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ALBANY, NEW YORK

May 3, 1994

3:46 p.m.

REGULAR SESSION

SENATOR NICHOLAS A. SPANO, Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT SPANO: The
3 Senate will come to order.

4 All please rise for the Pledge of
5 Allegiance.

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

8 For the prayer today like to
9 introduce Bishop Muriel Grant, the Mount Olive
10 Discipleship in Christ, in Brooklyn.

11 BISHOP MURIEL GRANT: Let us
12 pray. May the infinite power of the Almighty
13 God abide with us. Have mercy upon this whole
14 land and all the hearts of Thy servants, the
15 President of these United States, the Governor
16 of the state and all others in authority, to
17 affirm our covenant with You so given at a time
18 of the birth of the Republic for which it
19 stands, and so being strengthened by Your might
20 as one nation under God, for it is in quietness
21 and confidence that our strength shall be. Most
22 gracious God, I humbly beseech Thee as for the
23 people of these United States in general, so

1 especially for this Senate here assembled,
2 Republicans and Democrats, as well as any
3 representatives in Congress here assembled.
4 Bless, O Lord, this, their counseling session,
5 and heal their infirmities. Direct and prosper
6 all Senate consultations. Give them wisdom of
7 laws needed for effective leadership to the
8 advancement of Thy glory, the good of Thy
9 church, the safety, honor and welfare of Thy
10 people that things ordered and settled by the
11 leaders of this Senate body will rest upon the
12 best and surest foundation, that peace,
13 happiness, truth, justice, religion and parity
14 may be established amongst us for all
15 generations, we being truly indivisible as a
16 nation. These and all other necessities for us,
17 the whole church, I humbly beg in the name and
18 supplication of Jesus Christ, my most blessed
19 Lord and Savior. Amen.

20 ACTING PRESIDENT SPANO: Thank
21 you, Bishop Grant.

22 Reading of the Journal.

23 THE SECRETARY: In Senate,

1 Monday, May 2nd. The Senate met pursuant to
2 adjournment, Senator Spano in the Chair upon
3 designation of the Temporary President. The
4 Journal of Sunday, May 1st, was read and
5 approved. On motion, Senate adjourned.

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

9 Order of business: Messages from
10 the Assembly.

11 Messages from the Governor.

12 Reports of standing committees.

13 Communications and reports.

14 Motions and resolutions. Senator
15 Farley.

16 SENATOR FARLEY: Mr. President, I
17 have two motions here.

18 On behalf of Senator Daly, page
19 17, Calendar Number 596, Senate Print 6899-A, I
20 offer the following amendments and ask that that
21 bill retain its place on the Third Reading
22 Calendar.

23 ACTING PRESIDENT SPANO: So

1 ordered.

2 SENATOR FARLEY: On behalf of
3 Senator Hannon, on page 20, I offer the
4 following amendments to Calendar Number 654,
5 Senate Print Number 277, and I ask that bill
6 retain its place on the Third Reading Calendar.

7 ACTING PRESIDENT SPANO: So
8 ordered.

9 Any other motions, resolutions?
10 Senator Present.

11 SENATOR PRESENT: Mr. President,
12 I move that we adopt the Resolution Calendar
13 with the exceptions of Number 3377 and 3380.

14 ACTING PRESIDENT SPANO: The
15 question is on the adoption of the resolutions
16 on the Resolution Calendar with the exception of
17 3377, 3380. All those in favor signify by
18 saying aye.

19 (Response of "Aye.")

20 Opposed nay.

21 (There was no response.)

22 The resolutions are adopted.

23 Senator Present.

1 SENATOR PRESENT: Mr. President,
2 will you recognize Senator Farley, please.

3 ACTING PRESIDENT SPANO: Senator
4 Farley.

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

7 There's a privileged resolution
8 at the desk on behalf of the State University of
9 New York at Albany, and I'd ask the Secretary to
10 read it in its entirety.

11 ACTING PRESIDENT SPANO:
12 Secretary will read the resolution.

13 THE SECRETARY: Legislative
14 Resolution Number 3377, by Senators Farley,
15 Nolan, Bruno and other members of the Senate.

16 Legislative Resolution, honoring
17 the University at Albany, State University of
18 New York, upon the occasion of its 150th
19 Anniversary and memorializing Governor Mario M.
20 Cuomo to proclaim May 9th, 1994, University at
21 Albany Day.

22 WHEREAS, the state of New York
23 notes with great pride the 150th Anniversary in

1 1994 of the founding of the University at
2 Albany, State University of New York, originally
3 established as the Albany Normal School, its
4 predecessor institution;

5 Established on May 7, 1844 by the
6 New York State Legislature, the Albany Normal
7 School opened its doors on December 18, 1844 as
8 New York's first state-chartered public
9 institution of higher learning, adopting as its
10 goal the preparation and training of teachers
11 "in the science of education and the art of
12 teaching;"

13 Since its establishment, the
14 institution at Albany has fulfilled with
15 distinction the tripartite mission of public
16 higher education: Teaching, research and public
17 service. This has been accomplished through the
18 education of teachers for the common schools of
19 the 19th Century, the continuing preparation of
20 secondary school teachers in the early 20th
21 Century, and the comprehensive education and
22 research programs of the modern university
23 today;

1 Throughout the past 150 years,
2 the members of the faculty of the University of
3 Albany have set a national standard for excel
4 lence in providing an outstanding education for
5 teachers and, more recently, in preparing the
6 students for their Baccalaureate, Master's and
7 Doctoral degrees in a wide array of disciplines;
8 at the same time the research and scholarship
9 being pursued and developed at the University
10 have been recognized nationally as well as
11 internationally;

12 The history of the University at
13 Albany has been one of dramatic and progressive
14 changes not limited to the curriculum and scope
15 of the scholarly services provided; the facility
16 itself has undergone extensive renovation and
17 important new construction as it moved first in
18 1909 to a campus befitting its expanded goals as
19 a college for teachers and in 1965 to its
20 present location characterized by the striking
21 architectural landmark by architect Edward
22 Durell Stone, designed to match in its modern
23 grandeur the aspirations of a major research

1 university;

2 The University at Albany has
3 demonstrated a long-standing commitment to
4 providing access to an education of excellence
5 for all citizens of New York State and today
6 enrolls nearly 17,000 of diverse backgrounds and
7 origins, both graduate and undergraduate,
8 serving a community which appreciates and cele
9 brates the institution's rich diversity;

10 With the graduation of the Class
11 of 1994, Albany alumni and alumnae will number
12 more than 100,000 individuals living and working
13 and contributing to their communities across New
14 York State and the nation;

15 Many citizens of New York State
16 have served as advisers and overseers of the
17 programs at Albany from the members of the first
18 Executive Committee to the modern University
19 Council and have demonstrated through their
20 voluntary stewardship their commitment to the
21 public higher education;

22 The University at Albany has
23 established and maintained strong mutually

1 beneficial relations with the people,
2 organizations and municipalities of the Capital
3 Region of the state of New York and has
4 contributed substantially to the quality of life
5 and economic vitality of the region and the
6 state;

7 1994 has been designated as the
8 University at Albany Sesquicentennial year and
9 will be observed through academic and community
10 events, publications and other activities
11 designed to celebrate the achievements and rich
12 history of the institution and its people, and
13 to consider the responsibilities of a public
14 institution in the future;

15 NOW, THEREFORE BE IT RESOLVED
16 that this legislative body pause in its
17 deliberations to honor the 150th Anniversary of
18 the University at Albany, State University of
19 New York, and to recognize this historic
20 occasion for all public higher education in New
21 York State; and

22 BE IT FURTHER RESOLVED that
23 May 9th, 1994 be proclaimed University at Albany

1 Day as a reflection and acknowledgement of the
2 continued commitment to public higher education
3 in the state of New York, and

4 BE IT FURTHER RESOLVED that a
5 copy of this resolution, suitably engrossed, be
6 transmitted to H. Patrick Swygert, president of
7 the University at Albany, State University of
8 New York.

9 ACTING PRESIDENT SPANO: Senator
10 Farley.

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

13 It's a great pleasure for me to
14 come up here and wish my college, my university,
15 its 150th birthday. Not only am I a graduate of
16 that school, I taught there for 29 years or
17 close to it. My son is a graduate and my -- two
18 of my brothers, and it's truly one of the
19 treasures of New York State. It's our neighbor,
20 and this entire Senate and this entire Capitol
21 is filled with its graduates, people who have
22 gone on to distinction.

23 But the University at Albany has

1 a tradition. It's for academic excellence.
2 It's been known all over the world for a school
3 of outstanding scholarship, and our gallery is
4 filled today with members of the University
5 family, and we're very honored and pleased to
6 have with us seated in the place of honor, H.
7 Patrick Swygert, the president of the SUNY at
8 Albany.

9 I've served there for a number of
10 years. I've seen a lot of presidents. When Pat
11 Swygert hit this town, he brought a breeze of
12 fresh air as one of the most dynamic, exciting
13 presidents that SUNY-Albany has ever seen.

14 Let me just tell you a little bit
15 about this president. This is a young man who
16 grew up in Philadelphia, graduate of Howard
17 University and Howard University Law School in
18 Washington, D.C. He was with a New York City law
19 firm, an assistant district attorney in
20 Philadelphia, administrative aide to Congressman
21 Rangel, a law clerk to the chief judge of the
22 United States Court of Appeals, Third Circuit.
23 He was also counsel to the United States Civil

1 Service Commission and he received the
2 Commissioner's Award for Distinguished Federal
3 Service, General Counsel. He was a professor of
4 law at Temple, executive vice-president at
5 Temple University.

6 He's had a distinguished career
7 since he's come to New York State. The Governor
8 has appointed him to the Moreland -- I believe
9 chairman of the Moreland Commission. He's
10 served on all kinds of educational, higher
11 education and education commissions and
12 committees.

13 President Swygert has been an
14 absolute thrilling president for the
15 University. The students, the faculty,
16 everybody are excited about his tenure there.

17 It is with a great deal of
18 pleasure that I move this resolution on behalf
19 of the sesquicentennial -- and I've been
20 practicing that -- for the University at
21 Albany.

22 Mr. President?

23 ACTING PRESIDENT SPANO: Thank

1 you.

2 Senator LaValle.

3 SENATOR LAVALLE: Mr. President,
4 I rise to join Senator Farley in acknowledging a
5 great State University within the SUNY system.
6 We, the people of New York State and certainly
7 we as members of this Legislature, should be
8 very, very proud of the investment that we have
9 made in our State University, an investment that
10 we have made in the State University at Albany,
11 and the very fact that they have distinguished
12 themselves in fulfilling their mission and,
13 indeed, people have been enriched by their
14 education, have gone out to become leaders in
15 New York State.

16 I had the opportunity of having a
17 daughter who attended SUNY-Albany and graduated
18 from SUNY-Albany, so certainly I can speak first
19 hand of the quality of education and the fact
20 that one of its graduates has gone on to
21 distinguish herself as an attorney here in the
22 state of New York.

23 But I want to also echo the

1 comments that Senator Farley made about
2 President Swygert, who has had the good fortune
3 on his watch to be at a point in time to take
4 the University and move it forward in times that
5 we haven't had necessarily all the fiscal
6 resources, to keep the ship pointed straight and
7 to maintain programs of excellence during this
8 time.

9 All of the faculty,
10 administration, students, alumni should be very,
11 very proud of the State University at Albany
12 and, Senator Farley, it really gives me great
13 pleasure as chairman to join you in speaking on
14 behalf of this resolution today.

15 ACTING PRESIDENT SPANO: The
16 question is on the resolution. All those in
17 favor, signify by saying aye.

18 (Response of "Aye.")

19 Opposed nay.

20 (There was no response.)

21 The resolution is adopted.

22 (Applause)

23 ACTING PRESIDENT SPANO: On

1 behalf of Senator Farley, Senator Marino, all
2 the members of the Senate, we would like to
3 welcome particularly President Swygert here and
4 to join with you in acknowledging the 150th
5 Anniversary of the University at Albany and also
6 welcome the members of the University family who
7 are also seated with us in the gallery.

8 Certainly a pleasure to have you
9 all with us, and we continue to be proud of the
10 work that you and so many others do on behalf of
11 the young people in our community.

12 Congratulations.

13 (Applause)

14 Senator Present? Senator
15 Johnson.

16 SENATOR JOHNSON: Yes, Mr.
17 President.

18 I'd like everyone here to be
19 aware that among those resolutions adopted a
20 short time ago was Resolution Number 3458
21 introduced by Senator Bruno, which celebrates
22 Small Business Week. We would like every member
23 here to be on that resolution if they care to.

1 If they don't care to, of course, they could
2 indicate so, and we'd like that to be brought to
3 your attention.

4 Thank you.

5 ACTING PRESIDENT SPANO: The
6 resolution will remain open at the desk.

7 Senator Farley.

8 SENATOR FARLEY: If I may. Thank
9 you, Mr. President. Incidentally the SUNY -
10 the University at Albany -- it's gone through
11 several name changes. I keep slipping into some
12 of the old names of it, but the University at
13 Albany resolution is open to the entire Senate.
14 Almost everyone is on it, but anyone that's not
15 on it, please notify the desk. You're welcome
16 to sponsor it.

17 ACTING PRESIDENT SPANO: Senator
18 Present.

19 SENATOR PRESENT: On both those
20 resolutions, the one suggested by Senator
21 Johnson and Senator Farley, all members' names
22 will be included unless they decline the
23 opportunity.

1 ACTING PRESIDENT SPANO: So
2 noted.

3 SENATOR PRESENT: Mr. President,
4 on behalf of Senator Libous, I believe he has a
5 privileged resolution there.

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

9 THE SECRETARY: By Senator
10 Libous, Legislative Resolution, commending Jane
11 Darling upon the occasion of her designation as
12 recipient of the Small Business Advocate of the
13 Year Award.

14 ACTING PRESIDENT SPANO: Question
15 is on the passage of the resolution. All those
16 in favor, signify by saying aye.

17 (Response of "Aye.")

18 Opposed nay.

19 (There was no response.)

20 The resolution is adopted.

21 Senator Present.

22 SENATOR PRESENT: Mr. President,
23 can we take up the non-controversial calendar.

1 ACTING PRESIDENT SPANO:
2 Secretary will read the non-controversial
3 calendar.

4 THE SECRETARY: On page 12 of
5 today's calendar, Calendar Number 432, by
6 Senator Levy.

7 SENATOR PRESENT: Lay it aside
8 for the day.

9 ACTING PRESIDENT SPANO: Lay it
10 aside for the day.

11 THE SECRETARY: Calendar Number
12 586, by Senator Trunzo, Senate Bill Number 70...

13 SENATOR GOLD: Lay it aside.

14 ACTING PRESIDENT SPANO: Laid
15 aside.

16 THE SECRETARY: Calendar Number
17 607, by Senator Levy.

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

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

22 THE SECRETARY: Calendar Number
23 641, by Senator Libous, Senate Bill Number 4449,

1 an act to amend the Penal Law, in relation to
2 the authorizing an additional term of
3 imprisonment.

4 ACTING PRESIDENT SPANO: Read the
5 last section.

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

8 ACTING PRESIDENT SPANO: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes -

12 SENATOR GOLD: Mr. President.

13 ACTING PRESIDENT SPANO: Senator
14 Gold.

15 SENATOR GOLD: Yeah, I'll just
16 explain my vote.

17 ACTING PRESIDENT SPANO: Senator
18 Gold to explain his vote.

19 SENATOR GOLD: This morning in
20 New York, I held a hearing on the "three strikes
21 you're in, three strikes you're out," whatever
22 you want to call it, bill and the testimony was
23 very interesting, and then I bought a newspaper

1 to read on the plane coming up, and I read about
2 a proposed agreement between Republicans and
3 Democrats to let all of these elderly people out
4 of jail, and then we have this piece of
5 legislation and the only thought I want to throw
6 out to everybody is, it would be very refreshing
7 if both houses of the Legislature decided to,
8 once and for all, take a look at sentencing, for
9 our whole justice system and do something that
10 fits together and makes some sense.

11 I mean we've had sentencing
12 commissions. I saw a report today. I was on
13 the Morgenthau Commission back in, I think it
14 was '79; I was on other commissions, but what we
15 do is piecemeal, take all these proposals. So
16 we put in legislation, "three strikes you're in"
17 and we're going to have people, elderly people,
18 in jail in the same year that we're going to
19 brag we're putting elderly people out of jail
20 because they're not -- they're not hazardous,
21 and I certainly support this. I've supported it
22 in the past, but I think it just highlights the
23 shot gun approach we take to legislation which

1 winds up in a situation where we get contradict
2 ory pieces of legislation, and I think we ought
3 to start doing it a little differently.

4 But I certainly -- I voted for
5 this in the past, and I'll vote aye again.

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

8 THE SECRETARY: Ayes 47, nays
9 one, Senator Galiber recorded in the negative.

10 ACTING PRESIDENT SPANO: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 650, by Senator LaValle, Senate Bill Number
14 7297, an act to amend the Criminal Procedure
15 Law, in relation to providing peace officer
16 status.

17 ACTING PRESIDENT SPANO: Read the
18 last section.

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

21 ACTING PRESIDENT SPANO: Call the
22 roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes forty...
2 ayes 47, nays 3, Senators Galiber, Gold and
3 Leichter recorded in the negative.

4 ACTING PRESIDENT SPANO: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 651, by Senator Volker, Senate Bill Number 7422,
8 an act to amend the Penal Law.

9 ACTING PRESIDENT SPANO: Read the
10 last section.

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

13 ACTING PRESIDENT SPANO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 50.

17 ACTING PRESIDENT SPANO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 659, by Senator Seward, Senate Bill Number 7410,
21 authorizing the State University of New York to
22 lease certain lands.

23 SENATOR GOLD: Lay it aside,

1 please.

2 ACTING PRESIDENT SPANO: Lay it
3 aside.

4 THE SECRETARY: Calendar Number
5 669, by Senator Cook.

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

8 ACTING PRESIDENT SPANO: Lay it
9 aside for the day.

10 THE SECRETARY: Calendar Number
11 670, by Senator DiCarlo, Senate Bill Number
12 6378, General Obligations Law, in relation to
13 exoneration of certain police officers.

14 SENATOR DOLLINGER: Lay it aside,
15 please.

16 ACTING PRESIDENT SPANO: Laid
17 aside.

18 THE SECRETARY: Calendar Number
19 671, by Senator Lack, Senate Bill Number 6963-A,
20 an act to amend the Estates, Powers and Trusts
21 Law.

22 ACTING PRESIDENT SPANO: Read the
23 last section.

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

3 ACTING PRESIDENT SPANO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 51.

7 ACTING PRESIDENT SPANO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 672, by Senator Lack, Senate Bill Number 7165,
11 an act to amend the Surrogate's Court Procedure
12 Act.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

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

17 ACTING PRESIDENT SPANO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 51.

21 ACTING PRESIDENT SPANO: The bill
22 is passed.

23 THE SECRETARY: Calendar Number

1 673, by Senator Stafford, Senate Bill Number
2 7467, an act to amend the General Construction
3 Law, the Public Officers Law and the Tax Law.

4 ACTING PRESIDENT SPANO: Read the
5 last section.

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

8 ACTING PRESIDENT SPANO: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 51.

12 ACTING PRESIDENT SPANO: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 674, by Senator Stafford, Senate Bill Number
16 7538, proposing amendment to the Constitution,
17 in relation to exchange of certain forest -

18 SENATOR GOLD: Lay it aside,
19 please.

20 ACTING PRESIDENT SPANO: Laid
21 aside.

22 THE SECRETARY: Calendar Number
23 676, by Senator Stafford, Senate Bill Number

1 6319, to repeal certain provisions of the
2 Highway Law.

3 ACTING PRESIDENT SPANO: Read the
4 last section.

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

7 ACTING PRESIDENT SPANO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 51.

11 ACTING PRESIDENT SPANO: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 677, by Senator Bruno.

15 SENATOR GOLD: Lay it aside,
16 please.

17 ACTING PRESIDENT SPANO: Laid
18 aside.

19 THE SECRETARY: Calendar Number
20 678, by Senator Kuhl, Senate Bill Number 6824,
21 an act to amend the Vehicle and Traffic Law, in
22 relation to appropriate reduced speeds for motor
23 vehicles.

1 ACTING PRESIDENT SPANO: Read the
2 last section.

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

5 ACTING PRESIDENT SPANO: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 51.

9 ACTING PRESIDENT SPANO: The
10 bill's passed.

11 THE SECRETARY: Calendar Number
12 686, by Senator Volker, Senate Bill Number 4209,
13 Criminal Procedure Law, in relation to serving a
14 supporting deposition.

15 ACTING PRESIDENT SPANO: Read the
16 last section.

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

19 ACTING PRESIDENT SPANO: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 51.

23 ACTING PRESIDENT SPANO: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 703, by Senator Nozzolio, Senate Bill Number
4 4154, Social Services Law, in relation to false
5 statements.

6 SENATOR SMITH: Lay it aside,
7 please.

8 ACTING PRESIDENT SPANO: Laid
9 aside.

10 THE SECRETARY: Calendar Number
11 710, by Senator Goodman, Senate Bill Number
12 4081-A, Alcoholic Beverage Control Law.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

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

17 ACTING PRESIDENT SPANO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 52.

21 ACTING PRESIDENT SPANO: The bill
22 is passed.

23 THE SECRETARY: Calendar Number

1 711, by Senator Padavan, Senate Bill Number
2 6784, authorizing the Commissioner of General
3 Services to sell or lease certain land in Queens
4 County.

5 SENATOR GOLD: Lay it aside.

6 SENATOR PADAVAN: Lay aside.

7 ACTING PRESIDENT SPANO: Laid
8 aside.

9 THE SECRETARY: Calendar Number
10 714, by Senator Daly, Senate Bill Number 7280,
11 Public Officers Law, eligibility for the office
12 of court clerk.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

15 THE SECRETARY: Section 2.

16 This -

17 SENATOR GOLD: Lay it aside.

18 ACTING PRESIDENT SPANO: Laid
19 aside.

20 THE SECRETARY: Calendar Number

21 7 -

22 SENATOR PRESENT: Lay aside,
23 please.

1 ACTING PRESIDENT SPANO: Laid
2 aside.
3 SENATOR PRESENT: For the day.
4 ACTING PRESIDENT SPANO: Laid
5 aside for the day.
6 THE SECRETARY: Calendar Number
7 717, by Senator Daly.
8 SENATOR SMITH: Lay it aside.
9 ACTING PRESIDENT SPANO: Laid
10 aside.
11 THE SECRETARY: Calendar Number
12 718, by Senator Johnson, Senate Bill Number
13 7172, Environmental Conservation Law, in
14 relation to small business stationary source
15 technical and environmental compliance.
16 ACTING PRESIDENT SPANO: Read the
17 last section.
18 THE SECRETARY: Section 2. This
19 act shall take effect immediately.
20 ACTING PRESIDENT SPANO: Call the
21 roll.
22 (The Secretary called the roll.)
23 THE SECRETARY: Ayes 52.

1 ACTING PRESIDENT SPANO: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 721, by Senator Johnson, Senate Bill Number
5 7383.

6 SENATOR JOHNSON: Lay it aside
7 for the day; also Calendar 722.

8 ACTING PRESIDENT SPANO: Lay
9 aside 721 and 722 for the day.

10 THE SECRETARY: Calendar Number
11 724, by Senator Johnson, Senate Bill Number
12 7479, Environmental Conservation Law.

13 ACTING PRESIDENT SPANO: Read the
14 last section.

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

17 ACTING PRESIDENT SPANO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 52.

21 ACTING PRESIDENT SPANO: The bill
22 is passed.

23 Senator Present, that completes

1 the non-controversial calendar.

2 SENATOR PRESENT: Mr. President,
3 let's take up the controversial calendar.

4 ACTING PRESIDENT SPANO:
5 Secretary will read the controversial calendar.

6 THE SECRETARY: On page 16,
7 Calendar Number 586, by Senator Trunzo, Senate
8 Bill Number 7057-A, an act to amend the
9 Administrative Code of the city of New York.

10 SENATOR GOLD: Hold on a minute.
11 Mr. President.

12 ACTING PRESIDENT SPANO: Senator
13 Gold.

14 SENATOR GOLD: I just wanted to
15 point out that there is a memo from the city of
16 New York in opposition claiming that it breaches
17 some agreements between the City, the Transit
18 Authority, the Transit PBA and anybody who's
19 interested in reading the memo, I have a copy
20 here.

21 ACTING PRESIDENT SPANO: Read the
22 last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT SPANO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 52, nays
6 one, Senator Johnson recorded in the negative.

7 ACTING PRESIDENT SPANO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 659, by Senator Seward, Senate Bill Number 7410,
11 authorizing -

12 SENATOR PRESENT: Lay aside,
13 please.

14 SENATOR GOLD: Lay it aside.

15 SENATOR PRESENT: Lay it aside
16 temporarily.

17 ACTING PRESIDENT SPANO: Lay it
18 aside temporarily.

19 THE SECRETARY: Calendar Number
20 670, by Senator DiCarlo.

21 SENATOR PRESENT: Lay it aside
22 temporarily.

23 ACTING PRESIDENT SPANO: Lay it

1 aside temporarily.

2 THE SECRETARY: Calendar Number
3 674, by Senator Stafford, Senate Bill Number
4 7538, proposing an amendment to the Constitu
5 tion, in relation to exchange of certain forest
6 preserve lands.

7 ACTING PRESIDENT SPANO: Senator
8 Gold.

9 SENATOR GOLD: Yeah, Mr.
10 President. If Senator Stafford would be kind
11 enough, we've had a communication from a group
12 that wants to put a memo in. Would you mind
13 laying it aside a day, sir? Thank you.

14 ACTING PRESIDENT SPANO: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 677, by Senator Bruno, Senate Bill Number 6727,
18 Vehicle and Traffic Law, relation to permitting
19 the village of Round Lake to reduce the speed
20 limit on its highways.

21 ACTING PRESIDENT SPANO: Home
22 rule message is at the desk. Read the last
23 section.

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

3 ACTING PRESIDENT SPANO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 53.

7 ACTING PRESIDENT SPANO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 703 by Senator Nozzolio, Senate Bill Number
11 5104, Social Services Law, in relation to false
12 statements.

13 SENATOR WALDON: Explanation.

14 SENATOR GOLD: Explanation.

15 ACTING PRESIDENT SPANO: Senator
16 Nozzolio, explanation has been asked for on
17 Calendar Number 703.

18 SENATOR NOZZOLIO: Yes. Mr.
19 President, my colleagues, this measure which
20 passed the Senate last year is an act to amend
21 the Social Services Law making it a -- a
22 violation for someone to make a knowingly false
23 statement to obtain public funds or social

1 services monies.

2 The right to recover the state
3 shall have under this bill a right to recover
4 civil damages equal three times the amount by
5 which the figure is falsely overstated, or
6 \$5,000, whichever is the greater sum.

7 SENATOR WALDON: Mr. President.

8 ACTING PRESIDENT SPANO: Senator
9 Waldon.

10 SENATOR WALDON: Would the
11 Senator yield to a question or two?

12 ACTING PRESIDENT SPANO: Senator
13 Nozzolio yields.

14 SENATOR NOZZOLIO: Certainly.

15 SENATOR WALDON: Senator
16 Nozzolio, is it \$5,000 or \$10,000?

17 SENATOR NOZZOLIO: It's \$5,000.

18 SENATOR WALDON: The original is
19 5-; you want to amend it to make it 10-, is that
20 correct?

21 SENATOR NOZZOLIO: That's
22 correct. My mistake, Mr. Waldon -- Senator.
23 You're correct, it's \$10,000, whichever is

1 greater.

2 SENATOR WALDON: If I may, Mr.
3 President?

4 ACTING PRESIDENT SPANO: Senator
5 Waldon.

6 SENATOR WALDON: Senator, the
7 people who are caught in this situation making
8 application and who falsify records, we
9 recognize that -- falsify statements, I should
10 say, we recognize that what they're doing is
11 wrong, but for the most part is it your under
12 standing that the people who do this are not
13 necessarily financially well off and will be
14 able to repay or pay to the state the fine of
15 \$10,000?

16 SENATOR NOZZOLIO: That is
17 probably so.

18 SENATOR WALDON: Would it serve
19 the interests of the state of New York to seek
20 retribution in this form or would it serve the
21 best interests of the state to find another way
22 to "skin this cat", to seek penalty but not
23 something that is absolutely or perhaps

1 relatively unrecoverable?

2 SENATOR NOZZOLIO: Senator, it is
3 our hope that, by increasing the amount of
4 recoverable damages, that there will be a
5 chilling effect, that enforcing a larger amount
6 of money potentially could be subject here for
7 culpability; therefore, increasing the fine
8 would basically allow more staff within Social
9 Services to investigate the claim.

10 But I think from even a greater
11 perspective, the larger sum would make it more
12 difficult, would have a greater chilling effect
13 on those who might otherwise be disposed to make
14 fraudulent statements.

15 SENATOR WALDON: Thank you,
16 Senator.

17 If I may, Mr. President?

18 ACTING PRESIDENT SPANO: Senator
19 Waldon.

20 SENATOR WALDON: On the bill.

21 I don't see the need to increase
22 the penalty from 5,000 to 10,000. If the person
23 is unable to pay the state for his or her

1 wrongdoing \$5,000, how can they possibly pay
2 10,000?

3 Also, Senator Nozzolio and my
4 colleagues, what chilling effect is there going
5 to be on someone who has nothing? The fact that
6 they're falsifying their statements to obtain
7 largesse from the state is not going to be
8 diminished by the fact that they have a penalty
9 at the other end for such falsification that is
10 increased here two times.

11 I think it's rather foolhardy for
12 us to implement this. I think what we should do
13 is stick with the current law and make every
14 effort to recover what may be more recoverable,
15 5,000.

16 I think what we're creating here
17 is a possibility of more of nothing from nothing
18 leaves nothing.

19 ACTING PRESIDENT SPANO: Senator
20 Espada.

21 SENATOR ESPADA: Yes, Mr.
22 President.

23 Would the sponsor yield to a

1 question, please?

2 SENATOR NOZZOLIO: Certainly.

3 SENATOR ESPADA: With respect to
4 the existing \$5,000 fine, what kind of judgments
5 in numbers do we have on record statewide with
6 respect to this fraudulent violation?

7 SENATOR NOZZOLIO: I don't have
8 those numbers with me, Senator, but I would be
9 glad to provide them for you at some future
10 date.

11 SENATOR ESPADA: Could we
12 possibly lay the bill -- may I, Mr. President?
13 Can we possibly lay the bill aside? It would
14 seem to me this is a fundamental question that's
15 -- that supports your basic contention. Would
16 you lay the bill aside until such information is
17 available?

18 SENATOR NOZZOLIO: Senator, I
19 think that the question of prosecuting
20 fraudulent claim and whether or not it is the
21 wisdom of this body to increase the penalties
22 for fraudulently making statements to the Social
23 Services Department is the issue here. The

1 Legislature, this house, the other house,
2 Governor, have gone on record in allowing a
3 \$5,000 penalty to be part of the code.

4 What we're suggesting through
5 this legislation is that not an honest person be
6 punished, and we're saying that with social
7 services costs now eclipsing 42 percent of our
8 state budget that we must do all we can to
9 prevent those who are fraudulently obtaining
10 social services funds in order for those who are
11 entitled to social services funds to get them,
12 and, Senator, I think your request is
13 reasonable.

14 However, I am not going to ask
15 this house to lay the bill aside. It's properly
16 before the house, and I'm suggesting that it is
17 time that the Legislature continue its efforts
18 to fight fraud and abuse at every step and to
19 support increased penalties for those who are
20 fraudulently trying to gain benefit contrary and
21 hurting those who are entitled to benefit
22 because those who are entitled to benefit may be
23 in jeopardy of getting those benefits because of

1 the escalating costs and the increased budget
2 demands.

3 Senator, I respect your request.
4 However, I will not suggest the bill be laid
5 aside at this time.

6 SENATOR ESPADA: Mr. President,
7 on the bill.

8 ACTING PRESIDENT SPANO: Senator
9 Espada on the bill.

10 SENATOR ESPADA: Regrettably, it
11 doesn't surprise me that in this body we can
12 reasonably ask for some time for some reasoned
13 minds to deliberate on a fundamental question of
14 is there a need for a bill in the first place.

15 In respect to the issue that
16 Senator Gold raised earlier with respect to
17 another bill, that is that we have come to take
18 potshots and continue to snipe away and bite
19 away at problems and not deal with them in a
20 comprehensive and holistic way, we have a lot to
21 say. This Senator has a lot to say.

22 After two public hearings on
23 welfare reform, one in the City, one up here in

1 Albany, well attended by recipients, by
2 advocates, by people who know the system, know
3 about fraud, know about true need, know about
4 the fact that the state is currently in
5 violation of not coming to terms with our own
6 Constitution that says that we will provide a
7 standard of need for the people in this state,
8 specifically issues of rent, shelter rent
9 allowances, and basic grants that are 40 percent
10 below the poverty level at this point, and all
11 of this, we do find time to introduce a bill
12 that snipes away at poor people once again
13 because the fundamental conclusion here is that
14 we don't know if fraud exists, but we do know
15 that poor people are out there in need and,
16 therefore, levy a \$10,000 fine on them because
17 we have nothing better to do with respect to
18 welfare reform and helping poor people.

19 I really am continuing to voice
20 this because there are poor people out there
21 that count on each of us to help them with true
22 opportunity, real jobs, real job opportunities.
23 You know, there are people that are being laid

1 off in the Department of Social Services in the
2 city of New York.

3 This bill, in its justification
4 clause says by increasing the fines on poor
5 people, essentially taxing poor people, that
6 we're going to find money for more social
7 services staff in the city of New York and
8 throughout this state.

9 Again, on the basis of the lack
10 of evidence, its unsound justification and
11 reasoning, I would hope that the members on this
12 side of the aisle and members of this
13 Legislature would vote to deny the sponsor the
14 ability to pass this in this house.

15 SENATOR LEICHTER: Mr. President.

16 ACTING PRESIDENT LIBOUS: Senator
17 Leichter.

18 SENATOR WALDON: Mr. President.

19 ACTING PRESIDENT LIBOUS: Senator
20 Waldon, why do you wish to be recognized?

21 SENATOR WALDON: I didn't realize
22 that the learned Senator wishes to speak first.

23 ACTING PRESIDENT LIBOUS: We have

1 a list, Senator; Senator Leichter had asked to
2 be recognized. I'll be glad to put you next on
3 the list, sir.

4 SENATOR LEICHTER: Would Senator
5 Nozzolio be good enough to yield, please.

6 ACTING PRESIDENT LIBOUS: Senator
7 Nozzolio. Yes, he will, sir.

8 SENATOR LEICHTER: Senator
9 Nozzolio, I thought that Senator Espada had made
10 a reasonable request, which is to determine if
11 there is a need for this bill, and I want to
12 tell you, if you have evidence, social services
13 commissioners who would say, "Gee, I could have
14 collected \$10,000 for fraud, but you, the
15 Legislature, limited me to 5,000," I'd be
16 inclined to vote for your bill. But can you
17 tell us whether there exists one such case?

18 SENATOR NOZZOLIO: Senator, as
19 much as I would like you to vote for my bill
20 based on the foundation from which you ask the
21 question, I think you should decide this bill
22 based on whether or not you support welfare
23 fraud and abuse or whether you don't.

1 If you support providing false
2 information as a way that people, rich or poor,
3 should give false statements to social services
4 directors, if that's how you believe, then vote
5 against the bill. If you believe that people
6 should be honest, should be forthcoming and
7 should apply for social services giving proper
8 information, correct information, non-fraudulent
9 information, Senator, then vote for the bill.

10 SENATOR LEICHTER: Senator, if
11 you would be good enough to yield.

12 SENATOR NOZZOLIO: Certainly.

13 SENATOR LEICHTER: I want to say,
14 Senator, I happen to agree with you that we
15 should act against fraud. Let me tell you what
16 else I think is important, that we should pass
17 intelligent legislation, and that we shouldn't
18 get up here posturing, that we shouldn't pass
19 bills that may end up costing the taxpayers more
20 money. It's costing the taxpayers money by
21 putting in bills that may not make sense.

22 Now, I'm not saying your bill
23 doesn't make sense. I just ask you, Senator,

1 you get up here and you say we need to increase
2 the civil penalty from 5- to \$10,000. Do you
3 have any basis for showing us that that would
4 indeed help to deter fraud, that that would
5 allow for the collection of monies that were
6 ill-gotten and compensate the Social Services
7 Department for having to go through the process
8 of collection?

9 If -- if, indeed, you can show
10 that to us, I think there's reasons to vote for
11 the bill, but I think you have the obligation,
12 Senator, to come and tell us that this will
13 indeed have some effect on fraud, and I'm asking
14 you, do you know of a single case?

15 SENATOR NOZZOLIO: Senator, I
16 know of many cases throughout the Social
17 Services system where fraudulent claims were
18 made.

19 SENATOR LEICHTER: Senator, if
20 you know of one case where the Social Service
21 Department could have collected or Social
22 Service Commissioner could have collected more
23 than \$5,000 but he was limited in collecting

1 that amount because the statute presently does
2 not allow it. The statute presently says that
3 you can collect three times the amount by which
4 any figure is falsely overstated or \$5,000,
5 whichever is greater.

6 Now, can you -- can you give me a
7 case where the Social Service Commissioner said,
8 "I was not able to collect the full amount
9 because you people limited me?" That's the
10 question. Can you give us one case?

11 SENATOR NOZZOLIO: I'm sure I
12 could, Senator. However -

13 SENATOR LEICHTER: Well, Senator,
14 Senator -

15 SENATOR NOZZOLIO: However,
16 Senator, with all due respect, I do not have
17 cases, individual cases, in front of me at this
18 time.

19 SENATOR LEICHTER: One case, I'm
20 asking, one case. Can you give us one case so
21 that we know that we're going to save the state
22 of New York more money than we're going to cost
23 the state of New York by you putting in a bill

1 of this sort that may not make any sense?

2 SENATOR NOZZOLIO: Senator, this
3 bill -- this law was changed in 1992. You were
4 in the Senate at that time. Did you vote for
5 this bill or against this bill when the original
6 \$5,000 was placed as a threshold number?

7 SENATOR LEICHTER: I would -- I
8 would suspect that I voted for it.

9 SENATOR NOZZOLIO: Well, Senator,
10 at that time, did you have evidence when you
11 voted for this bill that it would be effective?

12 SENATOR LEICHTER: Senator, at
13 that time, it was the collective judgment of the
14 Senate and the Assembly that to say that you
15 could collect three times the amount of the -
16 that had been overstated or \$5,000, whichever
17 was greater, made sense.

18 Now, what is it, two years later,
19 you come and say 10,000 is the right figure and
20 you can't give us one case, one case, where this
21 would benefit the state of New York. You talk
22 about -- you talk about waste. I'm suggesting,
23 Senator, that you're wasting the taxpayers'

1 money by this sort of a bill, if you don't have
2 the evidence.

3 SENATOR NOZZOLIO: Senator, I
4 believe that your suggestion that by not
5 presenting individual cases here before you
6 today of frauds who came before the Social
7 Services Department and tried to defraud money
8 from the taxpayers by making incorrect -
9 knowingly incorrect and inaccurate statements,
10 begs the question.

11 The question is whether or not
12 you believe that those who try to chisel the
13 system and to cheat the system should be subject
14 to severe fine, and the question also is whether
15 you believe that \$5,000 was sufficient. How can
16 you quarrel that \$10,000 wouldn't do a better
17 job?

18 SENATOR LEICHTER: Well, let me
19 ask you, Senator, why don't you have \$100,000
20 here? Wouldn't -- under your theory, wouldn't
21 that chill people even more -- I'm using your
22 expression -- and deter people?

23 Where did the figure come from,

1 Senator? What is the basis? That's all we're
2 asking you for. It's your bill. You want to
3 take our time in putting forward this
4 legislation. Don't you think you have an
5 obligation, don't you have an obligation to have
6 some factual basis for a bill that you present?

7 SENATOR NOZZOLIO: Franz -
8 Senator, yes, I do.

9 SENATOR LEICHTER: Call me
10 Franz.

11 SENATOR NOZZOLIO: Yes, I do,
12 Senator. That basis is that welfare fraud
13 should be stopped and that we should take every
14 step possible to make it more difficult for
15 those to cheat the system and punish those who
16 do, in a way commensurate with their actions.

17 As I said -- spoke to Senator
18 Waldon, that his question was a question of the
19 amount as your question is. It duplicates
20 Senator Waldon's question.

21 My answer to him is the same
22 answer to you. \$10,000 was chosen as a way to
23 substantially increase the penalty to have more

1 of a chilling effect on those who may come into
2 the system to try to defraud it.

3 Now, Senator, you're correct,
4 \$100,000 would have a greater chilling effect,
5 but I also believe that it would have a chilling
6 effect on the ability of the bill to be passed.
7 We want the penalties to be increased. We want
8 it to be a successful demonstration that welfare
9 fraud will not be tolerated in this state, and I
10 chose to double the penalty after this law has
11 been in effect now for over two years and double
12 that penalty to make it more difficult for those
13 to cheat the system.

14 SENATOR LEICHTER: Senator, when
15 the law was enacted in 1992, which set the
16 penalty at \$5,000 -- by the way, it's not, you
17 know -- the 5,000 is not a limit. It's three
18 times the amount. Right now, if somebody
19 cheated the system out of, let's say \$20,000,
20 you could collect \$60,000 from that person,
21 right?

22 SENATOR NOZZOLIO: That's
23 correct.

1 SENATOR LEICHTER: O.K. And that
2 was passed in 1992, is that correct?

3 SENATOR NOZZOLIO: As I
4 understand it, Senator, yes.

5 SENATOR LEICHTER: And I believe
6 you were in the Assembly at that time?

7 SENATOR NOZZOLIO: Yes, I was,
8 Senator.

9 SENATOR LEICHTER: And did you
10 vote for the bill?

11 SENATOR NOZZOLIO: I believe I
12 did, Senator.

13 SENATOR LEICHTER: Did you decide
14 that 5,000 was an adequate and proper number
15 then?

16 SENATOR NOZZOLIO: No, that's
17 why, when I came to the Senate, I put in the
18 bill that would make it 10,000.

19 SENATOR LEICHTER: Did you at
20 that time vote against the bill?

21 SENATOR NOZZOLIO: No, sir.

22 SENATOR LEICHTER: Did you offer
23 an amendment trying to raise the amount to

1 \$10,000?

2 SENATOR NOZZOLIO: I probably was
3 so shocked, Senator, that the Assembly would
4 even entertain \$5,000, and so pleased that they
5 would or that they would take any step at all
6 regarding welfare fraud and abuse that I was
7 probably too shocked at that time to make an
8 amendment, and I do know supported the bill.

9 SENATOR LEICHTER: Is it fair to
10 say that two years later you're out of shock,
11 Senator?

12 SENATOR NOZZOLIO: I guess I'm
13 shocked, Senator, that you would oppose
14 increasing to 10,000....

15 ACTING PRESIDENT LIBOUS:
16 Gentlemen, if you would address your questions
17 to the Chair, please, and through the Chair, it
18 would be greatly appreciated, and continue.

19 SENATOR LEICHTER: Senator, let
20 me, if I may, ask you some other questions.

21 The over... am I correct that
22 making a false statement in order to get monies
23 from the Social Services Department is a crime,

1 is it not?

2 ACTING PRESIDENT LIBOUS: Senator
3 Nozzolio, do you wish to continue to yield?

4 SENATOR NOZZOLIO: Yes, I'll
5 continue to yield. I did not hear the Senator's
6 question.

7 SENATOR LEICHTER: If you make a
8 -- let me just repeat the question. If you
9 make a false statement in order to get a benefit
10 from the Social Service Department that you're
11 not entitled to, is that a crime?

12 SENATOR NOZZOLIO: I believe it's
13 a crime, yes, sir.

14 SENATOR LEICHTER: Right. So
15 what we're talking about is people who commit a
16 criminal act and they're subject to criminal
17 penalties, is that not correct?

18 SENATOR NOZZOLIO: As I
19 understand it, yes, sir.

20 SENATOR LEICHTER: Right. And
21 all that we're talking about now is to enable
22 the Department of Social Services as a civil
23 penalty to collect monies that have been lost

1 through the criminal act of somebody who made a
2 false statement, is that correct?

3 SENATOR NOZZOLIO: As I
4 understand it, Senator, yes.

5 SENATOR LEICHTER: Right. And
6 the law now provides as a penalty you can get
7 three times the amount of -- that was falsely
8 acquired, is that correct?

9 SENATOR NOZZOLIO: Yes, sir.

10 SENATOR LEICHTER: Right. When
11 -- with a minimum of 5,000. What you're doing,
12 in effect, is raising that minimum to \$10,000.
13 And you're telling us that that's going to make
14 all the difference in welfare fraud, that where
15 the person is already subject to a criminal
16 penalty, the person has to pay three times the
17 amount of monies that he illegally got, but with
18 a minimum of 5,000, that raising that minimum to
19 10,000, forgetting for a moment the rather, I
20 thought, valid point that Senator Waldon made
21 that amounts probably aren't collectable, but
22 you're saying that raising that to 10,000,
23 assuming it were collectable, that that's going

1 to make all the difference in fighting welfare
2 fraud?

3 SENATOR NOZZOLIO: I never -
4 those are not my words, Senator. I believe I
5 said that this is another step to help prevent
6 welfare fraud and abuse. It could act as a
7 chilling effect, my words were, not the words
8 that you chose for me, but my words were that
9 this would be a chilling effect, serve as a
10 chilling effect and may increase the prevention,
11 help increase the prevention of welfare fraud
12 and abuse.

13 I never intended it to be a
14 panacea, Senator. I don't think that it's going
15 to be the be-all and end-all, but I think it is
16 another arrow in the quiver of those who wish to
17 stop welfare fraud and abuse.

18 SENATOR LEICHTER: Senator
19 Nozzolio, and I appreciate your patience, if you
20 would just yield to -- Senator Nozzolio, if
21 you'd be patient, just yield maybe to one or two
22 further questions. I appreciate that you never
23 said it was a panacea, but do you think it's a

1 significant step?

2 SENATOR NOZZOLIO: Yes, Senator,
3 I do.

4 SENATOR LEICHTER: Senator, let
5 me ask you, if you know, and I don't know the
6 answer, so I'm not trying to trick you, but I'm
7 just interested in the comparison, in other
8 instances where people make false statements to
9 get money from the state of New York or make
10 false statements which enables them to pay less
11 money to the state of New York than they're
12 required to, for instance, in a tax return, if
13 you file a false tax return, knowingly false,
14 it's a crime, is it not?

15 SENATOR NOZZOLIO: I'm not sure
16 the amount, Senator.

17 SENATOR LEICHTER: My -- my
18 question is, I hadn't really asked you the
19 question yet, but what -- what are the amounts
20 of civil penalties that the state can collect
21 under those instances?

22 SENATOR NOZZOLIO: Senator, I'm
23 not prepared to discuss the civil/criminal

1 penalties of tax violations with you today.

2 SENATOR LEICHTER: Are you -
3 O.K. Are you equally concerned with monies that
4 the state of New York is cheated out of by
5 people who file fraudulent, false tax returns?

6 SENATOR NOZZOLIO: Of course,
7 Senator.

8 SENATOR LEICHTER: Is that
9 equally as reprehensible as people who get money
10 from the state of New York falsely claiming
11 they're entitled to welfare benefits?

12 SENATOR NOZZOLIO: I would
13 believe wholeheartedly that it is.

14 SENATOR LEICHTER: All right.
15 And is there any reason, Senator, that if we're
16 going to fight fraud across the board, and I'm
17 sure that you're concerned, as you just said you
18 are, with any fraud against the state of New
19 York, why wouldn't your bill also address the
20 instance of fraud by somebody filing false tax
21 returns?

22 SENATOR NOZZOLIO: I think
23 there's a simple answer to that, Senator, is

1 that simply is the question of codification of
2 our laws, that I'm putting in a bill to amend
3 the Social Services Law. You're suggesting a
4 bill that will alter the Tax Law. I think
5 you've got a good idea, and I would suggest
6 going to the bill drafter and getting it cooked
7 up, certainly a bill that, to me, makes sense
8 but I couldn't put both of those in the same
9 porridge because they're two different sections
10 of law.

11 SENATOR LEICHTER: Senator, I
12 don't know how long you've served here, I'm sure
13 not as long as I, because I've been here forever
14 it seems like, but I can assure you that there
15 are any number of bills and they're probably on
16 our calendar, where Section 1 amends the
17 environmental law, Section 2 amends the
18 Navigation Law, Section 3 amends the General
19 Obligations Law, whatever it is. I think you'll
20 agree with me that there's nothing in our rules
21 that prohibits that; in fact it happens all the
22 time. So I don't think there was anything that
23 prevented you from, by Section 1 amending the

1 Social Services Law and Section 2 amending the
2 Tax Law.

3 SENATOR NOZZOLIO: In a technical
4 sense, probably not, Senator, but I think when
5 you're dealing with one subject, it's
6 appropriate to deal with one subject. We're not
7 dealing with two subjects here; we're dealing
8 with one subject, and I think the germaneness of
9 whether or not -- what is not in the bill
10 addressing the comments, Senator, but I think to
11 continue this dialogue is -- it doesn't do us or
12 our colleagues any service.

13 ACTING PRESIDENT LIBOUS: Senator
14 Leichter, if you -

15 SENATOR LEICHTER: Yes, if
16 Senator Nozzolio would yield.

17 ACTING PRESIDENT LIBOUS: If you
18 would please direct your questions through the
19 Chair and try to eliminate the back and forth
20 discussion, it's like you're having a private
21 discussion and then Senator Nozzolio can direct
22 his answers through the Chair, please.

23 Senator Leichter.

1 SENATOR LEICHTER: Mr. President,
2 if Senator Nozzolio would yield to maybe one
3 final question. Let me just preface it by
4 saying, Senator, that while you try to deal with
5 one subject, I thought your subject was fraud
6 and I was just suggesting that fraud covers more
7 than just welfare, but my -- but my issue or my
8 question is, do you know, under this Chapter 41
9 of the Laws of 1992, how much money has been
10 collected by the Department of Social Services?

11 SENATOR NOZZOLIO: No, I do not,
12 sir.

13 SENATOR LEICHTER: Did you
14 inquire?

15 SENATOR NOZZOLIO: No, I did not,
16 sir.

17 SENATOR LEICHTER: Thank you very
18 much, and let me thank you, Senator, for your
19 patience, being willing to answer questions.

20 Mr. President, my colleagues, I
21 mean I think of it's pretty clear that we're
22 presented with a bill. Senator Nozzolio has no
23 idea whatsoever what the current status of the

1 law is, how it's worked, what the benefits would
2 be by making -- by making this change.

3 I -- and as I've stated before,
4 and I'm sorry to put it so directly, Senator,
5 but if we're talking about waste, not fraud at
6 the moment, but waste, the biggest waste may be
7 this bill and to come up with a bill and to have
8 no factual basis, no substantiation whatsoever
9 other than to get up and make some very general
10 statements about "I want to fight welfare
11 fraud."

12 I haven't seen the Department
13 requesting it. I haven't seen that this has
14 been requested by the Inspector General. I've
15 seen no factual foundation for it whatsoever.
16 So I would suggest that what we're doing here is
17 some bashing of people on welfare, some
18 posturing -- I'm sorry to say this, but I think,
19 Senator, to get up as you did and say, If you're
20 interested in stopping fraud you're going to
21 vote for this bill increasing the penalty from
22 5-, or the minimum from 5- to 10,000, and not
23 give us one shred of evidence for it, I think

1 really makes no sense whatsoever.

2 I think it does no credit to this
3 body to pass this sort of a bill, doesn't
4 accomplish what you say it's going to and if you
5 want to engage in a wholesale attack on fraud
6 and waste and enable the state of New York to
7 get back money that people have taken from it
8 wrongly, whether they're on welfare, whether
9 they're taxpayers who cheated or whether they're
10 industrialists who file false statements for
11 IDA's monies, and so on, then let's have a
12 comprehensive, well thought out approach.

13 ACTING PRESIDENT LIBOUS: Senator
14 Smith.

15 SENATOR SMITH: Thank you, Mr.
16 President.

17 Would the sponsor yield for a few
18 questions?

19 SENATOR NOZZOLIO: Senator,
20 reluctantly because it's you, I have to.

21 SENATOR SMITH: Thank you, sir.

22 Could you please tell me what you
23 would consider to be a false statement under

1 this particular legislation?

2 SENATOR NOZZOLIO: Yes, would be
3 a material false statement dealing with
4 information relevant to an applicant's status
5 for a particular benefit.

6 SENATOR SMITH: Name, address,
7 serial number, those kinds of things?

8 SENATOR NOZZOLIO: No, Senator.
9 I think it would be more appropriate, the level
10 of benefit. A material false statement is one
11 that, I think, gets to the essence of the
12 application for the type of process, type of
13 benefit asked for.

14 SENATOR SMITH: Would you agree
15 that it possibly could be the number of
16 dependents or something of that nature?

17 SENATOR NOZZOLIO: Senator, if it
18 was a material statement relevant to the type of
19 benefit, I think, yes, it could be the number of
20 dependents.

21 SENATOR SMITH: Could you
22 possibly tell me how many people who apply for
23 services that would be rendered under the social

1 services are technically incapable of reading
2 and writing?

3 SENATOR NOZZOLIO: Senator, I'm
4 not sure, but I know this: I have a bill in to
5 require those who are receiving social services
6 benefits to be the recipient of a high school
7 diploma or equivalency. I certainly would
8 welcome your support of that legislation as an
9 effort to help those who are receiving social
10 services benefits to receive education or to be
11 given at least a modicum of education. But I
12 would -- I would bet that many who apply don't
13 have basic reading or writing skills.

14 SENATOR SMITH: Senator, if the
15 person is not capable of reading or writing, who
16 then makes the statement or writes the
17 statements on their behalf?

18 SENATOR PRESENT: Senator Smith,
19 may I interrupt a moment?

20 ACTING PRESIDENT SPANO: Senator
21 Present.

22 SENATOR PRESENT: Mr. President,
23 can I have the last section of this bill read

1 and allow Senator LaValle to vote?

2 ACTING PRESIDENT SPANO:

3 Secretary will read the last section.

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

6 (The Secretary called the roll.)

7 THE SECRETARY: Senator LaValle.

8 SENATOR LAVALLE: Aye.

9 ACTING PRESIDENT SPANO: Withdraw
10 the roll call.

11 SENATOR PRESENT: Not yet. Call
12 Senator Farley's name; Senator Farley.

13 THE SECRETARY: Senator Farley.

14 SENATOR FARLEY: Yes. I vote
15 aye.

16 SENATOR PRESENT: Withdraw the
17 roll call and continue the debate.

18 ACTING PRESIDENT SPANO: Withdraw
19 the roll call.

20 Senator Smith.

21 SENATOR SMITH: I believe, Mr.
22 President, there is a question on the floor.

23 SENATOR NOZZOLIO: Mr. President,

1 would Senator Smith please repeat the question?

2 SENATOR SMITH: The question was,
3 if the person is not capable of writing or
4 reading, who then formulates the information or
5 puts the information in the report that is then
6 given to the Department of Social Services?

7 SENATOR NOZZOLIO: Well, that's
8 what, Mr. President, we have Social Services
9 case workers doing every day, taking statements,
10 information, from those who are providing it as
11 to benefits.

12 SENATOR SMITH: So we would then
13 have a Social Service employee who documents
14 this information or puts the information in
15 writing, and the person who can not read or
16 write is now responsible for the statement?

17 SENATOR NOZZOLIO: That's
18 correct, Senator. They're attesting to the
19 validity of that information.

20 SENATOR SMITH: They're attesting
21 to something that they can't read or write?

22 SENATOR NOZZOLIO: Well, Senator,
23 I think that the application is a product of the

1 interchange between interviewee and interviewer,
2 that the application is based on evidence that
3 is provided by the applicant. I believe that
4 the applicant has the responsibility to attest
5 to whether that information is true or not.

6 SENATOR SMITH: Senator, are
7 there any penalties for the person who -- the
8 Social Services director who writes the
9 information incorrectly? Are there any fines
10 for that individual who is fully employed?

11 SENATOR NOZZOLIO: Senator, I'm
12 not aware of the laws relevant to the officers
13 who -- of the state who are acting on behalf of
14 the state to take information from interviewers
15 or interviewees. I must indicate, though,
16 Senator, this law that you are concerned with
17 also applies to those who are participating in
18 Medicaid fraud and abuse, those doctors, those
19 Medicaid mills that many of you on that side of
20 the aisle have been so self-righteous in
21 protesting.

22 It's fine when you're talking
23 about a segment of society that must attest its

1 validity. We're saying this law is as concerned
2 with those who are committing Medicaid fraud,
3 those doctors who are committing Medicaid
4 fraud.

5 SENATOR SMITH: Mr. President, I
6 don't believe that that was the question.

7 ACTING PRESIDENT SPANO: Senator
8 Smith.

9 SENATOR SMITH: I think we're
10 getting a statement rather than an answer to a
11 question.

12 SENATOR NOZZOLIO: Mr. President,
13 I believe I've been being responsive to the
14 Senator's question, as I've been responsive to
15 all questions relevant to this bill, that if
16 they're asking a question I believe I have the
17 right to answer it. If they want to ask another
18 question, I'll answer it.

19 ACTING PRESIDENT SPANO: Senator
20 Smith, would you like Senator Nozzolio to
21 continue to yield?

22 SENATOR SMITH: I think that I'm
23 finished with Senator Nozzolio.

1 ACTING PRESIDENT SPANO: Senator
2 Smith on the bill.

3 SENATOR SMITH: I will be called
4 self-righteous any time when I stand on the side
5 of right, and I believe that taxing poor people
6 for things that they're not -- that are not
7 within their control is certainly not the right
8 way to go, and I don't believe that you can get
9 blood from a turnip or from a stone and
10 certainly you can not get \$10,000 from someone
11 that is on public assistance if you can't get
12 \$5,000.

13 This is just another act of
14 folly, another act for the newspapers which is
15 going no place. Therefore, I will definitely be
16 voting in the negative.

17 ACTING PRESIDENT SPANO: Senator
18 Waldon.

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

21 If I may, would the Senator yield
22 to another question?

23 ACTING PRESIDENT SPANO: Senator

1 Nozzolio, will you yield?

2 SENATOR NOZZOLIO: Yes, Senator.

3 SENATOR WALDON: Prior to posing
4 my first question, Senator, I want you to know
5 that, in committee, I voted yes to report this
6 bill to the floor. At that time, I did not
7 realize certain things, so I want to confirm in
8 my mind's eye so that my heart will act
9 responsibly when I'm required to vote on this
10 bill momentarily.

11 Did I understand you to say that
12 you have no evidence regarding cases where
13 people have falsified information regarding DSS
14 inquiries to their benefit, and have been
15 prosecuted or words to that effect?

16 SENATOR NOZZOLIO: No, Senator.
17 I did not say that. I said that I had no
18 evidence about an amount, a dollar amount that
19 Senator Leichter questioned me about.

20 To answer your question, Senator,
21 there are at least 350 cases now ongoing of
22 Medicaid fraud and abuse, investigating
23 physicians, that this law applies to them as

1 well as applicants for social services.

2 SENATOR WALDON: O.K. If I may,
3 Mr. President.

4 ACTING PRESIDENT SPANO: Senator
5 Nozzolio continues to yield.

6 SENATOR WALDON: Thank you, sir.
7 Senator Nozzolio, I'm not interested as much for
8 the physicians who, for the most part, are able
9 to pay fines, I would think. I'm interested in
10 the mothers, single parent head of household,
11 two children -- waifs, if you will, clinging at
12 her skirt as she goes into the welfare center on
13 Sutphin Boulevard in Senator Smith's district,
14 which is not too far from where my district is,
15 and she makes an application and she makes a
16 mistake or she intentionally deceives and is
17 unable to pay 5,000, 10,000, 2,000, \$1,000. She
18 didn't ask to be in those circumstances.

19 Do you have any evidence of those
20 people who have been prosecuted and, if so, how
21 many are currently being prosecuted in the state
22 of New York, and how many have been successfully
23 prosecuted in the last year?

1 SENATOR NOZZOLIO: Senator, that
2 is a question of the entire scope of welfare
3 fraud and abuse in this state. I don't have at
4 my disposal the number of cases for welfare
5 fraud being investigated today.

6 I remember Commissioner -- former
7 Commissioner Perales saying that he believed the
8 error rate in this state was no more than ten
9 percent. He said this before a Social Services
10 Committee that I served on in the Assembly.
11 However, I don't have, to answer your question
12 specifically, the current numbers of those cases
13 being prosecuted in this state.

14 SENATOR WALDON: If I may, Mr.
15 President.

16 Senator, do you have any concrete
17 evidence -- by that, I mean numbers, 50 cases,
18 100 cases, 200 cases, of recent vintage where
19 people have been prosecuted for this type of
20 fraud, addressed by what you're proposing we
21 vote upon?

22 SENATOR NOZZOLIO: There are
23 currently, just to give you a figure of those

1 cases handled by Medicaid special prosecutor,
2 currently I'm told by staff that there are 350
3 cases ongoing at this time.

4 SENATOR WALDON: Mr. President,
5 if I may continue?

6 SENATOR NOZZOLIO: For
7 physicians. Excuse me, Senator. Those are
8 Medicaid fraud cases primarily dealing with
9 providers.

10 SENATOR WALDON: Mr. President.

11 ACTING PRESIDENT SPANO: Senator
12 Waldon.

13 SENATOR WALDON: Thank you, sir.

14 Senator, are you able to tell us
15 the profile of the majority of people who
16 qualify to apply for welfare in this state?
17 Now, let me explain what I mean by "profile."
18 Are they male or female? Are they parents with
19 husband or with wife? Are they single parent
20 heads of household? Are they parents of one
21 child, two children, three children, four
22 children? Are they African-American, Caribbean
23 American, Latino-American or other? Do you have

1 a profile of the people who most qualify for
2 welfare in this state?

3 SENATOR NOZZOLIO: I have just
4 been counseled by the distinguished chairman of
5 the Senate Social Services Committee, who
6 indicates to me it's within that entire mosaic
7 that all the groups that you mentioned are
8 groups represented receiving social services
9 benefit.

10 SENATOR WALDON: And that would
11 include our brothers and sisters from Puerto
12 Rico, I would assume?

13 SENATOR NOZZOLIO: Yes.

14 SENATOR WALDON: If I may
15 continue, Mr. President. I'm getting close to
16 the end. I won't belabor this too much longer.
17 Was the nod yes?

18 ACTING PRESIDENT SPANO: Go
19 ahead.

20 SENATOR WALDON: Thank you,
21 Senator Spano.

22 Senator, saying that it
23 encompasses that mosaic doesn't give me much

1 information. It doesn't give me any more
2 information than that you gave, than that that
3 you gave earlier regarding the reason that you
4 went from 5,000 to 10,000. I didn't under
5 stand that.

6 When I asked about the number of
7 people who qualify, other than physicians, to be
8 prosecuted under this proposed legislation, you
9 could not give me a number, and I didn't
10 understand that. You're asking us to take a big
11 step to vote on a bill and you came with in
12 sufficient information.

13 I'm trying to get a sense of how
14 many people -- we have eighteen and a half
15 million people in the state of New York. We
16 have seven and a half to eight and a half
17 million people in the city of New York according
18 to whose information you listen to. Can you
19 tell us how many are on welfare? For example,
20 let me ask a more specific question.

21 Can you tell me how many are on
22 welfare who are African-American, females, head
23 of household?

1 SENATOR NOZZOLIO: Senator, let
2 me give you the answer to that question that
3 most concerns my constituents, that the costs of
4 welfare and Medicaid are 42 percent of our state
5 budget today, 42 percent; that the numbers have
6 grown since the early 1990s, have been enormous,
7 from 26 percent of the state budget four years
8 ago to 42 percent today.

9 Those numbers, Senator, are the
10 numbers that motivated me to pursue anything we
11 can to stop costs from escalating beyond
12 reason.

13 SENATOR WALDON: Thank you very
14 much, Mr. President. One last question.

15 ACTING PRESIDENT SPANO: Senator
16 Noz...

17 SENATOR WALDON: Senator -

18 ACTING PRESIDENT SPANO: Senator
19 Waldon.

20 SENATOR WALDON: Senator Nozzolio,
21 I thought I heard you say, and I want you to
22 clarify for me, that you are proposing
23 legislation which will require a high school

1 equivalency diploma for someone to qualify for
2 welfare; was that correct?

3 SENATOR NOZZOLIO: Partially
4 correct, Senator, that it was a idea generated
5 not by me, but by the United States Senator from
6 New York, not Senator D'Amato, Senator Moynihan,
7 who suggested -- a member of your party who
8 suggested that a high school equivalency or
9 diploma itself should be an objective of those
10 who are receiving welfare benefits, and that
11 that diploma is one that should not be a
12 threshold predicated to welfare but one that
13 should be part of a person's responsibility
14 while on welfare to pursue.

15 SENATOR WALDON: Thank you very
16 much, Senator Nozzolio.

17 Mr. President, I don't know if
18 I'm in proper order to re-explain my position
19 now and speak on the bill, if I may.

20 ACTING PRESIDENT SPANO: Senator
21 Waldon, on the bill.

22 SENATOR WALDON: Thank you.

23 One, I request that we put this

1 on the table. I think the rules apply here and
2 that is a proper course of action and, after I
3 finish what I have to say, we can take the
4 necessary action of the body and vote upon that
5 request that we table this. Let me tell you why
6 I think we ought to table it.

7 Talking about a chilling effect.
8 I feel icy when someone can suggest that,
9 without proper rationale, we pick a figure out
10 of the air and jump from 5,000 to 10,000. I
11 feel like I'm at Turning Stone at the crap table
12 and someone has just hit 11 three times in a row
13 and I feel happy and I want to put my money out
14 there, the state's money out there, wasting the
15 resources of the state to chase something that
16 we can not obtain, and the reason that we can
17 not obtain it is that Senator Nozzolio could not
18 give me one instance of someone who is not a
19 physician making much more money than I as a
20 lawyer makes per year, who has properly and
21 successfully been prosecuted by this type of
22 legislation.

23 Secondly, another chilling

1 effect, which makes me feel rather icy, is that
2 to think that, despite what Pat Moynihan may
3 have said, if he said it, he is not the Pied
4 Piper and we are not following him into the
5 water like so many mice following someone going
6 nowhere, and that's where this bill should be
7 going, nowhere.

8 That statement that someone ought
9 to be required to have a high school diploma to
10 qualify for an existence that is deplorable just
11 boggles my imagination. Where are we in regard
12 to "sending me your tired, your poor, your
13 huddled masses yearning to breathe free?"

14 These people who are applying for
15 welfare can't do better. I've been to the
16 welfare centers. The mothers with the children
17 aren't happy to come there under such
18 circumstances. Those children aren't happy to
19 be singled out in their schools as kids who are
20 dirtier than, with less clothes than, with less
21 opportunity than.

22 I wonder if the bottom line
23 motivation here is not mean-spiritedness, and

1 the reason that I have pursue the questioning
2 about the Afrocentricity of those who may
3 qualify for welfare or the Latino expression
4 meaning from a history of Puerto Rico or South
5 America or Cuba or wherever, or other poor and
6 disenfranchised people in this state is that
7 there may be a bias that someone doesn't even
8 realize he has, and that bias may be the
9 motivator to be so persecutorial in regard to
10 people who are somewhat defenseless, somewhat
11 helpless, and certainly hapless when they go
12 into a welfare center and have to apply.

13 I think it's a mistake to waste
14 the resources, and I am party to it because I'm
15 speaking now, to waste the resources of the
16 state of New York and spend so much time on
17 something that's going to do nothing positive
18 for the state of New York, for the people of New
19 York, and it ain't goin' to help us get one more
20 dime out of anybody to reduce the budget
21 regarding welfare.

22 I encourage all of my colleagues
23 to be kind and sensitive, to be aware that there

1 are those of us who can't do better, not that
2 they don't want to do better. They just can't
3 do better, and they end up on welfare, and we
4 shouldn't punish them because of their poverty.

5 I encourage all of us to vote no
6 on this proposal.

7 SENATOR GOLD: Senator -

8 ACTING PRESIDENT SPANO: We do
9 have a list, Senator Gold, but -

10 SENATOR GOLD: I'll yield.

11 ACTING PRESIDENT SPANO: Senator
12 Galiber.

13 SENATOR GALIBER: Yes. Thank
14 you, Mr. President.

15 SENATOR WALDON: Oh, wait a
16 minute, Sorry, Senator. I'm sorry.

17 ACTING PRESIDENT SPANO: Senator
18 Waldon.

19 SENATOR WALDON: I made a move to
20 put it on the table. I apologize, Senator
21 Galiber.

22 SENATOR GALIBER: It's O.K.

23 SENATOR WALDON: I just -- I

1 apologize, Senator. I apologize. I move that
2 we place this on the table. Requires a vote.

3 SENATOR GALIBER: Can we have a
4 slow roll call, see if I can get my vote in that
5 way?

6 SENATOR GOLD: Slow roll call on
7 the vote to lay it on the table.

8 ACTING PRESIDENT SPANO: Question
9 is on Senator Waldon's motion to lay the bill on
10 the table. All those in favor signify by saying
11 aye.

12 SENATOR GOLD: Slow roll call.
13 Five Senators stood. Please.

14 ACTING PRESIDENT SPANO:
15 Secretary will call the roll. Secretary will
16 call the roll. Sergeant-at-arms, please try to
17 get the members into the chamber. An "Aye" vote
18 is to lay the bill on the table. Secretary will
19 call the roll.

20 THE SECRETARY: Senator Babbush
21 excused.

22 Senator Bruno.

23 SENATOR BRUNO: No.

1 THE SECRETARY: Senator -

2 ACTING PRESIDENT SPANO: Excuse
3 me. Can we please -- can we please have some
4 order in the chamber. Continue the roll call.

5 THE SECRETARY: Senator Connor.

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

8 SENATOR CONNOR: Thank you, Mr.
9 President.

10 I think the debate has made it
11 adequately clear that this bill, while we all
12 share the concern of saving money, avoiding
13 people from ripping off the system, that that
14 concern applies across the board. It applies to
15 contractors with the state as well as the
16 poorest people in the state. If applies to the
17 rich, the middle class, anyone who would cheat
18 by filing false instruments, whether it's a
19 false work order or voucher on a contract or a
20 highway or whatever, or whether it's somebody
21 who is applying for some sort of benefit
22 including welfare.

23 To single out one category and

1 not across the board do it is simply nothing
2 more than some sort of scapegoating and press
3 agency stuff.

4 Furthermore, Mr. President, I
5 want to thank Senator Waldon for giving me a
6 unique opportunity. I can't remember the last
7 time I got to vote "yes" on a slow roll call.
8 So I vote yes.

9 ACTING PRESIDENT SPANO: Senator
10 Connor in the affirmative.

11 Continue the roll call.

12 THE SECRETARY: Senator Cook.

13 SENATOR COOK: No.

14 THE SECRETARY: Senator Daly.

15 SENATOR DALY: No.

16 THE SECRETARY: Senator
17 DeFrancisco.

18 (There was no response.)

19 Senator DiCarlo.

20 SENATOR DiCARLO: No.

21 THE SECRETARY: Senator
22 Dollinger.

23 SENATOR DOLLINGER: Mr.

1 President, to explain my vote.

2 ACTING PRESIDENT SPANO: Senator
3 Dollinger.

4 SENATOR DOLLINGER: Mr.
5 President, I think that the point made by
6 Senator Espada and echoed by my colleagues on
7 this side of the aisle is the reason why this
8 ought to be put on the table, and I learned a
9 long time ago we shouldn't buy a pig in a poke,
10 and we shouldn't build a system of deterring
11 welfare on increasing penalties when we don't
12 know whether the current penalties have worked.

13 We don't have any reasonable
14 projection for whether the new penalties will
15 work, and it seems to me what we have is a
16 continuing attempt to resolve the mythology of
17 welfare fraud, the view that somewhere out there
18 there's someone driving around with a huge
19 castle and a fleet of vehicles who happens to be
20 deceiving and fraudulently getting public
21 assistance benefits.

22 I think we need real evidence,
23 real facts, real cases. We ought to have

1 evidence. We ought to be able to show by the
2 preponderance of the evidence that this will
3 work and that it will have some chilling effect
4 or some deterrent effect on fraud which I don't
5 think anybody on this side of the aisle
6 supports.

7 Until we get that evidence, the
8 best thing to do is just put this on the table,
9 bring in the evidence, then we can fight about
10 facts and not myths.

11 I'm voting in favor of laying on
12 the table.

13 ACTING PRESIDENT SPANO: Senator
14 Dollinger in the affirmative. Continue the roll
15 call.

16 THE SECRETARY: Senator Espada.

17 ACTING PRESIDENT SPANO: Senator
18 Espada, two minutes to explain his vote.

19 SENATOR ESPADA: Yes, Mr.
20 President. This is open season; indeed it is
21 open season on poor people. You don't need
22 facts; all you need to do is scream, scream
23 fraud. Fraud is prevalent, and this legislative

1 act, this is a moral and legislative outrage,
2 Mr. President.

3 I am quite surprised that we
4 don't have some kind of a caning provision here
5 because, to pass this bill today is the moral
6 and legislative equivalent of slapping people on
7 the backside and up the side of their heads for
8 being nothing more than poor.

9 I vote, Mr. President, for
10 tabling of this motion.

11 ACTING PRESIDENT SPANO: Senator
12 Espada in the affirmative.

13 THE SECRETARY: Senator Farley.

14 SENATOR FARLEY: I vote no.

15 THE SECRETARY: Senator Galiber.

16 ACTING PRESIDENT SPANO: Senator
17 Galiber to explain his vote.

18 SENATOR GALIBER: Yes, let me
19 take this opportunity. Unfortunately, the
20 Senator who introduced this bill that obviously
21 had a little bit of knowledge in terms of what
22 this is all about, has left the chamber.

23 Let me -- let me just vote yes

1 now, and maybe I can catch him when he comes
2 back in after this thing goes the regular route.

3 ACTING PRESIDENT SPANO: Senator
4 Galiber in the affirmative.

5 THE SECRETARY: Senator Gold.

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

8 SENATOR GOLD: Senator Galiber,
9 maybe we'll get more information if this motion
10 fails, but I know you had one very one serious
11 question, and I'll answer it for you, Senator.
12 If this becomes the law, Senator, every single
13 welfare recipient who gets fined 10,000 will, in
14 fact, have a lien on their yachts and their
15 airplanes and estates.

16 What is being asked here is just
17 so simple. I mean let's know what we're doing
18 here. We don't have any of the numbers and, if
19 Senator Nozzolio can stand on this floor and say
20 that 42 percent of the budget is welfare and
21 we're wasting tht money, then I would be
22 ashamed, Senator Nozzolio, to go home without
23 doing something about it instead of wasting

1 everybody's time with in nonsense.

2 You talk about this bill applying
3 to physicians. My God, the law as it stands
4 today, says you can get treble damages. If you
5 can get a physician on this, under existing law,
6 you don't have to worry about 5- or \$10,000, you
7 may be talking about 50- or 75- or 100,000, and
8 your 10,000 means nothing.

9 On the other hand, Senator
10 Nozzolio, if you do get a \$10,000 fine under
11 your bill and the person goes to prison for
12 doing this fraudulent act, I want you to know
13 then we have a chance because, as a starting out
14 prisoner at seven and a half cents a hour, 45
15 cents a day, it will only take 22,000 days or 60
16 years in jail, but we'll get that 10,000 from
17 the guy.

18 The bottom line is that you have
19 no right, Senator -- you have a right to fight
20 frauds, and we're all with you. You have no
21 right to insult everybody and when you stand up
22 and say to someone, Well, you're either for or
23 against the welfare fraud, that is insulting,

1 insulting. That's saying that, if Senator Jones
2 had her way and put in a bill for \$20,000, then
3 she's twice as much against welfare cheating as
4 you and, if she offers that amendment and you
5 vote no on it, it's because you're for welfare
6 cheats.

7 Senator, this is absurd. It is
8 absurd. I vote to table it. I vote yes.

9 ACTING PRESIDENT SPANO: Senator
10 Gold in the affirmative.

11 THE SECRETARY: Senator
12 Gonzalez.

13 SENATOR GONZALEZ: Yes.

14 THE SECRETARY: Senator Goodman.
15 (There was no response.)

16 Senator Hannon.

17 SENATOR HANNON: Mr. President.

18 ACTING PRESIDENT SPANO: Senator
19 Hannon to explain his vote.

20 SENATOR HANNON: Yeah. I was
21 very intrigued to find out that the Minority
22 Leader Pro Tem or whatever the title is, Senator
23 Gold distinguished, holds, was talking about the

1 treble damages. Unfortunately, he hasn't read
2 the bill before him.

3 The treble damages are capped by
4 the \$5,000, and this bill would raise the cap.

5 SENATOR GOLD: Or greater. Or
6 greater, sir. You better read the bill.

7 SENATOR HANNON: You mean the
8 treble damages could be even further if it's
9 deserved. Well, I don't read it that way, but
10 my point is that the arguments are
11 disingenuous. The treble -- the damages would
12 be levied -- levied against those who are evil
13 doers, those who have defrauded the state, those
14 who have defrauded the local social services
15 districts.

16 That's what ought to be done,
17 because every time there's a fraud, the people
18 who are justly deserving of welfare don't get
19 that money and, if you -- every month I look at
20 the reports of the special Medicaid fraud
21 investigator, and there are hundreds of
22 thousands of dollars that are being taken out of
23 the stream and put into people's pockets where

1 they ought not to be and, if you can't be
2 serious, you don't have to be vindictive, but if
3 you can't be serious about the penalties, then I
4 don't know what the purpose of government is.

5 On one hand, it's to help the
6 people who are truly needy. On the other hand,
7 it's to punish those people who are defrauding
8 and I think all of these arguments are totally
9 misleading.

10 I vote no.

11 ACTING PRESIDENT SPANO: Senator
12 Hannon in the negative.

13 Continue the roll.

14 THE SECRETARY: Senator
15 Hoffmann.

16 SENATOR HOFFMANN: Yes.

17 THE SECRETARY: Senator Holland.

18 SENATOR HOLLAND: No.

19 THE SECRETARY: Senator Johnson.

20 SENATOR JOHNSON: No.

21 THE SECRETARY: Senator Jones.

22 SENATOR JONES: Yes.

23 THE SECRETARY: Senator Kruger.

1 SENATOR KRUGER: Yes.

2 THE SECRETARY: Senator Kuhl.

3 SENATOR KUHL: No.

4 THE SECRETARY: Senator Lack.

5 SENATOR LACK: No.

6 THE SECRETARY: Senator Larkin.

7 SENATOR LARKIN: No.

8 THE SECRETARY: Senator LaValle.

9 (There was no response.)

10 Senator Leichter.

11 ACTING PRESIDENT SPANO: Senator
12 Leichter to explain his vote.

13 SENATOR LEICHTER: Mr. President,
14 there's two issues involved here. One is the
15 issue of how we deal with the whole problem of
16 welfare, how we deal with fraud and so on, which
17 is is a legitimate issue. I don't get to that
18 issue at this point because my issue is the in
19 tegrity of our legislative process and of having
20 somebody come before us with a bill where that
21 person clearly has not done the work, and I'm
22 sorry to say that, Senator Nozzolio. Or you
23 have done the work, you didn't have the figures

1 with you, and a request was made to you very
2 early on by Senator Espada, would you put the
3 bill aside for a day and let's take a look at
4 the facts.

5 That certainly is a reasonable
6 request. You decided instead to get up and say
7 if you're against welfare fraud you've got to go
8 for this bill, Senator, and we've been trying to
9 show that you're not in a position to support
10 your own bill, and Senator Hannon, who is one of
11 the smartest lawyers that we have in this body,
12 obviously didn't read the bill because the bill
13 makes it very clear that we're obviously talking
14 of three times the amount by which the state has
15 been defrauded or, as the law says, \$5,000,
16 whichever is greater. There's no way you can
17 misread that bill, but we have so much mis
18 information, Senator.

19 You get up and you say 42 percent
20 of the state budget is spent on social
21 services. It is 26 percent of the general fund,
22 but that's what concerns me. We're dealing with
23 myths. There's no reality. Give us facts; give

1 us figures. If you have it, put the bill aside
2 for a day. If you can show social service
3 commissioners who will say, We could have
4 collected more money, we need this. Maybe we'll
5 support it because we're as much against fraud
6 as you are, but if you can't do that then, sir,
7 it's grandstanding and posturing and the only
8 waste, as I said before, is in putting forward
9 this bill because that costs the taxpayers
10 money.

11 Mr. President, I vote yes.

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

14 THE SECRETARY: Senator Levy.

15 SENATOR LEVY: No.

16 THE SECRETARY: Senator Libous.

17 SENATOR LIBOUS: No.

18 THE SECRETARY: Senator Maltese.

19 SENATOR MALTESE: Nay.

20 THE SECRETARY: Senator Marchi.

21 SENATOR MARCHI: No.

22 THE SECRETARY: Senator Marino,
23 no.

1 Senator Markowitz.

2 SENATOR MARKOWITZ: Yes.

3 THE SECRETARY: Senator Mendez.

4 SENATOR MENDEZ: Yes.

5 THE SECRETARY: Senator

6 Montgomery.

7 ACTING PRESIDENT SPANO: Before
8 Senator Montgomery, just like to please remind
9 the members they have two minutes to explain
10 their vote. Thank you.

11 Senator Montgomery.

12 SENATOR MONTGOMERY: Thank you,
13 Mr. President. I will be less than two
14 minutes.

15 I just want to say that I'm -
16 the bill does not seem to cover, and I'm not
17 aware of Senator Nozzolio bringing legislation
18 which would also cover fraud in other areas like
19 income taxes and in Medicaid fraud and even
20 Medicaid fraud and other forms of fraud as it
21 relates to people who are involved with public
22 funding, and so this one seems to be clearly
23 aimed at a very -

1 ACTING PRESIDENT SPANO: Senator
2 Montgomery, can we please suffer an interruption
3 while the stenographer changes the tape.

4 Thank you. Senator Montgomery.

5 SENATOR MONTGOMERY: I thank
6 you.

7 Mr. President, this bill seems to
8 be clearly aimed at a very particular group of
9 people, and those are people who I would assume
10 have some association with the welfare system.

11 I don't imagine that people,
12 middle income people or people who don't need
13 welfare, are going to be involved with this
14 legislation. So my question to Senator Nozzolio
15 would be, how, in fact, we would ever retrieve
16 the monies based on this legislation, and I'm
17 not sure we've ever collected \$5,000 or more or
18 even less based on the legislation as it exists
19 as per our 1992 version. And so I think that
20 this particular bill is not in any way going to
21 address the real issue as it relates to the
22 possibility of welfare fraud which, of course,
23 Senator Nozzolio has not proven that he has

1 evidence of.

2 So I would vote certainly to lay
3 it on the table and, Senator Nozzolio, I
4 certainly would invite you to join some of us
5 who really do want to see a different kind of
6 welfare system, a system that leads to
7 independence, a system that really respects
8 people and their aspirations to be productive
9 citizens, as any of us in this room and a system
10 that really supports that.

11 So this kind of welfare bashing,
12 I think, is inappropriate. It is not necessary,
13 and certainly it sends a kind of message that we
14 want to be mean to people, we want to punish
15 people and, even if they're not doing anything
16 wrong, we want to say to them, we're going to
17 punish you even if you're not doing something
18 wrong.

19 ACTING PRESIDENT SPANO: Senator
20 Montgomery how do you vote?

21 SENATOR MONTGOMERY: My two
22 minutes are up. I vote yes to table the bill.
23 Let's move on to something that's productive.

1 ACTING PRESIDENT SPANO: Senator
2 Montgomery in the affirmative.

3 We'll have a 30-second delay for
4 a technical problem.

5 SENATOR GALIBER: Mr. President,
6 just to add to the uneasiness this afternoon, a
7 point of information. Am I correct that there
8 must be a request by somebody to invoke the
9 two-minute rule -

10 ACTING PRESIDENT SPANO: Senator
11 Galiber, one minute.

12 Senator Galiber, why do you
13 rise?

14 SENATOR GALIBER: Yeah. Since
15 we're in this foolishness today, my point of in
16 formation is, is it not so that, in order for
17 you to enforce the two-minute rule that there
18 need be an objection from the body as opposed to
19 the prerogative of the Chair to say yes, your
20 two minutes is up?

21 ACTING PRESIDENT SPANO:
22 Absolutely. Your point is well taken, Senator
23 Galiber. It was the impression of the Chair

1 that Senator Montgomery was completing.

2 Secretary the continue the roll
3 call.

4 THE SECRETARY: Senator Nanula.

5 SENATOR NANULA: Yes.

6 THE SECRETARY: Senator Nolan.

7 (There was no response.)

8 Senator Nozzolio.

9 SENATOR NOZZOLIO: Mr. President,
10 to explain my vote.

11 ACTING PRESIDENT SPANO: Senator
12 Nozzolio.

13 SENATOR NOZZOLIO: Mr. President,
14 my colleagues, this lengthy debate has, in my
15 view, gotten off track and in many cases has
16 been a smoke screen for those who do not want to
17 stand for welfare reform.

18 This is not a question of
19 literacy; this is a question of honesty. This
20 is a question of penalizing those who make
21 material false statements on applications for
22 welfare and Medicaid and those providers who
23 defraud the system by making dishonest

1 statements. That's what the law does.

2 We're trying to change the law to
3 make it a stronger law with stronger penalty.
4 There is at least \$2 billion worth of welfare
5 and Medicaid fraud and abuse in this state every
6 year. The smoke screen that you put up has
7 tried to obfuscate that fraud and abuse.

8 Now, with all due respect to
9 those who are trying to characterize this as
10 something that it isn't, it is a measure to try
11 to bring a handle and stop the scandal of
12 growing fraud and abuse in the system. That's
13 the simple fact of what this measure is.

14 I vote no on the motion.

15 ACTING PRESIDENT SPANO: Senator
16 Nozzolio in the negative.

17 THE SECRETARY: Senator
18 Ohrenstein, aye.

19 Senator Onorato.

20 SENATOR ONORATO: Aye.

21 THE SECRETARY: Senator
22 Oppenheimer.

23 ACTING PRESIDENT SPANO: Senator

1 Oppenheimer to explain her vote.

2 SENATOR OPPENHEIMER: To explain
3 my vote.

4 As I think I understand it, if
5 this were to be utilized to apply to those
6 Medicaid mill doctors, this would make sense
7 increasing the fine, because there is a
8 possibility of the fine being paid, but I hope
9 that this -- well, we won't probably have the
10 opportunity to table this but, if we had, I
11 would have been very interested to find out if
12 there had ever been a single case where a fine
13 of \$5,000 had been paid by one of the poorer
14 residents of this state. That would be
15 interesting to find out.

16 I hope we get that opportunity.
17 I vote aye.

18 ACTING PRESIDENT SPANO: Senator
19 Oppenheimer in the affirmative.

20 THE SECRETARY: Senator Padavan.

21 SENATOR PADAVAN: No.

22 THE SECRETARY: Senator Pataki.

23 SENATOR PATAKI: No.

1 SENATOR GOLD: Say no.
2 THE SECRETARY: Senator
3 Paterson.
4 (There was no response.)
5 Senator Present.
6 SENATOR PRESENT: No.
7 THE SECRETARY: Senator Rath.
8 SENATOR RATH: No.
9 THE SECRETARY: Senator Saland.
10 SENATOR SALAND: No.
11 THE SECRETARY: Senator
12 Santiago.
13 SENATOR SANTIAGO: Yes.
14 THE SECRETARY: Senator Sears.
15 SENATOR SEARS: No.
16 THE SECRETARY: Senator Seward.
17 SENATOR SEWARD: No.
18 THE SECRETARY: Senator Skelos.
19 SENATOR SKELOS: No.
20 THE SECRETARY: Senator Smith.
21 SENATOR SMITH: Yes.
22 THE SECRETARY: Senator Solomon.
23 (There was no response.)

1 Senator Spano.

2 SENATOR SPANO: No.

3 THE SECRETARY: Senator
4 Stachowski.

5 ACTING PRESIDENT SPANO: Senator
6 Stachowski to explain his vote.

7 SENATOR STACHOWSKI: To explain
8 my vote.

9 Normally, I don't like to do this
10 but I think in this case I will, because I think
11 the interesting thing that has us here isn't
12 whether anybody wants to stop fraud or make the
13 penalty stiffer or make the law stronger. It's
14 a matter, and the reason why I'm going to vote
15 yes is that a couple Senators on this side asked
16 legitimately a couple questions just for some
17 documentation to show that this will bring in
18 more money to the state if poor people are
19 cheating the system and they're caught, and will
20 they, in fact, be paying those fines and is that
21 happening now, and I didn't think that was such
22 an unreasonable request. I didn't think it was
23 a horrible smoke screen.

1 Quite to the contrary, I thought
2 it was a self-righteous, no-offense-meant
3 attitude to say if you're not for this and you
4 have questions, then you're for welfare fraud
5 and there's something wrong with you. I think
6 the fact is that, if you have a population that
7 is mixed and you represent that and you're going
8 to maybe consider voting for something because
9 you know the people that are legitimately
10 collecting benefits don't want to see money
11 going to people that don't deserve it or people
12 that don't collect it don't want to see people
13 collecting benefits that don't deserve them,
14 well, then, you want to at least arm yourself
15 with that information. But if the real reason
16 for this bill, and if it turns out to be another
17 one-house bill, is just for a local headline in
18 your paper, wouldn't it be a better story if you
19 at least furnished that information to put in
20 under that headline: Senator So and So passes
21 sterner penalties to welfare cheats, and the
22 reason we need this is this, rather than the
23 reason if you don't vote for this you're for

1 welfare fraud.

2 I think you'd have a much better
3 story if you go with the headline if you said we
4 have so many cases that are successfully
5 prosecuted for five thou' and that the people in
6 enforcement tell us that if the fine is 10,000
7 we would have collected that much more money,
8 and I didn't think it was unreasonable and for
9 that reason, I vote for the tabling.

10 ACTING PRESIDENT SPANO: Senator
11 Stachowski in the affirmative.

12 Senator Stafford.

13 SENATOR STAFFORD: No.

14 THE SECRETARY: Senator
15 Stavisky.

16 (There was no response.)

17 Senator Trunzo.

18 SENATOR TRUNZO: No.

19 THE SECRETARY: Senator Tully.

20 SENATOR TULLY: No.

21 THE SECRETARY: Senator Velella.

22 SENATOR VELELLA: No.

23 THE SECRETARY: Senator Volker

1 excused.

2 Senator Waldon.

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

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

7 Though this is a legislative
8 body, what we do here is political and in
9 politics perception is often much more important
10 and has a greater impact than reality, and I sat
11 here and I listened to Senator Espada earlier
12 and he triggered certain thoughts in my mind's
13 eye which caused me to ask certain questions of
14 Senator Nozzolio, and the responses from Senator
15 Nozzolio led me to believe that there was
16 another agenda in this bill, not just the words
17 that were on the paper, and I ask not only
18 Senator Nozzolio but all of the Senators who are
19 here, don't disrespect me and the people I
20 serve. Don't disrespect Senator Espada and the
21 people he serves. Our people are just as
22 concerned about ripoff artists and welfare
23 cheats and thieves and people who break into

1 their homes and people who maim and murder as
2 you are. So don't even subconsciously couch us
3 all in a bed that says we're for something that
4 we're not.

5 We want honesty. We want our
6 children to have choice, to be whoever they can
7 be. We want the city of New York where I'm from
8 in this great state of New York to work for all
9 of us. We all find welfare cheats despicable,
10 but this piece of legislation and its chilling
11 effect, I think, says certain people ought to be
12 punished, and I question why should these
13 certain little people who have nothing and no
14 one to defend them except those of us like
15 Senator Espada and myself and others to defend
16 them in this body.

17 As a result of all of that, the
18 fact that there was no documentation to show me
19 that there should be some real consideration of
20 this, I must vote aye.

21 Thank you, Mr. President.

22 ACTING PRESIDENT SPANO: Senator
23 Waldon in the affirmative.

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THE SECRETARY: Senator Wright.

SENATOR WRIGHT: No.

ACTING PRESIDENT SPANO:

Absentees.

THE SECRETARY: Senator

DeFrancisco.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator LaValle.

(There was no response.)

Senator Nolan.

(There was no response.)

Senator Paterson.

(There was no response.)

Senator Solomon.

(There was no response.)

Senator Stavisky.

(There was no response.)

ACTING PRESIDENT SPANO:

Results.

THE SECRETARY: Ayes 21, nays 31.

ACTING PRESIDENT SPANO: The

1 motion is defeated.

2 Senator Galiber, you're next on
3 the list for debate on the bill.

4 SENATOR GALIBER: Yes, thank you,
5 Mr. President.

6 I only wish, if I had an
7 opportunity for three wishes or a dream, one, I
8 would wish that we had passed a budget already
9 and, of course, that means this would not happen
10 and that didn't happen until later on, I would
11 wish that this was not an election year but it
12 is just like back -- this is not my day.

13 SENATOR GOLD: Mr. President.

14 ACTING PRESIDENT SPANO: Senator
15 Gold.

16 SENATOR GOLD: With the deepest
17 respect for one of the great Americans of our
18 time, Senator Galiber, if I could just -- just
19 interrupt, if we could just have the last
20 section read for the purpose of allowing Senator
21 Santiago to cast her vote on the bill, yeah, and
22 also Senator Stafford. He's never done it
23 before.

1 ACTING PRESIDENT SPANO: Read the
2 last section.

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

5 (The Secretary called the roll.)

6 THE SECRETARY: Senator
7 Santiago.

8 SENATOR SANTIAGO: I request
9 unanimous consent to be recorded in the negative
10 on Calendar Number 703.

11 SENATOR GOLD: In the negative.
12 Senator Stafford.

13 SENATOR STAFFORD: Aye.

14 ACTING PRESIDENT SPANO: Withdraw
15 the roll call.

16 Senator Galiber, you complete?

17 SENATOR GALIBER: I probably
18 would be better off if I did.

19 ACTING PRESIDENT SPANO: Senator
20 Galiber, you have the floor.

21 SENATOR GALIBER: Yes, and I was
22 in the process of being somewhat facetious, but
23 on the other hand somewhat sagacious when I said

1 we should not be here because what is happening
2 today with this piece of legislation, Senator,
3 just borders on ludicrous, and I'm not meaning
4 anything personal. I don't get personal, been
5 here too long, because it has no impact.

6 This piece of legislation came up
7 in 1992. Interesting, it had to do with
8 Medicaid cost containment. That's where you
9 pulled it from in 1992, and 1992 was an election
10 year, but to get on this floor and suggest to us
11 that this is \$42 million or 42 percent of the
12 overall budget which included Medicaid isn't
13 quite fair.

14 It isn't because you know where
15 the big bucks are as well as we do, and it's
16 been said over and over and over again on this
17 side of the aisle that this is not the approach
18 and no one is trying to convince -- it's just a
19 question that we're utilizing.

20 ACTING PRESIDENT SPANO: Excuse
21 me, Senator Galiber. Could we please try to get
22 you some order. Could we please have some order
23 in the chamber.

1 SENATOR GALIBER: I think this is
2 a conspiracy. All right.

3 ACTING PRESIDENT SPANO: Senator
4 Galiber.

5 SENATOR GALIBER: The fact of the
6 matter is that we've spent an inordinate amount
7 of time on this piece of legislation. I think
8 what is more damaging, Senator, is that you have
9 had collectively on your side of the aisle, you
10 have pulled in a number of disciplined and
11 committed colleagues of yours to vote yes on
12 this crazy piece of legislation which does
13 absolutely nothing, and we fell into a trap,
14 very frankly. We fell into a trap, my
15 colleagues, myself included here, because what
16 this is is an election year bill and it's going
17 to be in headlines like it was in '92, and I
18 don't mind headlines. All of us that are
19 involved in politics love to hear and see the
20 headlines and read what we have said here in
21 this body. But let me give you a real life
22 experience on what happens here not at the
23 people that you are directed at as far as the

1 legislation is concerned.

2 When someone is caught in this
3 very small category of people, the larger
4 portion of what you're referring to as far as
5 fraud and we're concerned with, whether it's a
6 small person or provider or someone who is
7 cheating in Medicaid, we are all concerned with
8 that. I find myself in a new position as
9 ranking on Finance, shocked at some of the
10 things that come up from time to time. I
11 haven't got over the impact, very frankly, of
12 the bills that we pass every two weeks where
13 there's 200, \$300 million, two-week cost factor,
14 shocking, I could never have in my wildest
15 imagination, figured it would cost that much.

16 Let me tell you what happens.
17 Bronx County 1994, next week, welfare fraud.
18 Investigation by the district attorney's office,
19 bring 'em into court. They plead guilty, they
20 sign a confession of judgment. They're given a
21 pay-out plan for six, seven, eight, nine, ten
22 years at the rate of -- minimum rate per week
23 and then they go back on welfare and that's

1 subtracted from what they receive.

2 You're targeting the wrong
3 people. It's been said here over and over again
4 and what this piece of legislation really does
5 is just waste our time and you know it too.
6 Instead of Senators saying, which has always
7 been a courtesy all the years I've been here,
8 member after member, either side of the aisle,
9 and we're losing some of that respect that we
10 had, someone respectfully suggests or asks, will
11 you kindly lay this bill aside until we get the
12 facts. I can count on my one hand, on my one
13 hand, and probably this year three of those
14 fingers there's been an objection by someone on
15 your side of the aisle to say, No, I will not
16 lay that bill aside. And this is 27 years I've
17 been here.

18 Only two or three occasions
19 there's been someone, a colleague, another
20 Senator, asked to lay it aside to bring in the
21 facts. Never refuse, and then you have some
22 very honorable colleagues who, in their heart's
23 heart know that you're wrong because you can at

1 least extend courtesy especially if you're
2 right.

3 But you are not prepared to say,
4 Yes, I've made a mistake. I've since seen the
5 light. I'll lay it aside, because you turned
6 off a minute in our society and encourage but
7 no, you take the arrogant position because
8 you're in the majority and because you have the
9 votes and because you have the loyal group of
10 friends who are going to say yes and leave us in
11 a position to say, Well, you're against welfare
12 fraud.

13 That's not so, and it's been said
14 over and over and over again. Senator Moynihan,
15 whom you mentioned, is a very good friend of
16 mine. We graduated some 50 years ago Benjamin
17 Franklin High School. Know him. Got a bad rap
18 years ago on something someone else wrote, but
19 he's been someone who has been basically
20 concerned about welfare reform, and so are we
21 and so are you.

22 We are merely saying let's go
23 about it the right way, and this is not the

1 right way. Whether you take the approach that
2 we should educate, train and then get a job or
3 have a job and then train. Welfare reform is
4 what's needed. We want to go about it together,
5 make those changes, but no, you choose to take
6 this opportunity on a very small portion of the
7 overall fraud that exists and pick on just a
8 small segment which in the real world has never
9 happened.

10 Senator, I have respect for all
11 Senators, all of us, and the other side also.
12 Just an aside, I wish I could put a piece of
13 legislation in to say if you ran in the other
14 house, you're prohibited from coming over to the
15 Senate, because you come with a different spirit
16 because they treated you so badly over there,
17 but the fact remains that you want to see it,
18 but you're using just brute force to get this
19 piece of legislation through and it was never
20 intended so.

21 Back in 1992, I believe you were
22 in the other house, wherever, but you're
23 familiar with it because you had the necessity

1 to go to 1992 to pull this segment out of the
2 '92 cost containment Medicaid bill. You pulled
3 it out. It was long-term care and that's where
4 the costs really are -- is, long-term care which
5 deals with middle class America. Has nothing to
6 do with that small group of persons that you
7 have implied are responsible for cheating and
8 all the fraud that exists, and we know this and
9 we fell into a trap and we should not dignify
10 this piece of legislation by talking about it
11 and debating it to this degree.

12 It's a one-house bill, it's ten
13 minutes to six, and it's a piece of garbage and
14 you're pickin' on the wrong people, and you know
15 it in your heart's heart. You can't give one
16 example because you're a decent, reasonable
17 person and, if you had the facts you wouldn't
18 hesitate to lay this bill aside and bring it
19 back tomorrow. You're not laying it aside
20 because you have no incidents where this has
21 happened, where there's been a fraud of 5,000 to
22 increase it, so we've wasted a lot of time, and
23 I apologize for getting involved in this trap,

1 and that's what it is.

2 This is a horrible, horrible
3 piece of legislation. You don't even believe it
4 yourself, and we are in favor of reform. We are
5 more in favor of reform than you are because, as
6 the tax rolls in our community, people -- put
7 people to work, put them back on the tax rolls.
8 We want that more so than you do, but you're
9 barking up the wrong tree, picking on the wrong
10 people.

11 This is just a bad piece of
12 legislation. It's only going to be a one-house
13 bill. But don't come in here telling us that 42
14 percent of our budget is responsible for the
15 people that you've alluded to. Pure nonsense,
16 and you know better; pure unadulterated
17 nonsense.

18 Any time, and I tell you this for
19 the future, if I have a piece of legislation and
20 you want me to answer some questions on it, just
21 merely ask me to lay the bill aside. Out of
22 respect for this entire body you've got that
23 motion granted as far as I'm concerned. I'm

1 prepared like most of the colleagues in this
2 house on both sides of the aisle to extend the
3 courtesy and lay it aside.

4 You got the facts, bring 'em in,
5 if you haven't got the facts don't play-act with
6 us, which is called hypocrisy in another way.

7 ACTING PRESIDENT SPANO: Senator
8 Gold.

9 SENATOR GOLD: I'd like to rest
10 on the summation by Senator Galiber.

11 ACTING PRESIDENT SPANO: Senator
12 Galiber -- one minute. Senator Nozzolio to
13 close.

14 SENATOR NOZZOLIO: Mr. President,
15 my colleagues, in spite of what was said by my
16 colleague, Senator Galiber, regarding respect, I
17 do respect the men and women of this house. I
18 stood before you and answered every question I
19 was asked, never refusing to yield.

20 Senator Espada, I respected in
21 his request. I told him upon his request that I
22 would supply him with that information. If he
23 had come to me prior to the debate, I may have

1 decided another course, but we were in the
2 debate. The bill was before this house properly
3 and I believed welfare fraud is an important
4 enough issue that we do everything we can to
5 fight.

6 And no, Senator, this bill is not
7 a garbage bill. This bill is a bill that
8 presents a good faith attempt to fight fraud and
9 abuse and send a clear signal to those who are
10 providing materially false statements to obtain
11 Medicaid or welfare benefits that that will not
12 be tolerated in this state. Pure and simple.

13 That's all this bill does, and I
14 hope you will get beyond the rhetoric and will
15 support it.

16 ACTING PRESIDENT SPANO: Read the
17 last section.

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

20 SENATOR GOLD: Slow roll call.

21 ACTING PRESIDENT SPANO: Slow
22 roll call has been asked for. A sufficient
23 number of Senators have requested a slow roll

1 call. Please get the members into the chamber.
2 Secretary will call the roll.
3 THE SECRETARY: Senator Babbush
4 excused.
5 Senator Bruno.
6 (There was no response.)
7 Senator Connor.
8 (There was no response.)
9 Senator Cook.
10 SENATOR COOK: Yes.
11 THE SECRETARY: Senator Daly.
12 SENATOR DALY: Yes.
13 THE SECRETARY: Senator
14 DeFrancisco.
15 (There was no response.)
16 Senator DiCarlo.
17 SENATOR DiCARLO: Yes.
18 THE SECRETARY: Senator
19 Dollinger.
20 SENATOR DOLLINGER: Yes.
21 THE SECRETARY: Aye.
22 Senator Espada.
23 SENATOR ESPADA: Aye.

1 THE SECRETARY: Aye. Senator
2 Farley voting in the affirmative earlier today.

3 ACTING PRESIDENT SPANO: Senator
4 Espada.

5 SENATOR ESPADA: That vote was in
6 the negative. I'm sorry.

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

9 THE SECRETARY: Senator Galiber.

10 ACTING PRESIDENT SPANO: Senator
11 Galiber to explain his vote.

12 SENATOR GALIBER: I won't use -
13 Senator, I said earlier in due respect, I said
14 this is a piece of junk, and I still think it's
15 a piece of junk and I think in your heart's
16 heart you know it's a piece of junk, and this is
17 not the right direction to go and all of us
18 opposed to Medicaid and any fraud in any form or
19 fashion and you know it as well as we know it
20 and what you suggested borders on -- I can't
21 find a descriptive adjective for it. If someone
22 had come to you before the debate, therefore,
23 you would extend respect, but now the debate is

1 on, no respect is afforded us. I think that's a
2 horrible attitude, horrible, horrible altitude.

3 I vote no.

4 ACTING PRESIDENT SPANO: Senator
5 Galiber in the negative.

6 THE SECRETARY: Senator Gold.

7 ACTING PRESIDENT SPANO: Senator
8 Gold to explain his vote.

9 SENATOR GOLD: Mr. President, I
10 want to make these remarks because there are
11 people on the other side of the aisle who I
12 respect who have asked a number of the members
13 on this side why some of the heat, and I want
14 those reasonable people on the other side of the
15 aisle to understand that many of us are counter
16 punchers. We don't start the fights. We try to
17 do what we can do in a proper legislative way
18 and I understand the loyalty that you have.
19 Every once in a while there's a bad ruling from
20 the Chair, and you guys are stuck with it and
21 have to vote some silly way. We understand
22 loyalty. I forget the last time that happened
23 but I'm remembering.

1 But there's no time problem with
2 this bill. It's not going to pass the other
3 house, not going anywhere. It could have been
4 laid aside. But the main thing is that there's
5 a hypocrisy here. This bill says that it is
6 wrong to commit fraud. The bill says it is
7 wrong to make a statement of a material fact
8 that's wrong, and the hypocrisy is you're asking
9 me to vote for the bill and then represent to my
10 constituents that I'm going to get some money
11 for them. That would be a fraud, Senator
12 Nozzolio.

13 So in other words, it's O.K. to
14 commit a fraud upon your constituents with a
15 vote on a bill that promises money, that
16 promises it's going to do something about fraud
17 but it's wrong to do fraud in the bill. That's
18 just an absurdity it, Senator Maltese. Senator
19 Lack, that's an absurdity.

20 SENATOR LEICHTER: Mr. President,
21 may we have order, please.

22 ACTING PRESIDENT SPANO: Did you
23 object to two minutes, Senator Leichter?

1 SENATOR LEICHTER: No, Senator, I
2 objected to what I thought was a rather raucous
3 noise.

4 ACTING PRESIDENT SPANO: I'm
5 sorry, Senator, I didn't hear you. May we
6 please have some order in the chamber.

7 Senator Gold.

8 SENATOR GOLD: Thank you. I want
9 you to know I'm timing the two minutes and at
10 the end of my other minute and a half, I'll shut
11 up. The bottom line is there is no money.
12 That's the tragedy; that's the fraud of this
13 bill, that when all is said and done there is no
14 money, and people are going to be asking where
15 that money is, and I'll be able to look them in
16 the eye and say on the day I voted no, I voted
17 no because there is no money.

18 I vote no.

19 ACTING PRESIDENT SPANO: Senator
20 Gold in the negative.

21 THE SECRETARY: Senator
22 Gonzalez.

23 SENATOR GONZALEZ: No.

1 THE SECRETARY: Senator Goodman.
2 (There was no response.)
3 Senator Hannon.
4 SENATOR HANNON: Yes.
5 THE SECRETARY: Senator
6 Hoffmann.
7 SENATOR HOFFMANN: Yes.
8 THE SECRETARY: Senator Holland.
9 SENATOR HOLLAND: Yes.
10 THE SECRETARY: Senator Johnson.
11 SENATOR JOHNSON: Aye.
12 THE SECRETARY: Senator Jones.
13 SENATOR JONES: Yes.
14 THE SECRETARY: Senator Kruger.
15 SENATOR KRUGER: Yes.
16 THE SECRETARY: Senator Kuhl.
17 SENATOR KUHL: Aye.
18 THE SECRETARY: Senator Lack.
19 SENATOR LACK: Aye.
20 THE SECRETARY: Senator Larkin.
21 SENATOR LARKIN: Aye.
22 THE SECRETARY: Senator LaValle
23 voting in the affirmative earlier today.

1 Senator Leichter.

2 SENATOR LEICHTER: Mr. President.

3 ACTING PRESIDENT SPANO: Senator
4 Leichter.

5 SENATOR LEICHTER: To explain my
6 vote.

7 Mr. President, I previously
8 explained my unhappiness with the way this bill
9 was presented, but let's just take a look at the
10 bill now.

11 This great weapon in fighting
12 welfare fraud, which we're told welfare fraud in
13 this state is \$2 billion, Senator Nozzolio, I
14 suggest that it's exactly as much validity to
15 that figure as your figure that 42 percent of
16 the budget goes for social welfare when, in
17 fact, it's 26.

18 Right now, if somebody commits a
19 welfare fraud, they commit a felony, they go to
20 jail. In addition, under the law passed in
21 1992, which we're amending today, they could be
22 charged three times the amount that they
23 received fraudulently and, if that amount is

1 less than \$5,000, they could be fined up to
2 \$5,000.

3 Senator Nozzolio now says, well,
4 if the amount that they receive triple is less
5 than \$10,000, then he's going to see that they
6 pay a fine of \$10,000. That's all that this
7 bill does, clearly insignificant when compared
8 to the fact that people who commit this fraud
9 are sent to jail, which is the real sanction and
10 as has been pointed out here that by and large
11 you're talking of people who don't have money
12 and when we ask, well, show us that there are
13 cases, maybe there are cases. Maybe we're
14 wrong, we're told that you'll look it up one of
15 these days and, in any event, if you're against
16 welfare fraud, you're going to be for this
17 bill.

18 That's -- that's why those of us
19 on this side of the aisle who try to point out
20 that this bill really dishonors us, because it
21 is a bill that's been characterized, I think
22 very correctly, by Senator Galiber and Senator
23 Gold, I'm not going to use their words. I guess

1 a great American said, "I'd rather be right than
2 be President." I think the motto here seems to
3 be that we'd rather show our might and be wrong
4 than make you think that we don't have the might
5 to pass any bill we want to, no matter how
6 foolish.

7 Mr. President, I vote in the
8 negative.

9 ACTING PRESIDENT SPANO: Senator
10 Leichter in the negative.

11 THE SECRETARY: Senator Levy.

12 (There was no response.)

13 Senator Libous.

14 SENATOR LIBOUS: Aye.

15 THE SECRETARY: Senator Maltese.

16 SENATOR MALTESE: Aye.

17 THE SECRETARY: Senator Marchi.

18 SENATOR MARCHI: Aye.

19 THE SECRETARY: Senator Marino,

20 aye.

21 Senator Markowitz.

22 SENATOR MARKOWITZ: Yes.

23 THE SECRETARY: Senator Mendez.

1 SENATOR MENDEZ: No.
2 THE SECRETARY: Senator
3 Montgomery.
4 (There was no response.)
5 Senator Nanula.
6 SENATOR NANULA: Yes.
7 THE SECRETARY: Yes.
8 Senator Nolan.
9 (There was no response.)
10 Senator Nozzolio.
11 SENATOR NOZZOLIO: Aye.
12 THE SECRETARY: Senator
13 Ohrenstein, no.
14 Senator Onorato.
15 SENATOR ONORATO: Aye.
16 THE SECRETARY: Senator
17 Oppenheimer.
18 SENATOR OPPENHEIMER: Aye.
19 THE SECRETARY: Senator Padavan.
20 SENATOR PADAVAN: Aye.
21 THE SECRETARY: Senator Pataki.
22 SENATOR PATAKI: Aye.
23 THE SECRETARY: Senator

1 Paterson.

2 (There was no response.)

3 Senator Present.

4 SENATOR PRESENT: Aye.

5 THE SECRETARY: Senator Rath.

6 SENATOR RATH: Aye.

7 THE SECRETARY: Senator Saland.

8 SENATOR SALAND: Aye.

9 THE SECRETARY: Senator Santiago

10 voting in the negative earlier today.

11 Senator Sears.

12 SENATOR SEARS: Aye.

13 THE SECRETARY: Senator Seward.

14 SENATOR SEWARD: Aye.

15 THE SECRETARY: Senator Skelos.

16 SENATOR SKELOS: Yes.

17 THE SECRETARY: Senator Smith.

18 SENATOR SMITH: No.

19 THE SECRETARY: Senator Solomon.

20 (There was no response.)

21 Senator Spano.

22 SENATOR SPANO: Aye.

23 THE SECRETARY: Senator

1 Stachowski.

2 SENATOR STACHOWSKI: Yes.

3 THE SECRETARY: Senator Stafford
4 voting in the affirmative earlier today.

5 Senator Stavisky.

6 (There was no response.)

7 Senator Trunzo.

8 SENATOR TRUNZO: Yes.

9 THE SECRETARY: Senator Tully.

10 SENATOR TULLY: Aye.

11 THE SECRETARY: Senator Velella.

12 SENATOR VELELLA: Aye.

13 THE SECRETARY: Senator Volker

14 excused.

15 Senator Waldon.

16 (Negative indication.)

17 THE SECRETARY: No.

18 Senator Wright.

19 SENATOR WRIGHT: Aye.

20 ACTING PRESIDENT SPANO: Call the
21 absentees.

22 THE SECRETARY: Senator Bruno.

23 SENATOR BRUNO: Yes.

1 THE SECRETARY: Senator Connor.
2 SENATOR CONNOR: No.
3 THE SECRETARY: Senator
4 DeFrancisco.
5 SENATOR DeFRANCISCO: Yes.
6 THE SECRETARY: Senator Goodman.
7 (There was no response.)
8 Senator Levy.
9 SENATOR LEVY: Aye.
10 THE SECRETARY: Senator
11 Montgomery.
12 SENATOR MONTGOMERY: No.
13 THE SECRETARY: Senator Nolan.
14 (There was no response.)
15 Senator Paterson.
16 (There was no response.)
17 Senator Solomon.
18 (There was no response.)
19 Senator Stavisky.
20 (There was no response.)
21 ACTING PRESIDENT SPANO:
22 Results.
23 THE SECRETARY: Ayes 42, nays

1 12.

2 ACTING PRESIDENT SPANO: The bill
3 is passed.

4 SENATOR PRESENT: Regular order.

5 THE SECRETARY: Calendar Number
6 711, by Senator Padavan, Senate Bill Number
7 6784, authorize the Commissioner of General
8 Services to sell or lease certain lands in
9 Queens County.

10 SENATOR GOLD: Can I have a day?

11 SENATOR PADAVAN: I was requested
12 to lay it aside for the day and I agreed to
13 that.

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

16 THE SECRETARY: Calendar Number
17 714, by Senator Daly, Senate Bill Number 7280,
18 Public Officers Law, in relation to the
19 eligibility for the office of court clerk in the
20 town of Hamlin.

21 ACTING PRESIDENT SPANO: Read the
22 last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT SPANO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 59.

6 ACTING PRESIDENT SPANO: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 717, by Senator Daly, Senate Bill Number 5200-C,
10 Environmental Conservation Law.

11 ACTING PRESIDENT SPANO: Read the
12 last section.

13 SENATOR GOLD: Give me, just -

14 ACTING PRESIDENT SPANO: Senator
15 Gold.

16 SENATOR GOLD: Yeah. I think
17 Senator Smith laid that aside too. Just check
18 on it.

19 SENATOR DALY: Mr. President,
20 would the Minority like some time on this bill?
21 Would you like extra time on this bill?

22 SENATOR GOLD: Senator, I didn't
23 lay it aside. I'm just checking with Senator

1 Smith and, if you give me just half a second.

2 SENATOR DALY: Mr. President.

3 ACTING PRESIDENT SPANO: Senator
4 Daly.

5 SENATOR DALY: I can put the bill
6 over for a day.

7 SENATOR GOLD: Senator, if you'd
8 like to do that for Senator Smith, it's very
9 kind.

10 SENATOR DALY: Lay the bill
11 aside.

12 ACTING PRESIDENT SPANO: Lay the
13 bill aside.

14 SENATOR GOLD: Thank you.

15 ACTING PRESIDENT SPANO: Senator
16 Present, that completes the controversial
17 calendar.

18 SENATOR PRESENT: Mr. President,
19 I hand up a notice from the Majority Leader. I
20 ask that it be read and then filed with the
21 Journal.

22 ACTING PRESIDENT SPANO: The
23 Secretary will read.

1 THE SECRETARY: By Senator
2 Marino: Please take notice that, in accord
3 ance with the New York State Legislative Session
4 Calendar, and pursuant to Rule VII, Section 5,
5 all bills reported by Senate standing committees
6 on and after Thursday, May 12th, 1994 shall be
7 reported to the Committee on Rules.

8 All bills introduced on and after
9 May 12th, 1994 shall be referred to the
10 Committee on Rules except those referred to the
11 Committee on Finance pursuant to Section 23 of
12 the Legislative Law.

13 All bills received from the
14 Assembly on and after May 12th, 1994 shall be
15 referred to the Committee on Rules except those
16 referred to the Committee on Finance pursuant to
17 Section 23 of the Legislative Law, and all bills
18 in all Senate standing committees shall be
19 considered eligible for discharge to and report
20 by the Committee on Rules.

21 Please take further notice that,
22 in accordance with the New York State
23 Legislative Session Calendar and pursuant to

1 Rule VI, Section 5, the last day for unlimited
2 introduction of bills in the Senate shall be
3 Wednesday, May 4th, 1994. Thereafter, each
4 member may introduce no more than 10 bills.

5 ACTING PRESIDENT SPANO: That
6 will be filed in the Journal.

7 Senator Present.

8 SENATOR PRESENT: Any
9 housekeeping?

10 ACTING PRESIDENT SPANO: Any
11 housekeeping?

12 SENATOR PRESENT: None?

13 Mr. President, there being no
14 further business, I move we adjourn until
15 tomorrow at 11:00 a.m.

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

19 (Whereupon at 6:07 p.m., the
20 Senate adjourned.)

21

22

23