, do you envisage that they have to run the warrant check on the mother or do they have to run it on the kids, as well, because they are seeking shelter? How would that work, Senator?

SENATOR LARKIN: Senator, they could just run the check on the family, on the person that -- the person that is requesting the assistance.

SENATOR CONNOR: And you wouldn't be concerned that maybe the 14-year-old child had a warrant out?

SENATOR LARKIN: I feel that according to the discussions with the city of

New York Police, they wouldn't have this much of a problem. I think we are making it more of a problem here than the agencies that are going to have to do the work seem to think there is a problem.

SENATOR CONNOR: Thank you, Senator. On the bill.

Mr. President. Let me tell you about that EAU at Catherine Street. I visited there a few weeks ago. There were literally 400 -- and it's an office. It's not a shelter. There's a shelter upstairs, a category 3 shelter, that's a different facility.

The EAU are offices, and they had 400 people crowded in there on a freezing Friday night with no prospects of shelter. I saw three infants to a crib in a hallway. A six-month pregnant woman sleeping on a floor in an office, and she had been there for ten days sleeping on that floor. The only meals people were given were packaged cheese sandwiches, sealed packages, with cockroaches running around inside before the seal was broken.

To say the City will have no problems running these checks is ridiculous. It had a problem finding shelter for those 400 people. People had been there. This is supposed to be -- the theory of the EAU is you walk in, you fill out papers. You have your kids with you. You hand it in, and within 24 hours they find you permanent shelter. That's the theory.

The practice is people wait three and four weeks in the office. Because if you leave, they throw your papers out. If you leave, they assume you are not homeless any more. You must have somewhere to go.

That meant people had to show up with their children and their infants and fight over a reception area chair or couch. I saw a family of six living on a reception couch for two weeks. And, as I say, if you leave, they assume, well, you are not homeless, you have somewhere to go, and you are out. So you have to stay there in this building.

The morning I visited there, nine

children were rushed to the hospital by emergency services that day with high fever, vomiting, et cetera, other symptoms. The health is abysmal there. People are literally crowded. They are sleeping on floors, wall to wall on floors in office hallways, in office reception areas, sleeping on desks in offices.

I don't believe the city can manage a warrant check on people who apply for shelter. They can't even manage giving them shelter. They can't even manage giving them a decent meal. They are overwhelmed with it.

And the fact is while most people show up in the daytime, the big influx when the weather is bad is in the evening.

My own parish puts up homeless all winter in the church basement, eighteen people every night. Would they be -- who is going to run this warrant check? Who has the computers? Maybe it's better now, and I'll let some people who have done criminal law more recently than me -- but I remember waiting in criminal court for an arraignment two days for a

warrant check to come back for somebody who was in a cell there. Three days.

Senator Galiber tells me it's changed now. It's five days. If we can't get a warrant check done on a prisoner in five days, how do we expect to get a warrant check done on a homeless person? I mean are we going to let him have a cup of soup until the warrant check comes back? They'll starve in the meantime; they'll freeze in the meantime. And they won't go for shelter because they won't get assistance. They won't get a placement in permanent shelter or even temporary medium range shelter accommodations -- they won't get it in any timely fashion.

And these assessment units -- as I say, the one in my district is for families. There are others for homeless men and others for homeless women without children. The one in my district is for families. To think that people who come in there with three and four children, you've got to have a warrant check on them before you place them in shelter is absolutely

absurd. They will be hanging around that assessment office sleeping on floors, and I wouldn't describe to you the condition of the bathrooms.

By the way, those 400 people were there for three and four weeks, and there is no shower in that facility. No shower. No place to take a shower. One woman told me she left to get a shower at a friend's apartment, and they declared her not homeless because she had somewhere to go. So she lost her six days of waiting and had to start all over with her three children. No shower. Three and four weeks families sleeping on floors with no shower, no shelter. That's what it's really like.

The City can no more do a warrant check in a timely fashion on them. And I don't know why we would want to do that to people like that in such desperate straits. I just don't understand it.

You know, it's one thing to say -- what is the answer to safety in a shelter? More security. When I visited that, the

precinct notified me. There was a near riot there. Why was there a near riot there? Why wouldn't there be with 400 and some people sleeping on floors in an office with children, three infants to a tiny little crib. Most of the infants had no cribs. There were three cribs in the hallway, and they had three infants each in them, so that's nine infants. There were far more infants there than that with nowhere to sleep.

That's what it's really like when you go into these places. Why wouldn't there be a near riot? And there was one security guard on duty. And I talked to the union representative for the security guards. Their answer was, We need more security guards.

The HRA people behind the -- it's a bank-like enclosure, you know, bulletproof glass. And, by the way, you don't get into any of these facilities in the City without going through a metal detector. There is security. But there aren't enough security guards. There aren't enough resources applied to this need.

To say people in the shelters who need it would feel safer if the warrant checks were done, sure. I would feel safer when I walk down the street if I knew a warrant check was run on everybody who applied for a driver's license or a car registration. I mean think about it.

Maybe we ought to do that to your constituents, Senator Larkin. Before they can get a driver's license they have to have a warrant check run on them. Before you can register a car, you ought to have a warrant check run on you. Before they can buy a shotgun, they ought to have a warrant check run on them.

Maybe we ought to do that. I would feel a lot safer in this state if I knew that outside the city of New York you couldn't buy a shotgun without a warrant check run on you. I would feel very, very safe, and I think we owe that to all of our citizens, the homeless and those with homes.

Why not do that? Why pick on

poor people and say, oh, we got to do a warrant check on them. They may be criminals, you know? Maybe we ought to do a warrant -- I mean look. I'd feel safer at a baseball game if I knew everybody before they could get in the stadium had a warrant check done on them. Maybe we owe that to people who go out. We owe that to our kids. Right?

And I think we ought to do a warrant check before you can park your car in an underground parking garage. I think that would be a very good thing to do. I think that would be very important. What could be better for security, as Senator Goodman can testify from his hearings.

Before you park your car, they can run a warrant check. I bet the technology is there to do it. And, you know, if you put the burden on the parking garage operator who is making a lot of money, I'll bet they will do it in a timely fashion.

Senator, this is not practical. You are answering a perceived fear in your

community, and I'm telling you it's just not practical. So many of the homeless are women with children. The City can't even find them food and shelter in days and days time. To think that they have to go through a warrant check first is just not realistic.

And the fact is, if you're worried about a dangerous fugitive, of course, it's one of the places the police check. If the person fits the profile of a homeless person, they do check the shelters for dangerous people. But to think you have to run a warrant check on everybody who applies, there are tens of thousands of people who apply for shelter, and a lot of them are women and children.

I'm against this bill.

ACTING PRESIDENT FARLEY: Senator Galiber, and then Senator Gold.

SENATOR GALIBER: I know you are not mean spirited. Perhaps misguided from time to time, but certainly not mean spirited.

Let me ask you. If a situation arises where there is a family who comes up to

LaGuardia. Let me withdraw it, and ask a question. I know something of LaGuardia. But is it a family camp or is it a sense of permanency there? Is it someone who is picked up in New York at 2:00 in the morning, then shipped up to Orange County? I don't think that - there is a criteria to get to LaGuardia.

SENATOR LARKIN: Senator, Camp LaGuardia is not a family facility. It's a single male facility. They are brought there every day during the day, like usually between 10:00 and 12:00, Monday through Friday.

SENATOR GALIBER: Okay, fine. Now we have a situation where -- is it just felony warrants that you are talking about or any warrant?

SENATOR LARKIN: Felony warrants, sir.

SENATOR GALIBER: Felony warrants? Does it say so?

SENATOR LARKIN: All of them, sir.

SENATOR GALIBER: Beg pardon?

SENATOR LARKIN: All warrants.

SENATOR GALIBER: All warrants. So it's conceivable that in the city of New York where some perhaps Vietnam veterans who are just not making it -- and I know of your deep concern about veterans in the military and they jump over a turnstile in the city of New York because they are homeless and nobody respected the fact that they are veterans of Vietnam, and they find themselves with a warrant outstanding for jumping a turnstile. And I'm not exaggerating it. You know when we debate these things we like to paint the worst picture in the world. Not so. Minor misdemeanors. The warrants in the city of New York are packed as high as this building, and not the felony warrants and not the ones that the press puts out, the occasional drug user who doesn't show back up in court or whatever the case may be.

The bill that you have written here -- and we understand. It's a nice thing to do in terms of the local constituents. I have local constituents, and I find things from time

to time that they want to hear, and I do it like all of us do here. Not in my election year, not in my back yard, and a number of other things that go with it, good hometown consumption, but it's not very practical. There's warrants, literally for jumping a turnstile. Any warrant at all.

If a family comes in for clearance, and it covers all families, a concern of mine would be -- not just at Camp LaGuardia because it starts at Camp LaGuardia, but it applies every place. Maybe you have a housing authority concept, where some years ago where there's a family of four, five or six, and a youngster gets locked up for a minor misdemeanor, they want to put the entire family out. In your piece of legislation, if they find one person who has an outstanding warrant for jumping over a turnstile or swiping some potatoes off a local stand, they can't be serviced, can't be serviced at all.

Now, I know that you can write a piece of legislation that would cover some of

the things that you are talking about. It's just difficult for me to conceive that only in a Camp LaGuardia, the homeless site in Orange County, that you are concerned about a problem that exists throughout the state but in the larger, larger cities.

So I'm saying, Senator, it has nothing to do with you. It has to do with a political reality for your local government who are not concerned about some of those veterans that you are concerned about who find themselves homeless or those veterans who gave so much - as we wave the flag from time to time here - gave so much for their country and weren't even recognized but are now unemployed and are now homeless.

And you are saying if they have a warrant served, never mind the impractical part of doing so -- and, Senator Connor, I was being facetious about five days. It's not five days. It's four days, but it takes a long time for that search. And I'm sure you don't intend, Senator, for someone who did not show up for

fare beating because they didn't have the money to go look for a job winds up being excluded from finding shelter. That was never your intent.

So this bill that you have -- I would like to find a soft word. It's not mean spirited. It's inconsistent with what you have stood for for so long a period of time. In your heart's heart, you're a great person. And I'm not massaging it. You are people oriented, and you understand these things.

How can you have someone talk you in -- and they had to talk you into it. You didn't do this on your own, I'm sure. Someone talked you into putting out this piece of legislation because this is not a Senator Larkin piece of legislation.

ACTING PRESIDENT FARLEY: Senator Waldon.

SENATOR WALDON: Thanks very much, Mr. President. Senator Larkin.

ACTING PRESIDENT FARLEY: Senator Larkin, are you still yielding?

SENATOR LARKIN: Yes, Mr. President.

SENATOR WALDON: The LaGuardia shelter, which seems to be the kernel of your concern, does that receive people only from the city of New York?

SENATOR LARKIN: Yes, Senator.

SENATOR WALDON: What is the population ethnically of the people who come to LaGuardia?

SENATOR LARKIN: I don't know. The City makes that determination. The locals have nothing to do with it. The people sent from the City to LaGuardia is a responsibility of the city of New York.

SENATOR WALDON: Okay. Do you have any idea or awareness of the ethnic makeup of the city of New York?

SENATOR LARKIN: No, I truthfully don't, but my visits to LaGuardia on numerous occasions, I see the whole spectrum of ethnicity.

SENATOR WALDON: In that spectrum

-- there's a purpose to my question. If I may, Mr. President.

Senator, in that spectrum that you have personally viewed, were there 90 percent of the people there who are white, 90 percent who are black, 50 percent who are white, 50 percent who are Puerto Rican? Do you have any idea that you can share with us?

SENATOR LARKIN: I think there's a good mixture of African-Americans, Hispanic, some Asians in there and white.

SENATOR WALDON: The reason -- if I may, Mr. President -- that I ask the question, Senator Larkin, is that, before, you were queried as to whether or not this bill applies to the whole state you just said "New York City, New York City, New York City," and the impression left with me was that this was something created to deal with the problem coming into LaGuardia from New York City. Clearly, from what you've just said, such is the case. Because all of the people come to this place from New York City.

If I may conclude, Mr. President. Thank you, Senator Larkin.

There is a subliminal message here, intended or unintended, and that is that this piece of legislation will deal with the problem created by those males who are homeless from the city of New York, traditionally, who are primarily African-American veterans from Vietnam, Latino Puerto Rican veterans from Vietnam and others. And I just think that it is dangerous for us to create something as a legislative body which may in its final analysis, though unintended at its inception and in conceptualization, be a bill that is biased and segregated in what it will carry out in terms of dealing with African-Americans, Latino-Americans.

And I submit that for the consideration of my colleagues before they make their vote.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Thank you, Senator Waldon.

I just want to bring to your attention that I don't want the Senators to start carrying on a dialogue between themselves. You kind of address through the chair, if you would. I appreciate your patience on that.

Let's see. I think Senator Montgomery is up next. Then Senator Gold, then Senator Spano.

SENATOR MONTGOMERY: Thank you, Mr. President. I wonder if my colleague, Senator Larkin, would yield for a question.

Senator Larkin, you have in the memo of support under fiscal impact that there would be none to the state. Do you have any idea what the fiscal impact would be to the locality, or who would pay for the checks?

SENATOR LARKIN: Regular police check.

SENATOR MONTGOMERY: So this would fall as an additional responsibility to local police?

SENATOR LARKIN: Yes.

SENATOR MONTGOMERY: Mr. President, on the bill. I would like to rise not in support of the legislation. I think there are many problems that have been pointed out. But I have two men's shelters in my district, accounting for some 2,000 men. And I right this minute, as we speak, have a problem in one of those shelters that I'm aware of where there is one individual who obviously is an extremely troublesome individual. I don't know if the person is a criminal, but has perpetrated criminal acts on a number of people in that shelter, including a security guard and other staff in the shelter, wreaks havoc on the community, the surrounding community as well, and has attacked senior citizens and what have you.

So I think that the intent of the bill has merit. I know that I have been visited by people who live in shelters from my district, and they have said to me that they are desperate for safe havens. Some of them have requested that portions of their shelter be set aside for

drug-free residents. And some of them have requested that there be shelters set aside where people can be placed who are not -- who have not had a record, a history of criminal activity.

And so this is a very real problem. So, Senator Larkin, I don't think it's necessarily mean spirited. I'm sorry that it is done just to deal with a particular shelter in your own district, but nonetheless, I must commend you that you are attempting to address what people who live in shelters, at least as they have expressed to me, is a very real problem.

Now, on the other hand, I think that some of the problems with the bill have been very appropriately pointed out. One is I think that if we're talking about warrant, in general, obviously that's a problem. And we don't want to get people caught up in that for whom it does not warrant them being so designated. But if it were specific to felony warrants, I would think that might make more sense. And also I'm wondering if it's not

possible to do it on an as-warranted basis. If there are individuals who clearly demonstrate that there is some problem, there's some questions, and that people who run shelters feel that they want to do that, to require a check on them, that that could be done, but without having a blanket program that would include ultimately women and children. And perhaps there could be some designation of the kinds of shelters that we're talking about.

In my district, there are shelters where there are families like hotels. And even in those shelters, very often, there is a very high rate of crime related to drug selling, and so forth, and so oh, where children are. I would want those criminals ferreted out. I think it's terribly unfair to assume that because you live in a shelter you have to accept this kind of environment as your lot. But, certainly, I would not like to see it a blanket law that catches women and children up in it unnecessarily, or people who have minor infractions who are not threats to a community

or an environment, but that allows us or people who run those shelters to move in that way if it's warranted, if it's necessary, if they feel that this is required because of a person's behavior that is apparent.

So I would hope that, based on the comments today, you could make some changes, minor amendments to the legislation which would make it more in keeping with the possibility of it being administered without trouble, without problems, but yet at the same time address that you really and truly sincerely want to address; and that is, creating hopefully a safe -- a safer environment for those people who are in shelters. And we have thousands of people who live in shelters, unfortunately. So they have a right to a safe environment if at all possible, too.

So I don't think it's mean spirited. I think it's in the right spirit. I just hope you could make adjustments which would make it a good bill.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: We have Senator Gold next.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, there seems to be an underlying theory in this state, every once in a while in legislation that we have people in this state who are homeless people and some people seem to think that at some point in time these people decided to make an enlightened choice: Should they be a CEO of a large corporation, or should they be homeless? And they made a career choice.

Bills like this, although I think Senator Larkin is just trying to respond to a community need -- and I can never get mad at anybody for doing that -- but once again we are, I think, victimizing the victim and blaming the victim for the result, and I just think that's not the way to go.

I don't think anybody in this chamber would seriously suggest that places for homeless people should be anything but safe.

But there are ways to do it. I mean, I think that we should be helping those organizations, the voluntaries or whatever, who do provide for homeless people. We should be helping them to give these people what they need -- basic human kindness, a place to live, a way to get back on their feet. That's what we should be doing.

I don't think that the answer to those problems is the name calling, but let me tell you what we do, and when I say "we," I'm not pointing to the Republicans and saying what you do; I'm saying what we do as a Legislature and as a government.

For some silly reason, we don't seem to take all of these concerns and put them together. We seem to pidgeonhole them. So, for example, what am I saying? We are now working on the budget and, in that budget, there are some $30 million worth of cuts to therapeutic communities and for groups that spend their time taking our young people and our people in general who have drug problems and rehabilitating them and trying to get them back on their feet and

back into society. But we cut that under the Governor's program, and I think there's still some resistance around here to make the restorations, by some $30 million and, if you take a look at what dollars mean in past tense, you can work it up to $50 million, the result of that being that these people will wind up in more homeless shelters and more overcrowding and more people with drug problems in the homeless shelters, and that increases the safety problem.

What I'm basically getting at is that these problems get intertwined, but we don't handle them that way. Senator Larkin, if your bill were to become law, what would happen? It would mean that, if somebody had a warrant out against them, maybe you'd catch that one or two people, but I guarantee you, Senator Larkin, that there are safety problems that have nothing to do with people with warrants.

There are people who have drug problems that aren't the subject of warrants, and you've heard people today talk about the

fact that -- that people on drugs are problems in some of these shelters. So you would have done something. You'll have a pen certificate. You'll mean well, but it's not going to solve this problem.

The problem is that, when we - and now I do say we on this side and some others -- talk about funding social programs or entitlements, we're called "bleeding heart liberals"; we're called this; we're called that and the other thing. But what we're really trying to say to you is that, if you're concerned about these other situations, the homeless shelters and what happens, you've got to understand that what we're talking about is all a part of it.

If people don't have jobs and we have a bad economy and they can't pay rent and one thing another and they become homeless, this wasn't their career choice. I think that, rather than pass this bill which has been dissected very well by my colleagues on this side, we ought to acknowledge that, yes, Senator

Larkin, there is a problem, but let's deal with it as a problem.

Let's give the support to the organizations that are dealing with the homeless. Let's give them the proper financial support. Let's encourage the city of New York to do what you believe it should be doing and let's not pass a budget this year that has massive cuts to therapeutic communities.

ACTING PRESIDENT FARLEY: Senator Spano.

SENATOR SPANO: Mr. President, Senator Gold speaks about the fact that Senator Larkin submitted this bill as a response to a community need. While I recognize that that's a concern of Senator Larkin, I think this bill goes a lot further than that, and it's a response not only to a community need but a response to society's needs across the state and, as the chairman of the Mental Health Committee, I have visited many shelters and homeless shelters across the state, and have heard from advocates, family members and

families and people who have been forced to accept the shelters as a way of life, that they are afraid to even walk into these shelters, and there is something wrong with the system in a state where people would rather live in a refrigerator box on the west -- off the West Side Highway rather than go into a homeless shelter in the city of New York.

So I think Senator Larkin should be commended for coming forth with a bill like this that addresses the needs of a program like Camp LaGuardia in his area where HRA in the City and the Office of Mental Health have turned their backs literally on hundreds of people who have been warehoused in his community because of the fact of a failed homeless shelter system in the City and the failure of a Governor that we have in this state to establish a fair and appropriate community-based system of care for people who have been deinstitutionalized from our state mental health system.

I think that is an issue that Senator Gold has touched upon, touched upon the

fact that there have been cuts in this budget that we are in the process of deliberating, cuts that have been given to us by Governor Cuomo, the same Governor who claims to have the level of compassion and care for the mentally ill, who continues to deinstitutionalize people to a non-existent community-based system; a budget that was presented this year that cuts $75 million from institutions and accelerates the closure of state institutions and builds only $6 million of additional community-based system of care.

This is a type of bill that Senator Larkin not only wishes to move forward with, but is forced to move forward with, so that we can at least recognize in the Senate that there's a failed mental health system, that there's a bad public policy that is being thrown upon municipalities not only in New York City, but in the areas surrounding the City, and that we have not only the state mental health system but the city of New York who are now choosing to bypass the system and send people to unsafe

facilities outside the districts like in Camp LaGuardia.

I think we should give support to Senator Larkin for this bill. We should also give support, like Senator Gold said, to organizations who are trying their best to help people who have needs and we ought to give support to those people who are asking for it, meaning the people who are not happy to live in a shelter but have no choice but to go into a shelter in the City, but they want to be able to maybe sleep for a couple hours at night so that they don't have to live in constant fear of being ripped off or being killed during the course of their short experience in that shelter system.

So I rise to support this bill, to say that we recognize that people who live in the homeless shelters are not criminals. Nobody in this chamber would ever say that they are criminals, that they are bad people. They just don't have a place to live, and the place to live that we give them should be a safe one.

ACTING PRESIDENT FARLEY: Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President.

Will Senator Larkin yield, please?

SENATOR LARKIN: Yes, Mr. President.

SENATOR SOLOMON: Thank you. Senator, I see the word "require", "the Commissioner shall require" the operator of any homeless project receiving funds. Isn't that a mandate?

SENATOR LARKIN: It depends on how you're talkin' about it, Senator.

SENATOR SOLOMON: Well -

SENATOR LARKIN: It's a requirement because they are going to receive services with taxpayers' dollars.

SENATOR SOLOMON: O.K. Senator, can I ask you another question? Let's say we're in the Schoharie County or Schenectady -- the Schenectady mission. Shouldn't it be optional

with the shelter to decide whether or not they need this service?

SENATOR LARKIN: Well, Senator, I don't think so. I think, if you recall what Senator Gold said and what Senator Spano said, these shelters are not the safest place regardless of where you're at in this state, and the conditions therein and the people that are going to reside in there need as much protection as they can receive.

SENATOR SOLOMON: O.K. So Senator, if you will yield.

ACTING PRESIDENT FARLEY: Will you yield again, Senator Larkin?

SENATOR SOLOMON: I don't want to have a dispute.

ACTING PRESIDENT FARLEY: I appreciate that.

SENATOR LARKIN: Yes.

SENATOR SOLOMON: So let's go through the process of a situation, let's go through a homeless shelter even outside the city of New York. It's a particularly cold night

some place upstate, and the temperature is dropping to 15 degrees below zero and the police decide to pick up individual people that are outside because of the fact it's not safe, so let's go through the process; so it's at 11:00 o'clock at night.

The police department or social services agency picks up John Doe on the street and convinces John Doe to come into the homeless shelter; so at 11:15 -- they pick him up at 11:00, at 11:15, John Doe walks through the door of that homeless shelter. At 11:20 there's got to be a worker there who's got to say, John Doe, name, address, et cetera, has got to punch into a computer and somebody has got to pay for it, but it's not a mandate, and it's going to cost money. He's got to punch into a computer to find out if John Doe has a warrant.

Now, that computer has got to be hooked to a telephone line who someone has got to pay for, to the local sheriff's department or the State Police which has got to be open for 24 hours, and I'm sure it's got to have this

computer link.

So what I'm trying to figure out, Senator, is how it's not going to cost any money if there's going to be a computer unless, of course, the local police and the State Police are going to issue a printout every day to these places and Federal Express it or get it to them some other way to tell them what the current list of outstanding warrants are.

I'm trying to figure out how you're going to tell those localities that this isn't a mandate and it's not going to cost money. Explain the process. Explain the process how it's not going to cost money.

SENATOR LARKIN: Senator, in the bill, it's very clear that they will contact local law enforcement.

SENATOR SOLOMON: Right.

SENATOR LARKIN: Don't say they have to go into a computer. Some of these shelters may be very small, may be just somebody picking up the phone. I think, Senator, some people here are making a bigger tent out of this

than it really is. Many of your people on your side of the aisle who have recognized maybe a small amount of it, that there is a problem in shelters.

We have identified problems in shelters. The Human Resource Administration from your City has identified these problems. What we need to do is to address the heart of the problem that, if we're going to have a shelter, the shelter should be there for the purpose of providing essential quarters, food for these individuals, that they shouldn't live in fear, as my colleague Senator Spano said, that they shouldn't want to live in a refrigerator on the West Side. They should be willing to go into a shelter.

I think we're masking the problem, that we want to ensure that we're not a sanctuary for the criminal element. We have defined this problem to the city of New York and the city of New York has turned its back on us. Advocates for the homeless say you can not just isolate and say, "Camp LaGuardia." If you're

going to do it for one, you must do it for all.

It's very clear here, we're not denying anybody, we're not saying you can't get into the shelter until we have the checks. It says that they will contact local law enforcement. I believe, and I have checked with law enforcement at towns and villages, State Police, and even the city of New York. They don't believe that this is the biggest problem as some people are trying to make it.

SENATOR SOLOMON: O.K. Thank you. On the bill.

ACTING PRESIDENT FARLEY: Senator Solomon, on the bill.

SENATOR SOLOMON: All right. I just want it to be perfectly clear that this bill does not apply only to the city of New York. This bill is statewide. There's nothing in this bill that has that wording "in a city of one million or more". The bill just goes on to say "the Commissioner shall require". It's statewide, so every locality, no matter how small it is and how much money they have, is

going to have to spend some time and some money and have some personnel dealing with the situation of where they're going to have to contact the local police or State Police to determine whether or not there's outstanding warrants on whatever individuals come into that homeless shelter, and I would suspect that means if the individual comes in on January 1st and leaves and you see him on January 5th, you've got to check again because you don't know what happened between January 1st and January 5th, and there may have been a warrant that was put out on January 3rd on that individual.

So every time someone comes into one of these homeless shelters, you're going to have to go and recheck that individual to see whether or not there are any outstanding warrants on them and, as I said before, it should have been voluntary at the option of the shelters, not requiring it across the state where, in fact, it may not be necessary in other parts.

Thank you.

ACTING PRESIDENT FARLEY: Senator Mendez.

SENATOR MENDEZ: Mr. President, this bill reminds me of a situation that once -

SENATOR GOLD: Can't hear.

ACTING PRESIDENT FARLEY: Let's hold down the conversations. Apparently some cannot hear Senator Mendez. We're all anxious to hear you.

SENATOR MENDEZ: Thank you.

This bill reminds me of a problem that some years back I had in my district. It was a very huge, huge shelter, men's shelter, and the residents around that shelter were very upset because some of the men there definitely had either drug problems or mental problems and the neighbors, the residents around the shelter, were very upset.

The community got together, and I and other public elected officials also got together, and we worked out a situation with the city of New York so, because I was involved in my district with a similar situation, I really

must commend Senator Larkin for wanting to do - to resolve that problem in his district.

In fact, this bill also brings to the fore the question of public policy and the -- the kind of thinking that must be kept in mind to protect our residents at the same time that -- that we want to help somebody who is in need.

So all that I can say to -- to Senator Larkin, however, is that this is not the solution. It is not the solution, because the problem of homelessness is one that the -- the one that we're facing today is one that has been created due to a series of factors operating at the same time, and I think that if this bill, with this -- were this bill to become law, it would, in fact, indict every single man, woman and child that doesn't have a place to -- to stay because of homelessness regardless of - although they are good citizens.

So that we must find a different way, Senator Larkin. This way will not resolve the issue. This way penalizes extremely people

who are already poor and in need and the majority of the poor and people in need are not criminals. The majority of women that go to shelters are not criminals. Their children are not criminals. There are a few who have drug problems. There will be a few who maybe they were in prison or they are being looked at, looked for because they've committed a crime, but that's the minority.

So that we must put our heads together and find another solution and -- but I sympathize with the effort that Senator Larkin is trying to -- to do here in this bill to resolve the issue of the homeless in the shelter. But not this bill, Mr. President, not with this bill. It has to be worked out in a different fashion.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Thank you. Unless there's somebody else that wants to speak, Senator Larkin to close debate on this legislation.

SENATOR LARKIN: Thank you, Mr.

President.

I appreciate my colleagues' input and the differences we've had on this piece of legislation. However, we have a problem and just to be talking and talking and talking about it doesn't address the problem.

The problem of the criminal activities in the shelter and the problems that we've experienced in the criminal element going to the shelter as a sanctuary has not been productive in any way, shape or form. Shelters throughout the state need some guidance, need some safety, need some protection and need to provide shelter.

Basically what it is, it's a place to live until they can accommodate themselves some place else. What we've done with this legislation is very clear. We have said that, when someone goes looking for assistance, the operator of that facility will contact the local law enforcement to ascertain if there are any outstanding warrants. I think that's a protection for the operator, a

protection for the people inside the facility and a protection for the community as a whole.

This bill is long overdue. The genesis of the bill was New York City. We tried to work with New York City but to no avail. Ladies and gentlemen, this is a step in the right direction.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT FARLEY: I figured that.

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

ACTING PRESIDENT FARLEY: I guess we better ring the bell, slow roll call.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: No.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

ACTING PRESIDENT FARLEY: Senator Daly, how do you vote?

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Explain my vote.

ACTING PRESIDENT FARLEY: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: I vote no for the following reasons:

It's not because this bill is sexist. It's not because it's racist. It's not because it's mean-spirited, and it's not because the compassionate hearts only reside on one side of the room. It's because I think it would place an undue burden on shelters throughout the state, and also shelters that are having problems can voluntarily or independently check on those who are creating the problems to determine if there's an arrest warrants.

So, for that reason, and that reason alone, I'm voting no.

ACTING PRESIDENT FARLEY: Senator DeFrancisco is in the negative. Continue the roll call.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

ACTING PRESIDENT FARLEY: Senator Espada to explain his vote.

SENATOR ESPADA: Yes, I will join Senator DeFrancisco in acknowledging that we have touched upon a need that has to be addressed at these facilities, but at the same time it is not a well thought out solution.

The undue burden aspects of it, the considerations that Senator Spano threw out, all of this has to be part of the formulation of a solution. This bill does not get us there. Therefore, I vote no.

ACTING PRESIDENT FARLEY: Continue the roll.

THE SECRETARY: Senator Farley.
SENATOR FARLEY: Aye.
THE SECRETARY: Senator Galiber.
(Negative indication.)
THE SECRETARY: No.
Senator Gold.
SENATOR GOLD: No.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator Halperin.
(There was no response.)
Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: Explain my vote, please.
ACTING PRESIDENT FARLEY: Senator Hoffmann to explain her vote.
SENATOR HOFFMANN: Most of the

shelters that operate in the central New York area rely heavily upon volunteer labor to keep them operating around the clock, and it's very difficult to ask people to come in out of compassion and then suggest to them that their responsibility is different and that they are now in effect deputized to become members of a law enforcement operation.

It simply is not consistent with what the concept of homeless shelters is, at least in the part of the state that I represent, and this is very clearly a mandate. It's one that would require a considerable expenditure of time as well as money in forcing people to participate in police work.

This is a Legislature that has made other people do other things in the interests of government before. We're famous for asking all kinds of people, including the companies that own beepers, to become revenue agents for the state of New York and levy taxes through their monthly billing procedures. But it is wholly inappropriate for us to ask every

homeless shelter to become a clearing house for criminal investigations.

I also find that it really flies in the face of common sense. Police work, certainly in the part of the state that I represent, does go on in conjunction with homeless shelters. Those violent criminals who could conceivably wind up in a shelter, the information will be made available to the shelters, and there is a good line of communication.

So I think this, once again, underscores a lack of sensitivity for ongoing police work and certainly a very clear insensitivity for the work of the many people who are in homeless shelters.

I vote no.

ACTING PRESIDENT FARLEY: Senator Hoffmann in the negative. Continue the roll.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Mr. President, I'd like to explain my vote, please.

ACTING PRESIDENT FARLEY: Senator Lack to explain his vote.

SENATOR LACK: Thank you, Mr. President.

I just heard Senator Hoffmann's explanation in voting no, and I wanted to reiterate some of Senator Larkin's debate and, of course, that consists of reading the bill, which just asks those who operate these shelters to contact the local law enforcement agencies but not to attempt to turn the operator into a local law enforcement agency, and I would think particularly to the extent that there are volunteers and well-meaning people even in central New York operating such facilities that, of course, as good law-abiding citizens they

would want to contact local law enforcement agencies in case someone who has an outstanding warrant, particularly if it turns out that they are a felony offender and it's an outstanding felony warrant, would not want those types of people in the homeless shelter in which they are volunteering their time.

Mr. President, I vote aye.

ACTING PRESIDENT FARLEY: Continue the roll.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Yes.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: Mr. President, to explain my vote.

ACTING PRESIDENT FARLEY: Senator Leichter to explain his vote.

SENATOR LEICHTER: The mad scramble by some of Senator Larkin's colleagues to try to sanitize this bill, to make it appear

that this is really a compassionate bill and this is a bill that tries to deal with problems that exist in the shelter, just doesn't fly. You can't sanitize this bill, because, of course, there are problems in shelters. There are very serious problems.

There's a problem of shelters because you have shelters, such as I have a shelter in my district where you have 1200 young men sleeping on an armory floor with the cots six inches from each other. There's no proof that the violence that existed there was in any way related to the fact that they were people with outstanding warrants in those shelters.

It's -- this in no way deals with the problems that we have in the shelter, no way deals with the problems of homelessness, and I just want to tell you, when I saw this bill and listened to the debate, I had to go and run and look at the calendar to see whether we are -- it was March and that it's Albany, because it seems more like a measure that you'd find in August in Houston, an expression by people who I think are

out of touch with what is happening in this country.

Mr. President, I vote no.

ACTING PRESIDENT FARLEY: Senator Leichter is in the negative. Continue the roll.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: No.

THE SECRETARY: Senator Marino.

(Affirmative indication).

THE SECRETARY: Aye.

Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Masiello.

SENATOR MASIELLO: No.

THE SECRETARY: Senator Mega.

SENATOR MEGA: Mr. President.

ACTING PRESIDENT FARLEY: Senator Mega to explain his vote.

SENATOR MEGA: I'd like to explain my vote.

I must confess I did not hear all of the debate. I had some other things I had to do in my office, so I've be running back and forth, so I may have missed some of the arguments against this bill. But I think I have a pretty good idea of what some of the arguments are in listening to Senator Leichter.

What disturbs me about the bill is that we even have to consider doing something like this, because local government is not responding to a problem that we have in these shelters and you may say, well, you know, let local government take care of it. You know, the city of New York, those of us who represent City districts know the problems we have with trying to get things accomplished on a local level and the homeless situation is one of those problems.

I have been in these shelters. I represent a district that had a homeless shelter at one -- it still has it, but I represented this district at one time. I know what the homeless shelter is all about like all of my colleagues that I'm sure have been in these homeless shelters.

They're deplorable; they're terrible. Many of the homeless people do not want to go to these shelters because they're so deplorable, because they're afraid of being attacked or raped or whatever.

In talking to Senator Larkin, he's got a local problem with a homeless shelter. We may criticize him for what he's doing, but if this bill gets the attention of the locality to maybe open up their eyes and do something different, it will serve its purpose and I'm not that happy about doing it, but I'm going to support it for that reason alone, to maybe get the city, get the locality, to do something that's constructive about how we treat human beings in this day and age.

We supported a resolution today that was put in by our colleague, Senator Maltese, about sweat shops 80 years ago, and we still have sweat shops today and that was brought out by Senator Leichter. We've had these homeless shelters for years and what they breed and what they do to people is terrible. So if we get the attention of the people whose attention we have to get because of this bill, I think maybe we will have accomplished some thing. So, for those reasons, I'm going to vote yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nolan.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Yes.

THE SECRETARY: Senator Ohrenstein.

(Negative indication.)

THE SECRETARY: No.

Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Pataki.

SENATOR PATAKI: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Yes.

THE SECRETARY: Senator Seward.
SENATOR SEWARD: Aye.
THE SECRETARY: Senator Sheffer.
SENATOR SHEFFER: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Solomon.
(There was no response.)
Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: Yes.
THE SECRETARY: Senator Stafford.
SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator Trunzo.
SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
Senator Waldon.
(Negative indication.)
THE SECRETARY: No.
Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT FARLEY:
Absentees.
THE SECRETARY: Senator
Gonzalez.
(Negative indication.)
THE SECRETARY: No.
Senator Goodman.
(There was no response.)
Senator Halperin.
(There was no response.)
Senator Nolan.

(There was no response.)

Senator Solomon.

(There was no response.)

Senator Stavisky.

SENATOR STAVISKY: No.

ACTING PRESIDENT FARLEY: Results.

THE SECRETARY: Ayes 33, nays 23.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 235, by Senator Volker, Senate Bill Number 2339.

SENATOR GOLD: Explanation.

THE SECRETARY: An act to amend the Penal Law, in relation to renewal of gun dealers' licenses.

ACTING PRESIDENT FARLEY: Senator Volker, explanation has been asked for.

SENATOR VOLKER: Mr. President, specifically -- this is a bill, by the way, we've passed here for several years. This legislation would conform New York State to the

primary licensing body, which is the federal government, by stating that a gun dealer -- this is a gun dealer; this has nothing to do with possession of licenses, a gun dealer -- would not have to have a new photograph or additional prints taken, I believe it's every three years, as opposed to the rules by the federal government which do not mandate that.

Let me just say, by the way, that -- and last year, I think we went into this a little bit, and I'll do it very quickly. The city of New York clearly does not understand this bill. They put out a memo in opposition. The city of New York does not have anything to do with licensing except that, as a local agency, they accept the license applications on behalf of the state. State law decides what types of -- what types of license requirements are made.

The City, in its memo, says that later this license serves as proof on the license -- on the license of that individual's right to possess a firearm. This has nothing to

do with possession of a firearm. In fact, as my counsel and I were discussing it, if the licensee -- that is, the gun dealer -- has his own guns; he still has to have a possessory license.

I think there was some confusion here by the City. The City says that currently the City does not require fingerprints for renewals. Well, of course, they don't because they don't require anything. The state of New York tells the City what the requirements are.

I think probably what happened here is that somebody who looked at this bill looked at the overall section which deals with pistol permits, probably didn't completely recognize the fact that this only applies to gun dealers.

Understand, we did some checking. The City and the state does virtually nothing as regards gun dealers unless there's some sort of violation, unless there's a crime or something of that nature because the whole jurisdiction of gun licenses, that is dealer

licenses, is done by the ATF, the federal government, and so forth and, you know, the ATF now has become somewhat notorious in Texas with the Waco, Texas situation, but the truth is that gun dealer licenses are -- are, virtually all the revocations and things of that nature, when the state -- the state has a problem with a licensee, they refer it to the federal government, and the federal government then will pull the license because the primary responsibility for licensing is with the federal government to start with. So the requirements that are presently in the law really are superfluous and really have no -- have no real meaning in terms of enforcement of any kind, and the City, I think, is a bit confused, and the person that did this memo thought that this really had related to regular gun possession.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah. Would the Senator yield to a question?

SENATOR VOLKER: Sure.

SENATOR GOLD: Senator, I understand you're talking about the City's memo. You were kind enough to share that with me earlier, but in spite of that I want to ask you just one or two questions.

SENATOR VOLKER: Sure.

SENATOR GOLD: In the city of New York right now, do you say they renew their licenses without photos or prints; wouldn't they be bound by state law?

SENATOR VOLKER: No, they don't require renewals of gun licensed dealers' prints. In other words, they don't -- the City says in its memo that it doesn't require any more than the state law.

SENATOR GOLD: Yeah.

SENATOR VOLKER: Well, of course, it doesn't because the City doesn't make any requirements other than the state law; that's what I was saying.

SENATOR GOLD: Of course. O.K. I just want to clear that up.

SENATOR VOLKER: O.K.

SENATOR GOLD: The City doesn't have its own regulations.

SENATOR VOLKER: Exactly, exactly.

SENATOR GOLD: Well, Senator, this is my question, and let me just preface it by one itsy-bitsy statement.

I think the NRA did overwhelming damage to itself in New Jersey in recent months, and they're going to rue the day that they got involved with that issue, but the problem is that, you know, when we get into these issues, I can understand some things as issues. Others I can't.

At a time when we have so much problem with guns, where is the outrage caused by having dealers submit a photo and prints every three years? Can't you see where that is a rather harmless requirement in the law for people who have a huge responsibility under our law, and that is in processing applications and seeing to it that different people who, because

of their compliance with law, can receive firearms?

SENATOR VOLKER: Senator, I guess I -- I don't think that I make this quite clear. I don't think the City does anything with, to my knowledge -

SENATOR GOLD: I agree; forget the City.

SENATOR VOLKER: They don't do licenses; they don't do anything.

SENATOR GOLD: Right. Forget the City.

SENATOR VOLKER: So the issue is why would you bother to do it? The City -- I think the City just did a perfunctory memo because -

SENATOR GOLD: Forget the City. Senator, if I may.

SENATOR VOLKER: Yeah.

SENATOR GOLD: You made a point that you thought the memo was flawed.

SENATOR VOLKER: Yeah.

SENATOR GOLD: I'm not arguing,

I'm not here to protect their memo. I'm talking about your bill.

SENATOR VOLKER: M-m h-m-m.

SENATOR GOLD: Under your bill, we would negate the requirement that these people who are gun dealers, would not be photographed and printed every three years.

SENATOR VOLKER: Yeah.

SENATOR GOLD: And I'm saying to you forgetting the City's memo, why is that so abhorrent? When we have proliferation and the NRA and all these groups wanting to cut back -

SENATOR VOLKER: Yeah.

SENATOR GOLD: -- what is so terrible at least in having this requirement in the law that the people who are legally charged with distributing guns to people who may be getting a license, at least go through these checks? Why is that so terrible?

SENATOR VOLKER: Let me give you this, Senator, because it's a waste of time. The City does not regulate, as such, gun dealers. The real regulation is by the federal

government. It's a waste of time. If the City wants to regulate firearms as it certainly is doing, that's one thing, but as far as gun dealers are concerned, it really is just a waste of time for the City. They don't pay any attention for the most part to these things any way because they're not the ones that enforce these.

So the answer to that is it, frankly, is a waste of time for everybody involved because the primary responsibility for gun dealer licenses lies with the federal government to start with. That's what I'm trying to point out.

SENATOR GOLD: O.K. Mr. President, I just -

ACTING PRESIDENT FARLEY: Senator Gold, on the bill.

SENATOR GOLD: We've had this before, as most people know, and Senator Connor and Galiber and myself and Halperin and Leichter and Markowitz and Mendez, Montgomery, Ohren stein, Onorato, Oppenheimer, Paterson, Perry

unfortunately will not be casting a vote today but we may see other enlightened votes, Smith, Waldon and Weinstein, and Senator Marchi voted in the negative last year.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 1st day of November.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 235 are Senators Connor, Dollinger, Espada, Gold, Leichter, Marchi, Markowitz, Mendez, Montgomery, Ohrenstein, Onorato, Smith, Solomon, Stavisky and Waldon; also Senator Oppenheimer. Ayes 44, nays 16.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Volker, Senate Bill Number 2423,

an act to amend the Penal Law, in relation to firearms transaction reports by gun dealers.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59, nays one, Senator Leichter.

SENATOR LEICHTER: I stand corrected; I'm in the affirmative.

ACTING PRESIDENT FARLEY: Senator Leichter is voting in the affirmative on this gun bill.

THE SECRETARY: Ayes 60.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 242, by Senator Skelos, Senate Bill Number 29 B, an act to amend the Penal Law, in relation to carjacking.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 245, by Senator Trunzo, Senate Bill Number 3512, an act to amend the Civil Service Law, in relation to providing civil service status to appointees.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56 -- those

recorded in the negative on Calendar Number 245 are Senators Cook, Daly, Dollinger, Hoffmann, Jones, Kuhl, Present, Saland and Seward. Ayes 51, nays 9. Also Senator Larkin recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 247, by Senator Stafford, Senate Bill Number 437, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Hold on.

SENATOR OPPENHEIMER: I'd just like to speak on the bill for a moment.

ACTING PRESIDENT FARLEY: Senator Oppenheimer.

SENATOR GOLD: Just to get an explanation? Yeah, Senator Oppenheimer on the bill.

ACTING PRESIDENT FARLEY: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I want to urge my colleagues to vote against this bill.

SENATOR KUHL: Lay it aside, please.

ACTING PRESIDENT FARLEY: Lay the bill aside, withdraw the roll call.

THE SECRETARY: 248, by Senator Daly, Senate Bill Number 1095, Environmental Conservation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Daly.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Libous, could I see you for a second?

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly, you have the floor.

SENATOR DALY: Mr. President, this would establish a small quantity generators legislation for hazardous waste.

Basically what we have in New York State is a situation where approximately 25 percent of the waste that's generated in the state is generated by small generators, and the small generator is defined as one who produces less than one thousand kilograms of hazardous waste each month.

Under the existing situation, it is estimated that over 25 percent of those who generate haz... I should say generate small amounts of hazardous waste are not even controlled or in the program, because most of them don't even know that they should be and what this bill does, it establishes a program where the Department of Environmental Conservation would put in place different policies to inform those generators of hazardous waste that they must comply with state law.

It would allow the Department of Environmental Conservation to find out where that waste is, how it's being handled. Very frankly, the basic thrust of this legislation is to eliminate the improper handling of hazardous

waste, much of which is occurring by -- I should say in companies that generate small amounts of it, but overall it has an impact. Over 25,000 tons of hazardous waste are generated by those small generators.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Gold.

SENATOR GOLD: Yeah, Senator yield to one question?

ACTING PRESIDENT LIBOUS: Senator Daly, would you yield?

SENATOR GOLD: I have the memo in opposition from the Department, which indicates that you have a "Levy amendment" as part of your amendment; that's one of these things where we require annual reports and give them no money.

SENATOR DALY: I'm sorry. I didn't hear you, Senator.

SENATOR GOLD: I say, is there a requirement in the bill by amendment to provide annual reports?

SENATOR DALY: Yes, sir. Yes,

there is and, very frankly, the demands on DEC for that report are minimal. They're already collecting that information.

SENATOR GOLD: All right. Thank you. I just want to point out that there are memorandums in support on this legislation from the New York State Professional Applicators Coalition and the New York State Auto Dealers. There is also a memorandum in opposition by the Department, and I'm sure many of you have read it already, but one of the -- one of their oppositions is based upon the requirement that they file annual reports, requiring expenditures of significant amounts of staff time, not to mention the publication and mailing costs, without additional financing of that requirement.

SENATOR DALY: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Daly.

SENATOR DALY: I might add to what Senator Gold said that we have in other legislation which we've passed, which has passed

this house and which we'll have again before us, I hope, a method by which monies can be raised directly which will -- which are dedicated to the use of those monies by the Department of Environmental Conservation for the small generators -- for the small generators program.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR KUHL: Mr. President, may we return to Calendar Number 247, please, and take that up at this time?

ACTING PRESIDENT LIBOUS: Yes, Senator Kuhl. We will return to Calendar 247. Secretary will read, please.

THE SECRETARY: Calendar Number 247, by Senator Stafford, Senate Print 437, an act to amend the Environmental Conservation Law.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like to urge my colleagues to vote against this bill concerning the Adirondacks and signage in the Adirondacks.

It would permit four additional signs for each company within the Adirondacks and there are signs now that are permitted and four additional signs for a hundred or more companies, concerns, restaurants, all kinds of recreational companies would be an incredible addition of directional signs and -- and the Adirondacks is struggling now to maintain its wilderness character, and it's been a difficult fight, and I know there's a delicate balance between the commercial interests and the -- what

we're trying to preserve as the visual integrity of the park, and, unfortunately, we have lost too many of our beautiful parks to over commercialization and this is just an enormous increase in signage, and I think it has to be controlled if we are going to keep the visual beauty and integrity of the park.

And so I would very much urge those who care about the beauty and wilderness areas in our state which are becoming more and more limited, to vote against this bill.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR KUHL: Last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 247 are Senators Connor, Dollinger, Gold, Holland, Leichter, Montgomery, Ohrenstein, Onorato, Oppenheimer,

Padavan, Stachowski and Stavisky. Ayes 48, nays 12.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 251, by Senator Cook, Senate Bill Number 2287, Environmental Conservation Law, in relation to permitting certain directional signs in the Catskill Park.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm going to reiterate the same things I said for 247 but, in this case, in the case of the Catskills, the Catskills has already been plagued with a good deal of over-commercialization and -- and it has degraded somewhat the scenic character -- scenic beauty of this -- of this wonderful park, and I -- I feel it's equally important to try and rectify some of the errors that have been made in the Catskills and to vote -- I urge my

colleagues again to vote against this because four additional signs for every business is simply an outrageous overburden, and I think would do further harm to the beauty of the Catskills.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Gold.

SENATOR GOLD: Yeah. There is a memo by the Department strongly opposing this, and last year Senator Connor and myself and Senator Halperin and Montgomery, Ohrenstein, Onorato, Oppenheimer, Smith, Holland, Padavan and Spano voted in the negative.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 251 are Senators

Connor, Dollinger, Gold, Hannon, Holland, Lack, Leichter, Montgomery, Ohrenstein, Onorato, Oppenheimer, Padavan, Smith, Solomon, Spano, Stachowski and Stavisky. Ayes 43, nays 17.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 255, by Senator Johnson, Senate Bill Number 3487, an act to prohibit the Commissioner of Environmental Conservation from promulgating certain regulations.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR GOLD: Explanation.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT FARLEY: I think there's been an explanation asked for.

Senator Johnson.

SENATOR JOHNSON: Mr. President, in 1991, the Commissioner of the Department of Environmental Conservation adopted the California Air Quality Standards for vehicle

emissions that referred -- his initial promulgation referred to the years -- auto years of 1993 and 1994. We're not talking about the subsequent regulations called LEV. That's not part of this bill or this discussion.

After those regs were promulgated, the federal government made new standards, and those new standards for the years '93 and '94 to take up emission standards identical to the California standards. Those were set up to be implemented to go into effect March 1st.

As we know, March 1st of this year came. Most of the cars in this state which the dealers have for sale were federal cars, the same emission standard, but they didn't have the California Air Resources Board sticker on that car and, therefore, they could not be sold.

Now, this is something that all of us here knew was going to happen because a year ago we debated a bill called the New York State Clean Air Act and a discussion was had on the fact that this was not going to be an

effective thing and was going to be harmful economically and otherwise, with no air quality benefits. We knew it, but we only passed a bill in one house. It wasn't a one-house bill, but it ended up to be a one-house bill.

As you all know here, it had 86 sponsors in the other house and would have been a desirable thing to do, and four or five months ago in October we would have had our report in saying what we should do to be in conformity with the federal Clean Air Act, and we would have had an estimate of what those changes would cost and what the effect would be.

Well, that bill didn't pass; that study wasn't done, and here we are today a couple weeks after the standards for the '93 cars came into effect, and I might say three weeks after the DEC and the Motor Vehicle Department suddenly realized the enormity of their act, realizing that dealers all over the state had cars which are no longer allowed to be sold.

Needless to say, they immediately

rescinded their regulations for the '93 model year and said, Oh, it won't make any difference in the emission standards anyhow, so we'll just do away with the requirement for this year.

Well, that was a very appropriate ad hoc response to a precipitous action which was taken in the first place by a bare majority of the environmental board responding to the entreaties of Commissioner Jorling.

That took care of the 1993 model years. The 1994 model cars are the same, the same problem is going to exist not on March 1st of 1994 but maybe tomorrow or the next day because dealers, as you know -- as you may know, usually introduce their new '94 cars in August or September of the preceding year, so that these cars which are going to be sold this fall as '94 models are being ordered already.

I just asked the dealer association to tell me when these cars are normally ordered and the period is here anywheres from March 25th where the Chrysler/ Plymouth dealer in my town is putting his order

in, looks like today. I hope he'll wait for a couple of days. And they expect them to be delivered in a few months.

All these orders are going to be in and, if this California regulation stands, in effect every one of these cars will cost a hundred dollars or more, more than they do now without any change in air quality, and I think one of the -- one of the ironies of this precipitous action by the Commissioner, thought less action with no benefit other than complicating the lives of dealers and the people who buy their cars, is that some California cars have already been shipped here, but since he made a regulation on the 3rd that said, You don't have to sell California cars here, that means you can only sell federal cars here, so now dealers are stuck, some of them, with California cars which they can't sell because we have legitimatized the federal cars.

I mean I think the DEC and the Motor Vehicle and their allies have made enough problems for the auto purchasers and auto

sellers and auto manufacturers in this state that they really should back off from my further gratuitous upset to the private enterprise system in this state until they get their act together. I've got a -- and everybody says, Oh, they don't have to charge extra for these things. They just want to do it. Somebody said Honda doesn't charge extra for this California sticker; why do other people? Because they just add a hundred dollars to the price of their car.

But the certificate I have here, a dealer invoice from Chrysler Corporation, shows one to be delivered on Staten Island, the emission charge for New York State $86.70. Now, this comes to, I think, something like, five the number correct, we're going to sell 600,000 cars in the state. So it's -- I guess it's 6 million -- 60 million. Somebody -- John had that number. $60 million more for the 1994 cars, because they're going to have this Cali- fornia sticker on.

It does nothing for air quality.

It's a stupid, gratuitous insult to the consumers, the purchasers of automobiles. It's interfering with the buying and selling of automobiles. It's interfering with trading cars across state lines, and I might say that we had a very interesting discussion with some people who attended the Auto Dealers Convention two weeks ago, and one man said, "My place is in Port Jervis, dealing in Pennsylvania, New Jersey and New York. Guess what? Five California cars, I can't sell them to two-thirds of my customers out of state who come here, bringing money into the state, I can't sell them unless I have a supplement for New York cars and California cars."

So I don't want to say I told you so. I don't want to say anything because this house really supported our endeavors in the past. All I'm saying is we're not dealing with LEV. I don't want people to be confused with that. The federal court in Syracuse dealt with LEV; they said the imposition of LEV in the form in which we have introduced it, you need the

California cars but you don't need to use the California fuel which was improper and of no effect; so LEV is not a subject of this discussion.

All this has to do with is dealing -- auto dealers who have inventory selling cars in this state and simplifying the process as much as possible by getting this bill in effect which says that the imposition of these new regulations by the DEC is null and void, and you can go about your business buying and selling automobiles that meet all the federal standards, and the California tailpipe standards.

I might say that this is one time where I feel rather, shall I say, sanguine about our chances of success because the Assembly has introduced a similar bill the week after we did and Mr. Brodsky, the chairman of the Environ mental Conservation Committee, and Mr. Bragman, who chairs the Transportation Committee, are the sponsors of that bill. You might know we got 22 sponsors in this house and their bill is similar

to ours.

The only difference is that theirs essentially goes into effect 60 days after the effective date. That would push us into May or June, and many of these people have already ordered their cars. So I think our bill is a better version. I hope this bill should pass in both houses. It should go into effect when it's signed by the Governor.

Thank you.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President, on the bill.

My colleagues, let me point out, this is not a sort of a board game that we're playing that really doesn't affect the people of the state of New York. This is a very crucial matter that we're debating involving two very important issues. One is the compliance of the state of New York with the federal Clean Air Act and the sanctions that will be applied to the

state of New York if we fail to comply, and secondly, the health of New Yorkers.

Now, I'm sorry that I have to disagree with my good friend and chairman of the committee on which I'm the ranking Minority member, Senator Johnson, but I think he made numerous misstatements.

Let's just go back a little bit. Clean air, under the Clean Air Act New York State, by 1996, has to decrease its emissions of pollutants in the air by 15 percent. We are presently out of compliance. There's areas of the state that are not only out of compliance, but, for instance, the city of New York is a severe ozone non-attainment area. Long Island has great problems in its air quality. So the state had to take some action.

Now, about 51 percent of all the pollutants come from automobiles, and there is no question but that we had to address that. You could address the emission problem from its two sources. One is the mobile -- I will yield. I will yield.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: Would the Senator yield?

SENATOR LEICHTER: Yes, sir.

SENATOR DALY: Senator, we're dealing now with '93-94. Can you tell me the difference between the federal standards for air emission in this period in which this bill covers and the California standards? Are there any differences?

SENATOR LEICHTER: Yes, there are, Senator. There are very significant differences, and I'm going to come to those, but I just want to give the background and you will be -- you will get your answer, and I hope that you will listen. You will be -

SENATOR DALY: There is no difference.

SENATOR LEICHTER: You will be satisfied that your question will be answered, Senator.

So the state had to take action

both in regard to the mobile and in regard to the stationary sources. Let me just throw this other fact in that, as far as the mobile is concerned, to get rid of one ton of emissions from mobile sources, essentially automobiles, costs roughly between 1- to $4,000 a ton. To get rid of it from the stationary sources costs between 5- and $10,000 a ton, substantially more. So whatever we fail to do by dealing with the primary source of contaminants in the air, the automobile, we will then have to do with the stationary sources at much greater cost and, in any event, we're going to have to do something about the automobile.

Now, there are two approaches. It's not really the California standard and the federal standard, but there are automobiles that meet a particular federal standard and that meet a particular standard that was developed by California, which is specifically authorized in the federal legislation, and the California standard -- California automobile, the LEV, which is the low emission vehicle, is superior

in two very important respects, and the -- and the exact amounts that the California cars - and, Senator Daly, that deals with the issue of concern to you, is 29 percent cleaner for the - for the -

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly, why do you rise?

SENATOR DALY: He's not -

SENATOR LEICHTER: No.

ACTING PRESIDENT FARLEY: Senator Leichter, are you willing to yield?

SENATOR LEICHTER: No.

SENATOR DALY: He's wrong.

ACTING PRESIDENT FARLEY: He's not willing to yield, Senator Daly.

SENATOR LEICHTER: -- is 29 percent cleaner as far as the volatile organic compounds and is 25 percent cleaner as far as the nitrogen oxides. It is less effective than the federal cars as regards carbon monoxide, but most of the problems that we have, most of the ozone problems relate to the what's called the

VOCs and, if you look at it in terms of the tonnage that is actually reduced under the California cars, it is even more significant.

So what the DEC did two years ago or so, or maybe last year, was to say that as part of our implementation program, our standard implementation program to comply with the Clean Air Act, that we will require the California cars with one change, and that was enacted by DEC.

This house, with many members on this side of the aisle, maybe some of the others, I don't remember, certainly I, in opposition, did pass a bill that rescinded those regulations. Senator Johnson has been dead set against this all along, as has been the automobile association. He passed that bill. It didn't pass in the -- in the Assembly.

However, a court action was started, and a district court held that under the federal law, that you could have either the California car or the federal car, but that you could not bury the requirements of the standards

as regards the California car and, under the DEC rules, we did not adopt the California clean fuel requirement and, therefore, the court held that the state regulations involving the California car, which Senator Johnson's bill is aimed at, could not go into effect as of 1995, which was the -- which was the time when that was going to be implemented.

Now, that case is being appealed and, frankly, I will pass no judgment on it because I'm just not enough knowledgeable in this area to say whether the state has a strong appeal or whether it has a weak appeal, so on, it's pretty much a case of first impression.

But what this particular bill now does is that we're left with the years 1993 and 1994 which are not affected by the court case and the DEC wants to apply its requirements that in this state you begin using the California cars.

Now, Senator Johnson said that DEC or the state had rescinded the regulation as to 1993 or the California cars. That's not

true. My understanding is that the only thing that was done is that there was going to be a certificate that the Department of Motor Vehicles was going to require to be attached to those cars that were required to comply with the California standard for automobiles, and that would not be required, but that DEC would still implement its regulations, and in any event, you then had the 1994 cars.

The point of all this is that we need to take some action because, as we all know, our air quality is bad. It's hurting people, and it's not -- this isn't something that just affects how much automobiles are going to cost or the design of automobiles and what's more attractive to have on the road. We're talking of people's health.

Now, before I talk about some of the health aspects of this, I just want to point out that, if we fail to comply with the federal clean air standard, some pretty nasty, mean sanctions are going to be applied to the state of New York. Those -- those sanctions are, one,

that we're going to lose federal highway monies maybe up to one billion dollars; secondly, that the -- that the state will lose the power of implementing the Clean Air Act. EPA will come in and tell us what to do; and the third one is that -- that, oh, there's going to be an emission offset two for one. That means that for every new source that emits pollutions into the air, you're going to have to come up with a saving of two for one, which would impose enormous costs on the industry of this state. You'd have to go to the stationary sources and they would have to put in additional scrubbers or God knows what other sort of equipment which, as we know, is very expensive and, as I told you before, these figures are not in dispute. It costs much more, maybe three or four times as much to get rid of emissions from stationary sources, your power plants, and so on, as it does from the mobile ones.

So the sanctions are terribly important and I've not heard Senator Johnson once address, not once, how we're going to

comply with the federal Clean Air Act. And what are you going to say who vote for this bill or other measures which make it impossible for us to comply with the Clean Air Act when we lose the highway funds, when we -- when we stop industrial development in this state and when EPA comes in and tells us what to do?

Senator Johnson won't be even able to put in his bills any more, because EPA will be calling the shots.

But it's more than just an issue of federal government/state government. We're talking about people's health, people's lives. We have a terrible problem. The American Lung Association came out against this bill because of the problems that we have.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: Mr. President, would the Senator yield to one question?

SENATOR LEICHTER: Yes.

SENATOR DALY: What is the

difference between the federal air emission standards for 1993-1994 and the California standards, air emission standards for '93-94?

SENATOR LEICHTER: Well, the difference as they relate to the automobile, Senator, I've told you what they do.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: Specifically, is the Senator saying that the California air emission standards for '93-94 are stricter than the federal standards for '93-94? If he is, Senator, Mr. President, I would suggest he go back and read it all over, because there is no difference in the air emission standards for 1993-94 between the California standards and the federal standards, and that is a fact.

SENATOR LEICHTER: Senator, you are right that there's no difference except one very important one, which is California goes in one year earlier and it -

SENATOR DALY: And that -

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: That is not a fact.

SENATOR LEICHTER: Senator, there is a difference. It goes in earlier and it goes in at twice the rate in 1994.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly, why do you rise?

SENATOR DALY: Could I answer that? There is no difference any more, Mr. President, because they've postponed it.

SENATOR LEICHTER: Senator, I'm sure you're going to take the floor and will put your particular spin on the facts. I'm giving you my best answer that I possibly can, and I appreciate your stronger views as well as your knowledge and the information that you have in this area, Senator, but I think you'll agree with me because it was totally absent from Senator Johnson's explanation that we are dealing with the health of people.

This is a terribly important matter for the people of the state of New York and it's particularly important for people who live in Senator Johnson's district and my district, as we're most affected by the terrible problem we have with smog, and so on.

Let me just say the American Lung Association said we presently, under the air that we have in this state, you have 1.5 million elderly who are at risk of getting serious respiratory illnesses. You have 2. -- I'm sorry 1.5 million elderly, did I say that? 2.1 million children .5 million people with asthma in New York State. There are districts, areas of this state, particularly in New York City in some of the inner city districts as they're euphemistically called, and Senator Mendez' and Senator Gonzalez' and areas I represent in northern Manhattan, we have a terrible problem with the number of people who have asthma, who suffer from other respiratory illnesses. We know that has to do with the quality of air. We need to deal with it. Senator Johnson's bill

makes it more difficult.

Let me finally say, Senator Johnson, when you say that there's a similar bill in the -- in the Assembly carried by -- by Assemblyman Brodsky, the differences are much greater than just a 60-day effective date. Senator, I'm sorry, Assemblyman Brodsky requires that there's got to be a certification by the Department of Motor Vehicles and by DEC that other steps are being taken, that air quality is not being denigrated as a result. So that there are very significant differences.

We have to face up to the fact that, for the sake of the people of this state, we have to deal with air quality and we have to do it, in any event, because the federal government has told us. DEC has come up with a program; maybe you could devise a better one, I'm not saying that you can't, but you can't just do it by saying to DEC, Don't do it this way. We're not going to let you do it this way and don't come in and fail to come in with your own program. Merely saying, Let's comply with

the federal standards, is not enough because it does not get rid of the pollution that we have; it doesn't get rid of the VOCs, the NOCs, at the same rate and that's terribly important, and it's for that reason that I would urge people to vote against this bill.

It's true, this is going to increase the cost of automobiles maybe up to a hundred dollars for the people of the state of New York. There's no way that you can clean up the environment without paying for it. That's not a great cost, and it's also true that it causes certain burdens for automobile dealers. I wish it didn't. I wish there was a way of doing it without it, but you cannot clean up the environment to the same extent as rapidly and as effectively and comply with the clean air standard if you knock out what DEC has done and merely rely on the federal standards for cars.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly, on the bill.

SENATOR DALY: Mr. President, let

me say that, politely, we're talking about apples and oranges. The Senator has been applying himself to the overall California standards and, in particular to the LEV standards which kick in in 1995.

Isn't it interesting that, if this program is so good, why no other state in this nation will walk into the California standards until 1998?

Now, it is a fact, this deals only with auto emissions, doesn't deal with LEV, the low emission vehicle, and it's the LEV part of the California standards to which the Senator has applied himself. That does not kick in until 1995. There is this first fact, there is no difference between the air emission standards, between the federal act and the California act for '93-94, no difference.

Actually, there is one difference, where we lose if you go with carbon monoxide and you deal with the California temperature and the climate in California and you apply that to New York State, we're going to

be emitting more carbon monoxide. But let's say that, again, no difference between the federal and the state.

Then why, Mr. President, should we have to have an automobile certified? Why should we have nothing? All we gain is certification. When we brought this up to the Commissioner at Senator Johnson's committee meeting, he said, "Well, it would be good experience." That's a $60 million experience? That's a complete boondoggle. There is no difference and, if the Senator checks, he'll find out that's true. There is no difference in air emission standards in '93-94.

Why then should we have the New York State automobiles certified on the California standards which are the same as the federal standards? It just doesn't make any sense. No sense whatsoever.

I understand where the Senator is coming from, and his drive for improved air quality. I concur with him, and if he could - if this demand by DEC improved air quality to

the extent the Senator seems to think it will, I might not be arguing against it. But it doesn't. It has no impact whatsoever. Standards the same, only difference you have to pay a hundred dollars to have something certified that we don't need certified.

SENATOR JOHNSON: Senator -

ACTING PRESIDENT FARLEY: Senator Johnson.

SENATOR JOHNSON: I'd like to respond to some of the things that my good friend, Senator Leichter, had to say.

One of the things is that there's no deadline which you're going to fail to meet by enacting this law today, that we've got a carbon monoxide SIP that's due in November of this year. We're in compliance with carbon monoxide, no problem. The attainment SIP, clean air fees that go with it, have to be done by November 1994. No problem. The employee trip reduction thing is overdue. It was held up last fall, but is not a major problem. We have time to act on it this year, and I expect that we

will. There's no air quality problem in this state, contrary to the alarmist rhetoric which talks about severe non-attainment areas, which is based on a 1990 -- 1989 spike that year in which we experienced an extremely hot summer.

I know Senator Leichter and some of us have a lot of respect for the New York Times, and the New York Times has an index here of pollution, printed every day in the paper. Over 300 will be hazardous, 201 to 300 very unhealthful, 101 to 200 moderate, 50 and above -- we start over again. Hazardous over 300, 201 to 300 very unhealthful, 101 to 200 unhealthful, 51 to 100 moderate and under 50 good.

You know what the standard is in the study? You might be interested to know this, New York City 43, White Plains 25, Hempstead 42, Babylon, as you said, 38, and so so. Everything is good, Senator. Everything is so far from hazardous that it's almost on the bottom index of any scale you have might want to measure pollutants on.

So, Senator, we don't have a problem. I want to reassure you of that because if I felt there were a severe air quality problem, and I'm breathing the same air you're breathing, I certainly wouldn't bring this bill before us.

As a matter of fact, other - other things you mentioned that, for example, this would put us out of compliance, and so forth, create great problems. I have a press release issued from the Motor Vehicle Department on March 3rd, that Marc Gerstman, Deputy Commissioner of the New York State Department of Environmental Conservation said the rule was a minor component of the state's overall clean air plan; in other words, had no significant effect on the '93 cars, had no significant effect on our plan.

Lee Wasserman of the Environmental Planning Lobby said the change of time would have little effect on New York's compliance with New York's regulation. These are the people that put the regulations in

effect, these are the environmentalists who are crusading for more and bigger laws and regulations every day of the week irrespective of any effect on the economy of this state.

That's O.K. That's their bag. That's their bag, but it's not our bag. It's our bag to represent the people who sent us here and do something that makes environmental and economic sense and I think that's what we're trying to do.

Senator, you read something about the cost of the California standards, and I don't want to confuse anybody here that's already a little bit confused. The tailpipe standards are the same for all the cars, but the percent to which it's phased in each year varies to some extent for California and New York, and what we've been able to determine is that this California regulation could result in three tons per day of emissions, a thousand tons a year at a cost of $60 million, which comes to $60,000 a ton.

If there were a minor effect, it

would be very -- it would be very minimal and very effective, very expensive, but I think the thing to point out is every time we make cars cost more, they sell fewer cars and the best thing we can do for air quality in this state or in any state of this nation is not to make cars more expensive but to make them more affordable so people can buy new cars and, as you know, Senator, from our debate last year, and we talked about an old car buyback and at that time it was established that old cars, some of them, put out up to 70 percent of the pollutants of new cars. So we should be trying to make it easy and least expensive as possible to replace our old fleet of cars with new cars.

Senator, if we say to the Department, Don't mess around with the sale of new cars for '94, let the business go ahead and sell these clean cars which I'm saying the tail pipe standards are the same and sell as many as they can as least expensively as they can so we can do something effective about air quality and not some adding further impediments to

resolution of the air quality problem in our state.

And, as I say, Senator, you mentioned about the other house. The other house, yes, they put something in about the EPA saying it wouldn't harm the air quality. They'll say anything that these people want them to say, but the simple fact is we have to make up our minds based on the facts that are available to us. The facts that are available to us is that we're going to create a lot of problems and have no benefit.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Senator Johnson, I just want to say when you talk about us saying anything that, you know, they want to say, I wonder whether that may not apply to some aspects of the arguments that have been advanced for this bill.

Let me just point out because you quoted EPL and Lee Wasserman, and obviously

there was some mistake and Lee Wasserman wrote you a letter and he said, "EPL continues to support implementation of the California clean air program as a critical and irreplaceable component of New York's effort to comply with the Clean Air Act amendments of 1990."

You know, it's one view, it's not critical, but I think what is critical is, and I think that the debate between particularly Senator Daly and me came down to what the effect of implementing the California standard would be. Does it do anything for us? And you're right, Senator Daly, if it doesn't or if it's so minimal, de minimus, then if it's $60 million or $6 million, why do it? I would agree with you.

But I did not hear you refute the figure that I gave you that for 1993 and 1994, if we now went to the California standard, that it would reduce the volatile organic compounds by 29 percent and would reduce the nitrogen oxides by 25 percent. That's a significant benefit that we get by the California cars over the federal cars.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly, why do you rise?

SENATOR DALY: I assume he was asking me -- are you asking -- I thought he was asking me a question.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR LEICHTER: I'm just reiterating a fact, Senator.

SENATOR DALY: Well, may I ask one question on those facts?

SENATOR LEICHTER: Yes, I'll yield.

SENATOR DALY: Are you saying those are the improvements we'll have in '93-94 if we go to the California certification?

SENATOR LEICHTER: Right. California certification over the federal car.

SENATOR DALY: For ninety... Mr. President.

ACTING PRESIDENT FARLEY: Yes, Senator Daly.

SENATOR DALY: I would like to have him tell me where he got those figures.

SENATOR LEICHTER: From the Department of Environmental Conservation.

SENATOR DALY: Mr. President, isn't it surprising we debated this with the Commissioner of the Department of Environmental Conservation just a short three weeks ago at the committee hearing. He could not -- did not give us those figures at that time. At that time, he had no reason for doing it other than experience, and I must say I'm quite surprised.

I have been told by many people, I believe them, that the standards are no different, the air emission standards that we're dealing with in this bill, and let's stick with what this bill deals with, does not deal with LEV, does not deal with ZEV, does not deal with cheaper -- I should say with fuel. It deals strictly with air emission standards for '93-94 and it is my understanding and certainly, Senator, I'll be happy to see that information, but it's my understanding there is no difference

whatsoever between federal standards and California standards for '93-94.

SENATOR LEICHTER: Except to this extent, Senator, and that's answering your question, that the California standard -- under the California standard, it kicks in one year earlier so you get that one year head start and as I am advised, Senator, and I don't have a piece of paper that says that clearly, but I'm advised by counsel, I believe counsel is correct, that it is at twice the rate, and so that is the benefit that we get.

Let me also say, by starting in 1993 and bringing in the cars with the California standard and the reduction of these emissions in the air, that I have this figure that, under the California car, over the life of the car we'll get rid of 6,670 pounds of volatile organic compounds, mainly those are hydrocarbons -- per day. It couldn't be per car; that would be all of the cars, and 25,000 pounds of the nitrogen oxides per day.

In contrast, the federal car

program benefits are far less. Estimates are less than 2,000 pounds of the volatile organic compounds; that's 2,000 as against 6600 and 6,500 pounds of the nitrogen oxides per day as against 25,000; so it seems on these figures irrefutable that we get a definite gain by going ahead on the California standards.

And Senator Johnson said, Well, you know, air quality isn't so bad and he cited some places. Let me just tell you, New York City, Senator Johnson, of all the cities in the country, is the third worst. We are a severe non-attainment area as far as ozones are concerned. We -- we can't look the other way. We can't play Pollyanna on this. We know it and our representatives from the city of New York, we know the number of children that we have with asthma, the number of people that are sick with respiratory ailments. We've got to act.

ACTING PRESIDENT FARLEY: Senator Jones.

SENATOR JONES: Yes. I rise to speak on the bill and to support my colleagues

on the other side of the aisle on this issue.

I listened very carefully today and, clearly, I don't think any one of us would be getting up here and speaking to something that is going to harm our environment or really be a definite problem to clean air. I think we all support that.

However, the issue that I think what I'm hearing the auto workers and the car dealers asking for is time. I'm also not hearing anything that tells me that our clean air is going to be in dire danger during this time period, but what is going to be in danger, what I think is one of our biggest concerns is workers and jobs.

I happen to come from an area that the automobile industry is already in dire straits and that there are many people already out of work, and for us to rush up a process that I don't see is going to be harming the en vironment by doing this and that, in the long run, is going to put not only our car dealers from selling cars, but that is going to be a

harm to our auto workers as well. I am all for pursuing anything we can to achieve clean air but I'm not willing to do it on the backs of our -- the auto workers in our state.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT FARLEY: Senator Johnson to close debate.

SENATOR JOHNSON: I think we'd all like to terminate the discussion, but I wouldn't like it to end without making a few points.

As I mentioned, auto dealers are now and over the next few months will be ordering the 1994 cars. I mentioned to you that two weeks ago they couldn't sell the federal cars because they didn't have the sticker. We got the waiver. Now some people are stuck with cars with the California sticker which they can't sell because they only sell federal cars in the state.

This is no esoteric point for

debating. This is economic and practical reality. In the next month or two, either we'll pass this bill or we'll have another crisis which will be dealt with by the Department of Motor Vehicles in their own way, maybe by granting another waiver, totally unnecessarily, and it won't be done until the last minute. At that point there may be 10 or 15 percent of the cars delivered which are California cars which again will not be able to be sold in this state because of the waiver granted by the Department. They'll have to be trucked across the country to be sold if they can, indeed, sell them there.

There is no doubt it's going to -- we're going to lose maybe 10 or 15 percent of the potential sales. These cars won't be available because people won't want to pay the extra hundred dollars for various reasons. A heavy negative effect on the people of this state, not only the auto workers, the people in the dealerships, everybody with whom those people trade. The people who are laid off in

the auto dealerships won't work; they'll be on unemployment. It's a foolish thing with no benefit.

We lost in this state 40 percent of all the jobs that were lost in the nation were lost in this state in the last four years. Are we trying to make it 50 percent or what is our problem?

Talking about air quality. We're the third worst in the country. California is worst, 207 days. I don't know who's second but we're third. Where are we? Seven days last year, seven days out of compliance, and that doesn't mean a crisis situation by any stretch of the imagination.

If this was a desirable thing to do, these California cars for '93 and '94, why are we the only state in the nation? We're the only state in the nation because Commissioner Jorling wants it that way. He's been beating people up for half a dozen years in the NESCAUM and the Ozone Transport Region, trying to get everybody to go along with him.

Guess what? They haven't gone. Other states have said, Well, maybe; well, O.K., maybe some time in the future. No other states have done it. If you read the New York Times on a different page, they'll tell you the Northeast is making progress. Everybody is going to do this and this, but when you read it out there's no other state that's adopting these '93 and '94 regulations.

Why do we have to be a pariah? Why do we have to have the worst environment for business? Why do we have to have the most regulations, and everything the most expensive in the state of New York? Mario Cuomo said last week he doesn't know why people are leaving the state; he's going to do a study. Give me a break, Governor. You know why they're leaving this state, because they can't afford to live here.

This stupid imposition is just another good reason to get the heck out of New York State. I don't want them to do that. I want them to stay here. I want them to do

business here and buy their cars here, clean up the air, create jobs and have the money to send their kids to college. I want people to stay in this state.

One regulation like this out of the way will be one little step to making some kind of sensible progress in the economy of this state.

ACTING PRESIDENT FARLEY: Senator -- Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'll be extremely brief. I support Senator Johnson's bill.

I guess the analogy I would use is very simple. We're now starting to treat the patient who has been smoking for years and years and years. Our system is -- our air quality in this state is, unfortunately, in some areas I know in severe non-attainment at various levels in other parts of the state.

But what we're really asking to do is one part of the industry to go "cold turkey" and ask them to pay the cost, the burden

of it. I think that as we comply with the Clean Air Act, the patient is going to have tremors; it's going to have its shivers, but I think we owe to this state that we do it in a responsible fashion as we begin the process to move toward cleaner air. We've been doing it for a century in our industries and in our automobiles and in many other ways. We're going to have a long process.

I don't want anyone to interpret my vote in favor of Senator Johnson's bill as an indication that I don't want the air quality in this state to improve. I believe that it will. I believe, if we take reasonable steps that attend to the patient and make sure that we minimize the tremors and the shakes that the patient who's trying to kick itself of the habit of high pollution, if we pay attention to the patient with reasonable steps, I think we will get to the eventual goal.

So I rise in support of the bill. I didn't mean or intend to speak after the sponsor, but I think this is a good way to

begin the process. I think that, as we begin the process, we've got to be assured that we're not causing great anxiety in this patient that we call the state of New York. If we don't adopt this bill, I'm afraid we send a tremor into an industry and, frankly, into the work force and one that the patient isn't ready and prepared to accept.

So I will be voting in favor of Senator Johnson's bill.

SENATOR STACHOWSKI: Read the last section.

ACTING PRESIDENT FARLEY: Is there anybody else on the bill?

Read the last section.

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

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yeah. Mr. President, I want to correct something I said to Senator Daly. We obviously gave you wrong

information. I want to put that out there. I said that there would be a 29 percent and a 25 percent saving in '90, '93, 94. You asked me where did I get those figures. I said DEC and, in fact, I was advised afterwards that this was in a calculation that counsel did and I think that -- I think the calculation is incorrect. I don't think the savings are in that magnitude, and I wanted to correct that, and it didn't come from DEC.

The exact DEC figures are the pounds that I gave you, and that's over the life of the vehicle. There will be some benefit in 1993-94 but not of the magnitude I first stated, and I wanted to correct that, although I think there are still ample reasons to vote against this bill and I appreciate what my friends say in their concern for the automobile industry and the automobile workers. I share that. But I think that can be dealt with. I don't think the tremors are so great, and I think we must consider the welfare of all the people of the state of New York, and that requires that we

address the need for cleaner air.

Thank you, Mr. President. I vote in the negative.

ACTING PRESIDENT FARLEY: Wait a minute. Has the last section been read? Yes, all right. Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number -- those recorded in the negative on Calendar Number 255 are Senators Connor, Gold, Leichter, Markowitz, Mendez, Montgomery, Ohrenstein and Oppenheimer. Ayes 52, nays 8.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 256, by Senator Present, Senate Bill Number 2108, an act to amend the Insurance Law.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT FARLEY: Senator Solomon.

SENATOR SOLOMON: Yes, Mr. President, on the bill, instead of asking for an

explanation. If Mr. -- if Senator Present would yield for a question, please.

ACTING PRESIDENT FARLEY: Will you yield, Senator Present?

SENATOR PRESENT: Yes.

SENATOR SOLOMON: Yes. Senator, I don't disagree with the intent of the bill to expand mammography testing. However, I did a lot of work in looking to ERISA, the Employment and Retirement Income and Security Act, and part of this legislation, you remove language of Section 7 where you say -- I'm sorry, line 7, "***except that this provision shall not apply to a policy which covers persons employed in more than one state or the benefit structure which was the subject of collective bargaining affecting persons employed in more than one state."

What this would do by removing this language would subject this entire bill to an attack in our court system based on ERISA from employment unions, companies that are self insured under ERISA and the result would be that

this bill would be thrown out in federal court.

ERISA has been expanding. You recently saw the surcharge that the state imposed. Last year when we did the budget, the 11 percent was thrown out in federal court, and I can tell you now, it's very simple, this exemption would not survive -- this legislation would not survive an ERISA attack, and the net result would be instead of protecting more women with mammography screening, that no one in this state would be caused to have this, and I'd like to know if you've had counsel look at that or how you can explain that.

SENATOR PRESENT: We've had no memos in opposition to this bill. You're bringing it up now. I don't have any real problem with what you've said.

SENATOR SOLOMON: Well, Blue Cross/Blue Shield, which I usually don't agree with, raises the ERISA point in a memo in opposition and I really think that there wasn't any research done on this legislation, because there's no question in my mind that, if this is

passed and signed, it will be attacked in court, the lowest court that sees this bill will throw it out based on the fact that it violates ERISA, and the Blue Cross memo raises that on March 12, '93.

If you look at -- by Hinman, Straub, memorandum in opposition, Section 2, and I'm not against the concept but it violates ERISA, and we're going to have problems and I would suggest that you amend the bill and take out that section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold, why do you rise?

SENATOR GOLD: Well, with the permission of the Majority Leader, could I ask Senator Solomon a question on this subject?

Senator, I got the memo here and I am not embarrassed at all to yield to your expertise, but I'm not sure I really understand it. I think that everyone here from Senator Present on certainly understands the problem and wants to help women and wants to have this

successful, et cetera, et cetera. But I'm not sure I understand your explanation of why the bill would cause a problem, and if you could perhaps in less technical words just explain to all of us, why you think the bill creates a problem, it might be helpful.

SENATOR SOLOMON: Well, right now, ERISA -- any employee benefit, any impact on any employee benefit passed by a state can be attacked based on the Employment and Retirement Income and Security Act of 1974 that deals with health insurance. That's what this deals with. So if you go across -- you're self-insured. You're a union. You can attack this saying that you're violating ERISA. The state cannot override the federal government.

Excuse me?

SENATOR GOLD: Senator, how is it violating it? That's what we're trying to find out.

SENATOR SOLOMON: It violates it when you attack the collective bargaining agreements and you cross state lines. In other

words, this will bring people that are self-insured into this act, and they're exempt from state actions.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: This bill was passed last year. This issue was brought up; we researched it, reviewed it and found it not very valid, and it's being brought up again.

SENATOR SOLOMON: Well - Senator, the only thing I could say is that the entire set of case law based on ERISA, any legislation such as this has been a problem and the problem, they've been attacked across the country, any state imposition such as this, and if it does get passed and signed, we'll have the same problems, and what worries me is that the impact could be the reversion back where we don't even have our mandate in the small groups. There's no separability in this bill either.

ACTING PRESIDENT FARLEY: Read

the last section.

THE SECRETARY: Section 3. This act shall take effect on the 1st day of January next succeeding the date on which it shall have become law.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Senator Kuhl, how are you voting?

(Negative indication.)

THE SECRETARY: Ayes 59, nays one, Senator Kuhl recorded in the negative.

ACTING PRESIDENT FARLEY: Senator Levy.

SENATOR LEVY: Mr. President, I was asked -

ACTING PRESIDENT FARLEY: Oh, excuse me. Excuse me, Senator Levy. Just hold it up. That bill is passed.

Senator Levy.

SENATOR LEVY: Yes, Mr. President. I was out of the chamber when

Senator Johnson's bill was voted on. I'd like unanimous consent to be reported in the negative on Calendar Number 255.

ACTING PRESIDENT FARLEY: Without objection, Senator Levy is in the negative.

Senator Jones.

SENATOR JONES: I'd like unanimous consent to be recorded as a no on 247, 251.

ACTING PRESIDENT FARLEY: 247, 251, Senator Jones will be in the negative.

Senator Libous, did you want to be recognized?

SENATOR LIBOUS: No, I didn't, Mr. President.

ACTING PRESIDENT FARLEY: Senator Nozzolio.

SENATOR NOZZOLIO: Yes, Mr. President. I'd like to be recorded in the negative on Calendar Number 245.

ACTING PRESIDENT FARLEY: 245, Senator Nozzolio is in the negative.

Senator Pataki.

SENATOR PATAKI: Yes, Mr. President. I'd like unanimous consent to be recorded in the negative on Calendar 245.

ACTING PRESIDENT FARLEY: 245, Senator Pataki is in the negative.

SENATOR PRESENT: Ready for the next bill?

ACTING PRESIDENT FARLEY: I think we are ready for the next bill.

THE SECRETARY: Calendar Number 261, by Senator Velella, Senate Bill Number 3156, an act to amend the Insurance Law, in relation to reimbursement for speech/language pathology or audiology services.

SENATOR SOLOMON: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for. Senator Velella.

SENATOR VELELLA: Yes. This bill will allow speech pathologists and audiologist patients to be reimbursed when such services would otherwise have been reimbursable if performed by a physician. So that if -- let me

make it very simple: If a pathologist or an audiologist performed a service and it's covered under an existing contract and it's within the scope of their jurisdiction as defined in the law for pathologists or audiologists, it would be covered for them to be reimbursed just as if it was done by a physician.

ACTING PRESIDENT FARLEY: Senator Solomon, I think. Senator Montgomery, do you -

SENATOR MONTGOMERY: Yes. Would Senator Velella respond to a question?

SENATOR VELELLA: Yes.

SENATOR MONTGOMERY: Senator Velella, does this bill mandate that the insurance companies cover?

SENATOR VELELLA: No, it's only if it's already previously covered. It doesn't go to the issue of additional coverage. It goes to the issue of who's performing the service, so that, if an audiologist or pathologist in the scope of their definition of accepted practice, if they can do that already by the licensing authorities, they can be reimbursed for their

services as a physician would have been.

SENATOR MONTGOMERY: And one other question, Senator Velella: Does it require that the physician -- does it require that they have a referral from a physician in order to -

SENATOR VELELLA: No, no.

SENATOR MONTGOMERY: O.K. On the bill, Mr. President. I'd like to -

ACTING PRESIDENT FARLEY: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. I want to compliment Senator Velella. This is a very good bill. It's very important, and I know I never usually agree with Senator Velella, but he's done a very good thing, and I just want to say why. He's a wonderful human being, yes, and -

SENATOR VELELLA: I think you're a nice person also.

SENATOR MONTGOMERY: This is a very important bill, and I will explain to my colleagues why I'm supporting it so -- so

enthusiastically.

We now have a situation where children who have speech problems in the public school system in the city of New York must, in order to receive speech services, must go through the handicapped committee and thereby be labeled as a handicap -- be categorized as a handicapped child. And, clearly, that is, in most cases of speech problems, not the case. These are not handicapped children and in that sense. They simply have a speech impediment, which is very common, particularly among young children. So that's one problem.

The other problem is the only way that the insurance will reimburse speech therapy for children or anybody else is that they must go through a hospital, and that is more costly and less efficient. So I am supporting this bill because I think that we would save, in fact, the insurance companies' money, if -- if speech and language therapists could be -- could bill directly to the insurance companies without having to go through the hospital, and I think

moreover that hopefully we will be able to correct that serious problem where children would have speech problems in the Board of Ed. must go through Special Ed. That is -- that causes many parents to have to seek outside therapy for which they can not receive reimbursement through their insurance companies unless they go through a hospital.

So, Senator Velella, this is a good bill, and I hope we can work further on the whole question of how we handle children with speech problems in schools so that they can receive the services of a speech teacher without being labeled as handicapped.

Thank you.

ACTING PRESIDENT FARLEY: On the bill, Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President.

Senator Velella yield, please?

SENATOR VELELLA: Yes.

SENATOR SOLOMON: Senator, there's been no cost-benefit analysis done on

this legislation on what the cost and additional costs on an insurance policy is, is there?

SENATOR VELELLA: Well, I don't know if you would say independent, but the New York State Speech Language and Hearing Association has, so you might say that they might look at it with a little bit of a jaundiced eye.

SENATOR SOLOMON: Right.

SENATOR VELELLA: But I see no study done that would conflict with it, and they have basically come up with the conclusion that it would be little or no additional expense. Again, we're not mandating additional services, Senator. We're just saying that those services can be provided not necessarily by a physician but by other people who have been licensed and the scope of their licensure fits into the criteria that's necessary for the patient, so that in some sense I think there might be some saving as Senator Montgomery has outlined.

SENATOR SOLOMON: Thank you. On the bill.

Unfortunately, this bill falls into the definition of a state mandate for small group and individual policies which are the only policies we can impact. We can not impact large groups and large union policies because, as I said before, they're exempt from ERISA as a result of ERISA.

Back two years ago when I had looked at this, the Senate Democratic Task Force on Health Insurance, and we found a number of things including the fact that 18 states have already passed legislation where before any new mandate is adopted, they have a cost-benefit analysis, and the reason for that is in situations such as this, we had adopted, for instance, psychiatric social workers because they provided the same type of service as a psychiatrist or a psychologist and, lo and behold, what we found out as a result of that mandate was that mental health services increased dramatically and increased the cost of health insurance.

Now, in the last year in this

chamber, we have been here and we have struggled with increases in health insurance policies, increases that are caused by a myriad of circumstances from one end to the other, but in fact mandates do have an impact on increasing the cost of health insurance, and I don't think we should be adopting any additional mandates which only affect individual and small group policies in this state.

There's a limited number of situations which this could impact that should possibly increase the cost of health insurance today. People are getting calls into their offices as a result of community rating: How come my insurance went up? How come my insurance went up by a hundred dollars, two hundred dollars, three hundred dollars or doubled or tripled?

At this point in time, we should not be passing legislation such as this where we don't know what the fiscal impact is on the cost of health insurance, and until we have a clear idea of what this is going to cost, and what the

impact is going to be, we shouldn't be passing it.

That's what starts to get states like us and other states across the country into trouble. There are mandates across the states on all different areas. One state has mandates where they have to cover the cost of hairpieces in their legislation. I'm sure there was a good reason for that along the line.

But we have to be very careful today with the situation where we had to come and bail out Empire Blue Cross/Blue Shield at the beginning of the legislative session, that we're not going to help increase the cost of health insurance in this state before we have a clear idea what it's going to pay for and what benefit we're going to get, and then we make that decision.

Thank you.

ACTING PRESIDENT FARLEY: Senator Velella.

Do you want to yield to Senator Lack, and you can close it?

SENATOR LACK: Thank you, Mr. President.

I must say I'm certainly interested in hearing the word "mandate". It seems to get thrown around this chamber with alacrity on almost every bill that's proposed.

But, Senator Solomon, for argument's sake, we'll accept your thesis that this is the imposition of a mandate, but if you'd listened to Senator Montgomery's remarks, it's going to replace another mandate. Now, if that's, in effect, what's going to happen, let's evaluate which is the cheaper of the two mandates that we're getting involved in.

And listening to Senator Montgomery, she told you that the most common impediment that causes the classification in children in both pre-school handicapped committees and in regular committees on the handicapped is a speech impairment and when that goes through a school district and when that goes into a pre-K situation, a cost that's now shared 50 percent by the localities and 50

percent by the state, that is probably the most costly manner to finance and pay for improving some child's speech problem in this state.

What Senator Velella's bill would do would remove the focus from the school system of having to pay and push this through the committee on the handicapped into the insurance system where it belonged in the first place. So if we're going to accept the word "mandate" that's involved, I'd much rather see it as part of insurance, where it properly belongs, than in the school system which runs huge excessive costs in trying to control a speech impediment problem.

Senator, I'm glad on this bill and the last bill you talked about the ERISA problem. Of course, it's a problem. It's a problem not only in this. It's a problem in labor-related matters on apprenticeship and all sorts of related matters.

But, Senator, you know as well as I, there is pending in the Congress bills and with the new administration in support of those

bills, which will remove the ERISA impediment from this type of situation. Senator Javits, the sponsor of the original ERISA statute, never intended ERISA to be controlling the types of situations that it is, and I would assume by the time that this goes into effect, the type of ERISA preemption you're talking about on multi-state or large group policies will be a matter of history, a footnote, and that we in New York, and as well as the other states, will be able to control supplements and health benefit supplements the way they should be.

Senator Velella, I think this is an excellent piece of legislation, and I certainly plan to vote for it.

ACTING PRESIDENT FARLEY: Senator -- Senator Solomon.

SENATOR SOLOMON: Just on the bill.

Senator Lack, it may move it into the insurance, but those school districts do pay insurance benefits for its employees, so they're going to pay on those benefits in the same way

as if they're paying directly, and what I had said was there hadn't been an evaluation. That's what my problem is.

We have no cost, we have no evaluation process in this state. If we had an evaluation process in this state for mandates, and it came forward and gave the Legislature an idea of what they would cost in reality and what money we would save, then I think we could all make a better judgment on it, and that's the problem that I view, not that we're dealing with this particular group but, as I said before, 18 other states have an evaluation process. I've had a bill in to implement an evaluation process for a couple of years. It's very important and more so if that ERISA extension gets through because if that exemption goes through, we're going to have a lot of mandates that are going to come forward in the Insurance Committee and other committees.

We've got to know as legislators what it's going to cost and who it's going to benefit. Is it just going to benefit the

provider or is it going to benefit the public in general by just lowering such costs because unfortunately a lot of mandates just benefit the groups that push the mandates who, by the way, most often tend to be those in that profession that make that practice that want the mandates.

We generally do not get the general public asking for mandates to be imposed, i.e., in this case speech therapists or audiologists that are pushing this mandate. They're the ones that came forward and proposed the bill. We didn't have any great public concern saying we should have the bill. The provider who is going to get the direct benefit from the insurance payments, get the direct check into their hands, generally is the one who proposes the bill, and that's what my problem is, we need a fair evaluation process in this.

ACTING PRESIDENT FARLEY: Senator Velella.

SENATOR VELELLA: Mr. President, I think it's time that some of us in this house just stop a second, take a deep breath and start

really reading the bills, because if, in fact, this was a mandate, Senator Solomon's comments might be to the point.

But this bill is not a mandate. This bill does nothing more than provide an alternative to services that are already covered. If the services are needed, they can be provided by a physician now. We're saying we're expanding who can provide those services, licensed people who are qualified to deliver those services.

So in the essence of a mandate, it's broadening the scope of what's already in the policy. It has nothing to do with increased services that you weren't entitled to before. You're entitled to them, we're expanding the availability, and that is a major point, I think, that goes to what Senator Montgomery was saying, Senator Lack was saying: A lot of people are going to be able to get services that they weren't going to be able to get before because we've expanded the availability by broadening the amount of providers in the

marketplace.

We could limit costs on insurance if we denied everybody what they're entitled to under the policy, Senator Solomon. If we told people you can't get these services, the prices would go down, but that's not what we're all about. We're trying to get these essential services to as many people as we possibly can by qualified, licensed people, and that's what this bill does.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 1st day of September next succeeding the date on which it shall have become a law.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 6 -- on Calendar Number 261 are Senators Galiber, Holland, Pataki, Solomon and Waldon. Ayes 55, nays 5.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR GALIBER: Yes.

ACTING PRESIDENT FARLEY: Senator Galiber, why do you rise?

SENATOR GALIBER: Mr. President, I'd like to ask for unanimous consent to be recorded in the negative on 247.

ACTING PRESIDENT FARLEY: Senator Galiber will be in the negative on 247, without objection.

ACTING PRESIDENT FARLEY: Senator Present, I think that's our last bill. What's your -

SENATOR LEICHTER: Mr. President, I believe there's a motion there at the desk to discharge.

ACTING PRESIDENT FARLEY: Senator Leichter, I think there is a motion here at the desk.

SENATOR LEICHTER: This is to discharge my bill 1432-A, and at this time, I'd bring up the motion. I waive its reading.

ACTING PRESIDENT FARLEY: Let me read -- let the Secretary read the title.

SENATOR LEICHTER: O.K. Yes, read the title.

ACTING PRESIDENT FARLEY: And then we'll let you go.

THE SECRETARY: Senate Bill Number 1342, an act to amend the State Finance Law, in relation to requiring that budget bills making appropriations or reappropriations to the Legislature contain specific categories and amounts of expenditures.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President, on the motion, my friends, if this debate sounds familiar to you and if each of you here might very well be able to state everything that's going to be said by me and maybe by some other people on this side of the aisle, because we visited this issue before and, frankly, we're going to keep on revisiting this issue time and time again throughout this session, if need be

in the next session, until this Legislature does the right thing; and I'm not only talking about the Majority here. I'm also talking about the Majority in the other house.

It's time that we ended the abuse, the scandal, the embarrassment of the legislative budget. It's time that we stopped saying these are the rules that apply to government but they don't apply to the Legislature, because we're special and we can act above the law or outside of the law. It's really as simple as that, and we ought to -- we ought to do the right thing.

Now, I know that some people on the other side of the aisle and some of your spokespersons have said, Well, this is political. Well, it's become political only because you refuse to do the right thing. We're not picking on this issue because it's something we really don't believe in, but we want to embarrass you.

If it's political and it's embarrassing to you, it's because you've taken a

position which, frankly, is indefensible. I mean this has been my issue since I've been in the Legislature. I think I voted against the legislative budget when I was in the Assembly. I was the only one that used to also when I went to the Senate, because I just think it's wrong.

We shouldn't be governing in this fashion. We shouldn't be setting this example. So what this bill does is require very clear, precise itemization but in no different fashion than we require for the judiciary or we require for the executive branch, and the reason for this bill was never made clearer than last year when, frankly, we found that you people had put your campaign fingers into the public pot.

I mean it's interesting. You argue against public financing of campaigns. I guess what you have mean is against the financing of campaigns other than Republican incumbent Senators, because very clearly you dug into the pot of postage money which we showed that what you did is that you would spend down and on election years roll the money over and

then spend it in election years by sending out additional mailings for those of your incumbents who you thought needed that help, and the way you are able to do this is because you had this legislative budget with these lump sum appropriations. You have the roll-overs, the reappropriations, which far exceed by many, many percent, the reappropriation of any other level of government, and you can do all of that because it's not an itemized budget.

You don't need it. It's wrong. It shouldn't be done, and we're going to keep on pounding away at that issue in every different way that we know how, because I and I believe all the other members on this side of the aisle feel very strongly about it. We feel that it disgraces this Legislature, it demeans us. It's -- it's -- it's really beneath us to do this sort of thing, and to have, as often has happened in the past, to have members of the Majority get up or your spokesperson complain that you're not being sufficiently advised about expenditures on the part of the Executive when

you have a budget that is totally devoid of information.

And the public has a right to know and we, as legislators, have a right to know when we vote on these budgets and maybe next week, if it's next week that we'll take up the legislative budget, we'll go through it again, and we'll explore how these expenditures in lump sum categories are going to be made, and I remember when Senator Marchi and I used to have those debates somebody once said the definition of "eternity" is Senator Leichter asking a question and Senator Marchi answering.

It may have been true, but we used to debate that at 3:00 or 4:00 o'clock in the morning, and Senator Marchi is as skillful as anybody I know in giving what sounds like a very learned answer until you look at it and you realize you haven't learned anything, and I think part of the reason was that, although he was a most distinguished and able chair of the Finance Committee, he himself didn't know. He'd stand up there and have to defend the

legislative budget, and he didn't -- he had not the foggiest idea how that money was going to be spent, because it wasn't set forth in the budget. It wasn't set forth in any underlying document. Nobody knew.

There was only two people who knew, and they decide as they go along, and that's the Majority Leader and the Speaker.

So, my friends and I, my colleagues, but also my friends particularly on this issue, because we want to bring you to do the right thing. I said the other day, and I mean it, I'd love you to take this issue away from us, to say, O.K. We're going to come out with an itemized budget; we're going to come out with some of these other things that the federal government does; Congress does it, other state legislatures do it and poof! there goes the political issue.

You're doing the right thing. Everybody would say you're looking great, you'd get nice editorials, and that would be the end of it and you'd have the satisfaction of doing

what I know each and every one of you knows is the right thing to do, that you can't take public monies in this fashion and stay -- and we're not talking, by the way, of a few dollars, we're talking about over $160 million, $160 million, and some of you particularly are proud of the fact that you're fiscal conservatives, you're -- you're sound when it comes to budget ing. So, therefore, do it on your own budgets, set that example.

So we put forward this bill; we want to have it voted on. We'd like to see it passed. Unfortunately, you didn't report it on the floor, so we've made this motion to discharge. I don't know what more to say than do the right thing.

I move the motion, Mr. President.

ACTING PRESIDENT FARLEY: All in favor of the motion, say aye.

SENATOR GOLD: Party vote in the affirmative.

ACTING PRESIDENT FARLEY: Those

opposed nay.

SENATOR PRESENT: Party vote.

SENATOR GOLD: Party vote in the affirmative.

ACTING PRESIDENT FARLEY: Party vote. Call the roll on a party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 35.

ACTING PRESIDENT FARLEY: The motion is defeated.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah, I believe you have a motion by Senator Halperin with regard to his bill, 640, and I'd now, on his behalf, call up that motion.

ACTING PRESIDENT FARLEY: Would the Secretary read Senator Halperin's motion.

THE SECRETARY: By Senator Halperin, Senate Bill Number 640, an act to amend the Legislative Law, the State Finance Law

and the Public Officers Law, in relation to requiring disclosure of the manner in which public funds have been expended for personnel or property by the legislative and executive branches of state government.

ACTING PRESIDENT FARLEY: On Senator Halperin's behalf, Senator Gold.

SENATOR GOLD: Yes, thank you, sir.

First of all, I'd like to point out that there is a memo that I have here dated March 25th from Common Cause where they have - they support all of the bills we're moving today, the bill by Senator Dollinger and by Senator Jones and by Senator Leichter and by Senator Halperin.

This bill is very simple but, in order to understand the bill, you have to understand what happens today, and I just want to graphically show you. The way the state legislative budget works today, we can get our money from only one source. We get it from the people, so we tax them; they take the money,

this is the Legislature, you put it in and, as you can see, the money disappears. It's exactly what happens.

Where did it go? I don't know. You got it? I didn't see it. We believe that it's the people's money. They have a right to see where the money goes.

This is not a new and unusual concept. As a matter of fact, to the great credit of Senator Halperin, he's been talking about this for years and trying to get us to do the right thing.

I don't believe that doing the right thing in this area depends upon your political party. There is a United States Senator in this state who I didn't vote for but the people had their way, and Senator D'Amato sits in Washington. He apparently obeys the law down there and is not afraid of the fact that the Secretary of the Senate of the United States prints his expenses. Senator D'Amato seems to be able to survive year after year even though the public knows what money he is spending and

where.

This book, which you've seen probably ad nauseum -- this one happens to come from the Senate; there's a similar one for the House -- gets down to such detail that, for example, we know that on a certain day in June, $4.80 was used for a delivery. I mean that's how exacting it gets. $4.80. On June 16th, there was an AT&T communication that cost a dollar forty-two.

Now, do I think that a dollar forty-two is going to redo -- knowing where that dollar forty-two was spent is going to redo all of the damage that George Bush and Ronald Reagan did? Of course not, but at least -- at least those people involved in the legislative process are not afraid to say to the people, I don't care whether it's $20,000, I don't care whether it's an employee who earns $50,000, or I don't care whether it's 99 cents for a box of paper clips, it's your money. It ain't our money. It's your money, and you have a right to know where we're spending it and how we're spending

it, and I -- I don't know of any -- any members of Congress who have -- or individuals who say they won't run for Congress because the people might know how they're spending their money but you know, the -- they say silence is assent. Well, when I hear my colleagues Senator Leichter or my colleague, Senator Dollinger, or others, stand up and make accusations that the Majority party in this house uses taxpayer money for your campaigns, and nobody -- nobody is willing to answer that by showing the books, I can only assume that we are all in agreement with that concept.

When Newsday, I believe it was, last week wrote a singing editorial against your party in this house on this very issue, and you don't answer it by showing the books, I can only assume that silence is assent.

The world, I believe, does change, and I guarantee everyone sitting here, I guarantee you that a day will come when we, in fact, will have proper reporting and we will have opening up of the books. The question is

only when, and the question is only which party will control this house when it happens.

It is a foolish issue to separate us. It is a foolish issue. I've gone to Senate Club dinners, I've gone to all kinds of functions where I've heard about the integrity of this house, and I would tell you that behind your backs, speaking to the Republicans now, I happen to believe that your side may even be as honest as our side.

Let's prove it. Let's get it out there. I don't think you've got that much to hide. I think some of the expenditures you've made in the past have been outrageous, but the proposals that we're making are almost willing to forgive that. I don't know of a proposal here that says, admit that last year and two and three years ago and five years ago you used public money improperly.

I'm saying let's start anew. Reapportionment is over. Ralph Marino has my congratulations. People say, What's the Majority Leader's job? I say, He's got one job.

Every ten years, he's supposed to keep his majority. Keeps his majority, his member is state chairman; he's done his job. He's done his job. He got you through reapportionment. I think he's one of the great magicians of our time. He called it right and he got you through reapportionment.

But that's over, so why don't we start now with a new decent program for the next ten years. Let's open up these books. Let's have our quarterly reports. Let's let everybody know what we're doing, not with our money, that's our own business, but with their money because that happens to be their business.

ACTING PRESIDENT FARLEY: On the motion.

SENATOR GOLD: I think, Senator Dollinger.

ACTING PRESIDENT FARLEY: Oh, I'm sorry. Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

On the motion, I guess I look out

and see all those red-backed chairs with no bodies in them. I guess I'm somewhat disappointed but I really have three things I'd like to discuss ever so briefly. One is a history lesson, Mr. President, and two are just two things that have cropped up in the last couple weeks as we've looked at the issue of accounting by this body.

And I guess the history lesson is a very simple one. The -- the proposal by Senator Halperin to require an annual or a semi annual, quarterly accounting of the body and what it spends is patterned after a federal law which contains a very instructive little lesson in what party politics are all about and what legislative politics are all about.

You probably wondered how did it ever get into the Congressional laws? When did Congress decide that it would disclose this information? Well, the answer is in 1964. In 1959, a federal court had ruled that the government had no obligation to disclose because there was no statutory prohibition against or no

statutory requirement.

In 1964, on a voice vote with Republicans joining Democrats, there was a requirement put into the federal law to create semi-annual accounting in the Senate and quarterly accounting on the House of Representatives.

But it was very interesting, the other aspect of it. In 1966, there was an appropriation for the Legislature, for the Congress and the House and, in that vote in 1966, an unusual thing happened. A Republican from California -- they were in the minority at the time -- stood up and said, "I would like the requirement of quarterly accounting to apply to all matters, including expenditures by Congressional committees that are a matter of public record."

The leadership in the House, Democratic, said, "No, we don't want this bill. We don't want to have to disclose." Very unusual thing happened. The Republican Party was able to convince enough Democrats so that

the motion actually passed the House on a vote of 188 to 131, and I'd point out that the entire Republican delegation of Congressmen from New York State voted 15 to nothing in favor of greater disclosure by Congressional committees. It carried the New York Congressional delegation by a vote of 17 to 13 because everybody in this state and certainly with Republican leadership, with the GOP on the floor at the forefront, said, We want greater disclosure by our Congressional committees. We want to expand the scope of disclosure in the United States Congress and, in fact, that's the rule in the Congress today, that not only are the expenditures of the individual members quarterly accounted for but, in addition, the committees that conduct the business in a matter of public record are also a part of the accounting.

So with your leadership, with the leadership from your party, they expanded the scope of disclosure in the United States Congress.

It's exactly what we're looking

for in this house. We'd simply ask you to follow the leadership that your party exhibited almost 30 years ago.

The second item, a man came to a little hearing that we had in Rochester, New York and said, "I can't believe that you don't account for your expenditures because when you ask me to pay my taxes, all you want to see are all my vouchers, all my receipts, you want me to prove that I've got proper deductions. I have to keep my receipts. I have to be prepared for an audit if the IRS or the New York State Department of Taxation and Finance demands it."

What he highlighted to me was the inconsistency that we as elected officials preach. The answer is, when you pay your taxes you have to provide line item accounting. You have to provide receipts; you have to provide evidence of your expenses, but when we spend your money, we don't have to provide the same kind of accountability.

I ask you how can we ask our taxpayers to pay income taxes when we hold

ourselves to a different standard of accounting than the one that we demand at the time they pay? That inconsistency erodes people's confidence in this body and, frankly, in all government.

And a final lesson, I'll take it right out of my own family. I give my son, when he goes off -- he's 13 years old, and he goes off to the dance, I give him a $10 bill and say, "O.K., I know you're going out afterwards. Take my $10." He comes back at the end of the night. What does he do? "Daddy, only got a dime left." I ask him, "Mike, where did the other $9.90 go? The dance cost a dollar, the milk shake cost a buck and a half. Where did the rest of the money go?" He oftentimes frets and frowns and says, "We went for a pizza" or "we" did something different, but at least he gives me some sense of the accounting, so that the next time he goes to a dance I'll say, "You only need $5, because I know that's what you're going to spend."

I suggest to you that the same

kind of accountability you demand from your children you don't seem to want to demand from yourselves. The public is out there asking us how much we spend, where does it go? Senator Halperin's bill, if it's discharged from committee, will simply put us in the same posture as all of you have had as fathers so that you can ask your sons, Where did the money go? Tell us where it went.

Take the courage that the GOP exercised in 1966 in the United States Congress, take that leadership as your guide, force this body to subscribe to the same rules that the Congress subscribes to. It's the right direction. It's the right thing to do, and we're long overdue in doing it.

Your colleagues did it 30 years ago. Let's do it now.

ACTING PRESIDENT FARLEY: On the motion.

SENATOR GOLD: Party vote in the affirmative.

ACTING PRESIDENT FARLEY: Party

vote, Senator Present? Call the roll on a party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 35, party vote.

ACTING PRESIDENT FARLEY: Motion fails.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yes, I believe Senator Jones has a motion.

ACTING PRESIDENT FARLEY: Senator Jones.

SENATOR JONES: Mr. President, I believe -

ACTING PRESIDENT FARLEY: Senator Jones, could we just interrupt you for a moment for a change of vote. Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Can I be -- have unanimous consent to be recorded in the negative on Calendar Number 2661, please?

SENATOR GOLD: No objection.

ACTING PRESIDENT FARLEY: Also Senator Farley. Thank you.

SENATOR JONES: Yes, Mr. President. I believe you have a motion, a Bill Number 3704 there, and I would move to discharge and ask that the title be read, please.

ACTING PRESIDENT FARLEY: Yes, if you'd read the title, Mr. Secretary, and then we'll go to Senator Jones.

THE SECRETARY: By Senator Jones, Senate Bill Number 3704, an act to amend the Public Officers Law, the General Municipal Law and the Education Law, in relation to restricting mass mailings by certain elected state and local officials.

ACTING PRESIDENT FARLEY: Senator Jones.

SENATOR JONES: Yes. The bill I have before you today is very simple. It says we will have three mailings, they will be uniform for the Senate and the Assembly. It says -- it reiterates it will be a hundred

thousand pieces of bulk mail and the Assembly would be pro-rated depending on the size of the district. $8500 would be the amount spent on first class mail.

The bill also includes a 45-day time period in which a person running for public office would not be allowed to use public funds for mailing during that period and that includes all people running for public office, school districts, and all other elected public officials.

I want to first thank my colleagues that stayed here to listen today. I'm the new person and I suspect you find your selves, many of you, in a position of thinking you're listening to a broken record, and I'll kind of date myself by telling you I'm sure some of us older people in the group recall how that was. Your needle got stuck and you heard the same tune over and over again. So I guess what you would do is take some action.

So I guess I would say to you, you know, maybe that's your solution to this

situation is to take some action if you're really tired of hearing this.

What started me on the mailing issue is, I think it's a misunderstanding. I'm going to assume that all of my colleagues are honest, and I don't have any doubt about that. I listened to a Reverend up here today talk about honesty and misleading people. I think our problem is we unintentionally, and I'm saying "we", because we are all a member of this same body, have somehow misled people on what our mailing policy is.

I was told that the things I just read to you is the policy, and then let me just share with you a few statements that I have read from the newspapers in regard to this policy.

In July of '92 from -- this is taken from the Watertown Daily Times, and it was a statement by the Majority Senate that says - let me read for you: Senators are allowed to mail three newsletters and up to 700,000 third class pieces of mail annually to their Senate districts at taxpayer expense.

I first assumed this must be a typo, but then I looked at the information I got from the Tax Cut Party investigation that said or showed that some Senators had sent as many as 16 to 20 mailings, so apparently it's not a typo.

Then from the Times Herald Record again another statement was made by the Senate that says each State Senator is allowed up to three newsletter mailings per year plus a hundred thousand pieces of bulk mail and $8700 in first class postage which is what my bill is saying.

However, now we go to the Albany Times Union, and in October '92 and the statement here says, Senator Ralph Marino said on public television, Inside Albany, you get three newsletters, you get a hundred thousand unspecified targeted letters and that's it.

Now, Marino spokesman, on the other hand, William Stevens, said, Senators elected prior to 1977 actually get four news letters. Now, I checked my colleagues who were

there then, and they tell me they don't get them, so that must have been a misstatement as well.

Then we go to January 1993, and this I took off of the AP wire, and a spokesman, again for Senate Majority Leader Ralph Marino, states the Senate uses the same internal guidelines for mail, limiting each individual lawmaker to three districtwide news letters, same as the Assembly does. That seems O.K.

But now we go down to March 1993, and I took this from the Syracuse Herald Journal, and it says, the same spokesman says he expects the Senate will be spending 3.3 million this year. Now, that would keep the average constant at about 4.6 million for the last three years, and further he says, Senate policy allows members to send three newsletters a year except for Republican Senators elected before 1977 who can send four. So fortunately we clarified that issue, why my colleagues didn't get theirs.

So it goes on, you know, at great lengths, and I guess my point I'm making is,

there's confusion here, so I think the only fair thing is for us to somehow put it in a law so that there won't be any confusion. Everyone would adhere to the same thing.

I really feel, in my mind, that this bill would benefit all of us. I didn't come here, frankly, to count pieces of mail. I guess I have -- and today let me tell you that today I felt better about being here than any day that I've been here because we discussed substantive issues. We talked about homeless ness; we talked about clean air, mammography, and you know what, I didn't see one side of the aisle voting one way and one the other. I, frankly, felt today we did a good job of being lawmakers, even though there were lots of things we disagreed on.

I certainly will agree with all of you that mailing is a petty issue. And what does it have to do with anything? Well, let me tell you what I think it has to do with. I think it has to do with public trust. If I don't walk away -- people do not have trust any

more in their elected officials and things like this, I think, are the foundation of that trust. If I don't walk away from here with anything else at the end of our term, my term, I at least want to be able to say that I didn't fail that public trust.

We have so many substantive issues for us to work on. I'm asking all of you to join me and let's set this thing to rest and stop listening to the same old tune.

ACTING PRESIDENT FARLEY: On the motion. On the motion, a party vote?

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT FARLEY: Call the roll on a party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 35, party vote.

ACTING PRESIDENT FARLEY: The motion fails.

Senator Present.

SENATOR PRESENT: Would you

recognize Senator Goodman, please.

ACTING PRESIDENT FARLEY: I certainly will.

Senator Goodman.

SENATOR GOODMAN: Mr. President, may I ask unanimous consent to be recorded in the negative on Calendar 247, 251 and 257.

ACTING PRESIDENT FARLEY: Without objection, Senator Goodman will be in the negative on those three bills.

You cannot vote on a slow roll call.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I believe I also have a motion to discharge which is at the -- in the hands of the recorder.

ACTING PRESIDENT FARLEY: The Secretary will read Senator Dollinger's motion to discharge.

SENATOR DOLLINGER: I would waive the reading and just be heard on the motion.

ACTING PRESIDENT FARLEY: We'll

read the title.

THE SECRETARY: By Senator Dollinger, Senate Bill Number 3805, an act to amend the Public Officers Law, in relation to disclosure of records of the state Legislature.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I rise to speak in favor of the discharge of this motion, which would make the Freedom of Information Act applicable to the New York State Senate and achieve the goal of the - or the purported goal, I guess, of the motion that was made to discharge about a week or ten days ago when we had the spirited debate which I guess will be absent today, relating to function of open government and the concept of openness in this body.

Let me go back for another his tory lesson. I gave you one on the accounting bill. I'd like to just go back because I'm struck by the amazing parallels with the discussion I started the last time we had this

debate. Remember then I talked about the old theory of the Revolution, no taxation without representation, how it was the origin of this country and how I believed that, because we were in a new phase, a new period of a new revolu tion, a new revolution built on the theory that there should be no taxation without disclosure, without telling the people why we're taxing them, without telling the people why we're spending it, and it occurred to me how approp riate that I bring that up since what was the reason for that phrase to give rise in American history? You all remember it. It was called the "stamp tax". Remember the stamp tax? The hated stamp tax that had to be added as a tariff?

Well, you've revived it, a new stamp tax to the tune of $10 million of free mail that goes out from this body. It's the new stamp tax that you've imposed on the people. But you're not telling them, because you're not telling them how much you spend in stamps, and it's my suggestion, gentlemen, that if we're

going to see the same kind of revolution about stamps and taxes because the spectre, imagine it, of a government, of a kingdom, a long ways away from the people on the other side of the ocean that won't listen to those people when they sit and ask for accountability. The monarch, who won't talk to the people, only talks to his surrogates, whether their name is McArdle or Powers, whatever their name is, they're the ones who speak on behalf of the king. And how many times people say, Well, I don't really know how much I spend. I don't know how much mail -- my colleague, Senator Jones, has talked and quoted a number of my colleagues in this body who have been quoted about not knowing how much mail is sent.

Well, I'd submit to you, if you know no limitation, you have no reason for knowing how much you spend. Just keep spending, don't worry about limitations.

I'd like to move you up to the 19th, 20th Century though; we'll move back out of the Revolutionary period. Let's go to

another time. In my judgment, the same kind of thing is happening.

In 1972 a President of the United States attempted to steal an election through the use of dirty tricks, through use of under handed practices. It gave rise to a phrase called the "Watergate" surrounding those dirty practices. I'd suggest to you gentlemen that what we have here today is the "Mailgate".

We have it because from what I see happening, you have a whole history of using taxpayers' supported mail as a substitute for campaign financing. Look at your own campaign financing reports. In 1990, the Republican Senate Campaign Committee raised about 6 -- five and a half million dollars. That money was raised to support Republican candidates.

Unfortunately, the money that was used resulted in a Republican victory. I'll give you that, that you used the money that you raised to promote your candidates and your point of view. I'll accept that, but in addition in 1990, you also used a significant amount of the

taxpayers' money, supplementing that $5.6 million with an additional approximately 4-plus million dollars in taxpayer-supported mail.

After the reapportionment year was completed in 1992, what happened then? Well, you raised about $1.7 million in contributions and used about $6.5 million of the public's money to support a mail campaign that would raise name recognition on the part of your incumbents in favor of those incumbents, increasing their chance of reelection.

It's my view that is what's happened here, that you've used the public financing to support your own reelection campaigns. In my judgment, that's the same flaw that occurred in Watergate, and I think Mailgate deserves the same kind of broad public disclosure.

I apologize to any of my colleagues over there that I offend with these remarks, but because there's no disclosure, you leave me no other alternative other than to assume the reason why you're failing to disclose

as my other colleagues suggested is because the facts would show that the suppositions and hypotheses that I put forward are, in fact, true.

Let me add two other thoughts: We do good things in this Legislature, as my colleague, Senator Jones, mentioned. Senator Farley's bill that I voted in favor of yesterday requiring disclosure of the amounts of amortization of bills, I'd just point out that he wants in large print exactly what the amortization cost is going to be; yet we put in very tiny, tiny, tiny print exactly how much we spend on mail.

Why can't we say take the same bold, big print approach to our own mailing budgets? I'd point out one other thing we do that I think demonstrates that this is the right trend in government. There's an MTA bill about to find its way to your desk, a bill suggested by one of the chairmen of committees that would end the autocracy of the MTA.

How do you end autocracy,

according to the chairman of the committee? Very simple. What you do is require in Section 2 of that bill that the preliminary budget be published in advance, that you hold public hearings on the budget and that you end up with a line item budget so that you can better trace the expenses of the MTA.

I would submit to you that the reform bills that have been put forward today would do the same thing for this body. We can end the autocracy that is present in this institution the same way we're rightfully ending autocracy on the part of the MTA.

I'll conclude with one final thought: It seems to me that this is what government accountability is all about. We can't preach it to other agencies. We can't preach it to our taxpayers unless we're willing to be accountable as well, unless we're willing to open the door and let the sunshine into this institution.

I've often noticed how much artificial light we have here and because of our

stained glass windows, we get so little sunshine. Let's open up the windows, open up the doors, and let the light of public disclosure shine into this institution.

My view is that this is a resolution and a change. I don't think it's going to stop. I agree with my colleagues who said let's get on to bigger and better things, but I would hope that you don't doubt our resolve to make sure that the public knows what we do, what you do as government, so that they'll understand and have greater confidence in all of our collective abilities by making the Freedom of Information Law apply to this body.

We're simply telling every other level of government we're willing to abide by the same disclosure principle that we mandate you to do.

Join me! Open up the doors! Let the sunshine in, and let's get on to the bigger business of government.

ACTING PRESIDENT FARLEY: On the motion.

SENATOR GOLD: Party vote in the affirmative.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT FARLEY: Call the roll, party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 35, party vote.

ACTING PRESIDENT FARLEY: The motion is defeated.

Senator Gold.

SENATOR GOLD: Yeah, Mr. President. I can be fairly brief because -- on my motion, which I'd like to call now.

ACTING PRESIDENT FARLEY: Hold on. Senator Gold, the Secretary is ready to read the title of your motion.

THE SECRETARY: By Senator Gold, Legislative Resolution Number 764, concurrent resolution of the Senate and Assembly establishing a policy governing public access to legislative records.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Mr. President, my resolution basically does in this house what Senator Dollinger would do by statute, and I'd point out that the Assembly has already passed this concurrent resolution which means that it could be the law in both houses.

I want to make one comment: I do say something else nice about the Republicans behind their backs, and I say you basically run a major league ball club because you obviously have analyzed the media in this situation. I've seen some editorials in the media which say that we ought to do all these things, but you apparently know that the reporters who work for these papers don't read their own papers and certainly they don't read their editorial writers because they apparently leave town when it comes to joining in the fight to see to it that this Legislature opens up. Maybe they're afraid that they'll miss out on some of their little dodads that get slipped to them, and I

don't know what makes reporters particular.

I thought, by the way that Norman Mailer was very unkind, very unkind this week. Where is that? Norman Mailer was quoted in the Post this week as saying the -- trying to explain the situation. Says the situation is that a reporter wants to print his own lies, not the lies of the publisher, so I thought it was very unfair to reporters to say things like that.

But the bottom line here is that the resolution that I introduced gives people the opportunity to get information from the Legislature. There are, I believe, ample provisions in my resolution, which would protect us in protecting constituents. Obviously, anything that's private or that affects the in tegrity of an individual who writes to us would be protected, but basically it would submit us to the Freedom of Information Law, and while it is is a fine suggestion by Senator Dollinger that we ought to make a public statement by including ourselves in the law, certainly there

is nothing in the law that prevents us from voluntarily agreeing to comply so that, even without the signature of the Governor, we can start to open up our books, records and do in public what we should be doing.

So that's the essence of the resolution, and I would move it.

ACTING PRESIDENT FARLEY: On the motion to discharge the resolution, party vote?

SENATOR GOLD: Party vote in the affirmative.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT FARLEY: Call the roll on a party vote on the motion to discharge this resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 35, party vote.

ACTING PRESIDENT FARLEY: The motion fails.

Senator Present.

SENATOR PRESENT: Mr. President,

I'd like to announce there will be, on behalf of Senator Levy, there will be an immediate conference of the majority in room 332.

ACTING PRESIDENT FARLEY: There will be an immediate conference of the Majority in Room 332.

SENATOR PRESENT: If there are no other amendments or statements to be made, there being no further business, I'd move that we adjourn until tomorrow at 11:30 a.m.

ACTING PRESIDENT FARLEY: The Senate will stand adjourned until tomorrow at 11:30.

(Whereupon at 4:30 p.m., the Senate adjourned.)