ALBANY, NEW YORK

June 15, 1994

12:05 p.m.

REGULAR SESSION

SENATOR NICHOLAS A. SPANO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT SPANO: Senate will come to order. Senators please come to the chamber.

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

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

In the absence of clergy, we'll please bow our heads in a moment of silence.

(Whereupon, there was a moment of silence.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 14. The Senate met pursuant to adjournment. Senator Kuhl in the chair upon designation of the Temporary President. Prayer by the Reverend Peter G. Young of the Blessed Sacrament Church of Bolton Landing. The Journal of Monday, June 13, was read and approved.

On motion, Senate adjourned.

ACTING PRESIDENT SPANO: If there's no objection, the Journal stands

approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. On behalf of Senator Libous, Mr. President, I wish to call up his bill which is Senate Print 8362 -- it's Print Number 8362, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT SPANO: Secretary will read.

THE SECRETARY: By Senator Libous, Senate Bill 8362, an act to amend the Mental Hygiene Law.

SENATOR FARLEY: I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill is before the house.

SENATOR FARLEY: I now offer the following amendments.

On behalf of Senator Holland, Mr. President, I wish to call up his bill which is on page 44, and I offer the following amendments to Calendar Number 1133, Senate Print 8344, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT SPANO: So ordered.

SENATOR FARLEY: On behalf of Senator Velella, please place a sponsor star on Calendar Number 1181.

ACTING PRESIDENT SPANO: The bill is starred at the request of the sponsor.

Any other motions and resolutions?

(There was no response.)

Substitutions. Secretary will read.

THE SECRETARY: On page 31 of today's calendar, Senator Cook moves to discharge the Committee on Rules from Assembly Bill Number 10529 and substitute it for the identical Calendar Number 1167.

On page 32, Senator Smith moves to discharge the Committee on Cities from Assembly Bill Number 8068A and substitute it for the identical Calendar Number 1169.

Also on page 32, Senator Connor moves to discharge the Committee on Cities from Assembly Bill Number 9451 and substitute it for the identical Calendar Number 1171.

On page 33, Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 11408A and substitute it for the identical Calendar Number 1181.

ACTING PRESIDENT SPANO: Substitutions ordered.

Senator Present.

SENATOR PRESENT: Let's take up

the noncontroversial calendar, please.

ACTING PRESIDENT SPANO: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 5, Calendar Number 199, by Senator Skelos, Senate Bill Number 6552A, an act to amend the Correction Law, in relation to enacting the sex offender registration act.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 282, by Senator Stafford, Senate Bill Number 437D, an act to amend the Environmental Conservation Law, in relation to permitting certain advertising in the Adirondack Park.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 478, by Senator Saland, Senate Bill Number 5881B, an act to amend the Family Court Act.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside for the day.

THE SECRETARY: Calendar Number 586, by Senator Trunzo, Senate Bill Number 7057B, an act to amend the Administrative Code of the City of New York.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 872, by Senator Velella, Senate Bill Number 7198A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT SPANO: The bill

is passed.

THE SECRETARY: Calendar Number 922, by Member of the Assembly Bennett, Assembly Bill Number 5058B, Executive Law, in relation to state aid to rural areas.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1065, by the Assembly Committee on Rules, Assembly Bill Number 8734A, an act to amend the Education Law and Chapter 327 of the Laws of 1992.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1161, by Senator Marchi, Senate Bill Number 1362, an act to amend the -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1162, by Senator LaValle, Senate Bill Number 1425, an act to amend the Town Law, in relation to exemption from the spending limits of fire districts.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1163, by Senator LaValle, Senate Bill Number

1426, an act to amend the Town Law, in relation to exemption from the spending limits of fire districts.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1164, by Senator Kuhl, Senate Bill Number 2068, authorize the County of Yates to convey certain lands used for reforestation purposes.

ACTING PRESIDENT SPANO: Home rule message is at the desk.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number

1166, by Senator DeFrancisco, Senate Bill Number 4136, an act to amend the Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1167, substituted earlier today, by Member of the Assembly Gunther, Assembly Bill Number 10529, an act to amend the Town Law, in relation to the qualifications of police commissioners.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1168, by Senator Stafford, Senate Bill Number 4822, an act to amend the Town Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1169, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8068A, authorizing the City of New York to reconvey its interest in certain real property.

ACTING PRESIDENT SPANO: There is

a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1170, by Senator Daly.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT SPANO: Lay it aside for the day.

THE SECRETARY: Calendar Number 1171, substituted earlier today, by Member of the Assembly Lopez, Assembly Bill Number 9451, authorizing the City of New York to reconvey its interest in certain real property.

ACTING PRESIDENT SPANO: Home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1172, by Senator Gold, Senate Bill Number 6849A, authorizing the City of New York to reconvey its interest in certain real property.

ACTING PRESIDENT SPANO: Home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT SPANO: The bill

is passed.

THE SECRETARY: Calendar Number 1173, by Senator Wright.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1174, by Senator LaValle, Senate Bill Number 6879, an act to amend the General Municipal Law.

ACTING PRESIDENT SPANO: Home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35. Nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1175, by Senator Pataki, Senate Bill Number

6909, legalize, ratify, confirm and validate the acts and proceedings of the Town of Amenia.

ACTING PRESIDENT SPANO: Home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1176, by Senator Holland, Senate Bill Number 6961, an act to amend the General Municipal Law.

ACTING PRESIDENT SPANO: Home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37. Nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1177, by Senator Rath, Senate Bill Number 7052, an act to amend the State Administrative Procedure Act, in relation to regulatory flexibility.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1178, by Senator Pataki, Senate Bill Number 7128, an act to amend the Town Law.

ACTING PRESIDENT SPANO: Home rule message is at the desk.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1179, by Senator Rath, Senate Bill Number 7142, State Administrative Procedure Act, in relation to model plans or documents.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1180, by Senator Seward.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

SENATOR PRESENT: For the day.

ACTING PRESIDENT SPANO: For the day.

THE SECRETARY: Calendar Number 1182, by Senator Stafford, Senate Bill Number 7772, authorize the Commissioner of General

Services to convey certain land in Clinton County.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1183, by Senator Rath, Senate Bill Number 7776, State Administrative Procedure Act.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1184, by Senator Present, Senate Bill Number 7800, Real Property Tax Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1185, by Senator Rath -- excuse me. 1185, by Senator Wright, Senate Bill Number 7948, authorize the Commissioner of General Services to convey real property.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1186, by Senator Libous, Senate Bill Number 7975.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 1187, by Senator Rath, Senate Bill Number 8002A, State Administrative Procedure Act.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 1190, by Senator Tully, Senate Bill Number 8547, authorizing the assessor of the County of Nassau to accept an application for exemption from real property taxes.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present, that completes the noncontroversial calendar.

SENATOR PRESENT: Stand at ease just for a moment or two.

(Whereupon, at 12:20 p.m., the Senate was at ease.)

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT SPANO: Senator Leichter.

SENATOR LEICHTER: While we're at ease if we can just do something in the nature of housekeeping. I understand there is a resolution on the desk by Senator Markowitz; and on his behalf, I would like to move that resolution.

ACTING PRESIDENT SPANO: Can you give us a couple minutes, Senator Leichter. We're going to try to locate that for you.

SENATOR LEICHTER: Sure. Thank you.

ACTING PRESIDENT SPANO: Senator Skelos.

SENATOR SKELOS: Will you please remove the star on Calendar Number 429.

ACTING PRESIDENT SPANO: Calendar

429, the sponsor is removed -- the sponsor is removed? The star is removed at the request of the sponsor.

Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President. I would announce an immediate meeting of the Committee on Finance in Room 332. Finance in 332.

ACTING PRESIDENT SPANO: Immediate Finance Committee meeting in Room 332.

SENATOR PRESENT: Mr. President. Will you recognize Senator Ohrenstein, please.

ACTING PRESIDENT SPANO: Senator Ohrenstein.

SENATOR OHRENSTEIN: Yes, thank you, Mr. President, and I rise to a very important piece of legislative business this morning, and I offer a resolution which is at the desk, and would you please read the title. I think the title will be self explanatory.

ACTING PRESIDENT SPANO: Secretary will read the title.

THE SECRETARY: Legislative

resolution, by Senators Ohrenstein, Marino, and Oppenheimer, honoring the New York Ranger hockey team on the occasion of their championship win over the Vancouver Canucks in Madison Square Garden, New York City.

ACTING PRESIDENT SPANO: Senator Ohrenstein.

SENATOR OHRENSTEIN: I would like to be heard.

Mr. President. The reason this resolution is offered by the particular sponsors is quite evident. I am lucky to have Madison Square Garden and the home of the Rangers in my district. Senator Oppenheimer hosts the Rangers in her district when they practice, and Senator Marino is necessary to get this resolution passed in this house. And I know he is a great fan of the Rangers.

But what I would like to really say is this. You know there are a lot of people in this chamber and in the other chamber and up here who have been laboring hard for many, many years to help New York and to restore New York

to its grandeur and to help us in economic development and all of the lofty goals which we debate about, but like everybody else in life, in order to succeed, you need a lot of hard work and a lot of good ideas but you also need a little luck.

And I think we in New York City and in New York State are very, very lucky this year because we have not one but two championship teams playing at the highest level of sports in the United States, and one of those teams, of course, is the New York Rangers, and they have actually done it, and they were the first to do it.

The Stanley Cup has been a golden grail for residents of New York City for many, many years. The Islanders, you know, were always ahead of us. And I really want to commend Senator Marino for being so gracious to sponsor this resolution.

But it was a very difficult few years to have to put up with that. There is nobody like the New York Rangers and it took

them 54 years to restore themselves to glory, but in doing that, they've also restored the City of New York and the whole Metropolitan Region to glory.

And so I offer this resolution, commend them for what turned out to be a very, very gritty championship series. Everybody -- I was just saying everybody seems to complain. Why didn't they win going away? Why didn't they win, you know, four straights? Why aren't the Knicks doing better?

Well, this is the championship, and the championship should be hard, and the championship should bring out the best in people, and I think the kind of courage and determination that we saw last night at that particular game and throughout these playoffs is really exemplary of the highest standards of sportsmanship. And, certainly, I think it exemplified New Yorkers as we like to know them, gritty, hard-fighting, and never giving up.

So I'm very pleased to offer this resolution before this house and then hopefully

to send it on to the Rangers as a token of the appreciation of the Legislature for this magnificent victory, and I hope to be back here next week to offer a similar resolution for the New York Knicks.

This is open for sponsorship by anyone in the chamber.

ACTING PRESIDENT SPANO: On the resolution.

Senator Waldon.

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

I watched the game last evening, and I join heartily with Senator Ohrenstein and Senator Marino and others in the sponsorship and support of this resolution. It was one of those moment in sports where everybody really feels good.

It was sad to see Vancouver lose, and it was for certain that they lost painfully because the players were openly crying right on the ice, but it was joyful to see the Rangers win, not only because they are the best team in

hockey right now but because they represent New York and New York City, and it's goods to be with the winner.

I fell in love with hockey in France when I was in the United States Army, and we used to go to watch the Canadian hockey teams play, and I didn't realize it was such a great sport. But it is a great game. The New York Rangers are a great team, and last night was a great victory for all of us.

And I'm very proud to be a New Yorker and proud to be supportive of the New York Rangers.

ACTING PRESIDENT SPANO: Senator Present.

Senator Rath.

SENATOR RATH: Yes. On behalf of the other members of the Western New York delegation -- I didn't mean to supersede Senator Present. He maybe was going to say the same thing. But, of course, Western New York is the home of the Buffalo Sabres. We wish the New York Rangers all the best. We're very happy for

them. As long as it couldn't be us, we're glad it was the New York Rangers.

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: I'm sure all members of the Senate would like to join the sponsors of this resolution. Add all their names. There might be an exemption. I doubt it.

ACTING PRESIDENT SPANO: All members of the Senate will be placed on the resolution, unless there are any disgruntled Islander fans that don't want to be placed on it.

On the resolution, all those in favor, signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Ohrenstein, the chair will note -- I don't know if there's any significance -- that someone wanted to number

the Resolution 1940, but we didn't do that.

SENATOR OHRENSTEIN: I think that's very appropriate.

(Whereupon, the Senate continued at ease for a moment and then reconvened.)

SENATOR OHRENSTEIN: Mr. President. I understand that there is a resolution at the desk sponsored by Senator Markowitz, and I would like to ask you to read the title of that resolution.

ACTING PRESIDENT SPANO: Secretary will read the title.

THE SECRETARY: Legislative Resolution, by Senator Markowitz, honoring Arline and Bernard Simon for distinguished community service upon the occasion of their selection as honorees at Temple Beth Emeth Progressive Shaari Zedek's 82nd Anniversary celebration.

ACTING PRESIDENT SPANO: On the resolution, all those in favor, signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President. May we stand at ease.

ACTING PRESIDENT SPANO: Stand at ease.

(The Senate continued at ease.)

(Whereupon, Senator Kuhl was in the chair.)

ACTING PRESIDENT KUHL: Senate will come to order.

Chair recognizes Senator Spano.

SENATOR SPANO: Mr. President. I would like to announce an immediate meeting of the Labor Committee in Room 332 for a short three-bill agenda.

ACTING PRESIDENT KUHL: Immediate meeting of the Labor Committee in Room 332, the Majority Conference Room.

(Whereupon, having been at ease, at 1:10 p.m., the Senate reconvened.)

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President. Would you recognize Senator Marchi.

ACTING PRESIDENT SPANO: Chair recognizes Senator Marchi.

SENATOR MARCHI: Mr. President. I am requesting consideration of a privileged resolution that is now at the desk, resolution mourning the passing of the Grand Rabbi Menachem Schneerson. I would request that the resolution be read in its entirety, and then I will speak to it.

ACTING PRESIDENT KUHL: Yes, there is a privileged resolution at the desk.

Secretary will read it in its entirety.

THE SECRETARY: Legislative Resolution, by Senators Marchi, Ohrenstein and all members of the Senate, mourning the passing of Grand Rabbi Menachem Mendel Schneerson, teacher, scholar and beloved leader of the Lubavitch Hasidic movement of world Jewry at the

age of 92.

Whereas, a Russia-born and Sorbonne-educated scholar, Rabbi Menachem Mendel Schneerson was the seventh in the line of Grand Rabbis, or Rebbes, of an Orthodox Jewish sect dating from the 18th century, he rescued Lubavitch Hasidism and brought it from near extinction to the forefront of world Jewry through his spiritual fervor, charismatic personality and an innovative approach to outreach which involved such common methods as facsimiles of Talmudic disserations and "Mitzvah Tanks," trailers used as recruiting stations on the streets of New York City.

Emigrating to the United States with his beloved wife, Chaya Moussia, in 1941 to avoid Nazi persecution, young Rabbi Schneerson accepted the responsibility to restore the Lubavitch Hasidism decimated by the Holocaust, and, in 1951, he succeeded his father-in-law, Rabbi Yosef Yitzchak Schneerson, as Grand Rabbi of the sect.

With a modern-day membership

estimated at between 100,000 to 300,000, Rabbi Schneerson's followers represent one of the worlds most powerful Hasidic sects, with an influence far beyond their numbers; his Crown Heights headquarters would becaome the seat of ultra-orthodoxy as it flourished, spreading as far afield as the Knesset of Israel and influencing decisions as far-reaching as the Palestinian peace talks.

As Lubavitcher Jews around the world mourn for their beloved and influential leader, it is a saddend and compassionate Body of the Assembly which extends on behalf of the City and State of New York its condolences to the family and followers of Grand Rabbi Menachem Mendel Schneerson, recognizing the significance of his presence, the loss of his passing, and the dynamic spiritual force his movement, Lubavitcher Hasidism, brought to the world of Judaism; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberations to mourn the passing of Grand Rabbi Menachem Mendel

Schneerson, teacher, scholar and revered leader of the Lubavitch Hasidic sect of world Jewry, at the age of 92; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to Lubavitch World Headquarters, 770 Eastern Parkway, Brooklyn, New York.

ACTING PRESIDENT KUHL: Chair recognizes Senator Marchi.

SENATOR MARCHI: Thank you, Mr. President. The resolution was drafted by Speaker Silver and expresses the feeling that's common to both houses and -- however, there are aspects that I felt might have been put in the resolution, and I will by supplementation in remarks here address them.

As was stated, the Rabbi Schneerson was a product of a very exhaustive academic preparation for the work he was later to assume, attended the University of Berlin and Sorbonne in Paris before coming to this country, and this tremendous mastery that he had of sciences, of mathematics, of culture, of

cultural influences generally, and his command of philosophy was most impressive.

The work that he did -- you know, we speak of 200,000 adherents. The resolution says from 100,000 to 300,000. The number that they have most usually used is the number of 200,000. When you reflect on the fact that these educational centers, 1500 of them around the world in 30 different nations, have had the impact that they did, and have today, tells you something. Two hundred thousand in a planet of six or seven billion people would not seem impressive, but the impact has certainly gone way beyond their numbers, and we have to know a little more about what Rabbi Schneerson and the Lubavitcher movement has been responsible for.

He took great inspiration from the work of Maimonides, the Rambam, back to the 12th century in taking it. When Maimonides took all of the oral law, the strong law, and gave it to us in the form of something that could be read and was organized and could be presented was a gigantic step.

Maimonides also quickened world attention to Aristotlian philosophy upon which scholasticism rests, and it had such a profound effect on Judaism at that time and also was responsible for the phenomena that has most often related to Thomas Aquinas and others that were in the scholastic philosophy, but had it not be for Maimonides to give it the initial start, it might have suffered for a while.

And Rabbi Schneerson joined that effort again in quickening world awareness of scholastic philosophy. The autonomy of the individual, the soul and the existence of God, the spiritual aspects of humanity, of each individual, was a tremendous thought which, really, the effect was exemplified by the educational process which Rabbi Schneerson brought to it around the world.

When we consider that people like Robert Hutchings and Mortimer Adler, the editor of the Encyclopedia Britainnica, were two of the great scholastics of this century, and Rabbi Schneerson served as principal most admirably.

His urging that people do good not only to members within their own religious persuasion but throughout the length and breadth of the societies in which they lived goes further.

I read the resumes that were written, and it was a fairly impressive initiative that was engaged in by the author of the article in the New York Times, but there are items in it that really require further comment.

Rabbi Zalmen Marozov of Montreal perhaps came closest to expressing the essence of what Rabbi Schneerson represented. Rabbi Marozov is from Montreal, and he said, "Once he [meaning Rabbi Schneerson] is out of the body, it is the soul, and you have no more limitations. Hopefully he can accomplish everyithing he wanted to now."

So, again, he was recognizing the spirituality of the individual. On the other hand, the psychologist Leon Festinger, who studied the phenomenon of cognitive dissonance, the anxiety that results from holding two

contradictory beliefs, he -- he seeks a psychological answer to this, ignoring the fact that he is working in another context, a context that we can analogize even with study of earth sciences, the likes of mathematics and physics. When we consider what happened, for instance, with Ptolemy being accepted as something logical and something inevitable in our thinking, Euclidean mathematics, how that process underwent great changes when we reach Galileo and Copernicus and, later on, the quantum mechanics, even these realities in the real world really are at odds with the comments that were made by psychologists.

For instance, Professor Daniel Batson, professor of psychology at the University of Kansas, remarks that "Logically it doesn't make sense," what Rabbi Schneerson was talking to and then reversed the psychology for answers, again missing the fact that we are dealing with the spirituality of the individual, and this is important.

I mean this is why 200,000 people

and this Rabbi had made the impact that they did around the world. It wasn't an exercise in reconciling psychological tensions. It was an exercise in professing that which is the spiritual foundation of much of our society, that we are creatures created in a divine image. We are creatures who have a spiritual autonomy. We left the worship of rocks and stones and the sun and all these other concepts; and the philosophical and theological foundations of our faiths that dominate so much of our world are the disciplines that he addressed so well.

So I believe that we should take these into consideration, because it goes beyond, even with the wording that we have in our resolution, of the service and the contribution that he made within the world of Judaism, because Rabbi Schneerson's educational activities throughout the globe have enriched - I say this -- have enriched and strenghtened the religious, educational, cultural, moral and ethical fibers of all the citizens of the

world. So that this very urbane and wonderful individual must be recognized in all of the dimensions that he filled.

I had the privilege of meeting him one on one for, oh, well, up to about 45 minutes of conversation, and the ease with which he slipped -- slipped into a personal concentration on the subject of whatever we were discussing at the time, most of it philosophical, the individual reached out. You knew that it had his total attention.

And members of the Lubavitcher - the group, that so many people, thousands of people going to him for detailed advice on even the mundane matters, the great interest that he took in the spiritual life of people on a one to one basis, I experienced this myself. And I began to appreciate the enormous impact that he must have had with those people who had entrusted and brought the important problems to him which he discussed so willingly and so positively in terms of a resolution that gave them comfort and solace.

And it explains why, why there was such an outpouring of grief when he passed away, and I believe that he survives. He survives in -- certainly his soul is there, and it's a great work that he has accomplished that enriches us all, all of society.

And I just wanted to emphasize the dimensions of this individual who has gone to his eternal reward as a matter that we know that we will all miss him, and we are grateful for the fact that he worked amongst us for the years that he did, many years, and accomplished so much good for mankind.

ACTING PRESIDENT KUHL: Chair recognizes Senator Ohrenstein.

SENATOR OHRENSTEIN: Mr. President. I want to express my appreciation to Senator Marchi for sponsoring this resolution and taking the lead on it. I think he is the most appropriate person here, because John Marchi has become the resident scholar on religious matters in this chamber, and I say that with a smile in some ways, but I mean it in

every way. I think thoughtfulness and the scholarship that Senator Marchi has exhibited over the years is rather extraordinary, and it's a tribute to his own deep conviction in his own faith, which I think makes him such an exceptional member of this chamber, and it's also appropriate that he be the sponsor for that reason of this passing of a very, very great and revered individual.

I want to speak very briefly on this as a member of the Jewish faith. Rabbi Schneerson, the Rebbe, the Lubavitcher Rebbe, is a very, very extraordinary figure among Jews. The Jewish faith is a very complicated faith. There are many facets to it. There are many divisions to it. Many people who profess religiousity in a very orthodox way; others in more modern forms. There are great divisions in that faith about some very weighty matters of religion and doctrine.

And so Judaism is a very complicated community when it comes to its religious faith. There is a very secular part

to that community that does not profess faith in the Almighty particularly, but really it continues to adhere to the Jewish community as a cultural, national and social matter.

The reason I say this is because the most extraordinary thing about the Lubavitcher Rebbe is that all facets of this very complicated community revered him and respected him and looked to him for leadership, even in matters where they disagreed with him. He was -- he is, was, one of those very extraordinary individuals who become leaders in this world. Some are political people who go beyond the area of politics or national or international leadership and also become moral examples and moral leaders. And then, occasionally, a clergyman arises out of the hundreds and thousands of members of the clergy who so diligently serve us and becomes an extraordinary figure.

Pope John was such a figure, whose passing was mourned and revered by the whole world. And Rabbi Schneerson is in that

category of individual. He preached a dedicated faith. He was able to surround himself with a group of hundreds of thousands of dedicated individuals who were propigators of that faith throughout the world.

And his very dedication, his very reverence for his faith, for his people, for God as he interpreted God to be, was an extraordinarily compelling force throughout the Jewish community and throughout the world.

I take one bit of historical credit. I moved to Crown Heights at the same time the Lubavitchers moved to Crown Heights. I used to live in Brownsville. I grew up in Brownsville. I wasn't born but I grew up in Brownsville in Brooklyn. I'm still a Brooklyn boy, Marty Markowitz. And I moved to Crown Heights in 1948 at just about the same time that the Lubavitcher group acquired -- what is it, 770? -- 770 Eastern Parkway, and I actually lived about two blocks from there.

So I was there at the inception, and I watched this movement grow, and it was and

is an extraordinary, extraordinary event that such a small group, as Senator Marchi indicated, of dedicated religious people can have the kind of effect they have, controversial as they are. And they are controversial in many, many ways both amongst Jews and amongst the world at large, but no one could every doubt their reverence, the dedication to their faith, the dedication to humanity, the dedication to morality in the deepest and most comprehensive sense of the word, and that is the deep understanding of humanity and the need for humanity's action, for human beings' actions of one to another of righteousness and of rightness in their conduct of themselves and towards each other.

And so he and this group have become great moral leaders in the Jewish community and in the world at large, and it is rather a really historic movement that this man has passed. He passed in his mortal configuration. There are those of his adherents who believe that he is the Messaih and that he

will return again.

Whether the rest of us believe that or not is irrelevant. What is relevant is that his preachings and his example, his moral example, his religious example, his example as a dedicated Jew toward Judaism and humanity at large, those are the things that will survive him. And whether the mystical part of the belief of the Lubavitchers is believed by everybody, as I said, is not really relevant. What is relevant is that his adherers believe it, and his adherers will continue to preach their particular brand of the religiousity, will continue to work in his example and in his role and perpetuate his memory and his work for many, many years.

And to that extent, he is and will be a historical figure, and I appreciate Senator Marchi and Speaker Silver putting this resolution before us so we can take some small part in this remembrance.

ACTING PRESIDENT KUHL: Chair recognizes Senator Markowitz.

SENATOR MARKOWITZ: Thank you very, very much. Thank you also, Senator Marchi.

I have represented the Lubavitch communities since the day I was elected, 16 years ago, and I can attest to the positive contributions made by the Rebbe and by the Lubavitcher movement in terms of the rejuvenation of the Crown Heights community.

One thing that the Rebbe did, he encouraged his activists to reach beyond the Hasidic group to work with African and Caribbean Americans, to work with Latinos, to work with the general population that lived in and around the Crown Heights area and organized service organizations to reach out beyond the one faith and to reach out to all faiths, and tremendous and as modern as you can imagine. Modern telecommunications, organizations utilizing state of the art in terms of helping out, in terms of drug rehabilitation, crime prevention, weatherization and a host of other programs serving the general community.

You know, we Jews unlike Catholics do not have a supreme religious leader, as you know, very much like the Protestant faith. But Rabbi Schneerson is as close as you get to us as acknowledged leader of the Jewish faith.

In keeping with Hasidic traditions, I was at the funeral on Sunday. You may know that there are no eulogies. At no Hasidic funeral are there eulogies or even a statement from those that mourn the passing of anyone of the Hasidic faith, including the Rebbe.

And so in keeping with that, my statement is very clear. We mourn his death, and we celebrate his life.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold.

SENATOR GOLD: Thank you.

Mr. President. First on a procedural basis, I would hope that the resolution is open for the membership.

Everybody is on it already. I

just wanted to make sure that that was done.

Mr. President. I had a professor in college, government professor, and he said that the American government is federal because the people say it is. What he meant by that is that under the Constitution that we have, there were many different kinds of interpretations, and many different ways we could have gone.

That really goes with a lot of things. It goes with Biblical study. It goes with all kind of areas. And during the Passover service, there is a story of an enemy of Jews who wanted to slaughter rabbis, and he took the Bible and said, "You know the brothers of Joseph did this terrible thing and, therefore, even though it's a long, long time ago, under Jewish law we're going to hold everybody responsible and they slaughtered rabbis.

They used a holy document for that evil. We live in a world where people teach hate and people teach killing. Some people do it in buildings that are meant to be holy buildings. Some people have killed

unfortunately millions, and they invoke the name of the Almighty.

I say this because if the Lubavitch movement is what Senator Marchi said and what Senator Ohrenstein and Senator Markowitz and others say, you've got to give enormous credit to the Rebbe who has fashioned that movement all these years.

Judaism is built upon study of Talmud and Torah. And, yes, if you read the words, they should lead you -- they should lead you to a very moral life, and they should lead you to a life that teaches good deeds and respect for fellowman. But that doesn't always come out that way; and, again, if it does, you've got to, in my opinion, give enormous credit to the Rebbe and what he did with that movement.

There was a woman who was interviewed on television and radio in the last few days who said something that I have heard from many, many people. People would wait for hours for a few minutes of time to get advice or

to talk to the Rebbe, and they were amazed. He would look at them and he would know things. This is the woman speaking. "He would know things and he could say something to you that was totally relevant to your life and to why you had come to see the Rebbe and you didn't even have to say a word."

He was a man who would go out and give people a dollar, and I think that that's got to be internationally known as one of the symbols, if that's the right word. He would give people a dollar with a very simple message, "Do a good deed." He didn't tell you what good deed to do, and he didn't tell you where you should be going or he didn't point -- he says do a good deed.

I will never forget the first time I was approached on the streets of New York by a member of the Lubavitch movement who was working out of Mitzvah wagon. I have seen people all over downtown New York, on street corners and other places, preaching religion of one sort or another. I was never approached as

these people approached. They approached me as a Jew to do something in a religious nature, and it wasn't pushy. It wasn't offensive. It was gentle. It was concerned. It was caring. It was a human reaching out and saying, "You got a minute say a prayer." "You want to bring some candles home? Your wife can light candles Friday tonight or whatever."

Just beautiful people coming out and into the world to try to make it better. And where does that come from? It came from this wonderful, magnificent man who developed and led that movement.

I respect what Senator Markowitz said about traditions. But the fact is that I'm glad we have this opportunity to say some things, and I know certainly while I am not a member of that movement, I feel a great sense of personal loss, and I think the community at large really has suffered a major loss.

ACTING PRESIDENT KUHL: The question is on the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Present.

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

ACTING PRESIDENT KUHL: Clerk will read.

THE SECRETARY: Senator Stafford from the Committee on Finance reports the following nominations:

Member of the State Council on the Arts, Samuel H. Lindenbaum, Esq., of New York City.

Member of the Empire State Plaza Art Commission, Marijo Dougherty of Schenectady.

Member of the Board of Directors of the Great Lakes Protection Fund, Henry G. Williams of Guilderland.

Member of the Small Business Advisory Board, William Hockenberger of Penfield

and Jennifer L. Carey of Bayshore.

Member of the Public Health Council, Leo P. Brideau of Rochester.

Member of the Buffalo and Fort Erie Public Bridge Authority, Rita J. Crangle of Buffalo.

Member of the Port of Oswego Authority, Christopher C. Dain of Oswego.

Member of the Passenger Tramway Advisory Council, Ronald G. Bernhard of Voohreesville, Gerald R. Fielding of Monticello, William Gilber t of Rye Brook, and James R. Ruhl of Ballston Lake.

Member of the Advisory Board on Public Work, Neil B. Burnside of Caledonia and Jeffrey J. Zogg of Delmar.

Member of the New York State Olympic Regional Development Authority, Robert W. Bouchard of Menands.

Member of the New York State Hospital Review and Planning Council, John M. Brown of Orchard Park, Christine Tassone Kovner of New York City and Shiela Mary Smythe of New

York City.

Member of the Advisory Council to the Commission on Quality of Care for the Mentally Disabled, Esperanza Isaac of New York City.

Member of the Council on Human Blood and Transfusion Services, Robert Kratzel, Ph.D., of Getzville.

Member of the Finger Lakes State Park, Recreation and Historic Preservation Commission, Robert E. Agan of Elmira.

Member of the Thousand Island State Park, Recreation and Historic Commission, John E. Stewart of Plattsburgh and Barry R. Worczak of Lyons Falls.

Member of the Administrative Review Board for Professional Medical Conduct, Sumner Shapiro of Delmar.

Member of the Board of Directors of the New York State Science and Technology Foundation, Evelyn Berezin of East Setauket.

Member of the Advisory Council on Agriculture, Samuel J. Casella of Canandaigua,

Jeremiah P. Cosgrove of Round Lake, Charles F. Scheer, Jr., of Laurel, and James L. Vincent of Byron.

Member of the Board of Visitors of the Buffalo Psychiatric Center, Carolyn S. Fenlon of West Falls, Margaret V. Lombardi of Buffalo, and Geraldine Minter of Buffalo.

Member of the Board of Visitors of the Capital District Psychiatric Center, Lewis F. Krupka of Guilderland.

Member of the Board of Visitors of Elmira Psychiatric Center, M. Patricia Lucas of Elmira, and Wendy Potter of North Hornell.

Member of the Board of Visitors of the Hudson River Psychiatric Center, Linda Bryer-Green of Poughkeepsie.

Member of the Board of Visitors of the Kingsborough Psychiatric Center, Shirley B. Flowers of Brooklyn, and Wallace Nottage of Brooklyn.

Member of the Board of Visitors of the Kirby Forensic Psychiatric Center, Seymour B. Jacobson, M.D., of New York City, and

Margaret E. Legrande of New York City.

Member of the Board of Visitors of the Manhattan Psychiatric Center, Eugenia Evans Clarke of New York City.

Member of the Board of Visitors of Manhattan Children's Psychiatric Center, Katharine Shields of New York City.

Member of the Board of Visitors of the Mid-Hudson Psychiatric Center, C. Edgar Flynn, Jr., of Slate Hill.

Member of the Board of Visitors of the Pilgrim Psychiatric Center, Silvia Velazquez Dorsky of Malverne, Arnold Gould of Lido Beach, and Dorothy Schorr of Syosset.

Member of the Board of Visitors of the Rochester Psychiatric Center, George Follett of Albion, and Pamela S. Frame of Rochester.

Member of the Board of Visitors of the Rockland Psychiatric Center, Walter C. Blount, Jr., of Orangeburg, Barbara Greenblatt of Nyack, and Margot Vazquez of Suffern.

Member of the Board of Visitors

of St. Lawrence Psychiatric Center, Imogene Wager of Ogdensburg.

Member of the Board of Visitors of Sagamore Children's Psychiatric Center, Louise P. Jones of Amityville, and Elaine Y. Reinke of Massapequa.

Member of the Board of Visitors of the South Beach Psychiatric Center, Albert C. Wiltshire of Brooklyn.

Member of the Board of Visitors of the Western New York Children's Psychiatric Center, Bertha Laury of Buffalo.

Member of the Board of Visitors of the Craig Developmental Disabilities Services Office, Mary H. Derby of Geneseo, and David M. Lane of Warsaw.

Member of the Board of Visitors of the Bernard M. Fineson Developmental Center, Beverly Berger of Bayside, and Helene Schaumberger of Douglaston.

Member of the Board of Visitors of the Manhattan Developmental Center, Willie Mae Goodman of New York City, and Walter Greene

of New York City.

Member of the Board of Visitors of the Oswald D. Heck Developmental Center, Eleanor C. Pattison of West Sand Lake, and Lucile Richards of Waterford.

Member of the Board of Visitors of the Rome Developmental Disabilities Services Office Jane G. Allen of Lyons Falls.

Member of the Board of Visitors of the Sunmount Developmental Center, Margaret Kolodzey of Moriah.

Member of the Board of Visitors of Syracuse Developmental Center, James R. Iles of Clay.

Member of the Board of Visitors of Wassaic Developmental Center, Theresa Sgrulletta of Mt. Kisco.

Member of the Board of Visitors of Wilton Developmental Center, Edward Donohue of Clifton Park.

ACTING PRESIDENT KUHL: Question is on the confirmation of the appointment of the previously read appointees. All those in favor,

signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The appointees are confirmed.

May we return to motions and resolutions.

Senator Skelos, you have a couple of motions.

SENATOR SKELOS: Mr. President. I wish to call up Senator Daly's bill, Print Number 4583B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Daly, Senate Bill Number 4583B, an act to amend the Real Property Law.

SENATOR SKELOS: Move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: The question is on the motion to reconsider the vote

by which this bill was passed. The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Skelos.

SENATOR SKELOS: I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments received and adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President. On behalf of Senator Cook, I move to recommit Senate Print Number 7575, Calendar Number 617, to the Committee on Education with instructions to said committee to strike the enacting clause.

ACTING PRESIDENT KUHL: The Senate bill is recommitted.

SENATOR SKELOS: On page number 14, I offer the following amendments to Calendar Number 653, Senate Print Number 276, and ask

that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

SENATOR SKELOS: Mr. President. On behalf of Senator Daly, on page number 32, I offer the following amendments to Calendar Number 1170, Senate Print 5933, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR SKELOS: And, Mr. President, on page number 39 of the starred calendar, I offer the following amendments to Calendar Number 708, Senate Print Number 7477A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Present.

SENATOR PRESENT: Mr. President. Can we take up the controversial calendar, please.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: On page 5, Calendar Number 199, by Senator Skelos, Senate Bill Number 6552A, an act to amend the Correction Law, in relation to enacting the Sex Offender Registration Act.

ACTING PRESIDENT KUHL: Senator Skelos, and explanation has been asked for by both Senator Galiber and Senator Gold.

SENATOR SKELOS: Yes, Mr. President. This legislation would establish the Sex Offender Registration Act in New York State which would require individuals that have been convicted of certain enumerated sex offense crimes to register with the local chief law

enforcement official in the communities in which they plan to reside once they are released from prison. Presently, there are 32 states that have similar legislation.

This legislation also provides that after ten years the individual can make application to the court to no longer be required to register where they live or annually let the local law enforcement officials know that they are still that community. That would be at the discretion of the court.

There are also provisions that any individual that is entitled to access of these records at DCJS that if they inform anybody of this registration that they are committing a crime.

SENATOR GALIBER: Senator yield?

ACTING PRESIDENT KUHL: Senator Skelos, do you yield to Senator Galiber?

SENATOR SKELOS: Absolutely.

ACTING PRESIDENT KUHL: Senator Skelos yields.

SENATOR GALIBER: Senator, by no

means should this be interpreted as a serious objection to what you're intending to do here, but for some of us it's a bit troublesome and a a bill as sweeping as this one where you are covering 12 categories and maybe even more where these persons would be forced to register.

Working backwards, and I'll give you a philosophical approach to this which I personally have, obviously. In the category of statutory rape, that troubles me a bit. You have two consenting parties here who but for the age factor would probably make it a felony, I believe, depending -- and we changed it just relatively recently, five or ten years or so, is that the age bracket, I believe, that makes it a felony. If it is under it, it's a misdemeanor so they would not be impacted on it.

Senator, we have a situation where a college student goes out with a high school student and they are two consenting parties, why should we put that category of person in this register that the other states have and you're desirous of putting in New York

State law?

SENATOR SKELOS: Let me just say this. First of all, there is an expungement procedure which I did outline, that after ten years this individual could go to be relieved from this requirement.

SENATOR DOLLINGER: Yes, I understand that, and there is that expunging system, but there's ten years of this person being forced to register, and I don't think it was the intent to cover this particular category of persons.

Actually, anyone who has registered in any one of the categories that you have enumerated after ten years would have an opportunity to make application to have that expunged, but I'm talking about why should, in the first instance, this category of persons be put in that 12 or 13? Why do we have those?

SENATOR SKELOS: I understand your concern, Senator Galiber, but we just felt that this would be appropriate in the legislation. I want to point out that this bill

so far has been negotiated between Assemblyman Feldman and myself in terms of the terms of the legislation, but we also do expect that there will be other changes in a final version of the legislation. And, certainly, we will take your recommendations into consideration, although in fairness to you I don't want to say that the bill -- this could be the final form, and the bill that is finally before the house, if it is amended, could have what you are concerned about in the legislation.

SENATOR DOLLINGER: Okay. Senator, now from a pretty practical standpoint, we have a person who has now registered, and they are in a particular geographical area, and I think that the purpose of the registration is so that if there is some subsequent crime related to those categories that they would be available to law enforcement or the investigatory arm. How would this from a practical standpoint work? We now have Tom Mix registered at 400 Grand Concourse, and there is -- in the second year or third year of the

registration, we have someone who has committed a particular crime in that category. The police run through the file and they see the person who went out with the high school -- the college student who went out with the high school student who consented. Does the police have the right to go in and bring that person in? Are there any rules or regulations? In other words, by registering do you give up any question of probable cause or -

SENATOR SKELOS: I would say they can use this information to investigate, just as they can go into probation information to find out as part of their investigation procedures.

SENATOR GALIBER: Okay. But it doesn't take way any probable cause or some of those other criteria.

SENATOR SKELOS: No.

SENATOR DOLLINGER: That police officer can not just go out, unless he's abusing his authority or our authority, and bring this person in because they are registered -

SENATOR SKELOS: No.

SENATOR DOLLINGER: -- or mere suspicion?

SENATOR SKELOS: No.

SENATOR DOLLINGER: Okay. The confidentiality always troubles me. I'm sure it troubles you, Senator, a bit. These records that are sort of -- not closed, but they are confidential and they are not supposed to be given out as far as any basic information is concerned. And if they do so, you claim -- not claim, but your legislation talks about it being a misdemeanor.

SENATOR SKELOS: It's a class B misdemeanor.

SENATOR DOLLINGER: A class B misdemeanor. If we have these felonies in that category, is there any reason -- it's strange coming from me because I don't believe in enhancing sentencing, but it's so crucial that if this information would be misused or leaked out, if you will, and we're fortunate enough to apprehend that person who did that, don't you think it should be in a category of a felony as

opposed to misdemeanor? As odd as it is coming from me who doesn't believe in enhancing penalties.

SENATOR SKELOS: I think a B misdemeanor is significant.

SENATOR DOLLINGER: B misdemeanor is enough. All right. Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Galiber on the bill.

SENATOR GALIBER: Thank you, Senator Skelos.

I am just philosophically opposed to some of the things you have mentioned, not the intent of the legislation because what is happening in our community nowadays is just horrible, and I think a lot of those things were happening before. We didn't focus in on them.

I guess what I'm really somewhat concerned about is, I often say on this floor, that how far do we really have to go to protect the public at large? I refer to the 1984 Orwellian concept, and 1984 came to us, and we

said absolutely nothing. A staff person here reminded me yesterday -- not reminded me, because I did not know that when the book was written he just reversed the dates on it, and if it would have been the next year, it would have been 1994 as opposed to '84. But the conditions are still the same. We have DNA testing. We have youngsters who are two months old, and we are giving them Social Security numbers. We are really invading an area of privacy, and I'm concerned about how far we really will be going.

That's a philosophical approach that I have, and we keep adding onto this. And those persons, if you want to put the white hats and the black hats on, folks, the white hats are going to be impacted on this also. I think this registration, though well-intended, is going to cause horrible, horrible damages especially in the category that I mentioned early on; that we'll have the stigma attached to the rest of the person's life and the notion of expunging is a procedure which is not perfect and there's always some slip-ups.

In addition thereto, if a person has ever asked and as we proceed the way I think we're doing, there will come a time when a question on an application for a job will be, "Have you ever had to register in this category?" And you're going to have to say yes. Expunging will not visciate the fact that you have been registered, that is, that person, in a felony category.

And I believe that it means - does it mean merely being charged or is there a conviction?

Conviction. So, Senator, I can be courageous and vote against the bill because of this one issue which I think is damaging, and I may very well. And if I do, I want for the record you to understand that the area that you are covering is a very crucial one, and you should be congratulated for adding New York State in this category.

I'm just so strongly opposed to the notion of big brother who is invading the very basic and fundamental rights as

individuals. The price we're paying is a bit too high. And I wish very seriously, and I'm sure -- you have indicated and you are a person of your word that especially that statutory category is probably a bit much and never intended to go that far.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Will the sponsor yield to a couple of questions?

ACTING PRESIDENT KUHL: Senator Skelos, do you yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT KUHL: Senator Skelos yields.

SENATOR DOLLINGER: Senator, I share many of Senator Galiber's views about the quality of this bill, and I think there's some really good things in it, but let me just ask a couple of quick questions for clarification.

One, was it your intention to make all of the sex offenses which would have to

be registered under this bill, that they would be felonies?

Because, at least in my quick review yesterday -- and maybe we changed that this year. I couldn't tell. I went through my McKinney's. 13060 of the Penal Law is only a misdemeanor.

SENATOR SKELOS: Except for second demeanor, it is all felonies.

SENATOR DOLLINGER: So with the exception of that, sex -

SENATOR SKELOS: Right.

SENATOR DOLLINGER: -- sexual abuse in the second degree, which is still a misdemeanor. Okay. The rest of it is all felonies. That just clarifies it for me, because I wasn't sure whether you intended to make it exclusively felonies.

The second question, again, through you, Mr. President, if the Senator Skelos will yield?

ACTING PRESIDENT KUHL: Senator Skelos, do you continue to yield?

Senator does.

SENATOR DOLLINGER: How do we effect this bill for people who are convicted out of states for comparable offenses? I note the provision in the bill on page 2, lines 16 through 18. How will that work? Will we notify, or who will notify sex offenders that move into this state that they have an obligation to register? How is that notification process going to occur?

SENATOR SKELOS: The notification from the other state?

SENATOR DOLLINGER: Well, again through you, Mr. President, how will the convicted sexual offender in Pennsylvania know that when he comes to New York he suddenly has all these other obligations created by this statute?

I can see how someone who goes through our court system and is either incarcerated, put on probation or parole or whatever, how they are well aware of their obligations because I assume they'll be notified

through the process.

My question is how does the out of state person get that same kind of notice so that they know they've got to come forward and register?

SENATOR SKELOS: Well, presently there are 32 states, as I said, that require this and the federal government is moving towards having national legislation right now to cover this, and I believe there will be cooperation like out-of-state convictions of DWIs that presently exist so that the states can coordinate with each other when this type of crime has been committed.

SENATOR DOLLINGER: I think that's a good provision. I was just interested in how it would actually occur.

My last question deals with the expungement of records. I'm not familiar with the procedures currently available for expunging criminal records. And my question is, what are the current standards for expunging of records, and how do they play in this statute?

Because it says that you can apply to have your records expunged, and if they are expunged by the court of original instance, then you no longer have an obligation to register.

SENATOR SKELOS: This would be at the discretion of the judge.

SENATOR DOLLINGER: Are there any -- again, through you, Mr. President. Are there any standards for the exercise of that discretion?

SENATOR SKELOS: Not that I know of.

SENATOR DOLLINGER: Well, I -- I guess on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I think, in response to my questions, I appreciate the Senator's approach. I think the out-of-state convictions are important. My hope is that the federal government will move in that direction, as well.

I do have a concern, and it's probably not enough to justify a negative vote, but that's the standards for expungement. As we discussed yesterday, one of the things that we sometimes do is we put guidelines in major broad categories. We use broad language such as "expungement," and we don't give to our court justices the guidelines for determining when expungement would be necessary and, therefore, when the obligation to register ceases.

And I would suggest that perhaps if this bill passes and becomes law that we turn our attention to the expungement process so we make sure that we have given those judges not simply broad, unfettered discretion but, instead, said there is some evidence of rehabilitation, there is some evidence of -- be it remorse or whatever, that there be some evidence that the danger to society, if it still exists, has subsided. That would give the judges a greater idea of what this legislature intends in the expungement process and would ideally better facilitate the goal of this

legislation.

So I would just commend that to the sponsor. I think this is a good bill.

SENATOR SKELOS: As I mentioned to Senator Galiber, if in fact this bill is changed prior to final passage between the two houses, certainly this is something that we will consider during that process.

SENATOR DOLLINGER: Again, Mr. President, I don't think -- I'm going to vote in favor of this bill. I think it's got many good aspects to it. I think that would make it even better.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Mendez.

SENATOR MENDEZ: Mr. President. Will the Senator yield for a question?

ACTING PRESIDENT KUHL: Senator Skelos, will you yield to Senator Mendez?

Senator Skelos yields.

SENATOR MENDEZ: I am very much

interested in the fact that the national association that works on behalf of missing -

SENATOR SKELOS: Mr. President, I can't -

SENATOR MENDEZ: That association that works on behalf of missing and exploited children as well as other professionals do believe that adults who feel attracted to children, that kind of a behavior is incurable. So that although I appreciate your bill that it starts to do something -- it will help to apprehend those men and women if there are some over there that have come back to the neighborhoods. Then if they go again and they commit another horrendous crime against a child, it would be easy in this instance because of your bill to apprehend that monster. However, there is no prevention.

So my question to you is, since you do have interest in this area, do you plan to go ahead and introduce some bills so that these people that are so sick and that are going to keep hurting children forever and ever will

stay locked up behind bars? Why should they be paroled.

SENATOR SKELOS: I believe Senator DiCarlo has passed the Sex Offender Reform Act, which takes into account some of the considerations you are mentioning right now.

SENATOR MENDEZ: I want some correction. I just heard in the debate between Senator Dollinger and yourself that there is a section in the Correction Law that classifies as a misdemeanor child sex abuse. What kind of an abuse could possibly be a misdemeanor? You're the lawyer. I am not. It's just that I am shocked.

SENATOR SKELOS: Sexual misconduct, consentual sodomy and sex abuse in the third degree.

SENATOR MENDEZ: And that is considered a misdemeanor? My God, Mr. President.

Thank you.

My God, Mr. President. There be something terribly wrong with -- I know there is

something terribly wrong in our criminal justice system; but in an area in today's world here in the United States where sex abuse is increasing at alarming rates, I think that this Legislature should take a closer look and eliminate from the books those kinds of laws that shouldn't be there because it allows these criminals to keep preying, forever and ever, on our children, on our kids.

I want to congratulate Senator Skelos for this bill, and I hope that eventually we can work on a bill that will really put these crazy monsters behind bars. Let them work for their keep. And in that way, we as a government would be certain that the safety of our children would be accomplished.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Is there any other Senator wishing go speak on this bill?

(There was no response.)

Hearing none, Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 282, by Senator Stafford, Senate Bill Number 437D, an act to amend the Environmental Conservation Law, in relation to permitting certain advertising in the Adirondack Park.

SENATOR PRESENT: Lay this aside just temporarily and take up Resolution 3993.

ACTING PRESIDENT KUHL: Return to motions and resolutions.

Secretary will read the title of Resolution 3993.

ACTING PRESIDENT KUHL: On page 4 of today's calendar, Legislative Resolution

3993, by Senator Stafford, designating the report of the fiscal committees on the Executive Budget as the official statement of legislative intent on the Executive Budget as submitted by the Governor and as amended by the Legislature.

ACTING PRESIDENT KUHL: Chair recognizes Senator Jones.

SENATOR JONES: Yes, on the resolution.

ACTING PRESIDENT KUHL: Senator Jones on the resolution.

SENATOR JONES: I'm not in the habit here of looking through people's Eagle Scouts and anniversaries and birthdays, et cetera. I assume resolutions are each Senator's personal choice and whatever.

So this is probably why I missed this last year; however, I didn't this year. And if there is one thing I've learned through being here a year and a half, there is nothing you can let go by here that you don't read all the fine print.

Now, I'm looking at this

resolution, and I'm trying to decide -- was I absent, and I'm quite sure I wasn't -- but when this occurred. It apparently outlines the steps that we took preparing the budget.

Number 1 I can go along with. The Governor submits it. Number 2 in here says that Senate Finance and Assembly Ways and Means reviews it. I can even take that step. I did go to the hearings. I am on the Finance Committee. I sat through all the hearings, and that part is correct.

Now we get to number 3, and this is why I'm lost. It says the committee then makes recommendations and presents them to legislators, individually and collectively. Now, I, first of all, would like to know at what point that occurred?

If I missed that point, then let's go on to number 4, which says what we did was each member then was given the opportunity to explain and indicate his opinion on all these expenditures. That, in this resolution, says is number 4 that we did.

Then it says -- number 5 says members make their comments and suggestions. Then the Finance Committee and Assembly Ways and Means goes back and negotiates to reach a common accord on the budget. After that, there is a report.

Now, the only budget that I received was a very large document on warm paper which I would conclude had just come from the print shop, and I fail to recall any of these steps, and I think it's a little outrageous.

We had a bill a couple weeks ago where we talked about historical documents, the Constitution, et cetera, and we did not want any of these presented in an untrue context or any words being left out; and, yet, we are now going to rewrite history and say this is what we did to arrive at the budget we passed last week.

I just can only say I'm not even sure. I'm fascinated, outraged. I'm not even sure what adjectives I want to use in regard to this. But, certainly, my name is not going to appear on this legislation. And I'll leave it

up to the rest of you, if you want to certify that this is what we did. Because I either was absent or something, and I do have perfect attendance so that obviously isn't what happened.

ACTING PRESIDENT KUHL: Senator Dollinger on the resolution.

SENATOR DOLLINGER: Mr. President. I join my colleague from Monroe County in standing up in opposition to this resolution. I don't think that all the things that are outlined there actually happened, and I'm not sure that this resolution actually reflects the budget process. It certainly wasn't the budget process that I participated in when at 4:00 o'clock last Wednesday morning I was presented with a couple thousand pages of material that was called the contents of the budget.

I don't recall being given an opportunity to explain and indicate his opinion on all those proposed expenditures, other than on this floor. I certainly didn't have it

beforehand.

And it seems to me that -- I'm fascinated by what this resolution represents. I can recall when I was a kid that we studied Communist Russia and Communist China. Many of you may have had the same history lesson that I did, which said that they reached that point where they wanted to destroy the reputation of someone that they used to take a little air brush and they'd air brush the pictures of the Politburo, and the person would just disappear -- there'd be a hole -- because they had grown in disfavor. And that was the way they revised history. They just kept air brushing people in and out of the pictures.

Well, it seems to me that this is the air brush at work here in the State Legislature. If we're going to air brush the last five months, the additional 66 days or 69 days that we deliberated beyond our constitutional deadline, but this is the air brush at work, that figurative and literal air brush at work, changing history.

I think if we're going to be true to what happened, I think we've got to vote against this resolution. And it just seems to me that this Legislature needs to go through a budget revision process. We need public hearings. We need better itemized legislative budgets.

And if we had all those things this resolution might reflect reality but it doesn't. I can't vote for something that doesn't reflect the truth of what we endured for the last four months.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT KUHL: Senator Connor on the resolution.

SENATOR CONNOR: Thank you, Mr. President.

Senator Stafford, would you yield for a question?

ACTING PRESIDENT KUHL: Senator Stafford, would you yield?

SENATOR STAFFORD: Sure.

ACTING PRESIDENT KUHL: Senator

Stafford yields.

SENATOR CONNOR: Senator, in past years on the budget we got a document called "The Report of the Fiscal Committees." I think it was commonly called, I don't know, "Green Book." It had a green cover on it.

SENATOR STAFFORD: It was a "Green Book" but it had a blue cover.

SENATOR CONNOR: Blue cover, that's right. That's what it was. I take it that this resolution refers to this year's version of "The Report of the Fiscal Committees."

SENATOR STAFFORD: Yes, it does.

SENATOR CONNOR: Is there such a report, and can I see it?

SENATOR STAFFORD: Yes, there is. It's been made available.

SENATOR CONNOR: It's been made available. Has it be distributed?

SENATOR STAFFORD: Yes.

SENATOR CONNOR: Where?

SENATOR STAFFORD: I am advised

that all the members received it as in the past.

SENATOR CONNOR: Okay. So it's in our offices.

SENATOR STAFFORD: Yes.

SENATOR CONNOR: Okay.

SENATOR STAFFORD: Thank you.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the resolution?

Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm trying to understand. Senator, if you would yield for a question, please.

ACTING PRESIDENT KUHL: Senator Stafford, would you yield to Senator Oppenheimer?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator does.

SENATOR OPPENHEIMER: Normally, when we have a resolution, it's for a purpose, an occasion, an Eagle Scout, a testimonial dinner. I can't understand. What is this resolution for?

SENATOR STAFFORD: That's really something I am pleased to see, a resolution that really does do something. Now, I put in all these resolutions and, at times, I wonder whether, really, we read them and really consider them. This resolution is resolving that the budget process has taken place and, as Senator Connor said, the "Green Book" is our interpretation and -- very, very importantly for lawyers -- intent of the Legislature.

SENATOR OPPENHEIMER: Okay. Thank you, Senator.

SENATOR GOLD: Hold on one second.

SENATOR PADAVAN: Last section.

ACTING PRESIDENT KUHL: Senator Padavan, Senator Gold asked for just a moment.

SENATOR GOLD: Thank you.

ACTING PRESIDENT KUHL: The question is on the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

Secretary will call the roll.

(The Secretary called the roll on the resolution.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Legislative Resolution Number 3993 are Senators Dollinger, Jones, Leichter, Montgomery, Oppenheimer, and Waldon. Ayes 49. Nays 6.

ACTING PRESIDENT KUHL: The resolution as adopted.

Senator Padavan, do you wish to return to the controversial calendar?

SENATOR PADAVAN: Controversial, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 282, by Senator Stafford, Senate Bill Number 437D, an act to amend the Environmental Conservation Law, in relation to permitting

certain advertising in the Adirondack Park.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: On the bill. In the past, I have spoken against this bill and I think it should be noted that this is the D print, and Senator Stafford has done a considerable amount of work on this in changes, and I congratulate Senator Stafford, because now the Adirondack Council is working in conjunction with the Senator on this.

This is a good bill now. Instead of having signs all over the place in the Adirondacks, there are now going to be informational kiosks at rest areas and at certain designated interchanges in the Adirondack Northway, and they will tell the availability of food and fuel and recreation and hiking trails and state lands, and I think it's going to be very beneficial.

Tourism is the main industry of

the Adirondacks, and I think this will benefit both the people who live there and the millions of visitors who come to the Adirondacks for solace and the beauty of the area.

And I think it's a very happy compromise, and I congratulate the Senator.

SENATOR STAFFORD: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 586, by Senator Trunzo, Senate Bill Number 7057B, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 922, by Member of the Assembly Bennett, Assembly Bill Number 5058B, an act to amend the Executive Law, in relation to state aid to rural areas.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1161, by Senator Marchi, Senate Bill Number 1362, an act to amend the Judiciary Law, in relation to creating the 13th Judicial District consisting of the County of Richmond.

SENATOR LEICHTER: Explanation.

SENATOR GOLD: Explanation, Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Lay it aside temporarily, Mr. President.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1164, by Senator Kuhl.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT KUHL: For the day. Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1173, by Senator Wright, Senate Bill Number 6863A, authorize the sale of certain state land

in the Town of Ellisburg, Jefferson County.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Senator Dollinger, do you wish to speak on the bill.

SENATOR DOLLINGER: Explanation on the bill.

ACTING PRESIDENT KUHL: Senator Wright, Senator Dollinger has asked for an explanation.

SENATOR DOLLINGER: Excuse me, Mr. President. Is this 1164?

ACTING PRESIDENT KUHL: This is 1173. Calendar 1173.

SENATOR DOLLINGER: I apologize, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1178, by Senator Pataki, Senate Bill Number 7128, an act to amend the Town Law.

ACTING PRESIDENT KUHL: There's a home rule message at the desk.

SENATOR GOLD: Explanation.

SENATOR PADAVAN: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1179, by Senator Rath, Senate Bill Number 7142, an act to amend the State Administrative Procedure Act, in relation to model plans or documents.

SENATOR GOLD: Will Senator yield to a question?

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: Senator Rath, Senator Gold has asked if you would yield.

Senator Rath yields.

SENATOR GOLD: Senator, I notice in my notes that this was vetoed by the Governor, and there was some reference about clarity of language, I believe.

SENATOR RATH: Yes.

SENATOR GOLD: Has any of that been addressed in this bill, or is this just a repeat of the vetoed bill?

SENATOR RATH: No, I believe that's been cleared up, and the Governor's veto which I have in my hand points out, I think, some concerns that the agencies indicate that compliance with the requirements would be unduly timeconsuming and burdensome.

The bill provides for a plan which will help the regulated public understand how they need to respond to the requirements of the regulation when they need to file.

So I think what it's trying to do is help SAPA become a little more user friendly,

and I believe it's important that we provide that for the regulated public.

SENATOR GOLD: Senator, the point I'm getting at is that in 1992, Senator Ohrenstein and I had some questions. We passed the bill unanimously in '93, but there was a veto.

There are changes in this bill or there are not changes?

SENATOR RATH: My understanding is that there have not been changes because there was -- the Governor's veto did not reference any specific change. It appeared to say, as I go back to the veto language, that the agencies indicate it would be -- compliance with the requirements would be cumbersome and burdensome and costly.

But I think the agencies - sometimes the regulated public finds the agencies not to be their friend. It's almost a contest.

And so I didn't think that the veto required really changing the language. In

my opinion, it didn't require changing the language. I thought the language was very clear. It's a very simple bill.

SENATOR GOLD: All right.

SENATOR RATH: If I may, Senator. I believe that some of it may have to do with the review of SAPA that is going on at this time. But none of the review areas that I know of are dealing with this particular kind of an issue, and it's a very simple issue.

It's presenting a responsibility when a request is made that a model could be set up so that the regulated public could see what that model should look like as they respond.

SENATOR GOLD: Senator, just lastly, I personally don't understand why if there is a veto message and we repass bills - people want to challenge and override a veto, that's one thing -- but to not make language change.

But I'm just reading, at the request of Senator Leichter, the last sentence of the bill, "This subdivision shall not require

the preparation of a model plan or document for any provision of a rule which requires the submission to the agency of an application or similar form or blank which is prepared and distributed by the agency or for any rule which sets forth such model plan or document in the text of the rule."

Senator, the Governor said that there was some problem with the language. Do you think that is a clear sentence for the average guy to deal with, Senator, in knowing whether or not this applies?

SENATOR RATH: And that, I think, is exactly the point, Senator, that the language is very difficult for the public to understand; and so when they write in and request -- because if you'll notice earlier in the legislation, it says, "Upon the request of one or more regulated parties, to prepare a model plan to provide guidance as to the form."

I think that, yes, it is difficult to understand but not for those of us who need to expand to the public's confusion. I

think we can understand language like that, and I think our agencies can, but I think the point here is to make it easy for the public.

SENATOR GOLD: Well, Senator-

ACTING PRESIDENT KUHL: Senator Rath, do you continue to yield?

Senator yields.

SENATOR GOLD: Yes. Senator, what I don't understand is why we would pass something which is, I think, tremendously difficult. You need -- in the old expression - 59 Philadelphia lawyers to understand it. And to say it's passing a law and it doesn't matter whether the public understands it, we should understand it. I'm not ashamed to tell you I don't understand it.

And I think, Senator, there are some of us -- you may not have that concern, but some of us worry very much about judges and what they've got to go through. And I'd hate to be a judge and have to interpret what all of this stuff means. I mean I think to some extent that's what the Governor was concerned with.

SENATOR RATH: Well, Senator, I can understand why he would be concerned because I think there's probably a lot of legislation has language that is very difficult to understand.

But, as I indicated before, this language is dealing with the regulating agencies and asking them to respond to a request by a regulated party. In my mind, that's clear enough.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Dollinger.

SENATOR DOLLINGER: I just rise on the bill. We discussed this yesterday -

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: -- Senator Johnson about the issue of what authority we give to our regulators. And one of the points I tried to make in that discussion was when we give them broad grants of authority and they used those broad grants of authority as broadly

as we gave it to them, we can't suddenly come back to them and say, "You are not doing what we want you to do."

It seems to me -- and I agree with Senator Gold. I appreciate the difficulty, perhaps, of drafting, that the concept that this last sentence raises is a difficult one to put into a textural form so many it can be clearly understood. But the way it's currently drafted, I think we're going to not only see judges bewildered about how to try to figure it out but we're going to have regulators try to figure it out. They may do some things that we don't want them to do, and we will be back here two or three years from now on the same debate we had with Senator Johnson yesterday on Environmental Conservation, trying to figure out what is it the Legislature really intended.

We have an obligation both to the regulators to the courts and to the people who are filing applications and relying on regulators to be more specific. I appreciate the sponsor's -- the difficulty in taking this

complicated area of procedural law, of the administrative procedure and trying to make it clear.

But it seems to me that this subdivision, this section is unclear and will be difficult for everyone to understand, and we may just generate more confusion rather than clarity.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Senator Rath, let me say this. There are times when we have philosophical differences, and there are times when we are just talking, I think, within the context of the Legislature itself and the product.

The bill is a short bill. And, basically, the intent of the bill as I understand it is, it says that if a -- if some agency wants you to submit a document that they ought to have some kind of a model as to what they expect it to be. And if that's what it is, I'm so far fine on it. And then that takes care

of about the first sentence.

The second sentence says it ought to be available and people ought to be told by the agencies it's available. And so I guess I'm okay.

Senator, I'm not trying to give you a difficult time, but I don't understand what that last sentence means at all, and I tell you something. My own intellect is questionable. But when Franz Leichter doesn't understand it, I get nervous.

And, you know, this subdivision -- in other words, they have to have a plan; they got to tell you about it; but the subdivision does not require the preparation of a plan or document. And then it goes from there. I'm not sure what that means.

And all I'm saying, Senator, is I don't think the idea is a terrible idea. I think one of the most frustrating things in the world for people is to want to apply for something, maybe even be entitled to it, and then have a bureaucrat tell them that they like

it laid out some other way.

I think the idea may be nine. I just don't know what the heck that sentence means. And all I'm saying to you is, we passed it for you before, and the Governor said, "Look, this may have some language problems." I'm just suggesting maybe we don't go through with it today and see whether or not there is any way of fixing up that language.

There may not be, Senator, and it may be that philosophically the Governor ain't agoin' to do it, you know, but I think it's worth a try to put it into easier language, respectfully.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter to explain his vote.

SENATOR LEICHTER: To explain my vote. On the one hand, I want to say to Senator Rath, who is relatively new here but has learned the traditions and habits of this house, which is, that any legislation which is put on the floor cannot be improved in language, and you go ahead and you pass the bill no matter what, even if it's pointed out that it's sorely lacking in comprehensibility or has some other problems.

I just want to say, I think the point's been well made and if I, with all due respect, may make a suggestion to Senator Rath that next time she not borrow one of the draftsmen of the Internal Revenue Code to draft these bills, because only in the Internal Revenue Code have I have read similar provisions. And I would be delighted if Senator Rath at her leisure would just send us something which would tell us what this means.

Mr. President. I suspect that

this bill will meet the exact same fate that it met last year. It will be vetoed. And if traditions hold true, Senator Rath, you will be putting forth the exact same bill with the exact same language next year with the exact same result.

I vote in the negative.

ACTING PRESIDENT KUHL: Senator Leichter in the negative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1179 are Senators Connor, Dollinger, Galliber, Gold, Leichter, Markowitz and Ohrenstein. Ayes 48. Nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1182, by Senator Stafford, Senate Bill Number 7772, authorize the Commissioner of General Services to convey certain land in Clinton County to the Organization for Dannemora Housing.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1183, by Senator Rath, Senate Bill Number 7776, State Administrative Procedure Act, in relation to notification regarding rule proposals.

ACTING PRESIDENT KUHL: Senator Rath, Senator Leichter has asked for an explanation.

SENATOR RATH: Senator Leichter, this particular item shows that various agencies before promulgating rules will hold hearings with select notification to the public, circulate draft proposals to select entities, and negotiate rule makings with the regulated parties without notification to ARC or to ORMA;

and what we are doing here is insuring legislative oversight by assuring that ARC and ORMA receive notifications of such proceedings.

Therefore, the bill, as I said, will insure legislative oversight and is doing nothing more than assuring notification.

SENATOR LEICHTER: Thank you.

ACTING PRESIDENT KUHL: Explanation satisfactory.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1184, by Senator Present, Senate Bill Number 7800, Real Property Tax Law.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Mr. President. If I may explain my vote.

ACTING PRESIDENT KUHL: Senator Leichter to explain his vote.

SENATOR LEICHTER: I am going to support this bill, although with some hesitation. I just want to point out to the members here that while this bill provides, in effect, for local option and that really sort of sanitizes the bill for me, but it does provide for the county granting tax exemptions, real estate tax exemption for new construction.

I just want to point out that in the City of New York -- and the City was given that power -- really had some very unfortunate experiences. Maybe the counties have to learn it for themselves or be more careful than the

City of New York was, but it's a power given the counties which could be misused and create a great deal of financial difficulties.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1186, by Senator Libous, Senate Bill Number 7975.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

SENATOR PRESENT: Stand at ease for a moment.

ACTING PRESIDENT KUHL: Senate will stand at ease for a moment.

(Whereupon, the Senate was at ease.)

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Present.

SENATOR PRESENT: Take up Calendar 1161.

ACTING PRESIDENT KUHL: Secretary will read Calendar 1161.

THE SECRETARY: Calendar Number 1161, by Senator Marchi, Senate Bill Number 1362, an act to amend the Judiciary Law, in relation to creating the 13th Judicial District consisting of the County of Richmond.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Marchi, Senator Leichter has asked for an explanation.

SENATOR MARCHI: Under the present arrangement -- well, we are members of the Second Department and we would remain in the Second Department, the County of Richmond, even under prospective legislation which may be considered later in the session, creating a Fifth Department.

But the fact that we are not a judicial district, and especially if there is a

change, we would be with the County of Kings, and there have been repeated circumstances in the experience of the county where the desires of the procedures on Staten Island in composing the Supreme Court with some difficulties if it were reduced. Especially with a change to a fifth district, the difficulties would be magnified. So we would -- by becoming a judicial district, we would then be part of the Second Department -- we would continue being members of the Second Department, but we would have the right to fill these offices within the county, as is the case in Kings, as is the case in Queens. It seems to me eminently fair.

There is unanimous support for it, down in Richmond County for it. And I would hope it prevails.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. I certainly more than many members here appreciate why Senator Marchi advances this proposal. In fact, I guess in a prior

incarnation in a different district, I may have voted for this and even co-sponsored this a few years ago. And I don't want people from Staten Island to think I have forgotten them so quickly even though they don't have any votes in my district.

But I do want to use this issue to address the whole issue of judicial selection in New York City and New York State.

There are presently pending two or three lawsuits that challenge on a variety of grounds, civil rights and voting rights grounds, the way, one, we select Supreme Court justices; two, the way Civil Court judges in the City of New York are selected.

The cases, I suspect, have some legal merit. They are pending in Federal Court. They raise other issues besides voting rights issues; for example, "one person one vote" issues, issues like why is it that the Borough of Manhattan has an incredibly disproportionate number of Civil Court judges? The political ramifications of adverse decisions

in one or all of these cases could be varied.

One benefit for those of us who represent parts of other boroughs is it would shift presumably some of the Civil Court judges to other boroughs.

One may say Manhattan has a disproportionate number of judges because of the caseload there, but there are cases that say, "Well, fine. So you assign the judges wherever you need them." That doesn't mean that a person in Brooklyn should have 1/6 of the say in picking Civil Court judges as a person in Manhattan, for example, a voter in Manhattan.

On the voting rights issues, similar concerns prevail. People say, "Oh, but you need the judges here instead of there," well, that doesn't mean you can't elect them in different sorts of districts that empower minority voters to select more judges, even if they end up being shifted to some different borough to deal with the workload.

So it's not about judicial efficiency. We already allow in our state for

judges to be assigned wherever they are needed.

My colleagues. These cases have been kicking around for a couple of years now, and I'm afraid the day of reckoning is coming, and I've talked to successive Judiciary Committee chairs about what we're going to do about this, and then I get answers, "Yes, we may have to do something about that."

And my warning is let's not wait until a federal judge decides how and where and when we'll select judges. For example, who is defending against these lawsuits? Well, the executive, of course.

Well, I don't want to comment on the situation in New York, but one of the remedies one of the plaintiffs are asking for is throw out this whole system of picking judges because it violates the Voting Rights Act, "one person one vote," and so on, and just let the executive appoint -- you know, the Mayor appoint a percentage and the Governor appoint a percentage. In other words, they are asking that all the power go to the person they are

suing who is defending against it.

Now, I don't think in New York State we need worry about the vigor with which the Executive defends these cases, even though the Governor did have a task force which, in effect, laid forth the theory the plaintiffs are using in their lawsuit.

But we can look at a different state, in Georgia, for example, and the case is on hold. But in Georgia there was a similar lawsuit against Governor Zell Miller there, and he settled the case and said, "You know, you're right. We're not electing judges properly. So we will enter into a consent decree and I'll just appoint them from now on."

In that case, the federal judge said, "Wait a minute." That state had a history of electing judges embodied in its constitutional provisions, and the judge there said, "No, no, you have to work out a different settlement. You have to make it fair. You have to follow the Voting Rights Act. You have to follow also the principle of election."

But I believe really this Legislature is now on notice for over two years of the pendency of these lawsuits. I think there are ways to insure a fair way of selecting and electing judges to the various courts. Ensure that "one person one vote" is upheld. Ensure that minority voters have a fair share of the opportunity to elect judges of their choice, and we haven't acted on it.

All I have seen on this floor so far now is a bill I once co-sponsored to give a little bit of fairness and say-so to the voters of Richmond County.

But with all due respect to Senator Marchi, Mr. President, I think under the circumstances there is a much greater need that's not being met. Indeed, were this bill to become law, it would have to go off to the Justice Department because it does have an impact -- it does have an impact on a voting rights covered county, Kings County. And one could easily construct a rationale whereby in taking away and carving out so many judgeships

merely for Richmond County, you, in effect, are depriving minority voters in Kings County of their say-so in picking that many judges. They may not control, but they have a voice in the selection of the judges at present, and they wouldn't were this act to become law.

So I think that this bill, were it to become law, won't pass muster under the Voting Rights Act. And on the larger question, we better wake up here before an unelected, lifetime appointee federal judge decides how we're going to get all of our judges. And that's without taking sides on merit selection versus election or any other proposals, but we ought to do something. We really ought to address this and do something before it's done to us as well as for us.

Thank you.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: If Senator Marchi would yield.

ACTING PRESIDENT KUHL: Senator Marchi, do you yield?

SENATOR LEICHTER: Senator, has the Office of Court Administration taken any position on your bill?

SENATOR MARCHI: Well, I wouldn't want them to -- I wouldn't want to state here that they endorse it when they have made no official pronouncement on it, but I have discussed it with them, and they say they saw nothing objectionable, that it wouldn't create any problem if we wanted to do it.

However, I want to caution you that they have not said, yes, we will back it up. I discussed it informally with them in terms of doing this, and they said that that wouldn't present any problem.

As far as review, you know, we have no objection. There is no partisan division, and we have certainly no objection by federal review or anybody else. You know, if Queens has a judicial district and Kings County has a judicial district, I don't see why we

can't. At least we will be able to have a more direct voice in filling out those Supreme Court slots than we have now.

We've had delegates go over and they were just voted down at the judicial convention. I assume that probably happened before Queens became a separate judicial district. We're 400,000 people.

But we certainly don't have any objection to having it reviewed by anyone. But I did discuss it specifically with OCA, and they said they didn't see any difficulty at all. That was their word to me.

SENATOR LEICHTER: Mr. President. I appreciate -

SENATOR MARCHI: In fact, I spoke to Judge Malone's office, and he said he didn't see any difficulty.

SENATOR LEICHTER: Thank you, Senator Marchi.

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

SENATOR LEICHTER: Just briefly

on the bill. I think there's a certain element of fairness in saying that Richmond County ought to have the powers that other counties within the City of New York have.

But, Senator, let me say there is also an argument to be made that we ought to keep politics, to the extent we can, out of the court system. And I think you've already honestly said that this was driven by politics advantage, if you will, not just for county but possibly for political party. And I don't know whether that's enough justification to change longstanding arrangements.

I want to say I have been consistent, because I also opposed the establishment of the 12th Judicial District. But I think we need to do a lot in rationalizing the whole way in which we have not only the election of judges, the unification of our courts, a fifth department, which I believe is needed, and I support Senator Lack's efforts in that.

So maybe really we need to look

at the whole cosmos of our judicial system, and it may not be wise just from that viewpoint, Senator, to address in this isolated fashion your bill creating a 13th judicial district for Staten Island.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. I rise to echo the sentiments of both Senator Connor and Senator Leichter. I think this is a piecemeal approach to what is a very significant problem, the way elect our judges and the circumstances under which we elect them.

I'd simply point out in our neck of the woods, Mr. President, both the judicial district, the 7th Judicial District, which has a majority of its population in Monroe County, very difficult for your constituents from the southern portion of the district or Senator Nozzolio's from the eastern portion of the district or Senator Volker's who are from the western portion of the seventh district to win

elections against people who run from Monroe County because of the substantial population concentrated in Monroe County, and we have a judiciary in the Seventh Judicial District which, again, depending on your persuasion, is really geographically and regionally balanced, heavily tilted in favor of Monroe County. It's very difficult for people outside the county to win.

So I think there are a lot of factors that go into the election of judges and regional loyalties that accompany these elections, but I really think to do it on anything other than a comprehensive approach doesn't make good sense.

And I understand Senator Marchi's concern, certainly is a strong regional voice for Staten Island, but I think we need to look at the much bigger picture and figure out how we're going to create a judiciary in this state that accurately reflects all aspects and all constituencies in this state so that we make sure that justice is fair and it's even-handed

for everyone.

And I'm going to vote against this bill only because I think this is a piecemeal approach to a very big problem. I know Senator Lack and the Judiciary Committee are working on aspects of that problem. I hope they bear fruit.

But I'm going to vote against this on the basis of the fact that it's a piecemeal approach at this stage.

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: Senator, will you yield for a question?

ACTING PRESIDENT KUHL: Senator Marchi, do you yield?

SENATOR MARCHI: Yes.

SENATOR GALIBER: Senator, I want you to go back a little bit and tell me whether this is the same thing we had a problem with in Bronx County. One time in Bronx County we were drawing with Manhattan, and both Senator Leichter and Senator Connor had a piece of

Manhattan, and they still owe us judges because they didn't have the population. They must owe us about seven or eight judges. We haven't got them yet. They are still hanging out there.

So when the opportunity came, with some struggle, I want you to know, and you can recall we wanted to separate and make it the 12th and there was a lot of objection to it. I think there is some kind of a little self-serving something or other back there. I'm going to vote for the legislation, because I went through this, and they never gave us the judges that they owe us, and I think that there are some problems as pointed out; notwithstanding the fact that there are two people from Manhattan who kind of objected. You guys owe me some judges, I want you to know that. This is the only way we can do it.

They gave me the same argument some years ago. Let's wait for whomever it may be to come along and do an overall system. It doesn't work that way in government. So I hope that you stay with the City of New York first,

and if you don't or you do, I certainly want to vote for your piece of legislation.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President. This debate brings a smile to my face because, while this legislation is talking about an issue, it reminds me of some other kinds of things, and the smile on my face is a memory of a fellow by the name of John D. Calandra, a Republican Senator, a conservative Republican Senator, and I don't mind putting it out on the record. I absolutely loved the man, he was a great guy.

Why do I smile, and why do I mention John Calandra? John Calandra had a bill that came to this floor, and he was going to redo all the judge districts in the Bronx, and the reason was that minorities in the Bronx were being abused and they didn't have judges, and we have to redraw districts and we got to redo the whole thing, and it was I think even for the

whole City of New York. But I know he was very, very upset.

And in the bill, John Calandra took the names of all the sitting judges, gave them a district, and there was a whole calendar of how these judgeships would get reelected, and I know that John Calandra did this at random. But somehow, somehow if you took a look at the election dates, those districts which John Calandra thought would elect white Republicans happened to be the first elections. And in the calendar, ten, fifteen years down the line, there would be a Puerto Rican and there would be a black some place along the line.

The schedule had nothing to do with politics but it just turned out that all of the districts that might give a Republican a chance were the first elections. Then -- well, that didn't get too far, as you know, but certainly in the other house.

Then Senator Calandra, God bless him, had another bill and this one dealt with - it was either delegates to the judicial

convention or whatever, and he went through the Assembly seats or the Senate districts or whatever, and he realigned how the voting would be. And I said I know how this vote is going to come out. If your district had 18 and you were getting 20, you were for the bill; if your district had 19 and had 16, you were against the bill.

And, you know, what this all comes down to is that it really is ridiculous, and I respect Senator Galiber very, very much, and I do believe that, you know, you shouldn't be in a situation where you don't have a chance to participate in the system.

But, Senator Marchi, you know, I really think it's enough. When Staten Island wanted to vote to secede. I said, look, let them take a vote, fine. I hope they don't go that way. And, certainly, if it comes down to the wire and they want to go and they want to take all the debt with them that they've got to take, I might be sympathetic with them. I'm not so sympathetic with Staten Island walking out

and now people in Queens County having to pick up their share of the debt. But there are a lot of issues involved.

But I really believe that if we're talking about getting out of here -- and I know the Assembly isn't working tomorrow. They apparently feel it's useless at this point. This house says if you want to get out, we've got to work tomorrow.

Well, maybe in the middle of June, we shouldn't be posturing if you want to get out. I mean what does it mean? Is June 15 the start of posturing and politics into the matter? I hope not. I want to get out.

The courts are very vital to the existence of a civilized society, and it shouldn't be this kind of pulling and tugging. I think that the bill is taking us in a direction which makes it look like this distinguished house is politicizing the courts.

There's so much to do, real issues. Do we believe in merger or not? God forbid. But are there other things that we

should be dealing with? But just to start pulling out and creating a district here because politically it's the right time, I really do oppose it, and that's the way I'm going to vote.

ACTING PRESIDENT KUHL: The chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President. Having represented both Brooklyn and Staten Island I think I can see both sides of this issue as nobody here can, and I find interesting that Senator Gold used the word politicizing the courts.

Being a Republican from Kings County who has a lot of experience with courts in Kings County and the Second Judicial District, I don't think we're politicizing the courts here. I think that's something that has been done over the years, and I would like to see a little bit of fresh air brought into the court system, not only in the state but especially in the Second Judicial District.

I represent Brooklyn and Staten Island, as I've said, and I live in Brooklyn.

But I have to tell you that not only do the people in my district in Brooklyn not get represented in the courts in the Second Judicial District because we have no say in who gets elected basically in a county of two and a half million, but the people of Staten Island have absolutely no voice in who sits on the bench in the Second Judicial District.

It is the right thing to do for the people of Staten Island, and I think that you are correct, Senator Connor, that this whole system is going to be shaken apart very quickly and very soon, and the way that we elect judges in this state, Supreme Court judges, is not going to be around for a lot, much longer because it is, based on the Georgia decision, unconstitutional.

I look forward to the day when we no longer elect judges the way we do in the Second Judicial District. I believe that, eventually, we're going to have Supreme Court Judicial District which would not be in violation of the Voting Rights Act. It's

coming, and I think that the people of Staten Island deserve their voice to be heard, and I would recommend that everybody support this bill. It's the right thing to do, and I think eventually it's going to happen.

Thank you.

ACTING PRESIDENT KUHL: The chair recognizes Senator Lack.

SENATOR LACK: Thank you, Mr. President. I must say I apologize to Senator Connor. I missed his part of the debate, but from what I've heard since I came in, I do find it very funny, as Senator Gold did, wanting to know why Senator Marchi could possibly want a 13th judicial district that would encompass the County of Richmond in the City of New York.

Of course, for a little history as we talk about the establishment of judicial districts, Senator Galiber very honestly stood up and said, "Well, we wanted Bronx," and that's the 12th Judicial District in this state. Of course, Senator Gold comes from Queens. That's the 11th Judicial District in this state, and a

fine one at that. One has to think about how did we get an 11th and how did we get a 12th, and we got an 11th, and we got a 12th because of Senator Gold, Senator Galiber, their colleagues in both houses who said, "Hey, now, wait a minute." We in Queens, we in Bronx, we've got little problems being tied to Brooklyn or being tied to Manhattan, and we, of course, want to speak for ourselves in the county of Queens and the County of Bronx. So, please, can we establish a judicial district?

And do you know what? Colleagues in this house, Republicans and Democrats, listened and said, "Okay, that's what you want, that's what you can have."

You know, the law only allows this to happen once every ten years. So it's not like every 15 seconds someone is plucking a new judicial district off a tree. And, in fact, the last two that were created were within the City of New York with people expressing the same sentiments that Senator Marchi is on behalf of his constituents.

So, Senator Marchi, I'm proud as chair of the Judiciary Committee to support your effort, and I really don't think it's posturing. You are evidencing a very grave concern of your constituents and one that I think should happen.

As far as the Assembly not being here tomorrow, well, Senator Gold, I really wish the Assembly would get here tomorrow. Perhaps a little more posturing is needed to get through session. All of us who have been here all these years know, until that starts, you don't really get through session.

One last comment again, Senator Connor, I'm sorry I missed your comments on the voting rights situation. Yes, indeed, it's been in the newspapers. The Civil Rights Division, the United States Department of Justice, pursuant to their authority under the Voting Rights Act, has been pulling information about judicial elections in the State of New York. Indeed, there is a meeting that's been going on this afternoon in which, going back 20, 30

years, they are pulling information.

The state is under no sanctions. The Civil Rights Division has not yet announced anything that they want the State of New York to do. They are still looking into it. There is at this point -- unless you want to abolish election of judges. I then might hear Senator Gold standing up and having a few other comments to make and abolishing that system whatsoever, which might happen.

The creation of a 13th judicial district vis-a-vis what is going on with the Division of Civil Rights isn't going to matter any more than the creation of the 12th Judicial District or the 11th Judicial District vis-a-vis that type of investigation that's going on.

If, indeed, there are results of that that come before this Legislature and announce we will when we get a pattern of what to follow from the federal government as we do for all such things, I would assume we would comply. But other than shooting in the dark and trying to divine what it is that the federal

government is looking at with respect to our judicial elections within the voting rights counties in the City of New York, quite frankly, as I said, other than abolishing election of judges, which I don't think would be very popular if we suddenly put on the floor of this Legislature, there is nothing for us to do.

So, Senator Marchi, I'm happy to vote when the time comes in the affirmative for your piece of legislation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1161 are Senators Dollinger, Gold, Kruger, Montgomery, and Ohrenstein. Ayes 50. Nays 5.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Goodman.

SENATOR GOODMAN: Mr. President. May I reiterate once again our cordial invitation to all members of this house to come to Saratoga Performing Arts Center this evening for the purpose of having a congenial dinner and listening to "Madam Butterfly" by Jacimo Puccini, a poignant story, as you all know, involving the sad visitation of a Naval lieutenant to the continent of Japan, where he fell in love with an exquisite and wonderful young Japanese lady and, alas, ultimately abandoned her, having nothing whatsoever to do with anything other than the fact that this is a deeply moving and melodious event which I think will bring joy and tears to every member who witnesses it. Without each and every one of you, the evening will not be complete. The food will be superb, and the entertainment courtesy of the New York City Opera and the outstanding tradition of the Senate Committee on the Arts

and Cultural Affairs. Look forward to seeing you all 6:30 sharp at SPAC.

Thank you very much.

ACTING PRESIDENT KUHL: Thank you, Senator Goodman.

Senator Present.

SENATOR PRESENT: Mr. Cornell, are you all straightened up, no house keeping?

Great!

Mr. President. I would like to announce an immediate meeting of the Rules Committee in Room 332. I now ask the Senate stand at ease awaiting the Rules Committee report. Upon the receipt of that report, the Senate will adjourn until tomorrow at 11:00 a.m.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in Room 332. The Senate will stand at ease until the report of the Rules Committee is available.

Senator Leichter.

SENATOR LEICHTER: May I have

unanimous consent to be recorded in the negative on calendar 1161.

ACTING PRESIDENT KUHL: Without objection, Senator Leichter will be recorded in the negative on Calendar 1161.

Senate will stand at ease.

SENATOR LEICHTER: Thank you very much.

(Whereupon, at 3:17 p.m., the Senate was at ease.)

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Present.

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

ACTING PRESIDENT KUHL: Return to report of a standing committee. Secretary will read.

THE SECRETARY: Senator Marino from the Committee on Rules reports the following bills directly for Third Reading:

Senate Bill Number 2549, by

Senator Cook, an act to amend the Education Law.

3178B, by Senator Babbush, authorizing the City of New York to reconvey its interest in certain real property.

4485A, by Senator DeFrancisco, authorize the city of Syracuse to replace residential water service lines.

4646A, by Senator Espada, authorizing the City of New York to reconvey its interest in certain real property.

7497, by Senator Larkin, an act to amend the Labor Law.

7699, by Senator Kuhl, an act to amend the General Municipal Law.

7849, by Senator Cook, authorizing the transfer and retirement plans for certain police department employees.

7870, by Senator Farley, an act to amend the Education Law.

7882, by Senator Tully, an act to amend the Executive Law.

7887, by Senator DeFrancisco, authorizing the Town of Camillus to discontinue

the use of parklands.

7921, by Senator Trunzo, County of Suffolk to least certain parklands.

7951, by Senator Volker, an act to amend the Local Finance Law.

8036, by Senator Bruno, authorize the waiver of certain reports required to be submitted by the Brunswick Central School District.

8061, by Senator Daly, Monroe County Tax Act.

8108, by Senator Skelos, Estates, Powers and Trusts Law.

8361, by Senator Johnson, Suffolk County charter.

8448, by Senator Sears, General Business Law.

8472A, by Senator DeFrancisco, Real Property Tax Law.

8574, by Senator Nozzolio, Agriculture and Markets Law.

All bills reported directly to third reading.

ACTING PRESIDENT KUHL: All bills will be reported directly to third reading.

Senator Present.

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

ACTING PRESIDENT KUHL: Senate stands adjourned upon the motion of the Temporary President to tomorrow at 11:00 a.m.

(Whereupon, at 3:33 p.m., Senate adjourned.)