ALBANY, NEW YORK

April 13, 1994

12:49 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order. Senators will please find their seats.

Please rise for the Pledge of Allegiance to the Flag.

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

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

(Whereupon, there was a moment of silence.)

Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Tuesday, April 12. The Senate met pursuant to adjournment. Senator Farley in the chair upon designation of the Temporary President. The Journal of Monday, April 11, was read and approved. On motion, Senate adjourned.

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

read.

The order of business:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

We have a report. Senator Present, shall we read it?

SENATOR PRESENT: Yes.

ACTING PRESIDENT FARLEY: Secretary will read the report of a standing committee.

THE SECRETARY: Senator Kuhl from the Committee on Agriculture reports the following bills directly for third reading:

Senate Bill Number 4102A, by Senator Nozzolio, an act to amend the Agriculture and Markets Law.

4753, by Senator Cook, an act to amend the Agriculture and Markets Law.

7544, by Senator Kuhl and others, Agriculture and Markets Law, in relation to agricultural assessments, reported with

amendments.

5745, by Senator Kuhl and others, Agriculture and Markets Law and the Environmental Conservation Law.

7546, by Senator Kuhl and others, Agriculture and Markets Law.

7547, by Senator Kuhl, an act to amend the Agriculture and Markets Law.

And 7548, by Senator Kuhl, an act to amend the Agriculture and Markets Law.

All bills reported directly for third reading.

ACTING PRESIDENT FARLEY: All bills are reported directly for third reading.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Larkin, please.

ACTING PRESIDENT FARLEY: Senator Larkin.

SENATOR LARKIN: Mr. President. There will be an immediate meeting of the Local Government Committee in Room 332.

ACTING PRESIDENT FARLEY: The

Local Government Committee will be meeting in Room 332 as of now.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President. On page 7, I offer the following amendments on behalf of Senator Seward to Calendar Number 269, Senate Print 6749.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place.

We have two substitutions. The Secretary will read them.

THE SECRETARY: On page 4 of today's calendar, Senator Goodman moves to discharge the Committee on Judiciary from Assembly Bill Number 619 and substitute it for the identical Calendar Number 556.

On page 5, Senator Lack moves to discharge the Committee on Judiciary from

Assembly Bill Number 10817 and substitute it for the identical Calendar Number 564.

ACTING PRESIDENT FARLEY: Substitutions are ordered.

Are there any other motions on the floor?

Seeing none, Senator Present.

SENATOR PRESENT: Mr. President. Let's take up the noncontroversial calendar, please.

ACTING PRESIDENT FARLEY: Noncontroversial, page 7.

THE SECRETARY: Calendar Number 248, by member of the Assembly Connelly, Assembly Bill Number -

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: On page 10, Calendar Number 354, by Senator Cook, Senate Bill Number 3558, an act to amend the Public Health Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar number 394, by Senator DeFrancisco, Senate Bill Number 6580A, an act to amend the Penal Law, in relation to deleting gender classifications.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 432, by Senator Levy.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: For the day, Senator Present?

SENATOR PRESENT: Yes.

THE SECRETARY: Calendar Number 434, by Senator Levy.

SENATOR PRESENT: Lay that bill aside for the day.

ACTING PRESIDENT FARLEY: Lay that bill aside for today.

Senator Present, that's the first time through.

SENATOR PRESENT: Let's try controversial calendar.

ACTING PRESIDENT FARLEY: Controversial, page 7.

THE SECRETARY: On page 7, Calendar Number 248, by Member of the Assembly Connelly, Assembly Bill Number 3254A, an act to amend the Public Health Law.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: That great

gentleman from Staten Island, Senator Marchi, laid this bill aside yesterday so we could get some answer to a question I had, and it was reported back to me by Senator Marchi that an issue had been raised on the original print by the trial lawyers. I notice that there is no memo on the A print, and I assume there was some amendment to take care of their concerns, and based upon my conversations with Senator Marchi, he now has me in this regrettable position where I have to support his bill.

Last section.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number

354, by Senator Cook, Senate Bill Number 3558, an act to amend the Public Health Law.

SENATOR GOLD: Explanation requested by Senator Oppenheimer.

SENATOR PRESENT: Mr. President. Can we lay that bill aside temporarily and stand at ease.

ACTING PRESIDENT FARLEY: Lay the bill aside temporarily, and the Senate will stand at ease.

(Whereupon, at 12:56 p.m., Senate was, at ease.)

(Whereupon, at 1:15 p.m., Senate reconvened.)

ACTING PRESIDENT FARLEY: Senator Present.

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

ACTING PRESIDENT FARLEY: Secretary will read a report of a standing committee.

THE SECRETARY: Senator Larkin

from the Committee on Local Government reports the following bill directly for third reading:

Senate Bill Number 7557, an act to amend Chapter of the Laws of 1994, as proposed in Legislative Bill Number S.6691, relating to establishing a public library district in the Town of Esopus, Ulster County.

ACTING PRESIDENT FARLEY: No objection, the bill is reported directly for third reading.

Senator Present.

SENATOR PRESENT: Mr. President. Can we take up Calendar 354.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT FARLEY: 354, Secretary will read.

Explanation.

THE SECRETARY: Calendar Number 354, by Senator Cook, Senate Bill Number 3558, an act to amend the Public Health Law.

SENATOR COOK: Mr. President. In 1905, when the City of New York was originally

given the authority to construct reservoirs outside its geographic boundaries, Legislature gave to the city the authority to control its watershed for purposes of guaranteeing the purity of the water in the city.

There was good reason for doing that at that time because there was no Department of Environmental Conservation. The Health Department was probably a desk in the back of one of these rooms in the Capitol and, in essence, there was no protection of the water supply in the state from any state agencies.

That situation has dramatically changed. We now have not only the two state agencies that I mentioned but the federal EPA that is regulating strongly a whole variety of activities, Corps of Engineers who regulate; and on top of that, in one section of the state and one section only, we have the City of New York.

Now, what does this mean in practical terms? It means that if someone in that watershed wants to build a house, they not only go to the local building inspector and get

a local building permit, they have to also go to the City of New York; and what is particularly annoying about this is that the regulations that apply to the people who live in the watershed don't apply to the people who live in the City of New York.

There is a more stringent regulation, a higher standard that people are held to if they live outside the city than if they live inside the city.

This -- yes.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: May I just verify, which Calendar Number is this?

ACTING PRESIDENT FARLEY: 354.

SENATOR GOLD: Thank you. Thanks.

(Laughter.)

SENATOR COOK: The point of this bill, therefore, Mr. President, is to basically say that the same rules will apply across the

state. The same folks who guarantee the quality of the water that we drink in Albany or in Buffalo or Rochester or Syracuse or any place else in the state will also apply to the City of New York.

It will relieve, incidentally, the City of New York of a large bureaucracy which it currently funds to administer this program Upstate. It should help their fiscal situation. But beyond that, it makes it so that people in the entire state live under the same set of rules.

Just one other illustration of how ludicrous this situation is. If you live in a particular town -- let's take the town where Senator Mendez happens to own her property. If you happen to live on one side of the hill, you have to get a building permit from the town and you also have to get it from the City of New York. If you live on the other side of the hill in the same town, you don't have to get the City of New York permit because you are in a different watershed. The regulations on one

side of the hill are entirely different than they are in the other side of the hill even though you are in the same town.

This law has created all kinds of problems for us, and it is one which no longer is necessary on the merits. The merits which dictated it's adoption in the first place in 1905 no longer exist; and for that reason, the law ought to be repealed.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. My colleagues. This is really a most unfortunate, harmful bill. This bill threatens the drinking waters of some eight million people in the City of New York; and it's for this reason that the current mayor as well as the past mayor has strongly come out in opposition.

Senator Cook, you say that New York City no longer needs to manage the watershed in the same manner as it was given the authority early in the 20th century. On the

contrary, that need is greater than ever before. In fact, New York City's water has degraded in quality, and we are now facing, we in New York City but it will involve the whole state, are now facing an order by the EPA that unless we improve quality of our water, we will have to build filtration plants.

The estimated cost -- estimated cost of those filtration plants is $10 billion. $10 billion. The only answer to avoid this is to have better management of the watershed.

Now, I can understand that people who live in or around the watershed and feel that they are restricted from using, if you will, pesticides or they can't have the sewage disposal system that they have because it affects the water supply resent it when other people in the state may not be subject to those same restrictions, but there is a reason for it. The reason is the quality of the water that's drunk by people in the City of New York, and I think some of that water goes to Long Island, also.

So we like to pass bills that help local legislators. I know people here want to be helpful to you, Senator Cook, but I just say to those of my colleagues here who say, "Let's do one for Charlie -- well, you know, it may not make too much sense, but he's a nice guy." And you are. You're a terrific guy, Senator Cook.

But, just think. You vote for this bill, this bill becomes law, you are threatening the water supply of New York City. You are threatening the health of the people in New York City. You are imposing on New York City filtration plants.

Now, we already have a situation where a filtration plant is going to be built in the Bronx right near Senator Velella's district in the Jerome Park Reservoir, where the City of New York is under an order by the EPA and our own health department that they have to build a filtration plant. That's water that comes from the Croton Reservoir, not your district, Senator. But the Croton Reservoir water has

degraded to such an extent.

That one filtration plant, if it is built, is going to cost -- the estimate now is $300 million, and I don't think there's anybody here who thinks that if the estimate today is $300 million that when that plant is built it's going to cost a penny under $600 million. That is just one plant, besides completely upsetting a community.

And the reason for that is because of the growth around the Croton Reservoir, all of the construction that has occurred there, and also all the people who want to keep weeds out of their lawns and want to use pesticides and herbicides, and what have you, and that runs off into the water.

We just have to preserve what is so important, and that's drinking water, and it does impose, Senator Cook, as you say, a certain hardship on some people. I won't say hardships but some restrictions. But we really have no alternatives, and I would hope that everyone would read the memorandum in opposition by Mayor

Giuliani and it says -- let me just read parts of it.

He says, "It is imperative that the DEP" -- that's the Department of Environmental Protection -- "remain in control of the City's water supply system if the water is to be kept at its current high level of quality. This high water quality level is maintained by five laboratories," and he goes on.

If we lose the power to monitor our own water, to control our own water, to see that the watershed is properly managed and maintained, then we're going to lose control over the quality of the water in the City of New York. Health Department, the Department of Environmental Conservation, can not do it. They don't have the same interest. They don't have the same concern. They don't have the same facilities and personnel.

This is vital for the City of New York; and if you want to maintain the quality of that water, then you want the person who drinks

the water to see that the watershed is managed by that -- by that person.

I also want to call to your attention the memorandum in opposition by the Environmental Protection Lobby and other environmental groups. But it goes beyond some of the usual battles that we have in this house where members on the other side of the aisle very often don't seem to be as concerned about the stand of environmental organizations.

This is the Mayor of the City of New York saying for God's sakes don't mess in this way with the drinking water of the City of New York. And as I told you the alternative is horrendous, either as far as the quality of the water or the fiscal implication if we have to go to filtration.

And I think anybody who votes for this bill who in this way endangers the City of New York water supply, in this way imposes this burden on the City of New York, you are really treating the City of New York as if we are some sort of a second rate citizen in this state not

entitled to the same rights and protection as other communities.

Don't do that to the people of the City of New York. We are part of the state. We're entitled to have good drinking water.

ACTING PRESIDENT FARLEY: Senator Dollinger, then Senator Oppenheimer. That's the list I have.

SENATOR DOLLINGER: Mr. President. I will cede to Senator Oppenheimer if I can keep the space behind her.

ACTING PRESIDENT FARLEY: Senator Oppenheimer, you have the floor.

SENATOR OPPENHEIMER: Oh, how gallant. Thank you, Senator Dollinger.

I don't have too much to add to the very fine presentation that was just made by Senator Leichter. I would like to point out a couple of things, however.

This is not just City of New York water. I mean it is City of New York water, but it is not just for the residents of the City of

New York. About 90 percent of Westchester County is on City of New York water, so we have the same concerns as those residents in the City.

Indeed, the water that we're talking about from these reservoirs, the three reservoir system, actually supplies 60 percent of the water to the residents of the State of New York. So we're talking about the majority of the population of this state that once had the pleasure of drinking very pure water; but because of the development that has occurred in the Hudson Valley, with a lot of second homes being built, with lawns being taken care of, protected with pesticides -- actually, it's not protection. We don't see it that way any more.

But pesticides have caused considerable pollution to the water supply and road salt for keeping the roads clear in the wintertime of ice. This has all contributed to the contamination and the degradation of what was once the most wonderful pure water probably in the world. There were drinking tests done

with New York City water versus bottled water and waters that are costly, and people would say that New York City water was at least the equal.

These proposed -- these restrictions which New York City wants to impose in these proposed regulations are actually - these restrictions are to comply with the new federal requirements that impose very stringent surface water quality standards that have been defined in the EPA surface water treatment rule.

This is under -- we're under mandate from the federal Safe Drinking Water Act to move ahead, keep the water pure, and these are the steps that have to be taken if we're going to avoid what Senator Leichter discussed earlier which is this filtration plant.

The reason to vote no on this bill is, amongst other reasons, that progress is being made in many of these communities in working with New York City. I know my community, Westchester County, does have

restrictions that are additional that have been put down by New York City, and we have to do a balancing act here, but it is important to remember that there is nothing more vital than pure water.

And even if it does restrict some of our options as far as our land use, it is painful but it is necessary. The filtration is just overwhelmingly costly if we have to move to that, and we're not even sure that with filtration that there are guarantees that the water will be of a high enough quality.

So I think we have no choice but to vote no on this bill, at least those 60 percent of New Yorkers who drink this water.

I should note that in past years as many as 24 to 26 Senators have opposed this bill, and I would mention their names: Connor, Dollinger, Halperin, Jones, Leichter, Markowitz, Mendez, Montgomery, Ohrenstein, Onorato, Paterson, Smith, Solomon, Waldon; and on the other side of the aisle: Marchi, Mega -- Marchi Padavan, Spano, and Velella.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Will the sponsor yield to one question?

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR COOK: Yes.

SENATOR DOLLINGER: Senator, just so I understand this bill. Does the City of New York actually own the reservoirs? Who actually has title to the land?

SENATOR COOK: Senator, the City of New York owns the reservoirs and owns a good bit of the property around the reservoirs, and the property that the city owns is not at issue. These are regulations placed on privately owned land outside that land which is owned by the City within the watershed.

SENATOR DOLLINGER: Okay. On the bill, Mr. President.

ACTING PRESIDENT FARLEY: On the bill.

SENATOR DOLLINGER: I guess as Senator from Monroe County and Upstate New York would probably at first blush have little concern about this bill, but I'm concerned about the trend and the effect it could have on the City of Rochester and its water supply.

I think that's best exemplified by telling a little story about Genesee Beer which is one of the products that we produce in the 54th Senate district. You may remember the old jingle about Genesee Beer made from Hemlock Lake water? Well, Hemlock Lake is the source of the City of Rochester's water supply, supposedly pure. They put out ads that are in vogue these days that have crystal clear water from the beautiful font of Hemlock Lake.

Well, what happened unfortunately is that the city had title to the reservoir at Hemlock Lake, and it had the ability to control because it owned the property in the vicinity of the lake but didn't have the ability to control all of the watershed that flowed into Hemlock Lake.

And as a consequence of that, the same kind of industrial pollution and farm pollution, other types of pollution, that are a part of our normal watershed problems flowed into Hemlock Lake.

And, lo and behold, the New York State Health Department came along and for about 15 years had a running debate with the City of Rochester about the need to build a filtration plant, which sure enough we had to do. We built it right at the spigot, right at the door of Hemlock Lake.

It cost, I believe, upwards of $28 million to build that plant, and it's at least my fervent belief that had the City of Rochester not only owned the land but had regulatory authority over the whole watershed, we might not have had to build that plant.

So I think that this bill moves in the direction that would take away from municipalities the ability to control the water supply and control the purity and the quality of the water.

The City of Rochester did not have, at least to the best of my knowledge, the extensive authority and watershed regulation that the City of New York prevents. Unfortunately, that was to the city of Rochester's detriment. We've already had to pay for a filtration plant.

My feeling is that if we were to repeal the authority of the City of New York to do this, New York City would much quicker move down the road to needing a filtration plant and more drastic and costly improvements.

So our experience in the City of Rochester and the County of Monroe suggests to me that we ought to honor the municipality's ability to control their water supply and to control and regulate all the development and all the consequences outside the immediate area of the watershed -- or excuse me, the immediate area they own, but they should have the ability to regulate the watershed, as well, so that they can continue to have high quality drinking water. It seems to me that this maybe one of

those mandates because what we're going to do is, if we take the authority away from the City of New York, we're in effect going to hasten the day when they're going to have to expend a tremendous amount of money for further filtration because we removed their regulatory authority to manage the watershed.

I think it's a bad trend. I think they're doing a good job now. They've got the responsibility for it. They ought to do it and continue to do it under authority from this Legislature. We shouldn't take it away.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR COOK: Mr. President. Several comments have been made, and I think they ought to be clarified on the record.

Senator Leichter indicated that he thought the City of New York should have the same rights and protections of everybody else in the state, and I agree with that. I think that's precisely what we've provided in this bill, that indeed the regulation in that area

will be the same as any place else.

I am interested that the projected cost of this filtration plant is now set at $10 billion. About two years ago - well, four years ago maybe, it started at four. And the horror story gets a little worse every time somebody repeats it. I guess that's what happens when you keep telling things over. The story gets worse. It went from four to five to eight and now I guess we're at 10.

The point is that this is really a cost shift. Some people don't want the residents of the City to have to pay $500 toward the cost of building a filtration plant, so the way they avoid it is by shifting the cost to the folks who live in the watershed. So that if you are going to build a house in my district and in a few of the other districts, you're going to pay an extra $10,000 for your septic system that is going to be on top of what you normally would have had to have built in order to comply with the same laws that everybody complies with elsewhere in the state.

Talk about pesticides, Senator, there are stringent regulations about pesticides already in the law, and you can't even apply pesticides without having a license and without answering to the Department of Environmental Conservation about what you do with those pesticide. Frankly, the regulation doesn't deal with pesticides.

Sewage, I can tell you, Senator, that the biggest bunch of sewage that goes into the New York City reservoirs is out of sewage treatment plants owned by the City of New York, because they have been permitted to sit there for years, basically nonoperational. They have been exceeding the SPDES permits that they've had for years, and they've been allowed to get away with it. And, frankly, if they would clean up their own act, they would solve any problem that exists.

But, beyond that, the discussion that you indicated erroneously that the water supply was degrading, I think Senator Oppenheimer cleared that matter up. I think she

correctly said that the city does have a good quality of water.

And it does have because in the absence of these new stringent regulations that the water quality in those Upstate reservoirs is as good today, by the City's own admission, as it was in the 1950s. There has not been a degradation of the water quality.

There has been some degradation within the Hudson Valley, within the Westchester reservoirs; and, indeed, a filtration plant is being built in that area to take care of that problem that exists in that portion of the system.

One of the reasons that the regulations in the rest of the system will not have a great impact is because there sits in the middle of it the Catskill Park, and there are some people up there that don't get regulated - some things up there that don't get regulated very good and they are called wild animals, and those wild animals carry some of the organisms that we worry about that can contaminate a water

supply. And somehow the city has never been able to get those deer and bear to stop causing pollution in the streams, and those animals carry the micro organisms that can only be removed by filtration.

So all the regulations in the world will not remove the organisms that cause the problems in for example Milwaukee that we read about. The point is -- and I'm not here today to make this argument, but the point is if the City ultimately is going to deal with those organisms, it is going to have to filter its water supply regulation or no regulation.

But the bottom line really is, Mr. President, as the point gets made over and over, we all live in one state. We all should live under the same rules. I know of no other place where one municipality has extra territorial regulatory control over people who reside in the rest of the state. We don't even have a direct place that we can go for appeal unless we go to a City agency and we don't live in the City. We have no appeals process,

because the City is the final judge of these regulations.

That is why it is imperative, in my mind, that we put these regulations where they belong, leave them where they belong, with state agencies rather than having the City trying to regulate land use, which is really what it's all about -- land use -- in the rest of the state or in the major parts of the state that constitute the Catskill and Delaware water supplies.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Mr. President. I do want to correct something that Senator Cook said which I think goes to the very heart of the debate here.

Senator Cook, I regret to say this, and respectfully, but for you to say that there is no threat to the City's water supply is just totally wrong, and the newspapers have been full of stories about the efforts that we in the

City of New York have had to make through our Department of Environmental Protection to try to improve our management, and we have been directed to do that by the federal Environmental Protection Agency.

Yes, the water is satisfactory now, but the water is not as good as it used to be, and it isn't because of animals. It's because of all the other pollutants that Senator Oppenheimer mentioned and Senator Dollinger mentioned.

So you say that -- you know, everybody in the state ought to be governed by the same rules, but this has been in effect since 1909. It was done at that time with an understanding that there are special needs in the state, and we recognize special needs. The need here is the water supply, and I talked about the City of New York. Maybe I was being somewhat parochial, and Senator Oppenheimer rightly pointed out that it involves Westchester. I didn't know whether any of that water goes to Long Island.

And you said, well, the filtration is exaggerated. It's only going to cost $4 billion. Well, you know, four billion is a good bit of change, Senator. But the latest figures are -- and we know how the construction costs generally tend to be higher than we estimate -- are that it would be that expensive. It would be an enormous burden not just on the people in the City of New York and Westchester -- maybe you don't care about them -- it would eventually affect everybody in the State of New York.

The management has to be done by the City of New York because, very frankly, we can not rely on the state to do it for us to the same extent and with the same effectiveness as if we do it ourselves.

We have a problem right now that regulations that DEP has proposed as to how it wants to manage the watershed and the Health Commissioner saying, "I don't know whether we're going to allow you to do that." I suspect part of that represents your input, Senator Cook, and

you work very hard for your constituents.

But in the long run, it isn't going to help your constituents if you hurt New York City and Westchester to that extent, and that's why last time this bill came up, if I can read this chart here, that it was not only most of the members of this side of the aisle or maybe all the members on this side of the aisle, but I see that Senator Mega voted against it, Senator Marchi, Senator Padavan, Senator Spano, Senator Velella. Because of the importance, the vital importance, as the Mayor has said of allowing the City of New York to manage the watershed to assure that we will have appropriate drinking water.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: I rise just to add one other comment to Senator Cook's comments. I guess I'm troubled about the concept of cost shifting, because it seems to me if there is a cost shifting it goes the other way around. Someone buys a piece of property

knowing that it's subject to watershed restrictions. They buy a price based on what they anticipate they'll need to comply with the watershed restrictions. The value of the land is dependent on the fact that it's in a watershed restricted area. The first thing they want to do is get relief from the restrictions because it will add value to the land. And it seems to me that the attempt here is to add value to the land in the vicinity of this watershed or under the restricted area at the cost of the citizens of the City of New York.

I see the cost shifting, frankly, as going in the opposite direction, creating value, transferring value to the watershed area and taking away the value of clean and fresh water to the people of the City of New York. I think there is a cost shifting, but it's going in the other direction.

SENATOR GOLD: Last section. Slow roll call.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 4. This act shall take effect 180 days after it shall have become a law.

ACTING PRESIDENT FARLEY: Slow roll call. Can I see five -- ring the bill. Slow roll call.

THE SECRETARY: Senator Babbush excused. Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor. Senator Connor.

SENATOR CONNOR: No.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: No.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada, excused. Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: No.

ACTING PRESIDENT FARLEY: How do you vote?

SENATOR GOLD: No.

THE SECRETARY: Senator Gonzalez, excused. Senator Goodman.

(There was no response.)

Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.
(There was no response.)
Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Jones.
SENATOR JONES: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Yes.
THE SECRETARY: Senator Lack.
(There was no response.)
Senator Larkin.
SENATOR LARKIN: Yes.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Yes.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
(There was no response.)
Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marchi.

SENATOR MARCHI: No.
THE SECRETARY: Senator Marino.
(Response of "Aye.")
THE SECRETARY: Aye. Senator Markowitz.
(There was no response.)
Senator Mendez, excused. Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nunula.
(There was no response.)
Senator Nolan.
(There was no response.)
Senator Nozzolio.
(There was no response.)
Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Ohrenstein.
(Response of "No.")
THE SECRETARY: No. Senator Onorato.
SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: To explain my vote.

ACTING PRESIDENT FARLEY: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Actually, it's less of an explanation than a correction.

The restrictions concerning land use in the watershed area of the New York City reservoirs dates back many years. The restrictions concerning the reservoir in Westchester which is the Croton reservoir goes back to 1895, and the restrictions as far as the Catskill and Delaware reservoirs goes back to 1906. So it isn't like these are newly-devised, creative, potential solutions to a problem that's just come up.

The need to protect the watershed has been seen as an important consideration for over a century now, and we have only until December of 1996 from the EPA to prove that our water can be protected through such restrictions

on the watershed that would maintain the purity of the water.

So I'm voting no, and I think it's actually essential that we vote no in order to maintain the purity of the water for 60 percent of the residents in our state.

ACTING PRESIDENT FARLEY: Senator Oppenheimer in the negative. Continue the roll.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Pataki.

SENATOR PATAKI: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Sears.
SENATOR SEARS: Yes.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Solomon.
(There was no response.)
Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: Yes.
THE SECRETARY: Senator Stafford.
SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: No.
THE SECRETARY: Senator Trunzo.
SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: No.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
SENATOR WALDON: No.
THE SECRETARY: Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT FARLEY: Absentees.
THE SECRETARY: Senator Goodman.
(There was no response.)
Senator Hoffmann.
(There was no response.)
Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Levy.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator

Markowitz.

(There was no response.)

Senator Nanula.

SENATOR NANULA: Aye.

THE SECRETARY: Senator Nolan.

(There was no response.)

Senator Solomon.

(There was no response.)

ACTING PRESIDENT FARLEY: Results.

THE SECRETARY: Ayes 31. Nays 20.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Levy?

SENATOR LEVY: No.

ACTING PRESIDENT FARLEY: He voted no.

Senator Hannon.

SENATOR HANNON: Mr. President. Yesterday, I was away from the chamber on Senate business, when there was a vote on Calendar Number 396. And I would like to have the record

reflects that had I been in the chamber at the time that I would have been in the negative on that bill.

ACTING PRESIDENT FARLEY: The record will state so. So state.

Any motions on the floor?

(There was no response.)

Senator Present.

SENATOR PRESENT: Mr. President. No more house keeping, anything? The desk is clear?

ACTING PRESIDENT FARLEY: I don't see any.

SENATOR PRESENT: There being no further business, I move we adjourn until tomorrow at 11:00 a.m.

ACTING PRESIDENT FARLEY: The Senate will stand adjourned until tomorrow at 11:00.

(Whereupon, at 1:55 p.m., Senate adjourned.)