ALBANY, NEW YORK

March 30, 1994

3:44 p.m.

REGULAR SESSION

SENATOR NICHOLAS A. SPANO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT SPANO: The Senate will come to order.

All please rise for the Pledge of Allegiance to the Flag.

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

In the absence of the clergy, please bow our heads for a moment of silence.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 29th. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. Prayer by the Reverend Patricia MacKinnon of the Fair Havens Church of North Tonawanda, New York. The Journal of Monday, March 28th, was read and approved. On motion, Senate adjourned.

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

Reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following Bill directly for third reading:

Senate Bill Number 7160, by Senators Lack and Trunzo, an act to amend Chapter 502 of the Laws of 1992 relating to certain non-judicial officers and employees of the unified court system.

ACTING PRESIDENT SPANO: Without objection, third reading.

Motions and resolutions.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, if I can be recognized just on a point of personal privilege. Mr. President, I get to welcome some of my constituents and the sons and daughters of my constituents from the 12 Corners Middle School in Brighton.

This is where the Senate does its business and I would like to welcome you to the chamber. This group is the band from the 12

Corners Middle School. They have brought the gift of music to the South Corridor earlier today, and I hope that you enjoy your trip and your stay in Albany as you watch your state government work.

Thank you for coming. Congratulations on your music, and I hope you have a safe voyage home.

ACTING PRESIDENT SPANO: On behalf of all of the members of the Senate, we would like to welcome all the students who are here today. Hope you enjoy the deliberations and hope you come back to visit us again real soon.

(Applause.)

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Libous, on page 7, I offer the following amendments to his Calendar Number 249, Senate Print 6219, and ask that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT SPANO: So ordered.

SENATOR FARLEY: On behalf of Senator Levy, on page 13, I offer the following amendments to Calendar 432, Senate Print 79, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT SPANO: So ordered.

SENATOR FARLEY: On behalf of Senator Sears, Mr. President, I offer -- I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Print 3500, Senate Print 5800-A, Senate Print 5942-A and Senate Print 6089.

ACTING PRESIDENT SPANO: So ordered.

Senator Tully.

SENATOR TULLY: Mr. President, there's a privileged resolution at the desk. May I ask that the clerk read it, please?

ACTING PRESIDENT SPANO: The

Secretary will read the title of the resolution.

THE SECRETARY: Legislative Resolution, by Senator Tully, commending the John Philip Sousa Elementary School String Orchestra upon the occasion of their participation in "Music in Our Schools Month", March 30th, 1994;

WHEREAS, it is the sense of this legislative body that those who give positive definition to the profile and disposition of educational endeavors in 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 legislative body to commend the John Philip Sousa Elementary School String Orchestra upon the occasion of their participation in "Music in Our Schools Month", March 30th, 1994;

On Wednesday, March 30th, 1994, the John Philip Sousa Elementary School String Orchestra, Port Washington, New York, will

present a concert at the North Concourse at 11:30 a.m. This concert is sponsored by the New York State School Music Association and the Music Educators National Conference will be presented during a month long nationwide celebration of music education in our schools;

Miss Lisa Dunaj is the Orchestra Director for the John Philip Sousa Elementary School String Orchestra;

John Philip Sousa Elementary School String Orchestra consists of many young people;

Through this long and sustained commitment to excellence and musical artistry, the John Philip Sousa Elementary School String Orchestra has so unselfishly advanced that 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 John Philip Sousa Elementary School String Orchestra upon the

occasion of their participation in "Music in Our Schools Month", March 30th, 1994, 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 a copy of this resolution, suitably engrossed, be transmitted to each of the members of the John Philip Sousa Elementary School String Orchestra and to Mrs. Lisa Dunaj, Orchestra Director, John Philip Sousa Elementary School, Port Washington, New York.

ACTING PRESIDENT SPANO: Senator Tully.

SENATOR TULLY: Yes, Mr. President. I have been privileged to visit with the members of the John Philip Sousa Elementary String Orchestra and their director, their parents and teachers, and I consider it quite a privilege to be able to recognize them here today, and I would like to indicate to you and to my colleagues in this house that they come

from one of the finest schools on Long Island and the state of New York, if not the United States. They are youngsters of particular brilliance and their academic and musical accomplishments precede them.

I would really appreciate it if you would extend the greetings of the house as only you can do so well.

Thank you, Mr. President.

ACTING PRESIDENT SPANO: Questions on Senator Tully's resolution?

(There was no response.)

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted, and we would like to join with Senator Tully and all of our colleagues in congratulating the John Philip Sousa Elementary School, welcoming you to the state Capitol and hope that you enjoy the deliberations today and come visit us again real

soon. Congratulations.

(Applause.)

Substitutions.

THE SECRETARY: On page 5 of today's calendar, Senator Daly moves to discharge the Committee on Corporations, Authorities and Commissions from Assembly Bill Number 8570-A, and substitute it for the Identical Calendar Number 474.

ACTING PRESIDENT SPANO: Substitution ordered.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I just would request the privilege to recognize a couple of groups that are also in the gallery that have provided us fine music this afternoon.

They're from my district, the West Genesee Street -- West Genesee High School, Eilene Katz and David Norman, who are the directors of the chamber choir and the mixed chorus, and members of both groups are up there and I just want to welcome them and congratulate

them on their fine performance today.

ACTING PRESIDENT SPANO: Of course, we would also like to welcome Senator DeFrancisco's students who are also here today and hope you're enjoying your visit to the state Capitol.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Larkin, please?

ACTING PRESIDENT SPANO: Senator Larkin.

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

ACTING PRESIDENT SPANO: Immediate meeting of the Local Governments Committee in Room 332.

Senator Present.

SENATOR PRESENT: Mr. President, I move that we adopt the Resolution Calendar with the exception of Resolution Number 3072.

ACTING PRESIDENT SPANO: The question is on the adoption of the Resolution

Calendar with the exception of Resolution 3072.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolutions are adopted.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Kuhl, please?

ACTING PRESIDENT SPANO: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I understand you have a privileged resolution at the desk, Resolution Number 3072. I would like to have the Secretary read it in its entirety, please.

ACTING PRESIDENT SPANO: The Secretary will read the resolution.

THE SECRETARY: Legislative Resolution, by Senator Kuhl, mourning the death of Judge Domenick Gabrielli, distinguished citizen and philanthropist.

It is the custom of this legislative body to mourn publicly the death of prominent citizens of the state of New York whose life work and civic endeavor served to enhance the reputation of the state;

Former state Court of Appeals Associate Judge Domenick L. Gabrielli, who after 11 years ago, remained active in state legal circles, died on Friday, March 25th, 1994, at Villa Mary Immaculate Nursing Home at the age of 81;

Judge Domenick Gabrielli distinguished himself by his sincere dedication and substantial contribution to the welfare of his community;

Judge Domenick Gabrielli's spirit of humanity, of devotion to the good of all, carried over into all fields of enterprise, including charitable and philanthropic work;

Judge Domenick Gabrielli, a native of Rochester who made his home since 1987 -- who made Albany his home since 1987, was regarded as one of the most respected jurists in

the state, having risen through the ranks of the courts in a career that spanned 24 years;

Judge Gabrielli was -- graduated from Haverling High School in Bath and St. Lawrence University, was born December 13th, 1912, the son of immigrants Rocco and Veronica Gabrielli;

Judge Gabrielli graduated from Albany Law School in 1936, where he served as editor of the Law Review and was admitted to the bar in 1937. He was admitted to practice before the United States Supreme Court that same year;

He began his legal career in private practice in Bath, Steuben County, where he also served as corporation counsel;

In January of 1953, Judge Gabrielli was appointed Steuben County District Attorney by then Governor Thomas E. Dewey and was elected to a full term that fall;

In 1957, he was elected Steuben County Court Judge and Children's Court Judge, and on July 13th, 1961, was designated a Justice of the Supreme Court for the 7th Judicial

District; he was elected to a full term in November, 1961;

Governor Nelson A. Rockefeller designated Judge Gabrielli an associate justice of the Appellate Division in Albany in 1967, and in 1969 he moved to the Appellete Division in Rochester;

Judge Gabrielli, a Navy World War II combat veteran who served as lieutenant, joined the Rochester-based law firm of Nixon Hargrave Devans & Doyle as senior counsel in 1982 upon retiring from the bench at the age of 70; he transferred to the firm's Albany office in 1987 and retired from legal practice in December, 1992;

He served as Chairman of the Board of Trustees of Albany Law School from 1984 to 1989, and was the founder of the Gabrielli Moot Court Statewide Competition sponsored by the law school; he also served on the Board of Governors of Union University;

Judge Domenick Gabrielli was a former chairman of the Governor's Statewide

Judicial Selection Screening Committee, the Governor's 4th Judicial Department Selection Committee for the Appellate Division, the State Bar Association's Media Awards Committee, Vice Chairman of the State's Bicentennial of the Constitution Commission, was Special Counsel to the State Comptroller for Ethics and Conflicts of Interest and former President of the Bar Association's Bar Foundation;

Judge Domenick Gabrielli was awarded a number of honorary degrees, including ones from St. Lawrence University, Albany Law School, Siena College, Brooklyn Law School, Nazareth College and St. John's University Law School; he also was the recipient of the state Bar Association's Gold Medal Award;

Judge Domenick Gabrielli is survived by his wife, Dorothy, his two children, Veronica G. Dumas and Michael E. Gabrielli, four grandchildren, Gabrielle, Desarae, Mackenzie and Morgan; and one great-grandchild, Audriana;

For the countless many who knew and loved him, the death of Judge Domenick

Gabrielli has most seemingly curtained the world in darkness;

Like the light at dawn which so completely eclipses the brightness of night's stars, the life of Judge Domenick Gabrielli bears radiant testimony that the ideals of honor, courage, loyalty and dedication and of personal love yet endure; now, therefore, be it

RESOLVED that this legislative body pause in its deliberations in a moment of silent tribute to Judge Domenick Gabrielli, a warm, sensitive, caring and responsive man, whose unselfish concern for the welfare of others endowed and enhanced the lives of those so fortunate as to call him family and friend; and to further express its deepest condolences to his beloved wife, Dorothy; his son, Michael; his daughter, Veronica; his granddaughters, Gabrielle, Desarae, Mackenzie and Morgan; and his great-granddaughter Audriana; and be it further

RESOLVED that copies of this resolution, suitably engrossed, be transmitted

to the family of Judge Domenick Gabrielli.

ACTING PRESIDENT SPANO: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President.

First of all, I would like to extend an open opportunity to any of the members of the chamber who would like to be a co-sponsor of this resolution. If -- why don't we put everybody on? If anybody objects, they can come to the desk afterwards.

Mr. President, it's certainly with a great deal of pride, but more in particular, a great deal of sadness that I rise to speak to this resolution.

Judge Domenick Gabrielli was truly a favorite son of my home county, Steuben County, I think known to a great many people in this chamber in one fashion or another. "Mike" Gabrielli, as he was fondly known, was certainly known throughout his home county of Steuben County where he grew up, and I had the good occasion to know him at a very young age. He

was very good friends with my parents and I had the opportunity of growing up with his children, and I watched him progress from obviously a youngster's point of view, through the roles that he fulfilled so well, and he started out a local attorney representing the municipality of Bath, and he grew, and he grew into a number of governmental positions, first as a district attorney. Then he became a judge and then elevated himself to perhaps the highest judicial position in this state that an individual can acquire, be elected to or appointed to, and that being an associate judge of the Court of Appeals.

But "Mike" Gabrielli was truly a man of the people. His parents were immigrants from Italy. He took a great deal of fondness in his heritage, but he started out -- and one of his first jobs was shining shoes at the local courthouse and from that emerged a real man, a man who all of us knew and loved.

What I would like to do, Mr. President, is to, not in my own words, but I

think the words of one of the local newspapers, read to you what I think is a very, very exact expression of what "Mike" Gabrielli meant to the people in my district. It goes as follows:

"To his friends in Albany, he will be remembered for his scholarly legal work and his conservative opinions on legal issues, especially those involving crime, punishment and the death penalty. To those in the political circles, he will be remembered for his sharp political acumen, but to the people in Bath, he will be remembered as a hometown boy who arose from the streets of Bath to the state's highest court but never forgot his roots.

"Bath and its environment shaped Gabrielli and his character. He believed strongly in family, country, hard work and community, ideals that were shaped in his hometown. He started out shining shoes at the steps of the Steuben County Courthouse.

"Throughout his life he was proud of his Italian ancestry. He was a devout Catholic, receiving the highest honor given to

lay Catholics. He was active in veterans' groups and delighted talking about his service during World War II. He dedicated countless hours to the Boy Scouts of America. His life was a testimony to the American dream. By working hard and giving back to your community, you can succeed."

And that, I think, is the life of "Mike" Gabrielli.

Thank you, Mr. President.

ACTING PRESIDENT SPANO: Senator Marchi.

SENATOR MARCHI: Mr. President, Senator Kuhl's resolution really applies to a magnificent individual, one of the real giants of our time.

I -- over the years, I must have broken bread with him at least several hundred times. We would be over at St. Mary's here in the morning and then having breakfast at the Ten Eyck, and what an experience. This man was filled with goodness, with brilliant insights into the law, a spiritual dimension that knew no

measure. Words are simply inadequate to describe this person as a factor in your life, if you had the privilege and the honor of sharing moments with him. I don't think anyone who ever spent some time with Judge Gabrielli would ever forget him, because of those real warm qualities that he exhibited and the feeling that this was an accomplished individual who had mastered -- mastered the law, mastered the law of life and had an exemplary family that I'm sure, when this trauma begins to settle, this will be a consoling factor in their life, because everything, every contact they had with him was one that consoled and strengthened.

So, I do believe that he was really one of the great judges of the 20th Century and in the state of New York, and it's proper and fitting that we observe his passing and thank the Lord that we had him with us as long as we did, and he contributed so much to the society in which he worked and functioned so beautifully.

ACTING PRESIDENT SPANO: Senator

Maltese.

SENATOR MALTESE: In the words of Randy Kuhl, who knew him from the district and Senator Marchi who knew him so many years, I can say nothing that would add a great deal to those memorial words, but "Mike" Gabrielli was - exerted a great influence on the lives of not only so many of us in politics or in law but the young people of his community, the young attorneys who used him as a model, a mentor, that people like Judge Bellacosa who, in a way, learned the law trade and the judicial trade at his knee.

I first came to know Judge Gabrielli, "Mike," so well in 1972 when he ran for election to the Court of Appeals, and to know him was to love him. He was a charming individual, a kind individual. In the intervening years, I never heard one solitary word of criticism either about him or from him about any human being.

He was well-known, as Senator Marchi has indicated, as a daily communicant, a

very deeply religious man. He always had a twinkle in his eye, always with a kind word.

Having visited him during the period that he was a Court of Appeals justice - how many others do we know that would host cookies and milk or cookies and coffee and be so entertaining and charming that you hated to absent yourself from him?

The Judge took pride in the fact that, in 1972, when judges of the Court of Appeals were still elected, that he exceeded the vote total of any other judge running for office at the time and deservedly so. As is often said, "Mike" Gabrielli was a giant of a man, a model to other Italian-Americans and, indeed, Americans -- all Americans. He will be sorely missed.

I know that he presided over so many swearing-ins of other public officials, myself included, always with a kind remark. He seemed to know everybody in the courthouse, seemed to know everybody in the Capitol. There wasn't a time that you parted from him that he

didn't ask that his good wishes and greetings be given to your wife or the members of your family.

He was a great human being, a great judge, and I and others will sorely miss him.

ACTING PRESIDENT SPANO: Senator Volker.

SENATOR VOLKER: Mr. President, very briefly, I too want to say that Judge Gabrielli was a good friend of mine as well as the family. Actually, he had known my father much better, I think, than myself, although he also swore me in for the first time when I was sworn into the Senate.

There is no question he was a towering judge, even though his stature might not warrant it, but his knowledge of the law was virtually unequalled and I think, as Randy said and Serph', he was a man, a gentle man and somebody who you just didn't picture as a judge because he had such a gentlemanly demeanor that he just seemed like the friendly fellow down the

block.

I know that the people of Steuben County looked at him as almost a figure of epic proportions, and I would only ask that, from my perspective, that I want to remember him as a person who was thoughtful and gracious, and I hope that his family is able to -- is able to withstand his loss in good stead, and that we all say a little prayer for them.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT SPANO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I rise to join my other colleagues in this moment of sadness upon the death of "Mike" Gabrielli. I knew him in a very unusual way, different from my other colleagues. I was a student at Albany Law School when he was named the chairman of the Board of Trustees, and the one thing I'll never forget is that he had a tremendous devotion to the education of lawyers and he followed that education both if you

served as his clerk or if you were a student at a law school of which he had graduated and which he worked through most of his life to try to support.

I can always remember the story that Dick Bartlett told me when he was the dean and Dom Gabrielli was the chairman of the board, and we were in a room at a party together and someone had mentioned that there was someone in the room who was a likely contributor to the law school, and Dick Bartlett said, "'Mike' Gabrielli can put the touch on someone better than anyone I know."

And he had the wit; he had the warmth; he had the dimension; he had a real touch with people and as I said, I only knew him briefly in my capacity as a student and later as a young lawyer but he did marvelous things for Albany Law School and for the education of lawyers.

I know it's mentioned in Senator Kuhl's resolution, but I would be remiss if I didn't also extend my personal thanks to him as

a graduate of that law school, for all the work and, frankly, all the money and all the fund-raising that he did on that law school's behalf.

ACTING PRESIDENT SPANO: Question is on the resolution.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Daly.

SENATOR DALY: Mr. President, there will be an immediate meeting of the Corporations and Authorities Committee immediately outside the chamber.

ACTING PRESIDENT SPANO: Immediate meeting of the Corporations Committee outside the chamber.

Senator Holland.

SENATOR HOLLAND: Can you remove the star on my bill S.2839, please?

ACTING PRESIDENT SPANO: Senate 2829, remove the star.

SENATOR HOLLAND: 2839.

ACTING PRESIDENT SPANO: 2839, remove the star. Remove the star, Calendar 233.

Senator Gold.

SENATOR GOLD: No, no, no.

Senator Present.

SENATOR PRESENT: Mr. President, let's take up the non-controversial calendar.

ACTING PRESIDENT SPANO: Secretary will -- Senator Daly.

SENATOR DALY: That meeting of the Corporation and Authorities Committee has been changed to the Majority Conference Room.

ACTING PRESIDENT SPANO: Meeting of the Corporations Committee meeting in Room 332 in the Capitol.

The Secretary will read the controversial calendar -- sorry, the non-controversial calendar.

THE SECRETARY: On page 7, Calendar Number 26, by Senator Seward -

SENATOR GOLD: Lay it aside, please.

SENATOR SEWARD: Star that bill, please.

ACTING PRESIDENT SPANO: Star the bill at the request of the sponsor.

THE SECRETARY: On page 9, Calendar Number 345, by Senator Maltese, Senate Bill Number 4917-A, Civil Service Law, in relation to the duration of civil service eligible lists.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 353, by Senator Cook, Senate Bill Number 6776-A,

an act to amend the Insurance Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 375, by Senator Volker -

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

Senator Volker.

SENATOR VOLKER: Mr. President, would you please star that bill pending an amendment, that's 375, please?

ACTING PRESIDENT SPANO: Star Calendar 375 at the request of the sponsor.

SENATOR VOLKER: Thank you.

THE SECRETARY: Calendar Number 401, by Senator Skelos -

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

SENATOR GOLD: For the day.

THE SECRETARY: Calendar Number 423, by Senator Farley, Senate Bill Number 5152-A, Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 464, by Senator Farley, Senate Bill Number 1595, an act to amend the Banking Law and the Criminal Procedure Law.

SENATOR FARLEY: Read the last section.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 469, by Senator Cook, Senate Bill Number 2289, State Finance Law -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 470, by Senator Farley, Senate Bill Number 6772, New York State Printing and Public Documents Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present, that's the non controversial calendar.

SENATOR PRESENT: Controversial calendar.

ACTING PRESIDENT SPANO: The Secretary will read.

THE SECRETARY: On page 11, Calendar Number 401, by Senator Skelos, Senate Bill Number 60...

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 423, by Senator Farley, Senate Bill Number 5152-A, Real Property Tax Law.

SENATOR GOLD: Hold on one second. Last section.

ACTING PRESIDENT SPANO: Read the

last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 469, by Senator Cook, Senate Bill Number 2289, State Finance Law, in relation to court facilities incentive aid.

SENATOR GOLD: I just have a question, if Senator Cook is available. I just have a simple simple question.

Senator Present?

SENATOR PRESENT: Lay it aside temporarily and return to reports of standing committees.

ACTING PRESIDENT SPANO: Lay the bill aside temporarily.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Larkin, from the Committee on Local Government, reports the following two bills directly for third reading:

Senate Bill Number 7239, by Senator Marino and others, General Municipal Law, in relation to the designation of economic development zones. Also, Senate Bill Number 7318, by Senators Larkin and Libous, Real Property Tax Law, in relation to improvements required by the Americans with Disabilities Act of 1990.

Both bills reported directly for third reading.

ACTING PRESIDENT SPANO: Without objection, third reading.

Senator Present.

SENATOR PRESENT: Stand at ease just a moment while awaiting another report from a standing committee.

ACTING PRESIDENT SPANO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease.)

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT SPANO: Senator Leichter.

SENATOR LEICHTER: While we're at ease, Mr. President, on Calendar 464 which passed while I was out of the chamber, I want to be excused from voting on that bill, so would you please note that?

ACTING PRESIDENT SPANO: That's Calendar 464, without objection.

Senator Present.

SENATOR PRESENT: Mr. President, can we call up Calendar 469, please?

ACTING PRESIDENT SPANO: The Secretary will read Calendar 469.

THE SECRETARY: Calendar Number 469, by Senator Cook, Senate Bill Number 2289, an act to amend the State Finance Law, in relation to court facilities incentive aid.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT SPANO: The bill is passed.

SENATOR PRESENT: Can we continue our standing at ease while awaiting the report of a standing committee?

(Whereupon, the Senate stood at ease.)

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: Mr. President, can we return to reports of standing committees? I believe there's one at the desk.

ACTING PRESIDENT SPANO: The Secretary will read it.

THE SECRETARY: Senator Daly, from the committee on Corporations, Authorities and Commissions, reports the following bill

directly for third reading:

Senate Bill Number 7125, by Senators Velella, Leichter and Mendez, an act to amend Chapter 499 of the Laws of 1991, amending Chapter 285 of the Laws of 1891, relating to the establishment of the New York Botanical Garden.

ACTING PRESIDENT SPANO: Without objection, third reading.

Senator Hoffmann.

SENATOR HOFFMANN: Mr. President, I believe I have some motions to discharge several bills at the desk.

ACTING PRESIDENT SPANO: Yes, we do have them here.

SENATOR HOFFMANN: Thank you.

I would like to discharge those motions today, if it suits your pleasure, Mr. President.

ACTING PRESIDENT SPANO: Senator Hoffmann.

SENATOR HOFFMANN: Thank you.

3509? Thank you.

THE SECRETARY: By Senator

Hoffmann, Senate Bill Number 3509, an act to amend the Public Officers Law, in relation to exempting political committees.

SENATOR HOFFMANN: Thank you, Mr. President.

This has become somewhat of an annual event for those of us in the Senate, and I'm delighted to see as many friendly faces in the chamber as I see today and I know that there are other people with their ears close to the box in the lounge and in their offices, but I am more encouraged by the fact that all over this state, there are now people who care very deeply about this particular measure, and regardless of whether I speak or some of you speak or none of us speak on the floor today, the issue that's manifested in Senate 3509 is not going to go away. In fact, I was quite pleased a little while ago to be joined by the president of Change New York, the past Master of the New York State Grange, and representatives from some other organizations who sent in writing their comments about why they fervently believe we

need to change the Open Meetings Law and other rules and laws that affect the operation of this Legislature.

What we do here in Albany frequently brings ridicule upon us as individuals and, more importantly, it disgraces the chamber that we operate in, and all too often people regard with suspicion our motives because what we do here is crafted in secrecy, is subject to partisan control and very often gives the impression of having been motivated by political considerations rather than a willingness to serve the taxpayers of this state.

We could do wonders to change this perception. No public relations person could come and give better advice to us about how to improve our sense of prestige in this state than by cleaning up our act and passing these bills today. We could then turn to the business at hand. We could address the problems caused by loss of jobs, by increased need for services, by feeding and clothing people who are

unable to do that themselves, providing increased job opportunities through economic development programs.

The wide range of responsibilities that are out there for us to address, all too often come second to our partisan responsibilities as members of two political conferences. And what is particularly unfortunate is the fact that we are completely out of sync with the people of this state because an increasing number of people of this state no longer belong to political parties but, instead, have chosen to be independent or operate out of a third or a fourth party.

In this chamber, if you want to assume for a moment that it makes some sense to have closed door party conferences as the principal motive in decision-making, please remember that every time the Majority in this house meets and makes decisions in secret, they are speaking for 31 percent of the registered voters in New York State, because that's how many registered voters have chosen to declare

themselves as Republican party members in New York State, 2.7 million -- 2.75 million. That's as of November 1993. Democrats fare slightly better, if it makes any difference. 47 percent of the voters in this state are registered as Democrats, but in neither case is there a clear majority of the members of this house representing a clear majority of the voters of this state who have chosen a political banner next to their name and, in fact, it makes sense for us to look at it the other way.

Every time the Republican Majority in this house goes into its conference room, makes a decision and then ratifies it some time after midnight on the floor of this chamber, 67.7 percent of the people of this state who are registered voters have been effectively disenfranchised.

How can we justify conducting our business under this partisan banner? How can we continue claiming that we are representing the needs of the people of this state when we do it under a political definition and not through the

committees and through the responsibilities that should motivate us to act in the public's behalf?

There was an opportunity in 1985 for us to address this situation. The courts ruled that we were violating the Open Meetings Law, that we were meeting illegally every time public business was being discussed in a closed party conference, specifically when a majority of the members of either house met in secret.

In an effort to comply with that law, we could have at that time acceded and changed our way of doing business to allow committees to function sensibly, but instead, this Legislature, in haste, in the middle of a budget season no less -- while we were late for a budget by several days already, this Legislature rushed in to print a bill in 24 hour's time instead of complying with the law to change the law so that we would specifically exempt our party conferences from public scrutiny.

Now, S.3509 -- what's my bill

number here? S.3509 has an escape clause in there, friends, that should be big enough to drive a cement truck through. If it is still important to you to meet under this political banner, then all you need to do is announce to the taxpayers of this state, we are closing the doors and we are meeting as Republicans or we are meeting as Democrats, to discuss political business. There is that opportunity.

Reapportionment, I suppose, would be a situation that some people might find warrants that type of action, but how can we justify making decisions about taxes, about economic development, about social services by people who sit in a closed conference room as Republicans or who sit in a closed conference room as a Democrat -- as Democrats?

The public of this state is fed up. They want a change and they will hold us accountable. The organizational list is growing. They are paying much more attention now than they ever did in the past, to the process by which we operate because they are not

satisfied with the product. So, even when we come up with good solutions through this ridiculous system, we are still going to be excoriated publicly because we have done it secretly and that we are, therefore, suspect.

So, I would ask all of my colleagues today to join with freed hostage Terry Anderson, who has come back from seven years in captivity in a Third World country and with a wide range of issues to which he could have dedicated his newfound energy and freedom, he decided that the most pressing thing before him was reforming the New York State Legislature, and he has created an organization called New York Renaissance, and among the other issues that he's supporting are these reform bills and Terry Anderson, I'm very pleased to say, has been stumping the state, urging the taxpayers, the voters of this state, to join with you and me in reforming the way we conduct our business.

The Mohawk Valley Building and Construction Trades Council, which represents

about 3,000 people who work in the Mohawk Valley -- several of us have constituents in that group -- sent the following very nice letter in today:

"The Mohawk Valley Building and Construction Trades Council supports your proposed four steps to reforming state government. The public trust in today's elected officials has reached an all time low. The closed door meetings, excessive spending, the enormous power of a choice few give an image of questionable improprieties.

The four steps you have proposed would demand that the complete legislative body be responsible and accountable. This would also help create an atmosphere to raise the level of trust in today's elected officials. The members in their respective trades of the Mohawk Valley Building and Construction Trades Council will take an active part in supporting your proposals."

"An active part"; that means they are not going to be content with the

outcome of today's deliberations. They will insist that from now through the end of this session, along with other organizations that have already gone on record, they will insist that we make some of these changes happen.

I have no pride of authorship on these proposals, my friends. I would be very happy to remove my name and gladly give these bills over to Senator Marino. They could become leaders' bills. They could become Rules bills. There are any number of ways that I would be more than willing to accommodate the leadership of this house if the desire is for someone else to be identified with these measures.

In fact, I have circulated them and have requested co-sponsorship from every member of this house for four years con secutively and, to date, I have seen an increased number of colleagues on this side of the aisle add their name to one or more or all of the bills but, as of yet, I'm sorry to say, I have not seen a single one of my Republican colleagues join me in co-sponsorship, and I'm

particularly saddened by that because I know a number of you approached me or asked my office to provide information about these bills during the time of your campaigns. I have read in print how some of you have indicated a desire to see these things happen or a willingness conceptually to reform the Legislature and, in a few cases, even absolute commitment to support these ones elected.

So I am left at a complete loss to understand how it is you could, on the one hand, be committed to reform and to believe that we should have an open and fair process and then on the other hand, refuse even to engage in debate on the floor of this Senate today.

The record is abysmal of what we have done over the last few years with our late night sessions and with bills that were initially agreed to by the leaders and the Governor and forced upon us in the middle of the night. The lag payroll is one that has got everybody around the state smirking and wagging their fingers at us.

Do you remember how we instituted a lag payroll one year as a budget balancing gimmick? In 1990, it was some time after midnight, I recall a Finance Committee meeting called off the floor so that we could quickly ratify in Finance, the bill that would then pass on the floor as part of a budget amendment. It was a one week additional lag payroll. It was designed to save the state $135 million which was used to close part of the budget deficit. Several things came up during that little Finance Committee meeting that, I think, bear review.

First of all, that was the first opportunity any of us had as Senators to see what had been discussed in the press for a couple of years. The bill was presented to us some time after midnight and, of course, we were expected to vote on it immediately. I recall asking the chairman of the Finance Committee at the time if this was, in fact, legal. He said there were assurances that it was legal but offered nothing in the way of proof. I then

asked if it could be amended so that legislators would be included in the lag as well, and I was told by the chairman of the Finance Committee, "Under our rules, there are no provisions to amend bills in committee."

Eventually, after the lag payroll was passed that night and put into effect, it was the Court of Appeals which overruled our actions and made it very clear that we had operated illegally that night. Of course, we had operated illegally that night because we didn't know any better. We weren't given the opportunity to do our jobs thoughtfully and deliberately. We were not even given the opportunity to take advantage of legal resources that should have been in place that evening in the Legislature. It was another clear example of manipulation by the party leadership done in political deal-making behind closed doors, and then a charade played out here on the floor of the Senate in front of the press and a few listening lobbyists.

The retirement system was

similarly sabotaged by this Legislature as a result of the closed-door deal-making and the late night sessions. Chapter 210 of the Laws of 1990 changed the method of computing municipal and state contributions to the State Retirement Fund from the aggregate cost method which none of us in this room would probably be able to explain on short notice, to the projection unit credit method, in shorthand, the ACM to the puck method.

Everybody remembers being asked to write letters and explain what it was we had done. I had the good sense or at least the good luck to be awake at the time that this measure came up and to raise my hand to vote in opposition, so at least I could write back to people who wanted an explanation and say I didn't fully understand it but it didn't make any sense, so I voted against it. I was, therefore, not surprised when the Court of Appeals ruled on November 16th of 1993 in the case McDermott versus Regan and New York State, that Chapter 210 of the Laws of 1990 was, in

fact, unconstitutional under Article V, Section 7 of the New York State Constitution, which requires that a retirement system's member's benefits not be diminished or impaired. So, as of March 1994, the postponed payments of the retirement system, which totaled $4 billion, had to be repaid back.

Now, the Comptroller, our new Comptroller, is left to contend with this mess, and he has proposed a four-year plan in which that $4 billion now must be paid back. What we did is unconscionable in an effort to allow ourselves to continue spending like drunken sailors. We took a $4 billion, no interest, illegal loan from the retirement system of this state, and we did it in the middle of the night and we did it without any kind of public deliberations that would have allowed some sense of reason to prevail.

Is there any wonder then that people are now writing editorials attacking us? One that appeared yesterday in New York Newsday has, as a lovely headline. It says, "They're

Just as Pure as the Driven Slush," by Pulitzer Prize winning writer Sydney Schanberg, in which he excoriates us for the $60 million slush fund rollover as part of our legislative budget.

The list of abuse is longer than any one of us want to recount in this chamber this afternoon, and there will be new examples before we leave here at the end of this session, I'm sure, but the big question we have to ask ourselves is how much longer we want to individually and collectively be part of an operation which is diminished daily in the public's eyes. How much longer do we want this ridicule heaped upon us, and how much longer are we going to misrepresent to the people at home that we are part of an earnest process of deliberations when we know, in fact, we are part of political deal-making of the rankest order.

I won't debate every single one of these measures at great length, Mr. President. I thank you for the opportunity, such as it is, to bring these up. I would have preferred to have discussed these around a table

with my colleagues in a committee meeting. There are several committees that probably would have been appropriate; Codes, for instance, where we could have sat, rolled up our sleeves and like ladies and gentlemen, discussed the advantages of changing the process by which we conduct legislation, but that opportunity doesn't exist for me.

As a Minority member of this house, my bills are not afforded the courtesy of discussion in committees with rare exceptions and, in fact, I took the time to do the research on how Minority members' bills fare in general in the Senate and, to date this year, we have had only one Democratic bill pass this chamber. In contrast, 368 Republican bills have passed. Now, let's think about this for a moment. There are 26 Democrats, 35 Republicans. Are we lazy sloths? Do we have no wit? Do we have absolutely no intellect? I don't think so. We simply don't have access to a system that is designed to benefit a political party and create a grandiose image for the people who happen to

have an "R" as opposed to a "D" next to their name.

So, the taxpayers of this state are left to wonder why only .27 percent of the bills to come out of this chamber to date have a Democratic sponsor and 99.73 percent of the bills have Republican sponsors. There used to be a time when it was possible at election time to go out into a district and claim that a Democrat should not be elected or should be thrown out of office because he or she didn't know what to do, was incapable of responding through legislation, didn't try hard enough. I've experienced all of that, and I'm sure Senator Jones is going to live through that infamy this fall. Well, it's a lie, and now that people of this state understand it's a lie, and they hold you in contempt for abusing this chamber, to manipulate your political goals.

I would ask all of my colleagues to join in discharging Senate 3509 from committee so that it could be brought to the full Senate for a vote this afternoon, Mr.

President.

SENATOR MARCHI: Would the Senator yield for a question?

SENATOR HOFFMANN: Yes, Senator.

SENATOR MARCHI: I'm sure that - I'm convinced that you're advancing these in all sincerity, but is there any law that prevents either conference from opening their doors and saying, "Come on in," press or anyone who wants to attend? Are we prohibited from doing that under existing law?

SENATOR HOFFMANN: Senator Marchi -

SENATOR MARCHI: My understanding is that the Freedom of Information Act does not extend to party conferences, but if we wanted to open up our doors to the public or if you wanted to do it on your side, there's no law that prevents that, is there?

SENATOR HOFFMANN: No, no, the law is in place -- actually, the amendment to the Open Meetings Bill, as it was amended in 1985, simply exempts the Majority conferences

and, specifically references all four party conferences from subject requirements to the Open Meetings Law.

SENATOR MARCHI: From the requirements of the law.

SENATOR HOFFMANN: That's right.

SENATOR MARCHI: But if we wanted to open up the door, we could do it.

SENATOR HOFFMANN: Absolutely, Senator Marchi.

SENATOR MARCHI: Well, then, why don't you persuade your colleagues?

SENATOR HOFFMANN: I'm attempting to persuade my colleagues right now, Senator Marchi, and that's why I'm asking you on the floor of this chamber to join with me in bringing this bill to the floor for a vote. I think that would be a magnificent gesture on your part, and I'm delighted to hear you expressing an interest.

SENATOR MARCHI: Do you realize the stunning example you would set -- I don't advise you to do it, of course, but the stunning

example you would set if you were suddenly to declare, as a party conference, "Our doors are open"? Do you realize the impact it would have? It would be astonishing.

SENATOR HOFFMANN: I do. That's why I'm urging the leadership of this house to declare that that, in fact, is the order of the day, to then insist that the committees take on the responsibility of delineating and debating legislation in a more appropriate format.

SENATOR MARCHI: No, I'm not -- I have no intention of urging my conference, but I would suspect that -

SENATOR HOFFMANN: Perhaps Senator Marchi would yield for a question.

SENATOR MARCHI: I would suspect, Senator, that there is no propensity on your side of the aisle to do the same thing because you can do it. There's nothing to stop you from doing it.

SENATOR HOFFMANN: Thank you, Senator Marchi.

I would like to respond at length

a bit to Senator Marchi's question or comment, and I guess I was momentarily filled with some enthusiasm inappropriately or mistakenly thinking that perhaps you shared my zeal for this effort, and I'm sorry so hear you close that you're not in favor of it, but I think the issue you raise is a very important one. It's the "why can't you" and "it would be okay if you did" argument. Everybody wants to see somebody else take a brave step first, Senator Marchi, especially if there's any risk involved and, as a nation, I'm afraid we would not have advanced very far past the frontier if everybody thought like that.

One single step, opening the conference doors, is not going to change this Legislature. It is but a first step because what it would entail would then be a reasonable way for legislation to be conducted by committees. Committees would then be meeting, also in the open, to discuss issues. On rare occasion, perhaps, there would still be need for a conference, although I can't imagine why, but

it would require realigning the entire structure of this Legislature to create a forum for all, because right now, for the members on this side of the aisle, no such forum exists.

I fear Senator Marchi's momentarily distracted by a counsel who's conferring with him, and I will hold my remarks for another time, but I appreciate the opportunity to have explained in a little bit more detail that it is not simply the process of opening the conference. It is the act of indicating that we have an earnest desire to deliberate issues and to develop legislation through a responsible procedure which would be a committee system, but for any one group of people in a grandstand motion to jump up and suddenly claim, "we're going to unilaterally disarm" and in a "show boat" move invite people to come in, would really accomplish nothing, and I am trying to do something that is real, Senator Marchi, not symbolic.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT SPANO: Senator

Gold.

SENATOR GOLD: Yeah, Mr. President, I may have some remarks on some of the other pieces of the program, but I just want to respond also to my very distinguished colleague from Staten Island.

Senator Marchi, you're right that any member, any group of members can decide something. What Senator Hoffmann is trying to do, which is so much more significant, is to deal with the institution because, if Senator Hoffmann opens up, so to speak -- if the Democratic Conference opens up, so to speak, that doesn't say anything for the Senate; it says something for the individual or for the group.

What we are trying to do is make a public statement from all of us about the way the Senate as an institution will operate and, Senator Marchi, that is more important and that is why the motions brought on today are important.

ACTING PRESIDENT SPANO:

Questions is on the motion to discharge.

SENATOR STAFFORD: Party vote in the negative.

SENATOR GOLD: Party vote in the affirmative.

ACTING PRESIDENT SPANO: Call the role.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 35, party vote.

ACTING PRESIDENT SPANO: Motion is defeated.

SENATOR HOFFMANN: Were there any exceptions, Mr. President? Did I miss something?

ACTING PRESIDENT SPANO: No exceptions.

SENATOR HOFFMANN: Thank you, Mr. President.

I call up is S.3508, please.

ACTING PRESIDENT SPANO: The Secretary will read.

THE SECRETARY: By Senator

Hoffmann, Senate Bill Number 3508, an act to amend the Legislative Law, in relation to the time for debate on matters before the Legislature.

SENATOR HOFFMANN: Thank you, Mr. President.

Again, this is the issue that seems to most rankle the public because it is the one where we clearly show almost total lack of common sense. People ask frequently why it is we can't get our work done on time and why we have to go through these terrible late night sessions in the Legislature or in the Senate, because now the Assembly has decided they won't allow that to happen anymore, and I am forced to explain that it is not an accident that we are passing terrible legislation and raising taxes in the middle of the night; it is by design.

It's a system of orchestrated gridlock through which bills can be held up, dangled in front of a legislator's nose and the legislator will be forced to remain in Albany, in the chamber, and as we say in legislative

parlance, "on the hook" until such time as it suits those people who control the bills, in this case, the Majority Leader of this house, to let them go. It's also a way of utilizing our rather absurd system of attendance in this chamber so that people are counted voting for measures which have been agreed upon by leadership and pushed to the floor some time in the wee hours of the morning even though the members are not in the chamber and may not even be in the city any longer.

Empty chairs raise taxes in this Capitol. I don't think there are too many other states in the nation that have that ridiculous claim to fame. At 3:00 or 4:00 or 6:00 o'clock in the morning, I have counted the empty chairs in here and I have gotten down to numbers as low almost as they are now and then read the next day in the paper what the actual vote count was on a measure of some importance, and few things are more important than raising taxes, and again it's fiction. We have created it or if we have not created it, by our acceptance we condone it

and it becomes a sham and a charade. It violates the taxpayers of this state every time we allow empty chairs in this chamber to pass legislation at 4:00 or 5:00 or 6:00 o'clock in the morning.

The Assembly, God bless them, have decided they won't allow this to happen anymore. A new Speaker, busy as he must be with all of the affairs of organizing that house, decided to make a cornerstone of his stewardship of the Assembly, changing the way they conduct business so that they will no longer allow bills to pass in the middle of the night, and I applaud him, and I know that other people around this state applaud him. How can we do any less?

Last year, I was very sick toward the budget season and one night I had left the chamber. After having been in session most of the day, we were standing at ease as we do so often for hours on end, and I returned to my apartment and was in fitful sleep when my counsel called and said, "It's 12:30 and they're

going to bring up the legislative and judiciary budget", and I was just too sick to get out of bed, so I stayed in my apartment, probably no more than six blocks from here, and at that very moment, I voted for the legislative and judiciary budget. I didn't actually vote for it. Now, we all understand that in this room because I was home with my head on a pillow, but my empty chair with this little name plate that identifies me was recorded as voting for a legislative and judiciary budget that I abhorred and had voted against eight previous times.

Isn't that an abuse of power, ladies and gentlemen? Isn't that something that is just plain wrong? How can we allow this type of nonsense to occur in these beautiful chambers? Isn't it time that we face the music and said we can't continue doing things the way we've done them before? The jig is up, and the public won't be fooled any longer. The simplest, the easiest thing we can do on this list of legislative reform measures, the one you will have the hardest time explaining that you

can't do back home is to end the late night legislative sessions.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Mr. President, I can't -- obviously, I can't speak for the public throughout this state, but I'm an observer, as everybody else is, and I just have to believe that at some point things catch up with us.

I'm looking at articles from newspapers around the state. Here's one where a very distinguished member on the other side of the aisle, and I won't mention him by name - the paper is from, I think, Schenectady, and it talks about how this member told his local newspaper that the concept of curfews is really laudable and we ought to do it, but I guess not if it's a motion made by a Senator on this side. This one, I really resent. It's a story in a Rochester newspaper and the column is "Speaking Out", and it says, "Do Nothing Legislature?" with a big question mark, and lo

and behold it says, "I'm in the forefront of reform efforts by Michael F. Nozzolio, August 1993", and here is Senator Nozzolio's program, and I'm now reading after I get past his itemized budget which I'll talk about later.

"Legislative curfew, a measure requiring all legislative business to be conducted between 8:00 a.m. and midnight, thus preventing all-night sessions which are counterproductive to the passage of important legislation and are largely hidden from public view."

Senator Nozzolio, you're right, but where are you? It's not midnight yet. It's only 5:00 o'clock. I assume you're around and hear my voice. I certainly don't want to have anybody say that I took advantage of a situation. I assume you're around but, Senator Nozzolio, here is an opportunity for you to vote for part of your legislative package, and you either believe in it or you don't.

Now, the purpose of these motions are to change the rules. It's easy for you,

meaning the Republican Party, through a spokesperson who's never the Majority, to say that this is all done just to embarrass you. Now, that is nonsense. We're doing it to change the rules. Change the rules. You don't have to be embarrassed. If you put out an itemized budget, you don't have to be embarrassed. If you give back the $60 million, you don't try to sucker it in the last minute and create a cookie jar for yourselves. You don't have to be embarrassed. I couldn't believe that.

I read in a story in one of the newspapers, we're finally getting -- the press is finally understanding that they can be useful in this system in trying to make the Legislature better, and in discussing the slush fund, the only comment that they could get our legislative leaders is we're doing it to embarrass somebody. Well, sometimes you ought to be embarrassed, but you can avoid the embarrassment by doing the right things.

Now, if you think that you cannot lead this legislative house without dealing in

sessions that go from midnight to 6:00 in the morning, then I think you underestimate yourselves, because I think you can do it. There's no doubt in my mind that Speaker Silver is a quality, genuinely qualified, good, terrific leader, and that he doesn't need all night sessions, and I would like to see them do it also, but it is not the fact that we work until 1:00, 2:00, 5:00 in the morning, that keeps you in the majority or keeps the Democrats in the majority in the Assembly, and we ought to change it. It's embarrassing.

Now, from my point of view, I respect people who stand up and say, "Look, I don't agree with you and that's fine." Senator Marchi, I've got you on a certain level. Believe me, you can't go higher. I respect you, and when you say you don't believe in the concept of an open conference, I know that's what you believe and the only difference between you and a lot of people is, you get up and say it and people respect you for it, but the one thing that I've lost my tolerance for is the

business of some members of the Legislature saying one thing to local papers and local editorial boards, and then come in here, forgetting about it and hoping people forget it.

Now, some of the articles I've read are editorials in your local papers which don't treat some of you too nicely, and I will not mention names, because some of you are getting caught up in these differences between your rhetoric and your voting record, but I'm telling you that this kind of business is not the finest hour of any member of the Legislature. If some of you believe that there should not be a limit on legislative sessions, I respect that as an intellectual judgment that you have come to, but if you believe that we should have a limit and say that locally because you're ashamed to tell the local people the opposite, and then you come here and vote against it and then think you're going to double-talk the local press, I think those days are over too.

I certainly hope that this is not a party vote without exception. I know my party will unquestionably vote in a party vote for this bill. I certainly hope that those members of the other side who have spoken out so strongly in their local papers, will have the guts to do something about it today.

And, lastly, I'll point out that there's one newspaper article I have here which really did bring a smirk on my face because one of your members took on another one of your members in a primary and said to the local press, "And if the leaders think I'm going up there to be another rubber stamp vote, boy --" I haven't seen that person break with a party vote since the day he walked in here, and by saying "he", I'm not letting it out of the bag because you only have the distinction of one lovely lady on your side, so there's -- the person I'm talking about has anonymity among the other 34 of you. But at any rate, I certainly hope that this passes, and I hope that some of the hypocrisy stops, and this is certainly one issue

where we could stop it.

ACTING PRESIDENT SPANO: Question is on the motion to discharge. The Secretary will call the roll.

SENATOR GOLD: Party vote in the affirmative.

SENATOR PRESENT: Party vote in the negative.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 35, party vote.

ACTING PRESIDENT SPANO: Motion to discharge is defeated.

SENATOR HOFFMANN: Mr. President, were there any exceptions on the -

ACTING PRESIDENT SPANO: No exceptions.

Senator Hoffmann.

SENATOR HOFFMANN: I would like to call up S.3504 please, Mr. President.

ACTING PRESIDENT SPANO: The Secretary will read.

THE SECRETARY: Senate Bill

Number 3504, by Senator Hoffmann, an act to amend the State Finance Law, in relation to requiring that budget bills making appropriations or reappropriations to the Legislature contain specific categories and amounts of expenditures.

SENATOR HOFFMANN: Thank you, Mr. President.

Well, this is the one that they're having the most fun with in the newspapers right now, and I took a little bit of pleasure, sadly, but I guess you have to take it where you get it. I took a little bit of pleasure in seeing the term "slush fund" come into common usage because I still remember the first time I used it, and I felt like I was speaking blasphemously when I raised that particular adjective at a meeting of the Grange. It was in Cortland about five years ago, the legislative conference of the New York State Grange had invited me to come to speak to them, speak to their members from all over the state and talk about what was going on in

Albany. It was toward the end of the session, I was particularly frustrated at having had all of my bills bottled up and having been targeted once again as a marginal for the maximum onslaught at election time, so I spoke very candidly, much more candidly than I had in the past about what was wrong here, to people who wanted -- who wanted the plain truth. They didn't want any glazing. They didn't want any sprinkles or "jimmies" or glitter on it. They just wanted to know exactly what was happening here, so I explained our legislative budget and I said, "It is a "slush fund." It is in the hands of the legislative leaders and they do with it what they want and there is no accountability, and there is no reconciliation at the end of the year," and I can remember that looking out into that room of 200 faces, most of them Republican, median age probably something over 60, that there was just this incredulous look that this couldn't possibly be happening, and I actually went to the trouble of getting a copy of the legislative budget and taking it

with me to other speeches that I gave after that, and I would carry it with me and show that it was, in fact, something on four pieces of paper and there were no delineations of the standard types of accounting you would expect. There was certainly nothing to indicate what had been left as surplus the previous year. That, we have to find out when we go through the little exercise that occurred the other day when $60 million was rolled over.

Now, if that's in the a slush fund, I don't know what is, and think what $60 million could be doing in this state outside the hands of this Legislature, but the people in the Grange were shocked when I explained how our legislative budget is a slush fund, and they have been on the warpath ever since then, and I'm sure some of you were visited by Grange members today, and if not today, I can almost guarantee you will be hearing from some of the Grange in your district some time in the future, because they are now so irate that they are making this a major issue. They have a

legislative policy book that they print and mail out to all of their members and then they encourage them to contact their legislators at the federal about federal matters in this state, about these state matters, and all of these reform measures are in there and all of the Grange members around this state want you to know that they care very deeply about the need for an itemized legislative budget for this chamber and for the other reforms that we have talked about and will talk about later, and other people who care about them are no longer willing to be silent either.

Sydney Schanberg yesterday, New York Newsday, Pulitzer prize winning journalist, describes us as "Mesozoic," talks about us as "brontosauruses in Albany, puffing out our chests and just grinning rather than being accountable."

Mr. Schanberg says, "Using these wonderous blank check devices, the leaders have built up surpluses over the years. Instead of turning its unused money back to the taxpayer,

they simply pile it on to the existing slush fund and roll it over into their next budget. It's tradition", and Mr. Schanberg closes by saying, "Listen to this justification for the slush fund by one Albany staff member who shall go nameless as an act of mercy. If this were private business, we would be congratulated for not only living within our budget, but having some left over for a rainy day", but Mr. Schanberg points out, "It isn't private business, it's the people's business and the people's money. Give it back."

That's the attitude that's sweeping this state. People want to know how dare we keep their money and not give an accounting of what we are doing with it, how we are spending it on ourselves. I have been asked several times for accounting of my office staff, mailings, travel, and I'm kind of at a loss. First of all, the only accounting of office staff that is complete is in the hands of Senator Marino, to the best of my knowledge. It's impossible to know what individual staff

payrolls are because sometimes staff members' names appear on different member or commission staffs or they're on loan. There is no set allocation for an individual Senator. I remember when I was elected in 1984, I came to Albany in January or the end of December to be processed, and I asked somebody, "where do I go to start the procedure to hire my staff? What is the allotment? What is the allocation for a freshman Senator from Central New York?" And the response to my question every time was, "You'll have to talk to Fred. You'll have to talk to Senator Ohrenstein."

The Minority Leader handles all of that for Minority members. There is no rule. There is no procedure. There is no standard. Everything is negotiated. Everything is devised to suit the whim of leadership and to maintain maximum partisan control. Senator Marino negotiates with Senator Ohrenstein and there, the negotiations take place from them with other individual members depending upon whether they are Republican or Democrat, and you

don't have to be a genius now to know who gets more and whether it has anything to do with merit or need.

I've tried for several years to find out what happened to the mailing allotment that I ostensibly saved by not sending out any newsletters since 1990. I can guess approximately how much I've saved the taxpayers, probably something like 100-, $150,000, but I can't document that and nobody else can document it because the records are all secret. I do know that some of the newsletters I didn't send out in Onondaga, Madison and Oneida County probably financed the newsletters for people in other parts of the state. That money was simply moved silently through the bowels of this chamber and sent to Long Island or some other county where it presumably was going to be used by another member of the Legislature who didn't feel as I did, the need to cut our spending for mailing at a time when the state seemed to be suffering a tremendous financial hardship, but I can't even account for a savings that I

attempted to make because we have no procedure in place for documenting how we spend or how we don't spend the legislative budget. Again, isn't that a disgrace and isn't it an even bigger disgrace if we fail to correct it?

Let's move S.3504. Let's get it out on the floor for some discussion and then let's itemize our legislative budget.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Senator Hoffmann, I think I've got some good news for you, because I'm reading from Senator Nozzolio's letter to the newspaper and it says he's -- he -- itemized budget, a measure that requires a full itemization of the state budget, including mailing and travel costs of legislators. This bill will fully detail how state government spends our tax dollars, so I think you're going to see one break at least in the party vote now because I know that this had to have been sent to the newspapers as a serious effort.

ACTING PRESIDENT SPANO: Question is on the motion to discharge.

SENATOR GOLD: Party vote in the affirmative.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 35, party vote.

ACTING PRESIDENT SPANO: Motion to discharge is defeated.

ACTING PRESIDENT SPANO: Were there any exceptions, Mr. President?

ACTING PRESIDENT SPANO: No exceptions.

SENATOR HOFFMANN: Thank you, Mr. President.

I would like to call up S.3506 and 3507 together, please, if we can take them as one bill.

THE SECRETARY: By Senator

Hoffmann, Senate Bill Number 3506-A, an act to amend the Election Law, in relation to statements of campaign receipts and expenditures. Also, Senate Bill Number 3507, by Senator Hoffmann, an act to amend the Election Law, in relation to political advertisement and literature.

SENATOR HOFFMANN: Thank you, Mr. President.

It's necessary to have two separate bills. One deals with literature, the other deals with spending so they have to be broken but the issue is really the same. Again, this is one of those accountability questions.

We are concerned about the need to present ourselves fairly and with integrity to the people in our districts when we're running for election. All of us who have ever campaigned, I'm sure, take great pride in trying to present an upstanding image, but what is sometimes very confusing to the voters in a district is the volume of mail which comes in or the types of television and radio commercials

which sometimes run which do not reflect the district, are not paid for by people in the district and sometimes distort candidates, not just the candidate who is benefiting from the ad, but will sometimes distort very negatively, the person who is being attacked by the ad, and what has become a pattern of abuse for this Senate is a type of campaign ad, both print and electronic media, in which the persons responsible, are not the candidate or anybody close to the candidate. The persons responsible are here in Albany or in some other part of the state, and it's a big mystery to the people in the district about this responsibility issue because at no place in the Board of Elections is the involvement of the outside committee established clearly to link that author or that purveyor of that advertising with the candidate who benefits and, in fact, one could cynically claim that there is a deliberate attempt to evade that kind of accountability. And it's an old pattern. It allows candidates to masquerade as hometown boys and girls when, in fact, they

are the creation of political bosses here in the Capital of New York. It creates a situation where people arrive in Albany already filled with pockets of IOUs to the men and women who run this chamber, and it could very simply be addressed by passing S.3506 and S.3507 which would require that all expenditures for a candidate be filed next to that candidate's name, and that samples of all literature or scripts for all electronic media be filed next to that candidate's name, not with some obtuse committee name where only the most meticulous investigative reporter can cross-reference and try to figure out what it is that was done by whom, to whom and for how much money. No, if we are, in fact, willing to campaign openly, fairly and proudly in this state, then we should make all of that information immediately available for public scrutiny.

I would call all of my colleagues to join me in discharging from committee S.3506 and S.3507 so that we could rectify that situation.

ACTING PRESIDENT SPANO: Question is on the motion to discharge number 3506-A. Call the roll.

SENATOR GOLD: I vote in the affirmative.

SENATOR PRESENT: Party vote in the negative.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 35, party vote.

ACTING PRESIDENT SPANO: Motion to discharge is defeated.

Question is on the motion to discharge 3507. The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 35, party vote.

ACTING PRESIDENT SPANO: Motion to discharge is defeated.

SENATOR HOFFMANN: Thank you, Mr. President.

Well, I guess we're not really

batting a whole lot better than in previous years, although I take some solace in knowing that Senator Marchi was willing to stand and speak on the floor today. That's a breakthrough, and I think that this is a year of other important breakthroughs, and it would be regarded as a threshold year because now across the state people at least understand the problem and know that there are some solutions which are possible if there are enough people who will organize behind them and keep the momentum moving.

I would call up S.3505. This is my final bill for the day.

ACTING PRESIDENT SPANO: The Secretary will read.

THE SECRETARY: By Senator Hoffmann, Senate Bill Number 3505, an act to amend the Legislative Law, in relation to Senate and Assembly officers.

SENATOR HOFFMANN: In an effort to maintain control in this house, it's become fairly evident that there is a pattern of

rewards which has little to do with legislative responsibility and everything to do with political loyalty. It was changed somewhat when Senator Marino became Majority Leader, and I'm referring to the way special allowances are handled, legislative allowances, in addition to the salaries that legislators receive.

When Senator Marino became Majority Leader, the number of positions for which special allowances were granted was increased. The dollar amount of them was increased, but more significantly, the titles and the types of special offices in the Senate changed, and we saw an increase in the number of offices for which there is little or no legislative responsibility.

I listened a few hours ago to the president of Change New York describe the attempt of that organization to obtain job descriptions for these allowances. He wanted to know what the Deputy Majority Leader for Legislative Operations of the Senate does for $24,500 of taxpayers' money a year, what the

chairman of the Majority Program Development Committee, the Senate does for 20- and on and on and on, and the list for the Senate and for the Assembly, for these purely political job titles that have taxpayer stipends attached to them, has no job description and the Legislature, the Senate has refused to offer a job description and yet insists that it has the right to use taxpayer money to reward people with additional compensation for what amounts to political responsibilities.

The total for these special stipends for both houses, excluding the Majority Leader and Minority Leader and the Speaker, which, I suppose for housekeeping purposes, are necessary, the total is $700,000. At the very least, we should explain what it is that people do for this money, and to not explain only creates the impression that we have something to hide and there is no valid public justification for this expenditure. The thing that troubles me the most about this out of kilter situation is the fact that there are many very dedicated

people in this chamber, and I know in the other chamber as well, who have tremendous expertise and should be compensated to a much higher level than they presently are for their committee responsibilities. I think it's a worthy goal for somebody to aspire to be chair of a particular committee, and I remember my friend and late colleague, Senator James Donovan, who traveled all over the state as chairman of the Education Committee and traveled nationally. He was deeply committed to learning about education, and he would leave his community in Oneida County and travel into New York City to understand the problems of urban schools. He went to Buffalo. He went to cities all over the United States because he was concerned deeply about education, but under this present system, it would have been in the best interest of Senator Donovan and the Donovan family for him, instead of being chairman of the Education Committee, to have been Minority Leader or chairman of the Majority Program Development Committee or vice-president pro tem, which would

have probably increased his family's income by $10,000 beyond what he was earning in those years as chairman of the Education Committee.

This is a system that is upside down. We are part of a spoils system that rewards people for political loyalty, gives them an incentive to play ball just as people are doing today, by sacrificing their own commitment to ideals, by falling -- going back on their word, violating campaign pledges in an effort to remain part of a private club. How can anybody explain why, as a candidate, he or she would be committed to ending late night sessions and changing the way we do business here and then refuse to vote even to discharge those bills to the floor for discussion? It can only be because the political spoils system is so strong, has such a strong "carrot and stick" component that dedicated men and women fear for their very lives when they are in this chamber and that, my friends, has got to change. The people of this state don't want cowards and they don't want followers. They want leaders.

Today, the Observer Dispatch in Utica said, "Don't let this week pass without remembering what happens and where your representatives stood on the issue of open government. Closed government in Albany affects each of us. It is driving away more business. It is taking more money out of our wallets and purses. The longer we delay, the more difficult it will be to bring open government back to Albany. Secrecy is death to democracy. Openness that allows public scrutiny ensures its preservation." That was Utica. That was this morning.

Rochester, Sunday, March 6th, "If the state Legislature is ever to do more than protect and perpetuate incumbency, then voters should insist that their legislators support the reform package, and those who haven't voted to clean up their act by next election, should be told to clear out.

So you may tolerate me this afternoon while I speak and Senator Gold and Senator Leichter, when he talks about the open

budget, you may find this an annoyance. I have been reminded by several people that there are other engagements that people would prefer to be attending right now, but I don't intend to stop and, more importantly, the people who wrote those comments in these publications around the state don't intend to stop. I know it takes a while to sensitize some people to the need for change, and if some of those people are beyond sensitivity, then perhaps they will be replaced.

I had the opportunity two weeks ago to spend ten days in El Salvador. I was down there as a representative of the United States State Department serving as a United Nations representative monitoring the elections in that country, and I saw people who live in little mud and thatch homes or corrugated metal buildings with no plumbing. They carry their water sometimes a mile or more to bathe and to cook. They have a median income of $750. Their country has been destroyed by a civil war that endured for 12 years. They have been living

under U.N. protection for the last two years preparing for this election. Democracy came very hard for them. This was the first Democratic election in 15 years, but they were brave, and they came out to the polls and they showed what people who really care about participation and democracy are willing to endure.

Perhaps we all need that opportunity once in a while to be in touch with people who don't take for granted the freedoms that we have and don't take for granted the responsibility that we have. I'm very proud to have had that opportunity and I feel renewed. Having come from El Salvador, having seen what those people went through and remembering that they deal with things in terms of decades and generations, it is not an inconvenience for me to spend a few more years trying to reform the state Legislature here in the state of New York. I just hope that I will be able to welcome more of you to this effort in the coming months.

Thank you, Mr. President.

ACTING PRESIDENT SPANO: Question is on the motion to discharge.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 35 -

SENATOR GOLD: There's no party vote. Slow roll call.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Anybody can call for a roll call and I can't stop the Majority Leader, but we are not casting a party vote, and if you want to call a voice vote, fine. If you want to take a regular vote, we can do that too, in which case we can call the roll.

SENATOR PRESENT: Slow roll call.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT SPANO: Slow

roll call has been asked for. Sergeant-at-Arms, please get the members into the chamber.

Secretary will call the roll.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(There was no response.)

Senator Connor.

(There was no response.)

Senator Cook.

SENATOR COOK: No.

THE SECRETARY: Senator Daly.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: No.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Farley.

SENATOR FARLEY: No.

THE SECRETARY: Senator Galiber.

(There was no response.)

Senator Gold.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT SPANO: Senator Gold to explain his vote.

SENATOR GOLD: Yeah, to explain my vote.

Mr. President, if there's one thing I made clear since the day I came here and that is that I don't think there's any issue that I'm afraid to discuss and debate, and in my opinion, if there's one Republican who deserves some credit today, it's Senator Marchi. Something's on the floor, you stand up and you debate it.

I don't know what I would do with this particular proposal, Mr. President, if it was on the floor. There are parts of it I may or may not agree with, but I'm not afraid to debate a bill and to get it out here, and I will vote yes on the motion to discharge.

THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator Hannon.
(There was no response.)
Senator Hoffmann.
SENATOR HOFFMANN: Explain my vote. I appreciate Senator Gold's comments and I know that this is an interesting issue. There are many people here who would differ with my very narrow definition in this bill. The bill that I put together eliminating the political "lulus" leaves only a few and I have said a number of times that, perhaps for housekeeping purposes, there need to be more but you see, that would give us an opportunity to debate this issue. If we had this bill come to the floor for a vote, perhaps some people on the other side of the aisle could make a very cogent case which would convince me that my list was too narrow, that perhaps we needed six or eight more or maybe we needed some other titles or

definitions.

The concept here is process. The concept here is openness and accountability, and I would urge all of my colleagues not to support a single bill but to support the concept of open and honest debate by voting yes to discharge S.3505 so that it could be brought to the floor for a vote.

ACTING PRESIDENT SPANO: Senator Hoffmann in the affirmative.

THE SECRETARY: Senator Holland.

(There was no response.)

Senator Johnson.

(There was no response.)

Senator Johnson.

(There was no response.)

Senator Jones.

(There was no response.)

Senator Kruger.

(There was no response.)

Senator Kuhl.

SENATOR KUHL: No.

THE SECRETARY: Senator Lack.

SENATOR LACK: No.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: No.
THE SECRETARY: Senator LaValle.
SENATOR LaVALLE: No.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
SENATOR LEVY: No.
THE SECRETARY: Senator Libous.
(There was no response.)
Senator Maltese.
(There was no response.)
Senator Marchi.
SENATOR MARCHI: No.
THE SECRETARY: Senator Marino, no.
Senator Markowitz.
(There was no response.)
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: Stand to explain my vote.
ACTING PRESIDENT SPANO: Senator

Mendez.

SENATOR MENDEZ: I am going to vote -

ACTING PRESIDENT SPANO: You have the floor, Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

To explain my vote. Yes, I am voting yes supporting the motion to not to be able to have the opportunity to be discussed here, and as chairman -- chairperson of my Democratic conference, if the bill were to be debated on the floor, I don't know if I would be supporting it. What I resent, Mr. President, is that the manner that -- in which this bill has been presented might cast some nebulous percep tions on some people, on the 61 individuals that serve on this floor.

I am supporting my conference. I am supporting the discharge of this bill, but I resent enormously the kinds of perceptions that it does bring, even though I also believe in reform.

ACTING PRESIDENT SPANO: Senator Mendez in the affirmative.

THE SECRETARY: Senator Montgomery.

(There was no response.)

Senator Nanula.

(There was no response.)

Senator Nolan.

(There was no response.)

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: No.

THE SECRETARY: Senator Ohrenstein, aye.

Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

(There was no response.)

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Pataki.

(There was no response.)

Senator Paterson.

SENATOR PATERSON: Aye.
THE SECRETARY: Senator Present.
SENATOR PRESENT: No.
THE SECRETARY: Senator Rath.
SENATOR RATH: No.
THE SECRETARY: Senator Saland.
SENATOR SALAND: No.
THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Sears.
SENATOR SEARS: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: No.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: No.
THE SECRETARY: Senator Smith.
(There was no response.)
Senator Solomon.
(There was no response.)
Senator Spano.
SENATOR SPANO: No.
THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: No.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Trunzo.

SENATOR TRUNZO: No.

THE SECRETARY: Senator Tully.

SENATOR TULLY: No.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: No.

THE SECRETARY: Senator Volker.

(There was no response.)

Senator Waldon.

SENATOR WALDON: Yes.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: No.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT SPANO: Senator Leichter.

SENATORA LEICHTER: May I have my name called, please, Mr. President?

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. I came in the chambers as the roll call was preceeding just as my name was called, and I voted no thinking we were voting really on the merits of the bill and do I not -- and I do not -- I want to be very honest, I do not support the merits of the bill but I realize, of course, this is a motion to discharge. We're not voting on the bill. I certainly support the right of my colleague to present her case before the whole body, and that we would then vote on the merits. I want to be perfectly honest, I would not support the bill on the floor on the merits, but I will support her bringing it to the floor and, therefore, if you would please change my vote to yes, I would appreciate it.

Thank you.

ACTING PRESIDENT SPANO: Senator Leichter in the affirmative. Call the absentees.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

SENATOR BRUNO: No.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT SPANO: Senator Connor to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

This topic of leadership allowances is kind of a fascinating one. I, over the years had them, not had them, have them. I got one now, I hope, if we pass the budget, but -- so as to the merits of the bill, I'm not sure what I would do, whether I would vote yes or no, although I would certainly advise all my colleagues the history shows that I have in the past cast votes that cost me one of these allowances, so I might do it again if it were on the floor, but the fact of the matter is, I am going to support the motion to discharge because I think it would be interesting, and I think at some length, I could discuss the merits of this whole system, were the bill on the floor on the merits, but in the

meantime, I certainly think we ought to give Senator Hoffmann's bill a full hearing on the floor, so I vote yes on the motion to discharge.

ACTING PRESIDENT SPANO: Senator Connor in the affirmative. Continue the roll.

THE SECRETARY: Senator Daly.

SENATOR DALY: No.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Galiber.

SENATOR GALIBER: Can I have my name called?

ACTING PRESIDENT SPANO: Senator Galiber to explain his vote.

SENATOR GALIBER: Mr. President, it seemed like many hours ago, we had a debate yesterday and, in the course of debate, I did make an observation, and we were talking about $60 million and trying to find it and where we could replace it. At that time, Mr. President, I indicated when we have a system of government, where 51 percent of the Majority controls 100 percent, then we have something which is short

of a democracy, and based on that, I think this bill should be out on the floor so that the Minority in this house would have an opportunity to a fair debate. I vote yes.

ACTING PRESIDENT SPANO: Senator Galiber in the affirmative. Continue the roll.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: No.

THE SECRETARY: Senator Maltese.

(There was no response.)

Senator Markowitz.

SENATOR MARKOWITZ: Yes.

THE SECRETARY: Senator Montgomery.

(There was no response.)

Senator Nolan.

(There was no response.)

Senator Pataki.
(There was no response.)
Senator Santiago.
(There was no response.)
Senator Smith.
(There was no response.)
Senator Solomon.
(There was no response.)
Senator Stavisky.
(There was no response.)
Senator Volker.
(There was no response.)
ACTING PRESIDENT SPANO: Results.
THE SECRETARY: Ayes 17, nays 30.
ACTING PRESIDENT SPANO: Motion to discharge is defeated.
SENATOR HOFFMANN: Mr. President, I want to make sure that I have a copy of that. I want to study that.
I would like to thank all of my colleagues, and particularly Senator Present, for creating this opportunity to have probably the most spirited discussion this afternoon.

Thank you for calling for the slow roll call. I did not want to further antagonize my colleagues on both sides of the aisle. I understood -

ACTING PRESIDENT SPANO: Excuse me, Senator Hoffmann.

SENATOR HOFFMANN: -- the two-hour time limit and debate. I could have probably utilized -

ACTING PRESIDENT SPANO: Senator Hoffmann.

SENATOR HOFFMANN: Yes, Mr. President.

ACTING PRESIDENT SPANO: Do you wish to make a unanimous consent statement?

SENATOR HOFFMANN: Yes, thank you.

ACTING PRESIDENT SPANO: Because we have completed the roll call.

SENATOR HOFFMANN: Right.

ACTING PRESIDENT SPANO: Possibly after the close of the business, if you would like to make a unanimous consent statement, it would be appropriate then.

SENATOR HOFFMANN: Can I wrap it up right now, Mr. President, without any objection?

Thank you, Mr. President. And, Senator Present, just to conclude what I said before, I'm very appreciative of Senator Present's interest in bringing at least one of these issues to the floor for a greater discussion, and you've afforded us an opportunity today to do something which is a real first step to have some discussion, and I learned from my colleagues just in these few minutes about a few objections which I will take into consideration in attempting to create a better bill, and I will attempt to solicit all of their opinions, and particularly Senator Leichter who I value greatly, and Senator Marchi who spoke earlier and whose opinion I also value most highly and will attempt to amend S.3505 to make that a better bill, and I would repeat my invitation to all of my colleagues in both parties, to please consider ways that any of these measures could be improved because I

believe the public will be actively seeking our solutions to the problems of the legislative process over the next few months, and I would be very glad to add other names and amend these bills or to remove my name and to make them leadership bills.

Thank you for your indulgence, Mr. President.

ACTING PRESIDENT SPANO: Any other motions, resolutions, procedural motions?

Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I move we adjourn until tomorrow, 11:00 a.m.

ACTING PRESIDENT SPANO: The Senate will stand adjourned until tomorrow at 11:00 a.m.

(Whereupon, at 5:44 p.m., the Senate adjourned.)