ALBANY, NEW YORK

July 7, 1993

2:58 p.m.

REGULAR SESSION

LIEUTENANT GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. I'd like to ask everyone present to rise and repeat the Pledge of Allegiance with me.

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

Please be seated.

In the absence of visiting clergy, may we bow our heads in a moment of silence.

(Whereupon, there was a moment of silence.)

Secretary will read the Journal.

THE SECRETARY: In Senate, Tuesday, July 6, the Senate met pursuant to adjournment. Prayer by Father Peter G. Young of the Blessed Sacrament Church of Bolton Landing. The Journal of Monday, July 5, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Hearing no objection, the Journal stands approved as read.

The Chair will state that the

reason for the lights being dim is that the Office of General Services has advised us that, due to concern about a brown-out and concern about power surge, that until the immediate emergency has passed, they've asked us not to use the television lights. This, believe it or not, is the normal light of the state Senate. So we will operate in the normal light.

I think you will adjust, Senator Gold. If I know you, you will adjust very quickly to the different atmosphere.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Secretary will read.

THE SECRETARY: Senator Marino, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 4696A, by Senator Larkin, authorize the Highland Falls Central School Districts to finance the accumulated deficit.

5124B, by Senator Marchi, an act to amend the Public Health Law.

5132A, by Senator Farley, Environmental Conservation Law.

5178B, by Senator Johnson, restoring Emil G. Pavlik, Jr. to Tier II membership.

5795, by Senator Cook, an act to amend the Education Law.

5830A, by Senator Velella, an act to amend the Insurance Law.

5862B, by Senator Velella, an act to amend the Insurance Law.

6136, by Senator LaValle, an act to amend the Social Services Law.

6169, by Senator DeFrancisco, an act to amend the Executive Law.

6175, by the Committee on Rules, amends Chapter 883 of the Laws of 1980.

6180, by Senator DeFrancisco, Real Property Tax Law.

6182, by Senator Larkin, Navigation Law.

6188, by the Senate Committee on Rules, an act to amend the Education Law.

6189, by the Senate Committee on Rules, an act to amend the Tax Law.

6190, by the Senate Committee on Rules, an act to amend the Local Finance Law.

6191, by the Senate Committee on Rules, an act to amend the Tax Law.

6193, by the Senate Committee on Rules, granting access to certain records maintained by the Division of Criminal Justice Services.

6194, by the Senate Committee on Rules, amends Chapter 60 of the Laws of 1993.

Assembly Bill Number 8588, by the Assembly Committee on Rules, an act to amend the Education Law.

Also Assembly Bill Number 8732, by the Assembly Committee on Rules, an act to amend the Education Law.

All bills reported directly for third reading.

THE PRESIDENT: Without

objection, third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

THE SECRETARY: On page 27 of today's calendar, Senator Skelos moves to discharge the Committee on Rules from Assembly Bill Number 6823C, and substitute it for the identical Third Reading 1601.

THE PRESIDENT: Substitution ordered.

Senator Holland.

SENATOR HOLLAND: Mr. President, I wish to call up Senator Levy's bill, Print Number 4849, recalled from the Assembly which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Levy, Senate Bill Number 4849, an act to amend the Public Authorities Law.

SENATOR HOLLAND: Mr. President,

I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: The bill is before the house.

SENATOR HOLLAND: Mr. President, I now offer the following amendments and now move to discharge from the Committee on Finance Assembly Print 5292B and substitute it for his bill. The Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

THE PRESIDENT: The Senate bill is amended, and the Assembly substitution is made.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

THE PRESIDENT: The bill is passed.

Senator Mega.

SENATOR MEGA: Mr. President, on behalf of Senator Hannon, I wish to call up his bill, Senate Print Number 4460, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Hannon, Senate Bill Number 4460, an act to amend the Civil Practice Law and Rules.

SENATOR MEGA: I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: Third reading.

SENATOR MEGA: I now move to discharge from the Committee on Codes Assembly Print Number 1025 and substitute it for Senator Hannon's identical bill. The Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Mr. President.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Will you take up the non-controversial calendar, please.

THE PRESIDENT: Secretary will read.

THE SECRETARY: On page 6 of today's calendar, Calendar Number 395, by -

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 470.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 588.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: This bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 833.

SENATOR PRESENT: The bill is high. Lay it aside.

THE PRESIDENT: This bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 887.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1108.

THE PRESIDENT: This bill is high -- oh, wait. 1108 or 1109?

THE SECRETARY: I said 1108.

THE PRESIDENT: This bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1133, by the Assembly Committee on Rules, Assembly Bill Number 8294A, an act to amend the Executive Law, the Criminal Procedure Law and the Family Court Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 30.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1185, by the Assembly Committee on Rules, Assembly Bill Number 7838A, amends Chapter 824 of the Laws of 1933.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1251.

SENATOR PRESENT: Lay it aside,, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

1255.

THE PRESIDENT: This bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1333.

THE PRESIDENT: This bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1338.

SENATOR PRESENT: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1347.

THE PRESIDENT: This bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1371.

SENATOR PRESENT: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1461.

SENATOR PRESENT: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1517, by the Assembly Committee on Rules. Assembly Bill Number 8248A, Public Authorities Law.

SENATOR GALIBER: Explanation.

THE PRESIDENT: The bill will be laid aside.

THE SECRETARY: Calendar 1544, by the Assembly Committee on Rules, Assembly Bill Number 7898A, Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1545, by the Assembly Committee on Rules, Assembly Bill Number 8458A, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40. Nays one, Senator Hannon recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1548.

SENATOR VOLKER: Lay that bill aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

1553, by the Assembly Committee on Rules, Assembly Bill Number 8751, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1580.

THE PRESIDENT: The bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1582, by the Senate Committee on Rules, Senate Bill Number 6116, authorize the participation of local government units.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1607, by Senator Tully, Senate Bill Number 6148.

SENATOR VOLKER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1609, by Senator Farley, Senate Bill Number 6153, Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40, nays one, Senator Gold recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1611.

THE PRESIDENT: The bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1613, by the Assembly Committee on Rules, Senate Bill Number 6164, organization of the Unadilla Central School District.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1614, by Senator Levy, Senate Bill Number 6165, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40, nays 2, Senators Farley and Johnson recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1624, by the Assembly Committee on Rules, Assembly Bill Number 7878, an act to amend the Election Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1624 are Senators Dollinger, Jones, Kuhl, Larkin, Pataki,

Saland and Sheffer. Ayes 35, nays 7.

THE PRESIDENT: The bill is passed.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar 1609, please.

THE PRESIDENT: Without objection, so ordered.

THE SECRETARY: Calendar Number 1630, by the Senate Committee on rules, Senate Bill Number 6167, amends a chapter of the laws of 1993.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1631, by Senator Levy, Senate Bill Number 6170, an act to amend the Vehicle and Traffic Law.

SENATOR GOLD: I'm sorry.

THE PRESIDENT: This is 1631, by Senator Levy.

Read the last section.

SENATOR GOLD: Will you tell me the bill number?

THE SECRETARY: Senate Bill Number 6170, an act to amend the Vehicle and Traffic Law, in relation to the re-examination and disqualification of certain bus drivers.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1633, Assembly Budget Bill, Assembly Bill Number 8834, amends Chapter 50 of the Laws of 1993.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The message was accepted last evening. The bill is laid aside.

THE SECRETARY: Calendar Number

1636.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1638 -

THE PRESIDENT: There is a home rule message at the desk.

THE SECRETARY: -- by the Assembly Committee on Rules.

SENATOR GALIBER: Lay it aside.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

That completes action on the non-controversial calendar.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Galiber, please.

THE PRESIDENT: Senator Galiber.

SENATOR GALIBER: Mr. President. I have a privileged resolution at the desk memorializing a Ms. Wise. I would like the

title be read.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Galiber, Legislative Resolution memorializing the life and career of Gloria E. Wise.

(Whereupon, Senator Farley was in the chair.)

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

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President, let's take up the controversial calendar in order.

ACTING PRESIDENT FARLEY: Controversial calendar. Secretary will read it.

THE SECRETARY: On page 6, Calendar Number 395, by member of the Assembly

Parment, Assembly Bill Number 3819B, an act to amend the Agriculture and Markets Law.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: On page 7, Calendar Number 470, by member of the Assembly Lasher, Assembly Bill Number 1829B, Private Housing Finance Law.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 588 -

ACTING PRESIDENT FARLEY: It's a high print. Lay it aside.

THE SECRETARY: Calendar Number 833.

ACTING PRESIDENT FARLEY: It's high. Lay it aside.

THE SECRETARY: Calendar Number 887.

ACTING PRESIDENT FARLEY: Lay it

aside.

THE SECRETARY: Calendar Number 1108.

ACTING PRESIDENT FARLEY: It's a high print. Lay it aside.

THE SECRETARY: On page 21, Calendar Number 1251, by Senator Lack, Senate Bill Number 5263, an act to amend the Labor Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside. Withdraw the roll call.

Senator Present.

SENATOR PRESENT: Calendar 1638, please.

ACTING PRESIDENT FARLEY: Secretary will call up 1638.

THE SECRETARY: Calendar Number 1638, by the Assembly Committee on Rules, Assembly Bill Number 8595, authorize the city of

New York to continue the use of a portion of the Pelham Bay Park, in the borough of the Bronx.

SENATOR OPPENHEIMER: Explanation.

SENATOR GOLD: I think Senator Galiber would like an explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Maltese, are you the explainer?

SENATOR MALTESE: Yes, Mr. President.

SENATOR GOLD: Senator, if you'll hold on just one second for Senator Galiber.

SENATOR GALIBER: I think Senator Velella wanted to debate it. Do you want to go forward now, or do you want to wait for him?

SENATOR MALTESE: Lay it aside, Mr. President.

ACTING PRESIDENT FARLEY: Lay the bill aside.

Senator Present.

SENATOR PRESENT: Mr. President, can we stand at ease for a moment?

ACTING PRESIDENT FARLEY: We will stand easy.

(Whereupon, at 3:27 p.m., the Senate was at ease.)

(Whereupon, at 3:45 p.m., the Senate reconvened.)

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: For those who would listen -

ACTING PRESIDENT FARLEY: Hold on. I think this is an important notice.

(Whereupon, the Acting President gaveled for order.)

SENATOR PRESENT: I hope it's important.

ACTING PRESIDENT FARLEY: Everything you say is important.

SENATOR PRESENT: We intend to work through and finish tonight.

ACTING PRESIDENT FARLEY: All right.

SENATOR PRESENT: Let's hear it for that.

ACTING PRESIDENT FARLEY: Let's hear it -- yea-a-a-a-a!

(Applause).

SENATOR PRESENT: There will be some down time, but we will try to keep it maintained, and I need everybody's cooperation. We have requested a number of messages from the Governor that are forthcoming, I hope. I certainly need everybody's cooperation. We will be considering a number of nominations, so there will be a meeting of the Finance Committee and the Judiciary Committee called from the floor. So bear with us and bear with me and those down times when we stand at ease. I would hope that most members will remain in the chamber so when they have a bill that comes before us, they will be here to speak to it.

Thank you.

Would you recognize -

ACTING PRESIDENT FARLEY: Shall I repeat your message?

SENATOR PRESENT: As best you can.

ACTING PRESIDENT FARLEY: As best as I can summarize: The Senate will be working through with some down time. All Senators are requested to be in the chamber in case their bill comes up. The Majority Leader and Minority Leader has asked the cooperation of all members so that we can finish up on a reasonable hour.

Senator Holland.

SENATOR HOLLAND: Mr. President. There will be a meeting of the Social Services Committee in Room 124 of the Capitol at 4:30 to consider the nomination of Mike Dowling Commissioner of Social Services.

ACTING PRESIDENT FARLEY: There will be a meeting of the Social Services Committee in Capitol 124 to consider the nomination of Michael Dowling, the Honorable Michael Dowling of the Governor's office at 4:30.

Senator Present.

SENATOR PRESENT: Mr. President,

call up Calendar 1638.

ACTING PRESIDENT FARLEY: 1638. Secretary will read it.

THE SECRETARY: Calendar Number 1638, by the Assembly Committee on Rules, Assembly Bill Number 8595.

SENATOR GALIBER: Explanation.

ACTING PRESIDENT FARLEY: An explanation has been asked for.

Senator Maltese.

SENATOR MALTESE: Mr. President, the purpose of this bill is to authorize the city of New York to continue the use pf a portion of Pelham Bay Park in the borough of the Bronx in an area called Rodman's Neck for law enforcement and public safety purposes.

The portion that is involved is 48.7 acres, a portion that is 1.7366 percent of the entire park which is 2,764 thousand 764 acres. This parcel has been dedicated as parkland since World War I, but has been repeatedly used by federal and state agencies for military and law enforcement purposes.

Since 1969, the police department and other law enforcement and public safety agencies have utilized the site as an outdoor firing range, training facility and bomb detonation area.

Mr. President, the site is used by approximately 25,000 New York City law enforcement personnel and approximately 5- to 6,000 personnel from all other parts of the state and the country. I have just gotten off the telephone with Ray Kelly, the Police Commissioner of the city of New York, who has advised me in the strongest terms that this is absolutely needed as a facility.

It is in a remote area. It is in an area that is well suited for the purposes they utilize it, having apparently -- I have never been there, but apparently building sites that can be used in the training of police officers.

It is utilized not only for training for firing weapons of all types but for undercover -- I retract that -- for the purposes

of police officers who would have to fire or protect themselves from residences, from behind buildings, behind occupied buildings. It is a facility that is absolutely unique.

The Mayor of the city of New York and the Police Commissioner have indicated that if a time comes when the facility is no longer needed, they will then utilize it for no other purposes, and it will revert to park land.

The reason for this legislation is a lawsuit was brought by a group called Sound Watch in July of '92 against the City alleging that the use of Rodman's Neck as an outdoor firing range required approval of the Legislature. This approval would make the lawsuit moot.

It was passed by the Assembly, non-controversial, with one dissenting vote, Assemblywoman Glick. The district is entirely within Assemblyman Kaufman's area, and he is the sponsor and carries the bill.

ACTING PRESIDENT FARLEY: Senator Galiber and then Senator Oppenheimer.

SENATOR GALIBER: Senator, will you yield for a question?

SENATOR MALTESE: Yes.

SENATOR GALIBER: Some of my colleagues asked me to -- when you had that meeting with the Police Commissioner, did you talk about those two persons in the car this morning?

SENATOR MALTESE: He didn't mention it.

SENATOR GALIBER: He didn't mention it. You didn't either, did you?

SENATOR MALTESE: (There was no response.)

Senator, you say there's 47 acres there. How much of that acreage is actually used by the police department, F.B.I., combination law enforcement people, if you know?

SENATOR MALTESE: Mr. President, I don't know. They have advised me in the material I have before me, which is everything I have on it, that they need the entire facility because, in addition to the training facility,

it is the only repository in all of New York City and the surrounding counties where they take bombs or suspected bombs to detonate them without danger to the surrounding community.

SENATOR GALIBER: So they use the entire 47 acres; is that correct?

SENATOR MALTESE: That is my understanding.

SENATOR GALIBER: Is it used by the public at all, any part of that 47 acres? Do you know?

SENATOR MALTESE: Mr. President, my understanding, Senator, it is not. I have before me a letter dated June 24, 1993, from the Police Commissioner of the city of New York indicating the various types of training, and the average number of use per day and the amount -- for instance, recruit training, 216 shooters a day, double barrel shotgun 20, so on and so forth, and it adds up to 688. It would seem that based on that figure and the list -- very extensive list that I have available and would be pleased to make available to you -- of awful

the law enforcement groups that utilize it, it would seem that it is well-utilized and extensively utilized.

SENATOR GALIBER: Senator, one other question. Have you had occasion to hear about the contamination in that area?

SENATOR MALTESE: Yes, Mr. President. Senator Galiber, I am advised that as the result of another lawsuit by Sound Watch, a federal lawsuit, the city is under a mandate to do a number of things which they have begun doing. They have also made a representation that within two years at the most they will complete. This is as a result of the lead contamination and other contamination, I suppose, from the spent shells and shots and bombs and what not. They are taking steps to put some type of an underground covering, I believe, of some plastic material utilized for that purpose so that the further use of lead does not leach into the soil. They have undertaken a cleaning operation and have an advisory council composed of residents of the

community as well as others, which is working with them to see that the mayor and the city of New York cleans the area as much as possible.

SENATOR GALIBER: Okay. Do you know how far this plot is, this 47 acres, from the Orchard Beach area?

SENATOR MALTESE: I do not, Senator.

SENATOR GALIBER: Do you know whether or not any of the contamination that has not been ascertained in terms of how much, is there any indication that any of it has gone into the Orchard Beach area which, my understanding is, it isn't too far?

SENATOR MALTESE: Not in the material I have, Senator. There are certain representations made to the community and to the community boards, none of them have to do further, at least in the material I have available, with that. They have to do with putting up of sound barriers, with which they are proceeding to do to eliminate or at least decrease the volume of sound reaching the

surrounding areas. It also has to do with lessening the hours of operation. They have taken dramatic steps to decrease the early morning hours and the late hours, and they are studying further decreasing the hours of operation.

SENATOR GALIBER: We are all concerned about the health and welfare of police officers notwithstanding some of the debates we have here. How about the contamination to the police officer and the law enforcement people who over a period of years have been using that area? I think that's one of the bones of contention; that it is contaminated. It should not be used. They should clear it up first. That it is actually a hazard to the health and welfare of the very same persons that we are deeply concerned about, and that is with our law enforcement arm of our state and nation.

SENATOR MALTESE: Mr. President, according to the terms of the consent order, the City is obligated to remediate the lead contamination in accordance with the

decontamination plan developed from the site assessment. But there is no -- at least not in the papers I have available, there is no indication of steps that are being taken to protect the police officers who would utilize it on a daily basis.

On the other hand, having to some degree worked with Senator Daly at some of the lead contamination hearings held by Senator Daly for the state Senate, it would seem from the limited knowledge that I have of this that the danger of this is not significant and that the steps undertaken by the city of New York would decrease that danger even further.

SENATOR GALIBER: But obviously it is not in your papers; so, therefore, you would not know.

SENATOR MALTESE: It ain't in here, Senator.

SENATOR GALIBER: On the bill - never mind the -- in the park -

One other question. In the parkland, you say since World War I. Was there

a lease as far as that parkland is concerned or is it by executive order or by over a period of years just by eminent -- use of that property?

SENATOR MALTESE: Mr. President, I'm advised that it was utilized, as the Senator indicated, as parkland since World War I; but, since 1959, it has been used for these purposes and that -- I don't have whether it's an executive order, but the tenor of the papers that I have seem to indicate that it seems to be an incremental use over a period of time, and now it's well established after 34 years, and the City is looking to continue that use for the indefinite future.

SENATOR GALIBER: Okay. Very briefly on the bill, Mr. President. Senator, I know of your deep concern about the law enforcement personnel and, as I said, not with tongue in cheek, that notwithstanding some of the debates that we have from time to time. It has to do with a procedural -- certainly nothing to do with the fine thin line that we make reference to, and I respect those persons who

are part of our law enforcement agencies.

Senator, I fear that this contamination, whether we can say on one day we're concerned about two persons being in a car or no, and I'm not being facetious about that, but the underlying concept being that we are concerned about the safety and welfare of our law enforcement personnel, that this contamination has been going on so very long. These lawsuits that have been brought, they're not frivolous lawsuits. They are brought about for a reason, and one of the reasons is the concern about the contamination there and, there are other than law enforcement people who wander onto those places. But, by and large, those persons who go there periodically are exposed to this contamination which is a danger to their health and welfare.

It would seem to me if that be the case, and I know that is not in your papers but certainly, knowing of your concern, there's that outside possibility, and I would look with some doubt as to whether or not we should be

passing this piece of legislation and putting our very fine law enforcement personnel in jeopardy of contamination.

ACTING PRESIDENT FARLEY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Mr. President, if the sponsor would yield -- no, it's not a sponsor. If Senator Maltese would yield.

Concerning the safety and well-being of our police, of course, we're all concerned about that, but are there not alternatives available? I understand there is a $240 million police academy in South Bronx which is where the shooting for most of the police - that the shooting range is. That's question one.

And question two, if you would again yield, is I have heard that indoor ranges are what is currently being used most often by police; and isn't that a safer usage?

SENATOR MALTESE: Mr. President.

ACTING PRESIDENT FARLEY: Senator

Maltese.

SENATOR MALTESE: I have before me a continuation of the document which was signed by Ray Kelly, the Police Commissioner, and he makes specific allusion to the points brought up by Senator Oppenheimer, and I'd like to read therefrom.

"An outdoor training facility is needed to simulate field situations where police officers are fired upon and return fire at armed adversaries on the streets of New York City."

Then he goes, "Over approximately three-quarters of all police shootings occur in the street."

He then refers specifically to the site in question and indicates, "There are no other outdoor facilities in New York City or in the areas surrounding the City that could accommodate the tens of thousands of police officers and provide similar training. Additionally, there are no vacant areas, according to the City's Division of Real Property large enough to accommodate a

replacement facility."

With respect to the Senator's first portion of the question, the reasons for the desirability of the Rodman's Neck site are that it is geographically removed from densely populated areas. It is not inhabited by permanent residents. The closest dwellings are protected by a large body of water. It is a peninsula with limited access by only one road. It is serviced by major highways and bridges affording quick emergency response to all areas of the city. It is bounded on three sides by water which enhances the security of the site. It is free of overhead utility lines, electro-magnetic and radio waves, subways, underground gas and fuel lines, which would be a necessity for an area where they detonate bombs and other similar material.

In addition, Mr. President, with reference to the ease of access by major highways, it would enable police personnel on the Island to gain easy access to other areas of the City in the event of an emergency. It

provides a benefit to the people of City Island and the surrounding area because they have access to not only the police personnel who would be readily accessible, but the goings and comings of the police officers provide an extra amount of police security to the affected area.

SENATOR OPPENHEIMER: Thank you, Senator.

On the bill. I would like to speak to the environmental considerations of this bill, and I should note that there are many organizations opposed. The Natural Resources Defense Council is opposed to this bill, Citizens Union, the Audubon Society, NYPIRG and others.

And the reason that they feel strongly about this, there are a few reasons. The first is that this is a dedicated parkland by the New York State Legislature. It is not supposed to be used for non-park usage, and it has been used for non-park usage for the last 34 years by the police department.

In fact, it's one of the world's

largest firing ranges, and it is all done without legislative approval. Not only does it go contrary to our dedication of parkland, but it is also contrary to our coastal zone management policies of this state which have as a foundation the ability for the public to access waterfront land.

Furthermore, these wetlands could be restored and they could provide a natural filtration for the pollutants which are, unfortunately, increasingly common, particularly nitrogen, in the Long Island Sound. There are alternative sites as far as indoor sites for range -- for firing ranges.

And a clean-up is going on currently. The City has agreed as a result of a recent federal lawsuit to spend $7.8 million to remove the lead from the soil.

This legislation clearly is a rebuff of the New York Coastal Fishermen's Association and Sound Watch. They commenced an Article 78 against the City. And by passing this legislation, we are not permitting the courts to

make the decision on the Article 78.

This land is really very special land. It is almost 50 acres of a peninsula which is just invaluable, in densely populated areas in particular. The parkland belongs to the people. We have dedicated it in this Legislature many years ago for the people. If the lawsuit continues, it might very well be returned to the people.

I would urge those who care about the validity of the steps we take in this chamber -- by dedicating parkland, it should remain parkland. I would urge everyone to vote no.

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: I will yield to Senator Velella.

ACTING PRESIDENT FARLEY: Senator Gold yields to you.

SENATOR VELELLA: Mr. President, I just want to speak on this bill briefly

because the particular property is located within my Senate District, and we have held public hearings on it, and I can tell you that, probably, if you took a head count, the community is split right down the middle. It's a tough choice between the preservation of the parklands and whether or not we ought to be meeting our obligation to help support the police department in New York City and provide adequate training facilities for them.

After a lot of discussion and deliberations, I have personally decided to oppose this bill thinking that the importance of the parkland is something that is very important to the community and that we ought to be working with the police department to find alternatives to it.

For that reason, I will be opposing the bill.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yes. I'm just

trying to straighten out some of this. Senator Velella yield to a question?

SENATOR VELELLA: Yes, Senator.

SENATOR GOLD: Senator, is there a home rule message on this bill?

SENATOR VELELLA: Yes, Senator, there is a home rule message on it. It would not be before the house if there were not a home rule message, I don't believe.

SENATOR GOLD: Will Senator yield to a question?

SENATOR VELELLA: Yes, Senator.

SENATOR GOLD: Do you know what the vote was in the City Council on the home rule?

SENATOR VELELLA: I don't know what the exact number was. I do know that the local councilman, Councilman Michael DeMarco, opposed it on the -- on the vote in the Council. I don't know what the Council vote was. There was some opposed; some for it.

As I said, the community is pretty much split. Assemblyman Kaufman and I

come down on different sides of the issue. The local City Councilman is against it, and I have decided that I will oppose the bill.

SENATOR GOLD: Thank you.

Will Senator Maltese yield to a question? Senator, just by way of information, I didn't have a chance to speak to Commissioner Kelly today, but you did. Did you happen to ask him about his opinion on one or two men in police cars?

SENATOR MALTESE: Mr. President, I didn't ask his opinion on that particular question. As I said the other evening, sometimes we're right and sometimes we're wrong. I think that Commissioner Kelly from time to time, probably in the vast preponderance of instances, is absolutely on the mark and correct.

SENATOR GOLD: All right. Will you yield to -- will the gentleman yield to one more question?

ACTING PRESIDENT FARLEY: Would you yield again?

SENATOR MALTESE: Yes.

SENATOR GOLD: Senator Maltese, I know the position you took the other day on the Flushing Meadow parkland and now I see this parkland, and the only question I have is there any parkland in the city of New York that you think we should use as parkland?

SENATOR MALTESE: Mr. President, I realize that Senator Gold, who is somewhat bothered by a lack of consistency on the question of micromanagement is being somewhat facetious in his question. Of course, I take second place to no one in the protection of parkland, and it was for that reason and the - referring to the prior bill on Flushing Meadows-Corona Park -- that I supported that bill because the vast majority of the time it would be parkland, would eventually revert as parkland.

In this particular instance, we have a long time use. And similar to my position in the two-man or one-man police cars, I put the security of our constituents and the people of

our city prior to a temporary alternative use of parkland.

ACTING PRESIDENT FARLEY: There is a home rule message here.

Wait a minute. Senator Oppenheimer.

SENATOR OPPENHEIMER: I thought that Senator Maltese would be comforted by the knowledge of that statement that consistency is the hob-goblin of small minds.

SENATOR MALTESE: Mr. President, that's why from time to time I'm not consistent.

ACTING PRESIDENT FARLEY: There is a home rule message here at the desk.

Read the last section.

Senator Padavan.

SENATOR PADAVAN: I rise to explain my vote.

ACTING PRESIDENT FARLEY: Okay. Let's -- read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

SENATOR PADAVAN: Mr. President, there are times when consistency can be a virtue, Senator Oppenheimer. I don't know whether or not this proposal makes sense or doesn't. Senator Maltese gave us all the reasons it should. Others gave us the reasons it should not. Senator Maltese admittedly said he had never been to this park; nevertheless, he had a lot of information to share with us.

As chairman of the Cities Committee, it has been my practice without exception to defer to the Senator in whose district a given parcel of parkland existed, to rely upon that individual's personal judgment on the basic assumption that he or she would know better than anyone else whether the alienation of that parkland is desirable or not desirable, and we have heard from the Senator who represents this particular parkland.

And consistency in this case being a virtue in my mind, I therefore vote no.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter to explain his vote.

SENATOR LEICHTER: Yes. Thank you, Mr. President. Obviously, ideally, parkland should not be used for a gun practice range; however, this practice has existed for many years; and the fact of the matter is I'm advised by the city of New York that at this time they have no other place, no other facility. So if you take away this facility, where are police officers going to do the practice that they need to do? And I must say I find it somewhat ironic that some of the legislators who were most in support of giving police officers 9 mm. guns and who said, "But they will receive training" -- well, where are they going to receive the training? Where are they going to practice with those guns? I hope that bill never becomes law, but they certainly need to also practice with their .38.

So the City, as I understand it, has a commitment to try to get out of that park

as quickly as it can, and it should, but in the meantime, it would be foolhardy and it would, unquestionably, significantly hurt law enforcement efforts in New York if we took that site away from them.

I guess the conflict that we have here is one that we so often have in New York City that every piece of land you can think of has so many different uses for. We had that conflict in a sense when we debated the tennis center, raised the same issue. We didn't know if you didn't put it there, really, where could you put it? Similarly, you must have this available at the present time for the city of New York. As much as I hate to see parkland used in this fashion, I think I, and frankly none of us, have any alternative but to support this bill.

I vote in the affirmative, Mr. President.

(Whereupon, Lt. Governor Lundine was in the chair.)

THE PRESIDENT: Senator Leichter

votes yes.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just to explain my vote.

As the session goes on, I find myself in more and more unusual positions. I end up disagreeing with my colleague from Manhattan because I think, consistent with the chairman of the Cities Committee, that the critical issue here is the exercise of the power of this body to approve the alienation or acceptance or continuation of property.

And I think in that regard that Senator Velella's opposition is good enough for me. I would suggest that in this particular case for the police department to simply take this land and use it for 30 years without having the approvals necessary to do that from this body doesn't suggest that they've got a right to continue to do it. And that, in and of itself, is not enough in my judgment to overcome the objections of the Senator in whose district this property is located.

So consistent with my respect for other members in this house and their objections, I will be voting with Senator Velella and Senator Padavan and voting against this.

THE PRESIDENT: Senator Dollinger votes no.

THE SECRETARY: Those recorded in the negative on Calendar Number 1638 are Senators Dollinger, Galiber, Halperin, Jones, Onorato, Oppenheimer, Padavan, Pataki, Solomon and Velella, also Senator Gold, also Senator Levy. Ayes 41, nays 12.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Mr. President, can we call up Calendar 1656, please.

THE PRESIDENT: Yes. The chair will state that this is not on Supplemental Calendar 1. However, it is on every member's desk. Secretary will read 1656.

THE SECRETARY: Calendar Number 1656, by the Senate Committee on rules, Senate

Bill Number 6194, an act to amend Chapter 60 of the Laws of 1993, amending the Public Authorities Law.

SENATOR PRESENT: Mr. President, I move that we accept the message of necessity which is at the desk.

THE PRESIDENT: On the motion all those in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The motion is agreed to. The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR MEGA: Mr. President, I would like to abstain from voting.

THE PRESIDENT: Without objection, Senator Mega's request to abstain from voting is approved.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: I would like to explain my vote.

THE PRESIDENT: Senator Gold is recognized to explain his vote.

SENATOR GOLD: Mr. President, this is a very good bill. I vote yes.

THE SECRETARY: Ayes 52.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, I would like to place a sponsor star on Calendar 1481, Senate Print 6065A.

I guess we'll stand at ease for a moment.

THE PRESIDENT: The Senate will stand at ease.

Senator Leichter.

SENATOR LEICHTER: Mr. President. Senator, is there a reason given for these continual halts in our proceedings at a

time when we have been led to believe we would actually be moving toward adjournment?

SENATOR PRESENT: There are a number of reasons and I'll try to repeat some of them. There are a number of messages we're waiting for from the Governor. There are negotiations going on relative to some of the legislation. I'm doing my best, and if you will bear with us, maybe we'll get this done.

SENATOR LEICHTER: Senator, the one thing I'm sure of is that you're doing your best, and you really have been most courteous, and I appreciate that.

I have a suggestion to make. I don't know if anybody will accept it, but I hope that they will. We've had three people who have worked, and I'm sure they have worked hard - the Speaker and the Majority Leader and the Governor -- but they haven't been able to do the job.

And I know we believe in the strong -- strong leader system. Maybe this shows that the strong leader system isn't all

it's cracked up to be, or maybe somebody's going to say, Well, we have a strong, inept leader system. But I've got an idea. Why don't we - you know, they have been unable to do the job. Why don't we get three people who have been waiting in the wings who I'm sure ought to get a crack at this. Why don't we ask Lundine, Ohrenstein, and Rappleyea to take over, and let's see how they do. Maybe they will do a little better.

SENATOR PRESENT: Everybody have a good laugh.

THE PRESIDENT: The Senate is at ease.

(Whereupon, the President banged the gavel.)

(Laughter)

SENATOR LIBOUS: I was curious, Mr. President, if that was a motion on the floor.

THE PRESIDENT: If it is, it is out of order.

(Why upon, at 4:21 p.m., the

Senate was at ease.)

(Whereupon, the Senate reconvened.)

SENATOR PRESENT: Mr. President.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Will you call up Calendar 1631.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1631, by Senator Levy, Senate Bill Number 6170, an act to amend the Vehicle and Traffic Law.

SENATOR GOLD: Explanation.

SENATOR LEVY: Yes, Senator Gold. As you probably recall, earlier this year and last year, we had a version of this bill before this house. This is now an agreed upon bill among the Senate, the Governor and the Assembly.

SENATOR GOLD: Is Senator Stachowski here?

SENATOR LEVY: Let me say -- I know Senator Stachowski is the ranking member of

the Labor Committee but, Senator, this bill was negotiated by the employee representatives representing the bus drivers that come within the subject matter of this bill, and I was advised by the Governor's staff that they have signed off and agreed to this bill.

Now, the bill is an outgrowth - an outgrowth of a tragic accident that took place on April the 11th, 1992, when a bus ran off the road outside of Scaren Lake and two East Meadow School District students in a school district represented by Senator Hannon and myself were killed in that accident and 27 students were seriously injured.

The bus driver who was driving that bus should not have been behind the wheel of a bus let alone any other type of vehicle. He had in the 21 months prior to the accident eight other accidents, five were his fault. He had two traffic convictions and he had other traffic violations pending.

Clearly, clearly, there was a defect in our laws that had to be remedied. So

that is comprehensive tightening of every phase of 19-A, which regulated bus drivers.

SENATOR STACHOWSKI: Mr. President. Would Senator Levy yield to just one question?

SENATOR LEVY: Yes.

SENATOR STACHOWSKI: I heard you talk about that bus people have all signed off and it's an agreed-upon bill, but the problem we have is that we still have a memo from the CSEA that says they are strongly opposed to this legislation.

SENATOR LEVY: Are they opposed to this bill, or are they opposed to the prior piece of legislation?

SENATOR STACHOWSKI: It's still this piece, 6170.

SENATOR LEVY: I can only tell you that we were advised by the Governor's people who did the negotiation with the employee representatives. I do not know.

SENATOR STACHOWSKI: Do you have this memo?

SENATOR LEVY: We have not seen it. But, Senator, regardless of what is in that memo, you know, we have to proceed with this bill because this is an important piece of legislation to deal with an omission in the law, tightening of the law.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Mr. President, I have the highest regard for CSEA and certainly unlimited regard for Senator Stachowski and his expertise in this field, but I have read this memorandum in opposition, and I have a lot of trouble with it. I really do.

They say while they support the section of the legislation requiring school bus seat belt safety studies, it should not come at the expense of a bus driver's dignity and professionalism. Strict re-examination disqualification procedures for school bus drivers already exist in New York State.

Now, what they refer to in the first paragraph -

SENATOR LEVY: Senator, can I help you?

SENATOR GOLD: No. This legislation further requires the disqualification of bus drivers upon the conviction of five or more driving violations of any kind within a three-year period.

Mr. President, maybe I'm out of whack, but if it says five convictions and somebody gets convicted five times in a three-year period, I don't know why that isn't a proper ground.

Senator Levy, you want to help me? Go ahead.

SENATOR LEVY: First of all, that memorandum relates to, I believe, an Assembly bill and not even a Senate bill. It is probably an old memorandum. There is nothing whatsoever in this legislation about seat belts, and the point disqualifications in current law have not been changed.

SENATOR GOLD: Well, Senator, I just wanted you to know -- and I'm glad you

stood up -- that's the memo. I have the memo. It's on Senator Levy's bill 6170. And what I'm saying to you, Senator, is I'm going to support your bill. I'm trying to tell you that. Senator Tully would have explained that to you if you gave him a chance, because I don't think their memo is accurate or deserves consideration in this case, while I happen to very much respect CSEA and certainly Senator Stachowski. I'm now finished because I know you're chomping at the by the to get at me.

SENATOR STACHOWSKI: Mr. President.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: I would like to thank Senator Levy for his explanation and especially for clearing up the problem with this memo. I find it interesting because we just did another bill where we were looking for a CSEA memo. When we did a bill a week ago, we couldn't get ahold of the CSEA person so we had contacted all the unions individually, and then

the person that did the contacting was reprimanded by the CSEA representative for calling all these unions individually even though this particular person was on vacation. And then we were looking for some information from their position on a bill that we dealt with yesterday, and we couldn't get a return phone call. So it's not surprising to me that this memo that had alerted us and got me to ask you that question doesn't have anything to do with your bill and that the fact that you say that everybody that is dealt with in this legislation and has signed off on it is more than enough for me, and I encourage everyone to support this bill.

SENATOR LEVY: Thank you.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Mr. President, can we call up Calendar 1333, please.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 1333, by Senator Bruno, Senate Bill Number 4601B, an act to amend the General Municipal Law.

SENATOR PRESENT: Mr. President, I move we accept the message of necessity which I understand is at the desk.

THE PRESIDENT: Message is at the desk. On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Read the last section.

THE SECRETARY: Section 42. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

SENATOR DOLLINGER: Mr. President, is that 1633 or 1333?

THE SECRETARY: 1333.

SENATOR GOLD: Is this the -- my apologies. I'm recorded in the affirmative.

SENATOR PRESENT: Mr. President, can we call up Calendar 1517.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 1517, by the Assembly Committee on Rules, Assembly Bill Number 8248A, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays one, Senator Pataki recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Mr. President, can we take up the non-controversial calendar on Supplemental Calendar Number 1.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Supplemental Calendar Number 1, Calendar Number 1639. Senator Larkin moves to discharge the Committee on rules from Assembly Bill Number 6629B, and substitute it for the identical Third Reading 1639.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1640. Senator Marchi moves to discharge the Committee on Rules from Assembly Bill Number 5754C and substitute it for the identical Third Reading 1640.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside. Substitution is ordered.

THE SECRETARY: Calendar Number 1641. Senator Farley moves to discharge the Committee on Rules from Assembly Bill Number 8367A and substitute it for the identical Third Reading 1641.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1642, by Senator Johnson, Senate Bill Number 5178B, an act restoring Emil G. Pavlik, Jr. to Tier II.

THE PRESIDENT: There is a home rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays 2, Senators Gold and Leichter recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1643. Senator Cook moves to discharge the Committee on Rules from Assembly Bill Number

8526 and substitute it for the identical Third Reading 1643.

THE PRESIDENT: Substitution ordered.

THE SECRETARY: Lay it aside.

THE SECRETARY: The bill is laid aside.

THE SECRETARY: Calendar Number 1644, Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 8223A and substitute it for the identical Third Reading 1644.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1645, Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 4139A and substitute it for the identical Third Reading 1645.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1646, by Senator LaValle, Senate Bill Number 6136, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1647, by Senator DeFrancisco, Senate Bill Number 6169, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1648, by the Senate Committee on Rules, Senate Bill Number 6175, amends Chapter 883 of the Laws of 1980, amending the Banking Law generally.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

SENATOR LEICHTER: Lay it aside.

SENATOR PRESENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1649. Senator DeFrancisco moves to discharge the Committee on Rules from Assembly Bill Number 8514a and substitute it for the identical Third Reading 1649.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1650. Senator Larkin moves to discharge the Committee on Rules from Assembly Bill Number 8836 and substitute it for the identical Third Reading 1650.

THE PRESIDENT: Substitution

ordered.

SENATOR PRESENT: Mr. President, I move that we accept the message of necessity which I believe is at the desk.

THE PRESIDENT: On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1651.

THE PRESIDENT: The bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1652. Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 8851 and substitute it for the identical Third Reading 1652.

THE PRESIDENT: Substitution ordered. The bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1653. Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 8852 and substitute it for the identical Third Reading 1653.

THE PRESIDENT: The substitution is ordered. The bill is high. It will be laid aside.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Yes. May I just ask a question, sir? If we're making a substitution and the bill is high, I would assume that -- what?

THE PRESIDENT: The Assembly bill

is still high in our house.

SENATOR GOLD: Yes, but it couldn't pass the Assembly without a message.

THE PRESIDENT: The Assembly had a message. It was passed in the Assembly yesterday.

SENATOR GOLD: Yes. Well, this is what's confusing me. I must be missing something. The Assembly bill had to pass either by being on the members' desks for three days or having a message.

THE PRESIDENT: It had a message.

SENATOR GOLD: Why can't we use that message? No, I'm missing something, and I don't dispute that I'm probably wrong, but I'm just trying to have it explained to me. If they had a message and passed it, why can't we use their message?

THE PRESIDENT: Each house has to have its own message for a reason unknown to me. We have not received a message in the Senate.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: I have in front of me a message. It's not the particular one here, but it says, "To the Legislature". I assume that when the Governor signs a message on a bill, it's my recollection that they all say, "To the Legislature," not the Assembly or the Senate.

Well, Mr. President. I hear what's going on. I can't -

THE PRESIDENT: Senator Gold, look after "To the Legislature" and where it says, "I do hereby certify to the necessity of an immediate vote." If -- if -- I'm advised that if at that point it says Senate Bill Number so and so and Assembly Bill Number so and so, then the same message is used in both houses. If the Governor just said Assembly bill so and so, we can not use it in the Senate.

SENATOR GOLD: Well, Mr. President, if I may. Since the Assembly bill is the one we're voting on and not the Senate bill, then it seems to me we only need a message on

the Assembly bill, and I can not overrule what the Majority wants to do and what you want to do, but it's perfectly clear, Mr. President, that if the Assembly bill is before us and that is the one we're going to vote on, that if the message indicates that bill can be voted on, then I believe there is a clear constitutional right to do it.

Now, you may not want to do it but -- I'm sorry, but unless somebody tells me different, I'm taking my own legal advice on this. You are saying we haven't received a message today. The message exists. I don't care whether it came in yesterday or today.

THE PRESIDENT: All right. This may help to resolve this issue. We have just received the Governor's message.

(Laughter)

SENATOR GOLD: I'm glad I could be of help, Mr. President.

THE PRESIDENT: On 1653, 1654 and 1652. So maybe you won't put me in the difficult position of having to rule on your

constitutional point.

Senator Present.

SENATOR PRESENT: May we go back to -

THE PRESIDENT: 1652?

SENATOR PRESENT: -- those we now have messages for.

THE PRESIDENT: Yes, okay. It's been substituted, Calendar Number 1652.

SENATOR PRESENT: Mr. President, I move we accept the message we now have.

THE PRESIDENT: On the motion, all those in favor say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays 2, Senators Dollinger and Jones recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR WRIGHT: Mr. President.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. If I might just request a point of personal privilege for a moment. I would like to introduce and recognize my distinguished predecessor, Congressman John McHugh, who served in this house for eight years representing the North Country, and he is visiting us today on, obviously, what will now be the last day of session now that he has returned. So I would like to recognize my predecessor and your distinguished colleague. He's right over here.

(Applause)

THE PRESIDENT: If he would have risen, I would have recognized him. At least if he would have waited until later in the evening and then stood up, I would have recognized him.

Senator Solomon.

SENATOR SOLOMON: Yes. Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 1652.

THE PRESIDENT: Without objection, so ordered. Now, let's do 1653. All right?

THE SECRETARY: Calendar Number 1653, substituted earlier, by the Assembly Committee on Rules, Assembly Bill Number 8852, Local Finance Law.

SENATOR PRESENT: Mr. President, I move we accept the message which is at the desk.

THE PRESIDENT: On the motion. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49. Nays 5, Senators Dollinger, Jones, Libous, Padavan and Pataki recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR PATAKI: Mr. President.

THE PRESIDENT: Senator Pataki.

SENATOR PATAKI: Could I get unanimous consent to be recorded in the negative on Calendar 1652?

THE PRESIDENT: Without objection, so ordered.

SENATOR PADAVAN: Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: May I have unanimous consent to be recorded in the negative on Calendar 1652?

THE PRESIDENT: Without objection, so ordered.

Senator Saland.

SENATOR SALAND: May I have unanimous consent to be recorded in the negative on Calendar 1652, as well?

THE PRESIDENT: Without objection, it is so ordered.

1654. Secretary will read.

THE SECRETARY: Calendar Number 1654. Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8853 and substitute it for the identical Third Reading 1654.

THE PRESIDENT: There is a message.

SENATOR PRESENT: I move we accept the message.

THE PRESIDENT: On the motion. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays 2, Senators Dollinger and Jones recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1655.

THE PRESIDENT: The bill will be laid aside. It's high.

THE SECRETARY: Calendar Number 1657, by the Assembly Committee on Rules, Assembly Bill Number 8588, Education Law, in relation to pre-school children with disabilities.

SENATOR LAVALLE: Explanation.

THE PRESIDENT: Lay the bill aside.

THE SECRETARY: Calendar Number

1658, by the Assembly Committee on Rules, Assembly Bill Number 8732, Education Law, in relation to conforming state statutes with federal statutes.

SENATOR LEICHTER: Can we have an explanation?

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside. That completes action on the non controversial Supplemental Calendar Number 1.

(Whereupon, at 5:01 p.m., the Senate was at ease.)

(Whereupon, the Senate reconvened.)

SENATOR PRESENT: Mr. President, can we take up the controversial calendar on Supplemental Calendar 1.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Supplemental Calendar Number 1, Calendar Number 1640, substituted earlier, by member of the Assembly Connelly, Assembly Bill Number 5754C, an act to

amend the Public Health Law, in relation to honoring of non-hospital orders.

SENATOR MARCHI: Mr. President, this bill extends the provisions that govern the do not resuscitate contracts, which is universal throughout the state but not available to inmates of state correctional facilities. This would extend the DNR provisions to the people who are in state correctional facilities. It has no other effect.

If you are against DNR, then I assume you have to be against this bill. But if you have supported DNR in the past, why they should be excluded when the whole gamut of our society is covered, it would seem to be rational to extend it also to them.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1643, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8526, an act to amend the Education Law.

SENATOR STACHOWSKI: Explanation.

THE PRESIDENT: Explanation is requested.

Senator Cook.

SENATOR PRESENT: Lay that aside temporarily.

THE PRESIDENT: We will lay that aside temporarily.

THE SECRETARY: Calendar Number 1648.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1649, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8514A, Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1650, substituted earlier today -

SENATOR STACHOWSKI: Explanation.

THE PRESIDENT: Explanation is requested. Senator Larkin.

SENATOR LARKIN: Senator, this is a bill to ease some of the burdens on local government. It's in six areas. It's a first step to what we think will be a progression in allowing local governments with a means to cut costs and increase their administrative ability. There are six areas that have been identified in this as areas that local governments had said that they had a direct

interest in it, and this is a bill that we had agreement on between both houses and the Governor's office.

SENATOR JONES: Mr. President.

THE PRESIDENT: Senator Jones.

SENATOR JONES: Will the sponsor yield to a question, please?

SENATOR LARKIN: Yes, Mr. President.

SENATOR JONES: Through you, Mr. President. I just want to clarify for myself that I'm reading this correctly. There's references in here to Navigation Law. We've had a major problem with that in our area this year in regards to setting speed limits in the bay. It sounds like what I'm reading here that this would now give the supervisors more leeway in doing those things without reverting back to the state. Am I correct?

SENATOR LARKIN: Exactly.

SENATOR JONES: Okay. Thank you, sir.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1657, by the Assembly Committee on Rules, Assembly Bill Number 8588, Education Law, in relation to pre-school children with disabilities.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Mr. President, I think we've come to that point where I'm going to ask you to stand at ease. Bear with us.

THE PRESIDENT: The Senate will stand at ease.

(Whereupon, at 5:06 p.m., Senate

was at ease.)

SENATOR GALIBER: Mr. President.

THE PRESIDENT: Senator Galiber.

SENATOR GALIBER: Yes, Mr. President. Could I have unanimous consent to be recorded in the negative on Calendar 1642.

THE PRESIDENT: Without objection, so ordered.

(Whereupon, at 5:08 p.m., Senate was at ease.)

(Whereupon, at 5:34 p.m., the Senate reconvened.)

SENATOR PADAVAN: Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: May we resume with Calendar 1643.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 1643, on Supplemental Calendar Number 1, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8526, an act to amend the Education Law.

SENATOR GOLD: Hold on one second. Just a minute.

(Whereupon, there was a pause in the proceedings.)

SENATOR GOLD: Last section.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

SENATOR PADAVAN: 1651, Mr. President. And may we accept the message.

THE PRESIDENT: On the motion to accept the message, all those in favor say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

THE SECRETARY: Calendar Number 1651, by the Senate Committee on Rules, Senate Bill Number 6188, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

SENATOR PADAVAN: 1657.

THE SECRETARY: Calendar Number 1657, by the Assembly Committee on Rules, Assembly Bill Number 65888, Education Law, in relation to pre-school children with disabilities.

SENATOR LAVALLE: Explanation.

SENATOR COOK: Mr. President. This bill conforms New York State law to the federal requirements on the placement of

pre-school children in special education. We have to do this. It means about $150 million in federal money to the state, and so as long as we are in not conformity with the federal law, we will not be able to collect that money.

SENATOR LAVALLE: Mr. President. Would Senator Cook yield to just one question?

SENATOR COOK: Yes.

SENATOR LAVALLE: Senator, does this change the role of the school board?

SENATOR COOK: Mr. President, the school board by federal regulation cannot, may not overrule a decision by the committee, and that is essentially what we have to do is to make it so that the decision is made by the committee on handicapped, and it cannot be overridden by the school board.

SENATOR LAVALLE: Mr. President, on the bill.

Mr. President, I certainly appreciate Senator Cook's explanation, and as a matter of background, I would like to indicate that many years ago in my former life here in

the Legislature as a staff member, I had a rare and privileged opportunity to have worked on the development in 1975 of Chapter 853, which brought New York State from the dark ages into an age if renaissance in terms of providing children of school age with an appropriate and free education as all other children who did not have handicapping conditions.

This legislation was developed in concert with Federal Law 94-142 at the time and also with a blueprint that had been established prior to federal law by the Board of Regents in a report that really set into motion how the state of New York would provide services for handicapped youngsters.

In the development of that legislation, the Chapter that resulted in the Laws of 1975 Chapter 853, a process was developed that, one, provided for a Committee on the handicapped and the participation of specific individuals, allowed for the participation of parents of handicapped children, and then a process well beyond the

role of the committee that provided for a role for the school board, and the importance of that role was that the school board is the governing body of the school district and ultimately passes on a whole series of things and many times we don't pay enough attention for the statutory role and the deep roots that both regulation and law and custom places with the school board in making certain decisions and, of course, not only educational decisions in the district as to class size and the breadth and scope of education beyond what we mandate by statute or the rules and regulations by the Board of Regents or the Commissioner, and so the school board has a direct role.

What evolved over the years was that the school board actually became an advocate for the child, the handicapped child, because there is a political overlay, in that school board members are elected and they live in a community and they are aware of the needs of their neighbors and the children of their neighbors, and so the school board members have

actually become an advocate in ensuring that children with handicapping conditions not only received a fee and appropriate education but all of the related services and all of the things that they needed to function.

My problem, Senator Cook, is that the state of New York has not gone to the Secretary of Education and made a case for our law, a law that has been a beacon in this nation in providing for individuals and students with handicapping conditions, and my problem is that our commissioner, our commissioner, has not been strong enough and an advocate for what we are doing in this state but merely has rolled over and said, "Well, I guess maybe our federal Department of Education may have a point."

It has been in writing that our School Boards Association will bring litigation should this become law, and I hope they do if this does reach the Governor's desk and he does sign it, because I believe that we in this state have been a leader in providing for the needs of the handicapped, and we should continue to

control our destiny. It is the states that are in a preeminent position to provide for the education of its students. It is not a federal mandate, and we are giving away and abrogating our duty and our responsibility by rolling over to the federal government and, in my judgment, to pass legislation such as this.

This legislation is for pre-school youngsters, as Senator Cook had indicated, but what it does is it begins to set a precedent as to what is the role of the school board in advocating for the handicapped and for the taxpayer, who must pay for these services; and certainly they are probably in the best position in balancing the needs of the taxpayers and continuing to advocate for our children who happen to have handicapping conditions.

Mr. President, I will be voting in the negative on this legislation and certainly my remarks, in part, as many will know, is to set for the record and hope that the School Boards Association would bring a lawsuit to overturn this legislation should the Governor

sign it.

THE PRESIDENT: Senator Cook.

SENATOR COOK: Mr. President, there is nothing that Senator LaValle said with which I would disagree. In fact, certainly his foresight and that of others who developed New York State law, indeed they were the pioneers and indeed they have developed a system which I think as well is unparalleled in the nation.

Unfortunately, somewhere along the way, the federal government has begun to involve itself more and more into areas of responsibility which once were the province of the states. I'm not altogether sure it is a totally healthy situation. But the fact of the matter is that, if we are prepared to accept the largesse of the federal government and take $150 million from them as part of their distribution of money for this purpose, we then have to conform to the standards that they have set forth.

I personally agree that I think taking the board of education out of this system

is a terrible idea, but I also cannot in good conscience say that we should give up that $150 million and that we somewhere could come up with that kind of money to conform with the law if we don't conform with the federal regulations.

SENATOR LAVALLE: Mr. President, would Senator Cook yield to just one question?

Senator, do you know whether our commissioner has asked the Secretary of Education whether our law or regulation is inconsistent with federal statute?

SENATOR COOK: Senator, you can ask and you can ask. I think that an inquiry has been made, but I would agree with you that I don't think it has been terribly strongly made, and I accept your point.

SENATOR LAVALLE: Thank you very much, Senator.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54, nays one, Senator LaValle recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR DOLLINGER: Mr. President.

SENATOR PADAVAN: 1658.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I was outside the chamber. May I have unanimous consent to be recorded in the negative on 1643, Senate Bill 5795.

THE PRESIDENT: Without objection, it's so ordered.

1658.

THE SECRETARY: Calendar Number 1658, by the Assembly Committee on Rules, Assembly Bill Number 8732, Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

SENATOR PADAVAN: Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: I believe you have a privileged resolution submitted by Senator Stafford at the desk. Could it be read?

THE PRESIDENT: Secretary will read the title.

THE SECRETARY: Legislative resolution, by Senator Stafford, congratulating Mr. and Mrs. Clyde Cook upon the occasion of their 50th Wedding Anniversary.

THE PRESIDENT: On the resolution. All those in favor say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The ayes have it. The resolution

is adopted.

SENATOR PADAVAN: Mr. President, we will now stand at ease for a period of time hopefully.

THE PRESIDENT: Senate will stand at ease.

(Whereupon, at 5:51 p.m., Senate was at ease.)

SENATOR TRUNZO: Can I have unanimous consent to be recorded in the negative on Calendar Number 1643.

THE PRESIDENT: Without objection, so ordered.

SENATOR PATAKI: Mr. President.

THE PRESIDENT: Senator Pataki.

SENATOR PATAKI: Could I have unanimous consent to be recorded in the negative on Calendar 1654, please.

THE PRESIDENT: Without objection, so ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On the regular calendar, page 6,

Calendar Number 396, would you place a sponsor star on that bill, please.

THE PRESIDENT: The bill is starred.

SENATOR KUHL: That is Senate Print 3564.

(Whereupon, at 5:12 p.m., Senate was at ease.)

(Whereupon, at 6:24 p.m., Senate reconvened with Senator Farley in the chair.)

ACTING PRESIDENT FARLEY: Senate will come to order.

I have a motion, Senator Padavan. Can we do that?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Yes, Mr. President. On behalf of Senator Levy, I wish to call up his bill, Print Number 4802 recalled from the Assembly which is now at the desk.

ACTING PRESIDENT FARLEY: Secretary will read Senator Levy's bill.

THE SECRETARY: Senate Bill Number 4802, by Senator Levy, an act to amend the Public Authorities Law.

SENATOR TULLY: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT FARLEY: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is before the house.

Senator Tully.

SENATOR TULLY: Mr. President, I now offer the following amendments.

Mr. President.

SENATOR FARLEY: Yes.

SENATOR TULLY: On behalf of Senator Levy, I wish to call up his bill, Print Number 4887B, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT FARLEY:

Secretary will read that.

THE SECRETARY: By Senator Levy, Senate bill Number 4887B, an act to amend the Public authorities Law.

SENATOR TULLY: Mr. President, I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT FARLEY: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is before the house.

SENATOR TULLY: Mr. President. I now offer the following amendments.

ACTING PRESIDENT FARLEY: Amendments are received.

Senator Padavan, what is your pleasure?

SENATOR PADAVAN: My pleasure is just to wait just one second while the chairman arrives.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: Calendar 1633.

ACTING PRESIDENT FARLEY: 1633. The Secretary will read it.

SENATOR PADAVAN: Accept the message of necessity, Mr. President.

ACTING PRESIDENT FARLEY: All those in favor of accepting the message of necessity, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The message is accepted.

Secretary will read the bill.

THE SECRETARY: Calendar Number 1633, Assembly Budget Bill, Assembly Bill Number 8834, amends Chapter 50 of the Laws of 1993.

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR PATAKI: Mr. President.

ACTING PRESIDENT FARLEY: Senator.

SENATOR PATAKI: Will Senator Spano yield for a couple of questions?

SENATOR SPANO: Yes.

SENATOR PATAKI: Senator Spano, as you know, this bill has been held up now for about a day over the concerns you and I and Senator Saland and others have on the language on page 44 concerning the closing of the Harlem Valley Psychiatric Center.

As you know, a lawsuit has been brought by the town of Dover and some of the public employee unions and the county of Dutchess against the state because of the closing of the Harlem Valley facility.

Can you tell me what assurances you have gotten concerning the possible closure of the facility on November 1st?

SENATOR SPANO: Mr. President and Senator Pataki, the language on page 44 of this bill was somewhat vague in terms of how it treated the issue of Harlem Valley and the

closure of that psychiatric center and, as you are aware as well, Senator Saland, we worked real hard to make sure that Chapter 322 of the Laws of 1992 which sets forth a comprehensive closure plan for every psychiatric center in the state must be adhered to, as well as Chapter 55 which relates to the Harlem Valley Psychiatric Center. We have received assurances from -- with a letter that I have here from Pat Bulgaro, whose the Director of the Budget, where he says, "This will confirm the intention of the executive to refrain from closing Harlem Valley Psychiatric Center prior to February 1, 1994."

The original budget agreement called for the closure of Harlem Valley on November 1. There was a subsequent lawsuit, as you are aware of, that CSEA and others entered into which restrained the Office of Mental Health from closing that facility. They are in the process of reaching an agreement on that lawsuit.

SENATOR PATAKI: Will Senator Spano continue to yield?

SENATOR SPANO: Yes.

SENATOR PATAKI: We have a proposed stipulation which would settle that lawsuit. Do you have assurances from the second floor, from OMH and the Division of the Budget, that they will abide by the terms of that proposed stipulation if this budget bill is adopted?

SENATOR SPANO: We have received a proposed stipulation that I understand the town of Dover is prepared to agree to as well as the Office of Mental Health. We have spoken to the Commissioner's staff. We have spoken to Division of Budget that they will commit to keep the Harlem Valley Psychiatric Center in operation, continue to operate that facility with the same number of in-patient census, that is at the time of this agreement, which is today, less, of course, any of the individual discharges that would happen during the regular ordinary course of their operations.

SENATOR PATAKI: And they will commit to the adoption of this stipulation and

in settlement of the case?

SENATOR SPANO: Yes, we understand that they are ready and that the signatures are imminent that they are ready to agree to that, and it will be to the satisfaction of the town of Dover, to the employees, and to, of course, you and Senator Saland who have been leading the fight on this issue.

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

ACTING PRESIDENT FARLEY: On the bill, Senator Pataki.

SENATOR PATAKI: First, let me thank Senator Spano and Senator Saland and Senator Marino for the effort to make sure that this problem with the language was corrected.

As Senator Spano indicated, originally the Governor intended to close Harlem valley as of April 1st. Thanks to the efforts of the Majority of this house, that was extended during the budget negotiations to November 1, and pursuant to the lawsuit brought by the town

of Dover, now we have a settlement that would continue the operation of Harlem Valley through next February 1. That lawsuit was based on the chapters of 1992 which Senator Spano and this Majority insisted be contained in last year's budget. And again, I want to thank this Majority for your efforts last year to make sure that these chapters were adopted.

I just got off the phone with the attorney for the town of Dover and the plaintiffs in this action, and I believe that the stipulation is acceptable to the town and that it will be settled on that basis by the plaintiffs, and specifically the town of Dover.

So on that basis, I can support this budget bill, and I urge its adoption.

Thank you.

ACTING PRESIDENT FARLEY: Senator Spano.

SENATOR SPANO: Mr. President, also with respect to the same page, there is language on page 44 between lines 5 and 10, which relate to the Gowanda Psychiatric Center,

and I wanted to make sure that we explain why that specific language is there in this budget clean-up bill, and that it was explained it was a three-way agreement between the Senate and Assembly and Governor that they would not be making any public policy changes with respect to this document. This is the language as it was related in the original budget language that was passed. Since this has been passed, the members of this house -- we have passed legislation that would close the Gowanda Psychiatric Center because we feel it doesn't make sense to operate a facility costing $1.2 million a year to take care of 15 patients at that psychiatric center. We want to make sure it is clear that it is our position that that psychiatric center should be closed. If the Assembly feels they want to keep it open, then that's their business. But it is our position that that should be closed irrespective of what language that had been previously agreed to as related in this Chapter.

ACTING PRESIDENT FARLEY: Senator

Volker.

SENATOR VOLKER: Mr. President, very quickly. The Gowanda Psychiatric Center is in both Senator Present's and my district, and the Assembly has been taking the position since an unfortunate conference that they had back in March, I guess it was, that they would not agree to the closure of the Gowanda Psychiatric Center despite the fact that Department of Mental Hygiene has run it down to virtually no patients unless that was an agreement that attach onto that closure notice that it would never become a prison. The Senate has refused to accept such language as has the Governor, and frankly, this house has taken the position that because the center, as Senator Spano said -- because the center has been run down to where it has, it is logical to close the center down.

The Assembly has refused to accept that, and this language which is in the bill -- it basically said you can't close the psychiatric center -- is frankly because they are worried that it might some day become a

prison.

Now, I think, frankly, that is kind of a silly position, but that is the position that the Assembly has absolutely adhered to and has refused to accept any different language. So that is the reason that this language is here and because it was in the original budget bill.

I think Senator Present agrees with me that the situation, I think, is ludicrous, and ironically, this house has been castigated by one of the local downstate papers for keeping the center open when, in reality, we have been the ones that have been trying to straighten this mess out that, frankly, was created initially by the Department of Mental Hygiene's refusal to agree with us and then try to blame us for the closing.

But that is why this language is here and we continue to press to resolve this matter in a more logical way.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator

Gold.

SENATOR GOLD: Yes. What page was that language on, Senator? Page 44?

(Laughter)

Oh, yes. Thank you.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55, nays 2, Senators Dollinger and Jones recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Padavan.

SENATOR PADAVAN: Mr. President, just for the information of the members, we're advised that there will be food available at approximately 7:00 p.m., arranged by the Senate and supervised by Senator Spano, just for their

information. In the interim, we'll stand at ease.

ACTING PRESIDENT FARLEY: The Senate will have food available approximately at 7:00 p.m. under the direction of Chef Spano.

(Whereupon, at 6:39 p.m., the Senate was at ease.)

(The following announcement was made at 8:13 p.m., while the Senate was still at ease.)

SENATOR PRESENT: There will be an immediate meeting of the Rules Committee in Room 332.

(The following announcement was made at 8:41 p.m., while the Senate was still at ease.)

SENATOR STAFFORD: There will be an immediate meeting of the Finance Committee in Room 332.

(Whereupon, the Senate continued at ease.)

(The following announcement was made at 8:49 p.m., while the Senate was still at

ease.)

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: On behalf of Senator Stafford, I would like to announce an immediate meeting of the Finance Committee in Room 332.

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

(The Senate continued at ease.)

(Whereupon, at 10:04 p.m., Senate reconvened with Lt. Governor Lundine in the chair.)

THE PRESIDENT: Senate will come to order.

Senator Present.

SENATOR PRESENT: Mr. President, can we return to reports of standing committees, if there are any at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Senator Marino,

from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 2931B, by Senator Johnson, an act to amend the Vehicle and Traffic Law.

2973, by Senator Daly, an act to amend the Public Officers Law.

3725A, by Senator Velella, Alcoholic Beverage Control Law.

4174B, by Senator Volker, Civil Practice Law and Rules.

4758A, by Senator Goodman, an act to amend the Tax Law.

4785B, by Senator Skelos, Public Health Law.

5344B, by Senator Maltese, Vehicle and Traffic Law.

5664, by Senator Nolan, extending the duration of the eligible list for police sergeant.

6195, by Senator Pataki, amends a chapter of the laws of 1993.

6198, by Senator Hannon,

Emergency Housing Rent Control Law.

Assembly Bill Number 440 with a Senate Reprint Number of 21003, by member of the Assembly Koppell, Surrogate's Court Procedure Act.

All bills reported directly for third reading.

THE PRESIDENT: Third reading.

SENATOR PADAVAN: Would you recognize Senator Levy to make a motion, please.

THE PRESIDENT: Senator Levy.

SENATOR LEVY: Yes. Do you have a bill at the desk for reconsideration?

THE SECRETARY: Senator Levy moves to discharge the Committee on Rules from Assembly Bill Number 7686B and substitute it for the identical Third Reading 761.

THE PRESIDENT: Substitution is ordered, and the bill is laid aside.

SENATOR PADAVAN: Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: May we begin with the noncontroversial calendar, Supplemental

Calendar Number 2.

THE PRESIDENT: Two? Certainly.

(Whereupon, there was a pause in the proceedings.)

SENATOR PADAVAN: Mr. President, can we call up Calendar Number 1648, please.

THE PRESIDENT: Yes. This is on Supplemental Calendar Number 1, page 2. Secretary will read.

THE SECRETARY: Supplemental Calendar Number 1, Calendar Number 1648. Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8830 and substitute it for the identical Calendar Number 1648.

THE PRESIDENT: Substitution ordered.

Senator Farley.

SENATOR FARLEY: Yes, I think this needs to be explained a little bit. I will try to be brief because it has to be signed by midnight. This is a seven-month extender of the current Banking Law. This just passed moments

ago in the Assembly unanimously. It is not what I wanted to do. It's not what this house wanted to do. It's not what the Governor wanted to do.

But what we will be doing is for the next few months negotiating and putting together a permanent piece of banking legislation which protects this financial industry in this state.

I want to express my appreciation to this house, to both sides of the aisle, for a 54 to 5 vote in passing my bill which was just a naked extender -- not a -- a permanent extender of the current Banking Law. The Superintendent, the Commissioner of Economic Development, Assemblyman Farrell, the Governor, everybody has been committed to permanency.

We intend to hold some hearings, Assemblyman Farrell and I, and put this together and pass it in 1993. Contrary to what the press and others may say, we are committed to permanency, and we're planning on doing this, and let's hope that we can bring it back here

when we come back in to do some things later in the year.

This is one of the most crucial pieces of legislation that is facing the state of New York, and I ask your support for this bill.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Will Senator Farley yield to a series of 30 questions, please?

SENATOR FARLEY: I'd rather not, but go ahead.

SENATOR GOLD: All right. Never mind. Last section.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is

passed.

Senator Padavan.

SENATOR PADAVAN: Just as a matter of clarification. We're going to be working off the active bill list indicated for Supplemental Calendar Number 2, but the first two bills are actually on the first original calendar. 1584.

THE PRESIDENT: Thank you very much. Secretary will read. That's very useful. It's on page 27.

THE SECRETARY: On page 27 of the regular calendar of today, Calendar Number 1584, by Senator Larkin, Senate Bill Number 6129, Real Property Tax Law, in relation to the assessment of special franchises.

THE PRESIDENT: Read the last section.

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

SENATOR GOLD: There's a question on this. Can we lay this aside temporarily, please?

SENATOR PADAVAN: Temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: On page 27 of the regular calendar, Calendar Number 1601, substituted earlier today, by member of the Assembly Ferrara, Assembly Bill Number 6823C, Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Supplemental Calendar Number 2, Calendar Number 1659. Senator Johnson moves to discharge the Committee on Finance from Assembly Bill Number 4873B, and substitute it for the identical Third Reading 1659.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1660. Senator Daly moves to discharge the Committee on Rules from Assembly Bill Number 4925 and substitute it for the identical Third Reading 1660.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1661. Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 6158A and substitute it for the identical Calendar Number 1661.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: Substitution is ordered, and the bill is laid aside.

THE SECRETARY: Calendar Number 1662. Senator Volker moves to discharge the the Committee on Rules from Assembly Bill Number 6655B and substitute it for the identical Third Reading 1662.

SENATOR GALIBER: Lay it aside.

THE PRESIDENT: Substitution is ordered. The bill is laid aside.

THE SECRETARY: Calendar Number 1663. Senator Goodman moves to discharge the Committee on Rules from Assembly Bill Number 8687 and substitute it for the identical Third Reading 1663.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1664, by Senator Skelos, Senate Bill Number 4785B, an act to amend the Public Health Law, in relation to the operation of hospitals.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1665. Senator Maltese moves to discharge the Committee on Rules from Assembly Bill Number 3433B and substitute it for the identical Third Reading 1665.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1666. Senator Nolan moves to discharge the Committee on Rules from Assembly Bill Number 7896 and substitute it for the identical Third Reading 1666.

THE PRESIDENT: Substitution ordered. There is a home rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1667. Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8807 and substitute is it for the identical Third Reading 1667.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1668. Senator Hannon moves to discharge the Committee on Rules from Assembly Bill Number 8859 and substitute it for the identical Third Reading 1668.

THE PRESIDENT: Substitution ordered. There is a message at the desk.

SENATOR PADAVAN: Move to accept it.

THE PRESIDENT: On the motion of Senator Padavan, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

THE PRESIDENT: Read the last section.

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

SENATOR GOLD: Lay it aside.

THE PRESIDENT: Lay the bill aside.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: I am aware of the time constraints involving this legislation; and by laying it aside, I am not suggesting that it be laid aside for an inordinate period of time. It just seems to me that while the Finance Committee is going on with, I understand, 99 nominations or whatever it is, there are people in there who I believe ought to be here. So I'm asking that it be laid aside the first time around. I assume it will come up in some expeditious way.

THE SECRETARY: Calendar Number 1669, Assembly Bill Number 440B with a Senate Reprint Number 20003, by member of the Assembly Koppell, Surrogate's Court Procedure Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays 1, Senator Solomon recorded in the negative.

THE PRESIDENT: The bill is passed.

That completes the non-controversial Supplemental Calendar 2.

SENATOR PADAVAN: Mr. President, may we stand at ease just for a brief period of time.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar 1664, please.

THE PRESIDENT: Without objection, so ordered.

(Whereupon, at 10:21 p.m., the Senate was at ease.)

THE PRESIDENT: Senator Levy.

SENATOR LEVY: Mr. President, I move to amend Senate Bill Number 5435A, by striking out the amendments made on July 6 and restoring it to its original Print Number 5435.

THE PRESIDENT: Without objection, so ordered.

(The Senate continued at ease.)

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 1659, Senate Print 2931B; and also Calendar Number 1665, which is Senate Print 5344B.

THE PRESIDENT: Without objection so ordered.

SENATOR KUHL: Thank you.

(Whereupon at 10:24 p.m., the Senate continued at ease.)

(The Senate reconvened at 10:27 p.m.)

SENATOR PADAVAN: Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Mr. President, may we return to reports of standing committees.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination:

Commissioner of Social Services, Michael J. Dowling, of Delmar.

THE PRESIDENT: The question occurs on the confirmation of the nominee. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

The ayes have it. The nominee is confirmed. Michael J. Dowling, of Delmar as Commissioner of Social Services.

Congratulations.

(Applause)

THE PRESIDENT: Not only is the new Commissioner here, but he's brightened our night by those accompanying him.

SENATOR HOLLAND: Mr. President.

THE PRESIDENT: Senator Holland.

SENATOR HOLLAND: I think we did this a little bit backwards, but I rise today to speak in favor of the nomination of Michael Dowling to be the next Commissioner of Social Services. Dr. Dowling has been nominated to take the place of Dr. Mary Jo Bane, who left to take a job with the Clinton administration.

Dr. Bane, in her very short time as Commissioner, began some ambitious tasks for the Department, and the nomination of a new Commissioner gives New York a special opportunity to improve the system and tailor it to our growing needs.

We need a new vision but, more importantly, the state and its taxpayers need a stronger manager, someone who will take control of the system. Mr. Dowling is no stranger to state government. For the past five years, he

has been in the Governor's office working on a wide range of human services issues, and before that he was Deputy Commissioner at the Department of Social Services.

However, an important part of his career was spent in my home county in the Rockland County Department of Social Services where I began -- he began his association with DSS as director of Title XX and other duties in Rockland County from 1977 to 1982. Everyone believes and hopes that the federal government is poised to change the welfare system.

With the magnitude of the case load and the history of government and philan thropic generosity, New York has the opportunity to be a laboratory for experimentation. We need to explore some very sensitive complex issues that remain unexplored for far too long. For example, two main issues, two main questions: What is the proper role of government in meeting the needs of the disadvantaged; and what is the obligation of the individual who receives assistance?

Mr. Dowling, Michael, the challenge is enormous, but I look forward to a continuing dialogue on these important and very costly issues.

As Mr. President says, Mike and his wife Cathy and daughter Elizabeth are seated in the area above us. It is my pleasure for myself and on behalf of the entire Social Services Committee to recommend Mike Dowling as the next Commissioner of Social Services for the state of New York.

Congratulations, Michael.

THE PRESIDENT: Senator Waldon, did you want recognition?

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

I did not have a long relation ship with our next Commissioner, Mr. Michael Dowling. However, today, when we interviewed him in committee, I was extremely impressed not just with his credentials, which are so long and so comprehensive and substantive, but with the man himself and with the way he responded to

questions which not only affect the people in my district, but the people of all of the state of New York.

I think he's going to be an extraordinarily capable and competent Commissioner, and I think that he's going to bring a sensitivity to all of the people of the state of New York, so that there'll be dignity even for those who, unfortunately, find themselves on the welfare rolls and he will administer the agency with that sensitivity, with that compassion, and I'm sure in a very energetic way, and will do best for all of the people of the state of New York, and I welcome him in his role, applaud him and his family, and pledge to you my cooperation in my little role as a Senator from the 10th Senatorial District.

Congratulations, Michael.

THE PRESIDENT: Senator Espada.

SENATOR ESPADA: Yes, Mr. President.

Today lots of folks in the com munity-based organizations, medical facilities

in the Bronx inner city, and state of New York are rejoicing because with the commencement of Michael Dowling's service as the Commissioner, that bureaucracy that we often refer to here in debate will no longer be a faceless bureaucracy, but one that truly understands that the main streaming of poor people out of welfare dependency into jobs with living wages that the Koerner Commission's findings of 1965 said that we were headed, one nation headed to two societies, that Michael Dowling understands that we have to be one nation, that we have to be about giving people opportunity.

He understands that that doesn't come free of charge. It's a responsibility that goes along with that, but we all, Mr. Dowling, we all do rejoice in your nomination. We find hope in that the poor people and those people who are dependent on public assistance would not be stigmatized or, in fact, have a true understanding in government by people like yourself and your new administration.

Good luck.

THE PRESIDENT: Senator Gonzalez, did you wish recognition?

SENATOR GONZALEZ: Mr. President, I, too, rise. I know Michael Dowling for quite a bit, and he's an extraordinary person, visited my district, but he is an individual that visits all our districts. He reaches out. He doesn't stay behind the desks, and I think that that's very important to what he does and, as Commissioner of Social Services, I know that he will do the best on behalf of all the people of the state of New York, and congratulations to him and to his family.

Thank you, Mr. President.

THE PRESIDENT: Senator Markowitz.

SENATOR MARKOWITZ: Thank you very much, Mr. President.

As a proud member of the Irish American legislators of New York State, it's proud, proud, Michael, to advance you, to see you take this most important position, not only because you're Irish, not only because we enjoy

your brogue very much, but because you have shown in every job that you have held a complete dedication to the task ahead. Why you want to go from what you have to this hot spot, to one of the most difficult jobs in state government, only you can answer, except for the rest of us, we can say we're glad you made that decision.

Good luck.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Mr. President, very briefly, I know it's -- it's rather late, but I couldn't help but say a couple of words about my good friend, Mike Dowling.

I have known Mike for many years dating back to his New York City days, and at one time I remember we started out on kind of a rocky foundation, but became very good friends. One of the brightest men that I have ever met in state government, and I must say as far as the city of Buffalo is concerned, the development in the last few years and the expansion of Roswell Park is probably as much the work of Mike Dowling as anybody I know of. It's a great

cancer facility, it's going to become greater, and your work was a major part of that.

I thank you for the cooperation that you have given to me and so many of my fellow Senate members for the last few years and, as I said to you, when the word came that you were going to be nominated it's a mixed blessing, I guess. We're happy to have you, obviously, in Social Services but we're certainly going to miss you an awful lot in the job that you had.

Good luck and Godspeed.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you. I'm pleased, Mr. President, to rise to second the nomination of Michael Dowling. It's truly the Governor's loss to lose such a magnificent counsel, but what a great public servant.

Michael Dowling has solved signi ficant problems in sensitive ways on behalf - on my behalf in my district. He's an outstand ing public servant. I know he'll be a great Commissioner of Social Services, and it's nice

to see an Irishman make good.

THE PRESIDENT: Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

As chairman of the Senate Health Committee and chairman of the Council on Health Care Financing, I've had the opportunity to work closely with Michael Dowling on many issues in the area of human need and social services, and I've found him to be a very dedicated and competent professional.

He's one heck of a negotiator. He's a cool tactician, but he does have that great Gaelic wit that I think endears him to so many of us, and I'm certain that he will do an excellent job as the Commissioner of Social Services.

I wish my colleague, Joe Holland, lots of good luck in his negotiations that he may have with this tough guy up there because he's proven to be an able adversary but together with the help of our colleagues in the Legislature and the Governor, we've done many,

many good things for the people of this state and I see many, many more good things happening as long as Michael Dowling is in public service.

I'm pleased to second his nomination.

THE PRESIDENT: Senator Nolan.

SENATOR NOLAN: Just like to congratulate the Governor on an extremely fine appointment. I must echo, Michael, some of the concerns of my colleagues about why you would want to take this job because you certainly are walking into -- from the -- into a hot spot, but I personally want to thank you for all of the great things that you've done locally here.

Obviously, on a statewide basis you've done tremendous things, but looking at so many of the facilities here in Albany that you've helped, whether it be the Cerebral Palsy Center or St. Peter's Hospital and certainly all of Father Young's projects which are legion, you certainly have epitomized what the finest in public service is all about, and I certainly

wish you continued good -- good luck and God speed with your new appointment. I know you'll do your same tremendous job and any help that we here can give you, we certainly will.

So congratulations, Mike.

THE PRESIDENT: Senator Mendez.

SENATOR MENDEZ: Mr. President, I also rise in support of the nomination of Michael Dowling for Commissioner of Social Services and, again, to congratulate the Governor for having -- for choosing a magnificent and competent professional.

In my association with him, Mr. President, I have seen that he's of keen intelligence. He has been a good public servant because he is interested in doing the best to - to effect an ease in people's life. He's a problem solver in terms of the concerns that so many of my colleagues have expressed here.

As to wondering why he's going to go into such a difficult job, I must say I think that he has this strong commitment, this very strong commitment, and he's shown it in his

entire life as a public servant, that those who are down and need services from the Governor are not to be denied but, on the other hand, ought to be given a lift ahead so that they could be independent and -- and sort of effect for themselves.

I'm looking forward, Michael, to work with you. He has reached out, as has been expressed here today, to every one of us. Whenever there is a problem, he, with his mind and his good will and his education, he is there trying to resolve it and he is very good at resolving problems.

So congratulations, Michael, and again, congratulations to the Governor for having chosen you.

THE PRESIDENT: Senator Masiello.

SENATOR MASIELLO: Thank you, Mr. President.

It's certainly a pleasure to second the nomination of Michael Dowling as Commissioner of Social Services. Oftentimes all

of us hear what's bad or who's bad about public service and this nomination of Michael Dowling gives all of us an opportunity to really recognize a true professional, a professional who's knowledgeable, accessible, does his job and does it well, and I'm looking forward to working with you, and I'm so glad that we have somebody like you, Michael, who wants to take on the leadership of the Department of Social Services with all of their problems.

We need somebody who has the presence of mind but also the presence of heart to deal with those kinds of problems, and I know that state government and the Department of Social Services just became infinitely better with you as their head.

Good luck.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I, too, rise to second the nomination of Michael Dowling, and I just want to say that I've had the pleasure of working

with Mike Dowling on a number of pieces of legislation over the past couple of years and he is not only a great public servant, but when you work with Mike Dowling we always come to a positive conclusion and that conclusion is for the good of the people of New York State, and I think that's first and foremost of what he has in his heart and his mind.

The other special quality with Mike Dowling is that, when he gives you his word, he sticks by it, and I think that is a rare quality today in dealing with any public official or administrator.

So, Michael, I wish you the very best, and I look forward to working with you in the years ahead.

SENATOR STAFFORD: I would also like -

THE PRESIDENT: Senator Stafford is recognized.

SENATOR STAFFORD: I would just like to incorporate what everybody has said. I think that will be -- will suffice but I, too,

have known Michael both professionally and personally, and we're very fortunate to have him in this very important position.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I rise to also second the nomination of Michael Dowling. I don't know Mr. Dowling well; I've met him a couple of times, but the people in the city of Rochester with many problems, many misfortunes, are certainly going to be looking to your leadership as a guide to them, and I'd just say that since the name Michael Dowling was mentioned in this chamber, the lights have gone on. If you can work that magic in the rest of the state of New York, you'll make it a much brighter place.

I look forward to working with you, and congratulations.

THE PRESIDENT: Now, Senator Halperin.

SENATOR HALPERIN: Lest my silence be misinterpreted as as much support as

anyone else in this chamber for the nominee, I just wish to rise and second the nomination.

THE PRESIDENT: And I think I better call the roll on confirmation. Is there -- the question is on the confirmation of the nominee. All those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

(Applause)

SENATOR PADAVAN: Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: The committee report on nominations, of course, has many other nominations, many other nominees to consider. Unfortunately, we have a problem in that one of the statutes that we are about to deal with expires at midnight. So we, unfortunately, must return to that bill, Calendar Number 1668, and as soon as that debate and vote is taken, then we will return to the committee report on nominees.

THE PRESIDENT: Secretary will read, and we'll have order in the chamber.

THE SECRETARY: On Supplemental Calendar Number 2, Calendar Number 1668, substituted earlier, by the Assembly Committee on Rules, Assembly Bill Number 8859, Emergency Housing Rent Control.

VOICE: Explanation.

THE PRESIDENT: Explanation is requested. So, I'm not -- yes, we do. The message has been accepted.

Senator Hannon. Senator Hannon is recognized.

SENATOR HANNON: Mr. President, may I inquire, has the bill been substituted?

THE PRESIDENT: Yes, it was earlier today.

SENATOR HANNON: Yes, it was? Thank you.

THE PRESIDENT: It was substituted, and the message was accepted.

SENATOR HANNON: This bill is entitled the Rent Regulation Reform Act of

1993. It represents a compromise between the two houses in regards to the rent regulation laws in this state. It does a number of things, and in order to make sure the record is clear, I would just like to mention them.

It would provide that apartments which have a legal regulated rent of $2,000 or more per month at any time between the effective date of this act and October 1st, '93, shall be subject to the decontrol provisions of this act.

The bill provides that such deregulation shall either occur upon vacancy of the current occupants or immediately if the apartment is presently vacant. It also provides for a second decontrol mechanism. If the legal rent charged as of October 1st, '93 is equal to or greater than $2,000 per month and the apartment is occupied by a high income household, the apartment may be deregulated prior to vacancy in accordance with the verification and deregulation procedures set forth in the bill.

For the purposes of this mechanism, a high income household is defined as one where the total federal adjusted gross income of all the occupants residing in the apartment as their primary residence is in excess of $250,000 in each of the two preceding years.

In the case of buildings which have received an exemption under Section 421 of the Real Property Tax Law, the decontrol provisions of this bill would apply to high income tenants in those units where rent regulation would otherwise continue upon the expiration of the real property tax benefits provided to the owner.

This bill also amends the ETPA, Emergency Tenant Protection Act to provide that housing accommodations owned as cooperatives or condo units which are vacant or which become vacant after the effective date of this act, shall not be subject to the provisions of this act provided, however, that the existing rights of the non-purchasing tenants will not be

affected by this provision.

The bill also codifies existing regulations which allow owners to increase the rent to the stabilized apartment in amounts equal to one-fortieth of the cost of the improvements provided to an apartment when requested by the tenant. If the tenants are in place, obviously then this increase can only take place with the tenants' consent. For vacant apartments no consent is required.

There is also a provision that where an owner failed to file a timely registration under rent stabilization or ETPA, the owner shall not be subject to rent over charge penalties if the rental increases were otherwise lawful, and the owner files the missing registration, although the owner can be fined or will be fined a 50 percent surcharge for late filing.

There is a study form to be done in conjunction with the Senate and Assembly Housing Committees in regard to a whole host of pressing major problems for the housing in the

metropolitan area, with a report by June 30th, 1995. There is a four-year extender of the ETPA, the state and the New York City rent control condo and could open laws, to June 15th, 1997.

This basically is the outline of the provision that has been a subject of much debate, 22 years of discussion, 22 days of round-the-clock negotiations. We have not allowed for the curtailment or abrogation of any existing rights which are set forth in the bill that would be done prior to any order of decontrol by DHCR.

The idea in all of the proceed ings that have been set forth is that they be administratively simple, administratively ex peditious. In fact, this act specifically sets forth the timetable for decontrol proceedings so that no other suits or proceedings, motions or actions can act to stop or stay these proceedings.

SENATOR KUHL: Explanation is satisfactory.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Mr. President, in the year 1974, under the Governorship of Malcolm Wilson, when both of the houses of this Legislature were controlled by Republicans, a law was passed known as the Emergency Tenant Protection Act. That act was an omnibus act which was designed, through its many provisions, to provide manifold protections to tenants who were occupying the housing stock around the state, and that law came into existence after an experiment had been attempted called vacancy decontrol.

Vacancy decontrol was an attempt to dismantle a law that had been in existence since World War II for the purpose of recog nizing that the supply and demand of housing stock was such that there was far less supply and far more demand than one would have wished and, therefore, that if there were no controls imposed upon the relationship of supply and demand, rents would have skyrocketed.

Because of the great hardship

that such skyrocketing rents would have imposed, it was found necessary to create something called rent control, and then an attempt was made to roll it back completely on the theory that, if an apartment became vacant, it could then be placed upon the market at a free market level, and there would be no need for any further rent control. A fine theory, but unfortunately one that proved to be disastrously inadequate in practice for a very simple reason:

A number of landlords, and I'm not sure the exact number, I hope it was not a majority, but a significant number decided that there was a bonanza on the horizon and that the way to accomplish the goal of increased profits was to find a variety of methods to harass tenants out of their apartments, and the methods were appalling.

We have on the record, based upon the hearings of those days, specific reports of landlords hiring goons to go into apartments with sledgehammers, banging on the front doors of apartments to frighten tenants, of landlords

using literally large dogs to patrol the corridors of the apartment, often out of control and once again to frighten tenants.

The result was that vacancy decontrol became so odoriferous and unacceptable that it became necessary to repeal it, and that's what was done in 1974, and that's what ushered in the era of the Emergency Tenant Protection Act.

Briefly, that act sought to change the ground rules of rent control and to provide a regular annual review by a supposedly objective board which would determine on what basis rents could increase, and that, in turn, was directly related to the question of supply and demand of apartments.

Over the years, the Emergency Tenant Protection Act was extended in two-year intervals by this and the other house and over the years every two years the tenants were thrown into a fright when they wondered what would become of them if the Emergency Tenant Protection Act were repealed in view of the

persistent continuance of a very low vacancy rate of the great bulk of apartments especially in the city of New York, but also in Westchester and some of the areas surrounding New York.

The results over the years have been moderately satisfactory in the sense that, although there are a variety of evasions attempted to get around the strictures of the Emergency Tenant Protection Act, by and large they were a kind of a safety vest for tenants who were desperately in need of some degree of security in their home.

Now, in recent years, we're very familiar with the fact that there has been persistent inflation. We're also familiar with the fact that, in the last couple of years there's been a very deep recession, and let's be quite clear what the central issue is in considering this whole issue of whether to go with rent control and rent stabilization.

The core question which we've had to grapple with is the question of how to provide some relief from the vast middle class

which occupies our urban areas to protect them against the possibility of their rent skyrocketing.

Now, rents are not a small matter to the average tenant. Typically, the relationship of income to rent is that rent occupies about one-third of the average income. You can readily see that, if one out of every three dollars of income goes to pay rent, we're then in a position where a sudden upward lurch in rent could throw a family's finances into rude disarray.

Over the years, this house, through the efforts of a number of Senators, and I believe my own were very much involved here, passed several measures of some significant help to tenants. For my first eight years in this house, I was chairman of the Housing Committee and during that period and after a number of laws came into being, first the two-year extensions of the 1974 ETPA; then a law which made it easier for tenants to pay for major capital improvements -- I'll speak more about

that in a moment -- a law requiring 51 percent tenant approval for co-op or condominium eviction plans; a law to protect the elderly and disabled from evictions when their buildings were converted to co-ops and condo's; a law to create a system of rent registration developed by tenants and to determine their legality, a crucial piece of the backbone of the ETPA because landlords were required to register apartments and there was then oversight exercised to be certain that they didn't over charge the legally permissible amount for those apartments; and then there was a law which mandated treble damages in the event that the landlords did transgress and did, in fact, over charge. That law has had teeth in it, and then a law to prohibit rent surcharges and pass alongs in rent-stabilized apartments and one to extend tax abatement to hold down rents in such major urban enclaves for the middle class as Stuyvesant Town and one to strengthen housing code enforcement and give tenants recourse if violations are not corrected. Brick upon brick

of a solid wall of protection was erected for the purpose of protecting those whose incomes would be heavily impacted if this system were thrown out of kilter.

Now, be it noted, however, that while all of that was going on, some other things were happening, also originated by myself and others in this house for the benefit of landlords. I refer specifically to the so-called 421-A legislation which said to the landlords, if you will build a building upon under-developed land and if you will allow that building to have rent-stabilized apartments, upon the completion of it, we will give you what amounts to a 50 percent discount in your real estate taxes.

That proved to be a tremendously potent incentive, and billions of dollars in housing were erected in the city of New York and outside it. In addition, there were other measures which were helpful to landlords so that we didn't have a totally one-sided approach. We wanted to stimulate this new housing

construction, and there was something called J. 51, and there were changes made in the loft law construction.

In short, what was attempted during this period was some degree of equilibrium and lest it escape our notice, a number of the landlords during this period, many of them respectable New Yorkers, made vast fortunes as a result of the opportunities provided to them to build this type of subsidized housing, not to mention the Mitchell-Lama laws and a whole group of related direct government subsidies.

Things were going along reasonably well until the year 1992, and that brings us to the present. In addition to a recession which also affected the landlords, there was an enormous pressure building up to sweep away the whole scheme of rent legislation and rent control.

A lot of people said allow the free market to come into play. They ignored the fact there was a 3.5 percent overall vacancy rate and that's the latest number which has not

yet been published, but we just received it from the official sources. Let me just repeat it: Overall there is a 3.5 percent vacancy rate, meaning that supply and demand are nowhere near equilibrium.

Now, my friends, with that having been said, we are at this moment confronted with a piece of legislation which has some virtues, and it has some vices. The virtues of the legislation are very briefly as follows:

The two-year "nervous breakdown syndrome" has been broken. It is no longer a two-year cycle; it has become a four-year cycle and, in my view, that is a very great advantage to tenants because the great mass of them will not have to worry about where they are going to move to and/or where they're going to be after we act for another four years.

In addition, there are some other significant benefits. These benefits basically relate to the fact that we are going to have a series of specific -- specific aspects of this law which will enable the tenant to have certain

assurances with respect to his basic security.

But, Mr. President, let me say what we have failed to achieve. There has been proposed a vacancy decontrol applicable to luxury apartments. It is an indisputable proposition, I'm sure, that millionaires should not be living in rent-controlled or rent stabilized apartments where they do not need to have the benefit of landlord subsidization of their rents. Unarguable proposition, but then the question arises how to deal with it.

Had they, the real estate lobby, had its way, the way in which it would have been dealt with was to sweep away all controls, a grossly unsatisfactory solution because it would have wounded, if not killed, a number of people who vitally depend on these laws for their security, and so what happened initially was that whereas it appeared for a time as though there might be an effort for total vacancy decontrol, a number of the Senators in this house on both sides of the aisle -- but I'll particularly single out the members from the

city of New York on this side -- did everything within their power to persuade those who were considering other possibilities, including the distinguished chairman of Housing and the Majority Leader, that to listen to the siren song of the landlords and to sweep away all controls would have a devastating effect.

Now, let it be noted that had it been the desire of those involved in the leadership of this house to bring about the end of rent control, it would have been a very simple matter to accomplish that. Why? Because June 15th at midnight was the deadline for that law to expire, and all that would have had to have happened, if there had been the devilish plot that has been described in the other house in a really macabre debate this evening, would have been to let the whole system go over the cliff at one minute after midnight on the 15th.

That did not happen, but note how simple it would have been to have let it happen if that had been the desire of the leadership of the house.

I must admit that we came perilously close, due to a breakdown in discussions which did not reflect the true intention of the leadership, and I did find myself in a rather rapid shuttle back and forth between this house and the Assembly on the night of June 15th to make certain that the two leaders were able to confer through an open phone line, and thank God that Conference did result in an extension which enabled clearer heads to prevail in the further development of legislation.

There have been three more extensions, and the latest one is coming up at 12:00 midnight; so I'll try to wrap this up as quickly as I can to give others a chance to talk, and let me just say that the final result which has emerged is a mixed bag. It does seek vacancy luxury decontrol, and it seeks to weed out that millionaires' club and subsidized buildings, but it does it in a way that, unfortunately, brings into play something which has a very dangerous possible future, and that

is the concept of income verification.

The specific level selected of a quarter of a million dollars a year is not a level that causes great concern in my bosom, because there are only 4,000 apartments which have $2,000 a month or more rent, and within that I dare say the significant majority are not occupied by people who earn more than a quarter of a million dollars a year.

Therefore, out of the 4,000 eligible apartments, there's not only a very small number that meet the income test for decontrol, but within that segment and mark this well, there is a situation in which we find that the free market has come into play.

This is amply described in the other house by Assemblyman Friedman, by Assem blyman Koppell, and some others who pointed out very properly that many of the rents being paid in those luxury apartments are below the permis sible rent level under rent stabilization. So the fact of the matter is that this segment that has been singled out for income verification is

relatively tiny. Out of the two and a half million tenants in New York, I've got a hunch that this might affect a thousand tenants, maybe less, maybe a little more. We can't be precise from available statistics.

The problem, however, is that there is something called the Department of Housing and Community Renewal which is the state entity charged with the responsibility of administering the rent laws. There are six years of arrearages in the handling of their business, people who are charging that they're paying too much rent, people with other complaints on a line that's from here to the Mississippi River and will take six years to clear.

Whom do we select to handle the income verification? You guessed it! DHCR, which is already swamped and at the moment bubbling as its nose goes below the surface of its work load and it can hardly breathe. It's about to suffocate because we've decided that we're going to hand it the interesting problem

of performing income verification.

I submit that this is not the way to go. My colleagues, if mine were the vote that had to be cast to decide the outcome of this bill, let me say to you in utmost candor I would feel constrained to vote for it. I do not expect that that is the case. If it becomes the case, I will change what I expect to cast as a negative vote, but my negative vote is predicated upon three very severe problems that I have with this bill.

Number one is this process of income verification which I submit to you is an unworkable Rube Goldberg invention about to collapse of its own weight.

Number two is the fact that two of the laws which I proudly informed you I had the pleasure of sponsoring some years ago, one to verify legal rents through a system of rent regulation and one to charge treble damages for landlord over-charges, those measures passed in a Republican-controlled house, are being dismantled in the bill that's before us.

The problem is very clear and very simple: If you need rent registration to create the skeletal structure around which this whole thing is to be made viable and if you pull apart rent registration by saying instead of the treble damage penalty, we'll give you a small slap on the wrist, Mr. Landlord, if you have not registered your apartment, you are severely impinging upon the ability of this system to function and that, in my opinion, is unfortunate.

I am breathing an enormous sigh of relief in conclusion because I know that the great overwhelming majority of the tenants in my district, hundreds of thousands of them and hundreds of thousands in your districts, will be protected for four more years as a result of the action we take tonight if this bill passes which I confidently expect it will. It did so overwhelmingly in the Assembly, I might add, with a significant number of both Democratic and Republican votes.

But my negative vote is intended

to symbolize my concern that the very measures we took previously to try to give some reason able teeth to this enforcement procedure are being yanked from us so that what we will have to have is not a tiger with teeth in it but a tiger whose gums are expected to inflict wounds upon those who transgress. Thus you will hear a chopping sounding noise instead of the click of sharp teeth keeping transgressors in line, and I say to you that's nuts, and it's wrong, and it's a shame.

So this is the way I see things from here. We have stopped dead in their tracks the onslaught of those who sought to run this ball right over us across the goal line. We stopped them dead on the ten yard line and we've held the line, but we end the game in better shape than we began because of the four-year extension.

That, my friends, is not the complete solution, but it's better than what I thought we might have that night when I got on the shuttle from here to the Assembly, and thank

goodness, what we have is a compromise that has its good and bad points.

I shall vote against it unless mine is the decisive vote. Thank you.

THE PRESIDENT: Senator Espada.

SENATOR ESPADA: Mr. President, throughout this protracted debate -- and I won't speak to process, because I think everyone here is tired, everyone here from the past several weeks who has experienced this essentially was taking millions of people hostage through a process that was absolutely unnecessary, but to the merits of the case.

This whole thing has been mis cast. This debate is not about luxury decontrol of anything. This has always been about 2 million people, the majority of whom earn less than $20,000 per year, 25 percent of whom are under the federal poverty guidelines. That is what this whole thing was about. Luxury decontrol had, in fact, taken place de facto for the 2,000-plus households; for those who enjoy a $250,000 income level, they've always had their

option. There is a ten percent plus of vacancy, of vacancy rate, for those apartments that are in that income strata.

So this whole thing has been miscast. But since we've had it out and since we've come to this moment, I hope that rent regulation, that those that say rent regulation causes them embarrassment will shut up, that those who say that rent regulation benefits the rich will shut up, and that those who say that rent regulation impedes construction of new housing will shut up and, in effect, start talking about the construction of new housing opportunities and homes for the people who have no apartments, for the people who are doubling and tripling up in public housing because, indeed, that's where the debate needs to be focused, that's where the state's resources need to be coordinated with the federal initiative that hopefully will come and, even if they don't come, we have a responsibility now in the next four years to devote as much time to the people that are waiting outside my district office

every day in the South Bronx and throughout the City and other cities in this state, waiting for housing.

They can't negotiate leases. They have none. They're not even welcomed in shelters. In fact, they don't want to be in shelters, so we have a unique opportunity to put all that behind us and to have the housing committee of this Senate really hold true to two choices, housing and community renewal.

We stand ready in support of this bill so that we can get on with the business of real housing and real community development.

THE PRESIDENT: Senator Daly.

SENATOR DALY: Mr. President, would Senator Hannon yield?

SENATOR HANNON: Yes.

SENATOR DALY: Senator, I note there was a strong criticism of the verification of income part of this bill. Could you explain how this will be implemented and administrated -- administered?

SENATOR HANNON: Well, we have

tried to do a very simple procedure, one that mandates that all privacy considerations remain intact, one that, because this is directed towards level of income, seeks to reform this system and make this -- this whole system of general public assistance better, one that can be done with simple verification.

It leaves the bureaucracy out of this process at the very beginning. It also then asks DHCR only to check upon appeal and not to check anything else but whether or not the records of the state reflect an income that's greater than the eligibility limit.

It presumes, and I think it can be shown from the experience with Mitchell-Lama, that the whole system can work in a fairly simple and easy manner. It takes actually the sting out of the system because the greatest criticism, notwithstanding my good friend Senator Espada's remark about criticism of the rich benefiting, that's what's harming the whole system. That's what led to the great reform here, and so we have tried to do it in a way

that can be done with names and addresses alone and you're dealing with a very small universe.

It provides for an absolutely simple administrative procedure.

THE PRESIDENT: Senator Mendez.

SENATOR MENDEZ: Mr. President, will Senator Hannon yield for a question?

SENATOR HANNON: Yes.

SENATOR MENDEZ: Senator Hannon, your bill will include -- will affect those renters who are in apartments J.51s and 421-As. O.K. Those buildings were constructed with some part of taxpayers' monies, monies from all of us, and all of the people out there in the state of New York to help the developers build those apartments.

My question to you is, once this bill is approved here and it will pass this chamber, will those landlords keep and not get taken away, keep the decontrol of the so-called luxury apartments with the abatements, those tax abatements that they have negotiated, or will they be returned to the taxpayers?

SENATOR HANNON: Well, in answer to your question, Senator, which is an excellent one, we have provided that, because some buildings are enjoying another system of general public assistance, namely the tax exemptions, that to the extent the building is currently receiving a 421 tax exemption, it is not subject to the decontrol provisions here. Should those exemptions end or should the exemptions contained in section 489 end, that's -- those J.51s and 489s end, then they would be subject so that at no point do you have the decontrol provisions applying to the buildings which have received the tax exemptions that I just mentioned.

SENATOR MENDEZ: So as long as the landlord has a building which was occupied with tenants that receive the 421-A tax abatement or the J.51 tax abatement, as long as that building is receiving those benefits, those apartments will not be decontrolled; is that what you're saying?

SENATOR HANNON: Let me repeat

myself: So long as there are tax exemptions or abatements contained in Section 421 or Section 489, then the decontrol provisions would not apply, but once those abatements or exemptions end, and if the rest of the eligibility standards of this statute are present, then they would apply.

SENATOR MENDEZ: So that in the final -- so that then assuming that ten years go by and the tax abatements for the 421-A or J.51 ends, once those apartments are decontrolled, the -- the landlord no longer would probably retain taxes, I want to know, I'm just interested in finding out if in any event there is any possibility that an owner of a building will, in fact, be able to decontrol the rent in his apartment at the same time that he's receiving taxpayers' dollars through tax abatements.

SENATOR HANNON: To the extent there are tax exemptions or abatements as I've previously mentioned.

SENATOR MENDEZ: Yes. They do

not apply.

SENATOR HANNON: And -- they do not apply, but so long as they end and there is otherwise the eligibility, because there's not a general eligibility here, it's specifically designed, and it's specifically designed so DHCR will make it simple and is directed to make it simple, then they would get it, but there is not an overlap.

SENATOR MENDEZ: Thank you. Thank you, Senator.

Mr. President, I am not going to support this bill while the majority of my constituents do not live in apartments that receive tax abatement, 421-As and J.51s. However, I do have a good number of families, constituents of mine, that are living under those conditions.

I think that to think of a family of two children and a couple living in a 421 - in an apartment paying $2,000 a month thinking of them as wealthy, that -- that is a fantasy, because the -- through the taxes that are paid

by all of us in New York City and in New York State for a family of four having an income of -- a gross income of $150,000 or even $200,000 a year, the price of the 250, the decontrol, is not a lot of money when they have -- they send their kids to private schools or to public schools and they have a lot of expenses because living in New York City, which is the biggest city, is an expensive affair.

I think that, most of all, I'm very concerned and very worried that this bill affects eventually, even though we are providing four years them to have -- for the law to be in place, it will maintain a lot of people in New York City and in the suburbs in an eternal state of anxiety because at four years, maybe they're thinking, would they come for now to extract another pound of flesh, so that the security that many renters have, and the security that they have in terms of stabilized communities where they are participating and everything else, is being shattered.

I think that this is not the way

to go and rights that have been earned by groups of people after a lot of fight and concern and activities, should be -- should stay like that. This would be my money, just like the Supreme Court, Mr. President, started with the -- with the relief in the last decision on the -- on the apportionment, and the active role of the senior rights bill.

Tenants in New York City and in the suburbs have earned through hard work a right to pay adequate rent, not to be exploited, not to be harassed, and they have earned that through their activity and through our consciences, all of us, our collective conscience here that they deserve better.

So, Mr. President, I know this bill has been accepted by the -- by the Assembly, by the -- by the Senate and by the - and by the Governor, but I think it's a bad bill. It affects my constituents in a negative way and, therefore, I will not be supporting it and I hope that -- that my colleagues will have some second thoughts and not go with it.

Thank you, Mr. President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

My tenants, the tenants in my district, of course, are very relieved tonight, will be hopefully if we get to this by midnight and I'm sure we will, that rent stabilization will continue for four more years, and they have absolutely no problem with the concept that those whose incomes are in excess of a quarter of a million dollars, whose rentals are 2,000 or more, would no longer be given the kind of protection previously provided to that category.

Senator Goodman outlined to you a scenario of events and historical perspective which was both articulate and erudite, but one area he overlooked inadvertently, and I have to add that to the equation and to the problems that we do envision for all the tenants in this city of New York and in the surrounding areas who will be affected by what we do tonight, and

that is commonly referred to as the one-fortieth rule.

Now, for your clarification and understanding, by regulation, DHCR allows a landlord to take the improvements that he might provide in a given apartment that could be a stove or refrigerator, an appliance that has become defective and must be replaced, and take the value of that improvement, divide it by 40 months and add that figure to the monthly rent, in an amount that would be permanent forever, an amount on top of which regulatory allowable increases would be applied.

As an example, it doesn't take very much to go in an apartment and replace $4,000 worth of appliances. Divide that by 40 and now that tenant will pay an additional $100 per month rent, if you consider the fact that in the city of New York the average rentals are somewhere between 5- and $600, so we're talking about a 20 percent increase with that equation that I just gave you.

Now, that works by regulation; as

of this moment, it is by regulation. DHCR is in the process, was in the process of providing some degree of relief to tenants caught in that maze. The relief was put back in the form of 72 months, so the increase that I just discussed with you would be spread over a longer period of time and the impact on that monthly rent would be somewhat diminished.

That is reasonable, in my view, and should have been allowed to happen, but the bill that we are about to adopt recognizes the one-fortieth rule, thereby precluding what was to have happened by all indicators that we have at our disposal some time in October.

Now, I emphasize what I said at the very beginning, that applies to all 2 million or more residents in apartments in the city of New York. Granted, if someone is occupying an apartment and this was included and thank you, Senator Hannon, for doing that, that tenant can refuse to accept that improvement. Of course, if the refrigerator breaks or the stove isn't working, obviously such refusal

would be academic. But when that apartment becomes vacant, they can work out everything in that apartment, cabinets, stoves, refrigerators and divide that sum by 40 months and add that to the rent.

Remember, Senator told you about the horror stories back when we had vacancy decontrol. I envision the same kinds of similar problems, not the decontrolled rent, but for the one-fortieth rent increase. So while we are happy tonight that rent stabilization will continue for four years and that it will affect 99 percent perhaps of the tenants in the city of New York with regard to the threshold, the monthly rent, we are unhappy by what is about to happen in regard to this one-fortieth rule.

Thank you, Mr. President.

THE PRESIDENT: Senator Markowitz.

SENATOR MARKOWITZ: Mr. President, Senator Hannon, I know that the approach you have reached is extremely fundamentalist where you are dealing with the

tenants.

I have some remarks, the good news of why I think we're voting in the affirmative on this bill is that the great majority of the tenants in New York City and especially in the borough that I'm proud to serve in Brooklyn will be safeguarded for years because the great majority of the tenants are nowhere near the $2,000 threshold of rent, that's for sure, but tonight, I serve notice clearly on the tenant voters that what we have assumed in the past to be a secure safe rent regulation system has been opened up by our vote tonight. It's been opened up and, if this vote tonight serves the tenants to recognize that they must organize, organize, that they confront this issue in the years to come, then perhaps there is something good that happened to revitalize the tenant movement in New York City.

Secondly, as to the rule itself, I'm concerned that -- not with the multi millionaires that you want to remove from -

from the rent regulation system, although the multi-millionaire or the person who earns over $250,000 who's able to convince me that they live in an apartment under $2,000, and make no mistake there are quite a few of those people, we're not going to cut them off, but we also see under the $2,000 rent that could open the door, and my concern is not with them at all, but I do have concern that once this door is open, we're all concerned about, in fact, once the door is open, it will be our job to make sure that this door doesn't open up any wider in the future.

I think that there are things that could have been done that would have been rationally and reasonably done, good things that could have been done.

Number one, what is the relationship, Senator Hannon, between rent and services? And once you open up your mind and your intellectual ability, because I know you have it, you will recognize that as you look into the issue more about it, you will discover that higher rent does not bring better services,

that there are landlords that have rent rolls that are not as high as you would maybe like them to have and yet keep their buildings in wonderful shape. And how about the others in New York that have very high rents and keep their buildings horribly because they want to get every penny they can with no interest in providing decent services?

What about the tenants in New York City, Senator Hannon, whose incomes are moderate and who are paying more than a third of it for rent? What do we do with those people that are far more, far more in the City and state, than those that are in that upper $250,000 bracket?

There's nothing in this bill, Senator Hannon, that addresses their concerns or addresses the concerns of the deteriorated state of services of apartments in New York City.

I would hope in the last part of your bill that calls at the end of two years for the study, that we can look into these issues and other issues, for instance, the small land

lords, the small landlord who, in many cases, has a legitimate beef; landlords -- small land lords who are not sophisticated or educated, that can use some help in buying the necessi ties, and in maintaining their property, small landlords, that the state of New York perhaps should put in something insofar as helping them with the cost of heating their building, maybe providing credit for redoing their boiler systems to make their buildings more energy efficient.

These are areas that we can help the small owner in New York who, in turn, maybe would not be adversely affecting at all the tenants in the city of New York. Those are the things that I hope that we will move ahead towards the future, but for tonight, this is a bill that confronts us, Senator Hannon.

Before I complete my comments, I just want to say something else. I'm very concerned, Senator Hannon, and this doesn't only affect you, it affects the majority of all the Democrats and Republicans, the majority wish to

maintain the property value and today in New York in order to maintain the majority status, we need money. In order to even be elected here, we need money and, therefore, very often we vote on items that may be in our best inter est, something else, but because of qualifica tions and the fact that we have a philosophy that we wish to maintain that we have to be concerned with the campaign financing.

It's my hope, as I look around this chamber and listen to some of the members who are Republicans, for instance, in this house who don't represent one rent-controlled apartment, not one rent-stabilized apartment in this district, yes, have such a feeling about the future of tenants in New York City. It's my hope, Senator Hannon, for the betterment of government, Republican and Democrats, liberal and conservative, tenant, homeowner, landlord, that soon, very soon the day will come that we eliminate in our system of government private contributions to political campaigns and make all campaigns in this state publicly funded. In

this way, all of us would be free to vote what we know is right.

Thank you very much, Mr. President.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

I'm very conscious of the time in that, if we keep going on, that what we're about to do will be unnecessary.

I just want to observe that this system of our government really does work. I have a debate packet here that I think goes back six or seven years. I first introduced a luxury apartment decontrol bill six or seven years ago. I think we passed it in this chamber by 31 votes or 32 votes every year, after hours of debate.

But, Senator Markowitz, and my colleagues, let's recognize the debate for years has not been simply over rent control; it's over luxury apartment rent decontrol. There have been editorials that I will not read, but I will

relate to you, by every major newspaper in this state, and especially in New York City. Top flight rent deal of the rich and famous.

That's what this debate has been about for the last several years. So it's nice to talk about rent control for the poor, but I will state again that the poor have been subsidizing the rich for a lot of years in this state and tonight is a very happy occasion for all of the people of this state, all of the people, because it will prove that the free enterprise system, the private sector, means something to the people of this state.

So I want to commend our chair, Senator Hannon, all of the people that have worked so diligently, the Governor, the Assembly, to get us to this moment. I think it's a happy moment for all of the people of this state and I hope all of us can join in unanimously approving this legislation.

Thank you, Mr. President.

SENATOR JOHNSON: Mr. President.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Mr. President, I did want to speak on this because, first, I'd like to congratulate Senator Hannon on the job he's done. It has established the principle at least, whether it's going to affect a great number of units is questionable, but the principle that the majority of the working people in this state should not be called upon any more to subsidize the number of millionaires, of people I'm sure whose assets are in the millions, who earn a quarter of a million or more each year.

I mean people that we're protecting under this law essentially could buy two of the typical houses in my district every year with their income. I mean it's obscene to think that we should be protecting these people so that they can live in a life style that they like to enjoy but don't want to spend their own money for it. Everyone else in this state who lives in a house or whatever or a trailer on the side of a hill or a city apartment, legal or illegal, they are living in places which they

can afford and they're not asking other people in this state or the city of New York to subsidize their housing facilities.

This bill doesn't do anything about the real problem, which is the housing abandonment in New York City. 30-, 40,000 rooms abandoned year after year after year taken over by the world's largest slumlord and probably managed worse than the landlords did before. It's really obscene when you think about it that the great city of New York, built by private enterprise, by individuals, putting their own money, their own labor, their own sweat in it, to create housing facilities from which they could hopefully make a living and support their family and maybe leave to their family, are being taken over and condemned by this terrible process of rent control and the housing court which is so corrupt that they really have to destroy housing units by denying the landlord the opportunity to manage his own property, and the government has to manage it for them; and the government, of course, brings them to the

point of bankruptcy.

You know, I -- I don't know what else to say, but that the only way to really make reforms is to rejuvenate, revitalize and give permission to individuals to create wealth and to profit by that wealth and not to have the government intrude in the process and take away their wealth.

Just as the great majority of the housing units in the city were built by private enterprise and individuals over the last hundred years, they will do it again if we give them a break. Start off by scrapping rent control, tell us the property condemned in the last ten years we'll give you back your property for a reasonable price; you can charge whatever the market is, you can get more, you fix it up you can net less. The housing court won't be taking away your properties. I think you would have a great revival in the city of New York and just as a point, Senator Markowitz said something to the fact you don't have rent control, you have rent regulation, you have areas that you are

talking about.

The fact is, Senator Markowitz, that ten years ago or more, we got time, ten more years ago, when rent regulation, rent stabilization was extended to Nassau County, I personally kept it out of Suffolk County because I believe what I say, let people create housing, it will be available and competition will set the market rent.

What do you think happened, Senator Markowitz? When Nassau County went to rent stabilization all the landlords quickly condo-ed their buildings, peddled them out because they didn't want to be under rent control. In Suffolk County, more housing was built, and I almost regretted it. We have a lot more cliff dwellers in Suffolk County, which we can do without. But they're there, they're available, the landlords are providing free rent, two three months free rent if you sell a lease.

They provide a cornucopia of goods and services if you let it work. So let's

let it work, let's talk after 12:00 o'clock, watch this whole thing go down. Watch the economic revival of New York City. It will be a great thing to behold.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: I just want to say that this bill has got to be hand-carried over to the Assembly, hand-carried down to the Governor and signed by midnight and all these wonderful things are going to be for nought unless we read the last section pretty soon.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: If I may, after you call the last section of the bill, I would like to rise to explain my vote and -

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: There are a great number of problems that remain.

Senator Markowitz talked about some of the loopholes that are still there, the quarter of a million dollar a year person who can still be in a unit under $2,000. That was

part of the compromise that was made with the Assembly but that debate will continue because this bill only has the achievement of the rent level once, so we will leave these glaring examples out there, and I guess if we continue this debate, and I mean the generic debate between landlord and tenant, we will never properly address the real housing needs of New York City and, if it's a housing need of New York City, it's one for all of the suburbs which affected so many of us here.

So I start out, I conclude where I started out by saying this is the middle of the road approach. This was the compromise and the things that people complained about were something when we finally got negotiated were given up for other things. I would suggest that it's well worthy of an affirmative vote, and I would urge everybody in this chamber to do so and I couldn't close though without thanking counsel Angelo Mangia, senior analyst McGarry for what has to be 20 hours a day for the last 22 days in negotiating this bill.

Thank you.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: To explain my vote.

THE PRESIDENT: And excuse me, Senator Stavisky. It would be helpful if the negatives would raise their hand during this period of time.

Senator Stavisky.

SENATOR STAVISKY: We could have done a number of things. We could have made the extension of rent regulations permanent and we did not do that. We could have provided for a four-year extension, and we are doing that. But we're doing that at a dreadful price, which severely undermines the integrity of tenant

protection.

I think this is the first step towards statewide vacancy decontrol for those - those properties that presently give tenants protection. We're doing it a little at a time. We're doing it now under the pretext that we're decontrolling luxury apartments, but it's either or.

Nobody would object to the decontrol of apartments of people who were earning a quarter of a million a year or more. Nobody is arguing that, but there are people living in apartments where the rents have risen and where there are multiple individuals sharing the rents and their incomes are not a quarter of a million. We are also gutting the legislative procedure with a $5 penalty for a landlord failing to register the apartment in a timely manner. I think that's obscene.

We're doing other things with this legislation. We're making it possible. I'm explaining my vote, Senator Hannon. I do not -

SENATOR HANNON: Two minutes, only in the interest of meeting the 12:00 midnight deadline.

SENATOR STAVISKY: I will do that. For the reasons that Senator Padavan cited, the ability to put into statute, proceedings for improvement increases that are now on the verge of being negotiated by the regulatory agency is a mistake and then to assume that we're going to get an honest count on whether people really do exceed the maximum allowable income, I must tell you, we have this in other types of housing and there has not been -- there has not been -

THE PRESIDENT: The chair will advise -

SENATOR STAVISKY: I am coming to a conclusion. There has not always been a timely response from the agencies involved. For these reasons, because I don't want to see rent regulations unravel in this piecemeal manner, I think that we should reflect carefully and I wish to be recorded in the negative.

THE PRESIDENT: Senator Stavisky votes no.

Senator DeFrancisco is recognized to explain his vote.

SENATOR DeFRANCISCO: To explain my vote.

I know everybody is anxious, but some people are voting no this evening who spoke for at least 45 minutes on this issue, and I think I can have a minute to explain my vote.

I've been amazed at the debate on this particular bill. The concept that the rich landlords are being protected by this side of the house is absolutely unbelieveable to me when all that's happening is those who have an adjusted gross income of more than $250,000 no longer get a $2,000 a month apartment. It's unbelieveable to me that we would be accused of being the side of the house that are protecting the rich.

This concept of people speaking in the galleries and singing of the rising rents, but I just want to make one thing clear,

no one is going to be hurt by this bill other than those who should be hurt by this bill and lastly, those that are worried about this $250,000 adjusted gross income, don't worry because the income of your maids will not be included in your $250,000 computation, so to suggest that we did anything to hurt the people who truly need rent control is ridiculous and those who are voting no in protest of this bill are truly voting no in honesty to protect those individuals who have incomes above $250,000, which is ludicrous.

I vote yes.

THE PRESIDENT: Senator DeFrancisco votes yes.

SENATOR GOLD: Results.

THE PRESIDENT: The clerk will call -- Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1668 are Senators Goodman, Halperin, Leichter, Mendez, Ohrenstein, Padavan and Stavisky. Ayes 51, nays

7.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, could we return to reports of standing committees.

THE PRESIDENT: The chair will observe that the Senate has been in excellent order tonight for an evening like this, and I hope that it continues because it will expedite the proceedings and allow each Senator to be heard. We will return to reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Director of Rural Affairs, June F. O'Neill of Canton.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Mr. President, I rise in support of the nomination of and confirmation of June O'Neill as the Director of Rural Affairs this evening.

First, it's my pleasure to acknowledge that June is a resident of my district residing in Canton in rural northern New York. Equally important, June has served in excess of the last five years in the office of Rural Affairs, first having served as its deputy director and most recently serving as the acting director since 1990.

In my capacity previously in local government, I've had the occasion to work in those rural counties and to have the opportunity to work with June O'Neill representing the interests of the rural areas, and I can attest to the fact that she has proven to be a very effective advocate on behalf of the rural constituency and rural communities of this state.

I look forward with great pleasure to June serving as the next Director of Rural Affairs, and I am sure that she will serve the people of rural New York as well as all of New York State well in that capacity.

It's a privilege to support and

pursue the nomination this evening and equally to personally extend my congratulations and best wishes to June, and I look forward to working with her during her tenure.

Thank you.

THE PRESIDENT: Senator Cook.

SENATOR COOK: Mr. President, I also want to congratulate June O'Neill. We've had an excellent working relationship between the Commission on Rural Resources and her office since the time that she's been head of it, and I look forward to continuing that fine relationship.

THE PRESIDENT: Senator Sears.

SENATOR SEARS: Thank you, Mr. President.

I, too, would like to second the nomination of June O'Neill to be the Commissioner or the Director of Rural Affairs. In the short time that I've been in the Senate, June, as you know, you and I have a great relationship, but I've certainly enjoyed working with you, and I thank you for all the help

you've been to me and my office, and I certainly look forward to continuing our good relationship and I know that you will continue to do just a fine job.

Congratulations, and it's my pleasure to second the nomination.

THE PRESIDENT: The question occurs -

SENATOR STAFFORD: Mr. President.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: As the nominee who has served at length already in the office mentioned and pointed out today, she is a rural resident, and that's her own decision. She mentioned she went to school in New York City, also Long Island, now lives in St. Lawrence County. I assure you St. Lawrence County is not an urban area. It's a rural area and that we're very pleased to support June for this office.

THE PRESIDENT: Question occurs on the confirmation of the nominee. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. June F. O'Neill of Canton, as Director of Rural Affairs. Congratulations.

(Applause)

THE SECRETARY: Also the nomination of Frank N. Cuomo of Snyder as member of the State Liquor Authority.

THE PRESIDENT: Question occurs on the confirmation of the nominee.

SENATOR MARKOWITZ: Mr. President.

THE PRESIDENT: Senator Markowitz.

SENATOR MARKOWITZ: Yes, I just certainly want to commend Mr. Cuomo on his reappointment, but also to really explain that I hope that next legislative session that the Senate will begin a thorough review of the SLA, its practices, whether or not we have in terms of budget, slashed them so badly that they're

unable to fill their mandate currently and increasingly so, especially in New York City with the problems of after hour clubs, illegal sales of liquor, drug activities going on in liquor establishments and some practices of the SLA, which I think the sunshine, the light, has to come in.

And so, Mr. Cuomo, I wish you well on your reappointment, and I hope that you will lend assistance to those of us in the Senate that are truly concerned that the SLA receive its full funding as it had years ago and that its mandate which increases day by day could be met a hundred percent enthusiastically.

Thank you.

THE PRESIDENT: Senator Sheffer.

SENATOR SHEFFER: Mr. President, I'm delighted to urge the reappointment of Frank Cuomo. He is a person in which our community takes great pride, not only for his work on the board, but for many decades of work in the community, and it's with great pleasure and

pride that I urge his renomination, his confirmation, to the Senate.

THE PRESIDENT: Question occurs on the confirmation of the nominee. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

THE PRESIDENT: The ayes have it. The nominee is confirmed.

Senator Present.

SENATOR PRESENT: In behalf of Senator Marchi and Senator Stafford, I'd like to announce an immediate meeting of the Judiciary Committee in Room 332.

THE PRESIDENT: Immediate meeting of the Judiciary Committee. And congratulations Frank N. Cuomo of Snyder for your reappointment to the State Liquor Authority.

Secretary will read.

THE SECRETARY: The nomination of Henry P. Flinter of Rockville Centre as Inspector General of the office of the

Metropolitan Transportation Authority Inspector General.

THE PRESIDENT: Question occurs on the confirmation of the nominee. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. Henry P. Flinter of Rockville Centre, Inspector General of the office of Inspector General, Metropolitan Transportation Authority.

THE SECRETARY: Member of the state Commission of Correction, Edmund B. Wutzer of Loudonville.

THE PRESIDENT: Senator Nolan.

SENATOR NOLAN: Like to move the nomination of Ed Wutzer, constituent of mine, long-time friend. Ed has been over 33 years in the field of probation, correction and from 1985, he has been the Director of New York State Division of Probation and Correctional Alternatives. Ed Wutzer is certainly an out

standing nominee by the Governor to be a member of the state Commission of Corrections, has wide experience in the field of Penal Law, probation, makes him one of the really truly best appointments that I've seen in a long time in terms of this whole area.

So it's with a great deal of pleasure that I move the nomination of a truly outstanding public official, a resident of Albany County, Ed Wutzer.

THE PRESIDENT: Question occurs on the confirmation of the nominee. All those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominee is confirmed, Edmund B. Wutzer of Loudonville, a member of the state Commission on Corrections. Congratulations.

THE SECRETARY: Member of the state Board of Parole Maria R. Buchanan, of Staten Island; S. Earl Eichelberger, of

Guilderland; Israel Gonzalez, of Rochester; George S. King of Clifton Park; Julian P. Rose, of Armonk, and Anthony K. Umina, of Delmar.

THE PRESIDENT: Question occurs -- Senator Mendez.

SENATOR MENDEZ: Mr. President, I really want to move the renomination of Carmen Buchanan and Mr. Gonzalez for the Parole Board. Carmen Buchanan has been serving in the Parole Board since 1981. She's done an outstanding job and she will keep doing that once all of us make certain through our votes that she's confirmed.

Mr. Gonzalez has been serving just for a while, but he has an extensive career in -- in -- in criminal justice and he is understandable of the problems and the tasks to be done in the Parole Board, so I move also his nomination.

Thank you.

THE PRESIDENT: Senator Nolan.

SENATOR NOLAN: Like to second the nomination of the -- of the people who were just nominated and particularly like to

congratulate S. Earl Eichelberger, Anthony Umina, who are residents of Albany County, and George King, who is almost a resident of Albany County, in Clifton Park, and who used to be a resident of Albany County and who is a long time friend.

Certainly a great honor, locally here to have three such distinguished citizens of the Capital District to be named as members of the state Board of Parole, and I'm very happy to second their nominations.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I only have one person that I would single out. I don't have three from my area, but I think my one has probably more years in the field than perhaps any other three, and I'm speaking of Julian Rose, who comes from Armonk which is in my new area, and for him I think about 37, maybe 38 years have been spent in the field of parole work, and I think that certainly shows the dedication to the field. I note also that we

have master's from the same alma mater, Columbia University, and I wish you well in the continuation of the work that you've been doing so well for these many years.

I second your nomination.

THE PRESIDENT: The question occurs on the confirmation of the nominees. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed. Congratulations to the members of the state Board of Parole.

THE SECRETARY: Member of the Public Employment Relations Board, Pauline Kinsella, of Niskayuna.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

It's with a great deal of pleasure that I nominate Pauline Kinsella of Niskayuna, my constituent and friend. Pauline

is truly a remarkable person, a distinguished lawyer, mother of five children, graduate of Brown University and Boston University School of Law, member of the Massachusetts bar, New York bar, also U. S. District Courts and the U. S. Court of Appeals.

Pauline serves as a member of the -- this is a reappointment -- a member of the Public Employees Relations Board which is so terribly important to so many members of this chamber. She's done an outstanding job. She is also married to a very fine lawyer by the name of Donald Kinsella, who is also a good friend and has had a distinguished career in the legal profession.

Pauline is truly "wonder woman" and totally impressed the Finance Committee, and I apologize for not being there but I had a bill on the floor that was due to expire also, but it's with pleasure that I move the nomination of Pauline Kinsella.

THE PRESIDENT: Question occurs on the confirmation of the nominee. All those

in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominee is confirmed. Congratulations to Pauline Kinsella, of Niskayuna, as a reappointment as a member of the Public Employment Relations Board.

(Applause)

THE SECRETARY: Member of the Advisory Council on Agriculture, Frances M. Moore, of Malone, and Charles E. Wille, of Montgomery.

THE PRESIDENT: Question occurs on the confirmations of the nominees. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

THE SECRETARY: Member of the New York Job Development Authority, Jeffrey M.

Bernbach, of Scarsdale, and William E. Towne, of Gloversville.

THE PRESIDENT: Question occurs on the confirmation of the nominees. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

THE SECRETARY: Member of the Dormitory Authority, Laura Bongiovanni, of Syracuse, and William D. Hassett, Jr., of New York City.

THE PRESIDENT: Question occurs on the confirmation of the nominees. All those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

THE SECRETARY: Member of the

state Council on the Arts: Lo-Yi Chan, of New York City; Ruth W. Houghton, of New York City; Peggy L. Kerr, Esq., of New York City; Richard W. McGrath, of Rochester; Judith O. Rubin, of New York City; Hale Smith, of Freeport.

THE PRESIDENT: Question occurs on the confirmation of the nominees. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

THE SECRETARY: Member of the Port Authority of New York and New Jersey, James G. Hellmuth, of Lawrence; George D. O'Neill, of Oyster Bay; Melvin Schweitzer, Esq., of Manhattan.

SENATOR LACK: Mr. President.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Yeah, Mr. President. I rise briefly to second the nomination of Melvin Schweitzer as a member of

the Port Authority of New York and New Jersey. Mel Schweitzer, who was here earlier this evening, is a 25-year standing friend of mine. We graduated from law school together. I went on to the Senate; he went on to become one of the senior partners of the law firm of Rogers & Wells in Manhattan.

He has distinguished himself as a very well known bond counsel for the last 20-odd years. He is currently underwriter's counsel for all negotiated sales of bonds and notes for the city of New York. He has served in the same capacity for the cities of Buffalo and Yonkers in New York State. He has worked on financing of airports, toll roads, resource recovery facilities, colleges, universities, student loans, health facilities, economic development projects and a whole host of others, not only in the United States but indeed around the world.

He is an outstanding and more than qualified appointee, and I congratulate the governor for appointing him to the Port Authority of the states of New York and New

Jersey. He, in that fiduciary responsibility as a member of the board, will be able to have complete understanding of the matters that, and the very weighty matters that come before the Port Authority.

I wish Mel a lot of luck in a position that pays him no compensation, but for which he is very aptly serving all the people of the state of New York.

I move the nomination, Mr. President.

THE PRESIDENT: Question occurs on the confirmation of the nominees. All those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

THE SECRETARY: Member of the New York State Thruway Authority, Nancy E. Carey, of Albany, and William C. Warren III, of Pittsford.

THE PRESIDENT: Question occurs on the confirmation of the nominees. All those in favor, say aye.

(Response of "Aye.")

THE PRESIDENT: Senator Nolan.

SENATOR NOLAN: Yes, just like to -- I don't see Nancy up there, but I'd like to congratulate the Governor on naming Nancy Carey, daughter of our former distinguished Governor Hugh Carey, as a member of the New York State Thruway Authority.

She certainly is an outstanding person. She, I know, will do a great job in helping run that and give direction to that august body; so it's with a great deal of pleasure that I move the nomination of Nancy E. Carey.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, I rise to second the nomination of William Warren

as member of the Thruway Authority. Mr. Warren, from the Rochester area, has been a stellar contributor to the issues of transportation across New York. He has served as a president of the Monroe County Automobile Association, as a director of Genesee/Finger Lakes Highway Users Council, has been a director of the statewide AAA. He has been very active in the community.

I'm confident that he will provide a tremendous input to the newly revised and renovated Thruway Authority.

Thank you, Mr. President.

THE PRESIDENT: Question occurs on the confirmation of the nominees. All those in favor will say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

THE SECRETARY: Member of the State Racing Commission, Robert W. Lee, of Gansevoort.

THE PRESIDENT: Wait, we have a comment on this one. We are going to go through all the rest of the nominees and anyone who wishes to speak on any of them can at the end of the list.

THE SECRETARY: Member of the Long Island State Park Recreation and Historic Preservation Commission, Edward P. Kane, of Rockville Centre;

Member of the State Board for Historic Preservation, Mary B. Hotaling, of Saranac Lake;

Member of the Industrial Board of Appeals, Miguel A. Gonzalez, of Brooklyn;

Member of the Board of Trustees of the State University of New York, Richard A. Berman, of Rye;

Member of the New York State Hospital Review and Planning Council, Deborah E. Bell, of New York City; Pamela S. Brier, of New York City; Robert L. Popper, of Armonk; Anthony Tartaglia, M.D., of Delmar, Melvin H. Worth, Jr., M.D., of Staten Island;

Member of the New York State Employment Relations Board, George C. Sinnott, of Baldwin;

Member of the New York State Olympic Regional Development Authority, Edwin H. Weibrecht, of Lake Placid and William C. Ughetta, of Corning;

Trustee of the Power Authority of the state of New York, Linda P. Duch, of Williamsville; Thomas R. Frey, of Rochester, and Robert Waldbauer, of Patchogue;

Member and chairman of the Empire State Plaza Art Commission, Barnabas McHenry, of New York City;

Member of the Empire State Plaza Art Commission, Jonathan Dale Farkas, of New York City;

Member of the Adirondack Park Agency, Richard Lefebvre, of Caroga Lake; John K. Ryder, of Diamond Point; Barbara Sweet, of Newcomb;

Banking member of the State Banking Board, Gonzalo De Las Heras, of New York

City; Salvatore Marranca, of Little Valley;

New York State Public Transportation Safety Board, Walter George Rich, of Cooperstown;

Member of the New York State Housing Finance Agency, Jerome M. Becker, Esq., of New York City;

Director of the state of New York Mortgage Agency, Jerome M. Becker, of New York City;

Member, Ogdensburg Bridge and Port Authority, Frederick J. Carter, of Ogdensburg; William R. Greene, of Waddington, and Patrick E. Hackett, Sr., of Ogdensburg;

Member of the Board of Visitors of the Binghamton Psychiatric Centerr, Joseph G. Slavik, of Endwell;

Member of the Board of Visitors of the Bronx Children's Psychiatric Center, Barbara C. May, of the Bronx; William Moore, of the Bronx, and Harriet Parness, of the Bronx;

Member of the Board of Visitors of the Capital District Psychiatric Center,

Kenneth Bitter, of Glenmont;

Member of the Board of Visitors of the Creedmoor Psychiatric Center, Joel A. Miele, of Howard Beach;

Member of the Board of Visitors of the Kingsboro Psychiatric Center, Maralyn Lowenheim, of Brooklyn;

Member of the Board of Visitors of the Kings Park Psychiatric Center, Harriet Loshin, of Melville;

Member of the Board of Visitors of the Manhattan Psychiatric Center, Orville N. Greene, of New York City;

Member of the Board of Visitors of the Mohawk Valley Psychiatric Center, Josephine M. Alexander, of Whitesboro;

Member of the Board of Visitors of the Queens Children's Psychiatric Center, Hortensia R. Stoyan, of Bayside;

Member of the Board of Visitors of the Richard H. Hutchings Psychiatric Center, Nancy E. Kroot, of Cortland;

Member of the Board of Visitors

of the Sagamore Children's Psychiatric Center, Grace E. Clench, of Brentwood;

Member of the Board of Visitors of the Bernard M. Fineson Developmental Disabilities Services Office, Ben Hickman, of Laurelton;

Member of the Board of Visitors of the Bronx Developmental Disabilities Services Office, Al Agovino, of the Bronx, and Rita J. Haahn, of the Bronx;

Member of the Board of Visitors of the Brooklyn Developmental Disabilities Services Office, Ramon Raimundi, of Brooklyn;

Member of the Board of Visitors of the Long Island Developmental Center at Melville, James Stringfield, of North Babylon;

Member of the Board of Visitors of the Manhattan Developmental Disabilities Services Office, Dawn Marie Hazelhurst, of New York City;

Member of the Board of Visitors of the Monroe Developmental Disabilities Services Office, Nelli Louise Mitchell, M.D., of

Rochester;

Member of the Board of Visitors of the Oswald D. Heck Developmental Disabilities Services Office, Marshall G. Jones, Ph.D., of Scotia; Linda S. Rippel, of Scotia;

Member of the Board of Visitors of the Westchester Developmental Disabilities Services Office, Thomas J. Scott, of Goldens Bridge;

Public member of the Banking Board, Lynn Hecht Schafran, Esq., of New York City;.

Member of the Board of Visitors of the New York Convention Center Operating corporation, Gary K. Levi, of Port Washington;

Battery Park City Authority, Herbert Bernette Evans, of Yonkers.

THE PRESIDENT: Senator Cook.

SENATOR COOK: Mr. President, could not be a more ideal nominee for the state Public Transportation Safety Board than Walter Rich. Walter is a pretty unique individual because at the time when people in this country

were despairing of the future of railroads, Walter indeed went in hands-on and got into the railroad business, and is the only person I ever knew or ever heard of who founded a railroad. And indeed he has a very successful railroad, a couple of them.

In 1971 he founded the Delaware Otsego Railroad Corporation and in 1981 he founded a subsidiary, the New York, Susquehanna and Western Railway. The New York, Susquehanna and Western actually operated the Delaware and Hudson Railway under emergency orders from the Interstate Commerce Commission for about 18 months.

So Walter had quite a responsibility even in this community at that time until that property was sold to the Canadian Pacific.

He is a member and past chairman of the Eastern General Managers' Association, where he worked to improve rail safety, organizing numerous industry seminars on the subject. In 1972, he was named by

Transportation Commissioner Parker to a committee to re-evaluate the Public Service Law as it applied to railroads.

He and his wife Karen and their two children, Stephanie and Derrick, reside at One Lake Street, Cooperstown. Unfortunately, Senator Seward took that part of the district from me a few years ago so they're no longer my direct constituents, but they are people whom I've known, both Walter and his parents, for a good number of years.

Very pleased that the Riches are with us today, and that I'm able to be here to be a part of the appointment of what I think is a very, very well qualified individual to this board.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: May I interrupt this proceeding and announce that there will be an immediate meeting of the Rules Committee in Room 332.

THE PRESIDENT: Immediate meeting of the rules Committee.

SENATOR STAFFORD: Mr. President.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Senator Cook stood up before me, and he said it much better than I can say it, so I'll just second what's been said so well, but I would just like to emphasize that Walter Rich kept the New York - excuse me, I was going to say New York Central, Walter -- kept the D. & H. going for over a year when it was going to be shut down, which would have been a complete disaster for our paper mills and for many other services including - including AMTRAK, and I believe I'm correct here and Walter can correct me afterward, but he really got his interest in railroads when he was working here in the Legislature. That was a long time ago, and then he became, you know, very, very successful and, as has been stated, there could be no better appointment, and I would mention that and point out that Walter and Karen are sitting over at the right in the chamber.

SENATOR SEWARD: Mr. President.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Both Senators Cook and Stafford have spoken very well on the nominee, but I also would be remiss if I did not stand and also second the nomination of Walter Rich as a member of the New York Public Transportation Safety Board.

As had been stated, Walter has been involved in railroad and transportation issues literally his entire adult life, as has been stated, starting a railroad and building it into one of the premier short line railroad systems in New York and indeed the United States, the Delaware Otsego corporation, which is based in Cooperstown in my Senate District.

He not only is a successful businessman but has a great love of railroading and transportation issues, and I know that he will make an outstanding contribution as a member of the State Public Transportation Safety Board.

And I'm pleased to rise and

second his nomination. And I would ask, Mr. President, that you offer the congratulations of the house at the appropriate time.

THE PRESIDENT: Senator Stachowski.

(There was no response.)

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, actually, I have a question for Senator Stafford because he's the chairman of Finance, on the appointment of Mr. Lee for the State Racing and Wagering Commission, and maybe -- can we do this real quick?

If you would yield for a question, and my question has got nothing to do with the appointee, Mr. Lee. I'm aware that the appointee is a resident of Saratoga County, and his Senator told me he is a wonderful man, and I understand he is a Majority Leader's appointment, and the other interesting part of that was that Senator Bruno informed me that he is a Democrat, I think, which just shows you the openness of the Majority Leader.

But my question is the process through which the New York State Racing and Wagering Commission would come to the Finance Committee is that where the nomination comes direct? Because I know a lot of other nominations go to a committee first and then come to the Finance Committee. I know that racing bills in the Senate are dealt with first with the Racing Task Force which is made up only of Majority members, which for an inquiry that's so important to the state of New York you would think that there would be some Minority members, since a large number of us are not only interested in racing but also have tracks in their area.

So my question to Senator Stafford is -

SENATOR LIBOUS: Mr. President. May I have a point of order?

THE PRESIDENT: If Senator Stachowski will suspend for a moment.

Senator Libous will state his point of order.

SENATOR LIBOUS: Is there not a nomination on the floor at the present time?

THE PRESIDENT: There are a number of nominations on the floor. The Chair stated at the outset of those nominations that we would allow nominating speeches, seconding speeches and discussions, at the end of reading all of those nominees. I tried, frankly, to recognize people if I had an idea they were speaking on one nominee, but I don't always know.

And so now I'm following the order in which people asked for recognition.

SENATOR LIBOUS: Thank you, Mr. President.

SENATOR STACHOWSKI: Actually, I would have been finished already with the question and Senator Stafford knew what the question was, just so you know.

So the question is how do we get these nominations, and hopefully some day since there is such an interest and since it is such an important industry that we would either make

the task force bipartisan or we would put horse racing issues back in some committee, because the Assembly considers it important enough that they have a committee process still, and I know that Rules sees the bill and technically that qualifies it, but could you just tell me how the appointments now come when we have a nomination? Because I know how the bills come.

SENATOR STAFFORD: They come the way the bills come. I mentioned before that I certainly will continue to talk with you on the subject. It's a point very well taken. You have been very patient. You mentioned this two to three to four years ago. I would suggest that we sit down, we get a meeting, and do what we can.

But it is a good appointment; and, of course, this is the way it has been done, and as I have always said, I'm open for discussion.

THE PRESIDENT: Senator Dollinger, did you want recognition?

SENATOR DOLLINGER: If other

speakers would like to address the nominee that Senator Seward and Senator Cook moved, I will waive to them. I assume that's what Senator Libous had risen to.

THE PRESIDENT: Any other Senator wish to speak?

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. I rise to echo the sentiments of Senator Cook, Senator Stafford, and Senator Seward in support of my good friend of over 20 years, Walter Rich. Walter, as has been stated, is an entrepreneur in the field of transportation that means jobs to New York State throughout our history, and he has added to that legacy.

I have been honored to work with Walter in Washington when I served as counsel to the committee that wrote transportation and railroad law, in my capacity as ranking member for six years of the New York State Assembly Committee on Transportation, and now to see his nomination as I serve in the Senate.

His nomination is a very, very good one, and one that I'm sure all New Yorkers will be very proud.

Thank you, Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, I too would like to rise to second the nomination of Walter Rich to the Transportation Safety Board. I have had the pleasure and privilege of working with Walter for the past couple years. I think he brings a great dimension to this board. Not only is he a very successful business person, but he also cares a lot about this state and cares about his community.

He is always working to promote economic development, and he is always promoting the betterment of New York State.

So, Mr. President, it is a great pleasure and honor for me to second his nomination this evening.

THE PRESIDENT: Is there any

other Senator that wishes to speak with regard to Mr. Rich?

(There was no response.)

Then I will recognize Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I just rise -- it turns out there's a bevy of nominees from my Senate District, and I would just like to address them all in sequence.

First of all, I was remiss by not being here to praise Israel Gonzalez, who has been reappointed to the state Parole Board. Israel did wonderful work in his capacity as Director of the Youth Department in the county of Monroe. When I was a member of the county legislature, I had the privilege of working with him on a number of issues involving youth, and I think he brings an interesting perspective of the young person and the young adult to the state Parole Board.

Richard W. McGrath, who has been nominated for a position on the State Council on the Arts. I also know Richard McGrath. He is

the former and I believe and still the president of the Bucket Dance Theatre, internationally acclaimed, from Rochester, New York. I think he'll bring a new and exiting perspective to the State Council on the Arts.

Next gentleman, who has been nominated to the New York State Thruway authority is also a friend of mine, someone I have known for about 30 years, and that's William C. Warren III. Bill and I had a parting of the ways when we went different ways. Bill, as most of my colleagues on the other side of the aisle know, is a good and loyal Republican, a former member of the Brighton Town Board, an entrepreneur, a businessman, currently I believe the treasurer of the Monroe County Republican Party, but a very good man with a very good sense of what to do in construction and in the business field, and I think he will be a welcome addition to the New York State Thruway Authority.

The next gentleman on the list is also a friend of mine, a name who comes to this

Legislature with other credentials. That's Thomas R. Frey, a former member of the New York State Assembly, a member of the Board of Regents and, most recently, the Monroe County Executive. I think Tom will be a very welcome addition to the New York State Power Authority.

And the last person on the list is the member of the Board of Visitors of the Rochester Psychiatric Center, a reappointment of Nelli Louise Mitchell, M.D. Although I don't know her personally, I have received several letters commending her for her past service.

And I enthusiastically endorse all of these nominees, Mr. President, and hope that my colleagues will concur.

Thank you.

THE PRESIDENT: Senator Markowitz.

SENATOR MARKOWITZ: Thank you, Mr. President.

I'm very proud among all of the nominees today to speak for Maralyn Lowenheim, who I have known for most of my adult life.

Professionally, personally, communitywise, she is superb, a well qualified CSW and a therapist extraordinaire.

She is certainly one of the leaders in her field, a resident of the Fisk Terrace community of Brooklyn. She has served all of these years on the Kingsboro Psychiatric Center Board of Visitors. She does so with love and compassion for those who are mentally retarded and who need help so desperately from this state institution.

And I commend her for her desiring to continue to serve the people of New York.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Mr. President, I rise in support of the nomination of the three reappointments to the Ogdensburg Bridge and Port Authority, Frederick J. Carter, William R. Greene, and Patrick Hackett. These three individuals are being reappointed, currently serving as members of the Bridge and Port Authority, and it is this Authority that has

helped revitalize the economy of the North Country in the Ogdensburg area and oversees not only the bridge, port, rail and airport facilities in that area but also the expanding and growing industrial park.

And I'm particularly pleased that the three nominees are representative of the diversity that we have on that board. Mr. Carter being a recognized leader in local labor, Mr. Greene being a locally elected public official and Mr. Hackett being a very successful private businessman.

Thank you, Mr. President.

THE PRESIDENT: The question occurs on the confirmation of the nominees.

All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The nominees are confirmed. Congratulations to all of these nominees and especially to Walter Rich of Cooperstown as a member of the New York State

Public Transportation Safety Board.

(Applause)

The Chair only said especially because Walter Rich is here. If there is anybody else here, I apologize.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up Calendar 1584 at this time?

THE PRESIDENT: Secretary will read. It's on page 27.

THE SECRETARY: On page 27 of today's regular calendar, Calendar Number 1584, by Senator Larkin, Senate Bill Number 6129, Real Property Tax Law, in relation to the assessment of special franchises.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is

passed.

SENATOR LEVY: Mr. President.

THE PRESIDENT: Senator Levy.

SENATOR LEVY: Yes, Mr. President. I was out of the chamber when we took up the confirmation of the nomination of Walter Rich, and very, very briefly I would like to be heard on this important nomination of the Governor.

I want to congratulate the Governor on the nomination of Walter Rich. The Transportation Safety Board has really played a vital role in this state, and I think that the work of the board will be immeasurably advanced by having on that board a successful business man, a railroad person, like Walter Rich.

This is really important because Walter Rich would not be a successful businessman and railroad person unless he ran his railroad safely and his employees operated safely. That's why he is a successful businessman, and I think that this board which does so much important work will move forward

immeasurably with Walter Rich's special knowledge, his special expertise, his special experience.

And he is a vital addition to this board and its future work, and I congratulate the Governor on the appointment, and Walter.

SENATOR SPANO: Mr. President.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: I'd like unanimous consent to be recorded in the negative on Calendar 1669.

THE PRESIDENT: Without objection, so ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, return to reports of standing committees.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Senator Marchi, and Senator Stafford, on behalf of the Committee on Judiciary, report the nomination of Christopher John Mega as a judge of the Court of

Claims.

THE PRESIDENT: Senator Cook.

SENATOR COOK: Mr. President, could we have some order, please.

THE PRESIDENT: There will be order in the chamber.

SENATOR COOK: Mr. President, it's never easy to say farewell to a friend, but I will not blemish this occasion by dwelling on the negatives because this is a happy occasion. It's a happy day for Chris Mega and for Madelyn, for their family, because it crowns a magnificent career of public service with a fitting tribute to Chris' ability.

It's a happy day for the state of New York because it places on the bench a fine and dedicated person of great intelligence and talent.

It's a happy day for the Senate because one of our own is being recognized for the great competence that he has demonstrated so often and so well during his time in our midst.

Stating Chris' qualifications in

this chamber is somewhat like introducing someone to his own brother, but I think it is appropriate that some of those facts from his resume be spread upon the record of the house.

Chris is one of that minority of people who have lived his entire life in the community where he was born, a son of whom Brooklyn can be justly proud.

He married Madelyn Friscia, a neighbor in the community, and they have been blessed with one of those marriages which has carried out all of the dreams and expectations is of those initial first vows.

His commitment and identity with strong family life has been a motivation and a result of the ideal family relationship with their children, Chris and Jeff, Valerie and Jackie.

Chris' sense of personal discipline and commitment to duty was reflected in his Army service from 1953 to 1955. Graduated from St. Francis college in 1950, Brooklyn Law School in 1953, was admitted to the

bar in 1955.

Chris has had a varied law career, first as an insurance claims investigator and claims manager and later in private law practice.

All of us can attest to Chris' distinguished service in the Senate since 1978 as can many of us who remember his fine reputation even as he came here as a freshman in the Assembly in 1974. He has served with distinction as the chairman of the Committees on Veteran Affairs, Ethics, and Crime and Corrections, but he really hit his stride since becoming chairman of the Judiciary Committee in 1990. More than once, he has been complimented on this floor and off this floor for the exceptional manner in which he has discharged his duties as chairman of that committee.

In one sense, it's unfortunate that Chris will be hearing primarily civil cases, because that position will not fully take advantage of his great attributes of compassion, of caring, and a deep sense of justice. But we

will have the knowledge that there is being placed on the civil bench a judge of unwavering integrity and deep intellectual honesty.

Mr. President, it is my proud honor to move the confirmation to the Court of Claims of my close friend, confidante and counselor, the already very Honorable Christopher J. Mega.

THE PRESIDENT: Senator Waldon.

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

So many years ago when I was in the Assembly, we had occasion to have a discussion in the conference room of the Assembly on some issues dealing with probation, parole and correctional services. That was the first time that I personally met Chris Mega.

Those who were of a more liberal persuasion were very distressed at some of the things that Chris said during his presentation, and afterwards they tried to persuade me to be confrontational with Chris Mega. But I had realized that even though a neophyte in terms of

politics in these august halls that you don't criticize a colleague simply because he may have a different political philosophy on a particular issue than yourself.

But from that moment on, through the years in the Assembly and my years here in the Senate, I have learned to respect Chris Mega for a whole host of reasons. I have learned to admire him for a whole host of reasons.

One, he is extremely honest. He is a man of conviction and he speaks his mind, not that all of us don't do that. I'm sure we do, but I just happen to notice it more about Chris than some others.

He is a person who you can work well with. He has a good temperament for what I believe the judiciary mandates and requires.

So I applaud him in his success. I'm very happy for him. I applaud his family. I applauded the process that would allow one of us to emerge to be a jurist on the Court of Claims.

I wish him well. I know he is

going to do one heck of a job.

Thank you very much, Mr. President.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is a somewhat bittersweet moment for those of us who know and bear great affection for Chris and for his family. I have known Chris, oh, probably for some ten or eleven years now. We've been sort of regular breakfast buddies along with Senator Cook, and I have to tell you that he's an extraordinary human being.

At times I find myself telling Chris that his demeanor, the real Chris is somewhat belied by that guy from Brooklyn character. He is actually one of the most gentle and considerate and empathetic people that I've ever had the good fortune of knowing.

But when I came to this house, I got to see a dimension of Chris that as a breakfast buddy and as an Assemblyman I really

didn'thave the opportunity to actually come to know, and that was the kind of respect that he earned as the chairman of the Judiciary Committee, the ability he had to cut to the heart of issues, the ability that he had to basically, through the very nature and force of his character, to get to the quick and get there in an appropriate fashion.

Chris is not the kind of guy who is big on window dressing or B.S. He is the kind of guy who is truly by every stretch of the imagination a very fine and extraordinarily capable individual, a man who is judicious by his very nature.

I think we will be very, very fortunate to have Chris, Senator Mega, make that transformation from this chamber to the bench. I will miss his cameraderie, his friendship. I will miss his intellect. I will miss his advice and counsel. Notwithstanding that, I'm happy for him; I'm happy for Madelyn. It's something I know he's yearned for, for quite some time. It's something that he's earned in every sense

of the word, and I think the quality of justice in this state much like the quality of legislation in our chamber will be enhanced by his going to the bench.

Chris, God bless. I wish for you and Madelyn whatever it is that I would wish for myself and my wife.

THE PRESIDENT: Senator Marino.

SENATOR MARINO: Mr. President, I am just delighted this evening to see my friend, Chris Mega, acquire a judgeship which he has sought for many years. Not only has he sought it but his wife I think even more so to try to get him home in Brooklyn.

And I just hope that he is going to enjoy his new vocation. That he is going to be a great Court of Claims judge, I'm sure of that. There is no question about his ability as an attorney and as a person with judicial temperament.

I personally am going to miss Chris, because he is one of my closest friends in this chamber and I miss his kidding around

with me, his sense of humor. He has a great sense of humor, as we all know.

He's been not only a talented Senator who has done a terrific job as chairman of Judiciary on behalf of the people of this state, but an excellent lawyer who has proven his ability as an attorney not only in his private practice but up here in Albany with the very difficult and technical work he has done as chairman of Judiciary.

Chris Mega has been totally loyal to me as Majority Leader, and I thank him for that loyalty. It's been well received, and I haven't had that always from all corners of this room. I respect loyalty. I respect Chris Mega. I hope that his ascending the bench doesn't mean we're not going to see as much of him. I hope that I personally will be afforded the opportunity to meet with he and Madelyn and the family quite often and that this choice is a good choice, Chris; that it's something you are going to be happy about and that you and Madelyn and the rest of the family will enjoy many years

of good health, and we wish you well.

THE PRESIDENT: Senator Markowitz.

SENATOR MARKOWITZ: Thank you very much, Mr. President.

During the height of the popularity of Ronald Reagan and to a lesser degree George Bush, if you ask the people of Brooklyn who their favorite Republican was, it was neither of those two. It was Christopher Mega.

I'm proud to -- really proud, happy for him, because so many of us in Brooklyn sought Chris Mega's advice as a senior member of the Republican Majority who truly was concerned about Brooklyn present and future. Chris Mega was always there, always there, to listen to you. Never ran away from you. Always had time.

And for all those reasons, plus the fact that he is one of the few straight shooters. He calls them as he sees them, and all of us know that about him that know him. We know the kind of person he is. He calls it as

he sees it. We may agree with him at times. We may disagree at other times, but we know he is honest all the time.

And I know, as I've told Chris over and over again, he is going to be one of the best judges we have, fair, sensitive and balanced.

And I wish him and his family well. We in Brooklyn, even though he's a Republican, if we got to have a Republican, we can't have anyone better than Chris Mega.

THE PRESIDENT: Senator Ohrenstein.

SENATOR OHRENSTEIN: Mr. President, I'm very happy to rise in seconding this nomination. Sometimes the best way to get to know somebody is when you are his adversary, and I remember the first time I met Chris Mega. It was on a television program, where I was representing the Democrats and Chris Mega was representing the Republicans. I think he was still in the Assembly at that time, and we had a pretty rough and tumble debate, but it was a

very good debate, and it was a debate which was laced with warmth and friendship, and with a great deal of intelligence, at least on his part. I don't know about my part.

But having worked with Chris over the years, having watched him go from greater to greater, greater responsibilities in this chamber and discharging all of those responsibilities with the utmost of fairness -

I'm sorry, Chris. I kept looking over here. I didn't realize you were over there (indicating the V.I.P. Chair section). I didn't know that things move with such fantastic speed in this chamber. We haven't been used to such speedy progression. So you are creating a new standard for speed in this chamber.

It has been wonderful to watch Chris Mega rise from responsibility to responsibility and to rise in importance in this chamber because every assignment he has had, he has discharged with excellence, he has discharged with great fairness, regardless of the underlying -- whatever the underlying

partisan politics were, there was also always in his mind the question of what is good public policy, what is fairness to the people involved. And if those are not the best criterion for someone who is going to ascend to the bench, I don't know what they are.

So I believe that Chris is going to be an intelligent lawyer as a judge, an informed judge, and he is going to be a fair judge. He is going to understand that people who come before him have personal problems that need some personal decisions as well as decisions which may be correct or not correct under the law.

So I think the Governor's nomination does this chamber great credit, and it certainly validates and rewards a great political career. I'm sorry to see you go, but I'm happy to vote for you.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Thank you, Mr. President. First of all, as everybody in this chamber knows, it's about time. I think we all

waited for this moment.

Senator Mega, I wanted to just get it right tonight. It was important, so I went to the dictionary. I wanted to get the words right. I figured I'd better get the book because you'd never believe it.

Because I said, Well, what's a good word? Compassion. I opened it up, and there's your picture right in the book. Right next to "compassion", the example of compassion, Chris Mega.

I said he is a fine man, and I opened the book. Right next to the word "fine", Chris Mega.

I figured it had to end, but no, right next to "gentleman", Chris Mega.

"Humane", Chris Mega.

I said this guy is going to be some judge. I want to tell you.

I am unashamed when I tell you I love this man. Chris, you are terrific. You said we shouldn't make you cry. I'm going to cry. I fell for you and your family. I have

seen you as a legislator. I have never seen anybody better than you at chairing a committee, and certainly nothing is more sensitive than the Judiciary Committee. We've had some meetings like the one we had about a week or so ago. People's lives are at stake. It's difficult. You don't know what to do, and you create an atmosphere which gave those people an opportunity to at least have it out, have their say, and in more than one way you saved lives.

You have the most beautiful, quiet dignity of any person. You are a great legislator, but what is more important is you are just a greater human being.

I'm going to miss you tremendously, and I am just so excited for you and your family. I wish you everything you wish for yourself and everything I could wish for my family. God bless you, Chris.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Mr. President. Gives one a surge of special pleasure to cast our gaze over in the direction of the clock

tonight to see not only Chris but his beautiful and gracious wife, Madelyn, with him. I have seen her on occasion when she is called upon to sing the Star Spangled Banner at festive occasions in the borough of Kings, and the two of them make an absolutely unique couple.

I think one of my lasting impressions of Chris will be my visits to his office when he unfailingly escorts me to ever newer and ever larger enlargements of the pictures of his grandchildren. The pride and joy which he reflects in introducing them and reintroducing them each time I visit him is just an indication of the man.

He is truly a family man in the best sense of the word, deeply humanitarian, deeply caring and, at times, very forceful. I can illustrate that by the fact that one of Chris' favorite greetings is to come up, at least in my case, and give me a rather hard punch on the arm, above the right bicep. I used to think this was charming, but that evening I would look in the mirror as I was preparing to

go to bed and see a rather heavy bruise, and I would be reminded of the glorious outpouring of affection with which Chris expressed himself.

You know, this is a collegial body, and we work under enormous pressure as reflected by this evening, and because it's late, I'll make this quite brief, except to say to you, my colleagues, that we are bound together by something that is simply unimaginable to people outside of this process.

And so when one of us is called to a higher calling in the view of some, you really get a kind of an odd feeling in the pit of your stomach, because you don't want to let go of the ties that truly bind. But when I stop to think for a moment the job that Chris is ascending to, namely, that of the equivalent really, of a Supreme Court judge, which the bench he goes to is in every sense of the word, the responsibilities are immense; and, often, this is the only contact which the citizen has with the immense churning wheels of the bureaucracy and the government.

And it's only if we can produce people like Chris Mega with compassion, sensitivity and a real understanding of human nature that this court system which can be so faceless and cruel and yet so compassionate and understanding is molded.

So, Chris, the combination of feelings runs very deep. We will miss you enormously, but we will take great rejoicing in the fact that you'll be doing things for people in your inimitable way in a slightly different setting.

My wish for you is that those beautiful black robes will be as comfortable for you as the lovely red, white and blue star spangled necktie you are wearing this evening.

Good luck, Chris.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. There's going to be many things that have been said and many people will say more about Chris Mega, but I'm only going to relate a very brief personal story and a personal

observation.

When I first came to the Senate five years ago, there was a piece of legislation that I felt that I needed very badly. And within our conference, I was beat up quite badly, and many of my colleagues said, "You don't want to put that bill out. You don't really need that. Don't worry about it, and let it go."

I really need the bill, and it hurt inside. And after the conference was over, Chris Mega came up to me and he pulled me aside, and he said, "Tommy, don't listen to any of those guys. You do what you feel is right. If you feel that this is what you have to do, just do it."

And I think that's the kind of judge that Chris Mega is going to be when he is on the bench. He is going to make the right decision.

I also talk about a personal observation. Just the other night in this chamber, we had a very tough debate on a piece

of legislation that deals with the USTA. And while many of us said that we made our mind up before the debate took place, whether we were for or against it, Chris Mega stood up and he stated that he made his decision after he carefully listened for two and a half hours on both sides of the issue. That's the kind of individual that we need on the bench, and that's the kind of jurist that Chris Mega will be.

But, Chris, the one thing that I'm going to miss most about you is when you stand up and you button that button, and you give us that shot in the arm, and then you look at us and you say, "I love you."

Chris, we love you, and we'll miss you.

THE PRESIDENT: Senator Galiber.

SENATOR GALIBER: Thank you, Mr. President. So many correct things have been said about my good friend, Chris Mega, that some I will repeat.

Senator Markowitz mentioned about being a good Republican. I have known Chris so

very long that on 149th Street and Third Avenue, when we were asked who was a favorite Democrat, Chris Mega's name was mentioned. That shows you how long I have known this very fine, decent human being.

Chris, you are probably among the few persons left that represent what this chamber has been to most of us for so many years. You have been just a delight to be part of a system that has held most of us in good stead. You are certainly a caring person and someone who loves people, and you have a unique ability with your abundance of love to share that love with your colleagues and your family, and you are close to family.

I mentioned in the Judiciary meeting about that grandson of yours who had a desire to be a Senator and a pilot and a judge, and I said then and I say again, because it's worth repeating, that at least he has two of them now.

I'm going to miss you because you have a certain amount of temperament and

understanding for people and patience. And it didn't make any difference which side of the aisle you are from. It's nice like from time to time when things get a little bit heated and you look around and in some instances you don't have many friends, and Chris always found his way whether it be Senator Libous on your first bill or some debate that we've had that got a little heated, and he will come along and nudge you a little bit and just say, "Everything is going to be okay."

So I'm going to miss you, and I'm happy for your family, and I know that you will make an excellent judge because you are an excellent human being. We have all watched you through the years, your fairness with people, the ability not to say no or yes, or certainly not to say "No" where people's lives are involved and to be fair and just, and that's all we really are about. And you exemplify that.

And there is a rumor going around that you could have had this judgeship two or three years ago, but your leader, Senator

Marino, just wouldn't put the approval on it because he wanted to keep you here because you meant so much to the leadership and you meant so much to this body.

I don't know why, in all seriousness, the Governor has taken so long to make this appointment. I'm just happy that he finally got around to the business of doing it. We will miss you. I have certainly been more than rewarded by your friendship through the years, and I certainly will miss you.

And God bless you and your family.

THE PRESIDENT: Senator Nolan.

SENATOR NOLAN: Thank you, Mr. President.

The night is late, Chris, so I will be very brief, but I'm truly very, very happy for you and your family. You are certainly a terrific person, terrific human being, and I know you will do a tremendous job as a judge.

And I must say that I really

appreciate the Governor's appointment, because you are just one of those people that one meets in life that is really a very caring, decent, nice, smart person.

So good luck and God bless. Semper fidelis.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Mr. President, I, too, will try to be brief.

As somebody who served not only in the Senate with Chris but also in the Assembly, I guess I can speak about one of the differences between the Senate and the Assembly is that we have the privilege here and the enjoyment of making these kinds of confirmations,, but I can't say, Chris, from my perspective that this is the most enjoyable thing that I've done.

For you, it certainly is, because I know that you have wanted to be able to be a judge, and I understand that. As a lawyer, it is certainly the type of thing, I think, that many people think is the epitome of their

career. And for you, Chris, personally I think that you have been one of the finest Senators that this body has seen since I've been here.

You and I have worked together in criminal justice for so many years. Although you moved to Judiciary some years ago, you continued to keep the strong interest in criminal justice, and you and I worked so hard together in the area of financing and so many of the areas that are so important in a criminal justice area.

I'm happy for you. And, of course, I'm happy for your wife and family. I can only say to you that you have always been a good friend to me and a good friend to so many people in this body.

And in behalf of myself and my family, let me say to you Godspeed, and I know you are going to be one of the greatest judges that this state has ever seen.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. I guess after the ordeal we've been

through these ten days, people will do anything to get out of here.

Chris, I know you've looked forward to this judgeship, and it's really most deserved. And you are the sort of person that whatever you want I want for you, and I know this whole chamber does. We've served together in the Assembly. We've served obviously together in the Senate.

But I had also the very rare privilege and opportunity of being the ranking member while you were the chairman of the Judiciary Committee, and I can just tell you I'm really going to miss you. You are exceptionally fair. And when one looks at your life and what you have achieved, it really shows that somebody who believes in doing the right thing can accomplish and can achieve and can gain recognition which is deserved.

You know, in a society where we often seem to value the people who take the shortcut, it's wonderful to see somebody win because they've taken the right and the straight

road.

You are a sweet person. I remember after one debate, you came over and you handed me a stuffed toy. It was a turkey. You said, "Here it is, Leichter." Well, I still have it. I prize it because it came from a friend, and you'll always be a friend.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Mr. President. I have known Chris in many different capacities and we recollect with fondness especially his membership in the old "F Troop" in the Assembly, and he was kind of the youngster of the crowd, but following in very good footsteps.

Watching his career as a friend and now a colleague, I've had a great deal of pride in him and his accomplishments. Like my colleagues here, I will share his pride, his understandable justifiable pride in his children, his grandchildren. He is a great family man.

I know that so much of this has been said before and with special reference to

his compassion and sensitivity. I would like to emulate Senator Libous and just say a brief word about something that just happened a day or two ago, where in the exercise of his good judgment he voted against a position that I was espousing on the floor having to do with tennis. And after casting that vote, the following morning, I received a confidential communication, which you will see was not confidential, which contained a beautiful engrossed certificate with an apple and a certificate of commendation ostensibly signed by our good mayor, together with a letter. And I must admit I was halfway through the letter which was filled with phrases of, you know," game, "set" and "match", and "We hit one over the net," and so on, when I realized that it had to be a joke. But the last lines I think were telling something about the fact, "We really creamed the opposition, and it was a piece of cake," and enclosed was an absolutely scrumptious banana cream pie, and it, of course, was all Chris' handowork, and I think bespeaks his character, the type of person he

is, reaching out at all times with sensitivity as has been said.

He'll make a great judge. He is a great friend, a good friend, a family man, somebody that I will be very sorry to lose here as a colleague, but hope to keep forever as my good friend.

THE PRESIDENT: Excuse me. I lost my list. Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

Chris, with all of the accolades being justly accorded you this evening, I'm not really sure if you should have been confirmed or canonized.

I have been privileged to serve with you on the Crime and Corrections Committee and on the Judiciary Committee, and I think the way in which you conducted the Judiciary Committee is symptomatic of the way you are in real life. You're prompt; you're fair; you're efficient. I don't think I've ever heard anybody say a bad word about you.

Some of the members may not be aware of the fact that you are held in pretty high regard by the executive, as well, because as I understand it he came here tonight into the chamber and he personally delivered the nomination to you. I can't recall that ever happening before, but it's a tribute to you as a man, as an individual, as a Senator and as a future jurist.

I know on paper you have all the credentials that someone would need to have to become a jurist. But I think you possess something that's much more important, and that's judicial temperament.

We have an expression here in the Senate, some of us at least, with respect to loyalty when we say someone has their hand in the fire. Chris Mega has always had his hand in the fire. Chris Mega has a lot of friends. A long time ago, they made a movie about some boxer. I think it was Rocky Graziano. They said somebody up there likes me. I think in your case everybody down here not only likes

you, they love you. We're going to miss you.

We wish you and Madelyn Godspeed and all the best in the future.

THE PRESIDENT: Senator Halperin.

SENATOR HALPERIN: Mr. President. As I have been listening to each of my colleagues speak about our mutual colleague, Chris Mega, I have become progressively more upset. And the reason for that is I thought we had a special relationship. Now I find out that everyone on this floor thinks you are a wonderful guy. I just thought there was something special going on between you and I, but you are just a wonderful person to everybody, and I find that very upsetting.

But there's one way that I find, after having listened to a number of my colleagues, that you treated me differently. You didn't punch me in the arm. You always got me in the ribs, and I don't know why. Maybe as a fellow Brooklynite you felt I could take it better, but I was always very wary when I saw you coming along; but, nevertheless, I will miss

you.

And I guess the best way to describe you so far as this confirmation is you are sort of a judge waiting to happen. You couldn't just fit the bill any better than you do. I was looking through the dictionary. Manny did not look up the word "perspective" because had he, he would have seen your picture next to that, too, because you put everything in life in perspective.

And probably along with your demeanor, which will be very important to someone who's ascending to the bench, there is probably nothing more important for a judge to be able to do than to put things into perspective and to understand not only the letter of the law but the reality of life and how the law should apply to it. And I know that you have that ability and that you will apply that ability in the most judicious of manners.

And so I wish you the best of luck. And of all the confirmations that I have ever voted for, I've never felt more confident

than in this one and good luck to you, and do Brooklyn proud.

THE PRESIDENT: Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President. First of all, of course on behalf of all my colleagues in this chamber, both past and present, we all want to wish you, Senator Mega, well.

I probably have a different experience with Senator Mega. Our districts have abutted each other as long as we've both been in office, and through reapportionment he keeps coming a little further east, further east, further east, and he kept taking a few blocks, but we've always worked together, and the difference has been is when we got back into Brooklyn, whether it be over a homeless shelter that was actually in a church in Bensonhurst or with Catholic Guardians, all the elected officials worked together. There was no political competition for accolades. The only thing we tried to do was to get the job done, and whether it was Senator Mega or Senator

Solomon or an Assemblyman or a Councilman, the only objective was to do what was right for our constituents, and I think Senator Mega had a leading role in leading us in that direction, in basically saying, "We're going to get this done. We're not going to see who can get the headlines. We're just going to get the job done. And if we have to beat up on the City or the state or whoever, we'll do it. We'll do it as one, and no one is going to take the credit. We'll all take equal credit."

And I think that is something I'm going to miss. The other thing I'll miss is the occasional car rides because it always seemed that Chris had the car and I never had the car and we were going in the same direction. When we discuss items in groups and what not and find out, I guess, the reason he kept taking part of the area I represented in reapportionment was that we apparently both represented in a lot of ways the same political philosophy from the same neighborhood. And I'm really going to miss Chris Mega because he was

always there when we had these odd problems, and he was always a calming force and the leader of the group of the local legislators when we had to deal with the various city, state and federal agencies in some instances, to solve these problems.

And I'll miss you, and I've just got to say that he's done a tremendous job in the district in addition to what he's done up here.

Thank you.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

Chris, you are a dear friend and we're truly going to miss you, and all these lovely things that are being said about Senator Mega, I want you to know that he's a devoted husband and an astute shopper. It was just on Christmas Eve or the 23rd when we were breaking here once a few years back, and we were all rushing out to go to dinner together and Chris had to go shopping, and he went down to a

jewelry store that was going out of business here in Albany to buy Madelyn some pearls and some earrings, and he said, "Do you take VISA and MasterCard?" And they said, "Yes."

He said, "I'd like to see some pearls." They pulled out the pearls. He asked, "How much is that?" They said, "Eight-fifty."

He said, "Do you have something a little better?" They pulled out another set.

"How much is that?"

"Eighteen seventy-five."

He said, "I'll take that, and could I see some earrings." They showed some little diamond earrings, and he said, "How much are the earrings?" They said, "Eight hundred fifty dollars."

He said, Well, I'll skip the earrings and just take the pearls," and he pulled out a $20 bill and tried to pay for 18...

(Laughter)

That's a true story, Chris.

(Laughter)

We're going to miss you. The

other night when the call came in about his confirmation, this young fellow really wanted to be a judge. He was so excited he couldn't dial the phone. I had to dial the phone for him.

He is going to be a remarkable judge, and I think that was exemplified by the way that he ran the Judiciary Committee. And every member of that committee I think would attest to that.

What a great guy. And, you know, he's an old drill sergeant, too. That's why he goes around and punches people, I think.

But, Chris, we do love you. We're going to miss you. But nobody is going to miss you as much as Charlie Cook, his roommate for so many, many years. And, Charlie, I know -- you're going to have to become his clerk or something.

We wish you the very best and we're very happy for you.

THE PRESIDENT: Senator Levy.

SENATOR LEVY: Mr. President, I think it was Steve Saland who said that this is

a bittersweet occasion for all of us. I don't think that any of us in this chamber could be happier for Chris and for Madelyn if we were his brothers, his sisters, members of his family, and for all of us who know him, he really looks on us as members of his family.

Senator after Senator has spoken about Chris' extraordinary ability and his unique character traits. I'm sure that each of us could rise and talk about one of Chris' traits. But what I think about is that indomitable determination. When you think about the district that Chris had, not under the latest reapportionment but the district before that. If he wasn't indomitable and determined, no one could have overcome the political difficulties that Chris did, and part of his character and his attitude is not that the glass is half full. His attitude is always that the glass is 99 percent full with that positive attitude. That's his hallmark and his tradition, and his legacy as Senator and as a legislator.

I know that as a judge he is going to be stern when sternness is required. He is going to be compassionate when compassion is merited. He will deal with the guilty justly and fairly. And probably even more importantly, there will be no judge that has ever sat on the bench or will ever sit in the future that will more zealously protect the innocent and their rights.

We're sad, Chris, you are not going to be with us. We love you. We miss you, and this chamber is never really going to be the same for each of us, because when we turn around and we look over there (indicating the Senator's chair), Chris Mega is not here.

All the best.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President. Senator Goodman has been punched in the arm and Senator Halperin in the ribs. With me it's right here in the thigh where I have taken the shots. In fact, one day when I was perhaps carrying on a little bit more than I

should have been in conference, all of a sudden Mega's next to me, gives me one of those. I go, "What's that?" He said, "I learned that in the Marines. Take it easy and put life in perspective."

Now, that shot, one day I gave it to my son when he was acting up a little bit, and he said, "What is that, Dad?" And I said, "That's a Mega shot." Show you're famous in the eyes of my son in terms of if he acts up a little bit I said, "Watch out for Mega; it's coming," and he quiets down.

When I came into the chambers, I went over and congratulated Madelyn, and she said to me, "I hope Chris is happy with the decision." I guarantee you that Chris is happy with the decision because there is nothing he has wanted more, Madelyn, in the last couple years. And, in fact, he sacrificed himself to make sure that we maintain the Majority, which is very important to him in this house, and really put aside getting that judgeship for a couple of years. But he wants to be a judge.

He wants to be home with you. Because I have never heard a person express their love for a wife and for the family as much as he does, especially this time of year when perhaps our nights are long and the days that we spend here are long.

This is the type of perspective he will bring as a judge of the Court of Claims. Chris and I, to an extent, our careers paralleled each other from 1982, when we had the misfortune of not being elected, myself elected, Chris reelected, to the Senate. I remember talking to him, and he said, "Dean, keep your life in perspective. You have your law practice. You have your family. You have your health. Go on and you'll fight the future fight." And in 1984, keeping that in perspective, we were both successful.

But it's the perspective part, Chris, that I'm always going to remember with you, as a friend and as a colleague, and I think -- I know that Donny has mentioned it, and that's what we're going to miss here.

We're going to miss those few words that all of a sudden we snap back and think and say, "You know, we're really not necessarily -- we are important in our jobs, but don't go too far." Keep your ego down, keep your self-importance down. Represent your people the best you can, and then go on and fight the future fight if you're not successful.

But it's not that important to win every single battle. So on behalf of Gail and myself, we salute the two of you. We know you are going to be a wonderful judge. And we hope that you have all the health and happiness that you both deserve.

God bless both of you.

THE PRESIDENT: Senator Mendez.

SENATOR MENDEZ: Mr. President, I really feel very happen to join all my colleagues in this great and very deserving show of love and affection and admiration for one of our colleagues.

I remember, I think it was about the first two years, first term, my term, that

there was a debate about a social issue that I felt very strongly about. And Chris Mega, not knowing my style, and when I feel very strongly about something I come out -- I'm perceived as coming out very forcibly.

After the debate, the session was over. He came over very quietly to me, and he said, well, what I meant in the debate is this, that and the other thing. I don't remember the issue at the time. What I do remember, however, is his sensitivity, that he felt that he have should come to me so I wouldn't be upset or something or other.

So that when every year in my county where we live we're dealing with candidates for judgeships, usually we use one of the words -- of the criteria is "judicial temperament."

Well, Mr. President, if there is somebody I believe, and my colleagues, as well, I do believe, who really has the most magnificent judicial temperament to be an excellent, fair judge that one is Chris Mega.

At the personal level, we all admire him because he is a true family man. In fact, I'm going to use a phrase that at times people choose to look upon it with great criticism. He really represents family values, traditional family values, Mr. President. And I, for one, and all of us here admire him more for it.

He has a very strong inner strength, a quiet one. His understanding of people's follies, very realistic in his appraisal of the relationship between reality and justice.

So that we're going to miss you, Chris, very, very much and it's very -- really very endearing to see the impression that, Chris, you are leaving among each one of us, this outpouring of good wishes, this outpouring of good feelings towards you, and it is really very deserving.

We all, I also, of course, wish you the best, and you will have more time, hopefully, to enjoy more your wife and your

grandchildren. So we'll miss you. Keep well, and we are certain that you are going to be the best possible judge that could ever be.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President. Pretty much everything has been said, but I couldn't possibly let this appointment go by without saying a few words. I'm tickled that Chris is finally getting something that he really wants, as all of us feel so happy because when a friend gets something they really want, it makes you feel so good.

I have to say, though, that I have to kind of give a warning to Ralph and notice to the other lawyers in the Majority side that the last couple of people that were in the office next to mine in the corner of the fifth floor have gone on to become judges. So if you are anxious to do that, I advise you when Chris moves out, you might want to move in.

Secondly, I would like to say

that Chris has all the qualities, as you all mentioned, that will make him just an outstanding judge. I think the number one quality, as always, his humanity because I think his humanity is just -- it just oozes out of him, and I think that is going to be the number one quality that will make him a jurist that will set him above most.

And I think, as far as I'm concerned, one of the things that always struck me about him was that he is so comfortable with himself. And I think because he is, when you sit and talk with him or you're in a group with him, he makes you comfortable with yourself and the whole group feel that way. And I think sometimes here, when we're all worked up or we're all feeling self-important or we're all angry with each other, it's good to sit down with Chris because he kind of loosens you right up, and it always seems to work that way with me, and I'm just glad I had that opportunity to know him for that reason if nothing else.

And one last thing I'll mention,

and I wouldn't even have thought of this but Senator Goodman brought it up first, was that he has that habit of hitting you in the arm. And I think one thing that showed right away to me that he'll be a great judge is that obviously he showed great judgment in that he never hit me hard enough to bruise me.

(Laughter)

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. This must be a very glorious evening for you, Senator Mega. I mean how many people could have 60 colleagues talk about them in glowing terms while they are still alive. There is a fellow up there who is putting it on video, is probably going to send you a copy, and you can look at it on quiet evenings some time in the future and remember what everyone here said tonight.

Senator Mega has had to endure many burdens in his political career, but I imagine the one that was most sustained and over the longest period of time was being identified

as "one of those six Republican Senators from the city of New York." And on those occasions when we would have to get together to discuss an issue, keeping in mind that five of the six were Italian -- are Italian, those meetings would not always be the most pleasant experiences. Chris would remind us, however, as you have heard here, it ain't over 'til it's over. Do the right thing. And if he felt we were being criticized unfairly, he would have more colorful ways of describing his feelings, none of which I can repeat here.

We will remember this session for many, many reasons: Perhaps its length, the fact that we were in session on the 4th of July, some of the very difficult thorny issues we've had to deal with. But the thing that I will remember most about this session is the day a good friend, a colleague, a beautiful human being, went on to do something he really wanted to do.

And for that reason, we're happy for both of you.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Mr. President, this is one time when I can say I just second everything that has been said. I can say it no better.

I would point out, however, that you have showed good judgment. You stayed with a group of us in Albany. We're going to miss you. Miss you there and miss you here.

As a matter of fact, Senator Maltese, the people who sell the pies are really concerned, because they also have quite a good place to serve food. I wouldn't want to advertise here.

I would make this point -- so many fine points have been made about Chris this evening -- but he is also joining a great group of judges. We have seen them come through here being confirmed, the type of individuals they are -- two, I think, are here with us this evening, two other close friends of mine and Chris. He is going to do the type of work that

they are doing.

And after it's all been said, when Chris Mega with Crime and Corrections was going out around the state deciding whether a SHOCK incarceration program should begin or whether -- it was pointed out so well by Senator Gold the other -- about two weeks ago. Probably as sensitive a situation as you could have in a committee, and it was handled with such dignity, courage and understanding.

And I know we all feel that if we were ever in a situation and we needed a person that we could depend upon, it would be Chris Mega. It is Chris Mega, and we're going to be able to depend upon him. He will be one of the best judges we've ever had.

THE PRESIDENT: Senator Daly.

SENATOR DALY: What's left to say? I guess, Chris, I've known you as long as most people in this house. You and I joined the Assembly at the same time back in -- I came a little ahead of you. I beat you by about six months and we became good friends over there

with Charlie Cook and Guy Molinari, all the good times we had.

Madelyn, let me tell you one thing. One thing really stood out, the deep and unshakeable love that Chris has for you. And you can tell just talking with Chris when he mentions you, and it was something to be admired and envied.

I remember how often he told me, "My goodness, she treats me like a king, 'Up, King. Down, King. Not in the house, King.'"

(Laughter)

But you are a very lucky couple and I know, Madelyn, how happy you are, really, to have Chris home. You know, we're going to miss him, but I guess really you deserve him more than we did.

But, Chris, it's been a great 20 years -- 20 years, and I can't tell you how much I appreciate you as a friend and admire you as a person. I'm not being hyperbolic when I say that you are a man of unusual character, great integrity, and just so much love in you. The

way you mention someone's name when you talk to them, you can feel the affection.

I'm so happy for both of you. Chris, you are getting to be a judge, and I know how badly you wanted to become a judge. I also know how much you are going to miss this place. I know how much you are going to miss us, and I want you to know how much we are going to miss you.

The worst thing about establishing these kinds of relations is that you have a night like tonight, and we can look ahead and see the void I'll feel and the sadness I'll feel when I walk in this room and look at that chair and you're not there.

God bless.

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President. Tonight really is a wonderful evening for the institution of the Senate because one of our members is moving on to something that he both wants and has aspired to.

While we come from different

parts of the state and have different points of view, it is very interesting how we really are an extended family.

When I mention family, I think everyone knows how important family is to Chris, his wife, his children. Go into his office, grandchildren, enormous pictures.

Chris, just but a few short weeks ago, you as chairman of your committee handled a very delicate matter, and it was mentioned by one of our colleagues. You handled it with a great deal of finesse, professionalism, and I think if there was ever a moment that showed you had the temperament, the skill, the intellect, to handle something, you demonstrated it at that point in time.

You have been a wonderful member of this chamber. You have contributed and represented your district with great, great distinction. What greater tribute can a member receive when members of the opposition party say what a wonderful job that you have done and acclaimed by the people that you represent.

Our conference obviously will never be the same because you say what you mean and you mean what you say. And we have always respected you for your honesty and your candor. It is really in great joy that all of us have risen tonight to really wish you the very best of luck, and we know you will make a wonderful judge.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Chris, it seems almost impossible for me to believe that it's almost 20 years since you came to the Legislature when I was just a freshman Assemblyman. You came two years after me in 1974, and there are not too many people that are here now that remember that famous "F Troop" that Senator Maltese alluded to, and that very few probably didn't know that it was knowingly Chris Mega who named the group.

See, we were a group of six or seven Republican Assemblymen that used to meet every Monday morning, and we would formulate positions to give to our leadership about what

we wanted as city issues. And unbelievably every Monday morning all six or seven of us would come up with 12 different positions for the city of New York to be taking. Chris got up one morning and said, "This is like being a member of F Troop," and that name stuck. Every day after that we all became affectionately known as "F Troop".

But I also remember another night similar to this, Chris, the night that Senator Conklin announced that he was retiring from the Senate, and we were over in the Fort Orange Club. Perry Duryea was giving a party for the Minority Assemblymen.

And he had a really tough decision to make that night. He'd been threatened with a primary, a tough election and possibly not coming back to the Legislature at all if he ran for the Senate, and then the opportunity to have a very safe Assembly seat that you could have run for without opposition. And I know the agony you went through that night trying to make that decision, and I know the

feeling you have tonight is probably very much similar to it, starting out a new career, thinking about leaving the Legislature. All I can tell you is you made the right decision that night. You became a great Senator. You are making the right decision tonight. You are going to be an even greater judge.

Good luck.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Chris, you know when we came here together, Charlie, John Daly, you, Mary Goodhue, Wally Floss and myself, I first met you at the room lottery, and we all picked for room and you lost; that is, you were number 6, and you got the office suite without a conference room, and we sort of all smiled and you said, "That's okay. I will get back at you all one of these days."

And, in fact, you have because I don't think John or Charlie would mind my saying of the six of us who came together, the nicest one is leaving us tonight. And I know when I first came here, and you will remember, a good

political friend of ours in Smithtown took me aside and said, "Look, you haven't run for election before. You won. You are going up to the Senate. It's a group of collegial people and it's a club, and you should learn to get along and follow my good friend Chris Mega from Brooklyn."

I never much learned to follow you. You certainly have my apologies for that. I wish I had. You taught a very good lesson in judicial temperament this week, as you well know, when with a very difficult bill that was before us with some judges throughout the state complaining mightily, you showed a judicial temperament by taking a couple of judges down very well in their own courtroom and handling it superbly, such that that bill can be reported and passed this evening.

I know about three hours ago, you were sitting in your chair and the room was empty. I caught you looking around the room, and I assume what you were doing was memorizing that which was never finished here, memorizing

the way it looks, thinking about the fifteen years that you have served here with us in the Senate and the memories that you are going to take with you.

It's almost fitting that it's almost twenty of 2:00 in the morning, and that's one memory certainly of the Senate, and I want you to know that like that television commercial for the airline when that one poor reservation clerk has to speak to all those people in a rain storm late in the evening, that come next year at this time there's going to be 60 Senators placing a call at twenty of 2:00 in the morning to you, and each one of us are going to spend the whole night repeating this whole situation to you so you don't feel that you have been left out of our deliberations next year.

Good luck, Chris.

THE PRESIDENT: The question occurs on the confirmation of the nominee.

Senator Marchi.

SENATOR MARCHI: When I came into the chamber, Mr. President, I overheard Senator

Markowitz saying who is the favorite Republican in Kings County. I have to confess to a little anxiety in Staten Island, because when that same question was made in Staten Island with disturbing regularity they would come back, "Mega, of course."

Some 40 years ago, when I first came here, the triad of committees, Rules, Finance and Judiciary, withstood in the eyes of people who had been there and telling war stories about the Judiciary Committee, from as far back as anyone could remember the mystique that was always attached to the Judiciary Committee and the importance which it had on the functions of government in this state. And certainly I believe anybody who has been here any length of time will remember the different individuals who have covered that responsibility. They've all been uniquely good and fine people, but I don't think anybody can match the service that was given and the service that was rendered by Chris Mega.

It was a very superlative quality

about it that certainly elicited this wealth of commentary from all of your colleagues, and as Senator Padavan pointed out, this must certainly be a big factor in your life as you look around this chamber.

There is an old spiritual and religious refrain which -- response which I certainly remember very fondly and recited from time to time. "It is right and just," and all of these statements are being made because of the great affection and the great esteem and respect that they have for you, Chris, and they are going to serve you in great and good stead as you deliver your responsibilities in your next assignment, and you are going to be that judge that so many of us are saying, and you're going to do that with this recollection.

I think you will remember this moment, as will Madelyn, this very fine moment that we all shared together in professing this affection and respect that we have for you.

God bless you, Chris.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Mr. President, I rise to join my colleagues in paying a special tribute to Senator Mega. I served with him for ten years, and it's been one of the most outstanding and pleasurable ten years that I've had the opportunity of knowing Chris, and I can't think of a better time, after being sequestered in Albany for ten days, that we should cap it off by having Chris join his family and his grandchildren. He only has three. He'll have time now to prompt them to catch up to me with my five grandchildren so we can continue comparing notes.

Again, I want to wish you the very, very best, you and your family.

God bless you all.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President. We're here to talk about our dear friend who is leaving for a position that he has always wanted. I think I am the latest and last person to have seen the famous Mega

picture gallery.

On Monday morning, I was roaming around trying to find some coffee and milk and, of course, I wandered into Chris' office and got treated to the display, the magnificent display of photographs, with a story behind each photograph, and that really tells us a great deal about this man and about what's important in his life, and his family is the paramount, the most important thing in his life.

I think one other thing that I particularly love about Chris is the twinkle in his eye. He's got just this very delicious twinkle which crops up whenever he is tweaking one of us.

But I think the reason we all believe he will make a great judge is because he is a wonderful people person. He has such a fondness for all of us. He makes each one of us feel important, and he listens so attentively when we speak. And also I think it's not just that he listens to us, but I think one of the reasons he will make a great judge is because he

is intellectually honest, which is what we all have been saying, and the other component of a great judge is that he was compassionate, and I think he consolidates all these into one very extraordinary person.

I'm very happy for him. I'm somewhat sad for us, but I know this is what he wants to do, and I wish him much success in his future, and we all will be missing him.

THE PRESIDENT: Senator Smith.

SENATOR SMITH: Thank you, Mr. President. There is no way possible that I can let this evening go by without adding my voice to those of my colleagues.

In the five years that I have been here, I have been blessed with the friendship of Chris Mega, many times giving me advice when very much needed, and I will always think of his compassion and caring, and someone from the other end of Brooklyn who has always been there for someone on the other side of the aisle.

It's rewarding to know that good

things come to those who wait. Chris truly deserves this opportunity. I know that he will do well.

And to Chris and Madelyn, my very best to you and may you be happy in all of your endeavors, and I look forward to hearing great things from you on the bench.

THE PRESIDENT: Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Mr. President.

I think that I also rise for - to pay tribute to Chris Mega, who I know that will, as what he wants as a judge.

But in my four years here, every time I approach Chris Mega on any issue and he handles it diligently and fairly. And, Chris, I want you to know that as far as all of us here that it's great that all my colleagues and us pay tribute to you, but you did it the old-fashioned way. You earned it, and I think that you will be a great judge.

And God bless you and your family. Thank you.

ACTING PRESIDENT FARLEY: The question occurs on the confirmation of the nominee.

SENATOR GOLD: Party vote.

(Laughter.)

ACTING PRESIDENT FARLEY: Question occurs on the confirmation of the nominee. All those in favor say aye.

(Response of "Aye.")

Those opposed nay.

(There was no response.)

The ayes have it. The nominee is confirmed.

(Whereupon, there was a standing ovation.)

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: May we return to reports of standing committees, please.

ACTING PRESIDENT FARLEY: Secretary will read.

THE SECRETARY: Senator Marino,

from the Committee on Rules, reports the following bills directly for third reading.

(Whereupon, there was a pause in the proceedings.)

Senator Marino, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 925, by Senator Skelos, General Municipal Law.

2146A, by Senator Goodman, Education Law.

4427A, by Senator Kuhl, Transportation Law.

5209C, by Senator Larkin, Real Property Tax Law.

5287A, by Senators Mega and others, General City Law.

5356A, by Senator Larkin, an act to amend the Penal Law.

5815A, by Senator Nolan, Public Authorities Law.

6119, by Senator Larkin, authorizing the lease of certain facilities of

the Middletown Psychiatric Center.

6173A, by the Committee on Rules, providing for the development and modernization of the major league sports facility.

6185, by Senator Larkin, amends a chapter of the laws of 1993.

6192, Senate Budget Bill, amends chapter 50 of the Laws of 1993, enacting the State Operations Budget.

6199, by Senator Johnson, an act to amend the Agriculture and Markets Law.

6200, by the Committee on Rules, Civil Practice Law and Rules.

6203, by the Committee on Rules, Environmental Conservation Law.

All bills reported directly for third reading.

(Whereupon, Senator Farley was in the chair.)

ACTING PRESIDENT FARLEY: All bills are reported directly to third reading.

SENATOR PADAVAN: Calendar 1655, Mr. President.

ACTING PRESIDENT FARLEY:
Calendar 1655. The Secretary will read.
THE SECRETARY: Calendar Number 1655, by the Senate Committee on Rules, Senate Bill Number 6193, granting access to certain records maintained by the Division of Criminal Justice Services.
ACTING PRESIDENT FARLEY: Senator Padavan.
SENATOR PADAVAN: Mr. President, is there a message?
ACTING PRESIDENT FARLEY: There is.
SENATOR PADAVAN: Move we accept it.
ACTING PRESIDENT FARLEY: All those in favor of accepting the message, say aye.
(Response of "Aye.")
Those opposed, nay.
(There was no response.)
The message is accepted.
Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 2, Senators Bruno and Farley recorded in the negative.

ACTING PRESIDENT FARLEY: Senator Nolan is also in the negative.

SENATOR PADAVAN: Is there a message?

ACTING PRESIDENT FARLEY: There is.

SENATOR PADAVAN: Move we accept the message.

ACTING PRESIDENT FARLEY: All in favor of accepting the message? It's received and accepted.

THE SECRETARY: Read the last section.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 2, Senators Bruno and Farley recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR PADAVAN: On the regular calendar, we'll go back to 1255.

ACTING PRESIDENT FARLEY: Secretary will read.

THE SECRETARY: There's a message here also; I'm sorry.

THE SECRETARY: Calendar Number 1255, by Senator Holland, Senate Bill Number -

ACTING PRESIDENT FARLEY: There's a message I think.

SENATOR PADAVAN: Yes, I move to accept the message.

ACTING PRESIDENT FARLEY: It's a little noisy; I didn't hear it. All in favor of accepting the message, say aye.

(Response of "Aye.")

Those opposed, nay. The message is accepted.

Could we lay it aside for a second, Senator Padavan? There is a sub that is coming in momentarily.

SENATOR PADAVAN: I was waiting. O.K. We'll lay that aside for the moment.

SENATOR PATAKI: Mr. President.

ACTING PRESIDENT FARLEY: Senator Pataki.

SENATOR PATAKI: I would request unanimous consent to be recorded in the negative on Calendar 1669.

ACTING PRESIDENT FARLEY: 1669, Senator Pataki is in the negative.

SENATOR PADAVAN: Mr. President, may we go to 1661, please.

ACTING PRESIDENT FARLEY: 1661, Secretary will read. That's on the second supplemental calendar.

ACTING PRESIDENT FARLEY: Supplemental Calendar Number 2.

THE SECRETARY: Supplemental Calendar Number 2, Senate Bill 1661, substituted earlier, by member of the Assembly Koppell,

Assembly Bill 6168-A, Alcoholic Beverage Control Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT FARLEY: Senator Velella.

SENATOR VELELLA: This bill will allow the State Liquor Authority to consider additional factors before granting licenses to -- to bars and saloons that sell liquor. It will allow the SLA to consider such factors such as the number and types of licenses nearby and in proximity to any other licensed premises, the effect the license will have on traffic, parking and noise, the history of liquor violations and reported criminal activity at the proposed premises, whether all state and local licenses and permits have been granted and other relevant statutory factors or rules or regulations of the Authority to consider the public convenience to such a facility.

This is in response to an over saturation of bars that have been proliferat ing a number of residential communities.

Assemblyman Koppell and I have experienced this problem in two very important areas of our district which we share together, and I believe that it would give the Liquor Authority the opportunity to consider all of the relevant factors.

At this point, when residents have gone down to the Liquor Authority to complain against the opening of additional premises, they have responded that so long as the applicant has met all of the statutory requirements, that they could not do anything else except grant the license. This will allow them to figure the public convenience, consider rather the public convenience and necessity, in granting such licenses.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Will the Senator yield to a question?

ACTING PRESIDENT FARLEY: Senator Velella, I'm sure he will.

SENATOR VELELLA: Yes.

SENATOR GOLD: Senator Velella, first of all, have you discussed this with the chairman of the Liquor Authority, by any chance?

SENATOR VELELLA: I haven't discussed it with him, no. He is aware of it and it is as a result of communications with Assemblyman Koppell and myself concerning estab lishments that were opening in our communities that he is aware of, but he did not express to us whether he was against or for it. He just was -- is aware that that was what we were going to do and to some -- to some degree -- to some degree has recognized the fact that his abilities were limited in the past in dealing with these problems.

I've just been advised that on the "A" print, he has supported it.

SENATOR GOLD: All right. Will you yield to another question?

SENATOR VELELLA: Yes.

SENATOR GOLD: Let me tell you what bothers me about the bill, Senator, and

maybe you could comment directly on that. I've spoken to the chairman of the Liquor Authority a number of times about various things. His philosophy, as he explained it to me, is that he runs an agency and it is for the state Legislature to make overall policy for the state, so if we decide, for example, to eliminate the 200-foot restriction on churches and synagogues, that's a decision for the Legislature. If we decide to limit licenses, that's a decision for the Legislature.

But what I'm concerned about is on page 1, line 7, the number, classes, character of licenses and proximity to the location and in a particular municipality. That's a consideration. Then on page 2, line 9, any other factors specified by law or regulation that are relevant to determine the public convenience.

Senator, that is one of the broadest grants of regulatory authority I think I've seen in 22 years in this house. We have, time and time again, seen legislation offered

mostly by the Republicans in this house to cut back on the agencies, to have them comply with law, stop them from over-reaching and then we get language in a bill like this.

There is no direction. I mean the chairman of the Authority, who I respect believes that we should be giving direction. All we're doing in this bill, Senator, is giving some of the hugest generalities I've ever seen in legislation, and then a huge grant of law - of rule-making authority. Where is the direction?

SENATOR VELELLA: Senator, let me respond by saying that I know you've had a lot of experience prior to the prohibition that we put in barring legislators from practicing in the SLA. I know that both you and I have had experience in practicing, and public convenience and necessity has always been part of what was considered by the Authority in granting applications.

We're just codifying that tradition and public convenience and necessity

is something that I think is really necessary in the area where we're regulating an item such as alcoholic beverages. There is a tremendous possibility of destroying neighborhoods, communities, when bars open and they become very saturated.

I think that giving this broad scope to the Authority merely implements the public policy of this state, but we must be very careful in allowing bars and premises that serve alcoholic beverages. I think that it gives the opportunity for communities such as you represent and I represent to go to the Authority and to say, Enough is enough in our community. We don't need a strip of 14 bars.

There are a lot of college towns that are very much in support of this concept that, near colleges, a lot of bars have opened. I have that particular problem in New Rochelle which I share with Senator Oppenheimer, and in the Bronx where I represent the Riverdale community, the Woodlawn community. This has become a major problem, and this will give the

Authority some teeth to police effectively those premises that serve alcoholic beverages.

I think it's worthy of the broadest possible language and I hope the Commissioner or the Commission will implement it in the broadest possible way to preserve communities and not let these establishments come in and destroy them.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Mr. President, from my -- from my point of view, I understand some of the problems that have occurred in var ious areas, and I certainly have no philosophi cal objection to there being some overall control by the State Liquor Authority and, when Senator Velella puts in language which talks about them considering the number and kinds and characters of licenses in an area, if that is the desire of the public policy of this state, it seems to me that that is easily definable.

But I'm going to vote against the

bill because I'm -- I have heard on this floor and I've heard in the Administrative Regulations Commission and other places, time and time again, criticism of the agencies, and what we are doing in this piece of legislation is exactly what we criticized them for. We are giving them total authority.

The Liquor Authority was taken to court within the last few years on one of their regulations dealing with police focal points and they lost the case. Senator Ohrenstein and others have been working on legislation and, as a matter of fact, I think Senator Ohrenstein worked out language which I think is terrific, which would give the Authority the right to walk in where there was noise problems and other problems created by licensed premises in the community.

But the difference between Senator Ohrenstein's legislation and this is that there is direction from the Legislature in setting up a law. In this situation, there is no direction given at all at the end of this

bill, and it is exactly the kind of thing that the Republicans in this house are going to be talking about next session and the session after that, just as you have in the past.

Huge grants of authority to the agencies, and then you're going to come in with your business permit legislation and your other legislation about how businesses are getting killed by the agencies and we have to do something about it. This bill opens up that door.

ACTING PRESIDENT VOLKER: Read the last section.

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

ACTING PRESIDENT VOLKER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55, nays 3, Senators Gold, Kuhl and Nolan recorded in the negative.

ACTING PRESIDENT VOLKER: The bill is passed.

Senator Sheffer, why do you rise?

SENATOR SHEFFER: I'd ask for unanimous consent to be recorded in the negative on Calendar Number 1655, please.

ACTING PRESIDENT VOLKER: Without objection, Senator Sheffer in the negative on 1655.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT VOLKER: Senator Padavan.

SENATOR PADAVAN: May I have unanimous consent to be recorded in the negative on 1655, please.

ACTING PRESIDENT VOLKER: Without objection, Senator Padavan is in the negative on 1655.

SENATOR PADAVAN: Now, go to Calendar Number 1662.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT DALY: Senator Gold.

SENATOR GOLD: Before we start on this, may I make an inquiry of the chair? There

was a Rules report, I think it's a Rules Report Number 3, and I believe on the Rules report, there was a Senate bill 6173, is that correct?

ACTING PRESIDENT DALY: Do you know the calendar number?

SENATOR GOLD: I wouldn't. I'm just looking at the Rules report.

ACTING PRESIDENT DALY: Yes, it's 1679, 6173-A.

SENATOR GOLD: Yeah. Mr. President, I have in front of me the Rules agenda, and it is my understanding, Mr. President, that in the Rules Committee we voted out 6173. I would like to know how 6173, which I read and other people read, became 6173-A some place between Room 332 and the desk of the Senate chamber. There was no amendment discussed in Rules, that I recall.

ACTING PRESIDENT DALY: Senator, would you give us some time to check that out? We'll lay that bill aside and we'll get back to you as soon as we have an answer.

SENATOR GOLD: No, no, I

understand we're not on the bill, but I -- if there is an irregularity, I want it cleared up early.

ACTING PRESIDENT DALY: Senator, I understand that, appreciate it, and we certainly will do that as quickly as we can.

SENATOR GOLD: Thank you. Senator Galiber -

ACTING PRESIDENT DALY: Senator Padavan.

SENATOR PADAVAN: Calendar 1662.

ACTING PRESIDENT DALY: Calendar 1662.

THE SECRETARY: Calendar Number 1662, substituted earlier today, by member of the Assembly Weisenberg, Assembly Bill Number 6655-B, Civil Practice Law and Rules.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT DALY: Senator Volker.

SENATOR VOLKER: Mr. President, this bill is a negotiated bill with the Assembly as regards privileged communications between an

employee member of a bargaining unit and an elected union official.

The reason for this bill is the somewhat unique status of elected union officials in a police organization. I think most people don't realize that law enforcement officers in a police organization not only swear to uphold the law, but are also bound by rules that people in ordinary organizations are not.

What has happened is that a police officer elected official on a number of occasions has been put in a situation where someone who has been either charged with a violation or in some cases a crime, has been - a communication has been made with that person asking advice. In one case, the union - elected union official was asked the advice and the recommendation for an attorney was made. The district attorney, as part of the investigation, subpoenaed the union official and asked questions concerning the communication with that law enforcement officer and the elected union official.

The -- in the normal organization that situation would not occur. The law enforcement officer is bound by his, in some cases by his oath of office, and also by department regulations to reveal the source of that communication and the communication itself.

I think one thing, I think, probably is not well known here is, I guess I have some idea of this since I was at one time an elected law enforcement police union official, and, although we rarely got into this kind of thing, there were several times when the possibility was there in a little different context by the local village boards, and I had a number of problems with the local bargaining agent, so to speak, because of some of the discussions that were between myself and various members of the police department.

So I guess I have some understanding of what this is all about. I think the thing, I think, that should be understood is that there is a different

relationship between police officer elected union officials and normal individuals who are part of a regular organization who might report to them.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT DALY: Senator Waldon.

SENATOR WALDON: Would Senator Volker yield?

ACTING PRESIDENT DALY: Would you yield?

SENATOR VOLKER: Absolutely.

ACTING PRESIDENT DALY: Senator will yield.

SENATOR WALDON: Senator, I think perhaps to clarify for some of our colleagues, maybe you and I should have this short colloquy. Let me create a hypothetical for you.

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

SENATOR WALDON: You are the union rep'; an officer has, in fact, committed a crime, and he shares with you what has

happened. You represent him before the tribunal in the department and then after the case is tried or before the case is tried or even during the time that you're trying the case, a superior officer comes to you and gives you a direct order to tell him everything that's happened.

Under the regs, as you understand them, of all of the police departments in the state, are you duty-bound to tell that superior officer?

SENATOR VOLKER: I think you are, yes, that's correct.

SENATOR WALDON: And I agree. Thank you very much, Mr. President.

ACTING PRESIDENT DALY: Read the last section.

SENATOR GOLD: Wait a minute.

ACTING PRESIDENT DALY: Senator Gold, I'm sorry.

SENATOR GALIBER: I asked for an explanation.

ACTING PRESIDENT DALY: Excuse

me, Senator, I did not know that.

Senator Galiber.

SENATOR GALIBER: Senator, will you yield for a couple of questions?

SENATOR VOLKER: Certainly, Senator.

SENATOR GALIBER: The last section here, it says, This act shall take effect immediately and shall apply to communication made on or after such effective date.

SENATOR VOLKER: Right.

SENATOR GALIBER: If this bill passes and ultimately becomes law, would this apply to an ongoing investigation or pending matters before the police department?

SENATOR VOLKER: No.

SENATOR GALIBER: And more importantly, why?

SENATOR VOLKER: No, because the communication would have to be after the date of this bill, so any communications that were made prior to the date of this bill it would not

apply to.

SENATOR GALIBER: Fine. Senator, let me give you a couple of hypotheticals.

If a police officer on one of those rare occasions, and I want to make that crystal clear, rare occasions where a police officer might shoot a youngster in the street and he goes to someone, the PBA, and he's wrong and he tells the PBA about that, could that PBA officer or any official in the police department reveal what was told to him about the error that he made or the wrongdoing that he did in terms of shooting that youngster or adult, or anyone, for that matter?

SENATOR VOLKER: So what you're saying, Senator, is that if the law enforcement officer, after this bill is passed, approached a union official and asked for advice, the elected union official and asked for advice, and appraised him of the fact that he had either committed a crime or what might be considered a crime, would that union official -- would that be considered a privileged -- privileged

information? The answer is yes.

SENATOR GALIBER: O.K. Senator, you've had lengthy experience with the police; you've been a police officer and you also tell us tonight which I didn't know, that you were a PBA officer. You mentioned at the outset that police officers are sworn to uphold the law.

SENATOR VOLKER: Right.

SENATOR GALIBER: So what you're saying to me, if we pass this piece of legislation and someone tells a PBA officer that they have not upheld the law, that they've committed a wrong, this police officer who was sworn to uphold the law who, in my best judgment, carries another level of respect than the average person, in some instances more so than even lawyers, would not be able to uphold the law.

SENATOR VOLKER: Senator, I don't -

SENATOR GALIBER: He would, in reality, without that confidentiality, he may very well be in the category of maybe

compounding.

SENATOR PADAVAN: Mr. President, pardon the interruption.

ACTING PRESIDENT DALY: Senator Padavan.

SENATOR PADAVAN: Immediate meeting of the Finance Committee in Room 332.

ACTING PRESIDENT DALY: Immediate meeting of the Finance Committee in Room 332.

Senator Galiber.

SENATOR GALIBER: That is compounding a felony.

SENATOR VOLKER: That is not compounding the felony. I don't agree with you I think the problem here is, and I think you've kind of developed a complex problem here. How is a union official to operate if anything said to him by a person who is alleged to have committed a crime or may have even committed a crime, cannot trust that the advice that he gives, the information that is given him would not be revealed.

SENATOR GALIBER: But, Senator -

SENATOR VOLKER: I think it is a -- I think, Senator, that the problem, especially -- if you'll notice, by the way, in the bill, we talk about if the person -- what is not exempt is that if the person talks about committing a crime and there's a specific reason for that being in there for obvious reasons because the law enforcement officer's duty could supersede that, if a person says they're going to commit a crime and that law enforcement officer has the duty to try to prevent it and, therefore, if that is discussed, then, that certainly wouldn't be privileged, but it seems very difficult to see how or why it wouldn't be something that should be thought to be privileged information, otherwise the union official would not be somebody it would seem that the fellow would ever approach.

SENATOR GALIBER: Yeah, Senator, you and I understand that. That's not what the point of this inquiry is.

Let me speak on the bill, Senator.

SENATOR VOLKER: Yes, Senator.

SENATOR GALIBER: There's no one who has more respect for the police department than I do. What you're suggesting in this piece of legislation that all the horrible things, and I can read off a number of things that have occurred, from police officers selling drugs to killing people and doing horrible things, Rodney King situation.

Under your piece of legislation, if it wasn't for the photography, that if this had been told to some other police officer, and then that inquiry was asked, or there was an inquiry, he would not be able or she would not be able to divulge what actually happened out there.

The narcotic sales that we've heard so much about recently, all the corruption that is involved. But what I'm suggesting, Senator, is that the police department in your judgment and my judgment -- I've heard you loud and clear for a number of years, there's another layer out there. There's this whole notion of

silence within the police department, the recent assault on City Hall by a police officer in the city of New York, not Buffalo, in the city of New York, who did horrible damage, the name calling, what they're calling it at that particular point in time.

Someone admitted during the course of the investigation that this is what occurred. That person would not be able to, in an administrative hearing, be able to reveal that, and I'm saying that the police department, a very thin line we keep talking about is a category that doesn't warrant the kind of con fidentiality that we make reference to where lawyers are concerned, and we fought this area of confidentiality along the lines through the years and we've given it to another group, but police officers who are sworn to uphold the law you want to give them a vehicle through which, if someone comes to them and says, Yes, I committed a crime; yes, I did this, and there's not many of them. I keep reiterating that. You, under this piece of legislation, say you

don't have to talk about it. In fact, you can declare confidentiality.

Everything -- the piece of legislation, Senator, in my best judgment, I know where you're going, is not a good piece of legislation. It leaves an awful lot to be desired. It's a quarter past two in the morning. You've got the votes to get this passed. I just wanted to make the record clear.

I don't believe that the incidents where police officers have knowledge of crimes that have been committed by their fellow officers should have a vehicle or a means by which they can hide behind that crime and say, "I have confidentiality, therefore, I don't have to -- I do not have to answer to any investigation," whether it be an administrative hearing or no.

This confidentiality that you make reference to is merely an instrumentality through which the police department can hide behind errors that they've made.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Volker.

SENATOR VOLKER: Mr. President. Senator Galiber, you're absolutely wrong. Senator, your reference to a police department, let me specifically remind you, this is an elected union official. Your reference to the Rodney King officer is absolutely incorrect.

SENATOR GALIBER: A question, Senator.

SENATOR VOLKER: Yes, Senator.

SENATOR GALIBER: Is this police officer a part of the police department or no?

SENATOR VOLKER: He is a part of the police department, but he is an elec... the reason we're specific about an elected public police officer. In the Rodney King case, that never was any question. Police officers were police officers, Senator; that's what I'm trying to point out to you.

SENATOR GALIBER: But that police

officer -- Senator, if that police officer after that occurrence -

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

SENATOR GALIBER: -- had gone to a PBA officer, elected, and said, without the film or anything else, "This is what I did, struck so and so and so and so; I committed a crime. I did such and such and such and such," in the course of the investigation, if that police officer who is elected, who is part of a police department, was called under this piece of legislation, he could say -- declare confiden tiality and not disclose any of it; is that correct?

SENATOR VOLKER: That's correct, Senator.

SENATOR GALIBER: And he is part of the police department.

SENATOR VOLKER: Right.

SENATOR GALIBER: Whatever the city may be.

SENATOR VOLKER: Right. Just as if he went to his lawyer, it would be the same

way. In fact, Senator, what you would be doing here in effect is, remember, Senator, what you're saying is that that law enforcement officer would not be able to ask the elected official to get himself an attorney.

Just think about that for a second. He doesn't know what an attorney is to get. He would then not be able to have it privileged information that he asked that attorney, or that he asked for an attorney because of such and such. I don't think that's unreasonable, Senator.

SENATOR GALIBER: It's not unreasonable but, if that person has committed a crime, the very crime that he's sworn to protect the public, if that officer has committed a crime and then goes to the elected PBA and tells them, Yes, I committed this crime, or Yes, I planted this gun, or Yes, I did whatever is wrong, under this piece of legislation if there is an investigation into it, that police officer duly elected, part of the police department, would not be able to testify in the grand jury

because he would be declared constitutionality and, Senator, it's not the same thing as being a lawyer and a doctor, and you know it as well as I do.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Mr. President, would Senator Volker yield?

ACTING PRESIDENT LIBOUS: Senator Volker, would you yield to Senator Leichter?

SENATOR LEICHTER: Senator Volker, if there is a social interest and purpose in having members of a union disclose information in confidentiality to collective bargaining agents, why should it just be the police department? Why not -

SENATOR VOLKER: Senator -

SENATOR LEICHTER: No, no. Let me finish.

SENATOR VOLKER: Senator, I can tell you exactly because normal -- in ordinary organizations, they just don't have the same relationship. You are asking the exact reverse

of the question that Senator Galiber asked me. The reason is very clear, Senator. They do not have the same kind of obligation that a law en forcement officer has when these kinds of things are revealed to him, and that's the problem.

SENATOR LEICHTER: Excuse me. Senator, I, with all due respect, maybe it's the hour but I must say I didn't understand your answer at all.

Confidentiality, when we grant it, is based because there's a social interest and purpose. We want people to go to doctors and tell them what their ailment is, to say maybe that they've been with a prostitute or whatever because the doctor has to know everything to treat 'em.

Similarly, we made a confidentiality protection for rape guidance counselors. We did it this session because we want people to tell that counselor everything. There's a social interest and purpose. If - and I don't see it frankly -- there is a social

interest and purpose in having a member of the -- of the police force tell his elected bargaining agent or representative who is elected, and to give confidentiality to that disclosure, why wouldn't it apply to the fire department? How about the sanitation department? What's the difference?

SENATOR VOLKER: And let me answer that question. Because those people do not have the same obligation that a police officer has, Senator. The united -- the transportation officer has no obligation to disclose right now the way a police officer does. That's the difference in the problem.

SENATOR LEICHTER: But -- but, Senator Volker, the point is that what you're doing here is that you can not compel testimony by that particular -- what it was you referred to, that elected union official. That's really the key. You want to -- it isn't that you want to preclude and prevent that person from going to a commanding officer and saying, Hey, Patrolman Jones has just told me that he shot a

kid. You want to go beyond that. You want to keep that elected union official from being compelled to testify in court.

SENATOR VOLKER: That's right, that's right.

SENATOR LEICHTER: Why wouldn't that apply to a fireman?

SENATOR VOLKER: Because the fireman does not have the same obligation that a law enforcement officer has to report at the present time, Senator. I think it's pretty obvious that there is a different relationship between a law enforcement officer or a fireman and a member of the transportation union or any other. And we're not always talking about a crime.

Remember, Senator, we may very well be talking about some sort of grievance involved in an overtime or something of that nature.

ACTING PRESIDENT LIBOUS: Excuse me a second. There's an awful lot of conversations going on throughout the chamber

and we'd appreciate if you would take those conversations outside the chamber.

Senator Leichter, you have the floor.

SENATOR LEICHTER: Yes, Mr. President, just briefly on the bill. We give confidentiality when there is a social interest, when you want that person to tell everything to the individual that we're going to give confidentiality. There is no social interest or purpose in having a police officer disclose this information to his union elected official. If there were, it would apply equally to other unions, and I -- I think Senator Volker's argument that, well, because they're required to disclose if they know of any infraction or mis conduct, therefore, we need to give them that protection, and that differs from other union - from other unions, to my mind just doesn't make sense, because it goes just -- it goes beyond the duty to disclose.

It also includes the duty whether you compel that information in court. But I

think the basic issue is, what is the social interest in having that information disclosed to an elected union official? I submit there is none, and to put that elected union official in the same position as a doctor or as a lawyer or as a priest, to my mind, is -- is totally absurd.

ACTING PRESIDENT LIBOUS: Senator Waldon.

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

I would like for Senator Volker to allow me to ask him a couple of questions, but before I do that, Senator, permit me to speak to the military organizations briefly and paramilitary organizations.

I think what we're facing here is relationships that are not unique to any other work place than a military organization or para military organizations.

Senator Volker, do you recall a General recently, an American General, speaking in Holland, and he made some negative statements

about the President of the United States?

SENATOR VOLKER: I certainly do.

SENATOR WALDON: Do you recall what happened to that General once it became known that he had made those statements?

SENATOR VOLKER: He was severely punished.

SENATOR WALDON: And he's no longer in the military, is that correct?

SENATOR VOLKER: My understanding is he's no longer in the military, yes.

SENATOR WALDON: Mr. President, may I continue, please?

ACTING PRESIDENT LIBOUS: Yes. Senator Waldon, are you asking Senator Volker to yield, or are you speaking on the bill?

SENATOR WALDON: Asking him to yield.

SENATOR VOLKER: I continue to yield.

SENATOR WALDON: Senator Volker, in your experience as a police officer, does the same kind of adherence to authority -- is it

present in police departments that you're aware of?

SENATOR VOLKER: Basically it is. Basically it is, Senator, and although it can be argued, I guess, that it isn't in the same degree, but it is the same sort of operation as a military operation. In fact, depending on the type of department even more so, for instance, State Police. But virtually every police organization has the same kind of standards and the same sort of rules as the military organization.

SENATOR WALDON: It's been a long time since you've been a police officer, Senator, as myself, but I'm sure that you can recall in your days as the union rep', whenever anything happened regarding a police officer in your region, who was the first person called to be present at the scene when the superior officers or the district attorney or whomever was involved in that kind of situation appeared?

SENATOR VOLKER: Well, I think, probably not as much as maybe today. I don't

think that the union rep' was thought of then but certainly one of the first persons that would be -- would be called would be the union rep'. I think many law enforcement officers were so in the days when I was there, they were difficult days, lawyers I think were called occasionally, but I think you're right, for the especially the non-serious type of incidents, very often it was the person who represented them who was asked to give them advice.

SENATOR WALDON: Is it your recollection, Senator, that the union rep', when appearing at the scene then and as you are made aware today from colleagues and friends who are still in law enforcement, the purpose is for the union rep' to come there to counsel the police officer who may or may not be in trouble but unsure and needs some clarification?

SENATOR VOLKER: Exactly. I think very many times, I think the thing that should be thought of that normally these don't involve necessarily crimes, but they just involve problems that the law enforcement

officer may have with rules and regulations or something of that nature, and he's looking for counsel, he or she is looking for counsel, to determine what -- which direction to take.

SENATOR WALDON: Senator, might I fairly characterize the union rep' who comes to the scene as a surrogate lawyer who will make determinations until perhaps a real lawyer is necessitated?

SENATOR VOLKER: I suppose it could be characterized as that, Senator, and I think sometimes, I think some of these union rep's have to be careful because sometimes they may give some advice that may border on legal advice, but you're absolutely right.

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

SENATOR GOLD: Mr. President.

SENATOR WALDON: Thank you very much, Senator Volker.

SENATOR GOLD: Mr. President.

SENATOR GALIBER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator

Gold rose first, Senator Galiber.

SENATOR GOLD: Thank you. Senator Volker, will you yield to a question?

ACTING PRESIDENT LIBOUS: Senator Volker, will you yield to Senator Gold?

SENATOR VOLKER: Yes.

ACTING PRESIDENT LIBOUS: He will, Senator.

SENATOR GOLD: Yeah. Senator, I understand the argument made by Senator Waldon very, very well. But let me ask you this question: Why do we limit it then, if that's what it is; why do we limit it to this situation?

Supposing, for example, a teacher was in trouble and was charged by a student with doing something and sought their union rep' and said something to the union rep' which could be considered a crime, abusing a child? In other words, if the principle -- and I think Senator Waldon's questions explained it very, very well -- if the principle is that in this procedure you've got a semi-lawyer relationship, why

wouldn't it apply to all union situations?

SENATOR VOLKER: Because a teacher has no responsibility -- does not have the same responsibility as a police officer has to -

SENATOR GOLD: So what?

SENATOR VOLKER: -- make the same report?

So what? The difference is it obviously is different, Senator. They don't have the same responsibility. They don't act under the same rules. That makes a huge difference, Senator.

SENATOR GOLD: Will the Senator yield to a question?

ACTING PRESIDENT LIBOUS: Senator, would you yield for another question?

SENATOR VOLKER: Yes.

ACTING PRESIDENT LIBOUS: He will.

SENATOR GOLD: In other words, you're saying -- you're saying that what you're concerned about, and I'm trying to remember

Senator Waldon's question, this military command issue, but what you're concerned about is that if the union rep' is sitting in, in the place of a lawyer today, if there's a superior officer comes over and says you got to tell, you got to tell, and you've got that conflict; is that what you're saying, Senator?

(There was no audible response.)

SENATOR GOLD: All right. Well, Senator Volker, I understand the point, but let me ask you to yield to one more question.

SENATOR VOLKER: Yes, Senator.

SENATOR GOLD: I'm the district attorney of X County, God forbid, and I find out that a certain school teacher was charged with a disciplinary procedure and went to Senator Leichter, the union rep', had a conversation and now I subpoena Senator Leichter. Is there any difference between that? I mean I am now the district attorney. What's the difference whether I'm a superior officer in the police department or I'm the district attorney subpoenaing the teachers' representative who

this person spoke to?

SENATOR VOLKER: I think the difference, Senator, once again is the absolute obligation of the police officer to report, and the -- the regulations of the police department are entirely different from anything that a teacher is subject to.

SENATOR GOLD: Thank you.

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

ACTING PRESIDENT LIBOUS: Senator Gold to speak on the bill.

SENATOR GOLD: Senator Volker, what you're doing in this legislation is setting up a new privileged communication. That's basically what you're doing, and it seems to me, Senator, that the issue ought to be a general one, not a specific one for one department.

If you want to say that, within the confines of any union, if a person is getting help in a disciplinary procedure, that their communication with their union rep' should be akin to their talking to a lawyer, a

confidential situation, I can understand that and maybe we should do that. But to limit it to the police department only, saying that it's because their superior can make them talk, I don't think that's any more of a risk than in a child abuse problem in the school where the D.A. comes over and talks to the union rep' and says, "I'm subpoenaing you before a grand jury."

Either we are going to say that these kinds of representations are akin to legal ones and there should be a privilege or I think they shouldn't.

ACTING PRESIDENT LIBOUS: Senator Galiber, did you wish to speak again?

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I share the concerns of my other colleagues, but if Senator Volker will just yield to just one other question in advance.

I read this bill earlier, and I can't find the copy on my desk. I'm learning the file organization on one's desk is a necessary prerequisite of late night meetings.

But there's a provision in there about keeping records of the privileged communication.

SENATOR VOLKER: Right.

SENATOR DOLLINGER: Could you just explain to me what that means?

SENATOR VOLKER: Yeah. One of the -- one of the provisions of the bill is that, in order to claim this privilege and again it's the special nature of a law enforcement privilege, which I don't think I -- I guess I'm not conveying very well, but it's clear there is a special relationship, that in order to claim this privilege, the law enforcement -- the union official must keep, in effect, a log and maintain a record of the day, time and place of any privileged communication, the name of the members, and so forth.

The reason for that is to limit to this kind of privileged communication so that somebody can't just say, The guy said this to me or whatever, you have to have -- you have to have a record of what was done and, by the way, several of my staff said, Isn't that a burden? I

said, Well, the thing you should understand is that a police officer, when you are trained, one of the things that you are told to do is to carry just such a -- a -- such a record. That's some sort of book to maintain numbers and dates, and so forth, so this is not really an unusual thing.

But in the case of the union official, you would have to be especially careful because otherwise you couldn't claim the privilege.

SENATOR DOLLINGER: Well, that's my question through you, Mr. President. There's no consequence established for the failure to keep the record in the statute.

SENATOR VOLKER: There's no - the consequence, Senator, is no privilege.

SENATOR DOLLINGER: O.K. But it doesn't say that in the bill. That's -

SENATOR VOLKER: No, it's one of the -- it's one of the designated number that says what you have to do in order to get the privilege. (d) is a record. (c) says who may

claim it. It's a criteria that's needed in order to claim the privilege.

SENATOR DOLLINGER: In other words, the maintenance of the record, if you're going to assert the privilege at some later time it's asserted by the declarant, and you would have to produce a record on the part of the hearer that shows that the statement was made at a definite time, date and place.

SENATOR VOLKER: That's right, Senator.

SENATOR DOLLINGER: All right. O.K., thank you. Just one other thing, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Just a point of edification. I think the point Senator Gold makes about teachers is correct. I think, if you look at Part 68 of the Department of Education regulations which I have some familiarity with in my private capacity as a lawyer, it requires the teacher to report to the

Department of Education any instance of immoral conduct involving a child less than 14 years of age, so that the same kinds of disclosure requirements can be contained there, and the example that Senator Gold used may be one of the things that we have to deal with in the future, that these are quasi-legal communications made by the declarant to the hearer and that they involve the same types of privilege and need to protect types of criteria that Senator Volker addresses.

So this puts us down a road that I think we've got to be prepared to deal with a whole series of statements that are very much like this, involving confidential disclosure of information between people in a collective bargaining context.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Waldon to explain his vote.

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

Mr. President, it took a long time for the privileged communication and confidentiality protections of our laws to become real and to become part and parcel of our way of life.

Despite my love of law enforcement and all that it means, and despite my long history with law enforcement, I'm not prepared to relinquish that historical aspect and how it evolved and developed at this time.

I applaud what Senator Volker is doing. I recognize that law enforcement agencies are run differently than all others because I was there, but regarding this privileged communication possibility as we understand it with doctors and lawyers, at this time I'm just not emotionally and intellectually prepared to make that transition, and so I must

vote in the no.

ACTING PRESIDENT LIBOUS: Senator Waldon, how did you vote, sir?

SENATOR WALDON: No.

ACTING PRESIDENT LIBOUS: No. Senator Waldon votes no.

THE SECRETARY: Those recorded in the negative on Calendar Number 1662 are Senators DeFrancisco, Galiber, Gold, Leichter, Nolan, Ohrenstein and Waldon. Ayes 51, nays 7.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Padavan.

SENATOR PADAVAN: Mr. President, on the regular calendar, let's return to 1255. There's a substitution to be made, and then we'll take up the bill.

ACTING PRESIDENT LIBOUS: The Secretary will read.

Excuse me, Senator Seward.

SENATOR SEWARD: If -- if I could, sir, I would ask unanimous consent to be recorded in the negative on Calendar Number 1655

which passed just a few moments ago.

ACTING PRESIDENT LIBOUS: Without objection.

SENATOR SEWARD: Thank you.

SENATOR PADAVAN: All right. 1255.

ACTING PRESIDENT LIBOUS: 1255.

THE SECRETARY: Calendar Number 1255, Senator Holland moves to discharge the Committee on Rules from Assembly Bill Number 7754-A and substitute it for the identical Third Reading 1255.

ACTING PRESIDENT LIBOUS: Substitution ordered.

SENATOR HOLLAND: Last section.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Could you just hold it a moment until we can find the bill.

ACTING PRESIDENT LIBOUS: Senator Leichter would like to find the bill.

SENATOR LEICHTER: O.K. I just want to look.

ACTING PRESIDENT LIBOUS: Senator Padavan, there's a message on this.

SENATOR PADAVAN: Yes, we move that the message be accepted, please.

ACTING PRESIDENT LIBOUS: All in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message has been accepted.

SENATOR LEICHTER: All right. No.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Padavan, what is your pleasure, sir?

SENATOR PADAVAN: All right. Now we will go to the Supplemental Calendar Number 3, the active list. However, once again, the first bill on it, 761, is on the regular calendar.

Mr. President, I'm corrected on that. It is not on the regular calendar, but it is on our desk.

ACTING PRESIDENT LIBOUS: That's correct.

THE SECRETARY: Calendar Number 761, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 7686-B, an act to amend the Public Authorities Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Hold it. I'm sorry. Just want to follow at this time. Could you read the calendar number, again, please.

THE SECRETARY: Calendar Number 761.

ACTING PRESIDENT LIBOUS: The bill is 7686-B. It is on your desk. It's right on top, 7686-B.

SENATOR LEVY: Senator Gold, probably a -

SENATOR GOLD: Explanation.

SENATOR LEVY: Yeah, Senator Gold. Probably a month or so ago we passed a departmental -- DOT departmental bill requiring five-year financial plans for the upstate transportation authorities.

The Assembly believed that there should be an amendment to that bill, Senator, that would -

SENATOR GOLD: That does what?

SENATOR LEVY: Pardon me?

SENATOR GOLD: Does what?

SENATOR LEVY: Yes. The amendment prohibits employees and other people that work for these authorities from serving as members of the authority itself, the separation of powers.

SENATOR GOLD: Last section.

SENATOR LEVY: That's all the amendment does. The bill passed the Assembly, and we now have it before us.

SENATOR GOLD: Last section.

SENATOR LEICHTER: Seems to do more than that.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The

bill is passed.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 1655.

SENATOR NOZZOLIO: Thank you.

ACTING PRESIDENT LIBOUS: Senator Wright.

SENATOR WRIGHT: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1655.

ACTING PRESIDENT LIBOUS: Without objection.

SENATOR PADAVAN: Non-controversial.

ACTING PRESIDENT LIBOUS: Secretary will read.

SENATOR PADAVAN: Supplemental Calendar Number 3.

THE SECRETARY: 1670, Senator Skelos moves to discharge the Committee on Rules from Assembly Bill Number 1529 and substitute it for the identical Third Reading 1670.

ACTING PRESIDENT LIBOUS: Read the last section. Oh, I'm sorry. Substitution ordered. Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1671.

ACTING PRESIDENT LIBOUS: Bill is high, laid aside.

THE SECRETARY: Calendar Number 1672, Senator Kuhl moves to discharge the Committee on Rules from Assembly Bill Number 8152 and substitute it for the identical Third Reading 1672.

ACTING PRESIDENT LIBOUS: Substitution ordered. Read the last section.

SENATOR GOLD: Explanation.

ACTING PRESIDENT LIBOUS: Explanation.

SENATOR PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 1673, Senator Larkin moves to discharge the Committee on Rules from Assembly Bill Number 7956-C and substitute it for the identical Calendar Number 1673.

ACTING PRESIDENT LIBOUS: Substitution ordered. Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1674, by Senator Mega, Senate Bill Number 5287 A, General City Law.

ACTING PRESIDENT LIBOUS: All in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Message is accepted. Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator Spano recorded in the negative.

ACTING PRESIDENT LIBOUS: Senator Wright.

THE SECRETARY: Also Senator Wright in the negative, also Senator Sheffer. Also Senator Seward.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR DOLLINGER: Mr. President, what was the number of that?

ACTING PRESIDENT LIBOUS: That was 1674, the last one we just passed?

THE SECRETARY: Calendar Number 1675, Senator Larkin moves to discharge the Committee on Rules from Assembly Bill Number 7860- A and substitute it for the identical Calendar Number 1675.

ACTING PRESIDENT LIBOUS: Substitution ordered. Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1676, by -- Senator Nolan moves to discharge the Committee on Rules from Assembly Bill Number 8249-A and substitute it for the identical Calendar Number 1676.

ACTING PRESIDENT LIBOUS: Substitution ordered. Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1678, Senator Larkin moves to discharge the Committee on Rules from Assembly Bill Number 8669-A and substitute it for the identical Third Reading 1678.

ACTING PRESIDENT LIBOUS: Substitution is ordered. We'll read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1679.

ACTING PRESIDENT LIBOUS: The bill is high, laid aside.

THE SECRETARY: Calendar Number 1680.

ACTING PRESIDENT LIBOUS: Bill is high; laid aside.

THE SECRETARY: Calendar Number 1681.

ACTING PRESIDENT LIBOUS: Senator Padavan I believe -- I'm sorry.

THE SECRETARY: Senator Marino moves to discharge the Committee on Rules from Assembly Bill 8867 and substitute it for the identical Third Reading 1681.

ACTING PRESIDENT LIBOUS: Substitution ordered. There's a message at the desk.

SENATOR PADAVAN: Move we accept the message.

ACTING PRESIDENT LIBOUS: All in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS The bill is passed.

THE SECRETARY: Calendar Number 1682, Senator Johnson moves to discharge the Committee on Rules from Assembly Bill Number 8517-B and substitute it for the identical Third Reading 1682.

ACTING PRESIDENT LIBOUS: Substitution ordered.

SENATOR PADAVAN: Is there a message?

ACTING PRESIDENT LIBOUS: There is a message at the desk.

SENATOR PADAVAN: Move we accept the message.

ACTING PRESIDENT LIBOUS: All in favor aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. The bill is laid aside.

Senator Padavan, on that last bill, we have to withdraw the message.

SENATOR GOLD: Why? May I ask why?

ACTING PRESIDENT LIBOUS: That's correct.

SENATOR PADAVAN: Lay it aside.

SENATOR GOLD: May I ask why?

SENATOR TULLY: Mr. President.

ACTING PRESIDENT LIBOUS: May I answer one question at a time.

SENATOR TULLY: Perhaps to help Senator Gold. It's my understanding this bill passed the Assembly 126 to 14, is that true?

THE SECRETARY: I don't know that.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT LIBOUS: Yes, Senator Gold.

SENATOR GOLD: We have an Assembly bill in front of us?

ACTING PRESIDENT LIBOUS: Yes, we do.

SENATOR GOLD: It passed the Assembly?

ACTING PRESIDENT LIBOUS: Yes, it did.

SENATOR GOLD: I assume there is a message.

ACTING PRESIDENT LIBOUS: No.

SENATOR GOLD: Well, it couldn't have passed the Assembly without a message. I mean, Mr. President, this is getting really silly.

ACTING PRESIDENT LIBOUS: If the Assembly received a message, we did not receive ours.

SENATOR GOLD: We have the message. It's in front of you, Mr. President. This is really getting silly, 3:00 o'clock in the morning. The Governor issued a message to the Legislature. It is in our hands.

ACTING PRESIDENT LIBOUS: Senator Gold, one second, please. Senator Gold, we're resolving that, if you just give us a second. We recognize the hour is late and the desk is doing the best it can.

Senator Padavan, the message is on its way, should be coming through the door at any second. Got the Governor's office on the phone.

SENATOR GOLD: I got a message from the Governor. The Governor said do it.

THE SECRETARY: In one minute.

SENATOR PADAVAN: Let's lay that aside, Mr. President.

ACTING PRESIDENT LIBOUS: The bill has been laid aside. We can continue. When the message arrives, we'll accept the message.

SENATOR PADAVAN: That's a wise decision, Mr. President.

1683.

THE SECRETARY: Calendar Number 1683.

ACTING PRESIDENT LIBOUS: Calendar Number 1683 is high.

THE SECRETARY: Calendar Number 1684, by the Senate Committee on rules, Senate Bill Number 6203, Environmental Conservation Law.

ACTING PRESIDENT LIBOUS: Senator Padavan, we have a message.

SENATOR PADAVAN: Yes, Mr. President, and may I make a motion we accept it.

ACTING PRESIDENT LIBOUS: All in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Read the last section.

SENATOR OPPENHEIMER: No, it's -

ACTING PRESIDENT LIBOUS: Senator Oppenheimer, do you have a -

SENATOR OPPENHEIMER: Can I question?

ACTING PRESIDENT LIBOUS: Do you wish to lay the bill aside?

SENATOR OPPENHEIMER: O.K.

SENATOR GOLD: Lay the bill aside.

ACTING PRESIDENT LIBOUS: The bill is laid aside.

SENATOR OPPENHEIMER: I didn't want to lay it aside but you can't -

SENATOR PADAVAN: Mr. President, controversial on the same calendar.

ACTING PRESIDENT LIBOUS: We will go to controversial calendar now.

SENATOR PATAKI: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Pataki, why do you rise?

SENATOR PATAKI: Yes, I would request unanimous consent to be recorded in the

negative on Calendar 1674.

ACTING PRESIDENT LIBOUS: Without objection.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Same request.

ACTING PRESIDENT LIBOUS: Excuse me. We're going to ask for a little order in the chamber. We realize the hour is late; there are a lot of conversations going on.

Senator Pataki, would you rise and please state which bill you -

SENATOR PATAKI: Yes. Unanimous consent has been requested to be recorded in the negative on 1674, Senate Bill 5287.

ACTING PRESIDENT LIBOUS: 1674, Senator Pataki in the negative, without objection.

Senator Nozzolio.

SENATOR NOZZOLIO: Senator, I make the same request to be recorded in the negative on 1674.

ACTING PRESIDENT LIBOUS: 1674,

Senator Nozzolio in the negative, without objection.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Identical request.

ACTING PRESIDENT LIBOUS: 1674, Senator DeFrancisco in the negative.

We'll do the controversial calendar. Thank you for your cooperation.

THE SECRETARY: Calendar Number 1671.

ACTING PRESIDENT LIBOUS: 1671 is high.

THE SECRETARY: Calendar Number 1672, substituted earlier, by the Assembly Committee on Rules, Assembly Bill Number 8152, Transportation Law.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: If Senator Kuhl would yield, please.

ACTING PRESIDENT LIBOUS: Senator Kuhl, would you yield, please?

SENATOR KUHL: Yes.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Let me tell you what concerns me about this bill. Your bill provides that farm vehicles, I guess you'd call them plate vehicles, will be subject to lesser fines if there are traffic violations, and you point out, I believe, in your memo that these vehicles are ordinarily used in connection with farm work. They are not a major roads.

But what I'm concerned about is where one of these vehicles is on a major road and there's a major infraction, then under your bill all that you could apply would be these minor penalties whereas under the law as it exists now, whoever assesses the penalty, whether it be a traffic court or whatever, couldn't they take into account the fact that it was a minor violation and assess a lower fine?

SENATOR PADAVAN: Immediate

meeting of the Rules Committee in Room 332.

ACTING PRESIDENT LIBOUS: There's an immediate meeting of the Rules Committee in Room 332.

SENATOR LEICHTER: Mr. President. Senator Kuhl, did I make myself clear?

SENATOR KUHL: I believe so, Senator Leichter, but I don't think the -- the answer is I don't believe -- the answer to your question is I don't believe that they can do that.

Let's -- just to give you a brief explanation here. A farm plate is a restricted use license plate that's applicable to farm vehicles. Now, it's particularly important that you understand what restricted use is. These farm vehicles are only allowed to travel from the farm to the field and from the field back to the farm or, in one exception, they can go from the farm to a municipal landfill. That is the total usage that they are allowed to do. They have to actually file the route annually; they

have to make an application to the Department of Motor Vehicles, file the route with the Department of Motor Vehicles and have it available in the glove compartment so that if they are stopped by an enforcement officer that, in fact, they would see if they're not on that route they are in violation. If that's the case, then I believe that the maximum fine would apply to them just like any other commercial operator.

SENATOR LEICHTER: And would still apply, so if they go off the route and they're driving on an interstate and there's an infraction, then the penalties provided by the current law would still apply, is that correct?

SENATOR KUHL: I believe that's correct.

SENATOR LEICHTER: O.K. No objection.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR LEVY: Mr. President.

ACTING PRESIDENT LIBOUS: Senator

Levy.

SENATOR LEVY: Yeah. I rise to explain my vote.

I want to compliment Senator Kuhl on his efforts to remedy an over-harsh treatment in the law as it relates to fines on farm vehicles but, as Senator Leichter indicated, going to a landfill possibly will put one of these vehicles on a highway or a road.

I have to say this bill is before us tonight because Senator Kuhl has tried to get the Department of Transportation to remedy an overly harsh fine schedule for these types of vehicles and without success. The Assembly has put together the fine schedule under this bill, and I have to say it is the wrong route to be going.

I'm not going to support this bill and I'm not going to vote for it, but I understand why Senator Kuhl has this bill before us because most certainly, this bill is going to be vetoed. This bill will send a message through that veto message that the Department

must realistically deal with this problem and not deal with it with the solution that we have here before us today, that is not of Senator Kuhl's making, but of the Assembly's making as it relates to reducing the fine schedule.

I vote no.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator Levy recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Hoffmann.

SENATOR HOFFMANN: Just request unanimous consent to be recorded in the negative on Calendar Number 1674.

ACTING PRESIDENT LIBOUS: Without

objection.

SENATOR JONES: Mr. President, may I be recorded in the negative on 1674.

ACTING PRESIDENT LIBOUS: Without objection.

Senator Kuhl.

SENATOR KUHL: May I have unanimous consent to be recorded in the negative on 1655.

ACTING PRESIDENT LIBOUS: 1655, Senator Kuhl in the negative without objection.

Senator Larkin, did you rise for a purpose?

(The Senator indicated no.)

Senator Dollinger.

SENATOR DOLLINGER: May I also by unanimous consent be recorded in the negative on Calendar 1674.

ACTING PRESIDENT LIBOUS: Senator Dollinger in the negative on 1674, without objection.

THE SECRETARY: Calendar Number 1682, substituted earlier, by the Assembly

Committee on Rules, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LIBOUS: Senator Padavan, we have a message at the desk.

SENATOR PADAVAN: Move that we accept it.

ACTING PRESIDENT LIBOUS: All those in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The ayes have it. The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Go ahead. To explain your vote, Senator?

SENATOR OPPENHEIMER: To explain my vote.

ACTING PRESIDENT LIBOUS: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: This is the negotiated Clean Air Act, which I'm going to support. It is a much improved bill, and I want to compliment Senator Johnson on his work with the Assembly's committee.

The fee structure for the stationary source pollution emissions has been increased substantially, so now it starts at $6 and goes up to $25 per ton of emission.

Further, the DEC will promulgate trip reduction -- you know, employee trip reduction. And Westchester and Rockland and Orange, the three counties that are north of New York City that had been grouped in with the City that were concerned about that, have been separated out for employee trip reduction.

Thirdly, the prohibition has been removed against making tighter regulations the minimum standard.

And further, the California fuels could be used. They are not excluded.

So I think this is a far better bill than we had before.

The one objection -- well, "objection" is too harsh. The one thing we would have preferred to see a little stronger would have been the offset for incinerators in New York City. They could have been stronger than the 1.3 offset.

But aside from that, we believe that this is a good bill, and we hope that in the future New York State and the Legislature would not so grudgingly meet the attainment goals that have been set by the federal government.

This meets the first attainment standard, and we hope that there will be a less grudgingly -- grudging movement to meet these standards that have been set by the fed's.

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

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Ayes 57, nays 1.

Senator Solomon recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR PADAVAN: Lay 1683 aside temporarily, please.

ACTING PRESIDENT LIBOUS: 1683 is laid aside temporarily.

THE SECRETARY: Calendar 1684, by the Senate Committee on Rules, Senate Bill Number 6203, Environmental Conservation Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR PADAVAN: Mr. President, would you return to reports of standing committees, please.

But first, if you would recognize Senator Saland.

(Whereupon, Lt. Governor Lundine was in the chair.)

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Mr. President. Mr. President, I would request unanimous consent to be recorded in the negative on Calendar 1674, Senate 5287A.

THE PRESIDENT: Without objection, so ordered.

SENATOR SALAND: Thank you. I also have a motion to amend a bill, Mr. President. On page 27, I offer the following amendments to Calendar 1580, Senate 21005, and ask that the bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR PADAVAN: Mr. President, return to the order of reports of standing committees.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the

following nominations:

Commissioner of the Tax Appeals Tribunal, John P. Dugan, Esq., of Glenmont, and Francis R. Koenig of Kingston.

Member of the Niagara Frontier Transportation Authority, Marilyn Royer of North Tonawanda; George L. Wessel of Lancaster; and Theodore D. Williamson, Sr., of Niagara Falls.

Member of the Central New York Regional Transportation Authority Eileen Teachout of Syracuse.

THE PRESIDENT: The -

Senator Larkin.

SENATOR LARKIN: Mr. President. I would like unanimous consent to be recorded in the negative on Calendar -

THE PRESIDENT: Let us confirm these nominees first. I'm sorry. I thought you wanted to speak on them.

The question occurs on the confirmation of the nominees. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

Now, Senator Larkin.

SENATOR LARKIN: Mr. President, I would like to have unanimous consent to be recorded in the negative on Calendar Number 1674, Senate Print 5287A.

THE PRESIDENT: Without objection, so ordered.

SENATOR PADAVAN: Now, Mr. President. I believe there are some resolutions at the desk, if they could be read and adopted.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senator Hannon, memorializing Congress to incorporate specific standards into the reform of our nation's health care policy.

Also, Legislative Resolution, by Senator Galiber, commending Hattie Moseley Austin upon the occasion of her retirement and

her dedicated contributions to the Saratoga Springs community.

Legislative Resolution, by Senator Libous, honoring Francis M. Murphy for his years of outstanding leadership and selflessly dedicated public service to Owego-Apalachin School District.

Legislative Resolution, by Senator Bruno, honoring Aron Egner of Shenendehowa High School upon the occasion of his designation as one of six national finalists in the Kaplun National Essay Contest.

Legislative Resolution, by Senator Bruno, commending Shenendehowa High School for leading the state of New York in the number of teams qualifying for the Academic Achievement Award.

Legislative Resolution, by Senator Nolan, commending Peter Griffin, principal of Clayton A. Bouton Junior/Senior High School upon the occasion of his retirement.

Legislative Resolution, by Senator Maltese, honoring Arlene Pedone for her

contributions and dedicated service to the Richmond High community.

THE PRESIDENT: The question is on the adoption of the resolutions.

SENATOR SOLOMON: 1682, I would like an explanation.

THE PRESIDENT: These are the resolutions that were just read.

SENATOR SOLOMON: Yes. I'm looking for my Resolution Calendar. It's somewhere on my desk.

SENATOR PADAVAN: Do you have a question on the first resolution, Senator Solomon?

SENATOR SOLOMON: Yes, Senator Hannon's resolution.

SENATOR PADAVAN: Lay that one aside, please.

THE PRESIDENT: That resolution is laid aside, and the question is on the adoption of the other resolutions.

All those in favor say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The resolutions are adopted.

SENATOR PADAVAN: Stand at ease for a few moments, Mr. President, awaiting the Rules calendar.

(Whereupon, at 3:11 a.m., the Senate was at ease.)

SENATOR PADAVAN: Mr. President, on the main calendar, Calendar Number 470.

THE SECRETARY: On page 7 of the main calendar of the day, on page 7, Calendar Number -

SENATOR GOLD: Hold it one second.

THE PRESIDENT: Senator Solomon.

SENATOR SOLOMON: Unanimous consent to be recorded in the negative on Calendar 1684.

THE PRESIDENT: Without objection, so ordered.

SENATOR PRESENT: Mr. President,

I wish to call up my bill, Print 1653A, recalled from the Assembly which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Cook, Senate Bill Number 1653A, an act to amend the Education Law.

SENATOR PRESENT: Mr. President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is before the house.

SENATOR PRESENT: Mr. President, now that the bill has retained its place on Third Reading, I offer the following amendments.

THE PRESIDENT: Amendments received.

SENATOR PRESENT: Mr. President,

I now move to discharge the Committee on Rules from Assembly Print 8733 and substitute it for my identical bill.

THE PRESIDENT: Substitution ordered.

SENATOR PRESENT: Mr. President, the Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

THE PRESIDENT: The bill is passed. Pataki is negative.

SENATOR TULLY: Mr. President.

THE PRESIDENT: Senator Tully.

SENATOR TULLY: Was that Calendar Number 470? Would you please advise me what

calendar just passed?

THE SECRETARY: Calendar 511.

(Whereupon at 3:22 a.m., Senate was at ease.)

SENATOR PRESENT: Mr. President, would you recognize Senator Larkin, please.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Mr. President. I ask for unanimous consent to be in the negative on Calendar 511, Senate 1653B, which was just passed.

THE PRESIDENT: Without objection, so ordered.

SENATOR LIBOUS: Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Could we return to motions?

Mr. President, on behalf of Senator Mega, I wish to call up his bill, Senate Print Number 5287A, which is now at the desk.

THE SECRETARY: By Senator Mega, Senate Bill Number 5287A, an act to amend the General City Law.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is before the house.

SENATOR LIBOUS: Mr. President, I now move to discharge from the Committee on Rules Assembly Print Number 7690A and substitute it for Senator Mega's identical bill. The Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

THE PRESIDENT: Substitution ordered. Third reading.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

SENATOR DALY: Mr. President.

THE PRESIDENT: Senator Daly.

SENATOR DALY: May I have unanimous consent to be voted in the negative on Calendar Number 1655, Senate Print 6193.

THE PRESIDENT: Without objection, so ordered.

SENATOR OPPENHEIMER: Mr. President, I request unanimous consent to be recorded in the negative on 1684.

THE PRESIDENT: Without objection, so ordered.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. I was just handed some comments that I think the members might find useful. These were words by Oliver Cromwell when he dismissed

the rump parliament on April 20, 1653, and he said, "You have sat too long here for any good you have been doing. Depart, I say, and let us have done with you. In the name of God, go."

I suggest everyone take it to heart.

(Whereupon, at 4:30 a.m., the Senate reconvened with Senator Farley in the chair.)

ACTING PRESIDENT FARLEY: Good morning, Senator Present.

SENATOR PRESENT: Good morning. May we take up Calendar 470 on the main calendar.

ACTING PRESIDENT FARLEY: 470. That is on the regular calendar.

THE SECRETARY: On page 7, on the main calendar of today, Calendar Number 470, by member of the Assembly Lasher, Assembly Bill Number 1829B, Private Housing Finance Law, in relation to affordable housing development loans.

ACTING PRESIDENT FARLEY: Read

the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present.

SENATOR PRESENT: Calendar 1371.

ACTING PRESIDENT FARLEY: 1371, on page 23 of the regular calendar.

THE SECRETARY: Calendar Number 1371, by member of the Assembly Lasher, Assembly Bill Number 5823, Real Property Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR PRESENT: Calendar 1548, please.

ACTING PRESIDENT FARLEY: 1648, Senator?

SENATOR PRESENT: 1548.

ACTING PRESIDENT FARLEY: 1548. That's on page 27 of the regular calendar.

THE SECRETARY: Calendar Number 1548, by the Assembly Committee on Rules, Assembly Bill Number 8665, an act to amend the Education Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT FARLEY: The

bill is passed.

Senator Present.

SENATOR PRESENT: Calendar 1347.

ACTING PRESIDENT FARLEY: 1347. We have a message on this one, Senator Present.

THE SECRETARY: Calendar Number 1347, by Senator Johnson, Senate Bill Number 5947C, an act to amend the Public Health Law.

SENATOR PRESENT: Mr. President, I move we accept the message which is at the desk.

ACTING PRESIDENT FARLEY: All those in favor of accepting the message, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The message is accepted.

Explanation has been asked for. Senator Johnson.

SENATOR JOHNSON: Mr. President, this bill is going to transfer the responsibility from monitoring the generators of

regulated medical waste from the Department of Environmental Conservation, who has already really given up the task though they're still charged with it, who are no longer operating that program, to the Department of Health, to clarify the definition of regulated medical waste as those wastes which pose a threat to humans.

You may remember in 1988, I believe it was, '87, '88, we passed a law in this state dealing with medical waste after the great medical wastes washed up on the beached. Subsequently, the federal government got into the act creating a medical waste bill. Our program and Jersey's program operated for some period of years.

We found out that -- when the federal government finally abandoned the program, we found out it wasn't necessary to classify all these materials as medical waste, that they could be autoclaved and safely dealt with as any other waste once it was treated in the autoclave.

What this really does is turns this whole program over to the Department of Health. They are classifying what is medical waste, what is infectious and what is not, and setting forth the procedure by which this is to be handled.

It will save a lot of money for doctors' offices and hospitals and nursing homes and so forth, and still will protect adequately the public health of the people of this state.

(Whereupon, Lt. Governor Lundine was in the chair.)

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator Pataki recorded in the negative.

THE PRESIDENT: The bill is passed

SENATOR PRESENT: Hold one second, please.

Mr. President, can we return to reports of standing committees and hear one, if there is one there.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Senator Marino, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 4242A, by Senator Volker, amends Chapter 68 of the Laws of 1968, Capital Construction Budget.

5824A, by Senator Marchi, Education Law and the Public Authorities Law.

5916B, by Senator Holland, Public Health Law.

5995, by the Committee on Rules, confers jurisdiction upon the Court of Claims.

6007, by Senator Padavan, Education Law and the Civil Service Law.

6186, by the Committee on Rules, amends chapter of the Laws of 1993.

6201, by Senator Espada, Education Law.

6205, by Senator LaValle, Education Law.

And 6206, by the Committee on Rules, temporary task force on railroad taxes.

All bills reported directly for third reading.

THE PRESIDENT: Third reading.

Senator Holland.

SENATOR HOLLAND: Mr. President, on Supplemental Number 4, I offer the following amendments to Calendar 1686, Senate Print Number 5916B, and ask that the bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Without objection, so ordered.

SENATOR PRESENT: Mr. President. Take up Calendar Number 1683.

THE PRESIDENT: Secretary will read.

SENATOR TULLY: Mr. President.

THE PRESIDENT: Senator Tully.

SENATOR TULLY: Other than the bills before us, do we have a Supplemental

Calendar 4 which has been distributed?

THE PRESIDENT: Supplemental 4?

SENATOR TULLY: I don't have -- I don't know if any member of the chamber has it.

THE PRESIDENT: Neither do I.

The Chair will advise that the Supplemental Calendar 4 is now being distrib uted, and also, Senator Present, I thought I understood, wanted to call up Calendar Number 1683. However, that bill is high, and I do not have a message at the desk.

SENATOR PRESENT: We made a mistake. 1680. Is that high too?

THE PRESIDENT: The bill is also high, and I do not have a message.

SENATOR LIBOUS: Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Could we return to motions for a second?

THE PRESIDENT: Certainly.

SENATOR LIBOUS: Mr. President, on behalf of Senator Stafford, I wish to call up his bill, Print Number 2523, recalled from the

Assembly which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Stafford, Senate Bill Number 2523, an act to amend the County Law.

SENATOR LIBOUS: God bless you! Mr. President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

SENATOR LIBOUS: Mr. President, I offer up the following amendments.

THE PRESIDENT: Amendments received.

SENATOR PRESENT: Mr. President, let's try 727.

THE PRESIDENT: 727.

SENATOR PRESENT: 727, on the main calendar. No? He says no.

THE PRESIDENT: This bill is not on the calendar, and it will be distributed.

THE SECRETARY: Calendar Number 727, Senator Levy moves to discharge the Committee on Rules from Assembly Bill Number 8726-A and substitute it for the identical Senate Bill Number 4887-C.

THE PRESIDENT: Substitution ordered.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is.

SENATOR PRESENT: I move we accept the message.

THE PRESIDENT: On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The motion is agreed to. The message is accepted.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Yeah. Would Senator Levy explain the difference between the "B" print and the "C" print?

SENATOR LEVY: Yes, the "B" print had an additional requirement that the Water Authority, in the absence of a pilot agreement in lieu of taxes, or an action by a governmental unit to waive its taxes, that the Authority continue to pay taxes. This -- this, the "C" print, deletes that, Senator Gold, and -- and limits the option to -- limits the action to the in lieu of taxes provision.

SENATOR GOLD: Well, Senator, in terms of the whole bill, would you give me an idea?

SENATOR LEVY: Oh, yeah, I'm sorry. What -- first, two years ago we did a bill to create a Southeastern Nassau Water Authority which empowered the Water Authority, if it made a determination to do so, to take over the New York Water Company.

What -- what the "B" print did and the "A" print was to require a public

referendum and that, in the absence of a taxing unit, in the absence of a taxing unit waiving property taxes or a pilot agreement, that the Water Authority, if it took over New York Water, would continue to pay property taxes.

What the "C" print does is remove the mandate that the Water Authority has to pay property tax. That's the difference between the "B" and the "C".

SENATOR GOLD: Thanks, Senator. Last section.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Calendar 1679.

THE SECRETARY: Calendar Number 1679, by the Committee on Rules, Senate Bill Number 6173-A, providing for the development and

modernization of major league sports facilities.

SENATOR PRESENT: Mr. President, I move that we accept the message which I believe is at the desk.

THE PRESIDENT: It is at the desk. On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

SENATOR GOLD: Last section.

SENATOR DOLLINGER: Mr. President, could I ask for an explanation?

SENATOR VOLKER: Mr. President. You asked for an explanation?

THE PRESIDENT: Last -

SENATOR DOLLINGER: Are you going to do it? O.K.

THE PRESIDENT: I'm sorry. Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I asked for an explanation. We're on 1679.

THE PRESIDENT: 1679.

SENATOR DOLLINGER: General explanation, and then I have one question from the sponsor.

THE PRESIDENT: On page 2 of Supplemental Calendar 3, Senator Dollinger asks for an explanation.

SENATOR SHEFFER: Sure. Mr. President, regrettably, not everyone in the state does, but I think the people in this room realize that tourism, including recreation and sporting activities, is our state's second largest industry and, if our state is going to have a strong economic future and enduring quality of life, that tourism, recreation and sporting activities is necessarily going to be a critically important part of that picture.

The bill that we have in front of us establishes a program, a process within the Urban Development Corporation, to speak to a

specific goal within that industry, and that's sports facility needs in our state. It's structured very much like some other programs, the REDS program, Higher Ed. Applied Technology Fund. It's a process to which applicants can apply for help from the state in renovating or building facilities.

In short, the state has been approached for many millions of dollars for help in constructing sports facilities. It would be nice if we could ride in on a white horse with all the money required and just dole it out. Regrettably in the 1990s, we don't have that luxury and instead have to structure as deliberate and careful a program as we can for the state to be a partner in those efforts, but not to single-handedly try to fund them.

There are some very specific needs. For example, minor league baseball in our state, we're proud to have 15 minor league teams, more than any other state in the nation, representing all three leagues, Triple A, Double A, Single A leagues. Each of those teams is

under a mandate, if you will, from professional baseball, to meet new facility standards by April of 1994 if they are going to retain their minor league franchise.

They have come to us, some of the stadia in this state being over a hundred years old, and say, We'd like to meet those standards. We want to retain our team, but we'd like the state to be a partner in -- in helping us do that.

This program structures that effort, sets up the process through UDC, that those minor league baseball teams or major league teams from other sports can apply and seek help from the state, and there are criteria for UDC agreeing that -- to that, and there are standards. Just to use examples that, for a major league team, the program is structured on the basis of a loan rather than a grant, and the maximum amount that can be received is 25 percent. For a minor league team, it is based on a grant.

That, in a nut shell, is what

this program is all about. If you have more specifics that I can speak to, I'd be happy to.

SENATOR DOLLINGER: Mr. President, if Senator Sheffer would just yield to a couple questions.

THE PRESIDENT: Senator Dollinger is recognized.

SENATOR DOLLINGER: Senator, the area of concern I have is Section 12 of the bill that involves a -- or maybe implicated a situation that may arise in the city of Rochester where we have a facility in one portion of the city that may relocate to another portion, and it's my understanding as I read that language -- I'd just like to walk through it to make sure that we have similar under standings on this -- that this section delegates to the municipality the obligation to conduct an initial assessment of environmental and economic impacts for the proposed relocation of a stadium. Is that correct?

SENATOR SHEFFER: It is. The burden for it is on the municipality, the

community, and the purpose of it is to say that where a decision is made locally that there will be a relocation, that as a matter of public policy, we're saying that the environmental and economic implications of that ought to be reviewed by the municipality as a part of that process.

SENATOR DOLLINGER: O.K. And again, through you, Mr. President, it talks about a determination being made both with respect to the economic and environmental impacts and then a decision made about whether a further environmental study would be needed, the filing of an EIS, and finally the creation of a financial assistance plan for the spot that is vacated in the event there is a relocation, and it's my understanding in discussions with you and other members of the staff that all of those determinations will rest with the municipal government. Is that correct?

SENATOR SHEFFER: That's correct.

SENATOR DOLLINGER: On the bill,

Mr. President.

This bill represents sort of an interesting experience for me because I came along in this Legislature just at the time that Senator Sheffer held his hearings about minor league baseball and the future of minor league baseball in this state, and I've been impressed not only with the work that he has done as the chairman of the Tourism and Recreation Committee but the work that's been done by, frankly, people around the state. I point to Senator Daly, my colleague from the west, Senator Nozzolio, both on behalf of Monroe County.

The stadium in Monroe County will be moved inside my district. All three of the sites that have been talked about are inside my district, but I appreciate the interest, the concern and the diligence of my three colleagues from the west in bringing this bill to fruition.

I think it does an awful lot. I think it charts new ground in our relationship between the state government, the financing and

the partnership with local governments and also, most critically, the relationship with the major leagues and with the Professional Baseball Association, because I think there has to be a recognition, which this bill incorporates, that everyone is a player in this game, and that we all have to make sure that we're communicating with one another and understand the fundamental tenets that go into this treasured sport of baseball.

So I congratulate those who have worked on this bill. I know it's been a long haul. I think it's a good bill. With Senator Sheffer's further comments and further guidance to me as to what the responsibility will be of the municipality, in my case the city of Rochester, I'm prepared to support it, and I would urge all my colleagues to do so.

THE PRESIDENT: Senator Daly.

SENATOR DALY: Mr. President, on the bill, I, too, would like to go through Section 12 so that we have no confusion on this. The language is very broad, and I think

we have to be quite specific so that we fully understand the intent of that language, and Senator Dollinger touched on it and just one point he made, and I'm not sure I understand the answer. I think I understand the bill. I want to make sure I'm right.

Where you have a -- if the Senator would yield.

SENATOR SHEFFER: Sure.

SENATOR DALY: On that, you'll note on line 27 a statement where -- a statement on economic and environmental impacts, assessing the impact of the proposed relocation.

Now, the proposed relocation. That environmental impact and that economic impact is on the existing -- the existing stadium. For example, if you're moving from Stadium A and building Stadium B, the environmental impact and economic impact statement that's mentioned in here deals with Stadium A, the stadium you're closing down; is that correct?

SENATOR SHEFFER: That is

correct.

SENATOR DALY: It does not deal with Stadium B, in other words, the new area you're going into except for the ordinary environmental impact?

SENATOR SHEFFER: That's right. I wouldn't want to imply that they wouldn't have to do any impact analyses under SEQR or anything else, but under this bill it's the location, the stadium from which you're moving.

SENATOR DALY: And, again, ordinarily you would expect an environmental impact statement or at least a study be made of an area in which you're going to build the stadium, but you would not expect an economic impact statement; is that correct?

SENATOR SHEFFER: Right.

SENATOR DALY: So, therefore, what the language means is that the economic and environmental impact that's mentioned in Section 12 will be in that area of -- in the particular case of Rochester would be in the Silver Stadium area, the stadium that's closing down and, again

importantly, the -- it is the municipality for instance -- for the record, would you define the municipality in this particular section? Is that a city?

SENATOR SHEFFER: Yes.

SENATOR DALY: For example, if we were talking about Rochester, then the municipality would be the city of Rochester.

SENATOR SHEFFER: Correct.

SENATOR DALY: All right. Thank you very much.

SENATOR DOLLINGER: Mr. Presi dent, if I may just for one quick question. I concur with Senator Daly's description, and I believe that Senator Sheffer's answer is consistent with my understanding as well, so I think the point is well qualified and I apologize to Senator Solomon for jumping up.

THE PRESIDENT: Senator Solomon.

SENATOR SOLOMON: Will the sponsor yield, please?

SENATOR SHEFFER: Sure.

SENATOR SOLOMON: Senator

Sheffer, I just went through the bill and I have to try and get some answers. In Brooklyn, we are trying to build a sports stadium, though, in fact the initial intent of the sports stadium is going to be to cater to amateurs, about 7,000 people in an outdoor facility and then a possible 12,000 people in an indoor facility. Would they be able to get any benefits under this bill?

We have -- we have a not-for profit corporation, I believe Senator Mega sponsored that bill. It should have already - I believe it passed already.

SENATOR SHEFFER: It's difficult for me to speak to a specific stadium or, in this case, proposal, and answer the question definitively. I -- in -- under the definition of "sports facility," it says "facility or arena to be utilized for the operation of profession al -- of a professional major league sports team, a professional minor league baseball team" and then I think the operative language from your standpoint "and other sports facilities of

regional or national significance."

And so, if the proposal to which you're referring could be described as being of regional or national significance, the answer would be yes. Doesn't guarantee money to that project, but would make you eligible to apply.

SENATOR SOLOMON: O.K. Thank you, Senator.

SENATOR GOLD: Last section.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I just rise to compliment Senator Sheffer on the bill. I know all the work that went into getting this bill worked out. I had the pleasure of sitting in on his minor league baseball hearings and know how important the - that piece is to every community that has a minor league team with the added pressure of major league demands for upgrading their facilities and the fact that a lot of those small communities, although they enjoy the baseball, don't have the wherewithal to do that

kind of upgrading, and I think John's recognition of that in putting this together, as well as being someone from Buffalo and seeing that the bill also contains a piece to make sure that the Buffalo Sabres remain the Buffalo Sabres, because of the facility that will probably qualify there, answers a major question for the people in Buffalo and the western New York area that are proud to have the Sabres as their hockey team, and this bill also goes a long way to make sure that that continues in the future, and I just wanted to rise and compliment John on that and ask everyone to support the bill.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Mr. President, very quickly, let me also compliment Senator Sheffer and say that the part of this bill relating to the minor leagues is undoubtedly an important part, but for us in Buffalo and in Rochester, because I think one thing the people in Rochester should realize that if the Buffalo Sabres had to move its franchise, then the

Rochester Americans which is their American League -- American Hockey League franchise would also have been lost, as well as two other pro franchises that are presently in the Memorial Auditorium in Buffalo.

This bill, and there's another chapter amendment that's coming to the local bill, is the catalyst that helps to hatch a project, a local public-private project totalling over $100 million, I think about 115 to $118 million if I'm not mistaken, called Crossroads which is designed to keep the Buffalo Sabres in Buffalo, and provide a sports facility in Buffalo of great proportions and also to provide an economic development for the water front in Buffalo.

It is something that has been sought by the western New York delegation and, in conjunction with Senator Sheffer's attempt to deal with minor league stadiums in Rochester and Syracuse and a number of other areas, this has been developed with the Governor and the Assembly, with Assemblyman Eve and Assemblyman

Bragman and Gantt in Rochester, Senator Daly in this house and, of course, Senator Sheffer, is, I think one of the most important things that is going to be passed this session.

I don't think people really realize the enormity of the revenue that sports bring in in this state. I know they don't, and I think that we better understand that it is big business and it's big business that we better deal with, because it's a very needed business.

SENATOR GOLD: Last section.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. This has been an interesting process for me because, when I first got onto -- into the Senate, it seemed all the publicity was that this was a done deal, there was already a bill pending in the Assembly that was going to take care of the amount of money that Syracuse needed to build their stadium.

Nothing was further from the truth. The process was in its infancy when I

became a Senator, and I learned very quickly that appearances really weren't necessarily the same as reality. Fortunately, Senator Sheffer was extremely gracious to me. Being able to share a conference room with him, he learned very early on that he was going to have me as a nuisance pertaining to this bill all the way through the process.

It reached a very big setback, I think, a few weeks ago when the Governor came out with his original package, which indicated a 25 percent cap on funding for new stadia, a new stadium, which would have killed the stadium in Syracuse.

The Senate negotiators were outstanding in removing that cap in this particular bill, for without that removal, we would be in deep trouble. We would not have a new stadium in Syracuse.

So now that it's becoming a reality and all the conditions that are met, required of a city to demonstrate the need are in place and one very important thing that

hasn't been mentioned that was Senator Sheffer's idea, and that is that the parent club is going to have to make a commitment to the community. They just can't come in and take the funds of the state of New York and decide they want to leave without having to reimburse the state for that investment, a very, very important piece of this particular legislation.

I want to thank Senator Sheffer not only for shepherding this thing through, but also for making me a part of it, a small part of it, but at least a part of it to benefit my district as well.

THE PRESIDENT: Senator Masiello.

SENATOR MASIELLO: Thank you very much, Mr. President.

Certainly, John, thank you for providing tremendous leadership. You've done a yeoman job in putting this bill together to ensure major league sports in Buffalo, but also minor league sports throughout the state of New York. Your leadership, working along with the

Assembly and the Governor, really made this bill become a reality.

But to Buffalo it means an awful lot, Mr. President. It ensures that Buffalo will remain a major league sports city for hockey, for soccer, for rugby, for lacrosse. It will ensure that we will have a first class facility to help us draw entertainment from all over the country. It will be a catalyst for the revitalization of our waterfront in downtown Buffalo, and I think more importantly it shows that with a team effort we can be successful. The city, the county, certainly have contributed to this arena. The Knox family, the owners of the Sabres and the lacrosse and the soccer team, have contributed upwards of 50 percent to the new facility. So this partnership of public and private entities working together will ensure that Buffalo will remain a major league sports team with a first class facility and certainly would help rejuvenate and revitalize our water front, and I'm looking forward to this becoming a reality.

Thank you, Mr. President.

SENATOR GOLD: Last section.

SENATOR DALY: Mr. President.

THE PRESIDENT: Senator Daly.

SENATOR DALY: Would Senator Sheffer yield for two more questions?

SENATOR SHEFFER: Yes.

SENATOR DALY: Going back to Section 12, we have at line 55 and I should have asked it before, and I forgot to. The municipality which again we've said is Rochester and you're talking about the Rochester program, and the private sector. Now, it's my understanding the private sector in this particular case would be the Rochester baseball team; is that correct?

SENATOR SHEFFER: Yes. I - again, similar to Senator Solomon, I have difficulty responding regarding specific teams and municipalities not being familiar with them all. In your specific instance, I believe the answer is yes.

SENATOR DALY: Thank you, Senator.

On page 3, line 16, it says, language that follows: State funding for projects that involve the development or modernization of sports facilities shall not exceed $60 million in the period April 1, 1994 through March 31st, 1998.

Does that necessarily mean, Senator, that any municipality can get no more than 25 percent in one year, or is that really spread out over four years?

SENATOR SHEFFER: It -- it's a $60 million total for four years and we have not attempted to structure it, 25 percent, 25 percent, and so on.

SENATOR DALY: In other words, it could be 50, 25, 50 and 10? We don't -- the bill does not mandate that it's the 25 percent equally.

SENATOR SHEFFER: Correct.

SENATOR DALY: On the bill, Mr. President.

I, too, would particularly like to thank Senator Sheffer for his work in this

area. I stand with my right foot in the Buffalo area and my left foot in the Rochester area, so I have two reasons to be thankful and again, I want to apply myself to the -- the Rochester area and state for the record that the only facility that has been discussed as far as this bill is concerned is the baseball facility, and I think in the case of Rochester, it's particularly important to make that point and make that point emphatically.

The monies that are in here are, hopefully, for Rochester concern only the Rochester baseball facility, and I say that, Mr. President, for the record, and I think Senator Sheffer agrees with me. And the nod of his head, by the way, Mr. President, indicates that he does.

SENATOR SHEFFER: Mr. President, let me not rely on the nod of the head but respond in the affirmative and also take the opportunity to thank the really enormous number of people, colleagues in this chamber on both sides of the aisle, people from communities

across this state involved in professional and minor league baseball and hockey and other sports, in making this effort a success.

THE PRESIDENT: Last section.

SENATOR DOLLINGER: Mr. President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: On the clarification, in response to Senator Daly, I agree with his assessment that this bill as currently drafted addresses the baseball issues specifically, but there is also language in the general clause which talks about the state's indication that there are major -- line 3 or 4, I've got an earlier printed draft, I don't have the final printed draft, but it says "professional minor league baseball stadia and other sports facilities of regional or national significance," and I don't think that that term would necessarily preclude any other facility in Rochester at some other time being a part of the mix. But I agree with Senator Daly that this at

least in its strong intent is driven by baseball and I don't think that I at this stage can rule out the possibility that it may apply to another major league facility in the city of Rochester.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Will the sponsor yield to just a couple questions?

SENATOR SHEFFER: Sure.

SENATOR KUHL: Senator Sheffer, I think I heard you say that particularly as it relates to the minor leagues in baseball that there was a requirement that they were going to have to rearrange or redo their facilities by April 1st, 1994, is that correct?

SENATOR SHEFFER: According to the PBA, the Professional Baseball Association agreement between the major and the minor leagues signed in 1991.

SENATOR KUHL: So there was a deadline for these communities if they were to comply with that agreement to renovate their facilities by April 1st, 1994; is that correct?

SENATOR SHEFFER: Yes.

SENATOR KUHL: And if I read the bill correctly, I believe that this funding does not become available until April 1st, 1994 at the earliest, is that correct?

SENATOR SHEFFER: Yes, and, of course, only upon the action of the Legislature as function of the 1994-95 budget next March.

SENATOR KUHL: Now, keeping all of that in mind, is there anything in this bill that would provide funds to those communities that have already embarked upon the renovation of their facilities to comply with those contracts and are already completing construction, or is this to prospective kind of construction that's to be occurring in the years ahead?

SENATOR SHEFFER: No, there is not. It's for prospective work.

SENATOR KUHL: Does it seem - well, let me say to you, Senator Sheffer, has any consideration been given by you or staff about making, essentially, reimbursement for communities who have tried to comply with the

regulations, the contracts that have been placed upon them, that you're aware?

SENATOR SHEFFER: What we are responding to here is a request, speaking just to minor league baseball, that was presented to our committee at a February 9th hearing, on behalf of the teams in -- our 15 minor league teams in our state represented by the three leagues, and within that request was -- was not any dollars for retroactive -- for past work. And so the answer is no, and we've attempted to speak to the request that was given to the state.

SENATOR KUHL: Was it your intention, Senator Sheffer, to deny a community who's been trying to comply with the request and requirements of the contractual agreement so that they could essentially save the baseball teams under the threat of removal from their particular localities?

SENATOR SHEFFER: No, I don't think that there's any affirmative action here to deny, and over these next number of months

until the program is complete, or the next step of it is complete, with the appropriation, I can state to you that you are raising a proper and reasonable question, that those who have negotiated this bill, certainly including both houses and the Governor, and many communities around this state can take an active look at the question that you have raised. I can not guarantee to you that there would be an answer satisfactory to you, but I think that you're raising a proper question, to which there ought to be a response.

SENATOR KUHL: Are you aware of any other communities that have embarked upon the reconstruction of their facilities in the minor league baseball setting?

SENATOR SHEFFER: One of the interesting things about this whole effort is how very different each of the communities is, and there are some, for example, in Buffalo who built the stadium several years ago. It already meets the standards, and it just isn't an issue here. There are -- there is at least one where

the major league team owns the stadium, and so the major league team themselves put a lot of money into stadium renovation like in Binghamton.

In Elmira, I understand, and I don't pretend to be expert on the status of each of these, that the community has acted on their own initiative to at least begin renovations. That's been true in a city that I am familiar with and represent, Batavia, but the answer to your question is, of the 15, each and every one is different and some are farther along the line than others.

And I do want to say with respect to the April 1st, '94 PBA deadline that it is quite literally impossible, even with the pass age of this bill and the subsequent appropria tion in the next budget for most of our teams to meet that deadline, and so a very important part of our hearing in February and the work that's been done since and a motivation behind the passage of this bill is to give us the leverage to go to the major leagues and say, We in New

York State have acted deliberately in good faith to move this process along and to help our minor league teams that have been such a critically important part of the history and fabric of those communities, and now what we need out of you, Commissioner's office and major league teams, is flexibility regarding those deadlines and we've been given encouragement that because of this action that the state has taken that we will be given that flexibility. I just didn't want to leave the April 1st issue sit with that question mark.

SENATOR KUHL: Just one last question, Senator Sheffer. Would you be willing to consider an amendment to this particular piece of legislation that would allow for communities like Elmira who have, in all good faith, attempted to comply with that April 1st deadline and have completed a good portion of that construction at considerable expense, to be reimbursed, so to speak, for those outlays in finances?

SENATOR SHEFFER: Senator, the

answer to your question is yes, speaking for myself. I want to emphasize, though, that this is an agreed, negotiated bill among three parties and to achieve a chapter amendment that speaks to that purpose will, of course, not just take my concurrence but the concurrence of all of those parties.

SENATOR KUHL: I appreciate that, and thank you.

THE PRESIDENT: Last section.

THE SECRETARY: Substitution. Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8865 and substitute it for the identical Third Reading 1679.

THE PRESIDENT: Substitution ordered.

SENATOR GOLD: Last section.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

SENATOR KUHL: Mr. President, would you now call up Calendar Number 1582. The bill has been laid on the members' desks.

THE PRESIDENT: Secretary will read.

THE SECRETARY: The Assembly returned the Senate Committee on Rules bill, Senate Bill Number 6116, with an Assembly Reprint Number of 30003, authorize the participation of local government units and agencies in the development and construction of sports and entertainment complex in the city of Buffalo, with amendments.

THE PRESIDENT: Concur in the amendments and restore the bill to third reading.

SENATOR KUHL: Is there a message at the desk, Mr. President?

THE PRESIDENT: There is a message.

SENATOR KUHL: I move we accept the message.

THE PRESIDENT: On the motion, all those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

SENATOR KUHL: Mr. President.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes. May we now proceed with the active list, Supplemental Calendar Number 4. But the first three bills will be on the regular calendar, our first

calendar of the day, starting with Calendar Number 722.

THE SECRETARY: On page 11 of the regular calendar, Calendar Number 722, by member of the Assembly McEneny, Assembly Bill Number 4906A, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 725, by member of the Assembly Englebright, substituted earlier, Assembly Bill Number 6521A, an act to amend the Public Authorities Law, in relation to the construction and financing of facilities for certain public libraries.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator Kuhl recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1564. On page 27, Calendar Number 1564, by the Assembly Committee on Rules, Assembly Bill Number 8797, Education Law, in relation to private trade and correspondence schools.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On Supplemental Calendar Number 4, Calendar Number 1677, by Senator Volker, Senate Bill Number 4242A, amends Chapter 68 of the Laws of 1968, Capital Construction Budget.

SENATOR KUHL: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1685, by Senator Marchi, Senate Bill Number 5824A, Education Law and the Public Authorities Law.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1686. Senator Holland moves to discharge the Committee on Rules from Assembly Bill Number 8523C C and substitute it for the identical Third Reading 1686.

THE PRESIDENT: Substitution

ordered.

SENATOR KUHL: Is there a message?

THE PRESIDENT: There is a message. On the motion -

SENATOR KUHL: Move we accept the message.

THE PRESIDENT: On the motion. All those in favor say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

SENATOR KUHL: Lay the bill aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1687. Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8632 and substitute it for the identical Third Reading 1687.

THE PRESIDENT: Substitution ordered.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator Saland recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Also Senator Leichter in the negative.

Calendar Number 1688, by Senator Padavan, Senate Bill Number 6007, Education Law and the Civil Service Law.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

SENATOR KUHL: Mr. President, could you call up 1677 at this time? I believe the objection has been withdrawn.

THE SECRETARY: Calendar Number 1677, by Senator Volker, Senate Bill Number 4242A, amends Chapter 68 of the Laws of 1968.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1689. Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8846 and substitute it for the identical Third Reading 1689.

SENATOR KUHL: Is there a message at the desk?

THE PRESIDENT: There is.

SENATOR KUHL: Move we accept the message.

THE PRESIDENT: The substitution

is ordered.

On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

SENATOR LIBOUS: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1690, by Senator Espada, Senate Bill Number 6201, Education Law, in relation to ineligibility for election or appointment to school district offices.

SENATOR KUHL: Is there a message?

THE PRESIDENT: There is a message.

SENATOR KUHL: I move we accept the message.

THE PRESIDENT: On the motion.

All those in favor say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1691 -

THE PRESIDENT: The bill will be laid aside temporarily awaiting substitution.

SENATOR KUHL: Before we do that, can we accept the message?

THE PRESIDENT: We need to substitute the Assembly bill first.

SENATOR KUHL: Lay it aside.

THE SECRETARY: Calendar Number 1692, by the Senate Committee on Rules, Senate Bill Number 6206, creating a temporary task force on railroad taxes.

THE PRESIDENT: The bill is high. It will be laid aside.

SENATOR KUHL: Mr. President, would you call up Calendar 1688, please, at this time.

THE SECRETARY: Calendar Number 1688, by Senator Padavan, Senate Bill Number 6007, Education Law.

SENATOR STACHOWSKI: Explanation.

THE PRESIDENT: Explanation is requested. Senator Padavan.

SENATOR PADAVAN: Mr. President, there are two parts to this bill, one that establishes a procedure for evaluating and managing the function of custodial care in our schools in the city of New York. The second part of the bill deals with facilitating of the availability of those school buildings during other than school hours for use by youth groups

and community groups throughout the city of New York.

SENATOR GONZALEZ: Mr. President.

THE PRESIDENT: Senator Gonzalez.

SENATOR GONZALEZ: I want to speak on this bill. Because, on this particular legislation, what troubles me is that we're doing legislation where something that should be taken care of at the collective bargaining table, and it reminds me of about approximately two years with Chancellor Fernandez had a problem with tenure to buildings for principals, and that was resolved at the table.

We explicitly send the wrong message that we're getting into contractual relationships, where the city of New York, whoever negotiated back when, gave up certain provisions at the table, and now we're going to legislate what they should be taking care of at the bargaining table.

There is a history, and I think

that in the particular history, if there was a problem, it usually goes to arbitration; and once arbitration and all those factors remain, I think that the city of New York through their negotiators could achieve what they want to achieve at the bargaining table and not to legislate this.

That's why I am opposed to this sort of legislation.

Thank you, Mr. President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Congratulations. 5:30 in the morning, we're attempting to micromanage the New York City school system in the waning hours of the legislative session. It is not something that should be done casually or lightly.

I agree with my colleague. Senator Gonzalez is absolutely correct. This is an end run around the collective bargain procedure. It's also an end run around a ruling by the state Civil Service Commission and by the

Supreme Court of the state of New York, and I do not believe that we in the Legislature, without consultation with the school officials, not only the school officials who previously served but the school officials who will subsequently serve, we do not know right now the opinion of the new chancellor of the New York City school system. It is my understanding that very advanced negotiations to find a new Chancellor after a nationwide search that has month after month and interview after interview has produced a candidate who is exceptionally well qualified, and I'm not sure that there is anyone in this room who has any idea of what this proposed new Chancellor feels about this piece of legislation, because that new Chancellor will have to deal with this legislation.

After a nationwide search, it appears that the New York City Board of Education wishes to retain the services of Dr. Bernard Gifford, who previously had been Deputy Chancellor of the New York City school system. I have spoken to Dr. Gifford about the custodial

issue.

I agree, as many of you in this room feel, that there are problems with the custodial system, that there has to be more accountability performance standards established, and I was prepared to sponsor such legislation when I chaired the Assembly Education Committee in the other house. At that point, the same Dr. Bernard Gifford said, "Leonard, do not alter profoundly what we have. As bad as it is, it has saved the city of New York and the Board of Education a good deal of money."

I have profound respect for Dr. Gifford. His knowledge of the New York City school system is intimate. His understanding of fiscal affairs is exceptional, and I would hope that the Legislature would show this new Chancellor, if we can prevail upon him to come to New York City and head that troubled New York City school system, that we would consult him, ask his advice, before we plunge into action between 25 and 20 to 6:00 this waning moment of

this legislative session.

I heard some comments on the floor yesterday as to why a certain piece of legislation should be voted upon a certain way, and one of my colleagues on the other side of the aisle said, "Take into account that the New York State AFL-CIO has a certain position on that bill," and he was very persuasive, and I noticed that after he made that announcement in explaining his vote that labor was opposed to a certain position, that members of this Legislature listened.

The New York State AFL-CIO, labor, the unions in New York State, are opposed to this piece of legislation for the reason that it is an end run around collective bargaining, for the reason that it seeks to undo what was attempted by the board of education and successfully challenged in a ruling before the state Civil Service Commission and a decision by the New York State Supreme Court.

I don't think this is the time for us to plunge into this issue in direct

opposition to collective bargaining, in opposition to the wishes of the labor movement in this state, and in violation of what has already been decided upon as having been an improper procedure in the actions taken by the Civil Service Commission and a state Supreme Court.

Tread lightly on this issue. Let the New York City school system find its Chancellor. Then we will be back in September. If that Chancellor -- who knows more about this issue than any of us in this room -- if that Chancellor says this is the way to go, then I will get up and join you that this is the way to go, but not tonight, this morning, this hour.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Mr. President. I would certainly echo the se ntiments that have already been made. There are opposition memoranda filed by every local and union that is involved in the school system, including the coalition of unions representing New York City Board of Education employees.

Senator Stavisky has mentioned - let me put it in proper order. PERB has already ruled that these employees are management confidential so legislation doing that is at best redundant, ridiculous at 20 of 6:00 o'clock in the morning.

There has been a Supreme Court decision, and there has been a decision of the Civil Service Commission of the state of New York which this legislation is attempting to overturn, and I would certainly suggest to my colleagues that we do not do it today.

I note that this bill barely, and I mean barely, passed the Assembly, achieving some 77 votes in that house with 63 votes against it, and I would encourage my colleagues not to vote for this piece of legislation.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: This bill did not pass the Assembly. A similar bill passed the Assembly. That bill has been amended to conform with the one that's before us, and they are prepared to pass it as soon as we send it to

them.

This bill is supported by the New York Special Commission, Commissioner of Investigation for the New York City school districts, supported by the Mayor of the city of New York, supported by the Public Education Association, the Education Priorities Panel, the Conference of Big Five School Districts, the New York City Partnership, the Community Service Society, the New York State School Boards Association, advocates for children, the NAACP Metro Council of Branches, the New York City Department of Youth Services, the Parents Coalition for Education in New York City and the Fund for New York City Public Education, and it's supported by the Board of Education of the city of New York -- the Board of Education of the city of New York.

I have had direct conversations with the president of that board who was elected unanimously by every member on this very issue, Harold Bresser, from our county in Queens. They want this bill because it is meaningful reform

in how our schools are going to be operated.

Yes, it does establish a new system. What are the components of this new system?

It provides 32 plant managers, one for each community school board, responsible; two superintendents of each school district to work with principals in each of the schools with one and only one objective in mind, to ensure that those schools are maintained and kept in the best possible fashion. And then problems that might arise through no fault of the custodian can be resolved through the superintendent and through the system, problems that might relate to resources, problems that might relate to contracts yet to be put out for bidding, a variety of things that must be done.

This is not an end run around anybody. What it is is a very honest, straightforward attempt to do something that is long overdue. Long overdue.

Most of the schools in the city of New York in my district and elsewhere are

maintained in an appropriate fashion; but, unfortunately, there are a number which are not, and until such time as we can provide a management level of supervision and a system of evaluation that involves the principal -- the principal in the school, who currently is totally excluded from having anything directly to say as to how his school is maintained -- he is out of the loop. The community school district superintendents, 32 of them, who are responsible to the parents, to the children, to the Chancellor, to the board of education, have nothing very much to say currently about how custodial services are performed.

And so all of the people that I have told you about, including the board of education -- I know nothing about a Chancellor yet unnamed. I know about the one who just left. He was in support of this. But I do know there's seven people down there appointed by borough presidents and the mayor, are very much in support of this, pleading with us to accomplish this fact.

Yes, the custodian engineers are opposed. I don't know what the coalition of unions are. That is the union and the local that is opposed. I respect their view, and I understand their opposition. They want no change in the status quo.

And the change in the system structurally cannot be done by collective bargaining. It has to be done by law, and that's what we're going to try and do here tonight.

So I urge your support, and if there are any specific questions you would like to ask of me about how this bill works and what it does -- no mention here so far, other than my brief explanation, about the very important part of the bill that involves opening up these 900 some-odd schools which today sit as a resource in every community throughout the city of New York and are not used very often or very well because of certain restrictions that currently are imposed on their use, not by parents, not by principals, not by superintendents, but by

others.

That's an important part of the bill that we have here to consider and should not be overlooked as we think about it.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, just briefly on the bill.

I would like to join along with Senator Lack and Senator Stavisky in pointing out the union opposition, and the reason for it because of collective bargaining. Regardless of the fact that Senator Padavan says the only way any change can be accomplished is through law, there's a large number of us who feel that collective bargaining agreements should still be followed, and that that is the vehicle that should be used for this sort of change.

And to be specific, Local 891 AFL-CIO has a memo in opposition -- that's the local -- as well as the International Union of Operating Engineers also has a memo against this, and Senator Stavisky mentioned the

AFL-CIO, and Senator Lack mentioned all the school unions.

I think that this loud opposition to stepping on the collective bargaining system is important to take note of when we vote on this bill. Granted there's some good parts to this bill, but the fact is, because there are a lot of good parts, we can't overlook this one extremely bad part of this bill.

I find it interesting that just a couple nights ago the city of New York was against getting a bill done that would help a union situation; and today the city of New York is for getting a bill done which will hurt a union situation.

Last time, the bill was carried by Senator Maltese where despite the fact that the city of New York was in favor of it, he got tremendous support because it was good for the union position and the safety of the workers but basically the union position.

So that we hope that now, when this particular union, which isn't a police

union, asks for the same kind of support from the Legislature that they, too, get it.

And I hope that we vote to defeat this bill.

SENATOR MARCHI: Mr. President.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Will the Senator yield?

SENATOR PADAVAN: Yes, sir.

SENATOR MARCHI: We have a bill coming up. I'm just wondering whether this is in conflict.

SENATOR PADAVAN: No, not at all, Senator. The establishment of the plant managers in each of the community school board districts, their reporting function and evaluation by principals and community school board superintendents, would not in any way conflict with the bill that you and I certainly are in support of dealing with borough boards. No conflict whatsoever.

THE PRESIDENT: Senator Galiber.

SENATOR GALIBER: Yes. Thank

you, Mr. President. This piece of legislation came up as an integral part of the Marchi Commission which I had the privilege of serving on. I agree with some of my colleagues that this is a horrible, horrible time to bring up this kind of legislation. It is even worse to bring up the other piece of legislation which is calling for major reform in our educational system at 10 minutes to 6:00 in the morning.

But during the course of the hearings that we held, we had the custodians come in, and they testified, and they were opposed to certain matters. And as we investigated, we were concerned about, one, the access to the schools after the schools close down and the fees that were involved. This bill covers that.

In addition thereto, we found a horrible relationship between the custodians and the teachers. We found a system which called on complaints being sent over to Queens and piled on someone's desk, and by the time they got around to remedying those conditions in the

school, they had deteriorated to the point that the original complaint was no longer a small one but a large one.

The relationship between the custodial engineers and the school has been horrible for many, many years. No one in the sound of my voice respects union concepts any more than I do.

We have a bill that's going to be coming up a little later which has to do with changing the governance, because our school system has failed and they are not educating our youngsters.

The settings in the schools are horrible because of lack of relationship between the custodians and the teachers. Custodians don't even speak with teachers in the school as testimony came out. They dictate to the principals what they want to do and what they do not want to do.

This piece of legislation goes in the right direction, Senator Padavan. And I'm going to vote for it because I think it's part

of a total package of changing our educational system so that our youngsters can be educated. Proper setting for education is extremely important. Plaster falling in our classrooms, desks not repaired, pipes not repaired and sometimes with a sense of arrogance saying, "We don't care about it; we're going to let it take its course."

It's a difficult bill for some because there are those of us who have looked at the unions with great support. I have heard some rumors that the minority report which I put in, which is now a piece of legislation breaking down five boroughs, they tell me that it's dead, not going to go anywhere. We have it here this morning, which is interesting being it's five minutes to 6:00.

Do you know why they tell us the bill is dead. It's dead because the union wants to kill it, because the union doesn't want to go through the problem or the trouble of negotiating with five separate boroughs.

And when you say to them, Well,

what about our kids? Is it a given that they are not being educated? Have we lost a generation of our youngsters as a result of a poor educational system with some good teachers who want to teach? The answer is yes.

But there comes a time when the unions are going to price themselves out of the market. What price do we have to pay for our commitment to the unions? Do we sacrifice our children? Do we keep our schools closed in the evening so people in the community if they were open to participate -- the answer, I think, is our children are important and should be primary.

Our communities should be serviced. The schools that are there like most of us -- I guess most of us -- finish school at 3:00 o'clock, public school system, the gym was open until 3:00, 4:00, 5:00, 6:00 at night. Now, if you go to a school and try to have a community meeting, it will probably cost you some $80, $90, $200, perhaps even more, and these fees are set not by the superintendent,

not by the principals, not by the Central Board of Education, but they are set based on perhaps the negotiations or collective bargaining, but certainly they are not open.

So I say this is a small step in the right direction, that the cooperation as far as the custodial engineers and teachers are concerned, and superintendents, there has to be that sense of accountability.

So I think it's an excellent piece of legislation. I'm going to support it, Senator.

THE PRESIDENT: Last section.

SENATOR PADAVAN: Slow roll call.

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

THE PRESIDENT: Call the roll.

SENATOR HOFFMANN: Slow roll call.

THE PRESIDENT: A slow roll call is requested. Evidently a sufficient number of Senators are requesting a slow roll call.

THE SECRETARY: Senator Babbush.

excused.

Senator Bruno.

(There was no response.)

Senator Connor excused.

Senator Cook.

(There was no response.)

Senator Daly.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: Yes.

THE SECRETARY: Senator Farley.

(There was no response.)

Senator Galiber.

SENATOR GALIBER: Yes.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Yes.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: Mr. President.

THE PRESIDENT: Senator Gonzalez is recognized to explain his vote.

SENATOR GONZALEZ: As I said before that this particular legislation intrudes on the collective bargaining agreement, but I want to make a point that the boss is the board of education. They promulgate. They move the rules, they -- and that is negotiable at the table.

The schools are not open because the board of education, they're making the custodians the bad people; they're not. It's at the bargaining table that that must be dealt with, and it could have been dealt with, and it should be dealt with that way and, for that reason, I vote no.

THE SECRETARY: Senator Goodman.

(There was no response.)

Senator Halperin.

SENATOR HALPERIN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: No.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: No.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Jones.
(There was no response.)
Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lack.
SENATOR LACK: No.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: No.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Yes.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: Mr. President.
THE PRESIDENT: Senator Leichter to explain his vote.
SENATOR LEICHTER: To explain my

vote.

Mr. President, I think great importance should be placed on the collective bargaining system, but there are times when that process does not work. I'm told that for three years there's been an effort to reach an agree ment with the custodians. It has not succeeded. This Legislature has often stepped in where collective bargaining has failed. Just a few days ago we passed a bill which imposed certain retirement benefits on the city of New York because we felt that employer was not bargaining in sufficient good faith and we thought it, therefore, appropriate for us to see that the collective bargaining system, not having worked in that instance, be replaced by our action.

It's well documented how the custodians are acting in a manner that's not in the interest of the children of New York. There's no accountability, no responsibility. Part of the disgraceful condition that the schools of New York are in are due to the fact that the custodians are not responsible. This

bill will give the employer the control that it deserves to have.

I vote in the affirmative.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

(There was no response.)

Senator Marchi.

SENATOR MARCHI: Mr. President.

THE PRESIDENT: Senator Marchi is recognized.

SENATOR MARCHI: It's apparent that we have a Hobson's choice, and it sounds like an issue that we may have to revisit; but, based on the statements that have been made this morning, I would have to vote yes at this point.

THE SECRETARY: Senator Marino.

(Affirmative indication.)

THE SECRETARY: Aye.

Senator Markowitz.

SENATOR MARKOWITZ: Yes.

THE SECRETARY: Senator Masiello.

(There was no response.)

Senator Mega.

(There was no response.)

Senator Mendez.

SENATOR MENDEZ: Mr. President.

THE PRESIDENT: Senator Mendez is recognized.

SENATOR MENDEZ: Explain my vote.

I am supporting this bill, although I have like many of my colleagues here consistently supported unions, by supporting unions who have been supporting workers in their aspirations for economic justice. In this instance, we have to take into consideration the needs of the children.

If this bill doesn't go through, and the Assembly doesn't pass this bill and this doesn't become law, then the situation that has been prevailing in the city schools for too long

will keep on being the same. For a better education for our children in New York City, we need to change this situation, and labor should not interpret that this is an attack on them because it is not. It is just fairness and justice, and it has to be done. So we hope that this bill will resolve that situation, and the unions can be reorganized and keep on from there on.

Thank you, Mr. President.

THE PRESIDENT: How do you vote?

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Nolan.

SENATOR NOLAN: Yes.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: No.

THE SECRETARY: Senator Ohrenstein.

(Affirmative indication.)

THE SECRETARY: Aye.
Senator Onorato.
SENATOR ONORATO: No.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: No.
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Pataki.
(There was no response.)
Senator Paterson.
(There was no response.)
Senator Present.
SENATOR PRESENT: Yes.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Sears.
SENATOR SEARS: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: No.

THE SECRETARY: Senator Sheffer.
SENATOR SHEFFER: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Yes.
THE SECRETARY: Senator Solomon.
SENATOR SOLOMON: Yes.
THE SECRETARY: Senator Spano.
SENATOR SPANO: No.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stafford.
SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: Mr. President, I rise to explain my vote very briefly.
THE PRESIDENT: Senator Stavisky is recognized.
SENATOR STAVISKY: There are many

things that are in this bill's objective with which everyone in this chamber would agree. Yes, the schools should be open at all hours - afternoons, evenings, week ends, summer months, so that they can perform a function. But we have changed as a society. It costs money to open schools because many things that were done by individuals working for different institutions on a voluntary non-paid basis no longer operate that way.

There were times when teachers, for whom I have great respect in the way that they carry out their missions, would volunteer to serve as coaches and as advisers to after school activities. That system has changed and now the after-school programs are primarily entrusted to teachers and others who are paid for their services.

Many physicians used to volunteer their time at clinics free of charge but, with affiliation contracts, many medical and health care professionals are now being paid for the very services that they rendered free of charge.

That's the problem with regard to the opening of schools. Somebody now expects to be paid for something that all of us say should be done free of charge.

I would concur, but I can not give away the labor of someone else when that individual now expects to be paid. There are conflicts. Do you spend your money on opening the schools for after-school activities, or do you spend the money for teachers? And remember, my colleagues, the New York City school system is not necessarily given all of the state aid to which it should be entitled, and we in this chamber bear some of that responsibility.

So I'm saying understand the realities. Yes, I support the objectives that have been stated by the proponents here. But is there the money to educate and, at the same time, carry out these after-school functions? And with a hard-pressed board of education budget, I am not sure.

For the reasons I stated earlier and for the reasons I've stated now, at this

time, I will vote no.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: No.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

(There was no response.)

Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(Negative indication.)

THE SECRETARY: No.

Senator Wright.

(There was no response.)

THE PRESIDENT: Call the absentees.

THE SECRETARY: Senator Bruno.

(There was no response.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator Farley.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Jones.

SENATOR JONES: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: No.

THE SECRETARY: Senator Masiello.

(There was no response.)

Senator Pataki.

SENATOR PATAKI: Yes.

THE SECRETARY: Senator Paterson.

(There was no response.)

Senator Santiago.

(There was no response.)

Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: No.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: No.

THE PRESIDENT: Results.

THE SECRETARY: Ayes 37, nays 15.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number -- I'm sorry.

SENATOR PRESENT: Go ahead.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: 1685.

THE SECRETARY: Calendar Number 1685, by Senator Marchi, Senate Bill Number 5824-A, Education Law and the Public Authorities Law.

SENATOR LEICHTER: Explanation.

THE PRESIDENT: Explanation is requested. Senator Marchi.

SENATOR MARCHI: Mr. President, some of the earlier conversations that we've had and discussions and a long train of events that started back in 1962, I guess, when I introduced a bill that was later reiterated by Senator Galiber in the Minority expression at our commission report of the study that we conducted

recently, and that bill in 1962 would have provided for five separate boards.

What the Legislature did at that time was to provide borough aid in the amount of $120 million, which was a substantial enrich ment of the -- of the existing pattern of state assistance for public education in the city of New York.

Nothing happened there until we had the decentralization bill in 1969, in 1970, and that bill was revisited by the commission that Senator Galiber and I served on, members from this house, and the commission made a report which was speedily outdated by events that flowed not from the -- not from bad intentions on the part of the chancellor but by what I felt was a squandering of good will that he had created, and galvanized again a spirit in support of a separate borough system.

Assemblyman Del Toro passed legislation on the basis of the study of the commission with some variations but, by and large, adhered to the traditional concept of one

central board, and this came into conflict, very strong conflict, with the spirit that existed very strongly in the boroughs for the creation of a borough system of education -- five separate districts.

The Governor gave support to this thesis by suggesting, at least in a conceptual way, the very same concept and when -- my co-sponsors, Senator Galiber, Senator Padavan, Senator Maltese, Senator Mega, when he was with us, and Senator Velella, all joined in and advanced this bill.

We had strong support from the - from the boroughs. I received a statement issued by Claire Schulman, president of the board of education -- president of the borough of Queens, very strongly supportive of the effort that we were making here, in which she said -- stated in the message: "That is why I have worked closely with Manhattan Borough President Ruth Messinger, Senator Marchi and his staff to develop legislation to create a de centralized school system that would provide

greater accountability and achieve greater success.

"I believe the version of the Marchi bill now before the Senate is the best possible hope for the future of education, and I am confident that minor differences between Senator Marchi's bill and the bill I proposed with Borough President Messinger can be successfully resolved in conference with the Assembly. I am also greatly encouraged by Governor Cuomo's support for fundamental change in the current structure of education."

Mr. President, the bill that we joined jointly, myself and Senator Maltese, Senator Mega, Senator Padavan, Senator Velella and Senator Galiber, is that vehicle. I don't assume that a bill that would eventually be signed into law would be totally on track with this because in the statement issued by the borough president of Queens, there are some differences and there are differences certainly with the version that was presented by Senator -- Assemblyman Del Toro, but in my presence,

many of the people that voted for that bill -- I was in the Assembly at the time -- indicated that they had -- if they had this alternative, they could support this also.

So clearly, Mr. President, this is a vehicle by which we can advance, I think, in great part the substance of the legislation that would eventually describe and delineate the governance of the school system in the city of New York and we would be performing a valuable service in advancing this concept, because it is the dominant theme on the second floor. It is the dominant theme in the statement issued by the Board of Regents who, in many ways, tracked almost word for word the concepts that undergird the bill that we have sponsored jointly and is now before you; and their statement tracks almost word for word and issue by issue with the position that we articulated some time ago.

So the bill is now before us. It does several things. It reorganizes the New York City school system by dissolving the present central board and the officer of the

chancellor, and it transfers responsibility for running general purpose high schools to the community districts and making borough boards of education and borough superintendents the primary governance structure.

We do create the position of administrator to perform functions best handled centrally: Compilation of district fiscal estimates, administration of state aid that comes to the city, administration of special theme high schools and assimilation of the student and school performance data.

This administrator, in a way, parallels the definition of a central board by the Board of Regents, and the administrator would be the primary employer, so that all contracts involving personnel in the city of New York would be directed to the administrator.

The administrator would be appointed by the mayor of the city of New York with the advice and consent of the City Council, under regulations and norms described by the Commissioner of Education.

So we have a parallel to that offered by the Board of Regents, and it's only in -- in the terminology that there is any substantive difference. There is no substantive difference in terms of actual effect.

So that, in summarizing the provisions of the present bill that is before you, the bill would abolish the New York City school board. It would abolish the office of the chancellor. It would create a borough board of governance, create the position of borough superintendent whose selection by the borough boards would be subject to the advice and consent of the Commissioner; charge the borough boards with virtually all of the functions now entrusted to the central board.

It would create the administrator of the City School District to enter -- to handle centralized data and also to be the primary employer, and the contract involving personnel in the city of New York would be conducted through the office of the administrator.

There is ample justification for what is suggested here, because the system plainly is not functioning. Decentralization would provide a more tailored approach through the respective boroughs in this City to this - to this problem.

It would also provide us with an opportunity for voting at the general election on the same machine that we conduct the general election day. It would be on election day ensuring a maximum turn-out by the public at the election of the borough board -- of the community boards.

This means that, in compliance with the state Constitution and the law of this state, citizens would be able to vote in the general election, admittedly in an off year, but nevertheless on election day ensuring the greatest possible turn-out and enable them to cast a vote, they would have a voting three of nine of their respective community boards and we -- you would know and have a result immediately with full participation, and full participation

and involvement by the part of the public has to be integral to a functioning system that is meaningful. Otherwise, when we had this fractional diluted turn-out which admittedly crested to some point, but still was only about 20 percent, I believe in the city of New York, 15 percent, generally. But it was -- that was the high water mark at the last election.

This would ensure a full participation by the public of the city of New York in the selection of their community boards.

So I submit, Mr. President -

ACTING PRESIDENT SPANO: Excuse me, Senator Marchi.

Senator Mendez.

SENATOR MENDEZ: Will you yield for a question?

ACTING PRESIDENT SPANO: Senator Marchi, will you yield to a question?

SENATOR MARCHI: Always, always.

ACTING PRESIDENT SPANO: Senator yields.

SENATOR MENDEZ: Thank you; thank you.

You know, Senator Marchi, strange things happen at night, and also strange things happen in the early morning. We all -- we are all aware of the hard work and contributions that you have made in many areas, but in this instance in the area of education through your commission and with Senator Galiber as well and we are all most grateful for it.

The strange thing that has happened is that because strange things happen, this bill that affects the education of all the children in that city that we all love so very much, was released for consideration at 3:00 o'clock, 3:00 o'clock in the morning, and the - the implications of passing this bill today are so huge and so drastic, in a sense, that we might -- we might regret taking that action today when we are all very tired and being a whole night without sleeping, and so that -- but with all this, my first question is would you -

SENATOR MARCHI: Senator, next to

me, you're a young girl.

SENATOR MENDEZ: I mean the Senator is just superb. That comment alone makes me -- would make me think about voting for the bill, but -- in appreciation.

But really, Senator Marchi, would you -- wouldn't you -- do you feel that creating five boards, five boards of education for the five boroughs of the city of New York would create five big bureaucracies? Yes, you are in it, you are demanding -

SENATOR MARCHI: We're opting - we have a large bureaucracy at the present time, but you have borough structures already, and the accretion would not be significant if you no longer had a central board. You would have an administrator who would be a primary employer, but it's a wholly different matter if that -- if that personnel were available at the grass roots and formulating policy for the five counties.

SENATOR MENDEZ: See, Senator Marchi, if I understand correctly at least parts of your bill, you basically -- you are stream

lining the central functions of the board like personnel, fiscal policy, fiscal activities in an administrator that will be appointed by the mayor and -- and confirmed by the council.

SENATOR MARCHI: With the confirmation of the council.

SENATOR MENDEZ: Then we would have these elections and the borough president would be appointing people to the board, would the various borough president?

SENATOR MARCHI: Well, the borough boards, you would have composing that board you would have -- yeah, one by the mayor, one by the city council, three by the borough president and two by the constituent community board in that borough.

SENATOR MENDEZ: Now, now, you have mentioned decentralization in your explanation of the bill, and -- and in my view, the true decentralization has never occurred in the school system of New York City. We know at least the idea that I have that upstate New York, there is a regular school board of -- of

-- school board of education, elected members. They do have a superintendent from BOCES that performs the function of a middle manager like what the central board in New York is, in terms of the Commissioner of Education of the state.

Wouldn't you say -- wouldn't you agree that, if we were to benefit from the experience of many other school systems throughout these states, that they are more manageable in size, and we would have -- we could have a central administrator appointed by anybody, the mayor or whatever, appointed by the mayor to again retain, as your bill specifies, the functions of the central board, the personnel and fiscal activities of the central board and then have those 32 community school districts perform with a district superintendent in charge, perform in the same fashion which the other school districts throughout the state do perform?

SENATOR MARCHI: Well, that's not a bad development, Senator, but there are some differences. We have over 700 boards of

education in the -- in the state of New York, and they're fiscally independent. They have their own taxing powers. It's -- the situations aren't that comparable when you compare it to the present circumstances.

This is the ideal way of approaching it, I believe, in a city of our size. We have to -- we're dealing with tremendous numbers; we're dealing with a fiscally dependent board which still has to depend on the largesse or the willingness or the responsiveness of general government to -- to the needs of the -- of these people.

SENATOR MENDEZ: But, Senator Marchi, but if we would approve those five borough boards, still those five borough boards would be dependent upon the largesse of the city and the state in terms of funding.

SENATOR MARCHI: Yes, because we're fiscally dependent, but the direction and the -- and the policy within the respective schools would be under the control of borough entities and your community boards within the

boroughs.

SENATOR MENDEZ: Wouldn't you say that the same -- the same amount of politicking that has occurred with the appointees in the present central board, the appointees of the five borough presidents and the mayor that have resulted in the unfortunate loss of a very great educational leader, Chancellor Fernandez, that that same kind of possibility could exist, of course, at each borough level by the appointees of the borough presidents and the other appointees of the others, wouldn't you say that that situation could be replicated at the borough level as well?

SENATOR MARCHI: We have -- we have the opportunity of involving the larger public in a very significant way through this medium, and it -- I think that it is plainly indicated before we have -- if we instituted boards on the size that are the average throughout the state, you would have several hundred community boards acting as independent units. I don't think we're quite ready to go

that far.

SENATOR MENDEZ: No, but we -

SENATOR MARCHI: We are ready to go as far as our boroughs, I think. There is sufficient consciousness and ability to relate to our respective boroughs.

SENATOR MENDEZ: One last question. One last question, if I may. One last question.

One last question if I may. I'll get there. I'll get that, one last question. What was it? Oh, yes, yes.

SENATOR MARCHI: I hope we have you in the negotiation, Senator, when we're finally working out the ultimate bill.

SENATOR MENDEZ: Senator Marchi, Mr. President, one last question. One of the preoccupations that the teachers' union in the city of New York do have, with the changes in the -- in the possible changes in city governance of the schools is that contractual - contractual -- the contractual process might become more difficult for them.

When, in discussing this with Miss Feldman, I mentioned that, and this does apply -- I want your opinion of this, the same applies to the five local boards, that they need not be concerned with that because negotiations would proceed either by an independent - independent bargaining committee with the representative of teachers, board members or whatever over the existing boards, so that only one contract would be negotiated for all the 32 schools, in the sense of the word. In your case, is that -

SENATOR MARCHI: Well, I'm responding. My response, Senator, Mr. President, the bill does provide for the conduct of those -- the contract negotiations with the administrator, so that you have that central operation but, you know, neither Senator Padavan or myself or Senator Galiber, Senator Velella, Senator Maltese, we have not heard any word of opposition from Miss Feldman.

I mean, as far as we know, and certainly there was a burden to inform us that

they -- if they were nervous about the whole thing. Don't you think it was a burden to at least tell us? But there is no -- there is no memorandum against their legislation anywhere, unless it's secret.

SENATOR MENDEZ: Mr. President. No. No.

SENATOR MARCHI: But, you know, we like to operate in an open society here and we're not getting it.

SENATOR MENDEZ: Senator, I want is to make a correction. There is no formal opposition to your plan that I know of. What I was revealing here was a private conversation that I had with her, where I proposed 32 appointed local community school boards, one strong superintendent and another one entity for negotiating only one contract for the 32 schools.

SENATOR MARCHI: Well, we agree on one, don't we, both of us.

SENATOR MENDEZ: Look, I want to thank you for answering my questions. I still

believe that this is such an important issue, one that we all of us do care about with tremendous implications for the public education system in the city of New York and, therefore, I truly believe that we should postpone making a -- a definite decision at this point and maybe when we come back in the fall and some refine ment of greater explanations or understanding of what you try to achieve and possibly you have new elements are extracted from the proposal would be best. I really want to thank you, Senator Marchi.

SENATOR MARCHI: Well, thank you, Senator.

ACTING PRESIDENT SPANO: Senator Leichter.

SENATOR LEICHTER: Just very briefly on the bill, Mr. President. I'm just amazed and as we started the debate maybe at 6:20 in the morning. Senator Marchi, I want to say I've got the greatest respect for you, but I don't -- I don't think -- I think that this bill or the manner in which it was presented adds to

your laurels.

ACTING PRESIDENT SPANO: Senator Marchi.

SENATOR MARCHI: May I ask a rhetorical question? Senator, I did not select the time or the circumstances. Nevertheless, I'm grateful for the opportunity. We're here lawfully assembled. We have the power of disposition.

I'm the oldest one in the house here, but I feel lucid enough to carry on a reasonable level of conversation, and I think we're all available to that process, Senator, especially yourself, because I know. I don't underestimate your powers. I think they're still lucid and clear.

SENATOR LEICHTER: Senator, I think, clearly, given your power of lucidity which I'm sure is good 24 hours a day, this is still not the time to do it, and I don't mean to in any way criticize you personally, but the whole system that we have is God awful. We must be one of the worse legislatures in this

country, the way we have acted in this session particularly.

I mean the city of New York has been crying to have its educational system, which is in shambles, addressed. We've been here. We've had a Marchi commission, although the Marchi Commission, as I understand it, or recommendations, bears very little resemblance to the bill that is before us, but fine. This is your proposal, put it forward.

But, my God, we had the time to do it, to discuss it, to have people consider it. And to bring it out at this late hour, it's just -- it is really, as I said, it's just astounding. I think we have lost all perspective. Everything is done solely in a partisan, political manner; no real concern for the public interest.

Senator, certainly the interests of a million school children in the city of New York are not being served by taking up this bill at this time. We know it's a one-house bill.

But, Senator, let me just say,

just for a moment addressing the substance of the bill, I disagree with your approach. Senator, you, I think, are balkanizing the city of New York. We disagree on that. You seem to give a lot of support to the centrifugal forces in New York and, of course, you started this idea of having boroughs secede from the city of New York. This further moves the process of the city of New York being dismembered. I think that's unfortunate.

I think you do create five bureaucracies where we have one. I'm sorry that you put in provisions in this bill, such as the condom distribution requiring parental consent or at least the parents can say that condoms or other birth control devices could not be distributed. I don't think that should be in this bill, although I know that's your viewpoint.

So, Senator -

ACTING PRESIDENT SPANO: Senator Marchi.

SENATOR MARCHI: On that specific

subject.

SENATOR LEICHTER: Yes.

SENATOR MARCHI: Of course, the borough president is suggested instead of opting out, opting in. You know, so that there are minor differences. Agreement on the substance, but procedurally there are differences.

SENATOR LEICHTER: Well, let me just say I know that the borough president of Manhattan, who does support this approach, Senator, and I have great respect for her but I know that she is not in favor of that provision as to condoms.

I just say, Senator Marchi, and I'm sure that you tried throughout this session to have us address this issue, but certainly we need to deal with the governance of the school system but we don't need to deal with it - should not deal with it at 6:30 a.m. in the morning.

ACTING PRESIDENT SPANO: Senator Galiber.

SENATOR GALIBER: Thank you, Mr.

President. On this piece of legislation certainly I agree, just as I did on the last piece of legislation, that this is a horrible, horrible time to bring this legislation up, but there's a need for it. Unfortunately, a decision was not made on this level like most decisions are made by some folk way out somewhere as to when this bill should, in fact, come out.

Let me be brief, I hope.

Our youngsters in our school system are not being educated. Our school system has failed us, has failed us completely.

We had a commission called the Marchi Commission, after many, many years of watching deterioration in our school system losing generation after generation of our youngsters.

Senator Leichter, every now and then the Democrats get small victories. They come once every ten years or so, maybe fifteen years. In this instance, I wrote a minority report on the Marchi Commission, and they stuck

in a minority report in the middle of it, and that minority report called for vitiating, getting rid of, 110 Livingston Street, and creating five borough boards.

And most of the philosophy of those who testified was consistent with that notion except they came to a different result in the end; and that is, that school-based management was important, whether you took the Rochester experience or the Chicago experience or the Dade County experience, all it really meant is that decision-making should be brought closer to the community with the teachers participating, and also the supervisors, the principals. This is what we agreed on, or at least I felt.

Historically, the Ocean Hill-Brownsville experience came out as the result and a political decision was made -- pure political decision was made. And what then did the unions do? And I happened to be around at the time; and Senator Paterson, David Paterson's dad, Charlie Rangel, and a few others; Dave

Jaffe of Senator Marchi's staff, and Senator Marchi. We explored this possibility of five boroughs, but it went down the drain because it would give too much control.

After the negotiations and the input of the unions, we had the present decentralization bill that we have today, and it didn't give power to the people then, and it didn't give the power in the proper places. It was so bad that those of us who negotiated it at the time voted against it, and that "no" vote, as I've often said, was like -- and that was back in '72 or '69. It was like vintage wine. Each year that "no" vote got better and better.

This is not a perfect bill. I have some serious objections to some parts of this piece of legislation. I believe that based on the theory of participation of parents in the community and in the school, as it stands now. One of the changes that they make in Senator Marchi's bill, they make a change where they are saying parents who are immigrants now can participate in the decision-making in the

schools as long as they live in the community or have a child in that community.

In our rush to get rid of that horrible apportioned representation that there has been a change in it, and now we come up with, and rightly so, that the Constitution is thrown into it. I disagree. I don't think we should disenfranchise even people who are not franchised because our theory is that people who have children in the school have something to say in terms of how their children are scheduled.

This bill should have been out a long time ago, and we've talked about it on both sides of the building; but, again, the unions got involved. And perhaps that's what you heard in your quiet little talk with the president, who is a fine person, who represents a group of very fine teachers. The teachers in our school system, by and large, are excellent teachers who are not given the opportunity because of the bureaucracy involved.

110 Livingston Street -- if we

were to take one factor of the downfall of our educational system in the city of New York, it's 110 Livingston Street, an institution that has not held us in very good stead.

From the outset, in the very be ginning, if you will, of the funding process, we had to go with hat in hand to 110 Livingston Street begging for something to go back into our community. Communities weren't treated fairly, and so, desperate through the years about change in our education system, I run into a collision course with the union on a year-to-year basis.

I have introduced bills for a voucher system. They tell me, "Senator, if we have a voucher system, we're going to destroy the public school system." Well, I don't think the public school system is doing so hot at the present time.

Put another piece of legislation in calling for choice, if you will, all because we're not educating our youngsters, and we have to keep that in mind.

Fact of the matter is, Senator,

yes, this is a one-house bill, and it's a horrible time as we've said over and over again. But the fact of the matter is that there's a one-house bill passed over here, and there is one over there, but for the first time in all the years that I have been here since 1969, this is the first opportunity, long shot that it may be, that we'll have an opportunity to sit down at a conference table and come up with something which I think will be primarily beneficial to our children.

So the whole notion -- and the Marchi Commission with a fine bunch of commissioners really said that we have to bring the governance of our school system closer to our communities. We have to get rid of the bureaucracy. We have to change the funding process. We have to equalize it, if you will.

I put another bill in one year to say if your reading scores in the district of Bronx County reached a certain low that would be the automatic trigger mechanism for direct funding from the state they would get because

the education system has not dealt us a good hand.

We know in the city of New York that the formulas have been bad. The Governor mentioned it in the State of the State message, that we had to change the formula for education, and he is right. We are not getting our fair share.

If I had my druthers, of course, we'd have a different system. My bill that I put in calls for five boroughs. And so anxious am I to see this change that's going to take place that all the pleases that I would like to see are not in this legislation. I would like more input from the mayor. I would like to have one superintendent who would be hired and that superintendent would then hire all the principals and get some of the nonsense out. Can we eradicate all the bad things that happen? The answer is no. So I'm saying that would be a step in the right direction.

So I'm saying, notwithstanding the hour, I want to congratulate Senator Marchi

for using his influence to get this bill out, but you can tell the tugging, and you can tell how desperately people did not want this bill to come out, because finally -- and I say this for the record, but for the respect -- it's difficult to grasp this concept. But for the respect for Senator Marchi, this bill would not be out here even at 6:00 o'clock in the morning -- even at 6:00 o'clock in the morning. And I'm not sure -- that's a partial respect. I wish they would give him a little more respect and had this airing two or three weeks ago when we were piddling around doing absolutely nothing, because so crucial is the education of our youngsters that we should not be doing this at night.

And I congratulate you, Senator Marchi. I don't agree with all the things that are in this piece of legislation, especially that voting portion. I know it's in the Constitution, and I know the reasons behind it, and I know it's not -- you have to be a registered voter. You have to be a registered

voter; you have to have -- I understand all that, but I'm willing to bend a little bit. I'm willing to bend because we're not educating our youngsters, and this is certainly a step in the right direction.

ACTING PRESIDENT SPANO: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. I'd just like to take a brief moment to build on some of the things that have been said here in support of this legislation, particularly by Senator Marchi and some of the things pointed out by Senator Galiber in terms of the efficacy of an approach that, in many ways, is long overdue.

I would challenge anyone to bring in any management firm or group of individuals from any part of the world to New York City and have them take a very hard look, objectively, at our educational system and say to them, "Look, we have a system of a million kids, almost a thousand buildings spread through a very diverse city and it's managed by one place, by one

chancellor, by one board of education. What do you think?"

There is no doubt in my mind they would come up with something that would be very near to what Senator Marchi and those who worked -- and I had the pleasure of doing that - worked with him in coming up with this proposal.

It makes sense because, as Senator Galiber indicated, it brings the educational aspect of governance closer to those being educated and their parents. And when you do that, you can't help but improve the system, just that alone.

But there are a number of things in this proposal that are reforms that are long overdue. For instance, one of the common complaints is the fact that in May when we have our school board elections, very few people show up, 10 percent, whatever, and the level of participation is not what it could or should be.

And so the suggestion was made time and time again, "Have it on election day." And so, in this bill, Senator Marchi has done

that, so that people will be voting for their community school board on election day, the day they are used to going to the polls and are voting for other things.

One of the other reforms suggested was this archaic, cumbersome, unwieldy methodology of counting the votes for community school board members. Takes a couple weeks to figure out who won, in terms of how you have to add up, and so on. I don't even fully understand it, to be honest with you. We're doing away with that. We're doing away with that entirely. People will vote for members, and those who get the most votes will win, period. That's the way it should be.

You have read, even if you're not from the city of New York, from time to time about scandals in various community school districts of outright theft of resources, money, pianos, supplies, taking that money right out of the desks of our children, taking it away from them. And part of what is contained in this proposal is the establishment of fiscal offices,

people who have the responsibility of keeping a very sharp eye on that money, seeing that it's not only not stolen, but it's used to maximize its potential. And dollars are hard to come by, particularly in the city of New York. We've got to get the most for our buck. And again, one of the reforms in this bill accomplishes that worthy goal and, well, I might add, some very serious criminal penalties about theft and misappropriation of funds within our school system.

The political representation is given due acknowledgement, the Mayor, the Borough President, the City Council, will all have opportunities in each of the boroughs to select and nominate members of those community school boards -- borough school boards.

In addition, the community school boards will have an opportunity to direct individuals to the borough boards, and so you will have an excellent combination of the political structure, citywide as well as the localized concerns and interests reflected by

Borough Presidents and City Council members. I think it's a good mix, and it's laid out very specifically in this proposal.

So when you put it all together, even with some of the things that you might - minor things, perhaps not so minor, things that you might not agree with, but in the broad brush it's a quantum leap forward in terms of the operation of the largest school district, the largest school system to be found anywhere in the world.

It's unfortunate that we're dealing with it here at 7:00 a.m. in the morning. That's not our fault. But at the same time we are dealing with it. And compliment Senator Marchi on being lucid this morning as he's been lucid on this issue for the last twenty years or more as he's dealt with the issue of decentralization. This is a natural evolution of what he began more than two decades ago, and it brings us to a point we should have been a while ago, but at least we're there now.

And, hopefully, at some future

date we can reach the very point we want to get to and go over that goal line. It will be a victory not just for -- not for us, really. It will be a victory for the kids, children, parents, and the schools in the city of New York.

ACTING PRESIDENT SPANO: Senator Stavisky.

SENATOR STAVISKY: All of us have profound regard for Senator Marchi and his contributions to education and to the city of New York over the years, and this piece of legislation is evidence of Senator Marchi's continuing desire to improve the system.

Unfortunately, its focus is on rearranging the furniture on the Titanic rather than a focus directed at the objective of a school system, pupil performance, teacher performance, the role of supervisors, the role of the policy boards, in trying to have the children succeed and not drop out of school and not be turned off, and that has to be the focal point of any attempt to improve the system.

A piece of legislation that would focus on pupil performance and on the performance of all of the other participants, I think, Senator Marchi, would perhaps be a more constructive way of addressing the issue. What works in terms of improving pupil performance? What demonstrable studies indicate the methodologies that will accomplish the desired results? Can we provide incentives for those schools, those teachers, those parents and policy boards that accomplish results that raise pupil performance, and that really ought to be the thrust of any attempt at trying to improve the system.

It is not the system that needs an education. It is children. I find that there are ingredients in this legislation. I have a bill in the Senate Education Committee to provide for a November election every fourth year, when there are no major contests for president, governor, mayor or any other position. And I agree that this provision here, if nothing else were done, if you took that

---forget my bill. Take it and put it in as a discrete separate piece in order to improve parental involvement and public involvement in the community school board elections.

But you've got other things here, Senator Marchi, that do a disservice, in effect, to where education -- to the way education functions in the state of New York.

We have more than 700 school districts in the state. And in all but five of them, as you pointed out, they are fiscally independent, where no mayor, no town official, no county official could in any way control the school system. The schools are separate. No local official could balance a budget by pulling out resources from the schools because the schools do get a large proportion of state aid. And some years ago, you remember, we had what was known as the Stavisky-Goodman Law designed to prevent that from happening unfairly.

But you have here things that ought not to be. Education is not a municipal function. It should not be a function of City

Hall. It should be the function of a school system with a board and a professional. Call that professional a superintendent, call that professional a chancellor. But in every one of the school systems in this state, a local board of education chooses its chancellor or superintendent without too much involvement with municipal government.

In all but five of the more than 700 school districts, education is separate from municipal government. We have here the abolition of the Central Board of Education. Fine. You want to get rid of 110 Livingston Street? Be our guest. But we also get rid of the superintendent who is the professional to hold the system together. Must we have a curriculum that is a battle within each borough of what should be included or what should not be included; or is it preferable to have curricula as well as personnel matters decided on a citywide level? Otherwise, you will be replicating and wasting money while they get involved in intraborough battles as to what

should be taught and what should be not be taught. An administrator pointed by the mayor makes this essentially a mayoral agency, and that should not be the way that any school system operates.

I would like to ask the members, and I wish all the members were here, to hear and to reflect on what you have proposed. I would like to ask them whether they would like to have a mayor select the superintendent for their school district throughout the state of New York in the 700 districts where we don't have mayoral control or local official control over legislation, and I think most of the members here would agree that they would not want that type of intrusion.

You have the requirement here that the borough boards would have the power to appoint a borough superintendent, but only with the approval of the state Education Commissioner. I would like to ask the legislators who represent other school districts, do they wish to give to the state

Education Commissioner the power to decide who their local superintendent would be? They would laugh at us if we proposed that. They would say absolutely not. We don't want the Commissioner of Education -- across the street here - deciding who our superintendent will be. Same thing with the community school boards.

Now, the borough decides whether a community school board can hire its local superintendent, and again it's a confusion of roles.

Proportional representation is eliminated. Fine. As you know, we did this because Dr. George Gallup, a very revered and decent man, said is that -- Hallett. Hallett, not Gallup. At this point we seem to be polling the clock. But Dr. George Hallett, a very revered individual, the world's leading authority on proportional representation, convinced the Legislature that this would be a way that no one group would dominate the election of the school boards.

You would eliminate that system.

I have no problem with it, and you would also propose a November election, and I think that makes eminent good sense.

But now you go into taking away, as Senator Galiber pointed out, something that involves parents who may not yet be citizens but whose children are going to schools. You take away their right to participate as parent voters. It's very difficult to take a power away once it has been given. Many parents feel that is their link to the school system, and I'm not sure about that.

The change in the period of time in which charges may be brought against tenured teachers. I dare say if someone did ask the representative of the teachers, the union for the teachers about this provision, I'd say you probably would get a resounding memo of opposition to that provision.

Finally, we have been spared thus far from the involvement in one of the issues that tore the school system apart, the distribution of condoms. Suddenly, that appears

in this bill, and now the New York State Legislature is involved in an issue that polarized the New York City school system.

I hope you will continue to work toward an improvement in the school system and particularly an improvement in the manner in which children are taught and what they learn. Focus on the inadequate financing from the state and from Washington of aid to the New York City school system. Focus on the inequities in the formula, the state and federal aid formulas. Focus on how we can provide the resources to accomplish the things that I think every legislator wants for the children of his or her district.

But this, at this hour -- we may be continuing this long enough so that at 9:00 o'clock in the morning is a good time for the Legislature to be in session, although not after the Legislature has been subject to this kind of schedule.

Bring it back. Bring it back in an absolutely different form. Leave out the

polarizing features of this piece of legislation, and I'm sure that you will have support. Certain substantive changes but not necessarily in the way that this bill is drawn.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 55. This act shall take effect March 1, 1994.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SPANO: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Thank you, Mr. President. I want to compliment Senator Marchi for his many years of work on this particular issue. I am, however, going to vote against this bill, and one of the reasons why I am opposed to it is because I'm not clear where the final authority lies for the success or failure of the system.

And I, being a parent of a child in the school system, am very keenly aware there

are some areas where there is incompetence. There is a very clear need for there to be someone who steps in at any given moment and is able to make a definitive decision on what is happening in a particular school, especially as it pertains to the success or the failure of that school vis-a-vis the principal, the teachers, the school board, community school board, and what have you.

We just passed legislation sponsored by Senator Padavan which establishes or at least attempts to establish accountability as it relates to the custodians in the system. I would like to ensure that at least when we look at school reform, there is as part of that reform a particular person, a commissioner, if it's the administrator, whatever the name of that person. There has to be a person who is ultimately responsible and in charge of that system, and I don't get the sense that this legislation does that.

And so I am going to vote against this legislation not because I don't think that

you're trying to do something about a system that is obviously not working, especially for children, but because I think it lacks the key ingredient to the ultimate successes of that system; and that is, someone who we all can look to -- not the board members and not to establish three additional layers. We now have -- based on this proposal, we have the community school board, we now have the borough board, we now have the borough superintendent, and I'm not sure who is ultimately responsible. We now have the borough president involved. And there are so many layers before you ever even get to who is accountable ultimately, and that does not seem to be the Commissioner of the state of New York necessarily.

And so I think that is a very specific weakness in this legislation in this attempt, and I urge my colleagues to vote it down in the spirit of us taking a very serious look at what will make a difference in the city of New York in that school system.

I don't believe this is what is

going to turn it around altogether. There are some parts of it that I certainly do appreciate you doing, but I think that that is missing.

And, lastly, we certainly do not want in any way to send a message, I don't believe, to the Board of Ed of the city of New York or any system in this state, a message that we are opposed -- the Legislature of the state of New York is opposed to an attempt to prevent the spread of AIDS among teens in particular, in our schools. So when we put into statute a provision which sends that kind of signal because we are requiring this written parental consent for the distribution of condoms, I think that is absolutely -- based on every single medical expert in the world, that that is the wrong signal to send, that we do not approve of attempts to prevent the spread of AIDS.

So I am opposed to this legislation.

ACTING PRESIDENT SPANO: Senator Montgomery in the negative.

Announce the results.

SENATOR JONES: Mr. President.

ACTING PRESIDENT SPANO: Senator Jones -- sorry -- to explain her vote.

SENATOR JONES: Yes. To explain my vote. There probably is no one here that cares more about kids and education than I do, and you certainly convinced me that major change is needed in the New York City school system, but I would not feel at all comfortable by accepting a plan that I really do not feel I know enough about or have had enough time to study.

So I would have to vote no on this bill, but I would certainly hope that those of you who are working on this issue will continue to do that, certainly for the good of the children and everyone involved in this New York City school system.

THE SECRETARY: Those recorded in the negative on Calendar Number 1685 are Senators Espada, Gold, Gonzalez, Hoffmann, Jones, Leichter, Markowitz, Mendez, Montgomery, Ohrenstein, Oppenheimer, Smith, Stavisky and

Waldon. Ayes 44, nays 14.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Call Calendar 1580.

ACTING PRESIDENT SPANO: Secretary will read Calendar 1580.

THE SECRETARY: Calendar Number 1580, by the Assembly Committee on Rules, Assembly Bill Number 8652, with a Senate Reprint Number of 21005A, an act to amend the Public Health Law, in relation to exempting miniatures from certain regulations.

SENATOR PRESENT: Mr. President, I move to accept the message of necessity which I believe is at the desk.

ACTING PRESIDENT SPANO: Message is at the desk.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Senator Gold.

SENATOR GOLD: Mr. President, I would like to point out to the body that if they compare the original print reported out of committee and they compare this print, they don't look anything alike and the reason is because Senator Saland is a gentleman. We had an intelligent discussion, at least from his point of view, and this bill is now a credit to the process. I wish we had more of it.

Senator Saland, thank you. I think you have done a wonderful thing, and I appreciate your cooperation.

Last section.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, I would like to call an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT SPANO: Immediate Rules Committee meeting in Room 332.

Senator Velella.

SENATOR VELELLA: Mr. President, I move to amend Senate Bill Number 5518A by striking out the amendments made on June 24 and restoring it to its original Print Number 5518.

ACTING PRESIDENT SPANO: Without objection.

Senator Volker.

SENATOR VOLKER: Mr. President. I wish to call up my bill, Senate Print Number 4242A, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT SPANO: Secretary will read.

THE SECRETARY: By Senator Volker. Senate Bill Number 4242A, an act to amend Chapter 68 of the Laws of 1968.

ACTING PRESIDENT SPANO: The bill is before the house.

SENATOR VOLKER: Now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT SPANO: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT SPANO: The bill is before the house.

SENATOR VOLKER: Mr. President, I now move to discharge from the Committee on Finance Assembly Print Number 6788A and substitute it for my identical bill. The Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT SPANO: Substitution ordered.

Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

ACTING PRESIDENT SPANO: The bill is passed.

(Whereupon, Lt. Governor Lundine was in the chair.)

SENATOR COOK: Mr. President.

THE PRESIDENT: Senator Cook.

SENATOR COOK: Could we take up 395, please.

THE PRESIDENT: Secretary will read.

THE SECRETARY: On page 6 of the regular calendar, Calendar Number 395, by member of the Assembly Parment, Assembly Bill Number 3819B, Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays 1, Senator Leichter recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR COOK: Mr. President.

THE PRESIDENT: Senator Cook.

SENATOR COOK: Could we now go to Supplemental Calendar Number 4 and do that controversial, please.

THE SECRETARY: Calendar Number 1686, substituted earlier, by the Assembly Committee on Rules, Assembly Bill Number 8523-C, Public Health Law, in relation to the provision of ambulance service.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Tully.

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

This bill was introduced to permit the Hasbollah Ambulance Service to operate its ambulance service across county lines exclusively to serve members of the Hasidic community in contravention of rules regarding areas of operation that must be observed by other ambulance services pursuant to their approved certificates of need.

This bill, if passed, would fly in the face of the consensus process whereby Article 30 and its subsequent technical amendments were laboriously crafted by all providers of EMS services in the state last year. We really are faced with a Hobson's choice in the sense that those who seek this bill should have been involved in the Article 30 process last year which was the subject of over a year of negotiations and perhaps they should

have had a grandfathering or grandfather clause, but, unfortunately, that was not the case.

They were not included, and currently there is very, very strong opposition of many people in this state, the EMS people of the volunteer fire service, the fire commissioners of Nassau County, the New York State Association of Fire Chiefs, to name just a few.

I believe that this is a very, very difficult situation. I would hope that, in the future, something could be worked out but, in view of the opposition of all of those members and in view of the current Article 30 of the Public Health Law, I'm constrained to vote in the negative.

THE SECRETARY: Those recorded in the negative on Calendar Number 1686 are Senators Hannon, Jones, Marino, Skelos, Stachowski and Tully. Ayes 52, nays 6.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1689, substituted earlier, by the Assembly

Committee on Rules, Assembly Bill Number 8846, amends Chapter of the Laws of 1993.

THE PRESIDENT: Last section.

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

SENATOR GALIBER: Mr. President.

THE PRESIDENT: Senator Galiber.

SENATOR GALIBER: Senator Libous yield for a question?

Is this the same bill that we debated maybe six months ago, probably yesterday, but it seems like six months ago.

SENATOR LIBOUS: Senator Galiber, it seems like only six months ago. Yesterday.

SENATOR GALIBER: Only six months.

SENATOR LIBOUS: Yes, it is.

SENATOR GALIBER: And the amend ment on this does what? This is the third time it's back before us.

SENATOR LIBOUS: Yes, it's actually changing the date to September 30th.

SENATOR GALIBER: O.K. Good.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55, nays 3, Senators Galiber, Leichter and Ohrenstein recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1691, Senator LaValle moves to discharge the Committee on Rules from Assembly Bill Number 8867 and substitute it for the identical Third Reading 1691.

THE PRESIDENT: Substitution ordered. There is a message of necessity at the desk.

SENATOR COOK: Mr. President, I move that we accept the message.

THE PRESIDENT: On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motions agreed to. The the message is accepted.

Last section.

SENATOR DOLLINGER: What number?

THE PRESIDENT: 1691.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar 1692.

THE PRESIDENT: The bill is high. It will be laid aside. That completes -

SENATOR COOK: Mr. President, could we stand at ease for a few moments.

THE PRESIDENT: The Senate will stand at ease.

SENATOR COOK: There will be momentarily a great wonderful surprise for us.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, could I have unanimous consent to be recorded in the negative on 1685, Mr. President?

THE PRESIDENT: Without objection, so ordered.

SENATOR STAFFORD: Mr. President.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Like to announce an immediate meeting of the Committee on Finance in Room 332, please.

THE PRESIDENT: Finance Committee meeting, Room 332.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May I have unanimous consent, Mr. President, to be recorded in the negative on Calendar Number 1686, Senate Print 5916-B please?

THE PRESIDENT: Without objection, it's so ordered.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Yeah. Can I do a housekeeping matter, or we're not ready?

THE PRESIDENT: Pardon?

SENATOR GOLD: Yeah.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: I just wanted unanimous consent to be recorded in the negative on Calendar Number 1689.

THE PRESIDENT: Without objection, so ordered.

SENATOR ONORATO: Mr. President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: I would also like unanimous consent to be recorded in the negative on Calendar Number 1689.

THE PRESIDENT: Without objection, so ordered.

SENATOR PRESENT: Mr. President.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: May we return to reports of standing committees.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Senator Marino, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 1201, by Senator Ohrenstein, an act to amend the Tax Law;

2231, by Senator Velella, an act to amend the Insurance Law;

5518, by Senator Velella, an act to amend the Insurance Law;

5901-A, by Senator Jones, authorize the Commissioner of General Services to grant an easement;

5949-A, by Senator Dollinger, Commissioner of General Services to sell and convey state-owned lands;

6011, by the Committee on Rules, Private Housing Finance Law;

6156, by Senator Marchi, Navigation Law;

6207, by the Committee on Rules, an act to amend the Insurance Law;

6208, by Senator Johnson, Environmental Conservation Law;

6209, by Senator DeFrancisco, Executive Law;

6210, by the Committee on Rules, an act to amend the Tax Law;

6211, by the Committee on Rules,

Education Law;

Assembly Bill Number 750-C, by member of the Assembly Bragman, create a Motor Carrier Advisory Council;

Assembly Bill Number 8528, by the Committee on Rules, Public Authorities Law;

Senate Bill Number 8602, by the committee so rules, an act to amend the Insurance Law;

Senate Bill Number 2591, by Senator Velella, an act to amend the Insurance Law.

All bills reported directly for third reading.

THE PRESIDENT: Third reading.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations:

Member of the Metropolitan Transportation Authority Barry Feinstein, of Clinton Corners;

Member of the Small Business Advisory Board, Harold H. Connor, of East

Aurora;

Member of the St. Lawrence Eastern Ontario Commission, Louis J. Fabrizio of Fulton; Louis W. Kent, of Oswego; Betty McLean of Carthage, and Darrell W. Weston, of Wellesley Island;

Member of the New York State Bridge Authority, Philip F. Abitabile, of Hudson.

THE PRESIDENT: The question is on the confirmation of the nominees. All those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The nominees are confirmed.

SENATOR PRESENT: Mr. President, we will stand at ease for a few moments.

THE PRESIDENT: Senate will stand at ease.

(The Senate stood at ease briefly.)

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Mr. President. Mr. President, could we call up Calendar Number 1700.

THE SECRETARY: On Supplemental Calendar Number 5, on page 2, Calendar Number 1700, Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8869 and substitute it for the identical Third Reading 1700.

SENATOR PRESENT: Mr. President, I move -

THE PRESIDENT: Could we have some order. On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to, and the message is accepted.

Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Can we have non-controversial calendar on Calendar Number 5.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Supplemental Calendar Number 5, Calendar Number 1693, Senator Ohrenstein moves to discharge the Committee on Rules from Assembly Bill Number 2149 and substitute it for the identical Third Reading 1693.

THE PRESIDENT: Substitution ordered. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1694, Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 6000 and substitute it for the identical Third Reading 1694.

THE PRESIDENT: Substitution ordered. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1695, by Senator Velella, Senate Bill Number 5518, an act to amend the Insurance Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1696, Senator Jones moves to discharge the Committee on Rules from Assembly Bill Number 6827 and substitute it for the identical Third Reading 1696.

THE PRESIDENT: Substitution ordered.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR PATAKI: Mr. President, explain my vote.

THE PRESIDENT: O.K. Senator Pataki is recognized to explain his vote.

SENATOR PATAKI: Mr. President, this bill and the next bill both concern the conveyance of interest in state lands to private

or not-for-profit organizations. I'm con strained to vote no because in neither bill is there a requirement that any consideration be paid and specifically no requirement that fair market value be paid.

I had a similar bill. The Assembly insisted that my town have an emergency meeting to adopt a home rule message on a chapter amendment requiring that that transfer be for fair market value, notwithstanding the fact that the property would have been used for public park purposes.

I think it should be consistent policy; I think that policy should require that transfers of state land be for fair market value. So, for that reason, I request to be recorded in the negative.

SENATOR GOLD: Results.

THE SECRETARY: Ayes 57, nays 1, Senator Pataki recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1697, Senator Dollinger moves to discharge the Committee on Rules from Assembly Bill Number 8566-A and substitute it for the identical Third Reading 1697.

THE PRESIDENT: Substitution ordered.

SENATOR GOLD: Last section.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator Pataki recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1698, Senator Hannon moves to discharge the Committee on Rules from Assembly Bill Number 1761 and substitute it for the identical Third Reading 1698.

THE PRESIDENT: Substitution ordered. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1699 -- Calendar Number 1699, by Senator Marchi, Senate Bill Number 6156, an act to amend the Navigation Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1701, Senator Johnson moves to discharge the Committee on Rules from Assembly Bill Number 8870 and substitute it for the identical Third

Reading 1701.

THE PRESIDENT: There is a message at the desk. Oh, substitution ordered. There is a message at the desk.

SENATOR PRESENT: Mr. President, I move we accept the message.

THE PRESIDENT: On the motion, all those in favor, say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill -

THE SECRETARY: Excuse me. Ayes 57, nays one, Senator Sears recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1702, Senator DeFrancisco moves to discharge the Committee on Finance from Assembly Bill Number 8512-B and substitute it for the identical Third Reading 1702.

THE PRESIDENT: Substitution ordered.

There is a message at the desk. On Senator Present's motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1703, Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8871 and substitute it for the identical Third Reading 1703.

THE PRESIDENT: Substitution ordered.

SENATOR PRESENT: Mr. President, I move we accept the motion, the message which is at the desk.

THE PRESIDENT: On Senator Present's motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58. Excuse me. Ayes 57, nays one, Senator Sears recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1704, by member of the Assembly Bragman, Assembly Bill Number 750-C, create a Motor Carrier Advisory Council.

THE PRESIDENT: On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays

one, Senator Leichter recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1705, by the assembly Committee on Rules, Assembly Bill Number 8528, Public Authorities Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator Tully recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1706, by the Senate Committee on Rules, Senate Bill Number 6211, Education Law, to the reforms of boards of cooperative educational services.

THE PRESIDENT: The bill is high and there is no message; so it will be laid aside.

THE SECRETARY: Calendar Number 1707, by the Assembly Committee on Rules, Assembly Bill Number 8602, an act to amend the Insurance Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1708, Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 5998 and substitute it for the identical Third Reading 1708.

THE PRESIDENT: Substitution ordered. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

SENATOR GOODMAN: Mr. President.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Mr. President, with respect to Calendar Number 1688, Senate 6007, had I been present, I'd wish to be recorded in the affirmative.

THE PRESIDENT: The record will so indicate.

SENATOR HOLLAND: Mr. President.

THE PRESIDENT: Senator Holland.

SENATOR HOLLAND: With unanimous consent, I'd like to change my yea to a nay on 1688.

THE SECRETARY: Yea to nay on 1688.

THE PRESIDENT: Without objection, it's so ordered.

SENATOR PRESENT: Senator Present.

SENATOR PRESENT: Mr. President,

there being no further business, I move that we adjourn until Thursday, July 8th, at 8:30 a.m.

THE PRESIDENT: The Senate stands adjourned.

(Whereupon at 8:29 a.m., the Senate adjourned.)