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ALBANY, NEW YORK

March 14, 1994

3:32 p.m.

REGULAR SESSION

SENATOR NICHOLAS A. SPANO, Acting President

STEPHEN F. SLOAN, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT SPANO: Senate
will come to order.

Please rise for the Pledge of
Allegiance to the Flag.

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

For our prayer today, we have the
Executive Director of the United Jewish
Organizations of Williamsburg in Brooklyn, Rabbi
David Niederman.

RABBI DAVID NIEDERMAN:

Distinguished members of the Senate of our great
state of New York. The Bible tells us (quoting
in Hebrew), which means that the heart of kings
and rulers are in the hands of God.

What does it mean?

God gave the ability to a person
that he can do whatever he wants; but if the
well being of others depends on what you are
doing or not doing, then God himself is looking
upon you.

And I hope and pray that God

1 gives you the wisdom and strength to lead this
2 important body for the well being of all of New
3 York State.

4 Amen.

5 ACTING PRESIDENT SPANO: Thank
6 you, Rabbi.

7 Reading of the Journal.

8 THE SECRETARY: In Senate,
9 Friday, March 11. The Senate met pursuant to
10 adjournment. Senator Bruno in the chair upon
11 designation of the Temporary President. The
12 Journal of Thursday, March 10, was read and
13 approved. On motion, Senate adjourned.

14 ACTING PRESIDENT SPANO: Hearing
15 no objection, the Journal stands approved as
16 read.

17 Presentation of petitions.

18 Messages from the Assembly.

19 Messages from the Governor.

20 Communications and reports.

21 Motions and resolutions.

22 Senator Farley.

23 SENATOR FARLEY: Thank you, Mr.

1 President. On behalf of Senator Velella, on
2 page 9, I offer the following amendments to
3 Calendar 62, Print Number 6398, and I ask that
4 bill retain its place on the Third Reading
5 Calendar.

6 I don't think my mike is plugged
7 in. Can you hear me?

8 ACTING PRESIDENT SPANO: We got
9 you, Senator Farley.

10 SENATOR FARLEY: On behalf of
11 Senator Volker, on page 12, I offer the
12 following amendments to Calendar Number 258,
13 Senate Print 1142, and I ask that that bill
14 retain its place on the Third Reading Calendar.

15 ACTING PRESIDENT SPANO: So
16 ordered.

17 SENATOR FARLEY: On behalf of
18 Senator Libous, Mr. President, I move that the
19 following bills be discharged from their
20 respective committees and be recommitted with
21 instructions to strike the enacting clause:
22 Senate Print Numbers 2344B, 3693, 4001, 4088.

23 And I -

1 ACTING PRESIDENT SPANO: So
2 ordered.

3 Any other motions, resolutions,
4 substitutions?

5 Senator Kuhl.

6 SENATOR KUHL: Yes, Mr.
7 President. On behalf of Senator Levy, on page
8 10, Calendar Number 168, Senate Print 5435B,
9 would you place a sponsor star on that, please.

10 ACTING PRESIDENT SPANO: Star will
11 be placed at the request of the sponsor.

12 Secretary will read the
13 substitutions.

14 THE SECRETARY: On page 5, Senator
15 Nozzolio moves to discharge the Committee on
16 Elections from Assembly Bill Number 5631 and
17 substitute it for the identical Calendar Number
18 340.

19 Also on page 5, Senator Nozzolio
20 moves to discharge the Committee on Elections
21 from Assembly Bill Number 6312A and substitute
22 it for the identical Calendar Number 341.

23 On page 9, Senator Stafford moves

1 to discharge the Committee on Local Government
2 from Assembly Bill Number 4490C and substitute
3 it for the identical Third Reading 134.

4 ACTING PRESIDENT SPANO:
5 Substitutions ordered.

6 Senator Johnson, do you wish
7 to -

8 SENATOR JOHNSON: Mr. President.
9 As long as you called upon me -- I feel honored
10 -- I should respond in kind.

11 It might be a bit premature, but
12 on page 14, I'd like to place a sponsor star on
13 Calendar Number 285, Print Number 4369A.

14 ACTING PRESIDENT SPANO: Bill is
15 starred at the request of the sponsor. Nice to
16 hear from you, Senator Johnson.

17 Senator Present.

18 SENATOR PRESENT: Mr. President.
19 Would you recognize Senator Daly.

20 ACTING PRESIDENT SPANO: Senator
21 Daly.

22 SENATOR DALY: Mr. President.
23 You have a resolution at the desk -

1 ACTING PRESIDENT SPANO: Yes, we
2 do, Senator Daly.

3 SENATOR DALY: -- commemorating
4 St. Patrick's Day.

5 ACTING PRESIDENT SPANO:
6 Secretary will read the title of the resolution.

7 THE SECRETARY: Legislative
8 Resolution, by Senator Daly and others, honoring
9 St. Patrick and all Irish Americans upon the
10 occasion of the 1994 celebration of St.
11 Patrick's Day.

12 ACTING PRESIDENT SPANO: Senator
13 Daly.

14 SENATOR DALY: Mr. President.
15 Since the departure and demise of our great
16 friend, Senator James Donovan, I have been given
17 the opportunity and privilege of presenting this
18 resolution on St. Patrick's Day to my colleagues
19 in the Senate.

20 And I think that it is
21 appropriate that I was given this opportunity,
22 because I am what my mother would call a narrow
23 back. Now, Mr. President, a narrow back is a

1 first-generation American, one who is born of
2 immigrant parents from Ireland.

3 And I'm very, very proud to be
4 able to call myself a narrow back because, Mr.
5 President, when I think about St. Patrick's Day
6 I think about a day when not only do we have the
7 opportunity to celebrate, have some fun, but,
8 more importantly, I consider St. Patrick's Day
9 an atmosphere, an ambiance, a feeling, of
10 comradery and conviviality and friendship, when
11 we can all get together and enjoy each other in
12 a peaceful and fun-loving way.

13 And I speak not only of the Irish
14 Americans but everyone because, as I said, it is
15 an atmosphere. It is an ambiance in which
16 everyone joins in.

17 And the fact that we celebrate
18 St. Patrick's Day also must remind us of the
19 many contributions made by those of Irish
20 lineage but, more importantly, the opportunity
21 and freedom that this great nation, which
22 accepted them and millions of other immigrants
23 from other nations -- the freedom and

1 opportunity to achieve what they achieved.

2 And, again, I speak from personal
3 experience because, as I said, Mr. President, I
4 am a first-generation American whose parents
5 were born in Ireland, both of whom came out in
6 the 1920s. My father drove a bus for forty
7 years, Fifth Avenue bus, charter member of the
8 Transport Workers Union, six children, five
9 survived, and every one of those had the
10 opportunity to go to college, to proceed beyond
11 college, and I'm very proud to say I have been
12 quite successful in life.

13 And I always ask myself, Mr.
14 President, where in the world -- where in the
15 world could my parents or other parents or
16 grandparents or great-grandparents of many who
17 are in this chamber -- where could they have
18 gone to receive the opportunities, the
19 acceptance, that this country afforded them.

20 And so as we celebrate that great
21 feast of St. Patrick, when all of us will join
22 in, hopefully, later on, to recognize that day
23 but, more importantly, to recognize each other

1 and the friendships that we have, let us also
2 remember what this great nation, which
3 demonstrates through the fact that St. Patrick's
4 Day is celebrated here, has given to so many of
5 us, to so many of our descendants and for so
6 many of those who preceded us.

7 Thank you, Mr. President.

8 ACTING PRESIDENT SPANO: Senator
9 Farley.

10 SENATOR FARLEY: Thank you, Mr.
11 President.

12 You know, for a legislative
13 narrow back, I think it's most appropriate that
14 you carry this resolution.

15 Incidentally, let me define where
16 the word "narrow back" came from. That was the
17 child of an immigrant from Ireland. They
18 weren't going to be using the wheelbarrow and
19 carrying the hod. They were going to be
20 educated and turn out like fine young men like
21 Senator Daly.

22 But, you know, St. Patrick's Day
23 -- only in the Legislature could we be

1 celebratig it on 4he 14th of March and,
2 incidentally, the Irish legislators are having
3 their affair tonight, and you are all welcome,
4 and we hope to see you there. Of course,
5 Thursday is St. Patrick's Day, the 17th, but
6 we're celebrating a little bit early. That's
7 why some of the people forgot to wear their
8 green today.

9 But let me on behalf of all the
10 Irish Americans not only in the Legislature wish
11 everybody a happy St. Patrick's Week.

12 ACTING PRESIDENT SPANO: Question
13 on the resolution. All those in favor, signify
14 by saying aye.

15 (Response of "Aye.")

16 Those opposed, nay.

17 (There was no response.)

18 The resolution is adopted.

19 Senator Daly.

20 SENATOR DALY: Mr. President.

21 Will you keep the resolution open at the desk to
22 any who wishes to join us. We certainly welcome
23 them, and we encourage them to do so.

1 ACTING PRESIDENT SPANO: We
2 certainly will.

3 Senator Present.

4 SENATOR PRESENT: Mr. President.
5 I would like to request unanimous consent that
6 Calendar 329 be advanced from second report to
7 third reading.

8 ACTING PRESIDENT SPANO: Without
9 objection, so ordered.

10 Senator Saland.

11 SENATOR SALAND: Mr. President.
12 I would like to star a bill, my bill, 6338A,
13 Calendar 302.

14 ACTING PRESIDENT SPANO: Calendar
15 302 is starred at the request of the sponsor.

16 Senator Nozzolio.

17 SENATOR NOZZOLIO: Mr.
18 President. On behalf of Senator Levy, I would
19 like to star Bill Number 168 -- Calendar Number
20 168, Bill Number S.5435B.

21 ACTING PRESIDENT SPANO: That
22 motion was made previously, Senator, but it will
23 be starred.

1 Senator Present.

2 SENATOR PRESENT: Mr. President.

3 Let's take up the noncontroversial calendar,
4 please.

5 ACTING PRESIDENT SPANO:

6 Secretary will read noncontroversial calendar.

7 THE SECRETARY: On page 9,
8 Calendar Number 13, by Senator Levy, Senate Bill
9 Number 1313, an act to amend the Penal Law.

10 SENATOR GOLD: Lay it aside.

11 ACTING PRESIDENT SPANO: Lay it
12 aside.

13 THE SECRETARY: Calendar Number
14 88, by Senator Levy.

15 SENATOR PRESENT: Lay it aside
16 for the day.

17 ACTING PRESIDENT SPANO: Lay it
18 aside for the day.

19 THE SECRETARY: Calendar Number
20 134, substituted earlier today, by member of the
21 Assembly Ortloff.

22 SENATOR GOLD: Lay it aside.

23 ACTING PRESIDENT SPANO: Lay it

1 aside.

2 THE SECRETARY: Calendar Number
3 141, by Senator Stafford, Senate Bill Number
4 6318.

5 SENATOR GOLD: Lay it aside,
6 please.

7 ACTING PRESIDENT SPANO: Lay it
8 aside.

9 THE SECRETARY: Calendar Number
10 143, by Senator Nozzolio, Senate Bill Number
11 6315B, an act to amend the Election Law, in
12 relation to false registration.

13 SENATOR GOLD: Lay it aside for
14 Senator Connor, please.

15 ACTING PRESIDENT SPANO: Lay it
16 aside.

17 THE SECRETARY: Calendar Number
18 144, by Senator Nozzolio, Senate Bill Number
19 6316A, an act to amend the Election Law, in
20 relation to giving consideration for franchise.

21 ACTING PRESIDENT SPANO: Read the
22 last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT SPANO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 46.

6 ACTING PRESIDENT SPANO: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 145, by Senator Nozzolio, Senate Bill Number
10 6332C.

11 SENATOR GOLD: Please lay it
12 aside for Senator Connor.

13 ACTING PRESIDENT SPANO: Lay it
14 aside.

15 THE SECRETARY: Calendar Number
16 146, by Senator Nozzolio, Senate Bill Number
17 6336B.

18 SENATOR GOLD: Lay it aside.

19 ACTING PRESIDENT SPANO: Lay it
20 aside.

21 THE SECRETARY: Calendar Number
22 147, by Senator Nozzolio, Senate Bill Number
23 6527B, State Board of Elections to conduct a

1 special study to combat -

2 SENATOR GOLD: Lay it aside for
3 Senator Connor, please.

4 ACTING PRESIDENT SPANO: Lay it
5 aside.

6 THE SECRETARY: Calendar Number
7 181, by Senator Volker, Senate Bill Number 1424.

8 SENATOR GOLD: Lay it aside.

9 ACTING PRESIDENT SPANO: Lay it
10 aside.

11 THE SECRETARY: Calendar Number
12 242.

13 SENATOR GOLD: Lay it aside.

14 ACTING PRESIDENT SPANO: Lay it
15 aside.

16 THE SECRETARY: Calendar Number
17 260, by Senator Farley, Senate Bill Number 1664,
18 Judiciary Law, in relation to the
19 disqualification of jurors.

20 ACTING PRESIDENT SPANO: Read the
21 last section.

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

1 ACTING PRESIDENT SPANO: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 43. Nays 3.
5 Senators Galiber, Gold and Mendez recorded in
6 the negative.

7 ACTING PRESIDENT SPANO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 261, by Senator Daly, Senate Bill Number 4583B,
11 Real Property Law, in relation to establishing a
12 New York State Real Estate Board.

13 SENATOR GOLD: Lay it aside.

14 ACTING PRESIDENT SPANO: Lay it
15 aside.

16 THE SECRETARY: Calendar Number
17 265, by Senator Levy.

18 SENATOR PRESENT: Lay it aside for
19 the day.

20 ACTING PRESIDENT SPANO: Lay it
21 aside for the day.

22 THE SECRETARY: Calendar Number
23 274, by Senator LaValle, Senate Bill Number

1 2672, Education Law.

2 ACTING PRESIDENT SPANO: Local
3 fiscal impact note is at the desk.

4 Read the last section.

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

7 ACTING PRESIDENT SPANO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 44. Nays 2.

11 Senators Montgomery and Onorato recorded in
12 the negative.

13 ACTING PRESIDENT SPANO: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 276, by Senator Skelos.

17 SENATOR PRESENT: Lay it aside
18 for the day.

19 ACTING PRESIDENT SPANO: Lay it
20 aside for the day.

21 THE SECRETARY: Calendar Number
22 279.

23 SENATOR GOLD: Lay it aside.

1 ACTING PRESIDENT SPANO: Lay it
2 aside.

3 SENATOR STAVISKY: Mr. President.

4 ACTING PRESIDENT SPANO: Senator
5 Stavisky.

6 SENATOR STAVISKY: May I be
7 recorded as voting in the negative on Calendar
8 274.

9 ACTING PRESIDENT SPANO: 274,
10 without objection.

11 THE SECRETARY: Calendar Number
12 280, by Senator Marino.

13 SENATOR GOLD: Lay it aside.

14 ACTING PRESIDENT SPANO: Lay it
15 aside.

16 THE SECRETARY: Calendar Number
17 281, by Senator -

18 SENATOR GOLD: Lay it aside.

19 ACTING PRESIDENT SPANO: Lay it
20 aside.

21 THE SECRETARY: Calendar Number
22 293, by Senator Levy.

23 SENATOR GOLD: Lay it aside.

1 ACTING PRESIDENT SPANO: Lay it
2 aside.

3 THE SECRETARY: Calendar Number
4 295, by Senator Tully, Senate Bill Number 776,
5 an act to amend the Penal Law, in relation to
6 the calculation of terms.

7 SENATOR GOLD: Lay it aside.

8 ACTING PRESIDENT SPANO: Lay it
9 aside.

10 THE SECRETARY: Calendar Number
11 304, by Senator Goodman, Senate Bill Number
12 1622B, Social Services Law.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

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

17 ACTING PRESIDENT SPANO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 48.

21 ACTING PRESIDENT SPANO: Senator
22 Present that completes the -- I'm sorry, one
23 more.

1 The bill is passed.

2 Secretary will read Calendar 329.

3 THE SECRETARY: On page 8,
4 advanced to third reading earlier today,
5 Calendar Number 329, by Senator LaValle, Senate
6 Bill Number 6806A, an act to amend the Education
7 Law.

8 ACTING PRESIDENT SPANO: Read the
9 last section.

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

12 ACTING PRESIDENT SPANO: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 48.

16 ACTING PRESIDENT SPANO: The bill
17 is passed.

18 Senator Present.

19 SENATOR PRESENT: Controversial
20 calendar, please.

21 ACTING PRESIDENT SPANO:
22 Secretary will read the controversial calendar.

23 THE SECRETARY: On page 9,

1 Calendar Number 13, by Senator Levy.

2 SENATOR PRESENT: Lay it aside
3 temporarily.

4 ACTING PRESIDENT SPANO: Lay it
5 aside.

6 THE SECRETARY: Calendar Number
7 134, substituted earlier today, by member of the
8 Assembly Ortloff.

9 SENATOR GOLD: Lay it aside.

10 SENATOR PRESENT: Lay it aside
11 temporarily.

12 ACTING PRESIDENT SPANO: Lay it
13 aside temporarily.

14 THE SECRETARY: Calendar Number
15 141, by Senator Stafford.

16 SENATOR GOLD: Lay it aside.

17 SENATOR PRESENT: Lay it aside
18 temporarily.

19 ACTING PRESIDENT SPANO: Lay it
20 aside.

21 THE SECRETARY: Calendar Number
22 143, by Senator Nozzolio, Senate Bill Number
23 6315B, Election Law, in relation to false

1 registration.

2 SENATOR CONNOR: Explanation.

3 ACTING PRESIDENT SPANO: Senator
4 Nozzolio.

5 SENATOR NOZZOLIO: Thank you, Mr.
6 President.

7 My colleagues. The bill before
8 us is one of a series of five bills, one of
9 which we passed, which came forth as a result of
10 the Senate Elections Committee investigation
11 into voter irregularity, fraud and abuse in New
12 York City.

13 This measure along with measures
14 that we will also pass today gets to the heart
15 of voter manipulation and voter fraud in an
16 effort to expand our oversight, expand the
17 public's right to know and accountability of
18 candidates and at the same time close some
19 loopholes in the law which exist which allow
20 abuses to be forth in the voter process.

21 This bill before us amends the
22 Election Law, in relation to false registration;
23 that in our investigations, we found Board of

1 Elections officials entering into the system
2 thousands of unsigned voter registration cards.
3 That's akin to a bank cashing thousands of
4 unsigned checks. Accountability and
5 responsibility for those actions we believe
6 rests in the hands of those who issued orders to
7 make legal what is illegal, and this measure
8 provides that any election official who engages
9 in such blatantly illegal conduct, blatantly
10 unethical conduct, shall be guilty of a felony.

11 ACTING PRESIDENT SPANO: Senator
12 Connor.

13 SENATOR CONNOR: Thank you, Mr.
14 President. I see the bill has been amended
15 since it came up in committee. And my concerns
16 in committee were that the prior version said
17 that any employee who accepts a registration was
18 guilty of a felony; and, of course, this would
19 call into question exactly what that meant.
20 Obviously, some clerk at the counter accepts
21 anything in the normal sense of the word. If
22 something is handed in, they take it and they
23 clock it in.

1 In fact, there are cases that say
2 what constitutes acceptance -- for example, of a
3 petition or whatever. That doesn't mean the
4 person ends up on the rolls.

5 My objection was that the crime
6 ought to go to placing an invalid registration,
7 registrant upon the rolls of voters.

8 While I think the language
9 improves or causes to be improved, it is perhaps
10 a little vague. It is really not so bad as the
11 prior language.

12 The only thing I would point out
13 is, and I invite anyone to read the entire
14 transcript, but I think the events in New York
15 City were pretty well explained as an
16 administrative foul-up. And what I want
17 everyone to be assured of is with the
18 computerized system in New York City, even were
19 by accident, for example, an unsigned buff card
20 to be entered into the computer system, on the
21 output when they print out the rolls for
22 election day that would be caught and picked up
23 and taken off the list, and such a person would

1 have to -- if they did show up to vote, have to
2 vote on an affidavit ballot, which would provide
3 a signature and would subsequently have to be
4 verified before the vote could be counted.

5 So while there was certainly an
6 administrative foul-up with respect to
7 processing in the Manhattan office, the fact of
8 the matter is the system would have
9 self-corrected. The system now in place would
10 correct for that and, in fact, that entire mess
11 was cleared up administratively; so that
12 contrary to fears that were raised about massive
13 fraudulent voting, that didn't occur with
14 respect to these buff cards. The Scribe System
15 does catch those things at a later step.

16 In view of the change in
17 language, the only criticism I have in this bill
18 is it's totally redundant. The conduct it
19 addresses is already illegal under existing
20 law. But if, for press release or any other
21 reasons, the Senate wants to go ahead and pass
22 laws making illegal conduct that's already
23 illegal, I'm not going to waste the taxpayers'

1 time and money debating about it.

2 ACTING PRESIDENT SPANO: Read the
3 last section.

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

6 ACTING PRESIDENT SPANO: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 52.

10 ACTING PRESIDENT SPANO: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 145, by Senator Nozzolio, Senate Bill Number
14 6332C, Election Law, in relation to expenditures
15 by political committees.

16 ACTING PRESIDENT SPANO: Senator
17 Nozzolio.

18 SENATOR NOZZOLIO: Mr.
19 President. This bill eliminates election day
20 slush funds by political committees; that our
21 committee in reviewing elections' practices
22 statewide was also very concerned with the issue
23 that we heard a great deal of publicity about in

1 our neighboring state of New Jersey.

2 During the last gubernatorial
3 campaign, a campaign consultant was guilty of
4 foot in mouth disease and discussed what
5 appeared to be some abuses relative to election
6 day voter get out the vote turnout drives.

7 What we want to do with this
8 measure is eliminate the large sums of cash to
9 be distributed on election day by any political
10 party or any candidate group supporting
11 individual candidates by defining "street money"
12 as money used on the day of election to induce a
13 person to vote in a particular manner,
14 broadening the definition of "political
15 committees" as any persons or organizations
16 which dispense money for election day
17 activities, require financial disclosures to
18 separate sections to those election day
19 expenditures to be specifically itemized, and
20 require that all election day expenditures which
21 exceed \$50 to be made by check as opposed to
22 cash.

23 We think that further

1 restrictions and confinements in reporting will
2 put an end to the practice of abuse on election
3 day where huge sums of money -- after an entire
4 campaign of accountability, on election day that
5 accountability basically has been thrown away to
6 allow organizations to spend large sums of cash
7 undefined, large sums of money without proper
8 reporting.

9 Thank you, Mr. President.

10 ACTING PRESIDENT SPANO: Senator
11 Connor.

12 SENATOR CONNOR: Thank you, Mr.
13 President. Now, this is a perfect example of a
14 bill that addresses a problem that doesn't exist
15 in New York State.

16 As Senator Nozzolio said, there
17 were some reports, which, if they were true,
18 would have been absolutely outrageous, about
19 conduct by Republican operatives in New Jersey,
20 allegedly.

21 I haven't heard any problem in
22 New York. Let me explain to you, my colleagues,
23 because this will affect each and every one of

1 you in campaigns, what present law permits and
2 what present law does not permit.

3 Present law does not permit any
4 expenditure in excess of \$100 without a check by
5 the committee. It used to be \$50. In 1974,
6 when the statute was first passed, it was \$50.
7 We raised it.

8 SENATOR NOZZOLIO: Mr. President.

9 SENATOR CONNOR: No, I won't
10 yield at this present time.

11 Thank you, Mr. President.

12 We raised it a few years ago.

13 I will not yield.

14 ACTING PRESIDENT SPANO: We have
15 to let him ask it, first.

16 SENATOR NOZZOLIO: Mr. President.

17 Will the distinguished broad-minded and
18 open-minded Ranking Minority member of the
19 Elections Committee yield?

20 SENATOR CONNOR: Not at the
21 present time, Mr. President.

22 ACTING PRESIDENT SPANO: The
23 gentleman refuses to yield.

1 SENATOR CONNOR: I will be happy
2 to yield at the conclusion of my remarks.

3 We raised it to \$100. Because,
4 you know what? Fifty bucks today isn't what it
5 was in 1974.

6 Now, what can you do on election
7 day? You can spend amounts of \$100 if you pay
8 check for any reason: Hire people, buy
9 literature, buy doughnuts, coffee, whatever.

10 What's this "street money"? And
11 the bill addresses -- the bill before us says,
12 "Money to attempt to influence a person to
13 vote." I don't think the bill means you can
14 write \$50 checks to voters in return for their
15 vote. That is illegal, and it ought to be. It
16 is, and I hope it always will be in this state.
17 So I don't know what it means to say, "Money to
18 influence a people to vote."

19 What I know so-called street
20 money is used for is to hire workers, to hire
21 people to work at the polls. Do they try to
22 influence voters? Sure. They give out
23 literature. That's what they do. They knock on

1 doors and remind people to vote. They make
2 phone calls and say, "Come out and vote."

3 Now, in the pure pristine world,
4 why should you pay people? They ought to
5 volunteer. That sounds great. Go try it,
6 particularly try it in parts of the state where
7 people are unemployed, where people have no
8 other job, where people are happy to work for a
9 day from 6:00 a.m. to 9:00 p.m. handing out
10 literature on a cold November afternoon or a
11 warm September primary day for 60 or 70 or 80
12 dollars, but they certainly -- it would be an
13 insult to them not to recognize their time is
14 worth something.

15 Go try it in working
16 neighborhoods with working class people who
17 punch a time clock and who don't get paid if
18 they don't punch in at work. Ask them to give
19 up a day's pay and work election day; and not
20 reimburse them?

21 That's the genesis of street
22 money. That's where it began, the so-called
23 street money that I say the press and its

1 accounts often misconstrues, because people in
2 politics haven't educated well enough.

3 By and large, these election day
4 expenditures are in two categories. They go to
5 reimburse people for things like gas money and
6 transportation. They go to pay workers, and
7 they go to buy pizzas and doughnuts and coffee
8 for election workers.

9 Now, what Senator Nozzolio's bill
10 is saying is, order out pizzas for all your
11 campaign workers on election day and give the
12 corner pizza guy a check. A check? The
13 printers won't take your uncertified check on
14 election day. Do you think the pizza guy is
15 going to take it, the doughnut man is going to
16 take a check for \$120 for doughnuts and coffee
17 on election day? Wake up my colleagues.

18 This bill addresses a problem
19 that doesn't exist. It doesn't exist. And let
20 me tell you. Go into the cities, villages and
21 towns and pick up the unemployed or the worker
22 who is going to miss a day's pay and hand him a
23 check on election morning. The people who are

1 taking this work don't have checking accounts,
2 by and large. They can't go off to the bank and
3 cash it. And do you know what? When the banks
4 are closed on general election day, you're going
5 to give them a check and tell them, "Go cash it
6 tomorrow."

7 Regrettably, regrettably
8 campaigns, particularly losing campaigns, are
9 not the best debtors. It sometimes takes them
10 years to pay their bills.

11 What are we talking about here?
12 What's the present law? What can you do today?
13 Give out hundreds of dollars in cash? No, it's
14 illegal. Give out money or spend money on
15 election day without reporting it? No. It's
16 illegal under present law.

17 What you do today -- what you do
18 today if you want to follow the law is you don't
19 pay anyone more than \$100. Candidly, the going
20 rate seems to be \$75 -- seems to be \$75 a day
21 for a worker.

22 How do you get the money into the
23 workers' hands. It's simple. The committee

1 takes cash. Very often cashes a check for a
2 thousand or two. It then gives it out in \$75
3 amounts, and the people sign their name and
4 address, date, and so on, as a receipt. The law
5 requires that.

6 Now, while the law does not
7 require itemization of expenditures under \$100
8 individually nor of contributions \$99 or less -
9 and I know people sometimes have \$99 fund
10 raisers -- it does require that your treasurer
11 does keep a record in the permanent records of
12 the committee of the names and addresses of
13 every person who got a nickel.

14 That means if your committee
15 treasurer gives 10 bucks to the doughnut man,
16 you don't have to put the doughnut man's name
17 and address and so on on your report. Some
18 people do it. If you want, you can, but you do
19 have to keep in the permanent records and every
20 treasurer has to keep a book, an account book,
21 the name and address of the doughnut man and the
22 date he got the \$10, and the Board of Elections
23 can and does audit those records. You can then

1 report -- you can then report to the board \$190
2 in unitemized expense for doughnuts, but you
3 have to have a record of every \$10 or \$15 and
4 every day you spent them for doughnuts and
5 coffee, and you have to have that in your
6 records, and present law requires that.

7 This bill addresses something
8 that's not a problem. You can't take suitcases
9 of cash and just give them out with no records
10 and no reporting on election day. If you have
11 been doing that, if your committee has been
12 doing that, I could recommend some lawyers
13 because you may need them. It's absolutely not
14 legal today.

15 Now, the only effect of Senator
16 Nozzolio's bill will be to lower the amount
17 required by check to \$50 and require itemization
18 for expenditures in excess of \$50 but no
19 itemization below \$50. Doesn't make any sense.
20 Why not change the whole statute then to a \$50
21 standard like it used to be 20 years ago.

22 What's the point of this? I
23 really just think this is an attempt to play to

1 the press and say, "Oh, we're getting rid of
2 street money."

3 What is street money? It's lunch
4 money. It's pay for the worker, poor pay for
5 the worker for the hard work, and it's just not
6 realistic to say you can give checks to people
7 on a day when the banks aren't even open and
8 they can't cash them.

9 You know, historically, street
10 money -- in the old days, it was \$20. It goes
11 up as inflation goes up sometimes clubs give \$50
12 or \$60 to their captain as lunch money for the
13 workers in their precinct. They can't even cash
14 the check that day. The bank's closed.
15 Holiday. November election.

16 This is just not a realistic
17 bill. It's a grandstanding, phony bill that
18 addresses something that's just not a problem.
19 Present law requires that you keep an itemized
20 record. Present law requires that you get
21 signed receipts from anyone who gets any amount
22 in cash less than \$100. Anybody who is getting
23 more than \$100 gets a check, but, you know,

1 that's not what you're giving -- that's not
2 lunch money any more.

3 What Senator Nozzolio is
4 proposing is that lunch money has to be by
5 check. It's just not realistic. And it is
6 really subject to such subterfuge. I mean think
7 about what this bill doesn't address. And I see
8 we're on the C print. You know, the B print, as
9 I recollect -- after these very criticisms were
10 made, the B print said, "Anything spent three
11 days before the election up to election day."
12 Now we're back to election day.

13 Do you want to get around this
14 legally? Do you want to really be beholden to
15 big money? Find somebody in your organization
16 that can afford to show up at headquarters with
17 \$5,000 in cash on election morning, in a
18 suitcase, and sit him at a desk out there, and
19 have all the workers who get their \$50 checks or
20 \$75 checks just see the man up front, endorse
21 them, and get their cash. What purpose?

22 That would be legal under Senator
23 Nozzolio's bill. What purpose is that, to

1 suddenly make some guy that has \$5,000 in a
2 suitcase who is willing to cash all these checks
3 suddenly a very important person?

4 Present law says that person with
5 a suitcase full of money has no place in your
6 campaign. That your treasurer gets the cash and
7 gets receipts as they give out the 50 or 60 or
8 70 or 80 dollars to the people. That's present
9 law.

10 This law is absolutely phony.
11 There are a million ways around it. And I know
12 Senator Nozzolio will say, of course, a smart
13 lawyer can figure out ways around it.

14 Well, believe me, smart lawyers
15 aren't half as good as smart candidates and
16 political operatives. The fact of the matter is
17 I don't want that friendly guy who says, "I'll
18 cash all your checks," involved in the
19 campaign.

20 That is a person who will never
21 be disclosed. There will be no record of such
22 person in the committee's records. The board
23 will never know he existed, yet, \$5,000,

1 \$10,000, whatever, that could be a pretty
2 influential person. That's the kind of
3 influence we don't want to have in campaigns.
4 That's the kind of influence that this bill will
5 result in.

6 This bill is a bad idea. It
7 addresses a problem that doesn't exist. If
8 people follow existing laws, it's all on
9 record. It's all there for the Board of
10 Elections to look at, and if you don't keep the
11 records, you've violated present law, and your
12 treasurer or your committee's in trouble.

13 I just think this is foolish, and
14 I urge a no vote.

15 ACTING PRESIDENT SPANO: Read the
16 last section.

17 SENATOR GOLD: Mr. President.

18 ACTING PRESIDENT SPANO: Senator
19 Gold.

20 SENATOR GOLD: I just really have
21 one question because I think that the -- the
22 surgical job done by Senator Connor was perfect,
23 and I don't want to impose on that. But if

1 Senator Nozzolio will yield to one question?

2 ACTING PRESIDENT SPANO: Senator
3 Nozzolio?

4 SENATOR NOZZOLIO: Yes, Mr.
5 President.

6 SENATOR GOLD: Yes. Senator, on
7 page 2, line 38, it says, "And in the case of
8 election day expenditures...." Is there any
9 definition in the law of an election day
10 expenditure?

11 SENATOR NOZZOLIO: This measure
12 adds a definition.

13 SENATOR GOLD: Well, where is
14 that? Where is the definition of what an
15 election day expenditure is?

16 SENATOR NOZZOLIO: Are you
17 asking -- I'm sorry, Mr. Gold, I couldn't hear
18 you. Did you say you wanted a definition of
19 street money or election day expenditure?

20 SENATOR GOLD: No, Mr. Nozzolio,
21 what I'm saying is, is there any definition in
22 the Election Law of what a, quotes, "election
23 day expenditure" is?

1 SENATOR NOZZOLIO: The counsel
2 advises me that election day expenditure is an
3 expenditure, definitionally, made on election
4 day. There is one election day. You spend
5 money on election day that becomes an election
6 day expenditure.

7 SENATOR GOLD: Will Senator yield
8 to one question?

9 SENATOR NOZZOLIO: Certainly.

10 SENATOR GOLD: In other words,
11 it's an expenditure made on election day -- made
12 on election day. So in other words, when all of
13 the captains come to the club the day before
14 election and they pass out \$75,000 of street
15 money or whatever you are saying, that is not an
16 election day expenditure?

17 SENATOR NOZZOLIO: I will answer
18 that question, Senator, by referring to lines 3,
19 4, 5 and 6 on page 1 of the bill. "That any
20 payment made by a candidate of political
21 committee to an individual for the purpose of
22 using such money on the day of election to
23 induce a person to vote."

1 SENATOR GOLD: It is called
2 street money. It's called street money.

3 SENATOR NOZZOLIO: The purposes
4 of this bill deal with those expenditures.

5 SENATOR GOLD: Yeah. Well,
6 Senator, if you'll yield to a question. The
7 bill is not that long which gives us the
8 opportunity to read it. Some of them get very
9 boring in their length, but.

10 It's true that you define street
11 money on page 1. But on page 2 at the end it
12 says, "and in the case of election day
13 expenditures." It doesn't talk about in the
14 case of street money. It talks about, "in the
15 case of election day expenditures." Those are
16 two different phrases aren't they?

17 SENATOR NOZZOLIO: But show me
18 the inconsistency.

19 SENATOR GOLD: I just did.

20 SENATOR NOZZOLIO: If you're
21 trying to raise the question saying there's an
22 inconsistency, Mr. Gold, show me where there is
23 an inconsistency.

1 SENATOR GOLD: Well, Senator -- I
2 don't want to argue with you. I think I made
3 the point. I don't understand how -

4 SENATOR NOZZOLIO: I don't think
5 you did make a point. At least it's a point
6 that's certainly very unclear to me.

7 SENATOR GOLD: That is possible.
8 Senator Connor, was the point clear to you?

9 SENATOR CONNOR: (Reply
10 inaudible).

11 SENATOR GOLD: Yeah, I think it's
12 okay. Thank you.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

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

17 SENATOR CONNOR: Slow roll call.

18 ACTING PRESIDENT SPANO:
19 Secretary will call the slow roll call.

20 THE SECRETARY: Senator Babbush.

21 SENATOR BABBUSH: No.

22 THE SECRETARY: Senator Bruno.

23 (There was no response.)

1 Senator Connor.

2 SENATOR CONNOR: Mr. President.

3 ACTING PRESIDENT SPANO: Senator
4 Connor to explain his vote.

5 SENATOR CONNOR: Thank you. To
6 explain my vote.

7 My colleagues, I just say to you
8 think about your own campaigns. Think about \$50
9 checks on election morning to get someone to
10 work or to reimburse someone for lunch. Think
11 about \$75 checks, think about how that's going
12 to go over. Think about the paying the pizza
13 man with a check when he delivers to one of your
14 offices.

15 This bill is not practical. It's
16 not necessary. Any possible abuses that have
17 ever been alleged are already illegal under
18 present law. There is plenty we ought to do to
19 make the Election Law better, fairer, to
20 eliminate the influence of big money, to reform
21 financing.

22 This little bill is not the
23 answer. I vote no.

1 ACTING PRESIDENT SPANO: Senator
2 Connor in the negative.

3 THE SECRETARY: Senator Cook.

4 SENATOR COOK: Yes.

5 THE SECRETARY: Senator Daly.

6 SENATOR DALY: Mr. President.

7 Since my pizza man does accept a check, I vote
8 yes.

9 THE SECRETARY: Senator
10 DeFrancisco.

11 SENATOR DeFRANCISCO: Yes.

12 THE SECRETARY: Senator DiCarlo.

13 SENATOR DiCARLO: Yes.

14 THE SECRETARY: Senator
15 Dollinger.

16 (There was no response.)

17 Senator Espada.

18 SENATOR ESPADA: No.

19 THE SECRETARY: Senator Farley.

20 SENATOR FARLEY: Aye.

21 THE SECRETARY: Senator Galiber.

22 SENATOR GALIBER: No.

23 THE SECRETARY: Senator Gold.

1 SENATOR GOLD: Mr. President. To
2 explain my vote.

3 ACTING PRESIDENT SPANO: Senator
4 Gold to explain his vote.

5 SENATOR GOLD: Senator Nozzolio,
6 I am voting no because of the wisdom imparted on
7 this body by Senator Connor in a very
8 articulate, well-structured, intellectual
9 manner. But forgetting that for the moment,
10 your bill does do something. And, Senator
11 Connor, be fair. Be fair. Your bill does do
12 something that most bills don't do.

13 On page 1, as you pointed out, it
14 defines street money; and then for the rest of
15 the bill ignores the term. So while it creates
16 a definition, it is meaningless because nothing
17 in the law applies to that definition; and that,
18 Senator Nozzolio, is new and is unusual.

19 Now, you do talk about election
20 day expenditures and don't define them. So the
21 bottom line, Senator Nozzolio, is not only do
22 you try to correct a problem that doesn't
23 exist. You don't even correct a problem.

1 Because you have one part of your bill dealing
2 with something that is undefined and only deals
3 with election day; and as you I pointed out to
4 you, in the real world, most people to go a
5 political club the day before and the night
6 before. And when it comes to street money,
7 aside from giving this Legislature a definition
8 of it, you then do nothing with it.

9 I vote no.

10 ACTING PRESIDENT SPANO: Senator
11 Gold in the negative. Continue the roll call.

12 THE SECRETARY: Senator
13 Gonzalez.

14 (There was no response.)

15 Senator Goodman.

16 SENATOR GOODMAN: Yes.

17 THE SECRETARY: Senator Hannon.

18 SENATOR HANNON: Yes.

19 THE SECRETARY: Senator
20 Hoffmann.

21 (There was no response.)

22 Senator Holland.

23 SENATOR HOLLAND: Yes.

1 THE SECRETARY: Senator Johnson.
2 SENATOR JOHNSON: Aye.
3 THE SECRETARY: Senator Jones.
4 SENATOR JONES: Yes.
5 THE SECRETARY: Senator Kruger.
6 SENATOR KRUGER: No.
7 THE SECRETARY: Senator Kuhl.
8 SENATOR KUHL: Yes.
9 THE SECRETARY: Senator Lack.
10 (There was no response.)
11 Senator Larkin.
12 (There was no response.)
13 Senator LaValle.
14 SENATOR LAVALLE: Yes.
15 THE SECRETARY: Senator Leichter.
16 SENATOR LEICHTER: No.
17 THE SECRETARY: Senator Levy.
18 SENATOR LEVY: Aye.
19 THE SECRETARY: Senator Libous.
20 SENATOR LIBOUS: Aye.
21 THE SECRETARY: Senator Maltese.
22 SENATOR MALTESE: Aye.
23 THE SECRETARY: Senator Marchi.

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SENATOR MARCHI: Aye.

THE SECRETARY: Senator Marino.

(Indicating aye.)

THE SECRETARY: Aye. Senator
Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator
Montgomery.

SENATOR MONTGOMERY: Mr.
President.

ACTING PRESIDENT SPANO: Senator
Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, to
explain my vote very briefly, Mr. President.

As I read this bill, it says
political committee, and I'm not sure if that
includes all of the possibilities of people
putting money into an election on election day.
So that's one thing. So while I certainly
understand Senator Nozzolio's intent to try to
deal with fraudulent use of money on election

1 day, this does not cover all of the
2 possibilities to begin with.

3 And, two, this bill would be
4 very, very bad for my particular district and
5 area, because it is -- the process of expending
6 funds on election day to have people
7 participate, especially, as Senator Connor
8 pointed out, people who are unemployed, people
9 who really look forward to having a little job
10 on election day in relationship to the election,
11 they have no intention of influencing anybody in
12 an underhanded illegal manner. They are just
13 passing out palm cards. They are just running
14 around doing little political activities in
15 relationship to an election on both sides, both
16 candidates or all candidates involved. It is a
17 very open and public kind of activity.

18 And so I want to vote no, and I
19 want to say to you that I think this is a very
20 bad bill. Because, one, it doesn't cover all
21 the possibilities for expenditures of money; and
22 two, it is going to make it extremely difficult
23 for little people to participate in the

1 electoral process in districts like mine around
2 the state.

3 So I vote no.

4 ACTING PRESIDENT SPANO: Senator
5 Montgomery in the negative. Continue the roll
6 call.

7 THE SECRETARY: Senator Nanula.

8 SENATOR NANULA: No.

9 THE SECRETARY: Senator Nolan.

10 (There was no response.)

11 THE SECRETARY: Senator

12 Nozzolio.

13 SENATOR NOZZOLIO: Mr.

14 President. To explain my vote.

15 ACTING PRESIDENT SPANO: Senator
16 Nozzolio, to explain his vote.

17 SENATOR NOZZOLIO: My colleagues.

18 Let me tell you what this bill is not. This
19 bill does not prevent campaigns to hire the
20 unemployed. This bill does not prevent Senator
21 Connor or anyone else to pay for pizzas by cash
22 or check.

23 ACTING PRESIDENT SPANO: Excuse

1 me, Senator Nozzolio.

2 Can we get some order in the
3 chamber. Please ask the members to take their
4 seats so we can listen to Senator Nozzolio.
5 Staff please take their conversations outside
6 the chamber.

7 Senator Nozzolio.

8 SENATOR NOZZOLIO: Thank you, Mr.
9 President. What this bill does do is shed light
10 on the heretofore dark situations that exist on
11 election day where huge sums of money are spent
12 without accountability to the voters, without so
13 much as an itemization, that there are
14 tremendous potential for abuse of large sums of
15 cash on election day. It's the same type of
16 thing that has been chastised time and again by
17 members of both sides of the aisle. What we're
18 asking you to do is put your rhetoric where your
19 vote is and support a bill that discloses
20 election day expenditures, that sheds light on
21 how cash is distributed on election day. It
22 prevents election day abuses from taking place.
23 That's all this bill does, and we hope that you

1 will see the light and support it along with us.

2 ACTING PRESIDENT SPANO: Senator
3 Nozzolio in the affirmative.

4 Continue the roll call.

5 THE SECRETARY: Senator
6 Ohrenstein.

7 (Indicating nay.)

8 THE SECRETARY: No. Senator
9 Onorato.

10 SENATOR ONORATO: No.

11 THE SECRETARY: Senator
12 Oppenheimer.

13 SENATOR OPPENHEIMER: Explain my
14 vote.

15 ACTING PRESIDENT SPANO: Senator
16 Oppenheimer.

17 SENATOR OPPENHEIMER: Senator is
18 sort of making it sound like we're doing, you
19 know, horrible things on election day and going
20 against the Election Law, and I sort of resent
21 that. I'm not sure, I don't think on my last
22 election we had what you call street money. We
23 pay people. But I find it, you know, very

1 distasteful that these charges seem to be made
2 that we're doing something illegal.

3 And, you know, if I buy flowers
4 or I go to the pastry shop, I can't see giving
5 them a check. So I'm going to vote against
6 this.

7 ACTING PRESIDENT SPANO: Senator
8 Oppenheimer in the negative.

9 Continue the roll call.

10 THE SECRETARY: Senator Padavan.

11 SENATOR PADAVAN: Yes.

12 THE SECRETARY: Senator Pataki.

13 (There was no response.)

14 Senator Paterson.

15 (There was no response.)

16 Senator Present.

17 SENATOR PRESENT: Aye.

18 THE SECRETARY: Senator Rath.

19 SENATOR RATH: Yes.

20 THE SECRETARY: Senator Saland.

21 SENATOR SALAND: Aye.

22 THE SECRETARY: Senator

23 Santiago.

1 SENATOR SANTIAGO: No.
2 THE SECRETARY: Senator Sears.
3 SENATOR SEARS: Aye.
4 THE SECRETARY: Senator Seward.
5 SENATOR SEWARD: Aye.
6 THE SECRETARY: Senator Skelos.
7 SENATOR SKELOS: Yes.
8 THE SECRETARY: Senator Smith.
9 SENATOR SMITH: No.
10 THE SECRETARY: Senator Solomon.
11 (There was no response.)
12 Senator Spano.
13 SENATOR SPANO: Aye.
14 THE SECRETARY: Senator
15 Stachowski.
16 SENATOR STACHOWSKI: No.
17 THE SECRETARY: Senator
18 Stafford.
19 SENATOR STAFFORD: Aye.
20 THE SECRETARY: Senator
21 Stavisky.
22 SENATOR STAVISKY: No.
23 THE SECRETARY: Senator Trunzo.

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SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: To explain my
vote.

ACTING PRESIDENT SPANO: Senator
Waldon.

SENATOR WALDON: Mr. President,
my colleagues, very briefly.

In the area of Queens where I
live, the street day operation is rather rapid,
frenetic, and at times can overwhelm someone
who's inexperienced. And to have to voucher
every little picayunne expenditure would drive
my campaign manager crazy and would thwart the
process which allows me to return here to be
convivial with my many colleagues.

Based on that simplistic

1 situation, I will have to vote in the no.

2 THE SECRETARY: Senator Wright.

3 SENATOR WRIGHT: Aye.

4 ACTING PRESIDENT SPANO:

5 Secretary will call the absentees.

6 THE SECRETARY: Senator Bruno.

7 SENATOR BRUNO: Yes.

8 THE SECRETARY: Senator

9 Dollinger.

10 SENATOR DOLLINGER: Mr.

11 President. To explain my vote.

12 ACTING PRESIDENT SPANO: Senator

13 Dollinger.

14 SENATOR DOLLINGER: Mr.

15 President. I'm going to vote in favor of this

16 bill. I'm not so sure that it's a bill in

17 search of a problem to attach itself to, but I

18 would just encourage my colleague, while we

19 continue to walk down the road toward election

20 reform, I regard this as another step in the

21 direction of, hopefully, decreasing the amount

22 of electoral fraud, if it exists, but I still

23 think that there are a number of big issues on

1 the table that we ought to attack.

2 We ought to be a part of -- I can
3 rattle them off, simple. Access to the ballot,
4 campaign finance reform, the implementation of
5 the motor voter act, all of these things that we
6 ought to do which would achieve the goal of
7 having more people participate in elections,
8 have greater voter turnout, and hopefully all
9 the people in this chamber could then say that
10 they were elected by the majority of the people
11 in their district and not simply the majority of
12 the people who happened to be registered under
13 our arcane laws.

14 Mr. President. I'll vote yes for
15 moving in the right direction. We've got
16 further to go.

17 ACTING PRESIDENT SPANO: Senator
18 Dollinger in the affirmative.

19 THE SECRETARY: Senator
20 Gonzalez.

21 (There was no response.)

22 Senator Hoffmann.

23 (There was no response.)

1 Senator Lack.
2 SENATOR LACK: Aye.
3 THE SECRETARY: Senator Larkin.
4 SENATOR LARKIN: Aye.
5 THE SECRETARY: Senator Nolan.
6 (There was no response.)
7 Senator Pataki.
8 (There was no response.)
9 Senator Paterson.
10 (There was no response.)
11 Senator Solomon.
12 (There was no response.)
13 ACTING PRESIDENT SPANO: Announce
14 the results.
15 THE SECRETARY: Ayes 36. Nays
16 19.
17 ACTING PRESIDENT SPANO: The bill
18 is passed.
19 THE SECRETARY: Calendar Number
20 146, by Senator Nozzolio, Senate Bill Number
21 6336B, an act to amend the Election Law, in
22 relation to corrupt use of position or
23 authority.

1 SENATOR GOLD: Explanation.

2 ACTING PRESIDENT SPANO: Senator
3 Nozzolio.

4 SENATOR NOZZOLIO: Mr.
5 President. This bill makes it a crime under the
6 Election Law for an officer or employee of an
7 introduction supported in whole or in part by
8 public funds to intimidate, threaten, or coerce
9 or influence patients or clients for the
10 purposes of affecting their vote.

11 This measure is an attempt to
12 prevent manipulation of those who are the most
13 vulnerable in our society. This does not in any
14 way impinge upon their right to vote but rather
15 tries to prevent, in law, those intimidating
16 factors where individuals working for state
17 institutions were influencing directly at the
18 time of vote a resident casting his or her
19 vote.

20 That during the last election in
21 New York City, this issue came to light and was
22 publicized greatly. It came before our
23 committee as an issue, and the committee

1 reviewed this measure. At the suggestion of
2 some members of the committee, the bill was
3 amended, particularly the concerns of Senator
4 Connor, who believed that the influencing factor
5 of an individual in their exercise to vote could
6 be construed as too broad.

7 That's why this measure was
8 amended, amended to deal with the definition of
9 influencing and limiting the term influencing to
10 the precise time when a resident individual was
11 casting his or her vote. So that the
12 intimidation or influence or coercion, in
13 effect, at the time of casting the vote is the
14 issue not any broader review.

15 Thank you, Mr. President.

16 ACTING PRESIDENT SPANO: Senator
17 Connor.

18 SENATOR CONNOR: Thank you, Mr.
19 President.

20 I want to applaud Senator
21 Nozzolio, of course, for, as he pointed out, the
22 original print made it a crime for anyone who
23 worked in or supervised a nursing home to

1 attempt to influence any of the people in how
2 they would vote. And I pointed out to the
3 committee that that would mean if, you know,
4 three months before the election Senator
5 Present, for example, went to a nursing home in
6 his district, and the director said, "Here's
7 Senator Present; he is up for election this
8 year; he has done a fantastic job for senior
9 citizens in our nursing home," that that would
10 be an attempt to influence their vote,
11 obviously, and that would have been a crime.
12 That has now been eliminated from the bill.

13 I'm not urging anybody to vote
14 against this bill. I just point out a few
15 things. It is presently, thank God, a crime to
16 threaten, intimidate, or coerce voters, whether
17 they be in nursing homes, walking down streets,
18 in schools, or firehouses casting their vote or
19 sitting in their living room. It is illegal,
20 and I want to assure everybody because this bill
21 has a long way to go. Should it pass here it's
22 still got the Assembly and the Governor, and I
23 want to reassure everybody and warn everybody in

1 this state that even if this bill doesn't become
2 law, it's nonetheless a crime to intimidate
3 threaten or coerce any voter in the exercise of
4 their franchise, and it's not just a crime under
5 the laws of the State of New York. I assure you
6 it is a very, very serious federal crime to do
7 so.

8 So the point I'm coming to is,
9 there are certain problems with respect to the
10 handling of absentee ballots or potential
11 problems with respect to nursing homes.

12 I don't think threatening,
13 coercing, and intimidating is necessarily one of
14 them; because if it is, there should already be
15 prosecutions by state and federal authorities.

16 This is another example of a bill
17 that's not needed. The major thrust of it is
18 not needed. It's already illegal. I would note
19 that the League of Women Voters opposes this
20 bill, and the reason they oppose this bill is
21 because they point out in their memo that with
22 respect to problems in nursing home absentee
23 ballots, Senator Nozzolio already has a bill

1 that's a better bill. That is S.3083, which
2 does I believe have sponsorship in the
3 Assembly. I mean that could even become law and
4 cure the problem.

5 I would urge the Senator to heed
6 this. Let's bring out the real bill that deals
7 with the real problem. I'm not suggesting
8 anybody vote against this, because that might be
9 misconstrued. Somebody might say you are in
10 favor of coercing, intimidating or threatening,
11 even though it is already illegal.

12 But there is a little problem in
13 the handling of absentee ballots in some cases.
14 There seems to be. Let's bring out the real
15 bill. And Senator Nozzolio has a bill that
16 deals with that. The League of Women Voters
17 says that is the bill not this bill.

18 Again, enough said about a bill
19 that I don't think is going anywhere, because
20 it's not needed. I sure would like to see the
21 real bills that really change the Election Law
22 in ways we ought to do it.

23 ACTING PRESIDENT SPANO: Senator

1 Smith.

2 SENATOR SMITH: Thank you, Mr.
3 President. I would just like to briefly clarify
4 the issue which this bill is supposedly written
5 in reference to. I believe that there was some
6 press during the last election about some
7 mentally handicapped people who voted, and who
8 went into a polling site in the East Flatbush,
9 East New York area. Having been called to that
10 school, they were being intimidated and
11 harrassed by off-duty police officers who
12 attempted to have them do something that has
13 been outlawed for many years; and that is, to
14 take a competency test.

15 So it was not the Board of
16 Elections, and it was not others that were
17 affiliated with the Board of Elections, but
18 outsiders. And as a member of the Elections
19 Committee for the past five years, I don't know
20 of any hearings that were held, and I don't know
21 of any of us who were asked who were there.
22 These are purely conjecture on the part of some
23 people without getting the full information.

1 Therefore, I feel that this bill
2 is not necessary because there is already
3 sufficient law to provide for the needs of those
4 who are mentally handicapped or in nursing
5 homes.

6 ACTING PRESIDENT SPANO: Senator
7 Waldon.

8 SENATOR WALDON: Thank you, Mr.
9 President. Would the learned gentleman submit
10 to a question or two?

11 ACTING PRESIDENT SPANO: Senator
12 Nozzolio, will you yield to a question?

13 SENATOR NOZZOLIO: Certainly.

14 SENATOR WALDON: Senator, can you
15 tell this body the number of people who would be
16 affected by this legislation if it were passed?

17 SENATOR NOZZOLIO: It would be in
18 the thousands of those who were subject to the
19 legislation, which, Senator, would prohibit
20 anyone who worked at an organization that
21 received public funds from engaging in this type
22 of conduct, so I would leave the number up to
23 you to speculate in terms of the numbers.

1 Obviously, extensive.

2 SENATOR WALDON: I'm surprised at
3 your response, Senator.

4 If I may continue, Mr. President,
5 I'll ask another question.

6 ACTING PRESIDENT SPANO: Senator
7 Waldon.

8 SENATOR WALDON: If you make
9 recommendations to us to pass a bill which will
10 be law this state, it would seem that the
11 informational base would be one which at least
12 tells us the number of persons affected.

13 But to ask my question, if I may,
14 can you tell us the specific event or events
15 which were the causal factor or factors for you
16 to write this bill?

17 SENATOR NOZZOLIO: Are you asking
18 me, Senator, to list for you a specific example
19 where this intimidation factor existed?

20 SENATOR WALDON: I did that,
21 Senator, because earlier you had said, at your
22 hearings, information was brought to your
23 attention. So I assume that information

1 precipitated your sitting down to write the
2 bill.

3 SENATOR NOZZOLIO: The Brooklyn
4 District Attorney, Charles Hines, has begun an
5 investigation as to why a group of mentally
6 handicapped individuals were brought to the
7 polls during the last mayoral election and told
8 to vote; that the office is reviewing this
9 situation; that the State Office of Mental
10 Retardation and the State Committee on Elections
11 are also looking into specific allegations of
12 voting in PS 93 in Brooklyn. What we heard is
13 that many of the individuals -- reported in the
14 New York Post, November 9, that many individuals
15 were disoriented, didn't seem to know where they
16 were or why they were there. One man said he
17 was going bowling as he entered into a voting
18 booth with a state employee.

19 The state Election Law prohibits
20 -- excuse me -- allows those with disabilities
21 to vote, but they can't be forced to vote in a
22 particular way. And they must be given an
23 understanding that they are voting and

1 participating in the voting process. There are
2 also allegations that during this time there
3 were government paid officials who were actually
4 going into the voting booth with those people at
5 mention and were told to pull a particular
6 lever. Now, that type of conduct is the conduct
7 that I'm sure you would not condone or advise,
8 and that's the conduct that we're trying to get
9 at through this measure.

10 SENATOR WALDON: Mr. President.

11 May I continue one last question?

12 ACTING PRESIDENT SPANO: Senator
13 Waldon.

14 SENATOR WALDON: Senator, you are
15 absolutely right in your description of Al
16 Waldon. I would not condone that kind of
17 behavior. I abhor it. And during this past
18 election in the City of New York, when
19 correction officers and police officers from
20 outside the City of New York attempted to
21 intimidate people at the polling station that I
22 as a district leader repaired to, I acted in a
23 manner which you just suggested was appropriate

1 behavior.

2 My last question is this to you,
3 sir. As the Chairman of the Elections
4 Committee, you must be aware that you already
5 had on the books laws which would cover this
6 precise situation; and if such is the case, why
7 would you burden this body with a redundant
8 proposal?

9 SENATOR NOZZOLIO: In my
10 response, Senator, you raise an excellent
11 point. As a former police officer, I'm sure you
12 are well aware that there are loopholes in the
13 law and tools that prosecutors may or may not
14 have with particular statutes. Unfortunately,
15 that's the case here. We're trying to provide
16 stronger statutory language for prosecutors,
17 providing definitions of institutions covered
18 and employees covered and limits relative to the
19 influencing a particular employee can engage on
20 an individual, and it is my belief that through
21 this tool, the conduct can be better
22 prosecuted. Redundancy I believe is too strong
23 a word, Senator. I believe that providing

1 additional tools is the objective of this bill.

2 SENATOR WALDON: Thank you very
3 much, Senator.

4 Mr. President, if I may explain
5 my vote.

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

8 SENATOR WALDON: I'm compelled to
9 vote in the no on this bill, because I do
10 believe it is, in fact, redundant. I do believe
11 we have adequate laws on the book to deal with
12 the situations as attempted by my learned
13 colleague in his explanation, and I do believe
14 that sometimes we overlegislate. We put too
15 many bills in the hopper, and we waste the time
16 of ourselves and the people of the State of New
17 York.

18 I would encourage my colleagues
19 to also vote in the neg'.

20 SENATOR CONNOR: Mr. President.

21 ACTING PRESIDENT SPANO: Senator
22 Connor.

23 SENATOR CONNOR: Yes, would

1 Senator Nozzolio yield to a question?

2 ACTING PRESIDENT SPANO: Senator
3 Nozzolio, would you yield to a question of
4 Senator Connor?

5 SENATOR NOZZOLIO: Is this the
6 same Senator Connor that I asked to yield?

7 ACTING PRESIDENT SPANO: He's the
8 same person who refused to yield.

9 SENATOR NOZZOLIO: I don't think
10 I will yield.

11 SENATOR CONNOR: Okay. Fine. I
12 had offered. On the bill, Mr. President. I had
13 offered to yield.

14 ACTING PRESIDENT SPANO: Senator
15 Connor, on the bill.

16 SENATOR CONNOR: I had offered to
17 yield to Senator at the conclusion of my
18 previous remarks and waited and didn't see him
19 jump to his feet to grill me, and I was greatly
20 relieved as I took my seat.

21 Certainly though, Mr. President,
22 Senator Nozzolio can't for a moment be
23 suggesting that it would be illegal for a

1 nursing home employee or director to walk into
2 the voting booth with a resident of the nursing
3 home while that resident voted. Can't be.
4 That's not illegal.

5 Because we better wake up to
6 federal law. Federal law says any voter can
7 take into the booth any person they want except
8 their employer or union representative to assist
9 them in voting.

10 So what if I see nursing home
11 residents walking into the booth with employees
12 or officers of the nursing home. You can infer
13 no illegality from that. Sure, if you see them
14 twisting an arm of the resident. That
15 intimidation. That illegal now. It's assault.

16 The fact is -- the fact is this
17 evidence that's pointed out, Oh, people were
18 seen going into the voting booth with employees
19 from the nursing home or the mental health
20 facility or whatever. You can infer nothing
21 from that.

22 Let me tell you, my colleagues,
23 we better wake up. I was involved in a case a

1 couple of years ago where a candidate objected
2 that voters were coming in and going into the
3 voting booth with the opposing candidate's poll
4 watcher. The opposing candidate sent poll
5 watchers to the polling place, and voters would
6 come in and go over to the poll watchers and
7 then go into the booth with the poll watchers.
8 Sounds illegal. It used to be in New York.

9 It's not today. The federal
10 government sent marshalls into that district.
11 The federal government issued a report, saying
12 the attempts by the inspectors of elections to
13 thwart that conduct and to forbid the partisan
14 poll watchers in the polling place from going
15 into the booth with the voters was illegal,
16 illegal on the part of the inspectors of
17 elections. They can't stop that.

18 Imagine, imagine the future
19 ramifications for someone who wants to commit an
20 illegal vote buying scheme, to have their own
21 partisan workers in the polling place going into
22 the booth. But that's federal law. We can't do
23 anything about that, but follow it. And we can't

1 carve around the edges of it by saying, "Oh,
2 well, you can't have nursing home employees
3 going into the voting booth with residents."

4 Of course you can. You have to
5 let them. It would be a violation of federal
6 law and a federal crime to prevent them. That's
7 why this bill is not well thought out, and I
8 vote no, Mr. President.

9 ACTING PRESIDENT SPANO: Read the
10 last section.

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

13 ACTING PRESIDENT SPANO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 146 are Senators
18 Connor, Espada, Galiber, Gold, Kruger,
19 Markowitz, Mendez, Montgomery, Nanula,
20 Ohrenstein, Santiago, Smith and Waldon. Ayes
21 44. Nays 13.

22 ACTING PRESIDENT SPANO: The bill
23 is passed.

1 Senator Leichter.

2 SENATOR LEICHTER: Mr.

3 President. May I have unanimous consent to be
4 recorded in the negative on Calendar Numbers 260
5 and 274.

6 ACTING PRESIDENT SPANO: Without
7 objection.

8 THE SECRETARY: Calendar Number
9 147, by Senator Nozzolio, Senate Bill Number
10 6527B, an act directing the state Board of
11 Elections to conduct a special study to combat
12 voter fraud.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

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

17 ACTING PRESIDENT SPANO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 57.

21 ACTING PRESIDENT SPANO: The bill
22 is passed.

23 THE SECRETARY: Calendar Number

1 181, by Senator Volker, Senate Bill Number
2 1424A, an act to amend the Penal Law, in
3 relation to increasing criminal penalties for
4 certain crimes.

5 SENATOR GOLD: Explanation.

6 ACTING PRESIDENT SPANO: Senator
7 Volker.

8 SENATOR VOLKER: Mr. President.
9 This is a bill that this house has passed before
10 which deals primarily with the upgrading of the
11 crime of assault. It has been called the Gang
12 Violence Bill.

13 What it does to start with is it
14 raises all the crimes of assault, assault first,
15 second and third by one degree, and then creates
16 a new section of the law relating to gang
17 assaults, which is a defendant with the intent
18 to cause serious physical injury to another
19 person and aided by two or more people would be
20 guilty of an assault first, which would become a
21 B felony subject to sentencing of up to 25 years
22 in jail. The old assault second statute would
23 become, in effect, the assault first, and so

1 forth. The lowest crime, which is assault
2 third, would in a gang assault situation go from
3 an A misdemeanor to a D felony.

4 In addition to that, included in
5 this bill is an upgrade for intentional or
6 reckless damage to any house of worship,
7 cemetery, school or community center or the
8 grounds thereto. Would make it a criminal
9 mischief second, which would be a Class D
10 felony, with a maximum of seven years in jail.

11 Another provision of this bill
12 relates to juvenile offender statutes. I don't
13 think too many people are aware that there are
14 several crimes right now that are not subject to
15 the normal provisions of juvenile offender
16 status because they are considered to be of such
17 a serious nature that young people from 14 and
18 15 and up can be criminally charged. We would
19 make assault second -- an aggravated assault
20 upon a police officer or peace officer, which is
21 already in that category, we would add to that
22 these provisions of the gang violence bill, and,
23 therefore, people 14 and 15 could be criminally

1 prosecuted.

2 In this bill, we also have
3 limitations on plea bargaining, so similar to
4 other areas of the law where we have the issues
5 of gang violence involved, they could only be
6 pled down generally one degree, so that it would
7 be more difficult for those people that engage
8 in this kind of conduct to be able to plead
9 down.

10 In addition to, that we set up a
11 provision relating to sentencing that allows and
12 mandates that the judge in the presentence
13 report must investigate prior to sentencing on
14 the issue of any sort of bias related crime
15 involvement, and what that -- those crime
16 involvements could be any identifiable class, in
17 general -- not just in a specific area but any
18 identifiable class. This is a, by the way,
19 sentencing procedure that has basically been
20 fairly recently upheld by the courts, as opposed
21 to some of the so-called bias crime bills that
22 have generally been struck down on a national
23 level that are very shaky on constitutional

1 grounds. In some cases, worse than shaky, are
2 probably unconstitutional. But the procedure in
3 this bill has been already approved in several
4 cases, and one in the Supreme Court of the
5 United States.

6 In addition to that, law
7 enforcement agencies, such as police, district
8 attorneys and the courts would be required to
9 collect data on bias-related crimes and submit
10 such data to the DCJS, who shall compile the
11 data and report it to us in the Legislature and
12 the Governor on a quarterly basis.

13 But the crux of this bill is an
14 issue that I think all of us should realize,
15 that the proliferation of assaults particularly
16 by gangs has become an extremely serious problem
17 in this country. And the undervaluing of
18 assaults is something the district attorneys and
19 all sorts of criminal justice groups have begun
20 to realize is something that we have to deal
21 with, and I think this bill deals with it.

22 ACTING PRESIDENT SPANO: Read the
23 last section.

1 THE SECRETARY: Section 28. This
2 act shall take effect on the first day of
3 November next succeeding the date on which it
4 shall have become a law.

5 ACTING PRESIDENT SPANO: Call the
6 roll.

7 SENATOR LEICHTER: Mr.
8 President.

9 ACTING PRESIDENT SPANO: Senator
10 Leichter to explain his vote.

11 SENATOR LEICHTER: To explain my
12 vote.

13 Mr. President. We do have a
14 serious problem in bias-related crime in our
15 society, and I think that issue needs to be
16 treated in a much more effective and, frankly,
17 in a much more candid and direct manner than
18 Senator Volker's bill.

19 I don't think it's a surprise to
20 anybody here that this is sort of an evasive
21 action so that some people in some classes that
22 we feel need protection in our society, the
23 Republican majority has been unwilling really to

1 directly come out and say we are going to
2 protect these people. I'm talking about gay
3 people, lesbian people, for one, problem with
4 racial discrimination which ought to be clearly
5 identified and made a more serious crime.

6 This is sort of an amorphous
7 thing. Senator Volker would protect any class,
8 people with brown eyes, people who are short,
9 people who are tall, classes that really need no
10 protection at all. Makes no sense.

11 The whole idea of having a
12 statute which says if you commit crimes against
13 certain people that we know have a difficulty,
14 that we know have a problem, that we know need
15 protection, that you are giving a warning that
16 you hopefully are deterring people from
17 committing acts against those groups.

18 By failing to specify those
19 people who need protection, Senator Volker, you
20 are missing the whole point of what a bill or
21 statute against bias-related crime intends to
22 do.

23 For this reason, Mr. President, I

1 vote in the negative.

2 ACTING PRESIDENT SPANO: Senator
3 Ohrenstein.

4 SENATOR OHRENSTEIN: Mr.
5 President. I rise to explain my vote.

6 I think Senator Leichter has
7 already, for the most part, stated what I was
8 going to say. I have no objection to this
9 bill. I think it's basically, in concept, a
10 good bill, but it doesn't relate -- it pretends
11 in some ways to relate to the question of bias
12 crime in our society which just cries out for
13 resolution.

14 As I've said on this floor many
15 times regarding this bill, this is not a bias
16 crime bill and it should not be denominated
17 such. This is a gang assault bill. I think
18 gang assaults are a problem. And to the extent
19 that this bill addresses the problem, I support
20 it. I think assaults in our society are a
21 problem, and to the degree that this bill
22 addresses the question of aggravated assaults or
23 difficult assaults, I support it because it does

1 address the problem of violence, but it does not
2 address directly the problem of bias-related
3 violence, whether it's based upon color or race
4 or nationality, ethnic origin, religion. That
5 kind of a crime deserves special treatment. And
6 this bill, other than declaring its intent to be
7 used for that, doesn't do that.

8 So I am going to support this
9 bill for what it does in terms of gang assaults,
10 assaults in general. But I, once again, ask the
11 majority to take seriously the question of bias
12 assaults in our society. This bill does not
13 address them. As a matter of fact, I am working
14 on a bill which will address both your concerns
15 and the concerns in terms of how it is spelled
16 out in this bill and the concerns which I have
17 articulated here several times and which I am
18 articulating at this time.

19 This is not a situation where we
20 should have two competing concepts. This is not
21 some situation where we have two conceptualized
22 differences that are so foreign to each other or
23 unrelated to each other that they can not be

1 married in some way so as to satisfy everyone's
2 concern.

3 So rather than saying we have a
4 Republican assault bill and we have a Democrat
5 bias-related assault bill, this is not an answer
6 because the answer is neither of these issues
7 will be properly addressed if we continue on in
8 that manner; because, as you know, the Assembly
9 has supported the Governor's bias bill which I
10 am one of the chief sponsors of.

11 And so we should not be in the
12 situation in this Legislature where you have a
13 bill which, basically, has a lot of support
14 here; Democrats have another bill; the Governor
15 has another bill which comes at this problem
16 from a different point of view with regard to
17 bias violence. We should make every effort at
18 this session to marry these concepts so that all
19 of the issues which you try to address and we
20 are trying to address are going to be
21 addressed.

22 So I will vote for this bill, but
23 I hope that you will -- particularly Senator

1 Volker and others here who have expressed an
2 interest in bias violence, I hope that as we
3 talk over the next few weeks we can come up with
4 a compromise bill which will address everybody's
5 concern.

6 ACTING PRESIDENT SPANO: Senator
7 Ohrenstein in the affirmative.

8 Senator Dollinger to explain his
9 vote.

10 SENATOR DOLLINGER: I was just
11 going to ask a point of order. Are we
12 explaining our votes or are we still on debate
13 on the bill?

14 ACTING PRESIDENT SPANO: The
15 members have been explaining their votes,
16 Senator Dollinger.

17 SENATOR DOLLINGER: Okay. Mr.
18 President. Just to explain my vote.

19 I would like to join Senator
20 Ohrenstein in asking this body to go the next
21 step as well.

22 As I recall it, the bias bill,
23 the bias crimes bill, that was part of the

1 Governor's package would apply to bias-related
2 crimes that don't necessarily even involve
3 assaults, and I will give you a very simply
4 example.

5 In Senator Jones' district, which
6 borders mine, there's a place, the Charlotte
7 Beach Bathhouse, named for Roger Robach, former
8 member of the Assembly, an ancient structure
9 built in the early 1920s, a beautiful building,
10 recently renovated by the city of Rochester and
11 the county of Monroe at the cost of many
12 millions of dollars.

13 In October of 1992, a graffiti
14 artist got into the building and proceeded with
15 a spray can to put on the walls of the beach
16 house just about every offensive term that you
17 can think of, racially offensive, offensive to
18 gays, offensive to religious persons, the whole
19 spectrum. They covered it all.

20 And when we went there on that
21 afternoon to look at the damage, spray cans on
22 the floor, on the walls, it was tempting to sit
23 down and simply say this is just malicious

1 damage. This is a graffiti artist at work, but
2 I would suggest to you that no one could walk
3 into that basketball court and look at the walls
4 and conclude that this was just a lonesome
5 graffiti artist.

6 This was a crime of bias, of
7 bias-related damage to personal property to the
8 property of the county and the city of
9 Rochester, and it seems to me that that is not
10 just simply malicious damage. This is a crime
11 of bias and a crime that needs to be treated
12 differently than simply a graffiti artist who
13 gets loss in his work.

14 I would submit to you that this
15 bill doesn't go enough. It doesn't attack the
16 problem of bias-related crimes and crimes to
17 property as well. The Governor's bill which
18 includes both crimes to persons and crimes to
19 property would elevate that act that you might
20 look at as simply graffiti and make it a bias
21 related crime of damaging personal property.

22 That's the step we ought to go.
23 We always take these little tiny steps down the

1 rod of doing the right thing. Can't we take the
2 giant step and actually do the right thing so
3 that we send a clear message to everybody in
4 this state that bias-related crimes, be they
5 against persons or property, are going to be
6 treated differently than simply those that don't
7 involve bias.

8 ACTING PRESIDENT SPANO: How do
9 you vote, Senator Dollinger?

10 SENATOR DOLLINGER: I'll vote in
11 the affirmative on this bill, but it doesn't go
12 far enough.

13 ACTING PRESIDENT SPANO: Senator
14 Dollinger in the affirmative.

15 Senator DeFrancisco to explain
16 his vote.

17 SENATOR DeFRANCISCO: Yes, I'm
18 going to vote in the affirmative, and I think
19 that this does have some relation to a bias
20 crime bill insofar as the nature of the bias or
21 a bias-related event is a factor to be
22 considered by the sentencing judge in
23 sentencing, and I think that's important. That

1 factor along with any other factor including the
2 nature of the violence, the nature of the act
3 should always be a sentencing factor to be
4 determined by the sentencing judge.

5 I have a grave problem, however,
6 with going the next step that we hear a lot of
7 people talking about. Crimes are crimes against
8 society. And what we do when we create a bias
9 crime, we create a certain class of individuals
10 no matter who they may be that are treated
11 differently than any other citizens in this
12 community. The assault hurts whether the
13 assault is on a 5'6" Italian or someone of
14 another nationality. The nature of the
15 sentencing should be something to be determined
16 by the judge depending upon all the factors
17 including if that was a bias-related assault
18 against that individual.

19 I just think we're treading some
20 territory that we shouldn't tread, when we start
21 creating crimes of different categories
22 depending upon who the victims might be. I
23 think that's a dangerous trend. I think our

1 society is supposed to be a society that treats
2 everyone the same, that includes people who were
3 victims of crime as well as those who are the
4 assailants in crime.

5 So I guess all I'm saying is that
6 this does create bias-related crimes to a
7 certain extent insofar as it's a factor that the
8 judge considers in sentencing, and that is all
9 it should be. A crime is a crime no matter who
10 it happens to be, and I think that's the way our
11 laws should be written.

12 ACTING PRESIDENT SPANO: Senator
13 DeFrancisco in the affirmative.

14 THE SECRETARY: Those in the
15 negative on Calendar Number 181 are Senators
16 DiCarlo, Galiber, Gold, Maltese, Markowitz,
17 Mendez, Sears, Santiago, Senator Connor, and
18 Senator Waldon, also Senator Leichter. Ayes
19 47. Nays 11.

20 ACTING PRESIDENT SPANO: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 242, by Senator Larkin, Senate Bill Number 6 -

1 SENATOR GOLD: Lay it aside,
2 please.

3 SENATOR PRESENT: Lay it aside
4 temporarily.

5 ACTING PRESIDENT SPANO: Lay it
6 aside temporarily.

7 THE SECRETARY: Calendar Number
8 261, by Senator Daly, Senate Bill Number 4583B,
9 Real Property Law.

10 SENATOR GOLD: Senator Daly,
11 could we have one day on this?

12 SENATOR DALY: Certainly.

13 ACTING PRESIDENT SPANO: Lay it
14 aside for the day.

15 SENATOR DALY: I would like to
16 take it tomorrow, just to inform the Minority
17 Leader.

18 ACTING PRESIDENT SPANO: Lay it
19 aside for a day.

20 THE SECRETARY: Calendar 279, by
21 Senator Wright.

22 SENATOR GOLD: Lay it aside
23 please.

1 SENATOR PRESENT: Lay it aside
2 temporarily.

3 ACTING PRESIDENT SPANO: Lay it
4 aside, temporarily.

5 Secretary will call Calendar 279.

6 THE SECRETARY: Calendar Number
7 279, by Senator Wright, Senate Bill Number 5944,
8 an act to amend the Real Property Tax Law.

9 ACTING PRESIDENT SPANO: Senator
10 Gold.

11 SENATOR GOLD: Will the responsor
12 agree to lay this bill over?

13 SENATOR WRIGHT: For a day?

14 SENATOR GOLD: So far.

15 SENATOR WRIGHT: I will agree to
16 lay it over for a day.

17 SENATOR GOLD: Thank you,
18 Senator.

19 SENATOR WRIGHT: If you would
20 have your counsel share our concerns please.

21 SENATOR GOLD: Yes, surely.

22 SENATOR WRIGHT: Thank you.

23 ACTING PRESIDENT SPANO: Lay it

1 aside for a day.

2 SENATOR PRESENT: Mr. President.

3 May we go back to Calendar 242.

4 ACTING PRESIDENT SPANO:

5 Secretary will read Calendar 242.

6 THE SECRETARY: Calendar Number
7 242, by Senator Larkin, Senate Bill Number 6390,
8 an act to amend the Public Officers Law and the
9 Village Law.

10 ACTING PRESIDENT SPANO: Senator
11 Gold.

12 SENATOR GOLD: Yes, will the
13 sponsor lay the bill over, please?

14 SENATOR LARKIN: We have been
15 doing it for about three weeks. Is there a
16 question you might want answered?

17 SENATOR GOLD: Well, Senator,
18 there are questions, and I think the questions
19 that have to be answered have to be answered by
20 counsel to the Majority Leader, and I would like
21 to avoid some public difficulty, and hope that
22 this bill which is a local bill can work its way
23 through the legislative process with other bills

1 of local nature sponsored by other members, and
2 perhaps this is something that the Majority
3 Leader's counsel will be able to work out within
4 a few days. But until that time, this is now
5 the middle of March, and I think we have to come
6 to grips with one of the problems in the flow of
7 legislation right now.

8 SENATOR LARKIN: I will lay it
9 over for a day.

10 SENATOR GOLD: I appreciate it.

11 ACTING PRESIDENT SPANO: Lay it
12 aside for the day.

13 SENATOR GOLD: Thank you,
14 Senator.

15 ACTING PRESIDENT SPANO: Calendar
16 Number 280, by Senator Marino, Senate Bill
17 Number 6602A, authorizing the assessor of the
18 county of Nassau -

19 SENATOR GOLD: May we lay this
20 aside for a day?

21 SENATOR PRESENT: (Nodding.)

22 ACTING PRESIDENT SPANO: Lay it
23 aside for the day.

1 SENATOR GOLD: Thank you.

2 THE SECRETARY: Calendar Number
3 281, by Senator Larkin, Senate Bill Number 6691,
4 establish a public library district in the Town
5 of Esopus, Ulster County.

6 ACTING PRESIDENT SPANO: Senator
7 Gold.

8 SENATOR GOLD: Senator Larkin,
9 can I have the same courtesy on this one?

10 SENATOR LARKIN: One day, yes,
11 sir.

12 SENATOR GOLD: Thank you, sir.

13 ACTING PRESIDENT SPANO: Lay it
14 aside for the day.

15 THE SECRETARY: Calendar Number
16 293, by Senator Levy, Seante Bill Number 184,
17 Criminal Procedure Law.

18 SENATOR GOLD: Explanation.

19 SENATOR PRESENT: Lay it aside.

20 ACTING PRESIDENT SPANO: Lay it
21 aside.

22 THE SECRETARY: Calendar Number
23 295, by Senator Tully, Senate Bill Number 776,

1 an act to amend the Penal Law.

2 SENATOR GOLD: Mr. President.

3 ACTING PRESIDENT SPANO: Senator
4 Gold.

5 SENATOR GOLD: Mr. President.

6 This bill, we've had before, and we could have
7 voted on it the first time around, but there
8 were a few members in the negative who weren't
9 here Senator Espada and Galiber and myself,
10 Montgomery, Ohrenstein and Smith, voted in the
11 negative. Last section.

12 ACTING PRESIDENT SPANO: Read the
13 last section.

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

16 ACTING PRESIDENT SPANO: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Those recorded in
20 the negative on Calendar Number 295 are Senators
21 Galiber, Gold, Kruger, Ohrenstein, and Santiago,
22 also Senator Espada, also Senator Mendez, also
23 Senator Smith, also Senator Montgomery.

1 Ayes 49. Nays 9.

2 ACTING PRESIDENT SPANO: The bill
3 is passed.

4 Senator Present.

5 SENATOR PRESENT: Can we take up
6 Calendar 134.

7 ACTING PRESIDENT SPANO:
8 Secretary will read Calendar 134.

9 THE SECRETARY: Calendar Number
10 134, substituted earlier today, by Member of the
11 Assembly Ortloff, Assembly Bill Number 4490C, an
12 act to amend the County Law in relation to
13 authorizing the county of Franklin to appoint up
14 to three public defenders.

15 SENATOR GOLD: Mr. President.

16 ACTING PRESIDENT SPANO: Senator
17 Gold.

18 SENATOR GOLD: Yes. Would
19 Senator Stafford be kind enough to put this over
20 one day, please.

21 SENATOR STAFFORD: No objection.

22 SENATOR GOLD: Thank you so much.

23 SENATOR PRESENT: Calendar 141.

1 ACTING PRESIDENT SPANO: Calendar
2 141, the home rule message is at the desk.
3 THE SECRETARY: Calendar 141, by
4 Senator Stafford.
5 SENATOR GOLD: Tomorrow, please.
6 SENATOR STAFFORD: No objection.
7 ACTING PRESIDENT SPANO: Lay 141
8 aside.
9 Senator Present.
10 SENATOR PRESENT: Any house
11 keeping?
12 ACTING PRESIDENT SPANO: Any
13 housekeeping?
14 SENATOR PRESENT: Senator
15 Montgomery, please.
16 SENATOR MONTGOMERY: Yes. Mr.
17 President. I would like unanimous consent to be
18 recorded in the negative on Calendar 181.
19 ACTING PRESIDENT SPANO: Without
20 objection.
21 SENATOR MONTGOMERY: Thank you.
22 ACTING PRESIDENT SPANO: Senator
23 Present.

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SENATOR PRESENT: Mr. President.

There being no further business, I move we
adjourn until tomorrow at 3:00 p.m.

(Whereupon, at 5:10 p.m., Senate
adjourned.)