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ALBANY, NEW YORK

March 30, 1993

4:20 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT FARLEY: Senate
3 will come to order. Senators will find their
4 places.

5 If you will please rise with me
6 for the Pledge of Allegiance to the Flag.

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

9 Today, in the absence of visiting
10 clergy, we will bow our heads for a moment of
11 silent prayer.

12 (Whereupon, there was a moment of
13 silence.)

14 The Secretary will begin by
15 reading the Journal.

16 THE SECRETARY: In Senate,
17 Monday, March 29. The Senate met pursuant to
18 adjournment. Senator Farley in the chair upon
19 designation of the Temporary President. The
20 Journal of Sunday, March 28, was read and
21 approved. On motion, Senate adjourned.

22 ACTING PRESIDENT FARLEY: Hearing
23 no objection, the Journal will stand approved as

1 read.

2 The order of business:

3 Presentation of petitions.

4 Messages from the Assembly.

5 Messages from the Governor.

6 Reports of standing committees.

7 Reports of select committees.

8 Communications and reports from

9 state officers.

10 Motions and resolutions.

11 We have a motion on the floor.

12 Senator Padavan.

13 SENATOR PADAVAN: Yes, Mr.

14 President. On page 10, I offer the following
15 amendments to Calendar Number 291, Senate Print
16 2516, and ask that said bill retain its place on
17 Third Reading Calendar.

18 ACTING PRESIDENT FARLEY:

19 Amendments are received, and the bill will
20 retain its place on the Third Reading Calendar.

21 Secretary has a substitution.

22 THE SECRETARY: On page 5 of the
23 today's calendar, Senator Mega moves to

1 discharge the Committee on Judiciary from
2 Assembly Bill Number 2127 and substitute it for
3 the identical bill, Third Reading 128.

4 ACTING PRESIDENT FARLEY:
5 Substitution is ordered.

6 Senator DeFrancisco.

7 I'm sorry. Senator Present.

8 SENATOR PRESENT: It's all
9 right. Mr. President. I move that we adopt the
10 Resolution Calendar with the exceptions of
11 Resolution 815 and 839.

12 ACTING PRESIDENT FARLEY: The
13 Senate will adopt the Resolution Calendar with
14 exceptions.

15 All in favor of adopting the
16 Resolution Calendar, say aye.

17 (Response of "Aye.")

18 Those opposed, nay.

19 (There was no response.)

20 The Resolution Calendar is
21 adopted.

22 Senator Present.

23 SENATOR PRESENT: Would you

1 recognize Senator DeFrancisco, please.

2 ACTING PRESIDENT FARLEY: Senator
3 DeFrancisco.

4 SENATOR DeFRANCISCO: Mr.
5 President. I request that Resolution Number 815
6 be read in its entirety.

7 ACTING PRESIDENT FARLEY:
8 Secretary will read Resolution Number 815.

9 THE SECRETARY: Legislative
10 Resolution Number 815, by Senator DeFrancisco,
11 commending the Music Program of Ramsdell
12 Elementary School upon the occasion of its
13 participation in Music in Our Schools Month on
14 March 30, 1993.

15 Whereas, the administrators of
16 the Jordon-Elbridge Central School District are
17 committed to actively promoting and nurturing a
18 comprehensive music program for all the students
19 of the district.

20 Those same administrators have
21 been most supportive, actively encouraging music
22 program staff to devote their time and energy to
23 developing the talents of their students.

1 The Jordon-Elbridge Junior Eagles
2 of the Ramsdell Elementary School comprised of
3 students of the highest musical and academic
4 caliber will be performing on March 30th, 1993,
5 at the Empire State Plaza in Albany in
6 celebration of Music in Our Schools Month.

7 The New York State Music
8 Association sponsors this event and has helped
9 it to evolve from a New York State day to a
10 month long national observance.

11 Talent, dedication, and countless
12 hours of practice have made the Jordon-Elbridge
13 Junior Eagles of Ramsdell Elementary School the
14 outstanding ensemble it is today.

15 The members work hard at their
16 music rehearsals, classroom assignments and
17 practice sessions, fully aware that the amount
18 of time and energy they are willing to expend
19 directly affects the quality of their music.

20 The Junior Eagle Band members
21 along with their parents and teachers can be
22 justifiably proud of their musical achievements
23 and their participation in Music in Our Schools

1 Month.

2 Now, therefore, be it resolved
3 that this legislative body extend a warm welcome
4 to the staff and students of the Ramsdell
5 Elementary School as they visit Albany for their
6 performance at the Empire State Plaza and

7 Be it further resolved that
8 copies of this resolution, suitably engrossed,
9 be transmitted to Molly O'Neill Angelina,
10 Principal of Ramsdell Elementary School; Band
11 Director Maria Hare; Superintendent of Schools
12 Dwayne R. Adsitt; and Gordon Tripp, President of
13 the Board of Education.

14 ACTING PRESIDENT FARLEY: Senator
15 DeFrancisco.

16 SENATOR DeFRANCISCO: Mr.
17 President. I believe the legislation was quite
18 comprehensive. I just want to welcome all the
19 students who are here with us today and
20 congratulate them on not only their
21 participation but the fact that they did a
22 beautiful job today. I was down there listening
23 to them.

1 And I would urge unanimous
2 adoption of the resolution.

3 ACTING PRESIDENT FARLEY: Senator
4 Nozzolio, on the resolution.

5 SENATOR NOZZOLIO: Yes, Mr.
6 President. I would like to commend the sponsor,
7 Senator DeFrancisco, for this resolution. And
8 as a co-representative of the Jordon-Elbridge
9 Central School District, I would like to extend
10 my welcome to the group and compliment them on
11 their musical abilities.

12 Thank you, Mr. President.

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

15 (Response of "Aye.")

16 Those opposed, nay.

17 (There was no response.)

18 The resolution is unanimously
19 adopted.

20 On behalf of the Senate, let me
21 say welcome to you and thank you for your
22 patience. We're a little slow starting, but
23 we're delighted to have you here and come back

1 and visit us again.

2 Senator Present.

3 SENATOR PRESENT: Mr. President.

4 On behalf of Senator Stafford, I would like to
5 call an immediate meeting of the Finance
6 Committee in Room 332.

7 ACTING PRESIDENT FARLEY: There
8 will be an immediate meeting of the Finance
9 Committee in Room 332.

10 Senator Holland.

11 SENATOR HOLLAND: Mr. President.

12 I have a privileged resolution at the desk, and
13 I ask that it be read in its entirety, and then
14 I have a few words to say, please.

15 ACTING PRESIDENT FARLEY: The
16 Secretary will read Senator Holland's
17 resolution.

18 THE SECRETARY: Legislative
19 Resolution Number 839, by Senators Holland and
20 Maltese, expressing sincerest sorrow upon the
21 occasion of the death of the immortal Helen
22 Hayes, long-time resident of Rockland County,
23 New York.

1 Whereas, it is the sense of this
2 assembled body that those who give positive
3 definition to the profile and disposition of our
4 American manner do so profoundly strengthen our
5 shared commitment to the exercise of freedom.

6 Attendant to such concern and
7 fully in accord with its long standing
8 traditions, it is the intent of this assembled
9 body to express sincerest sorrow upon the
10 occasion of the death of the immortal Helen
11 Hayes.

12 The acting career of Helen Hayes
13 so clearly mirrors those prerogatives of
14 personal initiative and accountability so
15 paradigmatic of our American manner.

16 Helen Hayes Brown was born in
17 1900 in Washington, D.C., the daughter of a
18 wholesale butcher. She was only a few years old
19 when her parents, hoping to correct her pigeon
20 toes, sent her to ballet school.

21 By a wild stroke of luck, she was
22 spotted in a school play by a Broadway producer,
23 Lew Fields, who urged her parents to train her

1 for the theatre.

2 At age 5, the vivacious, blue
3 eyed Helen made her professional debut as Prince
4 Charles in a comedy production.

5 When Helen Hayes was 9, Fields
6 brought her to New York for her Broadway debut;
7 by the time she was 15, her name was in lights
8 on the Great White Way.

9 She graduated from Sacred Heart
10 Convent High School two years later. Grown up
11 at last, she was only five feet tall and 100
12 pounds, and shy and sheltered in her off-stage
13 life; but on stage, she riveted audiences with
14 the intensity of her personality.

15 Her private life blossomed. In
16 1928, she married playwright Charles MacArthur
17 shortly after his famed "The Front Page" -
18 written in collaboration with Ben Hecht -
19 opened to cheers. Three years later, after
20 giving birth to a daughter, Helen Hayes made her
21 screen debut in "The Sin of Madelon Claudet",
22 written by Charles MacArthur and was awarded the
23 Academy Award as best actress.

1 The movie role she herself liked
2 best soon followed, opposite Gary Cooper, in
3 Ernest Hemingway's "A Farewell to Arms."

4 Preferring to be close to
5 Broadway, Helen Hayes moved in 1932 to a 22-room
6 house overlooking the Hudson in Nyack, Rockland
7 County. A year later, she starred in "Mary of
8 Scotland," written especially for her by Maxwell
9 Anderson.

10 Then came perhaps her greatest
11 stage role, portraying 80 years of Queen
12 Victoria's life in the two and a half hours of
13 "Victoria Regina."

14 She starred in the role for 517
15 performances on Broadway, winning the 1936 Drama
16 League's Medal for Most Distinguished
17 Performance.

18 Acclaimed as the theater's "First
19 Lady," she then took the play on a 47-city tour
20 that grossed an unprecedented 1.2 million.

21 Prizes, scrolls and honorary
22 degrees were showered upon her. She won the
23 Best Radio Actress Award in 1940 for the Helen

1 Hayes Theatre program. In 1947, she won a Tony
2 in "Happy Birthday."

3 Helen's 19-year-old daughter,
4 actress Mary MacArthur, who was about to co-star
5 in a Broadway play with her died of polio in
6 1949.

7 Helen Hayes, who became a widow
8 in 1956, when Charles MacArthur died, picked up
9 her second Oscar for Best Supporting Actress as
10 an outrageous old lady in the 1970 film
11 "Airport."

12 On Broadway, meanwhile, Helen won
13 another Best Actress Tony in 1958 for "Time
14 Remembered" and was nominated for a third Tony
15 in 1970 for a revival of "Harvey."

16 It is her concern for the
17 perception of the American Theatre as a sharing
18 and united endeavor that recommends the life and
19 career of Helen Hayes for special commemoration.

20 This assembled body is greatly
21 moved to note that Helen Hayes resided in
22 Rockland County for 60 years.

23 Through her long and sustained

1 commitment to excellence in the performing arts,
2 Helen Hayes did so unselfishly advance that
3 spirit of united purpose and shared concern
4 which is the unalterable manifestation of our
5 American experience.

6 Now, therefore, be it resolved
7 that this assembled body pause in its
8 deliberations and express sincerest sorrow upon
9 the occasion of the death of the immortal Helen
10 Hayes, long-time resident of Rockland County,
11 New York, fully confident that such procedure
12 mirrors our shared commitment to preserve, to
13 enhance, and yet effect the patrimony of freedom
14 which is our American heritage; and

15 Be it further resolved, that
16 copies of this resolution, suitably engrossed,
17 be transmitted to James MacArthur.

18 ACTING PRESIDENT FARLEY: Senator
19 Holland.

20 SENATOR HOLLAND: Yes, Mr.
21 President. If anybody else would like to sign
22 on as a co-sponsor, I'd be happy to have them.

23 SENATOR GOLD: Mr. President. I

1 know that a number of the members are out of the
2 chamber at a Finance meeting, but everybody
3 seems to be indicating they would like to be on
4 it. So unless I hear a difference, I would like
5 all of my members on this side on it.

6 ACTING PRESIDENT FARLEY: Senator
7 Present, what is your pleasure?

8 SENATOR PRESENT: You may add all
9 of the members of the Senate onto the
10 resolution.

11 SENATOR GOLD: Yes. Thank you,
12 Senator Present.

13 ACTING PRESIDENT FARLEY: All
14 members of the Senate will be on, without
15 objection. See the desk if you don't wish to
16 be.

17 Senator Holland.

18 SENATOR HOLLAND: Mr. President.
19 I rise and ask the deliberation of this house
20 pause for a moment so that we, as a legislative
21 body, can acknowledge that this state and nation
22 have lost a woman the likes of which we may
23 never see again.

1 The first lady of the American
2 theatre, Helen Hayes, died recently at the age
3 92 in Nyack Hospital in Rockland County.

4 She was a resident of Nyack for
5 more than 60 years, and I considered Helen Hayes
6 MacArthur a friend. She was a tireless
7 community and charity activist.

8 I first met Helen Hayes when I
9 was County Clerk and held naturalization
10 ceremonies for new American citizens four times
11 a year. To spice up the events, we always had
12 political speakers. I decided to have some
13 different personalities, and I called Mrs. Hayes
14 to speak. She graciously accepted and,
15 naturally, she did a fantastic job. The new
16 citizens were impressed, as was I.

17 From then on, we met on numerous
18 events throughout Rockland County as she lent
19 her name to so many community charities, and I
20 think I met her at least four times during the
21 last campaign.

22 I am proud to say that Rockland
23 County is now in the process of raising money to

1 refurbish the Helen Hayes Theatre in Nyack, as
2 another remembrance of this great lady.

3 Mrs. Hayes had a career that
4 spanned eight decades, brought her two Oscars,
5 two Tonys, an Emmy, and hundreds of other awards
6 and honors.

7 So, Mr. President, as we work on
8 the business of this state, I ask that we
9 fittingly take this moment not only to lament
10 the passing of Helen Hayes MacArthur but also to
11 praise a great woman who will long be remembered
12 for her acting ability as well as her unselfish
13 ness toward others. She will be missed by
14 many.

15 Thank you.

16 ACTING PRESIDENT FARLEY: On the
17 resolution. All in favor say aye.

18 (Response of "Aye.")

19 Those opposed, nay.

20 (There was no response.)

21 The resolution is unanimously
22 adopted with every member of the Senate on it.

23 Senator Present.

1 SENATOR PRESENT: Mr. President.

2 Will you recognize Senator Sears?

3 ACTING PRESIDENT FARLEY: Senator
4 Sears.

5 SENATOR SEARS: Mr. President.
6 On behalf of Senator Levy, would you remove the
7 sponsor's star from Calendar 63, Senate Print
8 191?

9 ACTING PRESIDENT FARLEY: The
10 star is removed.

11 Senator Present.

12 SENATOR PRESENT: Mr. President.
13 I understand there is a report of a standing
14 committee at the desk. May we have it read,
15 please.

16 ACTING PRESIDENT FARLEY: Yes,
17 there is. Secretary will read a report of a
18 standing committee.

19 THE SECRETARY: Senator Larkin
20 from the Committee on Local Government reports
21 the following bill directly for third reading:

22 Senate Bill Number 3222, by
23 Senators Daly and Cook, an act to amend the

1 County Law, in relation to appointment,
2 promotion, and retention of appointees of a
3 county sheriff.

4 ACTING PRESIDENT FARLEY: Without
5 objection, that bill is reported directly to
6 third reading.

7 Senator Present.

8 SENATOR PRESENT: Mr. President.
9 I think we're ready for the non-controversial
10 calendar.

11 ACTING PRESIDENT FARLEY: Senator
12 Sears, why do you rise?

13 SENATOR SEARS: On page 7,
14 calendar 187, Print Number 2003, please place a
15 sponsor star.

16 ACTING PRESIDENT FARLEY: Bill is
17 starred at the request of the sponsor.

18 Non-controversial.

19 THE SECRETARY: On page 8,
20 Calendar Number 214, by Senator Holland, Senate
21 Bill Number 2839A, an act to amend the Social
22 Services Law.

23 SENATOR GOLD: Lay it aside.

1 ACTING PRESIDENT FARLEY: Lay it
2 aside.

3 THE SECRETARY: Calendar Number
4 294, by Senator Stafford, Senate Bill Number
5 431, an act to amend the Real Property Tax Law.

6 ACTING PRESIDENT FARLEY: Read
7 the last section.

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

10 ACTING PRESIDENT FARLEY: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 60.

14 ACTING PRESIDENT FARLEY: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 299, by Senator Padavan, Senate Bill Number
18 1856, an act to amend the County Law and the New
19 York City Criminal Court Act.

20 SENATOR GOLD: Lay it aside.

21 ACTING PRESIDENT FARLEY: Lay it
22 aside.

23 THE SECRETARY: Calendar Number

1 301, by Senator Lack, Senate Bill Number 2041,
2 an act to amend the General Municipal Law.

3 ACTING PRESIDENT FARLEY: Read
4 the last section.

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

7 ACTING PRESIDENT FARLEY: Call
8 the roll.

9 (The Secretary called the roll.)

10 SENATOR GOLD: Lay it aside.

11 ACTING PRESIDENT FARLEY: Lay it
12 aside.

13 THE SECRETARY: Calendar Number
14 302, by Senator Larkin, Senate Bill Number 2071,
15 an act to amend the General Municipal Law.

16 ACTING PRESIDENT FARLEY: Read
17 the last section.

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

20 ACTING PRESIDENT FARLEY: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 60.

1 ACTING PRESIDENT FARLEY: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 303, by Senator LaValle, Senate Bill Number
5 2487, an act to amend the General Municipal Law.

6 ACTING PRESIDENT FARLEY: Read
7 the last section.

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

10 ACTING PRESIDENT FARLEY: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 60.

14 ACTING PRESIDENT FARLEY: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 304, by Senator Skelos, Senate Bill Number 568A,
18 Real Property Law and the Banking Law.

19 ACTING PRESIDENT FARLEY: Read
20 the last section.

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

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 60.

4 ACTING PRESIDENT FARLEY: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 305, by Senator Mega, Senate Bill Number 1937,
8 an act to amend the Court of Claims Act.

9 ACTING PRESIDENT FARLEY: Read
10 the last section.

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

13 ACTING PRESIDENT FARLEY: Call
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 60.

17 ACTING PRESIDENT FARLEY: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 307, by Senator Saland, Senate Bill Number 2367,
21 an act to amend the Family Court Act and the
22 Criminal Procedure Law.

23 ACTING PRESIDENT FARLEY: Read

1 the last section.

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

4 ACTING PRESIDENT FARLEY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 60.

8 ACTING PRESIDENT FARLEY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 309, by Senator Cook, Senate Bill Number 2989,
12 Uniform Justice Court Act.

13 ACTING PRESIDENT FARLEY: Read
14 the last section.

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

17 ACTING PRESIDENT FARLEY: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 60.

21 ACTING PRESIDENT FARLEY: The
22 bill is passed.

23 THE SECRETARY: Calendar Number

1 312, by Senator Lack, Senate Bill Number 1396,
2 an act to amend the Civil Service Law.

3 ACTING PRESIDENT FARLEY: Read
4 the last section.

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

7 ACTING PRESIDENT FARLEY: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 60.

11 ACTING PRESIDENT FARLEY: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 313, by Senator Farley, Senate Bill Number 2192,
15 Civil Service Law, Executive Law and the Public
16 Health Law.

17 ACTING PRESIDENT FARLEY: Read
18 the last section.

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

21 ACTING PRESIDENT FARLEY: Call
22 the roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 60.

2 ACTING PRESIDENT FARLEY: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 316, by Senator Seward, Senate Bill Number 3247,
6 an act to amend the Energy Law.

7 ACTING PRESIDENT FARLEY: Read
8 the last section.

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

11 ACTING PRESIDENT FARLEY: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 60.

15 ACTING PRESIDENT FARLEY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 319, by member of the Assembly Koppell, Assembly
19 Bill Number 6130, an act to amend the Mental
20 Hygiene Law.

21 ACTING PRESIDENT FARLEY: Read
22 the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT FARLEY: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 60.

6 ACTING PRESIDENT FARLEY: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 320, by Senator Farley, Senate Bill Number 1594,
10 an act to amend the Banking Law.

11 ACTING PRESIDENT FARLEY: Read
12 the last section.

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

15 ACTING PRESIDENT FARLEY: Mr.
16 President. I ask to be excused of voting on
17 this bill, please.

18 ACTING PRESIDENT FARLEY: Senator
19 Leichter is excused from voting, without
20 objection.

21 Call the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 59.

1 ACTING PRESIDENT FARLEY: That
2 bill is passed with Senator Leichter excused.

3 THE SECRETARY: Calendar Number
4 325, by Senator Farley, Senate Bill Number 907,
5 an act to amend the Tax Law.

6 ACTING PRESIDENT FARLEY: Read
7 the last section.

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

10 ACTING PRESIDENT FARLEY: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 60.

14 ACTING PRESIDENT FARLEY: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 326, by Senator LaValle, Senate Bill Number
18 1050, an act to amend the Tax Law.

19 ACTING PRESIDENT FARLEY: Read
20 the last section.

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

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 60.

4 ACTING PRESIDENT FARLEY: The
5 bill is passed.

6 THE SECRETARY: Excuse me. Ayes
7 59, nays 1. Senator Leichter recorded in the
8 negative.

9 ACTING PRESIDENT FARLEY: The
10 bill is passed.

11 THE SECRETARY: In relation to
12 Calendar Number 326, Senators Leichter and
13 Pataki recorded in the negative. Ayes 58, nays
14 2.

15 ACTING PRESIDENT FARLEY: The
16 bill is still passed.

17 THE SECRETARY: Calendar Number
18 327, by Senator Farley, Senate Bill Number 1616,
19 an act to amend the Public Officers Law.

20 ACTING PRESIDENT FARLEY: Read
21 the last section.

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

1 ACTING PRESIDENT FARLEY: Call
2 the roll.
3 (The Secretary called the roll.)
4 THE SECRETARY: Ayes 60.
5 ACTING PRESIDENT FARLEY: The
6 bill is passed.
7 THE SECRETARY: Calendar Number
8 332, by Senator Marino, Senate Bill Number 3710,
9 an act to amend the Tax Law.
10 ACTING PRESIDENT FARLEY: Read
11 the last section.
12 THE SECRETARY: Section 2. This
13 act shall take effect immediately.
14 ACTING PRESIDENT FARLEY: Call
15 the roll.
16 (The Secretary called the roll.)
17 THE SECRETARY: Ayes 60.
18 ACTING PRESIDENT FARLEY: The
19 bill is passed.
20 Senator Present, that's the first
21 time through.
22 SENATOR PRESENT: Mr. President.
23 On behalf of Senator Levy, I would like to

1 announce an immediate meeting of the
2 Transportation Committee in Room 332.

3 ACTING PRESIDENT FARLEY: There
4 will be an immediate meeting of the
5 Transportation Committee in Room 332.

6 Senator Present.

7 SENATOR PRESENT: Let's take up
8 the controversial calendar.

9 ACTING PRESIDENT FARLEY:
10 Controversial. Secretary will read
11 controversial.

12 THE SECRETARY: On page 8,
13 Calendar Number 214, by Senator Holland, Senate
14 Bill Number 2839A, an act to amend the Social
15 Services Lay, in relation to the use of a
16 fingerprint matching identification system.

17 SENATOR GOLD: Explanation.

18 ACTING PRESIDENT FARLEY:
19 Explanation has been asked for.

20 Senator Holland.

21 SENATOR HOLLAND: Yes, Mr.
22 President. This bill would expand the
23 fingerprint demonstration grant statewide that

1 we passed last year. It has the potential to
2 save New York taxpayers literally hundreds of
3 millions of dollars.

4 Almost every week, we read of
5 fraud and abuse of government services and
6 programs. Certainly, the home relief program in
7 New York State is no exception. Let's look at
8 some of the very interesting cases of fraud that
9 New York State has witnessed recently.

10 In 1991, more than 100 women
11 bilked New York City out of hundreds of
12 thousands of dollars in welfare payments using
13 fake Social Security cards.

14 In 1992, a Brooklyn woman with 12
15 separate forms of identification was arrested
16 for collecting \$313,000 in benefits since 1985.

17 And just last month, an employee
18 of New York City Human Resources Administration
19 knowingly bilked New York State out of more than
20 \$30,000.

21 Perhaps if the legislation before
22 this house had been enacted, then these abuses
23 might not have occurred. Over the past few

1 months, the counties of Rockland and Onondaga
2 have been utilizing a new fingerprinting
3 technology as a way to detect and deter home
4 relief fraud in New York State.

5 The Department of Social Services
6 has recommended a continuation of this program,
7 and my legislation would make fingerprinting of
8 home relief recipients a statewide occurrence.

9 I might also add that many county
10 executives have also asked that this be expanded
11 statewide.

12 Fingerprinting is an excellent
13 quick, clean, painless way to identify
14 fraudulent applicants for assistance; and
15 fingerprinting promises progress in the area of
16 state government that desperately needs
17 attention. Not only will this program elevate
18 the level of accountability in the home relief
19 program but it will also make the program more
20 dignified for both the honest recipients who
21 truly need the aid and taxpayers who deserve
22 more accountability from their government.

23 Some have argued that

1 fingerprinting is dehumanizing and degrading to
2 public assistance recipients. However,
3 attorneys, pharmacists, school custodians,
4 mortgage brokers, employment agency operators,
5 hospital employees, lawyers, military people,
6 and employees of public art galleries and
7 museums, among many, many others, must be
8 fingerprinted as a condition of employment.

9 In fact, if degradation exists,
10 it is the taxpayer who feels its impact because
11 they are forced to support a system of social
12 services which is heavy with fraud and abuse.
13 Estimates have found the social services system
14 costing taxpayers as much as \$2 billion
15 annually, and a recent report by the State
16 Department of Social Services estimates that
17 home relief costs taxpayers approximately \$102
18 million a month. Who knows how much of this
19 could be saved annually by fingerprinting?

20 It is not that fingerprinting
21 will catch those who abuse the system in the
22 act, but fingerprinting will act as a deterrent
23 to the fraud. We pay for these services with

1 the expectation that some day should our
2 families, our friends, need public assistance,
3 an effective and efficient structure will exist;
4 however, this is not the case today.

5 The city of Los Angeles
6 instituted a computerized fingerprint system in
7 June of 1991 which produced savings of more than
8 \$5 million in the first six months of operation
9 by eliminating approximately 2900 duplications.
10 Again, a savings of \$5 million in the first six
11 months of operation.

12 Like the Los Angeles model, New
13 York's fingerprinting system requires
14 prospective home relief recipients to place
15 either one or two fingers on a small photo-like
16 screen which compares the image of their prints
17 with those already in the data bank.

18 Under the terms of my legislation
19 welfare officials are prohibited -- prohibited
20 -- from sharing these prints with the criminal
21 justice system. Let us not forget that
22 taxpayers are not the only individuals who
23 suffer as a result of fraud and waste in the

1 welfare system. Perhaps the most victimized are
2 all the recipients who desperately need these
3 services to recover from economic shock.

4 What smacks of criminality is not
5 the process of fingerprinting but a system that
6 indulges unscrupulous recipients. It demeans
7 all of us when criminal activity and poor
8 management are tolerated despite taxpayers'
9 demands that accountability and dignity be
10 restored to the welfare system.

11 SENATOR WALDON: Mr. President.

12 ACTING PRESIDENT FARLEY: Senator
13 Waldon.

14 SENATOR WALDON: Thank you very
15 much, Mr. President. Would Senator Holland
16 yield to a question or two?

17 SENATOR HOLLAND: Yes, sir.

18 SENATOR WALDON: Senator Holland,
19 when you said a few moments ago that the city of
20 Los Angeles had saved \$5.2 million in six
21 months, you didn't mean that they had actually
22 saved \$5.2 million, did you?

23 SENATOR HOLLAND: I meant that

1 that money would have been expended had not
2 those 2900 duplications disappeared.

3 SENATOR WALDON: What you really
4 meant to say -- Mr. President, if I may continue
5 -- was that a number of people refused to be
6 fingerprinted, and it was estimated that \$5
7 million was saved. Is that correct?

8 SENATOR HOLLAND: I don't
9 believe, Senator, that anybody refused or a very
10 small number refused to be fingerprinted. That
11 wasn't the problem. They found duplication in
12 the system. That saved the money, not that
13 people refused to be fingerprinted.

14 I might also say, Senator, that
15 in the counties of Onondaga and Rockland in the
16 year or so that it's been operational there or
17 the less than a year it's been operational
18 there, only eight people have refused to be
19 fingerprinted. Only one person in Rockland
20 County hesitated, but no one refused to be
21 fingerprinted in Rockland County.

22 SENATOR WALDON: Mr. President.
23 If I may continue.

1 ACTING PRESIDENT FARLEY: Senator
2 Waldon.

3 SENATOR WALDON: Clearly, Senator
4 Holland -

5 SENATOR HOLLAND: Yes.

6 SENATOR WALDON: -- your
7 information is different from mine. My
8 information on Los Angeles says that 3,000
9 people refused to be fingerprinted, and it was
10 estimated -

11 But let me ask you another
12 question, if I may continue, Mr. President? In
13 the study done in Los Angeles, how many welfare
14 centers were studied?

15 SENATOR HOLLAND: I believe it
16 was 19, Senator, but I'm not sure.

17 SENATOR WALDON: It was 14. But
18 that's not so important. How many welfare
19 centers do we have in New York State?

20 SENATOR HOLLAND: I'm sorry. I
21 don't know the answer to that question.

22 SENATOR WALDON: It's 143. What
23 is the case load of Los Angeles, California, in

1 terms of AFDC typically called "welfare
2 recipients?"

3 SENATOR HOLLAND: AFDC is not
4 included in this, Senator.

5 SENATOR WALDON: Okay. I
6 apologize. Welfare recipients, how many are
7 there in Los Angeles?

8 SENATOR HOLLAND: (There was no
9 apply.)

10 SENATOR WALDON: 75,000.

11 SENATOR HOLLAND: Thank you.

12 SENATOR WALDON: In New York
13 State 1,500,000. Mr. President. May I
14 continue?

15 ACTING PRESIDENT FARLEY: Yes,
16 you have the floor.

17 SENATOR WALDON: Thank you, sir.
18 The computer cost to start up the system in Los
19 Angeles and make it work, what was the cost
20 related to that?

21 SENATOR HOLLAND: How much was
22 the cost? I think I have that if you can wait
23 just one second, Senator. Based on the cost of

1 instituting fingerprinting statewide, based on
2 the cost of experience in the program in Los
3 Angeles, California, the cost of instituting the
4 fingerprinting statewide would be \$20 million.

5 SENATOR WALDON: Well, I asked
6 specifically about Los Angeles. For your
7 information, it was 9.6 million.

8 SENATOR HOLLAND: Thank you,
9 Senator.

10 SENATOR WALDON: What would the
11 cost be to implement a similar program in New
12 York State?

13 SENATOR HOLLAND: Well, that's
14 what I read you. \$20 million. But we have
15 another option, Senator. You probably know
16 about this. There is also another firm who
17 would like to bid on the possibility of
18 supplying the system at no charge to the state
19 of New York with a percentage of the savings
20 going to that firm.

21 SENATOR WALDON: I have no
22 knowledge of that. I think that's commendable.
23 I wish there were more such organizations

1 willing to do for the state.

2 Mr. President. If I may? The
3 information that I have says that to start this
4 program up in New York State, Mr. President,
5 would be between \$96- and \$192 million.

6 Mr. President. May I phrase
7 another question to my learned colleague?

8 ACTING PRESIDENT FARLEY: If he
9 is willing to yield, you certainly may.

10 SENATOR WALDON: Senator Holland,
11 will you yield, sir?

12 SENATOR HOLLAND: Yes, sir.

13 SENATOR WALDON: Senator Holland,
14 as you stated earlier, the savings in Los
15 Angeles, whether real or imagined, meaning
16 whether there were actual people who refused to
17 be fingerprinted or it was an estimated number
18 it was a cost savings of 5.2 million, which was
19 2 percent of all of the people who were, in
20 fact, in the hopper.

21 To do that for New York State, do
22 you have any idea how much we would actually
23 save of a comparable number of people,

1 comparable percentage who would not be in the
2 system?

3 SENATOR HOLLAND: Our estimates,
4 Senator, are that we could save up to \$300
5 million on just home relief under this system.
6 Now, it would have to be statewide, you
7 understand that. It could not be anything but
8 statewide.

9 SENATOR WALDON: Yes, sir, I
10 understand that. I recall, as you made your
11 opening remarks, you said that we would save
12 hundreds of millions of dollars.

13 SENATOR HOLLAND: 300 million.

14 SENATOR WALDON: My information
15 says that if we use the same process and found
16 the same percentage of fraud as they did in Los
17 Angeles, we would save about \$35 million.

18 If I may continue, Mr.
19 President?

20 SENATOR HOLLAND: I don't know
21 where you get your figures from, Senator. But
22 my estimates are 300 million, and that's the
23 figure that we have garnered from California and

1 the people that would be implementing the
2 program.

3 And let me say another thing,
4 Senator. You mentioned \$96 million for
5 implementation; and yet on the other side, there
6 is a firm who has shown their equipment, and
7 functions well, that would do it for just a
8 percentage of the savings. That would be no
9 cost to the state of New York. So even if it
10 was your estimate of \$30 million savings, that
11 would be a \$30 million savings for the taxpayers
12 and, hopefully, a better delivery of service for
13 the clients with less people in the system who
14 are trying to rip it off.

15 SENATOR WALDON: If I may
16 continue, Mr. President?

17 ACTING PRESIDENT FARLEY: Senator
18 Waldon.

19 SENATOR WALDON: Will Senator
20 yield?

21 SENATOR HOLLAND: Yes.

22 SENATOR WALDON: Senator Holland,
23 would you please tell us what is the profile of

1 the average person who is receiving the aid
2 that's in question for whom we would fingerprint
3 if your bill becomes law? Who would you
4 fingerprint?

5 SENATOR HOLLAND: I can't give
6 you a profile, but it is home relief individuals
7 who do not have any children. They could be
8 male or female, and they could be young or
9 middle-aged, but they are people who are not
10 basically drug-dependent or alcohol-dependent
11 who are capable and able to work.

12 SENATOR WALDON: Are you saying
13 that the 1,500,000 people in New York State who
14 are welfare recipients are all capable of
15 working that we would fingerprint under this
16 bill?

17 SENATOR HOLLAND: No, Senator.
18 No. There are more home relief recipients than
19 that. But some people would not come under this
20 program, I don't believe, but it's just home
21 relief.

22 SENATOR WALDON: I have one last
23 inquiry, Mr. President, if I may? Senator

1 Holland.

2 ACTING PRESIDENT FARLEY: Senator
3 Holland will yield, I think.

4 SENATOR HOLLAND: I'm sorry. I
5 didn't hear you.

6 SENATOR WALDON: Senator Holland,
7 you said, if I recall correctly -- and I may be
8 paraphrasing, so please feel free to correct me
9 if I'm in error. You said something to the
10 effect that there would be no stigma and that
11 people -- only one person in Rockland County
12 refused to be fingerprinted, that these people
13 would, in effect, not be treated as criminals.

14 You said that we have a number of
15 employment situations, the military and others,
16 where fingerprinting is a prerequisite to
17 obtaining employment. But there is a
18 distinction there.

19 If I want to be in the Army, I'm
20 subjecting myself for fingerprint purposes for a
21 specific reason. If I am in need of relief in
22 order to survive as a human being, the
23 motivation is different.

1 In your mind's eye, could you not
2 see some stigma attached to a person being
3 required to be fingerprinted? As when I was a
4 police officer, I used to fingerprint muggers,
5 rapists, murderers, burglars, and a whole host
6 of the quality of life crimes related to
7 prostitution and other activities. There is no
8 correlation in your mind's eye to that?

9 SENATOR HOLLAND: Senator, I
10 don't really think so. And I think that most of
11 the clients who would have to have their
12 fingerprints taken here would understand that
13 the state is trying to eliminate the fraud and
14 abuse. The state is trying to eliminate the
15 people who are ripping off the system. We are
16 not saying to these people who need assistance,
17 "Don't come and get assistance from us."
18 That's what we're here for. We're here to give
19 them assistance.

20 But just let me, if I can, take a
21 few more minutes and tell you some of the other
22 people who require fingerprints: Insurance
23 adjusters, bail bondsmen, mortgage bankers

1 mortgage brokers, cashiers of checks, inspectors
2 and investigators for the Department of
3 Agriculture, bottle club licensees, all
4 personnel of New York City school system; town
5 policemen, as you would know, and constables;
6 appointees of the sheriff or persons as
7 undersheriffs, deputy sheriffs; partners,
8 officers, directors and salesmen employed by a
9 member or members of the National Security
10 Exchange; applicants for license to conduct a
11 business of private investigator or of a
12 watchguard or patrol agency; person employed as
13 private detective, investigator; persons
14 employed as blasters; applicants for license to
15 purchase, own, possess, transport or use
16 explosives, to deal in manufacture of explosives
17 or to store explosives; applicants for license
18 to own or operate an employment agency;
19 employees of public art galleries and museums
20 and hospitals and their associated medical
21 colleges; applicants for registration as farm
22 labor contractors; applicants for participation
23 or employees in Thoroughbred racing, harness

1 racing, quarterhorse racing; applicants for
2 license as lottery ticket sales agents;
3 prospective grand jurors if required by the
4 commissioner; applicants for license to carry a
5 pistol, as you know, or a revolver; applicants
6 for license for boxing and wrestling matches;
7 persons employed as school bus drivers as well
8 as applicants for the position of school bus
9 drivers; applicants for positions of school bus
10 attendants; proposed appointees of railroad
11 police; lawyers; if you are going to adopt a
12 child, a military pharmacist; and school
13 custodians. And those people do not believe
14 that it is degradation on their part to put
15 their fingerprints there.

16 SENATOR WALDON: Well, sir, I
17 wouldn't believe that there's degradation on
18 their part either.

19 Mr. President, if I may continue,
20 and I'm winding up.

21 They are seeking employment.
22 They are not in the throes of desperation
23 seeking help from the state.

1 Last question, and then I would
2 like to speak to the bill, if I may, Mr.
3 President.

4 Mr. President, if the Senator
5 will yield?

6 ACTING PRESIDENT FARLEY: Will
7 you yield to a last question?

8 SENATOR WALDON: What is the
9 turnaround time for the person who is requesting
10 this aid from the moment that they are required
11 to have the fingerprints taken to when they
12 receive the aid?

13 SENATOR HOLLAND: If we have a
14 computer system that is statewide which we are
15 trying to get outside of the fingerprint system
16 and the information is on this computer and can
17 go on the computer, there is no time
18 associated. It doesn't impact the timing at
19 all. I might say that the new system that I
20 spoke about doesn't require two fingers. It
21 only requires one finger, and you can also take
22 a camcorder picture of the individual and have
23 that on the application, as well.

1 SENATOR WALDON: Thank you very
2 much, Senator. I appreciate your indulgence.

3 Mr. President, if I may, on the
4 bill.

5 ACTING PRESIDENT FARLEY: Senator
6 Waldon, on the bill.

7 SENATOR WALDON: This is another
8 example of stealing from Peter to pay Pauper.
9 We're going to take millions of dollars of the
10 state's money to create a system to save a few
11 dollars. The bottom line is it will detect a
12 very few people. It will not really save the
13 state money, but we will waste an exorbitant
14 amount of money.

15 The system to start up is 96- to
16 \$192 million, but it has to be maintained year
17 after year after year after year. And so in
18 order to catch 2 percent of people who may be,
19 in fact, looking to defraud the state of New
20 York, we're going to encumber ourselves in a
21 time of debt-ridden existence with greater
22 debt. Doesn't make a lot of sense to me.

23 I think there is a stigma

1 attached to the people who are required to
2 submit to the fingerprinting. I think it is a
3 waste. I think we're better than that. I think
4 we're more responsible than that. I don't think
5 this time around we must again steal from Peter
6 to pay Pauper.

7 ACTING PRESIDENT FARLEY: Senator
8 Solomon.

9 SENATOR SOLOMON: Senator
10 Holland, yield, please?

11 Senator, I support this concept.
12 I used to be against it; but after looking at
13 the L.A. -- Los Angeles program, I support it.
14 I just need the answers to two questions.

15 Mr. President. Will he yield?

16 ACTING PRESIDENT FARLEY: Yes.

17 SENATOR SOLOMON: Senator, is
18 this going to apply to new applicants only?

19 SENATOR HOLLAND: No. The way it
20 will operate, Senator, is as the new applicants
21 come in, they will go in the system. And then
22 they will go back and get the people who are on
23 the system and bring them into the system.

1 SENATOR SOLOMON: Okay. What
2 percentage, Senator -- if you will just bear
3 with me for two or three more questions. What
4 percentage of our public assistance payroll is
5 related to home relief, or what number of
6 people?

7 SENATOR HOLLAND: I can tell you
8 it's about approximately a billion two annually,
9 Senator. That's the only figure I know. About
10 \$102 million a month, about a billion two a
11 year, in home relief.

12 SENATOR SOLOMON: In home
13 relief. Would this impact Aid to Dependent
14 Children when a single mother comes in, an
15 allegedly single mother?

16 SENATOR HOLLAND: No, sir.

17 SENATOR SOLOMON: Thank you.

18 Mr. President. On the bill.

19 ACTING PRESIDENT FARLEY: Senator
20 Solomon on the bill.

21 SENATOR SOLOMON: I originally
22 opposed this concept. However, after looking at
23 several general publication articles on the Los

1 Angeles system and after seeing substantial
2 increases in fraud within my own Senate district
3 to a degree where an individual moved into a
4 Mitchell-Lama complex and that individual redid
5 his apartment to a degree where he put a jacuzzi
6 on -- in the apartment, and that individual who
7 went shopping and pulled out the food stamps and
8 who was also on Medicaid yet was driving a
9 Lexus, and I have gotten a substantial number of
10 complaints within my district from average
11 people regarding the abuse of this system and
12 the food stamp system, in and of itself, I feel
13 that we have to start to take measures such as
14 this.

15 In addition, today's system is
16 not an ink pad system and a paper system. It's
17 a system where you put your finger on, a
18 photographic image gets taken of your finger
19 almost instantaneously, and then it gets
20 processed.

21 Unfortunately, I see the system
22 in this state, the abuse continuing to rise in
23 areas such as my Senate district on a day-to-day

1 basis. I see a general dissatisfaction with the
2 system by the average person in my Senate
3 district, as I have received numerous complaints
4 and an increasing number of complaints. And I
5 think that this system should be implemented.

6 I only disagree with Senator
7 Holland in the fact that his original bill had a
8 project or demonstration period for a project.
9 Well, when that project is done we are supposed
10 to take a project and fully evaluate it. That
11 project has not been completed as of yet.

12 So I think this bill is a little
13 early in terms of trying to jump the gun, and
14 I'd like to see the final results of that
15 project and see some concrete ways of whether we
16 should move forward or there are some problems
17 that can be resolved. Because you do
18 experimental projects so that you can find out
19 what the problems are, and you don't jump the
20 gun and move into a full scale system.

21 But I think we're reaching a time
22 period in this state where we have to move
23 forward on projects such as this because the

1 increase in abuses in areas such as mine has
2 gone up dramatically in the last few years.

3 Thank you.

4 ACTING PRESIDENT FARLEY: On the
5 bill, Senator Gold.

6 SENATOR GOLD: Would Senator
7 Holland yield for one question?

8 SENATOR HOLLAND: Yes, sir.

9 SENATOR GOLD: Senator, we have
10 before us an A print. Can you just tell me the
11 difference between the A print and the original
12 print?

13 SENATOR HOLLAND: We added
14 sponsors, and we changed the effective date from
15 April 1 to immediately.

16 SENATOR GOLD: All right. So in
17 other words as I understand it, without being
18 critical -

19 SENATOR HOLLAND: M-m h-m-m.

20 SENATOR GOLD: -- there were
21 people who wanted to be printed as sponsors on
22 the bill and we changed the effective date.
23 Other than that, the bill is the same?

1 SENATOR HOLLAND: Yes, sir.

2 SENATOR GOLD: On the bill.

3 ACTING PRESIDENT FARLEY: On the
4 bill, Senator Gold.

5 SENATOR GOLD: Mr. President. I
6 appreciate the concern of Senator Holland, and I
7 certainly appreciate the concern of Senator
8 Solomon, and I think that Senator Waldon
9 certainly expressed most of my views very, very
10 adequately. But you did one thing in the
11 debate, Senator Holland, which I think is
12 unfair.

13 There is undoubtedly -- there are
14 undoubtedly many situations where people are
15 subjected to or voluntarily submit to
16 fingerprinting, and I understand the mentality
17 of the average person when it comes to
18 fingerprinting. As a young law student, I
19 worked in the U. S. Attorney's office, and I had
20 to be fingerprinted. I was thrilled to be
21 fingerprinted to get that summer job. When I
22 became a lawyer, I had to be fingerprinted and I
23 was thrilled.

1 I wasn't so thrilled when I was
2 about 4 years old and my father thought it was a
3 good idea in case, God forbid, I got lost, but I
4 understood it, and I got fingerprinted when I
5 was about 4 years old; and people, Senator
6 Holland, still do that today with their
7 children.

8 But, Senator, to suggest that
9 what people do in an atmosphere of voluntary
10 understanding, what people do in a situation
11 where their human dignity is well intact, where
12 they proudly submit to printing because there is
13 a benefit to them with an honor associated with
14 it, and then to suggest that since there are so
15 many people who in order to add honor to their
16 lives get fingerprinted, that it's okay to take
17 an individual who many, many times, most of the
18 time, is on their backside and that under those
19 circumstances we ask them to be printed and they
20 should do it with the same dignity as the young
21 law student, or the same dignity as the young
22 police officer, is just ludicrous. And you are
23 too intelligent a human being, Senator Holland,

1 to really believe that.

2 Now, if you believe that you want
3 people fingerprinted and you think that society
4 demands it, you think that economics demand it,
5 then say that, and that's fine. But let's
6 person to person at least acknowledge that there
7 is no dignity to this situation. Let's at least
8 person to person acknowledge, as the Catholic
9 Conference and the Hunger Action Network of New
10 York State have pointed out, that this is
11 demeaning in the circumstance that we're talking
12 about.

13 I used an expression the other
14 day and I'll use it again today. People who
15 have to come to the state in order to get this
16 kind of help have not made a conscious career
17 choice between that and being the CEO of IBM.
18 Let's understand that. Let's try to have some
19 compassion, some compassion, and understand
20 that.

21 Now, this is a society where we
22 consciously have a system of justice that allows
23 some guilty people to sneak through because we

1 are compassionate people who care for the
2 innocent. Why can't we just understand that
3 when we are dealing with some of our people at a
4 time in their lives when their luck has left
5 them, when everything is turning upon them, and
6 why can't we take those people and give them
7 some bit of dignity.

8 We can't do it, Senator Holland,
9 because one or two are going to fall through the
10 cracks? We can't do it because one percent or
11 whatever may be crooks? I've got news for you,
12 I'm not here to demean anybody, but I bet you
13 one percent of the people on Wall Street are
14 crooks, one percent of the doctors, lawyers,
15 Indian chiefs. Let's cut it out. Ninety-nine
16 percent was great when we went to school.

17 The bill is demeaning and in my
18 humble opinion I can only -- I have to make my
19 judgment, Senator, based upon the same kinds of
20 research you do. The memorandum dated March 17
21 by the Catholic Conference I think is a
22 wonderful memorandum, and it shows that the
23 economics of this bill are faulty. So if you

1 don't want to buy the compassion so eloquently
2 spoken by Senator Waldon, at least be good
3 mathematicians at a time of need in this state.

4 It is a terrible idea. You are
5 not a terrible person, Senator Holland, and I'm
6 sure your motives are not terrible but the idea
7 is terrible, and we shouldn't proceed with it
8 and, hopefully, it will be defeated.

9 ACTING PRESIDENT FARLEY: Read
10 the last section.

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

13 SENATOR GOLD: Slow roll call.

14 ACTING PRESIDENT FARLEY: There's
15 been a slow roll call asked for. Ring the
16 bell.

17 THE SECRETARY: Senator Babbush.

18 (There was no response.)

19 Senator Bruno.

20 (There was no response.)

21 ACTING PRESIDENT FARLEY: Will
22 the sergeant-at-arms please round up the
23 Senators as best we can. They're in meetings

1 and -

2 THE SECRETARY: Senator Connor.

3 SENATOR CONNOR: No.

4 THE SECRETARY: Senator Cook.

5 (There was no response.)

6 THE SECRETARY: Senator Daly.

7 SENATOR DALY: Yes.

8 THE SECRETARY: Senator

9 DeFrancisco.

10 SENATOR DeFRANCISCO: Yes.

11 THE SECRETARY: Senator

12 Dollinger.

13 SENATOR DOLLINGER: No.

14 THE SECRETARY: Senator Espada.

15 SENATOR ESPADA: ^ know ^ no.

16 THE SECRETARY: Senator Farley.

17 SENATOR FARLEY: Aye.

18 THE SECRETARY: Senator Galiber.

19 SENATOR GALIBER: No.

20 THE SECRETARY: Senator Gold.

21 SENATOR GOLD: No.

22 THE SECRETARY: Senator

23 Gonzalez.

1 (There was no response.)
2 THE SECRETARY: Senator Goodman.
3 Senator Goodman?
4 SENATOR GOODMAN: Yes.
5 THE SECRETARY: Senator
6 Halperin.
7 SENATOR HALPERIN: No.
8 THE SECRETARY: Senator Hannon.
9 SENATOR HANNON: Yes.
10 THE SECRETARY: Senator Hoffmann,
11 excused.
12 Senator Holland.
13 SENATOR HOLLAND: Yes.
14 THE SECRETARY: Senator Johnson.
15 SENATOR JOHNSON: Aye.
16 THE SECRETARY: Senator Jones.
17 SENATOR JONES: Yes, I would like
18 to -
19 ACTING PRESIDENT FARLEY: Senator
20 Jones to explain her vote. Excuse me.
21 SENATOR JONES: Thank you. I
22 would like to speak on this issue. I hear -
23 see two sides of it very clearly. I certainly

1 am on the side of wanting to do all we can today
2 for people that are in need of home relief.

3 On the other hand, I continually
4 hear from the communities, and my own county
5 being one of them, that these kinds of things
6 and certainly fraud within the system are a
7 serious drain on the system.

8 So I'm going to vote yes, but I
9 also want to voice my serious concerns that if
10 we do not get the results that the makers of
11 this bill are claiming, that this will be an
12 issue we need to relook at.

13 ACTING PRESIDENT FARLEY:
14 Continue the roll. She is in the affirmative.

15 THE SECRETARY: Senator Kuhl.

16 SENATOR KUHL: Aye.

17 THE SECRETARY: Senator Lack.

18 SENATOR LACK: Aye.

19 THE SECRETARY: Senator Larkin.

20 SENATOR LARKIN: Aye.

21 THE SECRETARY: Senator LaValle.

22 SENATOR LAVALLE: Aye.

23 THE SECRETARY: Senator

1 Leichter.

2 (There was no response.)

3 THE SECRETARY: Senator Levy.

4 SENATOR LEVY: Aye.

5 THE SECRETARY: Senator Libous.

6 SENATOR LIBOUS: Aye.

7 THE SECRETARY: Senator Maltese.

8 SENATOR MALTESE: Aye.

9 THE SECRETARY: Senator Marchi.

10 SENATOR MARCHI: Aye.

11 THE SECRETARY: Senator Marino.

12 (Indicating "Aye.")

13 THE SECRETARY: Aye. Senator

14 Markowitz witnesses.

15 SENATOR MARKOWITZ: No.

16 THE SECRETARY: Senator

17 Masiello.

18 (There was no response.)

19 THE SECRETARY: Senator Mega.

20 SENATOR MEGA: Yes.

21 THE SECRETARY: Senator Mendez.

22 (There was no response.)

23 THE SECRETARY: Senator

1 Montgomery.

2 SENATOR MONTGOMERY: No.

3 THE SECRETARY: Senator Nolan.

4 SENATOR NOLAN: No.

5 THE SECRETARY: Senator

6 Nozzolio.

7 SENATOR NOZZOLIO: Aye.

8 THE SECRETARY: Senator

9 Ohrenstein.

10 (Indicating "No.")

11 THE SECRETARY: No.

12 Senator Onorato.

13 SENATOR ONORATO: Aye.

14 THE SECRETARY: Senator

15 Oppenheimer.

16 SENATOR OPPENHEIMER: No.

17 THE SECRETARY: Senator Padavan.

18 SENATOR PADAVAN: Yes.

19 THE SECRETARY: Senator Pataki.

20 SENATOR PATAKI: Yes.

21 THE SECRETARY: Senator

22 Paterson.

23 (There was no response.)

1 THE SECRETARY: Senator Present.
2 SENATOR PRESENT: Aye.
3 THE SECRETARY: Senator Saland.
4 SENATOR SALAND: Aye.
5 THE SECRETARY: Senator
6 Santiago.
7 SENATOR SANTIAGO: No.
8 THE SECRETARY: Senator Sears.
9 SENATOR SEARS: Yes.
10 THE SECRETARY: Senator Seward.
11 SENATOR SEWARD: Yes.
12 THE SECRETARY: Senator Sheffer.
13 SENATOR SHEFFER: Yes.
14 THE SECRETARY: Senator Skelos.
15 SENATOR SKELOS: Yes.
16 THE SECRETARY: Senator Smith.
17 ACTING PRESIDENT FARLEY: Senator
18 Smith to explain her vote.
19 SENATOR SMITH: Thank you, Mr.
20 President. I would like to have my remarks from
21 last year's debate added to the record. I won't
22 repeat them, but I'm still greatly concerned
23 that we continue to sacrifice human dignity for

1 what we consider to be a few shekels. We're
2 voting on enlarging a program that has not yet
3 been proven.

4 It is my understanding that the
5 amount that has been saved in these two
6 demonstration projects is negligible and may
7 even be less than the costs of implementing the
8 program.

9 And I'm greatly concerned when we
10 can spend a lot of money on additional mailings
11 and on everything else that we do, but we seek
12 to sacrifice those people who are in need.

13 And I am even more greatly
14 concerned that we don't go after the doctors who
15 defraud our system for even greater amounts of
16 money or even those who embezzle and all of the
17 other fraud that is out here. But, rather, it's
18 so easy to go after those who cannot often
19 speak for themselves and who are in need of
20 services.

21 Therefore, Mr. President, I
22 clearly vote no.

23 ACTING PRESIDENT FARLEY: Senator

1 Smith is in the negative. Continue the roll
2 call.

3 ACTING PRESIDENT FARLEY: Senator
4 Solomon.

5 SENATOR SOLOMON: Yes.

6 THE SECRETARY: Senator Spano.

7 SENATOR SPANO: Aye.

8 THE SECRETARY: Senator
9 Stachowski.

10 SENATOR STACHOWSKI: Yes.

11 THE SECRETARY: Senator
12 Stafford.

13 SENATOR STAFFORD: Aye.

14 THE SECRETARY: Senator
15 Stavisky.

16 (There was no response.)

17 Senator Trunzo.

18 SENATOR TRUNZO: Yes.

19 THE SECRETARY: Senator Tully.

20 SENATOR TULLY: Aye.

21 THE SECRETARY: Senator Velella.

22 SENATOR VELELLA: Yes.

23 THE SECRETARY: Senator Volker.

1 SENATOR VOLKER: Yes.
2 THE SECRETARY: Senator Waldon.
3 SENATOR WALDON: No.
4 THE SECRETARY: Senator Wright.
5 SENATOR WRIGHT: Aye.
6 ACTING PRESIDENT FARLEY:
7 Absentees.
8 THE SECRETARY: Senator Babbush.
9 (There was no response.)
10 Senator Bruno.
11 SENATOR BRUNO: Yes.
12 THE SECRETARY: Senator Cook.
13 SENATOR COOK: Yes.
14 THE SECRETARY: Senator
15 Gonzalez.
16 SENATOR GONZALEZ: No.
17 THE SECRETARY: Senator
18 Leichter.
19 (There was no response.)
20 Senator Masiello.
21 (There was no response.)
22 Senator Mendez.
23 SENATOR MENDEZ: No.

1 THE SECRETARY: Senator Paterson.

2 SENATOR PATERSON: No.

3 THE SECRETARY: Senator

4 Stavisky.

5 ACTING PRESIDENT FARLEY:

6 Results.

7 THE SECRETARY: Ayes 39. Nays

8 17.

9 ACTING PRESIDENT FARLEY: The

10 bill is passed.

11 Senator Goodman.

12 SENATOR GOODMAN: Mr. President.

13 Yesterday, I was out of the chamber when

14 Calendar Number 289, Senate Print 3538, was

15 passed. I would like the record to show that

16 had I been in the chamber I would have voted in

17 the negative.

18 ACTING PRESIDENT FARLEY: The

19 record will so indicate.

20 Senator Kuhl.

21 SENATOR KUHL: Yes, Mr.

22 President. May I have unanimous consent to be

23 recorded in the negative on Calendar Number 305.

1 ACTING PRESIDENT FARLEY: Senator
2 Kuhl will be in the negative on calendar 305,
3 without objection.

4 Senator Present.

5 SENATOR PRESENT: Mr. President.
6 Do you have a report of standing committees at
7 the desk?

8 ACTING PRESIDENT FARLEY: We do,
9 sir.

10 SENATOR PRESENT: May we receive
11 that report.

12 ACTING PRESIDENT FARLEY:
13 Secretary will read the report.

14 THE SECRETARY: Senator Stafford
15 from the Committee on Finance, reports the
16 following Senate Budget Bill directly for third
17 reading: Senate Bill Number 650B, State
18 Operations Budget.

19 ACTING PRESIDENT FARLEY: The
20 bills are reported directly for third reading.

21 Senator Present.

22 SENATOR PRESENT: Mr. President.
23 Is there a message of necessity at the desk?

1 ACTING PRESIDENT FARLEY: There
2 is a message here, sir.

3 SENATOR PRESENT: I move we
4 accept the message.

5 ACTING PRESIDENT FARLEY: I guess
6 we have to sub the bill first.

7 SENATOR PRESENT: Substitute the
8 bill first.

9 ACTING PRESIDENT FARLEY:
10 Secretary will read a substitution, and then we
11 will do the message.

12 THE SECRETARY: Senator Stafford
13 moves to discharge the Committee on Finance
14 from -

15 ACTING PRESIDENT FARLEY: Let's
16 have a little order in this house.

17 SENATOR GOLD: Mr. President.

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

20 SENATOR GOLD: I'm sorry.

21 THE SECRETARY: Senator Stafford
22 moves to discharge the Committee on Finance from
23 Assembly Bill Number 1350A and substitute it for

1 the identical Senate Bill Number 650B.

2 ACTING PRESIDENT FARLEY:

3 Substitution is ordered.

4 ACTING PRESIDENT FARLEY: Senator

5 Present, there is a message here at the desk.

6 SENATOR GOLD: Mr. President.

7 ACTING PRESIDENT FARLEY: Senator

8 Gold.

9 SENATOR GOLD: Mr. President. We
10 just concluded a roll call on Senator Holland's
11 bill, and I am told that while we had a slow
12 roll call and many of the members were here that
13 the bells were not rung and that some of the
14 members did not hear it. And since the roll
15 call was really -

16 ACTING PRESIDENT FARLEY: Senator
17 Gold. That is inaccurate. The bell not only
18 was rung, it is still ringing.

19 SENATOR GOLD: Well, I was in the
20 chamber. Well, Mr. President. Mr. President.

21 ACTING PRESIDENT FARLEY: He just
22 shut it off. Well, turn it on to make sure -
23 well, he wants to see if it's ringing.

1 SENATOR GOLD: At any rate, Mr.
2 President, while I understand the rules of this
3 house, and I believe that it would be a -- no,
4 no. May I please.

5 While I understand the rules of
6 this house, and I don't suggest that we start to
7 alter slow roll calls. That's never been the
8 case. Since this roll call has been completed
9 less than two minutes ago, I would ask on this
10 occasion as an unusual occasion that we allow
11 the opening of the roll call for perhaps another
12 minute while some members who were within the
13 nearby chamber could register a vote.

14 It will not change this
15 particular result, and I would ask that that be
16 done so that Senator Leichter, and I'm not sure
17 whether there's any others, be able to cast a
18 vote.

19 SENATOR PRESENT: How many have
20 you got?

21 SENATOR GOLD: I think Senator
22 Leichter who is here right now.

23 SENATOR PRESENT: Mr. President.

1 Reconsider the vote on Senator Holland's bill.

2 SENATOR GOLD: Just open the
3 vote. You don't have to reconsider it.

4 ACTING PRESIDENT FARLEY: Just a
5 moment, Senator Gold. I was trying to get
6 Senator Present's direction.

7 Senator Present.

8 SENATOR PRESENT: Open it to
9 allow Senator Leichter to vote.

10 ACTING PRESIDENT FARLEY: With
11 unanimous consent, we will open the roll call
12 for Senator Leichter.

13 SENATOR GOLD: Senator Leichter,
14 how do you vote?

15 SENATOR LEICHTER: I vote in the
16 negative, and I thank the acting Majority
17 Leader.

18 SENATOR GOLD: And I want to
19 thank Senator Present, too, he is a delight to
20 work with.

21 ACTING PRESIDENT FARLEY:
22 Secretary will read the title to the bill which
23 has been substituted already. The message has

1 not been accepted. But go ahead.

2 THE SECRETARY: Calendar Number
3 337, Assembly Budget Bill, Assembly Bill Number
4 1350A, an act making appropriations for the
5 support of government, State Operations Budget
6 Bill.

7 SENATOR GOLD: Mr. President.

8 ACTING PRESIDENT FARLEY: Senator
9 Gold.

10 SENATOR GOLD: Are we on the
11 bill?

12 ACTING PRESIDENT FARLEY: Yes.

13 SENATOR GOLD: Will Senator
14 Stafford yield to a question?

15 SENATOR STAFFORD: Sure.

16 ACTING PRESIDENT FARLEY: He said
17 sure.

18 SENATOR GOLD: Senator, I
19 understand that this bill which I believe has
20 substantial support in both houses is a
21 circumstance where the Governor made his
22 recommendation. We took some things out, added
23 some things back, but generally came back with

1 about the same general number. Is that
2 correct?

3 SENATOR STAFFORD: Yes.

4 SENATOR GOLD: But, Senator
5 Stafford, I want to ask you a couple of things,
6 Senator.

7 SENATOR STAFFORD: All right.

8 SENATOR GOLD: First of all, it's
9 my understanding that for probably about the
10 fourth year in a row, the Governor has suggested
11 the abolition of local boards in the
12 Alcoholic Beverage Control Law and the
13 restructuring of the SLA in order to be able to
14 get better enforcement of those people who are
15 licensees. I gather that, in fact, the SLA
16 itself has asked that these changes be made so
17 that they could better use the personnel they
18 have and the, in fact, this would have saved
19 almost three-quarters of a million dollars.

20 May ask why the determination was
21 made to make that restoration?

22 SENATOR STAFFORD: I think it's
23 really the impression of many of us in various

1 parts of the state that the local people
2 involved are doing a job, the commissioners are
3 doing a job, and I think sometimes people just
4 say it's going to be better doing it this other
5 way, and we question whether that's true or not.

6 SENATOR GOLD: Well, Senator, if
7 you'll yield to a question. It's not a question
8 of doing a job better or worse. I was under the
9 impression that one of the philosophies that is
10 certainly a public philosophy of the Republican
11 Party is to cut out waste in government
12 agencies. And this is one situation where the
13 Governor has taken an initiative year after year
14 now in trying to cut out the waste, the fat, the
15 political appointments and turn this agency into
16 a really effective law enforcement agency. I
17 would like to know philosophically what there is
18 about that that the Republican Majority in this
19 house doesn't agree with so as to put this
20 political fat back into the budget.

21 SENATOR STAFFORD: Would you
22 allow me to make a broad-stroke conceptual
23 brush?

1 SENATOR GOLD: Yes, sir.

2 SENATOR STAFFORD: I would
3 suggest that many of the decisions or many of
4 the opinions or many of the conclusions that are
5 brought up aren't necessarily true. We do not
6 think this is waste. This industry is very
7 important to people in many areas of the state,
8 and it is just not something that you deal with
9 and say, "We'll do it this way because we think
10 it would be something that would do a job
11 better," when it wouldn't, and we know a little
12 something about this ourselves.

13 SENATOR GOLD: Thank you. On the
14 bill, Mr. President.

15 ACTING PRESIDENT FARLEY: On the
16 bill.

17 SENATOR GOLD: Mr. President. I
18 think that the State Operations Budget is so
19 vast that it is the kind of document where
20 there's got to be something good in here for
21 everybody. And, certainly, one of the
22 advantages that the majorities in each house
23 have each year with these budgets is that no

1 matter what bad judgments there may be there's
2 always enough good in there that they can divert
3 attention -- certainly of the media, if the
4 media ever paid attention -- from those things
5 which they do which really are patently
6 foolish. And I think it's a shame.

7 I think that in New York City,
8 for example, time and time again we have seen
9 problems which could be dealt with if the Liquor
10 Authority and its chairman were able to grab a
11 hold of that agency, bring some sensibilities to
12 it and take their employees, take them away from
13 some of the nonsense they do, and get them into
14 enforcement. This Legislature has stopped that
15 year after year and it makes no sense.

16 The Governor has suggested that
17 we create a Division of Crime Victims Services.
18 Having been involved with some crime victim
19 legislation right from the start, I don't know
20 why this Legislature is doing away with it.

21 The Governor has adopted one of
22 my ideas which perhaps we can even get to this
23 year; and that is, to provide some sort of

1 safety courses for people who buy guns. We have
2 a situation where, if you want a driver's
3 license, you have to take a three-hour course.
4 But if you want to buy a gun, you walk in and
5 within 12 minutes you can walk out with an AK-47
6 even though you don't even know which end of it
7 the bullets come out of. The Legislature, in
8 its infinite lack of wisdom, has not gone along
9 with that one either.

10 At any rate, Mr. President, I can
11 go on and on, but I won't. I congratulate those
12 members who have been able to get part of the
13 member items right into this part of the budget,
14 and I think in all fairness, there is enough in
15 here which is going to make my newsletter look
16 good so I'm going to vote yes.

17 ACTING PRESIDENT FARLEY: Senator
18 Leichter.

19 SENATOR LEICHTER: Yes, Mr.
20 President. While just from the viewpoint of
21 process, there is some satisfaction in having a
22 budget bill on our desk before that clock
23 strikes midnight and the new fiscal year begins,

1 I think the issue is not will we pass a budget
2 by April 1 but will we pass a good budget? Will
3 we pass a budget that meets the needs of the
4 people of the state of New York?

5 I'm disappointed in this
6 particular bill. I am disappointed in what I
7 think will be a budget that will finally be
8 before us. And if anybody can take satisfaction
9 from it and wants to write a nice newsletter -
10 and I know that people have great skills when it
11 comes to writing newsletters, but I think you'd
12 have a hard time making this budget appear as if
13 it benefits the people of the state of New
14 York.

15 Frankly, I think we're in a
16 terrible rut in this state. There is a lack of
17 innovation, a lack of initiative. We go through
18 this same sort of dance. It's like a no play,
19 one of these very stylized Japanese dramatic
20 presentations. There's little battles over
21 school aid, and we know how that usually ends up
22 and who ends up getting it; and the battle over
23 maintaining a big fat expensive correction

1 system in the state of New York, and we know how
2 that battle ends up. And as you take a look at
3 this budget, it certainly ends up as it always
4 has.

5 That's the biggest economic
6 development program that the Republicans in this
7 state have is build more prisons, fill up the
8 prisons; and, that's the way we're creating
9 jobs. I just want to focus, at least, on that
10 aspect of this budget. I think there are
11 probably other things that could be talked
12 about. We could talk about the mental
13 facilities. We could talk about the whole
14 system of member items which I find, as it's
15 done, is offensive and violative of proper
16 budgeting and rules of good government.

17 But let me just focus on what I
18 find very disturbing as a trend in this state,
19 and it's reflected in this budget as it has been
20 in the past budgets, and that is, the enormous
21 growth in expenditures for Corrections at the
22 same time that we have decreased support for
23 higher education. Because I think that really

1 makes the point where the priorities are of this
2 Legislature and of this Governor.

3 In the last ten years,
4 expenditures for Corrections have gone up about
5 270 percent. That is adjusted for inflation.
6 During that same period, expenditures for higher
7 education have declined by 8 percent when
8 adjusted for inflation.

9 Now, it tells you something about
10 what the concerns, the interests, and the goals
11 of this state are if our financial emphasis, if
12 our input is all in correction while we allow
13 what at one time had been an excellent public
14 education system to deteriorate to the extent I
15 think that both SUNY and CUNY are suffering
16 under great financial troubles and handicaps.

17 And this budget pretty much
18 maintains that. Now, the Governor, in all
19 fairness, tried to make some changes in
20 sentencing proposals that everybody who is
21 involved in matters of penology will say makes
22 sense, to change the provisions as they relate
23 to second felony to see that people who need not

1 be in jail because they are not really a threat
2 to society are put into some alternative form of
3 sentencing, of punishment. But no! The
4 Republican Majority insisted, once again, to
5 keep those jails full. And we know the battle
6 that you fought to get still another jail built
7 in upstate.

8 And I appreciate what it may mean
9 for areas that do have economic problems. But
10 if the best thing that we can do in this state
11 government to meet very legitimate needs for
12 jobs in those counties is to plunk jails down, I
13 think it's most unfortunate.

14 I remember a few years ago, maybe
15 three years ago, tough budget, high taxes, one
16 of our colleagues who has now gone to Washington
17 and I was sort of twitting him about voting for
18 the budget. I said, "It's going to be tough for
19 you to go back and explain it." He said, "Oh,
20 no. I got a lot out of this budget." I said,
21 "You did?" He said, "Yes. I got a prison.
22 I'm coming home with a prison."

23 What a wonderful thing to bring

1 home to his community, and I understand, and I
2 emphasize again that it is jobs, and it means
3 something to that community, but that's not the
4 sort of jobs that we ought to be creating. If
5 we're really going to address the economic needs
6 of this state and to build a base we've got to
7 do it through education, and we could be
8 supporting and we could be building on what was
9 an excellent higher education system, for which
10 credit goes to Governor Rockefeller who built a
11 state university system. Credit goes to
12 Governor Carey, who at a very difficult time for
13 the city of New York brought the state in to
14 finance the City University. Two great systems
15 that have been suffering.

16 We have doubled or even tripled
17 the tuition of these universities; but even with
18 all that, they are suffering. The buildings are
19 in decay, classes are large. Important courses
20 are no longer available. Students are being
21 turned back.

22 But I think our problem is that
23 we do these budgets almost by rote. This

1 is worse than gridlock. We are sort of frozen
2 into the same response, more prisons, less for
3 higher education.

4 I can't vote for this budget, and
5 I suggest that anybody who congratulates himself
6 on this budget, I think is very shortsighted.

7 ACTING PRESIDENT FARLEY: Senator
8 Spano.

9 SENATOR SPANO: I want to first
10 say that I'm glad that Senator Marino has given
11 us the opportunity to have this budget out on
12 the floor so that some of us can talk about not
13 what is in it but what is not in it, and it's
14 important. It's an important part of the
15 process because the State Operations Budget that
16 is on our desks here today is what I believe to
17 be an incomplete document.

18 And to adopt this State
19 Operations Budgets in its current form without
20 any type of amendments at all is -- this -- all
21 the members of this house agreeing to the
22 reckless policies of the deinstitutionalization
23 of Mario Cuomo. And I'm saying his name loudly

1 because maybe he is listening here today because
2 he has a habit of having a very forgetful memory
3 these days.

4 I refer my colleagues to a couple
5 of articles over the last few days when the
6 Governor on a couple of different occasions was
7 asked by members of the press corps, "What about
8 the Senate Chairman of Mental Health's position
9 with respect to deaccelerating or delaying the
10 closure of some of our psychiatric facilities
11 and putting money into community-based system of
12 care?" And his response was, and I quote, "I
13 don't know where that came from."

14 When he was asked today by some
15 members of the press corps about our plan to
16 deaccelerate the closure of psychiatric
17 hospitals, he again said, "These facilities are
18 going to close."

19 Then someone reminded him that he
20 can't close the facilities. It's the
21 Legislature that can close facilities in the
22 state, that every one of these psychiatric
23 centers are enumerated in the Mental Hygiene

1 Law. Apparently, he might want to violate the
2 law, like he has had Division of Budget, the
3 Mental Hygiene Commissioner continue to do, and
4 what he is doing in violation of Chapter 322 of
5 the Laws of 1992, that require a comprehensive
6 closure plan for every psychiatric center in the
7 state.

8 We in the Legislature have been
9 insulted by the Governor. We have been insulted
10 by the Division of Budget, and we should not
11 take up this bill until they listen to us, and
12 it's a very basic thing we're talking about.

13 It's basic as we read -- and I know that many of
14 my colleagues on the other side of the aisle who
15 represent the urban areas of New York City as
16 well as my colleagues who represent areas of
17 upstate New York where many of these psychiatric
18 centers are located have the same level of
19 concern for people who suffer from a mental
20 illness. The difference is here that the
21 reckless policies concern deinstitutionalization
22 where we close the front door, open the back
23 door, send people out to a nonexistent

1 community-based system of care, hurts all of us
2 and hurts all of us as residents and as members
3 of the state Senate, who are supposed to develop
4 the policies to help people who through no fault
5 of their own suffer from a mental illness.

6 We said last year when the
7 Governor came through with his budget and said,
8 "We're going to close the psychiatric centers,"
9 we adopted that policy. We in the Senate
10 Majority have said, "We are for closure of
11 facilities and consolidation of services." The
12 Governor forgets that. The Governor continues
13 to say every chance he can, he can point to the
14 Republican Senate as those upstate Senators who
15 want to keep these under-utilized psychiatric
16 centers open. There is nothing further from the
17 truth.

18 We have established a
19 comprehensive plan that was passed by every
20 member of this house that requires the Mental
21 Health Commissioner to comply with the Mental
22 Hygiene Law when we say you are going to give us
23 notice before you close the psychiatric centers;

1 that you are going to build a community-based
2 system of care for people who need help. You
3 are going to pay close attention to the work
4 force issues, people who work day in and day out
5 in high stress positions who don't know tomorrow
6 whether they are going to have a job at Central
7 Islip or Harlem Valley or Mohawk Valley.

8 I had a story told to me last
9 week in Central Islip of a woman who worked in
10 that facility for 20 years who has eight
11 children who was told as matter of factly, "You
12 are going to be laid off next week." She came
13 to me in tears and said, "What are we going to
14 do about it?" Then we come up here and we face
15 Division of Budget, who has a callous disregard
16 for the concerns of the mentally ill in this
17 state. We shouldn't stand for it.

18 A proposal that was agreed to by
19 the Assembly and my colleague, Assemblyman Steve
20 Sanders, who has that same level of concern that
21 we all do. The two of us sat down and worked on
22 a proposal that is being negotiated on as we
23 speak that will deaccelerate the closure of two

1 facilities. Yes, it will do that.

2 The Governor characterizes that
3 as \$20 million to save two psych centers, which
4 is absolutely wrong. What this does is delay
5 the closure of Central Islip Psychiatric Center
6 for 12 months. Let me tell you what that means.
7 Tell you what that means for the 360 geriatric
8 patients who currently reside in Central Islip.

9 There is an article in today's
10 Newsday by Paul Vitello, where he quotes the
11 head nurse, Head Nurse Devalin, in that
12 facility, where she says, and I quote, "Moving
13 is traumatic for anyone who is elderly, but for
14 some of these people, it might kill them."

15 We have seen studies. We have a
16 report that was issued on March 10 from the
17 Commission on Quality Care, where they have some
18 very severe concerns about a proposal that would
19 close a facility, take these 360 geriatric
20 patients who are currently living there and some
21 who have lived there for 40 and 50 years, move
22 them into a temporary location at Pilgrim in
23 Brentwood, meanwhile spend 57 million on a

1 capital program, and then move them again into a
2 permanent location two years from now.

3 Our plan, agreed to by the
4 Assembly, stops that. Our plan, agreed to by
5 the Assembly, delays the closure of Harlem
6 Valley. Harlem Valley Psychiatric Center which,
7 you may remember, the Governor agreed last year
8 he was going to delay that closure until April
9 of 1994. He forgot about all that. He said, "I
10 don't remember any agreement. I don't know what
11 Spano is talking about."

12 Well, maybe he should take a look
13 at his own budget language. Maybe that will
14 take care of his memory loss that he's been
15 having.

16 In addition to those two very
17 important psychiatric centers that we are very
18 concerned about, our proposal does a few other
19 things as well. Helps to build a community
20 based system of care. It's very good for us to
21 say slow down the closure of psych centers
22 because we don't have a community-based system
23 of care, but we should also put that money into

1 the community. Our proposal does that, as
2 well. We put millions of dollars into the
3 community so that these programs that are
4 essential for people to continue to be
5 mainstreamed back home and back into their
6 communities, those programs will be available
7 for them.

8 In addition to that, we restore
9 some 70 percent of the jobs that are being cut
10 out of this budget in the mental health system.
11 People will say, What do you want to restore
12 jobs for? Some people look and say, Is the
13 Senate Majority protecting bricks and mortar?
14 It's not bricks and mortar at all. It's the
15 jobs of people that work tirelessly day in and
16 day out in these psychiatric centers.

17 We all remember just a few years
18 ago the tragic death of a woman who was the
19 mother of eight children at Rockland Psychiatric
20 Center. Her name was Clara Taylor. She was
21 brutally murdered in a psychiatric center
22 because it was understaffed, because she was the
23 only person on the ward. And we're seeing time

1 and time again staff members at facilities all
2 across the state who cannot handle the serious
3 -- seriously and persistently mentally ill
4 people who also have a dual diagnosis of a
5 chemical dependency who are coming into these
6 psych centers on a regular basis. They can't
7 handle them.

8 The budget that the Governor gave
9 to us exacerbates that problem and puts us in
10 jeopardy of losing millions and millions and
11 millions of dollars of federal certification.
12 We saw just a few years ago what happened in
13 Buffalo. Buffalo Psych Center was decertified
14 by HCFA and JCAH when they came through and said
15 those psych centers are not maintaining our
16 federal standards.

17 We are putting ourselves in
18 jeopardy once again by not building a
19 community-based system of care, prematurely and
20 recklessly closing facilities, not paying
21 attention to work force issues, not paying
22 attention to the economic impact of local
23 communities when we talk about closing these

1 facilities across the state, not taking into
2 account the effects on the criminal justice
3 system, the social services system, the quality
4 of care of the individuals that we care for in
5 our current facilities and, of course, the
6 impact on the local economy, as I mentioned, as
7 well.

8 So I am hopeful that before we
9 end this process, before we end the process of
10 the budget, certainly before we end the process
11 of passage of this incomplete document that
12 we're all going to make sure that we have the
13 benefit, the benefit of a negotiated addition to
14 this document which will include the mental
15 health additions that we need, that reflect the
16 needs of our communities across the state. And
17 we're going to have those additions in a way
18 that are going to be veto proof, in a way they
19 are going to be part of not just a two-part
20 agreement between the both houses but will
21 include the Governor, who I hope maybe is
22 listening to this today.

23 Thank you.

1 ACTING PRESIDENT FARLEY: Senator
2 Saland.

3 SENATOR SALAND: Thank you, Mr.
4 President.

5 Mr. President. It's pretty
6 difficult to follow Senator Spano both in terms
7 of his passion and his expertise in the area of
8 mental hygiene. As the chair, he has worked
9 hard, worked long, labored with extraordinary
10 diligence for the constituency that he and his
11 committee serve, for the constituency that so
12 many of us serve also in our respective
13 districts.

14 I would like to, if I could,
15 bring you, Mr. President and my colleagues, to
16 the events of about this time last year when
17 myself and Senator Spano and Assemblyman Leibell
18 who then -- I then represented the Harlem Valley
19 site, which is currently represented by Senator
20 Pataki.

21 The site was listed for closure.
22 After laborious negotiations over an extended
23 period of time, we hammered out an agreement, an

1 agreement which I thought was a thoughtful one,
2 an agreement which I thought was a sensitive
3 one, an agreement which I thought to the best of
4 the ability of all parties recognized what had
5 to be done to, in a systematic fashion, close a
6 facility.

7 The Governor should claim no
8 surprise. The Governor was a party to this
9 agreement. He feigns ignorance. This was put
10 in last year's budget. His Commissioner was
11 well aware of it. What it said was that Harlem
12 Valley would be closed on April 1 of 1994.

13 I don't have the reports with me,
14 but I can site six separate reports, the last
15 one of which was in October of 1992, in which
16 OMH stated, restated, restated and restated
17 again that Harlem Valley was going to close on
18 April 1 of 1994.

19 The language in the budget,
20 notwithstanding the chapter that Senator Spano
21 referred to that we've all voted for, for a
22 comprehensive closure program, the language in
23 the chapter at that time provided that there had

1 to be community services available for clients;
2 the state would actively work in providing its
3 abilities, expertise and services to finding
4 alternative uses for the site; and every effort
5 would be made to try and assist the employees
6 who were working at Harlem Valley in terms of
7 either retraining or relocation. A reasonable
8 solution to a very difficult problem.

9 Nobody expected Harlem Valley to
10 be open indefinitely. But when out of the blue
11 somewhere near the end of this calendar year the
12 Governor decided to close the facility, he
13 basically said, "Deals don't count. Agreements
14 negotiated in good faith are meaningless."

15 This is not a partisan issue.
16 This is not a philosophical issue. This is an
17 issue of the integrity of the process, the
18 legislative process, the role of this
19 Legislature in its dealings with the Governor.

20 Now, we don't do contracts. We
21 don't do agreement by way of contract.
22 Sometimes we do agreements by way of a
23 handshake. And, generally, I would like to

1 think they are honored once we make the
2 agreement. But we did better than a handshake
3 here. We wrote into the budget with the
4 acquiescence of the Governor, the knowledge of
5 his Commissioner, language that provided for an
6 orderly closure and a transition for the
7 community.

8 The Governor right now is setting
9 up a strawman. If the Governor didn't know
10 about this, the man has a problem and certainly
11 shouldn't even be considered for the Supreme
12 Court. Because, obviously, he must have
13 blackouts. And if he's got that kind of a
14 problem, I will tell you, I'm not quite sure if
15 I want a man like that, a woman like that,
16 sitting on the Supreme Court.

17 So if he is listening, perhaps he
18 can conjure back to those days and maybe his
19 recollection has now been refreshed, and he can
20 recall that there was an agreement. And
21 perhaps, since it was an agreement, he may be
22 willing to abide by it.

23 Now, in January of this year -- I

1 think it was either January the 27th, January
2 the 28th, myself, Senator Spano, Senator Pataki,
3 Assemblyman Leibell, wrote a letter to the
4 Governor, not presumptuous -- I think we can
5 still write to the Governor -- and asked if we
6 can meet with him. It's March 30. That's two
7 plus months. Haven't heard from the Governor.

8 I traveled down to a Finance/Ways
9 and Means Committee meeting when Commissioner
10 Surles was testifying, and perhaps I wasn't as
11 gentle with him as I could have been, and
12 implored him to please, please let the Governor
13 know how I felt about this, and would he please
14 answer our letter. Well, that's probably five
15 or six weeks ago now. Still haven't heard from
16 the Governor.

17 He keeps hurling his barbs at
18 Senator Spano, who is doing his job. If he
19 can't abide by agreements, agreements can be
20 modified and perhaps over the passage of time,
21 over extended periods, they have to be changed.
22 That's the way of the world. But an agreement
23 that was not only instituted some six to seven

1 months prior to his changing his mind but which
2 was relied upon in a series of reports by his
3 own commissioner and his department, not only
4 does he now throw it out the window but he says,
5 "I don't want to talk about it." The ultimate
6 act of chutzpah, the ultimate act of petulance.
7 Bless him. Bless him. But I think the people
8 of the state of New York deserve better.

9 ACTING PRESIDENT FARLEY: Senator
10 Smith.

11 SENATOR SMITH: Thank you, Mr.
12 President. History may be made today in my
13 joining my colleague, Senator Spano. It's not
14 often that we on this side of the aisle agree
15 completely with any of you on that side of the
16 aisle.

17 Senator Spano, no one could have
18 been more eloquent and more true and more
19 righteous about the plight of those we both seek
20 to serve. As the ranking minority on this
21 committee, I firmly believe in what Senator
22 Spano and our colleague in the Assembly,
23 Assemblyman Sanders, is trying to do for those

1 people who cannot help themselves.

2 I am also greatly concerned when
3 I see a budget that has nothing to do with
4 prevention. When I look at the State Op's
5 Budget, there is no prevention when it deals
6 with alcoholism. There is no prevention when it
7 deals with mental health. There is nothing
8 there for the education of those children in
9 those communities which some of us on this side
10 of the aisle seek to represent.

11 But I've got an even greater
12 concern. We're sitting here talking about
13 spending money. And somewhere along the line in
14 one of those education courses that I had the
15 opportunity to take, they told you that you had
16 to put money in the bank before you could write
17 a check, and we're here writing checks, but we
18 don't know where the money is coming from.

19 And I'm trying to figure out, how
20 do you spend the money before we figure out the
21 revenue side of it. Maybe I'm a little dense,
22 but I thought people went to jail when they
23 wrote checks and there was no money in the

1 bank. And when they come here for the 211
2 legislators, I hope they get 210 because I don't
3 want to be the other one on that end of the
4 line.

5 I can not fathom how we can
6 continue to make decisions in a vacuum and
7 that's what we continue to do over and over and
8 over in the five years that I have been here.
9 And somewhere along the line, we've all got to
10 stand up and say no, and I hope this will be the
11 year.

12 Thank you, Mr. President.

13 ACTING PRESIDENT FARLEY: Senator
14 Pataki.

15 SENATOR PATAKI: Mr. President,
16 on the bill.

17 I would like to join with Senator
18 Smith and my colleagues, Senator Spano and
19 Senator Saland, in criticizing in particular the
20 Mental Hygiene part of this budget.

21 A few years back, this state
22 began a program of deinstitutionalization of
23 patients in psychiatric centers that was widely

1 accepted, widely supported, and intelligently
2 conceived. It was clear that this state had
3 institutionalized people who would be better
4 served in the community, and it was a disservice
5 to the client, and it was a disservice to the
6 community, and it was a disservice to the
7 families, and it was certainly a disservice to
8 the taxpayers because the cost was so much
9 greater.

10 The beginning of this program, I
11 believe, was to be commended because it was
12 premised on two basic factors; first, that
13 clients who were better served in the community
14 should be placed in the community; and, second,
15 that when they were returned to the community,
16 they would have the support services, the
17 community-based support services necessary to
18 make sure that they were able to care for
19 themselves.

20 What has happened with this
21 program is that it has gone too fast too far.
22 Whereas, about 15 years ago there were somewhat
23 like 90,000 people held in psychiatric centers

1 in the state of New York, I understand by next
2 year that number will be less than 9,000. Over
3 90 percent have been turned back into the
4 communities.

5 And we have seen, under this
6 Governor, two basic flaws in his program. He
7 has released patients into the community who do
8 not belong there and are better served for
9 themselves and for our communities in the
10 psychiatric centers. And certainly the "Beast
11 of 96th Street" that we are all familiar with is
12 someone who belongs in an institution and not
13 back in the community.

14 And, second, the premise that the
15 support services were going to follow -

16 SENATOR GOLD: Mr. President.

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

19 SENATOR GOLD: Just on an inquiry
20 of the chair, point of information. I was led
21 to believe earlier today that there might be a
22 procedure whereby this bill was going to be
23 debated, laid aside, and who knows what, and I

1 would have had some remarks to make.

2 I specifically asked before we
3 started this debate whether or not we were going
4 to debate this bill, vote on it and go right
5 through with it.

6 May I make an inquiry of the
7 chair? Has there been a change in that? Are we
8 going to debate this bill and vote on it now, or
9 are we going to debate this bill -

10 ACTING PRESIDENT FARLEY: That is
11 a decision of the Majority Leader, which has not
12 sent that forward, the Acting Majority Leader.
13 I don't know that he has made a judgment on that
14 at this point.

15 SENATOR GOLD: Can I make a
16 suggestion, Mr. President. Then why don't we
17 find out whether or not we are playing around
18 with this thing right now or whether or not we
19 are going to have a vote on this bill?

20 ACTING PRESIDENT FARLEY: I
21 understand what you're saying, but Senator
22 Pataki -

23 SENATOR PADAVAN: Point of order,

1 Mr. President.

2 ACTING PRESIDENT FARLEY: Yes.

3 What's your point of order?

4 SENATOR PADAVAN: Senator Pataki
5 had the floor.

6 ACTING PRESIDENT FARLEY: Yes,
7 Senator Pataki has the floor.

8 SENATOR PADAVAN: And as a point
9 of order, I think he should be allowed to
10 finish.

11 ACTING PRESIDENT FARLEY: Senator
12 Gold, Senator Pataki does have the floor. I
13 recognized you for a point of inquiry. I think
14 that that's something that you should go address
15 to the Majority Leader or to the Acting Majority
16 Leader. I can not answer.

17 SENATOR GOLD: I'd like to do
18 that through the chair. Will the Majority
19 Leader inform the chamber as to whether or not
20 we are debating this bill?

21 ACTING PRESIDENT FARLEY: Senator
22 Kuhl, do you wish to answer this? Senator
23 Pataki, are you willing to yield -

1 SENATOR PATAKI: Yes.

2 ACTING PRESIDENT FARLEY: -
3 while we attempt to handle this for a minute.

4 SENATOR GOLD: Thank you,
5 Senator.

6 SENATOR KUHL: Yes, Mr.
7 President. We're attempting to debate a budget
8 bill. This bill has been agreed upon.
9 Certainly, some of the members have indicated
10 some displeasure that the document is not
11 necessarily complete, and we intend to carry on
12 as much of this debate as possible. We're in
13 hopes that we, in fact, will take a vote on this
14 in the very near future. However, things are
15 subject to change as they always are in this
16 chamber at a moment's notice. And, certainly,
17 I'm sure we will be informed by the Majority
18 Leader if he is desirous of not continuing it.

19 So I would like to proceed -
20 Senator Pataki does have the floor -- with that
21 procedure.

22 ACTING PRESIDENT FARLEY: Senator
23 Pataki, you do have the floor.

1 SENATOR PATAKI: Thank you, Mr.
2 President. As I indicated, the
3 deinstitutionalization program, as carried out
4 by this administration and this Governor, has
5 failed in two fundamental areas. One, it has
6 turned back into the community patients who are
7 better served for themselves and the community
8 by being returned to institutions; and, second,
9 the premise on which deinstitutionalization was
10 based, that the support services would follow
11 the patient to the community so they would have
12 the counseling and support necessary, has not in
13 fact taken place.

14 And, last year, when it was clear
15 that the Governor had proposed to close Harlem
16 Valley and Central Islip and others and continue
17 this policy of too fast with too little
18 community-based support services, Senator Spano
19 and Senator Saland and others worked very hard
20 to put in place an orderly program that this
21 body, the state Assembly and the Governor agreed
22 to, to create an orderly phase-out of the Harlem
23 Valley Psychiatric Center. And, yet, in the

1 middle of this past budget year and
2 notwithstanding that agreement that he had
3 agreed to, the Governor precipitously said,
4 "We're going to continue this program. We're
5 going to take it even further," and once again,
6 continue to dump patients in appropriately and
7 without the support services into the
8 community.

9 This budget, as Senator Spano
10 indicated, is an incomplete document. It's an
11 incomplete document because it breaks the
12 pledge, it breaks the agreement, the compact, if
13 you will, that was reached between the Governor
14 and the Legislature last year to have an orderly
15 phase-out.

16 And I want to commend Senator
17 Spano and Senator Saland and the others and
18 Senator Marino for their courageous effort to
19 overcome the opposition of this Governor, who is
20 doing everything in his power to block
21 restoration of the funds necessary to have an
22 orderly phaseout of this facility, and I believe
23 that we should not pass the State Operations

1 Bill, as the Assembly has done, until this
2 incomplete document is made complete by
3 restoration of those funds for Harlem Valley and
4 Central Islip.

5 Thank you.

6 ACTING PRESIDENT FARLEY: Senator
7 Gold.

8 SENATOR GOLD: I believe you said
9 you had a list and that Senator Nozzolio is
10 next?

11 ACTING PRESIDENT FARLEY: You are
12 the list. You are the end of the list.

13 SENATOR GOLD: That's the end of
14 the list?

15 ACTING PRESIDENT FARLEY: Oh, I'm
16 sorry. Senator Nozzolio was on the list. My
17 apologies.

18 SENATOR GOLD: I didn't want you
19 to be impolite.

20 ACTING PRESIDENT FARLEY: Thank
21 you. My apologies, Senator Nozzolio.

22 SENATOR NOZZOLIO: Thank you, Mr.
23 President. Thank you, Mr. Minority Leader.

1 Mr. President. On the bill.

2 Senator Spano's message to all of
3 us is a clarion call to those who care for the
4 mentally ill, not just those at Central Islip or
5 Harlem Valley but for every mentally ill patient
6 in every institution across this state.

7 I happen to have one of those
8 institutions in my district, the Willard Psych
9 Center, a center that has continually received
10 high grades, has cared for the mentally ill in
11 the best of fashions, but is now faced with a
12 system that is being dismantled at an alarming
13 rate with no rhyme or reason, without criteria,
14 without standards, and I applaud the chairman of
15 the Mental Health Committee for standing up
16 today for those who can't advocate for
17 themselves.

18 Ladies and gentlemen of this
19 Body, today it's Central Islip and Harlem
20 Valley. Tomorrow, it will be additional
21 institutions who have been serving our state
22 for, in many cases, over 100 years. That we can
23 not look at these institutions and the people

1 whether work there and the people who are served
2 there with a callous disregard for their
3 welfare.

4 Unfortunately, the policies put
5 in place by this administration are callous and
6 disregard those people.

7 Senator Spano, thank you for
8 raising this issue today, and thank those of my
9 colleagues who stood up to join him in this
10 effort.

11 SENATOR GOLD: Last section.

12 ACTING PRESIDENT FARLEY: We can
13 not read the last section because the message
14 has not been accepted.

15 Senator Kuhl, what is your
16 pleasure? Just a moment.

17 SENATOR KUHL: At this time I
18 think we would like to lay the bill aside and go
19 back to the regular order of the calendar,
20 please.

21 SENATOR GOLD: Mr. President.

22 ACTING PRESIDENT FARLEY: The
23 bill is laid aside.

1 SENATOR GOLD: Mr. President.

2 ACTING PRESIDENT FARLEY: Senator
3 Gold.

4 SENATOR GOLD: On the motion to
5 lay aside the bill, I want to be heard.

6 ACTING PRESIDENT FARLEY: All
7 right.

8 SENATOR GOLD: Mr. President.
9 Since the beginning of this year, I have really
10 enjoyed -- and I'm not being facetious on that.

11 ACTING PRESIDENT FARLEY: Senator
12 Cook, why do you rise?

13 SENATOR COOK: I would like to
14 raise a point of order. I was not aware that
15 whenever a member wished to lay a bill aside
16 that there was any debate on the issue and I
17 would think that a budget bill -

18 ACTING PRESIDENT FARLEY: The
19 ruling on that is that a member controls his own
20 legislation. He can lay the bill aside at any
21 time. The Majority Leader laid that bill a
22 side. Senator Gold asked to speak on it.

23 Is there an objection to Senator

1 Gold speaking against -- on the issue? That,
2 basically, that's where we are at. Are you
3 objecting to Senator Gold?

4 SENATOR COOK: Mr. President. If
5 Senator Gold wishes to make a statement with
6 unanimous consent, I have no problem with that.
7 I just think it would be an error for us to
8 begin a precedent in this house whereby when a
9 member wished to lay aside his own bill, as I
10 believe the Finance Chairman has wished to lay
11 aside this bill, that that precedent would not
12 be good.

13 ACTING PRESIDENT FARLEY: The
14 acting Majority Leader or Finance Chairman, I'm
15 not just sure who is controlling that
16 legislation.

17 SENATOR KUHL: Mr. President. We
18 have no objection to Senator Gold making a
19 statement.

20 ACTING PRESIDENT FARLEY: I'm
21 sure we don't. But let me make something
22 clear. As far as I'm concerned, the bill is
23 laid aside on the motion of the Acting Majority

1 Leader.

2 Senator Gold, you have the floor
3 without objection.

4 SENATOR GOLD: Thank you. I was
5 saying -- and I appreciate your courtesy, sir.
6 I can honestly say that since the beginning of
7 the year I have enjoyed very much the
8 relationship that I have had with Senator
9 Present and I admire the way he runs the floor.
10 I think everybody would agree that if this
11 chamber is to operate properly we have to have
12 cooperation and also some degree of candor.

13 Now, I asked specific before we
14 started this whether we were going to continue
15 this, debate it, and vote on it, and I was
16 assured that that was to happen. I asked that
17 question because I had heard a rumor earlier in
18 the day that the intention was to go through
19 some motions and then lay it aside and do
20 exactly what you've done. All right?

21 I resent it. I think that the
22 comments by Senator Spano are totally
23 legitimate. I think the comments that others

1 made are legitimate. I think this chamber has a
2 right to debate any issue it wants, to make
3 comments any way you want. But I think we have
4 to have some candor with each other.

5 We don't have to go through a
6 charade where we are told that we're bringing up
7 this bill, and we're going to handle the bill,
8 and then, oh my God, these things that were said
9 were so out -- boy, we better hold the bill.

10 I mean let's be adult about it.
11 I think the concerns expressed are legitimate.
12 Let's find a mature way to deal with this.

13 ACTING PRESIDENT FARLEY: Senator
14 Kuhl, what's your pleasure as to the calendar?

15 SENATOR KUHL: Calendar Number
16 299. I would like to proceed in regular order.

17 ACTING PRESIDENT FARLEY: Regular
18 order, controversial.

19 THE SECRETARY: Calendar Number
20 29, by Senator Padavan, Senate Bill Number 1856,
21 an act to amend the County Law and the New York
22 City Criminal Court Act.

23 ACTING PRESIDENT FARLEY: Senator

1 Galiber.

2 SENATOR GALIBER: I have an
3 amendment to this piece of legislation. I think
4 it's Calendar Number 299.

5 ACTING PRESIDENT FARLEY: That's
6 correct, and the amendment is here at the desk,
7 Senator Galiber.

8 SENATOR GALIBER: Yes, if your
9 Honor pleases. I said "your Honor." You heard
10 that, didn't you? It's your last ruling that I
11 was referring to.

12 ACTING PRESIDENT FARLEY: I take
13 that as a high honor. Thank you.

14 SENATOR GALIBER: On a serious
15 note, Mr. President. I offer the following
16 amendments and ask that the title be read and be
17 given an opportunity to discuss the amendment.

18 ACTING PRESIDENT FARLEY:
19 Secretary will read the title of the amendment.
20 You waive the reading, I presume.

21 SENATOR GALIBER: I waive the
22 reading. Just the title, that's all.

23 Yes, the title to the bill has

1 been read already, Senator Galiber.

2 SENATOR GALIBER: Fine. Okay.

3 ACTING PRESIDENT FARLEY: On the
4 amendment.

5 SENATOR GALIBER: Mr. President.

6 ACTING PRESIDENT FARLEY: Before
7 you go on the amendment, let me get a little
8 order in this house. There is a lot of
9 conversations going on here. I'm going to ask
10 the sergeant-at-arms or somebody to stop these
11 conversations so we can hear Senator Galiber.
12 Senator Libous, please.

13 SENATOR STAFFORD: Mr.
14 President. Senator Galiber has very kindly
15 consented for me to say just a speck. I
16 certainly respect people on both sides of the
17 aisle, and I would try to explain this, that
18 there's no question on many, many issues,
19 there's a lot of discussions -

20 ACTING PRESIDENT FARLEY: Senator
21 Stafford, I'm awfully sorry. I don't think the
22 stenographer or even myself can hear you, and I
23 realize -- you are going to have to try to talk

1 into the mike as best you can, sir.

2 SENATOR STAFFORD: I'll be very
3 brief. A point was made and I think I should
4 try to point out that there was by no means here
5 anyone trying to be devious or trying to play
6 any games. I understand the question was
7 raised.

8 What I would say is the Majority
9 Leader wants us to get all the work we can out
10 of the way. There are many discussions going
11 on. And actually, there will be many, many
12 more discussions, but it was no way -- we did
13 not intend to make it look any way other than
14 get the debate out of the way, and then we move
15 from there.

16 Thank you.

17 ACTING PRESIDENT FARLEY: Senator
18 Galiber, you have the floor.

19 SENATOR GALIBER: Yes, Mr.
20 President. This is a very simple amendment, and
21 it touches and concerns, however, a very serious
22 problem that has plagued us in the city of New
23 York for many, many years. And in reality what

1 it amounts to is a question of the residence
2 requirement in the city of New York.

3 Now, at first blush, if you read
4 the legislation, we're talking about assistant
5 district attorneys; but, in reality, they are
6 public officers; and under the law, they come
7 under the section of law which covers all public
8 officers. A district attorney is elected and
9 has the right to appoint his assistants.

10 Heretofore, in the city of New
11 York -- and John Calandra, former State Senator
12 here and even Senator Guy Velella, at one point
13 in time had residency requirement bills in the
14 hopper. The mayor of the city of New York this
15 year has made a request. There has been no
16 movement whatsoever, but he has made a request
17 as the executive of the city of New York
18 covering five boroughs, asked that we seriously
19 consider a residence requirement bill which we
20 should do.

21 There are many places in this
22 state of ours where residence becomes a
23 requirement. Even some places in Nassau and

1 Suffolk County there is a residence
2 requirement. But when it comes to the city of
3 New York, we look a bit the other way, if you
4 will, in regard to the residence requirement.

5 The bill originally and not this
6 amendment directly but indirectly, the amendment
7 and the bill said simply that if you are -- in
8 the future, if you have application or you are
9 hired in the city of New York, then you would
10 have to be a resident in order to accept that,
11 as a condition precedent.

12 However, in this particular piece
13 of legislation which covers the question of
14 district attorneys in various counties, the bill
15 is not really clear, in my judgment, and I know
16 that the sponsor of the bill will be able to
17 clear it up perhaps in this debate or when the
18 main bill is presented if this amendment is not
19 adopted.

20 But I had some checking to do,
21 and I talked with some of the district
22 attorneys, and they are pretty satisfied, if you
23 will, with what they have, and I don't know

1 where the sponsor of this bill -- the request
2 came from, but certainly he will explain it, as
3 I mentioned before.

4 The position that we have taken
5 is simply this, that the piece of legislation or
6 the amendment that I have introduced is to amend
7 the County Laws and the New York City Criminal
8 Court Act, in relation to assistant district
9 attorneys and the Public Officers Law and the
10 Executive Law, in relation to residence
11 requirements for members of the police force,
12 the department of sanitation, probation
13 officers, members of the uniformed force of the
14 fire department, employees of the department of
15 correction and correctional services,
16 classification and the classified civil service,
17 and officers and inspectors of the Department of
18 Health, in cities with a population of one
19 million or more to repeal section 94 of the New
20 York City Criminal Courts Act relating thereto,
21 and it merely -- the amendment covers that
22 particular area.

23 Now, there are some who would

1 suggest that asking people to come in from other
2 than New York City is unreasonable, it's not
3 proper, it's unfair and a number of other
4 things. But I want you to know that the bill
5 that I have presented, the amendment, would not
6 ask that persons who are already outside the
7 city of New York to come into the city in order
8 to keep their employment. It merely says, in
9 the future if you are hired in those categories
10 that you would have to be a resident of the city
11 of New York.

12 Now, there has been a test case
13 on this. There are some who suggest it is
14 unconstitutional. We know that in Chicago and
15 in a number of great cities, big cities
16 throughout the nation that this has been tested
17 and it does apply, that the residence
18 requirement is not a condition precedent to
19 employment.

20 In addition thereto, we find that
21 in local government where we have a serious
22 problem in the city of New York and the larger
23 cities throughout the states, that we're asking

1 that it's in the best interest of the city of
2 New York that we have this residency
3 requirement. Some suggest, also, that the
4 evolving economic theory that if you work in the
5 city that you spend your money in the city and
6 it stays in the city. Others suggest that a
7 commitment that a person has who lives in a
8 particular district is stronger and is certainly
9 needed that they have an interest, a vested
10 interest in what's going on in the city of New
11 York.

12 In the sanitation department, we
13 can recall in the Lindsay days when they missed
14 a forecast, if you will. I wished they had a
15 couple this year. But they missed a forecast in
16 the expenditures, and the reason for it was they
17 did not know, so the sanitation people could not
18 be called in from the suburbs in time.

19 So this amendment suggests
20 indirectly that certainly we need in the city of
21 New York a residence requirement. Certainly,
22 the mayor of the city of New York, the executive
23 branch of government, has made a reasonable

1 request.

2 Pointing to the bill that is
3 actually amended, we're asking that district
4 attorneys -- and this is where some ambiguity
5 comes -- that a district attorney serving in a
6 county can serve in any county throughout the
7 state. There is some ambiguity there.

8 The history, I believe, of this
9 piece of legislation came about because some
10 district attorneys in various counties have
11 prohibited their employees or said to their
12 employees if you want to work in this county
13 that you have to live there. So you have to be
14 a resident, if you will, of that county. Bronx
15 County is one.

16 Senator Padavan, I took the
17 liberty of calling around to some of the
18 boroughs. And I'm sure when you respond you
19 will tell us where the drive comes for this
20 piece of legislation. The Bronx District
21 Attorney's office is steadfast on residence
22 requirements. Your own county tells us that if
23 it's so -- does not speak directly to your

1 district attorney -- that he takes no position
2 on it. Staten Island, I'm not very sure what
3 your position or Staten Island's position is on
4 this particular piece of legislation. But I can
5 find no one except in New York County. And
6 historically, that came about as a result of
7 some ambiguity in the section which indicated
8 that in New York City or in New York County that
9 they could recruit district attorneys outside of
10 the borough, which meant within the frame of the
11 five boroughs. So it doesn't go outside of the
12 city.

13 So I say this is not a bad piece
14 of legislation. I'm not sure what the intent of
15 it is or where it comes from, but certainly the
16 amendment that I have offered opens up the door
17 for a larger debate which I'm hoping that we
18 will have before this session is over, and that
19 is, a basic request from the mayor of the city
20 of New York indicating that he needs and we in
21 the city of New York, those of us who plan to
22 stay, not possibly leave as Staten Island and
23 Queens County have suggested, need this

1 residence requirement bill as a condition of the
2 quality of life in the city of New York.

3 I move the amendment.

4 ACTING PRESIDENT FARLEY: On the
5 amendment. Wait a second. Where are we?
6 Senator Montgomery, do you wish to speak to the
7 amendment?

8 SENATOR MONTGOMERY: Yes.

9 ACTING PRESIDENT FARLEY: Oh, I'm
10 sorry.

11 SENATOR MONTGOMERY: Mr.
12 President. Briefly on this amendment.

13 I want to compliment Senator
14 Galiber for bringing this up in an attempt to
15 open up an official debate on it by having it
16 brought out of committee, because this is a very
17 crucial legislation for New York City.

18 As we know, it has been proven to
19 be beneficial to the police because they have an
20 opportunity to serve the community over and
21 above their professional position as a police
22 officer, but they can interface with people in
23 the blocks and in the communities and help

1 people understand better how to work with the
2 police department. So it's really proven to be
3 helpful to have police officers and other
4 uniformed personnel be residents of the city.
5 And we know that police officers, in particular,
6 but these men and women of the uniformed
7 services when they come onto the force or into
8 office are young and, very often, just starting
9 out with their families. Some of them are not
10 even yet a family, but individuals who really
11 have a lot to offer as residents, as neighbors
12 of a community. And so in that way, the
13 community really benefits from having them.

14 I know I have a number of people
15 who are on the police force, in particular, who
16 live in my district and are extremely helpful
17 and valuable in terms of their being a
18 resource. And, moreover, as we look to build
19 our communities in the city of New York, our
20 neighborhoods, to improve the feeling of safety
21 and to begin to enhance the quality of life
22 overall, we look to have a kind of
23 gentrification, if you will, where we have young

1 professionals who are willing to move back into
2 their neighborhoods, into neighborhoods, and
3 become a part of them and begin to build.

4 I think that's the premise on
5 which President Clinton has launched a new
6 direction for education or higher education
7 assistance in this nation; and that is, to
8 encourage young people to come back into their
9 neighborhoods and serve as young professionals
10 to begin to enhance and uplift those areas.

11 And so I think Senator Galiber's
12 bill goes absolutely in the right direction.
13 Besides the fact that by having a strong
14 neighborhood, city-based uniformed services
15 group of people, we have a group of people who
16 identify with the city, give back to the city,
17 both in terms of the tax base as well as being
18 part of the fabric of the city that functions on
19 a daily day-to-day basis.

20 So I think that we really should
21 be debating this bill. Senator Galiber, I'm
22 distraught that it has taken this drastic step
23 on your part. I thank you for doing it. But we

1 should not have to do this. We should be voting
2 on this bill as we vote on so many pieces of
3 legislation to address a very critical issue in
4 relationship to the city of New York.

5 So, Mr. President, I hope that
6 this bill can be voted on, can be brought to the
7 floor in this chamber.

8 Thank you.

9 ACTING PRESIDENT FARLEY: Thank
10 you, Senator. Anybody else on the amendment?

11 (There was no response.)

12 On the amendment. All those in
13 favor, say aye.

14 (Response of "Aye.")

15 Those opposed, nay.

16 (Response of "Nay.")

17 The nays have it. The amendment
18 is not accepted.

19 Read the last section of the
20 bill.

21 THE SECRETARY: Section 3. This
22 act shall take effect immediately.

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT FARLEY: Do you
4 wish to speak on the bill or explain your vote?

5 SENATOR GALIBER: I would like to
6 have an explanation for it, because there is
7 some ambiguity there.

8 ACTING PRESIDENT FARLEY: Oh,
9 Okay. Withdraw the roll call. Senator Padavan,
10 an explanation has been asked for.

11 SENATOR PADAVAN: Certainly,
12 Senator. I will be glad to provide it for you.

13 It's very simple really.
14 Currently, the law within the city of New York
15 allows assistant district attorneys in the
16 county of Manhattan to live outside the city if
17 they choose, but that same prerogative is not
18 allowed to assistant district attorneys in the
19 other counties.

20 At the request -- because you
21 raised this question earlier and perhaps you are
22 entitled to an answer. At the request of some
23 assistant district attorneys that disparate

1 prerogative, that inequity, that contradiction,
2 was thought to be inappropriate.

3 So what this bill simply says is
4 that district attorneys in any of the counties,
5 the five boroughs, may hire assistant district
6 attorneys from outside their county and outside
7 the city.

8 Now, it's interesting to note
9 that there are no memos in opposition from any
10 of the district attorneys from the city of New
11 York. And while I take no issue with your
12 personal survey, the fact remains that none of
13 them have taken the initiative, as they do from
14 time to time, in speaking out on a bill that
15 directly relates to their operation.

16 At the same time, a district
17 attorney hires whomever he or she chooses to
18 hire. If the district attorney in Bronx County
19 whom you cited feels that generally speaking he
20 would prefer to hire people from Bronx County,
21 nothing this in this bill would prevent him from
22 doing so. He might, however, from time to time
23 attempt to reach out to a D.A. with particular

1 expertise and find the best person in that area
2 doesn't live in Bronx County. Might live in
3 Yonkers, for example. If we didn't pass this
4 bill, he would be precluded from hiring that
5 individual.

6 So very simply, this is a bill
7 that provides an opportunity for district
8 attorneys, if they choose to, as the district
9 attorney of Manhattan now has the right to do,
10 to reach outside and hire someone whom they feel
11 would do the job best of all.

12 SENATOR GALIBER: Will you
13 yield?

14 SENATOR PADAVAN: Sure.

15 ACTING PRESIDENT FARLEY: Senator
16 Galiber.

17 SENATOR GALIBER: Yes. Senator,
18 under your piece of legislation, could an
19 assistant district attorney -

20 ACTING PRESIDENT FARLEY: Senator
21 Galiber, I know it's very difficult when you are
22 speaking to somebody at your back, but try to
23 keep it into the microphone for the stenographer

1 and for the rest of the world. They can't hear
2 you.

3 SENATOR GALIBER: I would rather
4 face you, Mr. President, anyway.

5 Senator, on this piece of
6 legislation, a district attorney in one of the
7 five counties, could he or she hire someone in
8 Buffalo under your piece of legislation?

9 SENATOR PADAVAN: Absolutely.
10 Any county.

11 SENATOR GALIBER: In other words,
12 throughout the state of New York, anyone who
13 wanted to be hired by a district attorney in a
14 particular county could be hired?

15 SENATOR PADAVAN: If the district
16 attorney chose to reach out and recruit someone
17 from Buffalo -- it would seem rather
18 impractical, but if they chose to do so, yes,
19 under this particular legislative proposal they
20 could do so.

21 SENATOR GALIBER: Senator, I'm
22 sure you are not questioning the surveys that I
23 took, and I know that you are not. I'm not

1 being facetious about it. Manhattan already has
2 a privilege, and I think you are going a bit
3 further than Manhattan goes here. I believe
4 that they have had an experience where ADAs in
5 their particular office are still hired within
6 the city of New York. Some of them abuse the
7 privilege.

8 SENATOR PADAVAN: Senator, let me
9 answer your question very directly. The current
10 law says, and I quote, "the assistant district
11 attorney in New York County in any county other
12 than the one in which he is employed." Any
13 county. There are 61 counties in the state of
14 New York. Any county is any county. I don't
15 know how you could interpret it any other way.

16 SENATOR GALIBER: Mr. President.
17 Yes, another county. There is Bronx County.

18 SENATOR PADAVAN: No, it does not
19 say any other county in New York City.

20 SENATOR GALIBER: Mr. President.

21 SENATOR PADAVAN: Senator
22 Galiber. If I may, Mr. President. It does not
23 say -

1 SENATOR GALIBER: You got my
2 attention, Mr. President. He's not paying
3 attention to me.

4 ACTING PRESIDENT FARLEY: Hold on
5 just a moment.

6 SENATOR PADAVAN: I was trying to
7 answer your question, Senator Galiber.

8 SENATOR GALIBER: Can you yield
9 for a question, Senator?

10 ACTING PRESIDENT FARLEY: Who do
11 you want to yield? Senator Padavan?

12 Senator Padavan, would you yield
13 to Senator Galiber?

14 SENATOR PADAVAN: I'm delighted
15 to, Mr. President.

16 ACTING PRESIDENT FARLEY: He's
17 delighted to yield to you.

18 SENATOR GALIBER: Senator, the
19 question I asked you is that in the
20 authorization that New York County has to hire
21 district attorneys other than in the county, my
22 position is that there is nothing in that bill
23 which says that they can hire in other counties

1 throughout the state of New York. There are
2 some who have suggested that the county that
3 they refer to is the counties within the five
4 boroughs which make up the city of New York.
5 You have disagreed with that, I understand?

6 SENATOR PADAVAN: No, Senator,
7 it's not that I disagree with it. If you have
8 the bill, Senate 1856, and if you would with me
9 go to line 13 and 14.

10 SENATOR GALIBER: Yes.

11 SENATOR PADAVAN: You see, it
12 says currently, "Any duly appointed assistant
13 district attorney in New York county may reside
14 in any other county other than the one in which
15 he is employed." So it does not say in any other
16 county in New York City. It says, "in any other
17 county."

18 SENATOR GALIBER: Yes. Mr.
19 President.

20 ACTING PRESIDENT FARLEY: Senator
21 Galiber.

22 SENATOR GALIBER: I have no
23 difficulty reading lines 13 and 14.

1 SENATOR PADAVAN: That's the only
2 way I can answer you.

3 SENATOR GALIBER: It happens to
4 be a question of interpretation and I understand
5 that. And I am wondering, Senator, did you make
6 any inquiry of District Attorney Morgenthau
7 about this piece of legislation as to what it
8 really meant? Did it really mean going outside
9 of the five counties in the city of New York?

10 SENATOR PADAVAN: No, but I'll
11 tell you what I did do. People who came to me
12 with this legislative proposal, I asked the
13 question. Are ADAs in Manhattan all residents
14 of New York City? I was told that there are a
15 number who are not, which means, obviously, they
16 live in counties outside New York City.

17 SENATOR GALIBER: Okay. Some of
18 them may even live -- Senator, to support that
19 to a degree, some of them live outside of the
20 state of New York.

21 SENATOR PADAVAN: Possible.

22 SENATOR GALIBER: But what I'm
23 suggesting is, that is a passive position that

1 the district attorney in that county has taken,
2 if he does not wish to enforce that.

3 What you are doing now, you are
4 taking -- even stepping further than what we
5 have here at the present time, which we argue
6 about; and that is, whether we should have
7 residence requirements in the city of New York
8 for those persons in the other four of the five
9 counties.

10 SENATOR PADAVAN: Will Senator
11 Galiber yield to a question?

12 SENATOR GALIBER: No, that's not
13 a question.

14 SENATOR PADAVAN: No, I'm asking
15 you a question, if I may.

16 SENATOR GALIBER: You have to ask
17 him whether I'll yield or not.

18 ACTING PRESIDENT FARLEY: I'm
19 sure that he will.

20 SENATOR PADAVAN: Senator, are
21 you suggesting that the district attorney from
22 Manhattan would violate the law and overlook a
23 statute?

1 SENATOR GALIBER: No, I'm
2 suggesting that he is a human being like most
3 prosecutors, that he has the proclivity from
4 time to time deviating from the law, deviating
5 from the law.

6 On the bill, Mr. President.

7 ACTING PRESIDENT FARLEY: Senator
8 Galiber, on the bill.

9 SENATOR GALIBER: Mr. President.
10 I've had the opportunity to talk to a couple of
11 the district attorneys or their offices. Queens
12 County, the very county that the sponsor of this
13 bill comes from, that district attorney's office
14 has no position on it. Bronx County has
15 insisted that there be a residence requirement,
16 that those persons reside in that particular
17 county. The District Attorneys' Association
18 does not have a position on this bill. Brooklyn
19 is neutral on this bill.

20 Now, I know from time to time, we
21 get requests for legislation or we get an idea
22 for legislation and we go about the business of
23 putting it in a form, and I have no problem with

1 that. But it's difficult, Senator, for me to
2 conceive of someone in Rochester or in Buffalo
3 or in some other city in the state of New York
4 coming to you and requesting that you put this
5 piece of legislation in.

6 I can only recall one crazy
7 incident occurred, and it happened to be in your
8 county where they indicted one of the residents
9 for a particular criminal act, and then he was
10 about to be tried. They made motions to dismiss
11 the case because of the residency requirement,
12 saying that based on that they moved to dismiss
13 the case because the D.A. who prosecuted the
14 case was not a resident. Big write-up, big
15 paper. A lot of it.

16 But in this instance somewhere,
17 we have a district attorney, no one has
18 requested this. If it's somebody or a group of
19 persons in some part of the state who want to
20 come to us and say, Let's make an exception here
21 and we have a DA who says this particular person
22 has such extraordinary talents that we want that
23 person to work for the Queens district attorney

1 or one of the other five counties, so be it.

2 Let's put the piece of legislation in.

3 The danger with this piece of
4 legislation, Senator -- and I've watched your
5 legislation very carefully, and you have
6 introduced some very parochial pieces of
7 legislation, concerned about your community and
8 neighborhood like I am, that you want to be
9 close about it, and it comes out in different
10 forms. But this opens up the door where some of
11 us are trying to shrink the passage as far as
12 the residency requirement.

13 You are saying to anyone -- which
14 doesn't make too much sense because I'm sure
15 someone is not going to commute back and forth
16 from Buffalo on a day-to-day basis, won't even
17 commute back and forth from New Jersey in some
18 instances. Maybe New Jersey. I don't see any
19 need for this bill. I have no serious
20 objections, only to the extent that it opens up
21 the possibility of enlarging on this residency
22 requirement bill, when we are about the business
23 of shrinking it so that executives in the

1 various boroughs will have an opportunity to say
2 or require that there be a residency requirement
3 bill, and that's why I object to it, Senator.

4 I object to it because nobody
5 really wants it. Nobody pays too much attention
6 to it, probably. But the poll that I took of
7 the district attorneys who have the
8 responsibility to hire people -- and there's a
9 few that slip through the cracks. You're
10 absolutely right. Just like policemen for a
11 long time lived in Jersey, lived across the
12 bridge, until they closed the door there.

13 So I'm saying, Senator, it's
14 dangerous only for what it represents for the
15 future, as far as I'm concerned. If there is
16 one or two persons who want to come down and be
17 district attorneys in Queens County and DA Brown
18 objects to it, let's put a piece of legislation
19 in. I will vote for the two or three people.
20 But this is too wide, too broad and too
21 dangerous.

22 ACTING PRESIDENT FARLEY: On the
23 bill. You can read the last section.

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

3 ACTING PRESIDENT FARLEY: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT FARLEY: Senator
7 Waldon to explain his vote.

8 SENATOR WALDON: Thank you very
9 much, Mr. President. I see some dangers in this
10 legislation in terms of the tax base for the
11 city of New York. It's minuscule what would
12 happen with people who are from outside of the
13 city, as I'm sure some of these ADAs would be if
14 we pass this legislation.

15 But the most important
16 consideration, I believe, is their sensitivity
17 to the county in which they work. They will be
18 traveling, some of them, very long distances.
19 If they don't live in the community, they will
20 not have an affinity for the community. They
21 will be torn between rushing to the suburbs at
22 the end of the day versus their duty and task as
23 an assistant district attorney.

1 The fact that Manhattan County
2 has had an exception does not make it right. Do
3 two wrongs ever make a right? I think that it's
4 not sensitive to the needs of the people in my
5 borough, the county of Queens. I think it's not
6 sensitive to the borough where I was raised, the
7 county of Kings. And I must oppose this
8 legislation and vote in the negative.

9 ACTING PRESIDENT FARLEY: Senator
10 Waldon in the negative.

11 Negatives, raise your hands. Did
12 you get them all, Mr. Secretary?

13 Senator Connor to explain his
14 vote.

15 SENATOR CONNOR: Yes, Mr.
16 President, to explain my vote.

17 You know, I certainly appreciate
18 Senator Padavan's plea for equity. Why treat an
19 assistant district attorney in Kings County
20 differently than one in New York County even
21 though we all know from the Hogan era on, or
22 even before that, I guess the Manhattan District
23 Attorney's office has been considered more than

1 just the county. At least in its own mind and
2 the the mind of some of the press, it's more
3 than its own prosecutor.

4 But I agree we shouldn't treat
5 them any differently. But I think you are going
6 in the wrong direction, Senator. I think you
7 ought to require Manhattan New York County ADAs
8 to live in the City as well.

9 And I know I read in the paper
10 about some of their lead prosecutors. I read a
11 story a week or two ago. I can't remember the
12 gentleman's name, but it talked about his lovely
13 suburban home in Westchester. Well, that's
14 fine. Let him go to work in White Plains for
15 the Westchester County District Attorney.

16 The fact of the matter is
17 prosecutors, as much as police officers or
18 anyone else, who serve the people of the city of
19 New York, ought to be in touch. And a lot of
20 these D.A.s -- they do it in Kings County; they
21 do it, certainly, in New York County; I'm sure
22 other DAs do it -- you know, they recruit from
23 some of the finest law schools. They recruit

1 people who aren't New Yorkers. Nothing wrong
2 with that. Once upon a time, a law firm in New
3 York recruited a non-New Yorker like me to come
4 and work in New York, and I lived in New York,
5 as well. But they recruit this talent as
6 starting ADAs. They are not native New
7 Yorkers. And if they are allowed to start work
8 in Brooklyn or Manhattan or wherever and
9 immediately decide they are going to live in
10 some suburban county and commute, I suggest to
11 you that they will never get a flavor for the
12 people they are serving. They will never get a
13 sense of the streets whose safety their job is
14 to help protect, and the people of the city of
15 New York will suffer for it.

16 New York City is a great big
17 city, and I don't think we ought to say you
18 don't have to live -- I'll accept you don't have
19 to live in the county you work in. That's not
20 always practical. But somewhere in the five
21 counties of New York, it seems to me you can
22 find any sort of housing accommodations or any
23 sort of neighborhood you want to live in if you

1 are an assistant district attorney.

2 And I think we are going in the
3 wrong direction. We ought to equalize it by
4 taking away the special treatment that Manhattan
5 gets and require all assistant district
6 attorneys in any of the five counties to live
7 somewhere in the city of New York.

8 ACTING PRESIDENT FARLEY: Senator
9 Connor is in the negative.

10 Results.

11 THE SECRETARY: Those recorded in
12 the negative on Calendar Number 299 are Senators
13 Connor, Galiber, Halperin, Mendez, Montgomery,
14 Ohrenstein, Onorato, Santiago, Smith and
15 Waldon. Ayes 50, nays 10.

16 ACTING PRESIDENT FARLEY: The
17 bill is passed.

18 SENATOR OPPENHEIMER: Mr.
19 President.

20 ACTING PRESIDENT FARLEY: Senator
21 Oppenheimer.

22 SENATOR OPPENHEIMER: Yesterday
23 we had a vote on a bill which were I present in

1 the chamber -- it was a slow roll call.
2 Unfortunately, I couldn't be here. But if I had
3 been here, I would like it to be noted that I
4 would have voted in the negative on Calendar
5 289, S. 3358.

6 ACTING PRESIDENT FARLEY: The
7 record will so indicate.

8 That bill is passed.

9 Continue the calendar. 301,
10 Senator Present?

11 SENATOR PRESENT: Yes.

12 ACTING PRESIDENT FARLEY: 301.

13 THE SECRETARY: Calendar Number
14 301, by Senator Lack, Senate Bill Number 2041,
15 an act to amend the General Municipal Law.

16 ACTING PRESIDENT FARLEY: Senator
17 Dollinger.

18 SENATOR DOLLINGER: May we have
19 an explanation?

20 ACTING PRESIDENT FARLEY: Sure.
21 Explanation, Senator Lack.

22 SENATOR LACK: Yes, Mr.
23 President. This bill would allow self-funding

1 mechanisms by consortiums, cooperative
2 agreements, amongst school districts in the
3 state of New York.

4 ACTING PRESIDENT FARLEY: That's
5 the explanation.

6 Senator Dollinger.

7 SENATOR DOLLINGER: Short and
8 simple, Mr. President. Perhaps a model to be
9 proud of. Will the sponsor yield to one other
10 question?

11 ACTING PRESIDENT FARLEY: I'm
12 sure he will.

13 Senator Lack.

14 SENATOR LACK: Go right ahead,
15 Senator.

16 SENATOR DOLLINGER: Senator,
17 there's a mention in the bill justification
18 about the Yates BOCES.

19 SENATOR LACK: Excuse me. You've
20 got to talk a little louder.

21 SENATOR DOLLINGER: There is a
22 mention in the justification about the BOCES in
23 Cayuga, Ontario, Seneca, Wayne, and Yates

1 County.

2 SENATOR LACK: I'm sorry, I can't
3 hear the Senator.

4 ACTING PRESIDENT FARLEY:
5 Gentlemen, I'm going to ask that you hold the
6 conversations down. The two Senators can't even
7 hear each other. I see the culprits.

8 SENATOR DOLLINGER: Senator,
9 there is a reference in the bill justification
10 about the Cayuga, Ontario, Seneca, Wayne and
11 Yates Counties and their BOCES.

12 SENATOR LACK: Right.

13 SENATOR DOLLINGER: And that was
14 one of the consortiums that apparently the
15 Department of Insurance has opined that they can
16 not -- because of the absence of statutory
17 authority, cannot enter into such a consortium.
18 And there's also mention of the Long Island
19 districts -

20 SENATOR LACK: Right.

21 SENATOR DOLLINGER: -- that have
22 attempted to do the same thing.

23 My question is, do you know

1 whether this would apply to other regions of the
2 state as well, or just the Long Island bill and
3 just the Cayuga bill?

4 SENATOR LACK: These are just
5 examples. It would apply to any region of the
6 state.

7 SENATOR DOLLINGER: Okay. And my
8 understanding is that the role that Blue Cross
9 and Blue Shield plays in these consortium
10 projects is as the administrator of the
11 project. The school districts actually fund the
12 pool and Blue Cross and Blue Shield administers
13 the pool. Is that correct?

14 SENATOR LACK: It doesn't have to
15 be Blue Cross and Blue Shield. I assume if they
16 want to contract with Blue Cross and Blue
17 Shield, they could. There is nothing in this
18 bill that requires Blue Cross or Blue Shield to
19 have anything to do with it.

20 SENATOR DOLLINGER: Thank you,
21 Mr. President.

22 ACTING PRESIDENT FARLEY: Read
23 the last section.

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

3 ACTING PRESIDENT FARLEY: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT FARLEY: Senator
7 Tully to explain his vote.

8 SENATOR TULLY: Yes, Mr.
9 President. May I have unanimous consent to be
10 excused from voting on this bill, please?

11 ACTING PRESIDENT FARLEY: Without
12 objection, Senator Tully is excused.

13 Results.

14 THE SECRETARY: Ayes 59.

15 ACTING PRESIDENT FARLEY: The
16 bill is passed.

17 Senator Present, that's all we
18 have up here as far as the regular calendar is
19 concerned.

20 SENATOR PRESENT: Mr. President.
21 I move that we recess for a while, that I would
22 advise you to stay close to your office for
23 possible phone calls or the Senate telephone

1 operators for the possibility we may be back
2 later tonight for further action.

3 ACTING PRESIDENT FARLEY: Yes,
4 sir. The Senate will stand -- hold on. We've
5 got some Senators want to be recognized before
6 the recess.

7 Senator Kuhl.

8 SENATOR KUHL: Yes, Mr.
9 President. On the Senate schedule for tomorrow,
10 there is a 9:00 o'clock Agriculture Committee
11 meeting. In light of the announcement that was
12 just made, I would like to inform the members of
13 that committee meeting that we will postpone
14 that temporarily and call that meeting off the
15 floor tomorrow.

16 ACTING PRESIDENT FARLEY: All
17 right. As long as we're on committee notices
18 which I think are appropriate at this time, the
19 Senate Banks Committee will be meeting at 10:00
20 o'clock.

21 I'm sorry. I said the Senate
22 Banks Committee will be meeting at 10:00 o'clock
23 tomorrow morning.

1 These are committee notices. Any
2 other committee notices or anything?

3 Senator Dollinger.

4 SENATOR DOLLINGER: Mr.
5 President. Just a question for Mr. Present. Is
6 there an outside time that we should expect that
7 that call might come through?

8 (Laughter.)

9 SENATOR DOLLINGER: Can I go
10 home?

11 ACTING PRESIDENT FARLEY: Senator
12 Present, is there an outside time?

13 SENATOR PRESENT: Mr. President.
14 It's obvious we have a new member in the house.
15 I'm sure that his leader will advise him.

16 ACTING PRESIDENT FARLEY: Are
17 there any other announcements or notices?

18 We're going to stand in recess
19 subject to the call of the leader.

20 (Whereupon, at 6:56 p.m., the
21 Senate recessed.)

22 (Whereupon, at 10: 54 p.m.,
23 Senate reconvened.)

1 ACTING PRESIDENT FARLEY: Senate
2 will come to order.

3 Senator Present.

4 SENATOR PRESENT: Mr. President.

5 There being no further business, I move we
6 adjourn until tomorrow at 11:30 a.m.

7 ACTING PRESIDENT FARLEY: Senate
8 stands adjourned until 11:30 a.m. tomorrow.

9 (Whereupon, at 10:55 p.m., the
10 Senate adjourned.)

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