ALBANY, NEW YORK

March 24, 1994

12:01 p.m.

REGULAR SESSION

SENATOR MICHAEL F. NOZZOLIO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT NOZZOLIO: The Senate will come to order.

Please join me in saying the Pledge of Allegiance.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

Reverend Peter G. Young, from the Blessed Sacrament Church in Bolton Landing, will give the benediction.

REVEREND PETER G. YOUNG: Thank you, Senator.

As a point of personal privilege, I received a letter in yesterday's mail from former Senator Thomas Laverne, and Thomas, a man I spent night after night going out to dinner with and being close to, did ask me if I would ask the Senate to pray for him. He has, now, terminal cancer; so if I could just ask you to join with me in this prayer.

Almighty and eternal God, may your grace enkindle in all of us a love for the many unfortunate people whom poverty and misery

reduce to a condition of life unworthy of human beings. Arouse in the hearts of those who call You "Father" a hunger and a thirst for social justice and for fraternal charity in deeds and in truth. Grant, O Lord, peace in our days, peace to all of those souls and peace to Thomas Laverne, who is with us in our prayer.

We ask You this now and forever. Amen.

ACTING PRESIDENT NOZZOLIO: Thank you, Father.

FATHER YOUNG: Thank you, Senator, very much.

ACTING PRESIDENT NOZZOLIO: Reading of the Journal.

THE SECRETARY: In Senate Wednesday, March 23rd. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Tuesday, March 22nd, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT NOZZOLIO: Hearing no objection, the Journal stands

approved as read.

Order of business: Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from Senate officers.

Motions and resolutions. Senator Present.

SENATOR PRESENT: Would you recognize Senator Daly, please.

ACTING PRESIDENT NOZZOLIO: Senator Daly.

SENATOR DALY: There's a resolution at the desk. Would the clerk read, Mr. President, please, the entire resolution, please.

ACTING PRESIDENT NOZZOLIO: Secretary will read.

THE SECRETARY: By Senator Daly, Legislative Resolution commending the Lockport

Lady Lions basketball team upon the occasion of winning the New York Public High School Athletic Association Class A Title Championship.

WHEREAS, it is the sense of this assembled body that those who give positive definition to the profile and disposition of the communities of the state of New York do so profoundly strengthen our shared commitment to the exercise of freedom;

Attendant to such concern and fully in accord with its long-standing traditions, it is the intent of this assembled body to commend the Lockport Lady Lions basketball team upon the occasion of winning the New York Public High School Athletic Association Class A Title Championship;

On Saturday, March 19, 1994, the Lockport Lady Lions captured the New York Public High School Athletic Association's Class A title this past week end with a 53-50 victory over the Mahopac Indians at Queensbury High School;

The Lady Lions have so clearly endowed and yet enhanced that commitment to

excellence in all endeavors which is the daily manifestation of the student body, faculty and administrative staff of Lockport High School;

The Lockport Lady Lions basketball team, under head coach William Shaw, assistant coaches Greg Bronson and Jim Owens, the athletic director Robert Ames, mirror those prerogatives of personal initiative and accountability so paradigmatic of our American manner. Team members are Seniors: Colleen Cleary, Heather Hughes, Megan Pollow, Kristi Amyotte, Maria Pita, Caryn Beshaw; Juniors: Luciann Kelley, Kelly Stevens, Johanna Grimes, Tina Henne-bohl, Summer States, Christina Jenkins, Jacqueline Rohde; Sophomores: Geraldine White, Kristin Jordan.

Through their long and sustained commitment to excellence in scholastic basketball, the Lockport Lady Lions have so unselfishly advanced the spirit of united purpose and shared concern which is the unalterable manifestation of our American experience;

NOW, THEREFORE, BE IT RESOLVED, that this legislative body pause in its deliberations and most joyously commend the Lockport Lady Lions basketball team upon the occasion of the winning of the New York Public High School Athletic Association Class A Title Championship, fully confident that such procedure mirrors our shared commitment to preserve, to enhance and to yet effect the patrimony of freedom which is our American heritage; and

BE IT FURTHER RESOLVED that copies of this resolution, suitably engrossed, be transmitted to Dr. Russell Dever, superintendent of schools, to John E. Essler, principal, to Robert Ames, athletic director and to William Shaw, head coach, Lockport High School, Lockport, New York.

ACTING PRESIDENT NOZZOLIO: On the resolution, Senator Daly.

SENATOR DALY: Mr. President, I have the distinct honor today of introducing to my colleagues a group of young ladies of whom

Niagara county is indeed very proud. I'd like to point out that, in addition to their great success this basketball season, their present record is 26 and zero and, with the exception of Senator Pataki, I'm sure all of us are very happy to have them with us today, Mahopac High School being located in Senator Pataki's district.

I would like to point out that, in this -- among this group of ladies who have done so well on the basketball court, are ladies who have also become members of the New York State Scholar Athlete team, with averages of 90 percent or above, and I thought I would like to bring that to the attention of my colleagues and I'm sure you'll all join me in saying hello and congratulations to a group of fine young ladies along with their coach and their assistant coach. It's great to have you with us.

Thank you, Mr. President.

ACTING PRESIDENT NOZZOLIO: Thank you, Senator Daly.

On behalf of the Senate, wish to

welcome and congratulate the Lockport Lady Lions basketball team upon the occasion of their victories this season.

Question is on the resolution. All those in favor?

(Response of "Aye.")

The resolution is carried.

The Calendar. Senator Present.

SENATOR PRESENT: Take up the non-controversial calendar, please.

ACTING PRESIDENT NOZZOLIO: The clerk will call the non-controversial calendar.

THE SECRETARY: On page 12, Calendar Number 241, by the Assembly Committee on Rules, Assembly Bill Number 7736, an act to amend the Tax Law, in relation to criminal liability of certain persons interested in tax sales.

ACTING PRESIDENT NOZZOLIO: Last section.

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

ACTING PRESIDENT NOZZOLIO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT NOZZOLIO: The bill is passed.

THE SECRETARY: Calendar Number 265, by Senator Levy.

SENATOR PRESENT: Lay it aside, please, for the day.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside for the day.

THE SECRETARY: Calendar Number 298, by Senator Volker, Senate Bill Number 3385, an act to amend the Penal Law and the Criminal Procedure Law.

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside.

THE SECRETARY: Calendar Number 365, by Senator Skelos, Senate Bill Number 950, an act to amend the Family Court Act and the Criminal Procedure Law.

ACTING PRESIDENT NOZZOLIO: Last section.

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

ACTING PRESIDENT NOZZOLIO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT NOZZOLIO: The bill is passed.

THE SECRETARY: Calendar Number 372, by member of the Assembly Stringer, Assembly Bill Number 9266.

SENATOR GOLD: Lay aside, please.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside.

THE SECRETARY: Calendar Number 400, by -

SENATOR DALY: Lay aside.

ACTING PRESIDENT NOZZOLIO: 400 is laid aside.

SENATOR DALY: For the day.

ACTING PRESIDENT NOZZOLIO: For

the day.

SENATOR DALY: Lay it aside for the day.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside for the day.

THE SECRETARY: Calendar Number 413, by Senator Marino, Senate -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside.

THE SECRETARY: Calendar Number 417, by Senator Present, Senate Bill Number 3104-A, State Administrative Procedure Act and the Executive Law.

ACTING PRESIDENT NOZZOLIO: Read the last section.

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

ACTING PRESIDENT NOZZOLIO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT NOZZOLIO: The

bill is passed.

THE SECRETARY: Calendar Number 418, by Senator Bruno.

SENATOR PRESENT: Lay aside for the day, please.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside for the day.

THE SECRETARY: Calendar Number 419, by Senator Bruno, Senate Bill Number 6871, requiring for the development of a plan and schedule.

ACTING PRESIDENT NOZZOLIO: Read the last section.

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

SENATOR LEICHTER: Lay it aside.

SENATOR GOLD: Lay it aside for Senator Leichter.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside.

THE SECRETARY: Calendar Number 420, by Senator Wright, Senate Bill Number 7013.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside.

Senator Present.

SENATOR PRESENT: Let's take the controversial calendar, please.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Johnson.

SENATOR JOHNSON: Without objection, could we just return to motions and resolutions? I have a resolution I'd like to make concerning one of my bills.

ACTING PRESIDENT NOZZOLIO: Senator Johnson on a resolution.

SENATOR JOHNSON: Calendar Number 286, on page 13, Senate Bill 4798, please put a sponsor's star on that bill.

ACTING PRESIDENT NOZZOLIO: Bill is starred. Secretary will read.

THE SECRETARY: On page 13, Calendar Number 298, by Senator Volker.

SENATOR GOLD: Explanation.

THE SECRETARY: Senate Bill

Number 3385, an act to amend the Penal Law.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT NOZZOLIO: Bill is laid aside temporarily.

THE SECRETARY: Calendar 372, by member of the Assembly Stringer, Assembly Bill Number 9266, Family Court Act, in relation to service of temporary orders of protection.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Gold.

SENATOR GOLD: Would the distinguished gentleman from Westchester yield to a question?

SENATOR SPANO: Certainly.

ACTING PRESIDENT NOZZOLIO: Senator Spano yields.

SENATOR GOLD: Senator, this was the subject of a veto last year, and I believe you have made some amendments which take care of part of the Governor's veto, but, if I'm reading it correctly, it still doesn't take care of the

criticism it contained that it was an unfunded mandate. Am I correct about that?

SENATOR SPANO: The Governor last year said it was an unfunded mandate which strained police efforts, and that's why we added the "unreasonable effort" at the end of the amended bill which we feel goes a long way to ameliorating the Governor's problem with the bill.

SENATOR GOLD: Would Senator Lack yield to a question?

ACTING PRESIDENT NOZZOLIO: Would Senator Lack yield?

SENATOR GOLD: You want to go home?

SENATOR LACK: Hey, if he can say "ameliorate".

SENATOR GOLD: Last section. Oh, Senator Dollinger.

SENATOR DOLLINGER: Would the Senator yield to just one other question?

SENATOR SPANO: Yes.

SENATOR DOLLINGER: Senator.

ACTING PRESIDENT NOZZOLIO:

Senator yields.

SENATOR DOLLINGER: Senator, who will pay the cost of the services; is it still going to be paid as it would if there were a private process server or will there be no cost associated with it at all?

SENATOR SPANO: Well, right now the costs would be paid by the individual. Now, if a process server is used, the same will apply or if a police officer is used that would be the mandate the Governor referred to.

SENATOR DOLLINGER: But is there any contingency in this bill for private -- the beneficiary of this order to pay some costs for the service, or is that going to be just picked up by the -

SENATOR SPANO: No, there isn't. There's nothing to preclude an individual from using a private service, but, no, there are no contingencies in there to pick up the cost.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Dollinger on the bill.

SENATOR DOLLINGER: I think this is a bill that has many good qualities, and I'm going to vote for it. I do, however, think the Governor has a very good point when he talks about the cost of service, and my hope would be that the sponsor might look to some provision that would require some payment for service by the police officers. Otherwise, I can see that we're going to be hiring additional police officers in the city of Rochester to do nothing but serve Family Court orders and orders of protection, because they're voluminous. There are lots of them that go out. It's going to be very time-consuming, and my hope is that the sponsor would look at some amendment for attaching some provision for payment by the private party at some point in the future.

Thank you.

ACTING PRESIDENT NOZZOLIO: Senator Dollinger. Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT NOZZOLIO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT NOZZOLIO: The bill is passed.

THE SECRETARY: Going back to Calendar Number 298, by Senator Volker, Senate Bill Number 3385, an act to amend the Penal Law and the Criminal Procedure Law.

ACTING PRESIDENT NOZZOLIO: Some order in the house.

SENATOR VOLKER: I've been asked for a short explanation, so I'm -

ACTING PRESIDENT NOZZOLIO: Senator Volker.

SENATOR VOLKER: This is a modified version of the "three and you're in" or "three and you're out", whatever you want to call it. But the difference, I think, is -- and by the way, there are two other bills on the calendar right now that are genuine "three and

you're in, three and you're out" you might call them, by other members.

The Governor, although we have asked him for his three and you're in or out bill, we have not yet seen it, although I'm told by his people that we will.

What this bill basically does is, we think there's a lot of confusion by members of the press on this issue, because they really don't understand it. One of the reasons, we already have in New York second felony offender or persistent violator statutes that already provide very lengthy penalties for second felony offenses. What this does, it builds on the second felony offender statute, and when you have a third felony in those kinds of classes, the maximum term would be 25 years to life.

Basically it's the same term as a life term now for murder. It does not -- let me say it does not provide the life without parole that several of the other bills do, but provides an enhanced sentence of 25 years to life building on the second felony offender statute

and persistent violator statute.

ACTING PRESIDENT NOZZOLIO: Last section.

SENATOR GALIBER: Oh, no.

ACTING PRESIDENT NOZZOLIO: Senator Galiber.

SENATOR GALIBER: Don't want to confuse a short explanation. That was just for his benefit, not mine.

Senator, I still can't give you my back. Senator, you have been involved in law enforcement for so many years now, and you keep telling us what you would like to show, and I say that respectfully. You know that back some years ago, we had the fourth offender category; that's when we revised things in 1965 or '67, we through in this persistent category.

So now we have a situation where there is a predicate felon, where there is ab solutely no discretion at all by the sentencing judge. We have gotten to the point where we are seriously, at least some of us, talking in terms of changing the persistent -- the predicate

felony category. In fact, the Governor had a piece of legislation last year, and he had indicated to us or sent the bill up to us. It didn't get too far.

In between the resentencing structure in 1967 and up to the present day, we have a number of mandated sentences that we never had before and we have created a category of violent offender, felony, PFO category, which were not there early on. All this is with a view toward getting tough on crime, and it's been clear to us by statistics that what we have done is not to deter anyone and that our mandatory sentences have not served us as we would like to have seen them serve us, and that includes myself.

Therefore, to add another layer onto something which is "three strikes and you're out" because in an election year it sounds like a baseball kind of thing and everybody has captured this phrase, if you will, and then we as responsible legislators go about the business of trying to fit in a piece of

legislation to the "three strikes and you're out" or in.

Senator, I think you will agree with me that what we have on the books today certainly has served us well and will continue to do so. The categories that you mentioned, in each instance we can find a possibility of 25 years to life. The persistent category and the person that we are talking about are young folks historically, and none of this is to be interpreted as being soft on crime. It's just that we don't need it, and we find that crimes that are categorized in the major felony category of offenses range from minor robberies -- and you say "minor robberies," Senator, how can it be a minor robbery -- pick-pocketing, pushing someone, the slightest force at all, could very well be in that category.

Should they be punished? Yes. Should they be punished a second time? No question about it. Should they go to life imprisonment for the rest of their life? No. Without parole? Not in your bill, Senator. I'm

not sure. I think the judge and the district attorney, they have that opportunity under the law as it is today.

This may satisfy a political year. It may satisfy filling in a gap to justify that expression "three strikes and you're in" or out, whether it comes from a federal -- the federal government or state government. The greatest impact, and you've heard all of these arguments mainly because they're in the memos in opposition and memos in favor, and what we're talking about is a factor later on down the line where those persons historically end up by statistics it's proven that the younger folks are the ones who get themselves involved in these kinds of incidents which we are concerned about on a predicate felon category, and those felonies can be minor felonies, get them to the point where they're persistent as long as they come in that category, and I've said over and over and over again, because they are so minor in some instances that we find the persons who would

actually be impacted on, and I think, Senator Daly -- Senator Volker, to your credit, you have told us that you assume about 300 people possibly, or it's been predicted very small amount of people who are being put into our institutions and that this piece of legislation would work with that kind of numbers; and I say no.

I think there's -- under the present law, that we can do the same thing without adding another layer. And then we've always had this argument, those of us who come from a different ethnic base. We haven't figured out, there's got to be something wrong in most of our prisons. 75 percent of our prison population comes from areas of the urban centers that impact on a ratio of minorities, Hispanics and blacks, Latinos; disproportionate to the number is the inference that we commit more crime than others. That's not so.

What happens in our institutional racism, which is still part of this system of ours until we deal with it, that the sentencing

process is just a part of it, if you will, in those categories, a factor to be taken into consideration.

So, Senator, those long-time - and I'd like to close on this note, those long-timers in our institutions, whether they're in the persistent predicate felony category or whether they have committed crimes and been there for a long while, are the backbone of our institutions. They're the ones who, when they finally do get out, the recidivism rate is slight. They run the institution.

We're having someone come in hopefully from, I think, Cleveland or one of the other states where they have a program to deal with alternatives to incarcerating the folks that are in there now, the older person, to see whether or not we're spending too much money in the category of persons who cannot even step over a barbed wire, nevertheless climb over it.

So what this bill does is add another layer, another possibility which is really not needed. The judge is, at the present

time, given the flexibility but, unfortunately, we have gotten to the point where we no longer trust judges, and that's not really fair or justifiable because the opportunity -- giving the judge an opportunity in any one of these categories where the serious crimes are concerned and the memo would have robberies, you say, and rape we say, and the violence that occurs in the street. Those things sound horrible to us and they are, in fact, horrible, but giving the discretion to the judge if we do that, they can send that person to jail the second go-round with the possibility.

The violence, of course, is a subject matter for another discussion. Most of you know my position, why we have this violence in the streets. It has to do with one thing, one thing alone, and that's the question of drugs in the streets of our great cities. If we would solve that problem, we wouldn't have all the violence that we see in the last five or ten years. We wouldn't have the guns on the streets that create the violence. Overnight, we would

take profits out of drugs. We would find, very frankly, that most of or a large portion of those guns would be off the street.

I ran off on a tangent because of the causal factor for why and partially a moti vator brings this kind ever legislation to the floor. I think we can accomplish, Senator Volker, what we want to accomplish and I say we, by the way, assume you want to accomplish with what we have on the books now. Consistent category, once it's established, will do the same thing that this bill will do.

So, Mr. President, I think that we should vote against this bill and, if I can look into the crystal ball, there's a couple on the calendar and you want to debate it and record it and say the same reason those bills shouldn't pass, and whether they flow up from the second floor or across the hall, the floor here, they're inherently bad pieces of legislation, not needed, would not solve a lot of this, both sides of the aisle are concerned with, and that is the crime that is running

rampant in our villages, in our towns and hamlets.

Thank you, Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Waldon.

SENATOR WALDON: Thank you, Mr. President.

Would the sponsor yield to a question?

ACTING PRESIDENT NOZZOLIO: Senator Volker yield?

SENATOR VOLKER: Yes.

ACTING PRESIDENT NOZZOLIO: Senator Volker yields.

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

Senator, can you tell us which class of people would be most affected by this legislation? By that, I mean what age category of people would be most covered?

SENATOR VOLKER: The most likely -- the one thing I think I kind of disagree

with Senator Galiber on, these would not be young people. The reason is presumably, assuming that the second felony offender and persistent violator worked, they should have been in jail for 15 or 20 years before they commit their crime, and that's one of the reasons, by the way, for the comparatively restricted pool.

What we're saying is, of course, somebody pointed out to me you could have a crime in prison, I suppose, and there is some latitude so that some of these people might be only in prison for 10 to 12 years or so, but for the most part they would be -- they would be somewhat older because they would have been in prison for quite a while under the second felony offender and persistent violator statutes, that is when they get to this category.

SENATOR WALDON: You're aware, Senator Volker, that most serious crimes are committed by those who are 15 to 24 years of age in the state?

SENATOR VOLKER: Correct.

SENATOR WALDON: Can you tell us, if you have an idea, of how many persons each year would come under the aegis of this particular legislation in terms of a second and persistent violent felony sentencing in New York? Does history have a figure of those who would qualify to be so sentenced?

SENATOR VOLKER: You talking about under this bill on the third offense?

SENATOR WALDON: No, I'm talking about what's current law.

SENATOR VOLKER: I'm really not sure any more. I used to know the figures. I would also point out that you are right about one thing that there is more young -- younger criminals that are appearing under this category, although there always has been a considerable body of older criminals, for the simple reason that most of the people that are sentenced under second felony offender probably committed 8 or 10 or 15 or maybe 30 felonies, and they were all worked out or whatever over the years. You rarely get a case where these

people commit several felonies. They have, generally speaking, some of the people we've looked at in the system have as many as 30 felonies that they were originally charged with in some of these cases, and they were pled down or they were forced out or whatever, because the system rarely, especially in New York City - and, Senator, keep in mind the reason we went to the second felony offender and persistent violator because the abysmal record in New York City, very honestly, of sentencing.

The difference in sentencing in New York City and upstate was -- I believe it was like the difference of three to one. In other words, the same person, same charge, was sentenced three times what they were sentenced in New York City. That was many years ago when we changed the law.

So I think -- I really don't know the exact amount, and it would be hard to give it to you. I will say this to you: Given the precipitous drop in arrests in New York City over the last three, four years, it has dropped

dramatically and because now we are getting as many parole violators in this system now as new inmates. I think -- believe that's the first time that's happened in any of our memories since the '80s.

SENATOR WALDON: May I continue, Mr. President?

ACTING PRESIDENT NOZZOLIO: Will the Senator -

SENATOR WALDON: A question.

ACTING PRESIDENT NOZZOLIO: Senator Volker, will you yield?

SENATOR WALDON: Thank you, Mr. President.

First of all, let me share with you this information. According to the Department of Corrections in New York State under the proposed legislation, "three strikes and you're in", we would have about 300 offenders so sentenced each year. Isn't there law on the books, now in effect, which accomplishes what you're trying to do?

SENATOR VOLKER: No, there really

isn't because the second felony offender and persistent violator statutes really don't cover this kind of a situation. This would, in effect, escalate the sentence for people who, clearly, if they had committed the kinds of offenses that were needed to get them incarcerated under the original statute have to be considered to be pretty -- most likely pretty dangerous people, because they would have been long-termers to start with or reasonably long-termers and now commit a serious crime again, so this is not just your ordinary -- your ordinary criminals.

SENATOR WALDON: Thank you very much, Senator Volker.

Mr. President, on the bill.

ACTING PRESIDENT NOZZOLIO: Senator Waldon on the bill.

SENATOR WALDON: I believe I understand what Senator Volker is attempting to accomplish. However, there is adequate legislative capability to do that right now. In fact, one can, for burglary, a "B" felony, as a

first offense, receive as a minimum two to six years as a sentence, maximum 12-1/2 to 25; second offense 6 to 12 years, maximum 12 to 25 and on the third offense of such a crime, the person has to do 10 to life or receive a sentence of 10 to life or 25 to life. So, in effect, it accomplishes what this bill predicts it will achieve.

However, I'm concerned on another level similar to my learned colleague, Senator Galiber. There's a federal study which shows something that each of you are aware of. It's a 1992 study by the Joint Legislative Management Committee. Let me correct that. It's a nationwide study by the National Judicial Center which says that, despite one being arrested for the same crime under similar circumstances, if the person be black, he is subject to be more severely prosecuted and sentenced in 21 percent of the time above those who are white. For my Hispanic brothers, it is 28 percent of the time.

This is even more shocking that

they will receive a stiffer sentence than whites who have also committed the same crime, and my theory that we are warehousing people now in our prison system and we will begin to warehouse geriatric persons under this legislation with another mandatory minimum, is what this really is.

My concern is what happens to these people who are disproportionately represented from my community when they have sicknesses and illnesses in their twilight years. I'm not condoning criminal behavior. My concern is, are we spinning our wheels in the wrong direction?

We waste a lot of energy here. Maybe it is not wasted; maybe that's an improper term. We spend a lot of energy here trying to determine better and more effective ways to put people away. I think that it is time that we begin to spend our energy finding better and more effective ways to prepare children before they even reach school so that the options to them down the road will not be a life of crime.

I think that we should be spending more time and energy ensuring that schools have adequate after-school programs and recreational programs so that healthy children will not opt for the "pusher" man.

I think that the laws on the books now are far more than adequate, will accomplish all that Senator Volker wants to do and will, if we place this piece of legislation on the books, will interfere more with whatever limited judicial discretion is left. I oppose in any form or fashion limiting judicial discretion. I think that's something that the state has done far too much and, as a result of all of these concerns, Mr. President, when you call the roll, I will have to vote in the negative.

ACTING PRESIDENT NOZZOLIO: Senator Volker.

SENATOR VOLKER: Very quickly, if I might just answer, Franz, because I don't want my silence to -- I, frankly, feel a little uncomfortable getting into some of the race

issues. But, Senator, let me point out to you, that study does not -- is not New York. The study on disproportionate minorities was the United States of America. That is not New York. I don't know of any study that I've ever seen that showed disproportionately in New York State prisons. I am not aware of it, and I don't think there is any.

Secondly, the only thing I would correct you is, I don't know of any other sentence other than murder that's 25 years to life. In fact, this bill actually came from the Office of Court Administration, and apparently they, along with some other in the administration, looked into this issue and that's what the maximum penalty that we have in this state at present is obviously 25 years to life for murder.

What really this is doing is, this is taking the third felony offender and giving it a sentence that I'm told that, although you could total up certainly as much because obviously if it's 15 years to life, the

fellow could spend a long time in the prison system, but the minimum sentence under this statute would be greater than any other minimum statute affordable under the system except for the crime of murder. So I think that's the basic difference.

Let me just say that, in -- in finishing up by saying this, let me point out to you something about minorities and prisons. The vast, vast majority of those crimes committed by minorities are committed against minorities. In fact, there are very few, comparatively -- as we know, most crimes that are committed, contrary to even some of these fallacious beliefs, are committed by people of the same race and same creed even in many cases; in other words, whites on whites, blacks on black, and so forth. The vast majority of them is that.

So that the one point I would try to make out to you, and I think it's something that we should never forget, is that although minorities certainly are disproportionately in our prison system, minorities also dispropor

tionately are victims of violent crime.

ACTING PRESIDENT NOZZOLIO: Senator Leichter.

SENATOR LEICHTER: Mr. President, it seems sort of like a listless session and, frankly, as I look around, I don't see so many members here or that much attention. I think that's unfortunate, because this is really a very significant, important bill, and I do hope that everybody heard very clearly and very carefully what I think was the very important reasons set forth against this bill by our colleagues, Senator Galiber and Senator Waldon.

I just want to point to this one fact, and that is that, since I've been here in this Legislature and particularly in the last ten years or so, we have increased penalties for so many crimes; we even created new crimes. We've seen the prison population go from where it was about 15,000 some 10, 15 years ago where it's now over 60,000 in state institutions and yet, we all know that the problem of crime in our society is worse than ever.

I don't know at what point we're going to say, Wait a second, maybe what we're doing isn't working, doesn't make sense, when people are going to say, Hey, let's listen to Senator Galiber. Let's listen to Senator Waldon, people, by the way, who come from communities where they know what it is to live with crime, and I don't think anybody is more concerned about this issue than these two colleagues of ours and when are we going to say we need a new approach?

And yet, session after session, you come here and barely a week passes that there isn't a bill that increases penalties. It's as if we had sort of a mindless rigid commitment to a penal approach irrespective of whether it works or not. Certainly nobody can argue and say, Oh, but look, we've made this a safer society. It isn't a safer society. It's true that, in the last year or so, crime has somewhat declined in New York City, crime that we're talking about, violent crime and so on, but I think that there are other reasons for the

community policing and other approaches.

But in addition, if you take a look at who you're reaching, and I think Senator Waldon very effectively pointed out that the person that we need to be concerned about are those young people prone to violence and they're not reached by this bill. All we're doing is putting in jail for long periods people who are so elderly and probably will become so infirm that they're absolutely no threat to society. The only threat they're to is to the taxpayers as they linger in jail at $25,000 a year. It just makes no sense. May be good politics, and I'm sorry that the Governor of my party and the president of my party have embraced this "three strikes you're out" or "three strikes you're in", a little semantical difference between them, but the basic approach is still the same and I think what the people of this state and the people of the country want us to do is to deal with the level of violence, to create safer communities. Granted, they're in favor of these bills because of the belief that this is going

to do it. I think we know better. I think the statistics show that this sort of policy is doomed to failure.

I just finally want to add something that Senator Waldon pointed out, and that is mandatory sentences can create such injustices and to deny judges the ability to take a look at the individual in the context of his acts and to make some decisions, that to my mind has been one of the important factors of a truly just criminal justice system, and it's interesting that a number of federal judges have -- those who are in senior status and in a position to do so, have refused to take drug cases because they are so limited under the new federal sentencing guidelines of exercising what they feel is proper and fair discretion.

So in this respect too, this bill and this approach just robs the judicial system of the ability of dealing effectively, but also dealing justly with persons who have committed crimes. All of us obviously are against crime. There's nobody here who is for crime or wants to

get up and say crime is good. All of us are concerned about it. All of us want to deal with it, but I just implore you to take a look at other alternatives than just the continuous penal approach and, by the way, we made it very clear that these people who commit felonies - felonies -- must be punished. Many must be sent to jail, many must be sent to jail for a long time, but what we're saying is that to require, in every instance, irrespective of the age of the individual, the circumstance of the crime, that that penalty must be 25 years to life or if the Governor ever comes out with his bill that it will be life without parole, just makes no sense whatsoever.

It's not going to create for a safer society. It may create better campaign slogans, but not a safer society.

ACTING PRESIDENT NOZZOLIO: Senator Gold.

SENATOR GOLD: Thank you, Mr. President. Would Senator Volker yield?

First of -

ACTING PRESIDENT NOZZOLIO: Senator yields.

SENATOR GOLD: Yes, and you'll excuse me if I don't look at you but I keep saying the microphone is here.

Senator, you indicated that there were other bills in this area.

SENATOR VOLKER: Yes.

SENATOR GOLD: And I was wondering if you could tell us what -- what is, for example, the difference between your bill and the Governor's bill or some other bills. Why is your version a better one and why are we doing this now rather than negotiating?

SENATOR VOLKER: As I think, Senator, since you're aware, I'm not really aware of what the Governor's bill is. We haven't ever gotten it. If you remember, when we had a meeting here about two weeks ago, maybe it's two or three weeks ago, I had previous to that held even reporting any of these bills out and sent a letter to the Governor and suggested that we would wait for the Governor's bill if he

would contact us. If he told us, if he wanted us to wait, we would wait. Frankly, I didn't get a response to that, although I have been told by some of the staff people that there will be a bill later on this session. But, very honestly, we have not seen the bill.

The other two bills that are on the calendar, one by Senator Holland and the other by Senator Saland, there are several nuances to them, but one of the biggest differences is that both of them have, I believe, life without parole as the -- as the ultimate sentence, rather than 25 years to life as this bill does.

SENATOR GOLD: Would the Senator yield to a question?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT NOZZOLIO: Senator -- Senator yields.

SENATOR GOLD: Senator, we have -- we have a process. There's a legislative process, and very often when legislation which is more than -- than just technical or -- or I

hate to use the word "minor" but minor -- I'll use the word -- we have a process and we have hearings on legislation.

Wouldn't this bill, Senator, or this subject generally be an appropriate one since it's still early in the session for a hearing where people could bring forth the information and arguments, as Senator Waldon and Senator Galiber, some of the statistical information, we could have some of the people from the prison system themselves testify, and et cetera, and then get a feel whether or not your bill in each of its words is the most perfect law in the area, if we were going with that philosophy, or whether or not we shouldn't have some of the amendments which take care of some other concerns?

Wouldn't it be an appropriate bill for a hearing?

SENATOR VOLKER: Senator, the problem with that is we just had hearings and we've had them several times in the last few years on the issue of second felony offender and

on the issue of changing the statutes as regards sentencing.

Really, what -- all we're doing here is building on the second felony offender statute, the persistent violator statute, the so-called PFO statute, and I guess those issues have certainly been articulated. I mean we have the -- the people come in and say we shouldn't have so many people in prison, and the Assembly is now trying to make a case that all these people who we thought were so violent for so many years and committed all these crimes are really not violent any more.

We're not exactly sure how that happened, but that's the contention and those people had their chance to air this out last year, by the way, in New York City and in other parts of the state, so I guess my -- my feeling on that is that I know the position and we know the position of a number in this house and certainly there has been a lot of discussion on this issue.

I just don't know what good

additional hearings on this kind of issue would accomplish. It's pretty obvious what we're talking about here. We're talking about a fairly small pool of people who have committed a great number of crimes, serious crimes, when they are finished with the prior law end up being sentenced because they commit another serious crime, to a very long period of time, and I think that's pretty clear, and some people think that's a good idea and others don't.

SENATOR GOLD: Well, if the Senator will yield to a question.

SENATOR VOLKER: Certainly.

ACTING PRESIDENT NOZZOLIO: Senator continues to yield.

SENATOR GOLD: Senator, I make an argument all the time, and I think that you as an honorable man will agree that, when we use the terrible labels, "liberal", "conservative", and all of that, I define having a liberal approach to criminal justice as meaning that you respect people's rights in the system.

We don't violate the laws in

gathering evidence, et cetera, et cetera, but if somebody is convicted of a crime, and they're supposed to go to jail, they go to jail. That doesn't bother me at all, all right?

But Senator, the -- the penalty for murder, which I have supported, life imprisonment without any possibility of parole would have obviously, at some point, very elderly people in jail and I must tell you that doesn't bother me. But, Senator, when we're talking about some of the examples that are set forth by the defenders and others of someone whose third crime may be a purse snatching and now the person is given years by the Almighty and the person is 78 years old, I mean maybe a law like yours is a good idea, but there should be an escape clause past age 80 or something.

I don't know, but those ideas, I think, could be talked out and worked out and that a hearing might, in fact, be significant when you're talking about, you know, this kind of a change in the law.

SENATOR VOLKER: The Defenders

Association should really be ashamed of themselves. They know very well the only way that a purse snatching could possibly be hooked under this bill would be if you use a club or something of that nature or a weapon as part of the purse snatching. Purse snatches are not, by their nature, felonies to start with unless, of course, you assault someone or something of that nature.

One of the things, I think, that's really -

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

SENATOR GALIBER: Would you yield for a question?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT NOZZOLIO: Senator Volker continues to yield.

SENATOR GALIBER: Isn't it a fact that -

SENATOR GOLD: So do I to my distinguished colleague.

ACTING PRESIDENT NOZZOLIO:

Senator Gold does as well.

SENATOR GALIBER: Isn't it a fact that the difference between a grand larceny and a robbery is whether a woman has a pocketbook under her arm or a strap and force is used to snap just the band which makes it a robbery as opposed to a larceny?

SENATOR VOLKER: That's very questionable, Senator.

SENATOR GALIBER: Questionable?

SENATOR VOLKER: And I'll be very honest, but the question that any D. A. in New York City would ever indict anybody under that is virtually nil.

ACTING PRESIDENT NOZZOLIO: Senator Tully, why do you rise?

SENATOR TULLY: Mr. President, will Senator Volker yield to a question from the other side, allow me to ask a question?

SENATOR GOLD: You mean will the Senator -

ACTING PRESIDENT NOZZOLIO: Senator Gold, you are actually the one who has

the floor; you yielded to Senator Galiber. Senator Gold has the floor.

SENATOR GOLD: Well, I certainly would not mind interrupting for my distinguished colleague.

ACTING PRESIDENT NOZZOLIO: Senator Tully.

SENATOR VOLKER: I was going to ask the court reporter to read that back.

SENATOR TULLY: Isn't it the fact, Senator Volker, that to have a robbery you have to have force and fear?

SENATOR VOLKER: That's right.

SENATOR TULLY: Thank you.

ACTING PRESIDENT NOZZOLIO: Senator Gold.

SENATOR GOLD: Maybe we can accomplish two things. If we read the last section for Senator Farley and then continue. Senator Volker yield to another question?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT NOZZOLIO:

Senator Volker yield? Senator Volker continues to yield.

SENATOR GOLD: Senator, one of the reasons I always hear discussed when we discuss issues like this is the individual out there with a rap sheet of 30 arrests, 15 felonies, this, that and the other thing and, Senator, I know I get upset just like you get upset.

Matter of fact, there was one day and I mentioned this before, where I was in a court in New York listening to a sentencing and I got up and walked out because I was ready to slug the judge because I said to myself, if we get all the criticism, what's in these people's minds? That's not what we voted to do.

But Senator, again, if we had some hearings on this subject and if the problem is the sentencing structure, why don't we deal with that as an entire matter rather than just throw out a coined expression, you know, and I don't blame any coined expression on you. In other words, if I can expand a little more, the

federal system which Senator Leichter referred to that some federal judges doesn't like - don't like, is basically a grid system. And are there inequities? I guess there are, but there's also inequities today if somebody can have a rap sheet of 30 crimes and they're obviously not being sent away. That's an inequity situation also.

But we have had at least two commissions created by two governors to study a guideline sentencing system. Recommendations were made and the Legislature basically ignored those recommendations and didn't go for it. What I'm concerned about, Senator, and this is back to my question, why don't we get more into the issue of what judges are doing with sentencing on the first, second, third, fourth arrest than worry about a situation where people get into the 40s and 50s and now may commit a third felony which is far less serious than the teen-ager committing that first or second situation of real violence which might be more serious to the victim?

SENATOR VOLKER: I think, Senator, I guess we have a basic disagreement about what constitutes that third -- that third arrest.

Senator, I think the difficulty is, we are and we have had hearings over the years. I don't know how many we have had over the years on a number of these issues of sentencing, and you're right, Senator, I went through the guideline hearings. I was part of them, both as chairman of the committee and before that, and I think you're well aware, I know you're well aware of the problems that we all ran into with those, and there was -- and you don't like the word "liberal" and "conservative" and I don't either. Some people say I'm a big liberal in some ways. You know the definition of procedural liberal is you give the person every chance to prove the case and then you throw the book at him. That's what Joe Pisani used to say was a procedural liberal, but what the reports did say, they did two things, one is you got to have absolutely consistent

sentencing which means that every time a person was sentenced, you had virtually the same sentence for everybody in the state and virtually nobody wanted that, or you had the ultimate flexibility, so much flexibility, in fact, that the other side didn't want that. Even with some guidelines, the other side didn't want that, so the problem was we were faced with a situation where we could not come up with a compromise that would fit the needs of all the people even in this chamber, very honestly, and that's honest, and I think you will agree with me that that's what happened here.

I personally do not object to the fact that we may have to start this process, I think we will by the way, we'll be looking into this process again, and I don't disagree with that. My disagreement with you on the issue of having hearings this year is that I just don't think, with all the criminal justice issues that are here -- and there are many, even other than this issue -- that when you're talking about basically 3- or 400 people and on an issue that

we have already gone through a series of hearings relating to sentencing, that this justifies at this point in a very busy session having hearings on these kinds of issues, especially since we don't even have the Governor's bill yet by the way, and although the Assembly is already saying they're not going to do it, but we'll see, we'll see what happens.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Gold.

SENATOR GOLD: Let me make some comments.

First of all, Senator Volker, when you say in the course of a very busy session, if I were to ask my constituents and I went and asked your constituents and everybody else's constituents, what do they want to come out of this session, everybody's constituents are going to say the same thing. They want safety; they want some intelligent approach to crime so, if I said to them that we couldn't hold hearings on a subject this important

because we had a busy session, they'd ask me to stop smoking what they would think I'm smoking or stop drinking what they think I'm drinking because they would say, What else am I sending you there for, and I think the environment is important, but this is more important. I think this is important, but this is more important. So, in all fairness to you, Senator Volker, busyness is not the issue.

Secondly, I don't want to be snide about it. Busyness is not the issue during the first three months of this session when we do really nothing. Come on. Let's face it, we're in the end of March and we're debating Calendar Number 298, and I'll bet you 290 -- 290 of those were redigested bills that we got rid of last year and whatever.

So we're not overly busy, and I know we all spend a lot of time walking around with our hands to our heads thinking about the budget issues, but we could sit in some of the time.

I believe, Senator Volker, that

it is time to do something very seriously in this area and that to me means getting away from slogans, all right? This voting for your bill, Senator Volker, is probably politically the easiest vote anybody can ever cast. You know, you have three strikes you're in. Yeah, I voted for that, and then a year from now when nothing is changed and people are still getting beaten up by our youngsters and there are still all the guns in the street and the drug problem is involved, people are going to say, I don't understand something. What went wrong here?

Now, we've had that experience. It's called the Rockefeller drug laws. Now, when those laws came up, and I think it was in the '60s, am I correct, Senator? '70s, all right. It couldn't have been too far in the '70s because he was out in the early '70s, but that was the end. As a matter of fact, to refresh your recollection, the reason we have a problem with the overcrowding in prison is because Rockefeller would not concede that the drug laws were going to do nothing, his drug

laws and, therefore, his attitude was, I can't pass my drug laws and build prisons because then I'm actually saying that, by these harsh drug laws, I'm not going to accomplish anything and the bottom line is, the harshest sentencing drug laws, and we've accomplished nothing when it comes to containing drugs.

So I believe, Senator Volker, we owe the people this year certainly a lot more than the -- than the slogans and the -- and I know this slogan is grabbed on, we hear it coming out of Washington, all over the place. The fact of the matter is that, if somebody commits a violent crime, when they are 18 or 19, even in New York City, Senator Volker, they shouldn't get a slap on the wrist and go no place.

There should be a punishment once they're in prison. If we can rehabilitate, I'm all for serious rehabilitation if it can be done, but punishment is something that ought to -- someone who ought to understand when they commit a violent crime and if that person does

it a second time under the existing laws, a judge is supposed to make sure it's not only a slap on the wrist, it's a hit in the head and that they go to jail, and it means something and under existing law, Senator, if that jerk does it a third time, he is going to be old when he gets out as it is.

That's what is supposed to happen. Now, if it is not happening, then I think as much as I respect our judiciary, that's where we have to be looking. I don't condone, Senator Volker, sentences where the one I was talking about, a young man who had been in trouble time and time again stole a purse from an old lady, knocked her over and, through no fault of the criminal, she lived and a judge gave the kid six months. I was ready to pull my hair out. I mean that's no message in there, but I think it's a serious, serious area, and the -- the people that I would like to get at are those young people who we ought to be putting onto some decent road either by way of punishment, rehabilitation or by -- by some

warning in a sentencing system that takes care of that.

I've got one bill in that would change the youthful offender program so that, if they mess up when they get the youthful offender, they might even lose that because society has to be serious about this.

But, Senator, I think we are here prematurely. We really are. I think that under your leadership, under your leadership, we could really take a significant look at this problem and deal with the Governor and maybe get some place.

So, Mr. President, I would, at this point, move to table this bill and ask Senator Volker either agree to it, do it voluntarily or support the motion and after the budget passes within the next three or four weeks, we can sit down and direct our attention to the one thing people really sent us here for and some plan that will help us in the crime area.

So, Mr. President, I do so move.

I move that the bill at this time be tabled.

ACTING PRESIDENT NOZZOLIO: The Chair rules Senator Gold's motion out of order.

SENATOR GOLD: May I ask why, Senator?

ACTING PRESIDENT NOZZOLIO: It is not proper to table a bill, Senator, until a vote has -

SENATOR GOLD: I'm sorry. I didn't hear what you said.

ACTING PRESIDENT NOZZOLIO: It is not proper to table a bill, Senator, until a vote is taken on such bill or upon a veto of such bill.

SENATOR GOLD: Well, Mr. President, if I may: I know that when a bill is defeated it's offered -- a motion is often made to reconsider the vote and we table that motion until such time as a member may or may not want to bring it up, but under parliamentary procedure, I'm not aware that you cannot at any time move to table an item that is before the house.

ACTING PRESIDENT NOZZOLIO: Senator, you may ask the sponsor to lay a bill aside. However, a motion to table is out of order.

SENATOR GOLD: Well, I'd like to -- Mr. President, I would like to know under what section of your rules you are referring so that I may educate myself? I always like to learn.

ACTING PRESIDENT NOZZOLIO: Counsel is reviewing the section for you, Senator.

SENATOR GOLD: I appreciate that.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Gold.

SENATOR GOLD: If I may, I'm looking at some rules here, and I notice that under Rule VIII, which says "Reconsideration", there's a reference to adjourning and to lay upon the table. This obviously is not a motion for reconsideration. Under Rule VII it says

"Motions", and motion number 3 says "to lay on the table".

I don't -- I don't see where I don't have a right to make such a motion. It's a motion that's specifically referred to in our rules as one of our motions and it's always - it's always in order.

SENATOR VOLKER: Mr. President. Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Volker.

SENATOR GOLD: As a matter of fact, with apologies to Senator Volker for just one moment. The way I get it, it says: A motion to adjourn or call of Senate or to lay on the table shall be decided without debate and shall always be in order except as provided by Rules V, VII and IX, and I don't see anything in those that rules me out of order.

I'm sorry, Senator Volker.

ACTING PRESIDENT NOZZOLIO: Senator Volker.

SENATOR VOLKER: Mr. President,

if I may say, and I think that you and I have been here, you've been here a little longer than I have, and we've been here a long time, and I've never heard of a motion to lay on the table in the midst of a debate, and I believe that there -- the rules and tradition of this house is, the sponsor has control of his bill. Motions to lay on the table have been as far as overrides and also when a bill is defeated, we have reconsidered it and laid it on the table pending a further vote, but I don't think I've ever heard, and I don't believe there is, I think the rules provide that the sponsor has the right to control his own bill. If you want to oppose it, you have the right to oppose it and try to defeat it if you so want to, but I think we should proceed to a vote on the bill.

SENATOR GOLD: Yes, Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Gold, let me repeat the ruling on your motion. The Chair rules your motion out of order at this time as being untimely on a motion

to table a bill which is only proper when the bill has been voted on or has been vetoed.

The sponsor of each bill of this house controls that bill. Senator Volker has the bill properly before the house. It's been debated. The Senator has the authority to lay his bill aside. No other member has the authority at this time. So I must regretfully rule your motion as untimely and out of order.

SENATOR GOLD: Thank you, Mr. President.

I want to appeal the ruling of the Chair and explaining my position if I may. I think it's particularly important that we have a gallery filled with young people so they can get a real -

ACTING PRESIDENT NOZZOLIO: Senator, if you will excuse me, Senator. The Senator appeals the ruling of the Chair.

SENATOR GOLD: Yes. Now, Mr. President.

ACTING PRESIDENT NOZZOLIO: You wish to be heard on the ruling, Mr. Senator?

SENATOR GOLD: Yes. Thank you so much.

ACTING PRESIDENT NOZZOLIO: On the appeal, Senator Gold.

SENATOR GOLD: We have -- we have rules the way everybody has rules, except it's very interesting, because these rules are provided by the Majority and they are voted for and enacted by the Majority and then one would begin to say that, even though the Majority can't make the rules, once the rules are there, they are the rules for everybody.

That doesn't work around here because while we happen to have a very distinguished Senator, not the Lieutenant Governor right now but a distinguished Senator acting as our presiding officer, he's a member of the Majority party, the rule which I have here and be glad to show everybody, says, and I quote: "Motions. On questions before the Senate only the following motions shall be made by a Senator, and such motion shall have precedence," and it says: 1. For an adjournment; 2. For a

call of the Senate, and number 3 is to lay on the table.

It then says: "Under VII (b) the motion to adjourn or for a call of the Senate or to lay on the table shall be decided without debate and shall always be in order except as provided in Rule V, VII and IX," and I haven't heard anybody point to those sections to tell me I'm out of order.

So, Mr. President, I won't belabor the point, it's enough to say that while I always recognize the right of the Majority to vote as a Majority and create the rules, I will never recognize the right of the Majority to spit in the face of the Minority when it relies upon a rule that you created and you will not deal with that rule.

Now, Senator Volker says that he's been here a while, and he doesn't remember anybody making the motion, and I will say to you, Senator, that with all due respect -- and I've got the greatest respect for you, never question that -- but that comment isn't relevant

because the rule provides -

ACTING PRESIDENT NOZZOLIO: Senator Gold, if you would suffer an interruption. Senator Farley, why do you rise?

SENATOR FARLEY: Senator Gold, if I may, not to ask you a question but on this issue, I don't think there's any more significant rule for this house than for every Senator that a Senator controls his own legislation.

SENATOR GOLD: Mr. President.

SENATOR FARLEY: He can lay it aside.

SENATOR GOLD: Mr. President.

SENATOR GALIBER: A point of order. Point of order, Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Farley -

SENATOR GOLD: The Senator is out of order.

ACTING PRESIDENT NOZZOLIO: Senator Gold, you were asked by Senator Farley to yield. You refuse to yield?

SENATOR GOLD: I refuse to yield to a statement by Senator Farley.

ACTING PRESIDENT NOZZOLIO: Senator Farley, Senator Gold refuses to yield.

Now, Senator Gold.

SENATOR GOLD: Now, I have, as much as I heard from Senator Farley, I heard that it's very significant that a Senator control his own legislation. Senator, what's significant is that we do the people's work. That's what's significant and, if somebody wants to, we once had this with amendments, so we changed the rules. We pointed out to you that it took a motion to amend a bill, and you didn't like that because, if it's a motion, I could debate that motion, so you went in the other room, you changed the rule and I said, Fine, you're the Majority. You have changed the rule.

Now, do you want to call a recess and go change the rule and eliminate the motion to lay aside? I guess I can't stop you from doin' that either, but the point is the rule is

there and, when you say it's so important for a Senator to control a bill, I say to you, Senator Farley, that's hogwash.

In the United States Congress, a Senator or an Assemblyman puts a piece of legislation on the floor, they talk about it, they amend it, they allow amendments, they will go back and forth. In this place it is absurd when it comes to that as a legislative body.

We happen to have a junior Senator from the state of New York who, if he was treated in Congress the way you treat the Minority in this house, he wouldn't be able to find a men's room, but they tell me that that is a legislative body and every once in a while you will hear that Senator Alphonse D'Amato passes a resolution and Senator D'Amato does this or does that. Why? Because Democrats in the United States Congress treat him with dignity as a legislative body, and they survive.

I got news for you. The Democratic majority survived down there and they still treat it like a legislative body.

Now, this is an issue which I think is the most important issue in Albany. What do we do to stop crime in our districts? And it deserves more than cavalier treatment. It deserves serious consideration, not back-of-the-hand answers like three times you're in, three times you're out, and nobody has to think about it.

It seems to me, Mr. President, that there is nothing in these rules that for bids us from thinking particularly about an important issue and I would suggest, Senator Volker, that based upon your background you have a lot to contribute to this issue and you bring great credibility to the table on this issue, but there are other people who could come to that table with points of view and credibility and the bottom line of which would be perhaps a breakthrough in the area. And that's what I'm asking to do.

Is there -- if your bill passes today, Senator Volker, you and I know it's going nowhere. The Assembly, Senator Lack, is not

going to deal with it right away. The Governor certainly isn't going to deal with it until his bill is on the table, so we go through this all the time; all the time we go through this.

Well, we want the Senate position out there in front. That's nonsense. You put in your bill. Your position is out there. It's on the calendar. Your position is out there. It will be respected and handled and dealt with, but to do what we do in this bulldog, bulldozer way is just juvenile and it -- in my opinion, it cuts the dignity of this house.

But I want to say this, Senator Volker: If you want to go through with it and you believe you should go ahead, I respect that too and let you and your colleagues and maybe some of my colleagues on this side vote not to table and to take the bill up and that's something I can respect, but I think, Senator Volker, that maybe you should tell our distinguished presiding officer that you don't need his protection and you don't have to bend and twist and walk the rules to protect you

because you are very, very competent, Senator Volker, and don't need protection from me, and if you want to go ahead and take a vote on this bill, I'm sure you have a majority on your side that will do it and, therefore, to disrupt the rules, to missread the rules in a situation where in the last analysis you don't have to do it, means you degrade the rules and degrade us for no reason and that's something I will never understand, and I would urge my colleagues on both sides of the aisle if you respect this institution, at least let's vote to uphold the rule and let the chips fall where they may.

Thank you.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Daly.

SENATOR DALY: I yield to Senator Volker.

ACTING PRESIDENT NOZZOLIO: Senator Volker, why do you rise?

SENATOR VOLKER: Let me, first of all, say that no one is hiding behind anything

and, Senator, I really, I didn't realize how sensitive this issue must be to you, very honestly. I realize this is a heavily charged political year but I had no idea that this was such a heavily charged political issue.

But all that aside, no one has to tell me about the seriousnessness necessary of the crime issue and, Senator, let me tell you something what my constituents are saying. They don't want hearings; they don't want all this kind of stuff. They want some action and merely running around doing some more hearings, I don't know if any of my constituents are really going to consider to be any real action, particularly when I tell them we've had hearings ad nauseum on the same sort of issues over the years.

Now, let me just make a suggestion. Personally, I think, Senator, that you have what you're attempted to do, I know is seized on the possibility of some wrinkle in the rules that maybe you could use, and I guess I understand that. I don't think, by the way, that the rules are intended to allow for this

sort of thing. I happen to agree with Senator Farley that the right of a Senator, whether he's a Democrat or -- he or she, or Republican or whoever, to control their bills has been something that we have maintained here.

Let me just suggest to the Chair, however, in the interests of resolving this issue, that we have a vote on the issue of the ruling of the Chair and get -- on the motion to table and get this issue resolved and then go on and vote on the bill.

ACTING PRESIDENT NOZZOLIO: Senator Volker?

Senator Stavisky.

SENATOR STAVISKY: In the last analysis, Mr. President, I may decide to vote with Senator Volker rather than Senator Gold on the substance of the issue, but not on the rules of procedure. Nowhere in the rules, as Senator Gold articulated them, is there a limitation placed upon any member of the Senate precluding any member of the Senate from offering a motion to table. I heard no such language. We do not

limit the motion to table only to the sponsor.

Secondly, and I heard Senator Gold repeat the rules of this Senate -- not any other Senate, this Senate -- and there was no limitation as to the time that a motion to table may be made. There was nothing that said it may be made only during the first minutes of consideration or the last 30 seconds. If anyone can find any such limitation, then Senator Gold is incorrect, but hearing no limitation as to the individual who may offer such a motion to table or the timeliness or lack of timeliness, I believe, Mr. President, that you should do the unexpected and perhaps be extremely fair and rule that Senator Gold's objection is appropriate pursuant to our rules, and that really ought to be dealt with in an objective manner.

Sometimes consultation across the aisle is worth doing and worth noting, and I would hope that we would not leave this issue of our rules up in the air with a misconception interpreted in a way that is not to be found in

the language of our own rules and, for that reason, I hope, Mr. President, that you perhaps would reconsider your interpretation of Senator Gold's remarks and the rules of our chamber.

ACTING PRESIDENT NOZZOLIO: Senator Daly.

SENATOR DALY: Mr. President, I would like to take exception to some of the comments made by my colleagues on the other side.

I take the reverse -- the opposite approach and that the fact that we are even discussing this issue at this time is - this procedural issue is clearly indicative of the respect that the Majority in this house has for the Minority and particularly for the institution. We could have closed down this dialogue 15 minutes ago. It's a non-debatable issue. We could have asked for a vote of the appeal of the Chair, so I will take strong exception to the comments made by Minority colleagues that the Majority shows a disrespect for them and for the rules. We do not.

Let me say to you, if this was in the Assembly where the Democratic Party is in control, we wouldn't even have been discussing it. It would have been shut off 15 minutes ago.

ACTING PRESIDENT NOZZOLIO: Thank you, Senator Daly.

The vote is on Senator Gold's motion to appeal the ruling of the Chair, ruling Senator Gold's motion to table Senator Volker's bill out of order. All those in favor of upholding the rule of the Chair, signify by saying aye.

(Response of "Aye.")

All those opposed say nay.

(Response of "Nay.")

In the ruling, it appears the ayes have it. The Chair's ruling is upheld.

Senator Volker.

SENATOR VOLKER: Last section.

ACTING PRESIDENT NOZZOLIO: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT NOZZOLIO: Call the roll.

SENATOR WALDON: To explain my vote, Mr. President.

(The Secretary called the roll.)

ACTING PRESIDENT NOZZOLIO: Senator Waldon to explain his vote.

SENATOR WALDON: I wish to respond to something that was said earlier by Senator Volker to make the record rather clear. He stated that the majority of the crimes committed in the black community is by blacks against blacks. That is true, and it is a worrisome truth for anyone who serves a community that has African-Americans, Cuban-Americans and other minorities in that community.

When I was a young police off icer working the streets of Manhattan, Brooklyn and Queens, I was rather efficient and yet, some evenings when I went home from work -- and we normally worked with a task force from 6:00 p.m.

to 2:00 a.m., my heart was heavy because I saw officers empowered as I was who stretched what they did in terms of the enforcement, and what I specifically want to respond to in the explanation of my vote is, when Senator Volker said that there's a disproportionate representation of African-Americans in the prison system and alluded to the fact that it was -- there was no injustice in the numbers which are in the prisons, that is not quite true.

Regrettably when you have an arresting officer who may have a racist tendency and a prosecutor who may have a racist tendency, sometimes even a judge who has a racist tenden cy, there will be a disproportionate representa tion of blacks in the prison system, which is not caused by the fact that they may have had a tendency to commit crime.

I'll close on this note: Just this past week in my district, police officers were rightfully chasing a man with a gun from off the premises of Beach Channel High School,

chased him into the area of Beach Channel High School and made a lawful arrest. Some students, numbers of them being black, decided to take a picture of what happened with a camera.

The officers laughed at the pris oners, came back, separated the white kids from the black kids, pummeled the black children, breaking the ankle of one, punching a young lady in her chest and injuring another young black student; and I did not get this from the students. I received this information from the teachers and the principal and the white students who were so enraged by what happened that they demonstrated and marched from the school to the precinct to protest the actions of the police officers.

I support the police. I am one of those who is proud to call himself a former member of the police department, but what happens sometimes, my brothers and sisters, is that racism does creep into the criminal justice system and we ought to be talking about how to prevent people from ever considering crime as an

opportunity instead of always considering better and more efficient ways to incarcerate those who have committed crimes, sometimes unfortunately those who have not, in fact, committed a crime warranting that they be apart of the criminal justice system.

I thank you, Mr. President, for listening. I thank my colleagues for under standing the passion with which I speak about this issue, and I must vote in the no.

ACTING PRESIDENT NOZZOLIO: Senator Waldon in the negative.

The Secretary will announce the results.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Gold.

SENATOR GOLD: Explain my vote.

ACTING PRESIDENT NOZZOLIO: Senator Gold to explain his vote.

SENATOR GOLD: Mr. President, I am in a perhaps little different position than some of my colleagues, because I'm out there on

the record. I was a member of the Morgenthau Commission. I was a member of the second commission appointed by a second governor, and my name is on the report asking for intelligent sentencing; so I don't have to deal with this as a political issue.

I wish that we would all look at it seriously, and Senator Volker said he didn't know I was so sensitive, and I say, Senator Volker, I am sensitive. You know, the fact that I'm a Senator doesn't give me any special protection. When the fellow grabbed my wife's purse off her shoulder, her bag off her shoulder, there wasn't a sign she could pull out and say, "Wait a minute. You can't make me a crime victim; I'm a Senator's wife."

This is ridiculous. We all live in this community, but I'm going to tell you, Senator Volker, I believe there should be hearings and, if you as a Majority, don't want to do it, then we as a Minority are going to do it. I asked you to table it. Don't want to table it? Fine. Don't want to deal with that.

The governor has suggested this. The President has talked about it, and I think it's something that should be talked out. It's something that if we had a bill in final form, I might even be able to vote for, but right now today, while the Governor's bill is not even out here, there's no reason for me to have to say that I will vote for anything that has a slogan attached to it and I won't do it.

So, Senator, I am going to vote in the negative today. I am going to tell you that there are members on this side of the aisle who will, in fact, put together hearings on the issue of sentencing, on the three strikes you're in or out, on other guideline sentencing. We will invite judges; we will invite district attorneys, defenders and others to come to this hearing and we will take the matter seriously and not as a tag line.

So I may, in fact, by the end of this session, find a bill that deals with this issue that I can support, and it may even turn out, Senator Volker, that you're on the right

track, but I think the seriousness of crime in this state requires a serious look at the issue and not a tag line.

I vote no.

ACTING PRESIDENT NOZZOLIO: Senator Gold in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 298 are Senators Galiber, Gold, Leichter, Montgomery, Ohrenstein, Santiago, Smith and Waldon. Ayes 49, nays 8.

ACTING PRESIDENT NOZZOLIO: The bill is passed.

The Secretary -- Secretary will read.

THE SECRETARY: Calendar Number 413, by Senator Marino, Senate Bill Number 3828-A, an act to amend Chapter 576 of the Laws of 1975.

SENATOR GOLD: Explanation.

ACTING PRESIDENT NOZZOLIO: Explanation is asked for.

SENATOR PRESENT: Senator LaValle will explain it.

ACTING PRESIDENT NOZZOLIO: Senator LaValle.

SENATOR LAVALLE: Mr. President, on behalf of Senator Marino, this bill would authorize the Commissioner to -- Commissioner of Education to contract on a -- for students who are interested in pursuing a medical education, that the state of New York would make contracts for up to 40 students with three different medical schools that are outside of our country, the University of Padua, the Royal College of Surgeons and St. George's University School of Medicine.

ACTING PRESIDENT NOZZOLIO: Last section.

THE SECRETARY: Section 2.

ACTING PRESIDENT NOZZOLIO: Senator Stavisky.

SENATOR STAVISKY: Senator LaValle, would you yield?

ACTING PRESIDENT NOZZOLIO:

Senator LaValle yields.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT NOZZOLIO: Senator yields.

SENATOR STAVISKY: In the absence of this legislation, is there anything under law that prohibits the Commissioner of Education from recommending to us or on his own volition, the addition of contracts with foreign medical schools?

SENATOR LAVALLE: Senator, as you know, what we are doing is adding to schools that statutorily we have delineated specifically that the Commissioner contract with specific medical schools, whether it be Saclica, Mahary or other medical schools.

SENATOR STAVISKY: That was not my question.

SENATOR LAVALLE: Yes.

SENATOR STAVISKY: Is there anything that prohibits the Commissioner of Education by statute or by administration action on his own volition from entering into

additional contracts with foreign medical schools?

SENATOR LAVALLE: I would have to say, Senator, based on the legislation that I'm holding in my hand that amends existing law, that it appears that the contracts that the Commissioner can make on behalf of New York State is with specific medical schools and that's delineated by statute.

SENATOR STAVISKY: Isn't it true, Senator LaValle -- if he will continue yielding.

ACTING PRESIDENT NOZZOLIO: Senator LaValle continue to yield?

SENATOR LAVALLE: No.

ACTING PRESIDENT NOZZOLIO: Senator refuses to yield.

SENATOR STAVISKY: I happen to know that the state of New York enters into -

ACTING PRESIDENT NOZZOLIO: Senator Stavisky, on the bill.

SENATOR STAVISKY: I'm continuing now -- enters into agreements with institutions at all levels in the elementary and secondary

field with regard to special education, the education of disabled and handicapped children, that the state of New York regularly and the state Education Department regularly, without any statute by the Legislature, the Commissioner of Education already has the power to do this and does it with regard to recognizing fine programs at educational institutions that are not here in the state of New York.

I wish that we had more fine educational institutions, including medical schools, in the state of New York. I wish that Queens County, a county of 2 million people, had a medical school of its own, not an affiliation with a medical school in Manhattan over on the island, but Queens County doesn't have a medical school.

Is there anything wrong with these institutions? The Commissioner of Education hasn't told us that there's anything right with these institutions. I have visited one of the institutions and I'm not going to say that I am qualified to pass upon the programs,

but I could tell you that one of these places beach barbecue seems to be the main order of the day; they have marvelous beach barbecue stands. I did not see an extensive clinical facility. I did not see a report from the Commissioner of Education of the state of New York recommending the clinical facilities which I did not see, or the beach barbecue which I did see.

There may be compelling reasons why legislation like this is introduced, but that doesn't mean that it's a sound educational reason, and I think that the time may be near for the Legislature not to intrude upon medical and health decisions that should be made by those who are far more qualified to evaluate - to evaluate medical and health quality than the members of this Legislature, notwithstanding the superbly qualified sponsor of this bill or the superbly qualified advocate for this bill on the floor.

I think it's an unsound practice. We're picking out institutions perhaps with a waiting game, perhaps with order,

to show that we give some recognition to different parts of the world. That's not the way to evaluate the soundness of an educational program, and we should not do that until we have sound medical recommendations from the agency to which we turn for educational evaluations and, for this reason, I would hope that we do not add to this list until we see sound educational and medical evaluations for any institution that we add.

I do not wish to offend any of the institutions or their advocates. I simply want to see an objective report given to us before we vote.

ACTING PRESIDENT NOZZOLIO: Senator Galiber.

SENATOR GALIBER: Mr. President, if Senator LaValle will yield.

ACTING PRESIDENT NOZZOLIO: Will Senator LaValle yield? Senator LaValle yields.

SENATOR GALIBER: Mr. President, last year on the calendar this question of accreditation came up, and I'm glad to see you

carrying the bill because if you can recall - excuse my back -- that some years ago we had a similar debate on why some of New York's resi dents had to go to Mexico, foreign places, to be admitted into their medical school and then come back to New York after some two years in Mexico, keep it a secret to the Mexican medical school that they were making application to get back into or get into a school here in New York State.

And now we find a situation where, on this piece of legislation that we're asking to perhaps extend to a school or schools which may or may not have accreditation, and this is why I'm asking you, is -- will these schools or are these schools accredited schools or is it just a contract that we have to go for a couple of years in those schools and come back and run into the same stumbling blocks that we did when those who made application to foreign schools like Mexico, we had this debate I guess maybe ten years ago?

SENATOR LAVALLE: Yes, we did.

SENATOR GALIBER: Maybe even longer, and you assured me that to converse with us along these lines, we were able to get a biomedical program started to relieve some of the problems that we had. But is this an accredited -- will these schools be accredited?

SENATOR LAVALLE: Senator, the - and we have had numerous debates over the years, both on this bill before us and others, and the question, of course, comes up on accreditation. The process in terms of the state Education Department and our laws, many times the department will require of these institutions before it receives its approval and the students being capable of taking that medical education and then going to a clinical site, many times there are bridges that need to be built.

It is my feeling from what I know, to answer your question directly, that these programs are accredited. The component that is -- is the turning issue that we shouldn't confuse it with, is the clinical piece and that piece the students move from many times

the foreign institution to a clinical site here in the United States, but before they can do that, the student has to go through several steps.

This is a problem. It's an unfortunate problem, by the way, that students in your country who apply to medical colleges and are the cream -- the cream of our under graduate programs but get turned down two and three and four times, but because of their desire to be a physician, they're not going to let rejection step between them and getting that medical degree and practicing that they go outside the country, they go outside the country and it's a long and arduous course, but one that we in this state have requirements, and that the student has to go through that along with the colleges in which they come from in order to meet the clinical requirements.

So it's kind of a long answer, but it's not a simple process. It's not a simple process, and it's a shame that we don't have more seats for the students in our state

and our country.

ACTING PRESIDENT NOZZOLIO: Read the last section.

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

ACTING PRESIDENT NOZZOLIO: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 413 are Senators Connor, Galiber, Gold, Leichter, Mendez, Montgomery, Ohrenstein, Onorato, Santiago, Stachowski and Stavisky. Ayes 46, nays 11.

ACTING PRESIDENT NOZZOLIO: The bill is passed.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

May I have unanimous consent to be recorded in the negative on Calendar Number 298?

ACTING PRESIDENT NOZZOLIO: Without objection.

THE SECRETARY: Calendar Number 419, by Senator Bruno, Senate Bill Number 6871 in -

SENATOR LEICHTER: Explanation.

THE SECRETARY: In relation to the development of a plan and schedule.

SENATOR LEICHTER: Mr. President, I wonder if -

ACTING PRESIDENT NOZZOLIO: Senator Leichter, why do you rise?

SENATOR LEICHTER: To debate this bill and to ask a question of my good friend, Senator Bruno, if he would yield.

ACTING PRESIDENT NOZZOLIO: Senator Bruno, will you yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT NOZZOLIO: Yes, the Senator yields.

SENATOR LEICHTER: Senator, first let me point out what caught my attention in this bill. There were two things. One is its erudition, because I saw that we had a bill that

used the word collocate, and I thought that it's an unusual word; I hadn't seen it. I was a bit concerned that people reading the bill would understand and appreciate it and, of course, I very much was impressed by the learning that you show, Senator, in the drafting of this bill, but I did not think that there was a word such as "collocated", and I went to the dictionary and indeed it is there, Senator, and I wanted to acknowledge that publicly, and I am concerned, however, Senator that this bill, if passed and becomes law, we're going to to have all these state officials that are going to be running to the dictionary to find out precisely what it is they're supposed to be doing. But I guess we'll -- we'll just have to have them attain the high level of learning and erudition that we have in this chamber.

SENATOR BRUNO: Hopefully.

SENATOR LEICHTER: But, Senator, there is one thing that does raise some concern in my mind as I read this bill, and I believe that would be new law. Is it you're going to

provide at least one employee of various state agencies to be in the regional offices?

I think the idea of a regional office is good, and maybe each of these agencies ought to have somebody in the regional office although I could see some instances where a representative of one agency could very well also do the -- the work of another agency, but the question I really have for you is that if we're going to have these employees, one from each of the named agencies working in ten offices, we're going to need some additional employees, and I don't see any appropriation tied into your bill.

Now, Senator, I know that you're somebody who speaks out very often about waste and cutting government expenditures, although I must, in all fairness, point out and with some chagrin, that I often see bills on your part asking government to do this and that and mandating this activity, and so on, to the state agency. Here you're going to have these additional employees. How are we going to pay

for it, Senator?

ACTING PRESIDENT NOZZOLIO: Senator Bruno.

SENATOR BRUNO: Mr. President, that is a good question, and Senator, I'm very pleased that you did seek a dictionary because just in case anyone should have had on their mind whether there is such a word, I also have the Webster dictionary here, and I will not relate it since you are comfortable, and what I thought was, if this bill becomes law that we would put this page from Webster's right along as part of the memorandum of explanation.

But as to employees, Senator, this bill very specifically calls for the Commissioner of the Department of Economic Development to prepare a plan to collocate within their ten regional offices the help that is available to the business community. Science and Technology Foundation, Urban Development Corp., Job Development Authority, SUNY and CUNY, would be located in one of the sites within the ten regional offices that already exist.

So, Senator, this bill calls for a plan to be submitted by the Commissioner and the Commissioner would outline whatever they determine to be the need to meet the requirements of this law, and then I would guess in the year '95, because this calls for a report by December 31, '94, that in '95, we in our wisdom would then meet whatever financial requirement that there might be if we thought they were appropriate.

We have a feeling that there are enough employees now within Science and Technology, UDC, JDA, that would be assigned the task of informing the business community on how help is available.

The bottom line is there's a lot of help available to people in this state and they don't know it and, if you in business want to go to find out what help is available, you have to go to eight, ten, twenty different places, and small business people especially don't have the time or the inclination. So what we're saying is, let's get them all together in

one office. They already exist; these ten offices exist, put the people there and then you as a business person go in and you talk to whomever it is there that can help you.

We think it's reasonable. We think it's the kind of thing that's needed to help stimulate small business and job development in this state. But it doesn't appropriate money because, first, we need the plan, and the plan is called for by December 31st, '94 and as a result of all of this good planning, we will collocate throughout the state in the ten regional offices.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Leichter.

SENATOR LEICHTER: Very, very briefly, having in mind that the time, that this is such a significant bill, as Senator Bruno pointed out to me, and I didn't want, therefore, that it would just, you know, pass quickly without anybody noticing it, but the fact is that this bill provides that -- the bill man

dates on these state agencies to come up with a plan that requires to have at least one employee at each of the regional centers. It says "shall provide".

It further provides that one of the agencies is the City University of New York. Now, I don't know where all of these ten regional offices are, but I assume some of them are way up in the North Country and other places and, while City University may have something to offer, to say that an employee of the City University has got to sit up in Warrensburg, if you're lucky to sit up there -- it's a beautiful place -- or in Watertown, New York, another beautiful place, frankly doesn't make sense, Senator Bruno, and I think to require a plan, I think that's fine, but to require a plan as your bill does that must have ten -- that must have employees of all of these agencies, including the state -- the City University of New York really just doesn't make sense and, of course, as usual, you never put money in back of these proposals.

For that reason, I'm going to vote against it. Thank you.

ACTING PRESIDENT NOZZOLIO: Last section.

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

ACTING PRESIDENT NOZZOLIO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT NOZZOLIO: Announce the results.

THE SECRETARY: Ayes 56, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT NOZZOLIO: Senator Mendez.

SENATOR MENDEZ: Mr. President.

ACTING PRESIDENT NOZZOLIO: The bill is passed.

Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

The vote on Bill Number 298 occurred when I was out of the chamber, and

could I please be recorded in the negative, to have unanimous consent to be recorded in the negative. Also on 413, I request it yes. 298, no.

ACTING PRESIDENT NOZZOLIO: Without objection.

SENATOR MENDEZ: 413, yes.

THE SECRETARY: You want 413 to be yes?

ACTING PRESIDENT NOZZOLIO: Without objection, the Secretary will so indicate. Secretary will read.

THE SECRETARY: Calendar Number 420, by Senator Wright, Senate Bill Number 7013, an act to amend the State Administrative Procedure Act.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT NOZZOLIO: The bill is laid aside.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Marino, I offer up the following committee assignment changes and ask

that they be recorded in the Journal.

ACTING PRESIDENT NOZZOLIO: To be filed in the Journal.

Senator Present.

SENATOR PRESENT: Now, any more housekeeping or nothing?

ACTING PRESIDENT NOZZOLIO: No housekeeping.

SENATOR PRESENT: On behalf of Senator Levy, I'd like to announce a brief conference of the Majority in Room 332 immediately following this session.

And, Mr. President, there being no further business, I move that we adjourn until Tuesday, March 29th, 3:00 p. m., intervening days to be legislative days.

ACTING PRESIDENT NOZZOLIO: The Senate stands adjourned until Tuesday, March 29th.

(Whereupon at 1:58 p.m., the Senate adjourned.)