ALBANY, NEW YORK

January 30, 1995

3:03 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would everyone please rise and repeat with me the Pledge of Allegiance.

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

The invocation today will be given by our guest, Dr. Evelyn Ross John of the New Life Center of Truth in Brooklyn, New York.

DR. JOHN: With the rising of God's yearly presence and yearly pull in our midst, we ask to take complete control of what is being done this day.

Loving Father/Mother God, we give Thee thanks for this beautiful day. We give Thee thanks for these people here of this Senate who have come to dedicate their lives to building a better and a more beautiful nation. We ask You now, our God, that you take complete control of their mind, their body and all their affairs. We ask, dear Father, that You have them to focus on that goal so that whatever they do, they will do it for the good of the nation

and they will help people and build people and relive the life that we are all accustomed to. O Father, take complete control of this Senate right now. Bless every sound, every word; bless every message; bless every conviction that is made this day. See that we are dedicated, God, in Your presence so that we will work for the good of this great nation and we will know that it will work for the highest good of all the people everywhere upon this great earth. So we ask You, dear God, to take complete control but we ask it in Your other name, but through the name and the power of Jesus Christ.

Thank you.

THE PRESIDENT: Thank you.

The Secretary will read the Journal, please.

THE SECRETARY: In Senate, Friday, January 27th. The Senate met pursuant to adjournment, Senator Bruno in the Chair. The Journal of Thursday, January 26th, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without

objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Velella, from the Committee on Insurance, reports the following two bills directly for third reading:

Senate Bill Number 18, by Senator Velella, an act to amend the Insurance Law, in relation to allowing insurers to make available multi-tier program.

Also Senate Bill Number 19, by Senator Velella, an act to amend the Insurance Law, in relation to certain insurance premium reductions.

Also Senate Bill Number 22, by Senator Velella and others, an act to amend the Insurance Law, in relation to the reduction of homeowners insurance rates in certain instances.

All bills reported directly for

third reading.

THE PRESIDENT: Without objection, all bills direct to third reading.

Report of select committees.

Communications and reports from state officers.

Motions and resolutions.

Oh, Senator DiCarlo, I'm sorry.

SENATOR DiCARLO: Yes, Madam President. On behalf of Senator Holland, on page 4, I offer the following amendments to Calendar Number 13, Senate Print 20, and ask that said bill retain its place, Third Reading Calendar.

THE PRESIDENT: So ordered.

Senator Bruno.

SENATOR BRUNO: Madam President, I call a meeting of Rules immediately off the floor in Room 332.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in Room 332.

Oh, Senator Wright, sir.

SENATOR WRIGHT: Madam President, I move that the following bills be discharged from their respective committees and be recommended with instructions to strike the enacting clause: Senate Print Numbers 126, 127, 128, 129, 130, 131, 132, 133, 134 and 135.

THE PRESIDENT: The bills are recommitted, the enacting clauses stricken.

Senator Bruno? Oh, Senator Kuhl, sorry.

SENATOR KUHL: Madam President, would you place a sponsor's star on Calendar Number 4, Senate Print 516, please.

THE PRESIDENT: The bill is starred.

SENATOR KUHL: Thank you.

Senator Bruno.

SENATOR BRUNO: Madam President, I would like to take up the non-controversial reading of the calendar at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

5, by Senator Lack, Senate Bill Number 496-A.

SENATOR CONNOR: Lay aside, please.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 17, by Senator Holland, Senate Bill Number 136.

SENATOR CONNOR: Lay aside, please.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 18, by Senator Holland, Senate Bill Number 313, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section, please.

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

SENATOR CONNOR: Lay it aside, please.

THE PRESIDENT: Oh, lay it aside, please.

SENATOR CONNOR: What number is

that?

THE PRESIDENT: Calendar 18.

SENATOR CONNOR: I'm sorry.

THE PRESIDENT: Oh, read the last section.

SENATOR CONNOR: I want 18 laid aside.

THE PRESIDENT: Well, I'm -- lay it aside, please.

THE SECRETARY: Calendar Number 19, by Senator Maltese, Senate Bill Number 491, an act to amend the Social Services Law, in relation to access to criminal history records.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 25, by Senator Stafford.

SENATOR CONNOR: Lay aside, please.

THE PRESIDENT: Lay it aside, please.

Senator Bruno, that completes the non-controversial reading of the calendar.

SENATOR BRUNO: Madam President, may we now have the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 5, by Senator Lack, Senate Bill Number 496-A, an act to amend the Judiciary Law, in relation to audio-visual coverage of judicial proceedings.

SENATOR CONNOR: Explanation, please.

THE PRESIDENT: Explanation is requested, please.

SENATOR LACK: Madam President.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you.

Madam President, this would extend the current authority for cameras in the courtroom, which expires as of February 1st of this year, for two and a half years.

SENATOR CONNOR: Thank you, Madam President.

In past years -- in past years, this bill has come before us. I remember the first time it came before us when Senator Anderson brought it out under his sponsorship, and there was a big debate on the floor, and I led the debate against the then version of the bill, and it was defeated on the floor and in subsequent years it's been renewed. It was allowed to expire.

I've voiced my opposition to this bill, but I have had an opportunity now to observe the cameras in the courtroom in action, to review a report that, while not perfect, is finally an evaluation. I think the first experimental bill round, we all felt and many of us felt the kind of report and evaluation we got

was not truly a good view of how the experiment had worked.

So basically, in view of where we are today, Senator, I do intend to support this bill, although, of course, it is one of those bills on which members have diverse opinions and it is a matter of conscience, but I just wanted to convey that to you.

Senator Hoffmann?

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Madam President, I believe I have an amendment at the desk.

THE PRESIDENT: There is an amendment at the desk.

SENATOR HOFFMANN: Could we have it read.

THE PRESIDENT: Would you read the amendment, please.

SENATOR HOFFMANN: I'd like to call that amendment now, please.

THE PRESIDENT: Would you like to

waive the reading of the amendment and explain it?

SENATOR HOFFMANN: Please.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you.

The amendment at the desk would provide several changes in the bill, and I would like to just say at the outset that over the last decade the issue of cameras in the courtroom has gone through a very interesting evolution in New York State, and I've watched with -- with some pleasure the degree of interest that has been put forth in this house to some areas which a decade ago were not really very well considered at all, and I want to compliment the sponsor for having addressed some of the concerns that I had raised initially back in 1986 and felt like a rather lonely voice, but at that time the bill was put aside and because of the lack of unanimity on its concept, the lack of concern -- lack of unanimity on its evaluation component, we didn't have a bill at a

point in time when there was an expectation that it would go through with very little discussion at all.

So it's one area where the involvement of this legislative body in earnest discussions, has made a difference and, while we may not find a final solution today, I hope we will come a little closer to a meeting of the minds about what is really important when we address the issue of cameras in the courtroom.

Is the paramount issue here the public's right to know, or is the paramount issue the practice of justice in New York State? And I would submit that we must still remain absolutely dedicated to the practice of justice as our number one goal and concern and recognize that a second constitutional right in this country, namely, the public's right to know, is already guaranteed. The free press and the free trial provisions are more than adequately recognized by the open courtrooms that we have in this state. Any of us are quite capable of going and sitting and listening to a trial.

We're also able to read the newspaper accounts. But simply because we now have electronic news media as a fact of life in our homes and our bars and restaurants and legislative halls, does not mean that everything that happens in a courtroom must be or should be televised.

There are three distinct provisions within this amendment that would alter, not significantly, but would alter the bill that Senator Lack has introduced today.

One would make it very clear that a crime victim in a sex crime would have absolute veto power over cameras in the courtroom if that is the choice of that crime victim.

Another one would require that the review committee would have a representative from the Crime Victims Board so that, when we go back at the end of this evaluation period, we will have the benefit of people who are familiar with crime victims, in analyzing whether or not it has been a sensibly drawn bill and it has

been well planned and executed in this addition al, I guess, third or fourth trial period.

And finally, and I wonder why this has to be written in at all, but yet -- and yet it does -- and finally, the amendment would include that there would be videotape repository -- a videotape repository available where all of the videotapes could be placed -- would be evaluated through the review process and would obviously be available then for the public for any further scholarly study as well as by the Legislature in ascertaining whether or not the experiment has been well conducted.

Now, why do we want these three provisions in? There is very clear anecdotal evidence, and some scattered scientific evidence to indicate that rape victims are reluctant to prosecute crimes and are most reluctant to go into a courtroom to see their attacker prosecuted if they fear there is even the slightest possibility that their own identity would be disclosed.

We have to recognize our

responsibility here to the victims of those crimes and not put rape victims and child victims of sex crimes through any additional horror. We should give them the right to say, "No, I do not want this trial televised." There are examples where testimony has taken place and simply inadvertently the victim's identity has been broadcast, or enough information about the victim through her place of residence, her attire, the circumstances under which the attack took place, to make it extremely evident to people who she knows, people with whom she works, other people who are simply aware of who she is, that she, in fact, was a victim of a crime.

This is another abuse heaped upon an already suffering individual, and we should allow any woman in New York State the right to say, "No, I do not want cameras in the courtroom for this trial."

Now, if she has that right, what would happen next? All trials involving sex crimes would be closed to cameras? No, not

necessarily. It would mean then that the ball is actually in the victim's court, and she would have some validity through her attorney to negotiate the circumstances under which the camera would be in the court, not be told that she would be protected by the presence of the blue dot on the screen because, as we all know, that blue dot does not always offer adequate protection. She would then know through her attorney under which circumstances the cameras could be in the courtroom. Possibly for some of the time, possibly for none of the time, possibly with a narrowly trained camera so that none of the courtroom would be panned because she did not want the presence of her friends and relatives panned in the courtroom to trigger what her identity is; but at the present time there is no guarantee for the victim of a rape crime that any of those conditions will be met.

The only guarantee, the only protection she has under the current measure is that her permanent identity would be protected. Inadvertent exposure, trivial aspects of her

life, miscellaneous aspects of testimony which could lead to further humiliation are completely beyond her control and are sufficient reason for women in this state to say, "No, I will not prosecute my attacker. I would rather let him go free, commit similar rapes against other women and children in this state rather than endure any more humiliation myself."

In the interest of justice to every rape victim in this state, we owe the right to the absolute guarantee that there will be no cameras or cameras only in a manner that are acceptable to her and in the greater interest of justice in prosecuting rapists by allowing such women to feel comfortable or at least to feel some measure of comfort in a courtroom, we should further consider the importance of this particular issue.

Judicial discretion, that's the standard phrase that's used. The initial bill that came up in 1986 was -- was very bold and said that the judge would have judicial discretion to decide when in other circumstances

the cameras should be taken out of the courtroom; but the phrase "judicial discretion" has come to be a very hollow one to many women who have been exposed to something lacking in discretion on the part of many judges.

We've all seen those well publicized cases where one judge, not in this state, told the -- told the public and told the jury that the -- that the victim deserved the attack because she was dressed provocatively or appeared in a provocative manner. The victim was a minor child in that particular national scandal. Judicial discretion was not very comforting in that instance.

There have been other cases where judges have provided comic relief at the expense of the victim, made inappropriate comments about the victim's previous sexual activities, all of which are supposedly not to be allowed in a court of law, but occasionally will happen and there is very often little sanction readily available and any abuse that takes place at the expense of the victim, if it's addressed at any

point in the future, will not obviate the need for some remedial action right at that moment.

There is no provision in this bill to deal with the kind of inadvertent exposure of the victim's identity which could occur and, in fact, has occurred. We had an example in New York State out in Amherst, New York during an arraignment, even while this last provision was in effect, the last trial period. We were supposed to have a guarantee that there would be no disclosure of any rape victims' names. A victim's name and address was broadcast on the 6:00 o'clock news during an arraignment.

There's an assumption made that the broadcast industry will police itself and will follow these provisions carefully. I don't know why people would make that assumption, because the nature of broadcasting does not include in it a -- a daily ethic course for cameramen. It does not include in it any kind of a procedure in which every piece of videotape that is going to be shown in the 6:00 o'clock

news in every jurisdiction in the United States or in New York State is going to be subject to careful evaluation by anybody to see whether it's complying with the standards of the test measure.

In fact, there are no sanctions against the broadcasting industry on the whole or in any individual broadcast outlet should they violate the provisions of this bill. If they make a mistake, if they violate the privacy of a rape victim, there is no penalty for them. The only penalty available is the penalty we hold in our hands today by refusing to continue the experiment, and yet it appears that there are more than enough legislators in this state who are willing to continue the experiment for another two years.

But recognizing that the experiment has not been a one hundred percent success for the victims of sex crimes, can't we continue the experiment by allowing them the right to have cameras excluded if, in fact, that is what they desire? And don't we have a

responsibility to insist that, at the very least, a member of the sex crime board be included in the evaluation procedure to give all victims of sex crimes an opportunity to have their concerns addressed before we make this a permanent measure as it may some day become?

And finally, don't we have a responsibility to all of the above individuals and to ourselves as legislators, to insist that we not have only printed reports but that we maintain the actual videotape. We are, after all, talking about broadcasting. Isn't it a little bit ironic to have only a printed report evaluating a broadcast experiment? Don't we have an obligation to keep in a most scientific manner the actual form of the -- of the broadcast experiment that was used so that it can then be evaluated objectively either by us or by other people who have an interest in seeing whether it continues or does not continue?

So for all of these reasons, my friends, I would ask you to consider the

importance of this amendment and ask whether we would want to ever have to explain why, in the interest of broadcast access, any of us allowed a rape victim in this state to be subjected to greater humiliation than was absolutely necessary by permitting cameras in a courtroom over her objections.

I will continue to support the concept of cameras in the courtroom. I'm aware of the -- the ridicule that some of us have faced through the broadcast and the print media, they're allies in opposing the greater measure of cameras in the courtroom. I believe that cameras have a place in the courtroom in New York State. I would like to be able to support a cameras in the courtroom bill that will address the needs of all people in New York State, but I can not support this bill unless we can pass the amendment that I presented to the desk today.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Hoffmann.

Senator Lack on the amendment.

SENATOR LACK: Thank you, Madam President.

Senator Hoffmann, I assume you have good intentions, but the way your amendment is worded right now, it says "provided, how ever," and then it goes on and it only applies to a victim who is testifying in the case. This is your wording, so it doesn't apply in those cases where a victim wouldn't be testifying.

As such, quite frankly, I refer you to Section 218, 7. (g) of the Judiciary Law which says: "No audio-visual coverage shall be permitted of the victim in a prosecution for rape, sodomy, sexual abuse or other sex offense under article one hundred thirty or section 255.25 of the Penal Law." There's then a semi colon that's following that. That's limiting, not required. No coverage is allowed, period, even if coverage for anything else has been given. Yes, the judge can then throw it all out. There's no blue dot involved; there's no anything else. When a victim of a sex crime is

testifying at a trial, there is no coverage in New York State, period, under existing law. No amendments to it are necessary.

As to why victims might want to -- quite frankly, we had a memorandum from Justice for All, a group of victims that supports victims having the choice if they so choose, for whatever reason a victim might want to choose to allow those proceedings to be televised; and there are victims, those who are part of Justice for All, who submitted this memorandum, who want proceedings or at least want the option to have proceedings televised as long as there's an option for the victim not to, and that's what this is all about.

So to put in an absolute prohibition, quite frankly, runs counter in some cases to some victims wanting the ability for whatever reason, they want to have it publicized what happened to them, and to want that on television. Now, that is just as much their right, quite frankly, as is the -- as is the prohibition.

As to the rest of your amendments, obviously any videotapes that were a part of a report, there is a -- already a duty in law that that which goes into a report which is filed with us, particularly a committee that is formed by the chief judge of the state of New York, they're going to keep their exhibits. We really don't have to tell the chief judge to make sure her appointees keep exhibits of audio-visual materials they've used to evaluate whatever we're requiring them to file with us, and I think it would be a little presumptuous for us to try to give that kind of instruction to the chief judge. She knows far better than we do the kind of material that has to be kept in a report.

So, quite frankly, we already have in law what you've been asking for in your amendment.

THE PRESIDENT: Senator Paterson, on the amendment, please.

SENATOR PATERSON: Based on what Senator Lack has presented us, I would like to

look at section 218, 7. (g) to see that that's actually the case and, if it is, Senator Lack, then I stand corrected.

What I think the point of the amendment was, was to try to relieve some of the jurisdiction from the judge in these specific cases and to transfer part of it to that of the victim, the understanding being in the amendment that the lack of complaint about cameras in the courtroom would not necessarily be the grounds for sustaining the notion that it's a good thing and that people like it because the problem that victims of sexual offenses have always had, is that there is no disclosure. There's no desire to come forward. There's no reason to let anyone know that this abuse is taking place and that's the most diabolical effect of sexual offenses in the first place, that they are the types of crimes that put the victim in the position of being as much on trial as the perpetrator. And so we don't know what the effects of cameras in the courtroom have been on individuals who have been victimized, but we do

know that individuals who've been victimized have often not come forward, whether we have cameras in the courtroom or not.

The fact is that you don't have to be a rape victim not to want your personal business discussed in court. That's why in 1898 we closed the family courts, and the family courts were not closed to protect children; they were closed to protect the actions of adults in many cases.

I'm in favor of opening the family courts. I'm in favor of putting cameras in the courtroom. I voted against this legislation in 1986. I voted against it up to 1992. But I think I'm beginning to see that the openness of proceedings is really the best course for us to take in our society even though it may often be seen as absurd, even though it may be poignantly displayed as it may in some of our television coverage, such as on CNN and Court TV. They go into a great detail and we can actually see the opposite of it in some of the television tabloid journalism programs.

But the fact is that the framers of the Constitution wanted our judicial proceedings to be open, and we should abide by it. But when it comes to very specific situations, it would seem to me that we would try to understand that it is the victim that has more to lose even than the analysis of the judicial official, whether it be the chief judge or the sitting judge in those particular situations.

Ancillary testimony at these kinds of proceedings can produce the identity or certain habits or certain information about a victim that the victim does not want to know. In addition, I would just want to point out that Section 1, Article 130 of section 255.25 does not include all of the sexual offenses that exist in the Penal Law, including those of child sexual abuse which we think are also relevant to the spirit of Senator Hoffmann's amendment, that these would be some protections that would be added to the legislation.

And finally, I just ask this question of the media more than even the

proponents of the legislation: If we can put cameras in the courtroom, if we can try to bring sunshine to these proceedings, why is it so necessary that we know every single thing about these types of crimes when we know the damage that these types of crimes has held in the past? Why do we have to know? There's a difference between the public right and the public query. We, as a public, become very interested in particular types of cases. But when we balance the value of our interest with the value of the injury, shouldn't we at least add some extra protections to make sure that a victim of a crime that wants to come forward, which is a major step in the first place, does not have to even suffer from the perception that there will be an additional injury that would take place after the physical injury and would be actually the emotional harm of even the perception that their identity is going to be exposed. The identity and the persona and the psychological welfare should be the main objective of victims and, when victims want to exercise these

situations in such a fashion that they would disclose or come forward, they should certainly have that option. When they do not want to, we feel that they should have that option as well. Otherwise, the bill is one that I will support.

THE PRESIDENT: Thank you, Senator Paterson.

Senator Leichter, on the amendment.

SENATOR LEICHTER: I think we make a serious mistake with this amendment and I've listened very carefully to Senator Hoffmann and Senator Paterson, and I know the good concerns and well intention of Senator Hoffmann in moving forward this amendment. But let's just back up for a moment.

New York State has the most restrictive law of all the 47 states which allow cameras in the courtroom as far as making these proceedings public. Many states have had these for many, many years. We've had it under somewhat restricted circumstances for seven years. In those seven years, there has been no

complaint. No complaint. No victim rights group has come and said, "You are placing in jeopardy the well-being of a victim of a sexual crime."

We have set up two commissions that have carefully looked into how cameras in the courtroom work in this state. Both of them have overwhelmingly recommended that the system be continued, and I believe I'm correct, that the latest recommendation was that the system be made permanent. I certainly favor making it permanent.

It was the most thorough analysis that was made. The last commission or task force was headed by Justice Burton Roberts. There's no more knowledgeable person of our criminal justice system, no tougher prosecutor, nobody who would be more concerned if prosecutions were hindered because witnesses did not come forward. There's been not one reported case where somebody refused to make a complaint because she or he were concerned or afraid that their identity would be compromised at a trial.

The last time we renewed cameras in the courtroom, we put in very specific protections for victims of rape, victims of sexual crimes to protect their identity. Senator Lack has rightly pointed out that Senator Hoffmann's amendment doesn't do what she says it's going to do because, first of all, it only talks about a crime victim of sexual crime who testifies. Many of them don't testify, so it wouldn't even apply in those cases, Senator Hoffmann, and, if you would read it, all it says is that that proceeding would not be televised or subject to the audio-visual publication, but "proceeding" as written in there seems to refer to the testimony of the crime victim.

But let's assume for the moment that your amendment says what you believe that it says. Why is it that no victim rights group came before us or came before the Justice Roberts task force and said, "You're not protecting the victims of sexual crimes?" On the contrary, two victim rights organizations testified and pleaded for the continuation of

cameras in the courtroom, and I think that the victims of crimes understand maybe better than we do the importance of the public knowing and understanding what they went through, the importance of the public understanding the whole criminal justice system, and that's why our forefathers, in their brilliance -- and it certainly was brilliance -- in molding our Constitution, provided that all trials ought to be public, and "public" means that you can go in there. "Public" means the press can report it. "Public" also should mean that the way that people learn these days about public events, which is through television, be one that the media use to show what is going on in the trial.

Senator Hoffmann said, and I quote her, this "clear anecdotal evidence". Senator, we don't proceed or should not proceed on anecdotal evidence. If you have evidence, that's fine, but for seven years we've had no evidence.

My good friend, Senator Paterson,

says we don't know the effect. Senator, we do know the effect. If, for seven years, nobody has complained, no prosecutors, no victim rights organizations, no women's group has said this law doesn't work, this law doesn't protect victims, we do know the effect, and I submit that it's those who say that there's something wrong with cameras in the courtroom who have an obligation to give us more than anecdotal evidence, even "clear anecdotal evidence" or to tell us, Well, I don't know what the effect is and, therefore, there must be an effect. We do know the effect, and the effect is that it has served the public interest.

I think the best step against crime, the best step that we can take is to have an informed public, and that means to have cameras in the courtroom.

I finally want to say that, if you -- if you accept this sort of an amendment, I think it's a slippery slope and next year we'll be back and somebody says, Well, these sort of crimes really, we shouldn't -- we

shouldn't televise them and then we'll call up another exception and more.

47 states have cameras in the courtroom. None of them seem to have the problems that have been the source of the concerns that Senator Hoffmann has raised, and seven years we haven't had that problem. I don't know why we manufacture these problems and I -- and I realize, Senator Hoffmann, you have very great concern for the welfare of victims of all crimes, I know, and particularly of sexual crimes, and you're right, they deserve not only our sympathy, they deserve our protection, but I respectfully submit to you that this really does not provide protection. I think it takes away what is needed and that is to let the public know what happens in the courtrooms and to let the public know what steps are being taken or not being taken to deal with crime.

I urge the defeat of this amendment. I think Senator Lack, who's worked very hard on this issue, worked to put together a bill with the Assembly, if we don't pass it

and pass it today, we're going to end up without cameras in the courtroom, and I think it would be the shame of New York State if that happens.

THE PRESIDENT: Thank you, Senator Leichter.

Senator Abate on the amendment.

SENATOR ABATE: I, too, applaud Senator Lack. I support fully cameras in the courtroom, and -- but I'd like to speak a little bit about beyond anecdotal.

I was the chair of the Crime Victims Board in the '80s, and at that time victims groups were very concerned about cameras in the courtroom, and we went throughout the state. Now they are very comfortable, but I think it's a misconception to suggest that victims and citizens don't feel that crime victims who have been victimized by sex offenders, should not be treated in a different category.

There is still -- I made some calls today. There is still concern among victims groups, particularly women who have been

victimized by these heinous crimes, that many of them will not come forward and report those crimes to the police. It is not anecdotal. If you go to police departments throughout the state, the most under-reported crime are crimes of sex offenses.

That's because it's a very personal crime. It's an invasion of one's privacy. Because the crime is so misunderstood, many victims feel shamed. They feel guilt. They feel that they've done something wrong, even though it's not a crime of passion, it's a crime of control. It's a crime of violence.

We, in our society, have to do better in terms of educating the public. I believe we have an opportunity the next two years if we're more restrictive today vis-a-vis these kinds of crime victims. We can learn from this experience. We extend the law, let's see what we learn, but I believe victims of sex offenses are unique. There's a particular sensitivity that's involved with this kind of crime, and I think we should pay attention to

it.

But I applaud it. I will support cameras in the courtroom. I've advanced in my thinking. Years ago I objected to it. We've seen through the experience, it is worthwhile. It is something that we should protect, but on the other hand, I think there's a vital interest in terms of crime victims vis-a-vis sex offenses that needs to be protected.

THE PRESIDENT: The question is on the amendment. All those in favor signify by saying aye.

(Response of "Aye.")

All those opposed say nay.

(Response of "Nay.")

In the opinion of the Chair, the nays have it. The amendment is not agreed to.

Read the last section, please.

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

SENATOR DOLLINGER: If I may, Madam President.

THE PRESIDENT: Yes, Senator

Dollinger, please.

SENATOR DOLLINGER: Madam President, on the bill.

I commend Senator Lack as well for his work in continuing New York's experiment with cameras in the courtroom, and I guess what I'm always amazed at is that we in this country, when motion picture cameras first came into prominence in American justice, really happened to coincide with the Lindbergh trial, which some of you remember was held in the state of New Jersey, in which there was large and widespread movie coverage of the Lindbergh trial in the late 1920s and early 1930s. That raised concerns about defendants and the impact of cameras in courtrooms upon defendants, but I certainly think we've come a long way from the star chambers of the past and have opened up our courtrooms, made them public trials.

I think it's also interesting, when you look at the effect of the O.J. Simpson trial and the public television coverage of that, I hear a lot more on the news about the

concept of jury sequestration, jury selection, jury tampering -- there's an article in The Wall Street Journal today about it -- all of those issues relating to juries, I think the greater -- have created a greater public understanding of juries, public questioning of juries, public information, public education of juries because they are the focal point of the televised coverage of the Simpson case.

I think all of that education of the public about the jury system which, for those of us as lawyers who are familiar with it, understand how it works, I think it serves a tremendous public benefit for more and more people who are non-lawyers to see that side of of both the criminal and the civil justice system.

And I would just add one other thought. I happened to read "Bleak House" over the Christmas holidays, and I sometimes wondered if there had been cameras in the courtroom when Jaryndice against Jaryndice occurred, maybe they wouldn't have had to wait 30 or 40 years for a

resolution.

It's getting the cameras in the courtroom to look at both your civil and criminal justice system that will bring out changes not only in this chamber but in the mind of the public as well. This legislation is a continuing step in that direction. I applaud it. I'll vote in favor of it.

THE PRESIDENT: The Secretary will read the last section, please.

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

SENATOR HOFFMANN: On the bill.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: I feel compelled to speak once again on the bill now, Madam President, just to clarify a couple of things.

I chose not to ask anybody to yield for a question and engage in protracted debate on this measure, but I am troubled by - by one exchange that occurred a few moments ago

here, and I would just like to take a moment and put in perspective the apparent contradiction.

My good colleague, Senator Leichter, on the one hand, took great exception to the use of the phrase "anecdotal evidence" that I mentioned, I referenced, and Senator Abate expanded somewhat on that and then he went on at great length to use a very broad brush approach to say that the 47 states that have cameras in the courtroom have had no problems at all, and I doubt very much whether Senator Leichter or Senator Lack or any other member of this chamber has been personally in touch with every one of the other states that have engaged in any portion of an experiment with cameras in the courtroom to speak with that degree of certainty about each aspect of it.

But that seems to be the standard by which we sometimes operate. Those who maintain the information that is about to be passed are given a little bit more latitude or perceive their right to speak in much more definitive terms about their inherent grasp of

right, and those of us who do not have piles of strict doctrinaire evidence are somewhat suspect.

I would just like my colleagues to remember that we are a representative democracy, a representative Legislature, and there are those of us who perhaps are more familiar with -- are more conversant with rape victims, with people who have been through the experience on a personal basis of a sex crime and we may know from a very personal vantage point, as legislators and as women, that there is, in fact, a chilling effect of cameras in the courtroom that compels us to want an amendment to this measure that would guarantee the protection that victims of rape trials have asked for. If they have not asked as vocally as have the broadcasters asked, then perhaps they are negligent in their responsibilities to us as legislators.

But let's be reasonable. We are talking about rape victims. They do not make a towering mass of lobbyists on the steps of the

Capitol. They speak to us one at a time and quietly. They have no vested interest that will enrich them personally. They have no profit motive, and they have already been stigmatized, but some of us do hear them and we want them to know that we have taken their concerns into consideration and, as much as I support the concept of cameras in the courtroom until their needs are addressed, not just their personal right to be excused from coverage individually, but until all of their concerns have been addressed and they are allowed the absolute knowledge that there will be no camera in a courtroom in a trial in which they are once again forced to relive their sex crime, then I will have to vote against this measure.

Thank you.

THE PRESIDENT: Would you please read the last section.

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

(The Secretary called the roll. )

THE PRESIDENT: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 5 are Senators Babbush, Cook, Daly, DiCarlo, Hoffmann, Holland, Johnson, LaValle, Leibell, Levy, Maltese, Onorato, Padavan, Present, Santiago, Sears, Solomon, Stachowski and Volker. Ayes 35, nays 18.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, I ask that we return to reports of standing committees, and I believe that there is a report from the Rules Committee at the desk.

THE PRESIDENT: A report of the standing committees. The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the follow ing resolution:

Concurrent Resolution Number 260 of the Senate and Assembly, proposing an amendment to the permanent joint rules of the Senate and Assembly in relation to authorizing a

joint committee on conference to consider and report upon substantially similar but not identical legislation that has passed each house.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, I move that we accept the report of the Rules Committee.

THE PRESIDENT: All those in favor.

SENATOR CONNOR: Madam President. Is this -

THE PRESIDENT: Senator Connor?

(There was no response.)

All those in favor of adopting the Rules report, signify by saying aye.

(Response of "Aye." )

Those opposed signify by saying Nay.

(Response of "Nay." )

The ayes have it. The report is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I move that we adopt the resolution of the Rules Committee and that it be read presently in its entirety.

THE PRESIDENT: Please read. The Secretary will read.

THE SECRETARY: Concurrent Resolution Number 260, by Senator Bruno:

Concurrent Resolution of the Senate and Assembly proposing an amendment to the permanent joint rules of the Senate and Assembly, in relation to authorizing a joint committee on conference to consider and report upon substantially similar but not identical legislation that has passed each house.

RESOLVED, if the Assembly concur, that the permanent joint rules of the Senate and Assembly are amended by adding a new joint Rule II to read as follows:

Joint Rule II. Section 1. Committee on Conference. The Temporary President of the Senate and the Speaker of the Assembly may jointly convene a joint committee

on conference to consider and report upon substantially similar but not identical legislation that has passed each house of the Legislature.

Such committee shall be constituted by the filing of a joint certificate by the Temporary President of the Senate and the Speaker of the Assembly, with the Secretary of the Senate and the Clerk of the Assembly and shall consist of the same number of members from each house.

Unless otherwise provided in the certificate, there shall be five members of such committee from each house to be appointed by the Temporary President of the Senate who shall appoint the members from the Senate and the Speaker of the Assembly shall appoint the members from the Assembly; provided, however, that of each house's delegation at least one member shall represent the minority in each house. The Temporary President of the Senate and the Speaker of the Assembly shall each appoint a co-chairperson of the committee and

such co-chairpersons shall convene and recess meetings of the committee. Meetings jointly convened by the co-chairpersons shall be subject to the provisions of Article VII of the Public Officers Law. The committee shall file a written report setting forth the joint recommendations of the majority of each house's delegation with the Secretary of the Senate and the Clerk of the Assembly or such other committees or officers as may be set forth in the certificate, and such report may include specific bill language that would implement the joint committee's recommendations.

No report shall be filed except upon the affirmative vote of a majority of the members of each house's delegation on the committee.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, on the resolution.

We have talked in this house about many very worthwhile reforms, and I think this is a landmark in that we join most of the

other states in the United States in now going forward with a conference committee concept, and I have agreement with the Speaker in the other house, and I want to thank him for his conferring in good nature and all the others that have been involved -- Senator Lack, who has been active at the national level. There are many good things whose time will come this year.

Conference committee's time has come. It moves the legislative process forward. There is flexibility in this resolution that is before us. It allows us to do the kinds of things that are necessary to move forward with good government, giving flexibility in terms of minority participation as well as majority participation, and that participation in those issues would be selected by the leaders in the respective houses as we would file joint statements when we saw the need to create a conference committee.

Again, the intent of this is to move the agenda of reform and good government

forward.

Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I have an amendment at the desk. As a matter of fact, to show our contribution, we marked the amendment ourselves.

We first want to commend the Majority Leader and all those -

THE PRESIDENT: Senator Paterson.

SENATOR BRUNO: May I just ask a point of order. Senator, Madam President, I don't believe that you can amend the resolution. I believe the proper format might be to do a substitution, if that's what the intent is.

THE PRESIDENT: Senator Bruno's point is well taken. It would not provide for the amending of the rules.

SENATOR PATERSON: Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: What I'll just do, rather than even substituting a resolution, is perhaps I'll just ask the Temporary President about the resolution and maybe we can just come to an agreement.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Yes, Madam President.

SENATOR PATERSON: Senator, first of all, we would like to congratulate you and all of you who worked on this for this kind of an effort. It is definitely going to bring to public attention a great deal of information about bills that are passed in both of the houses, particularly in this state and in this forum in which we work and is going to allow us to negotiate together more in public and commensurate with the way that the public would like.

And so we strongly support your -- your resolution. As a matter of fact, the

reason that we were thinking of amending it which we now understand would have been achieved better through substitution, would be just the number of individuals who are on the actual committee, and on page 2, line 6 and 9, the delegation or delineation between the conferences of those members.

Now, we understand that, in small groups, quite often the change of the position of one member of the group could actually influence the end result. So what we were proposing was to take a number of members of the committee, from 5 to 7, splitting those two additional members between the Majority and the Minority, giving the Majority a number that would be five and the Minority a number being two. This would then give the Minority 28 percent of the votes at the committee, but we understand that there can be no conclusion that is reached that does not meet with the approval of the Majority in both houses. So, in other words, regardless of how there is a vote, it would have to be agreed to by the -- by the

Majority.

So, therefore, what we're asking is not more power in the proceedings, in other words not the capacity to influence the proceedings, but just more membership to assist the distribution of information and to better equalize the percentage of members as there would be with the percentage of the whole house. That's something that I'm asking be added to the resolution.

SENATOR BRUNO: Madam President, if I understand correctly, then we don't have anything formal on the floor, but a suggestion that we expand the participation of the committees, the conference committees as we go forward.

THE PRESIDENT: That is correct, Senator Bruno.

SENATOR BRUNO: And let me share with you, as a matter of record, that I think that makes a lot of sense, and the language in this resolution allows the leaders in the respective houses not to do four and one but to

agree on a number, and that is the Speaker's interpretation as well as mine and our counsel. So I can tell you, I talked to the Speaker this morning, and we're open to, you know, four for some committees and two, sometimes five and two.

So rather than try and be specific with new numbers, there's enough flexibility there, but our intent would be to have that Minority participation and that it be in substantive issues more than one.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Madam President, if Senator Bruno would yield just for a couple of questions that I have.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Yes, Madam please.

SENATOR CONNOR: Thank you, Madam President.

Senator Bruno, as I read this, and again, it's -- as you pointed out, it's flexible. I could read this rule and say, aha!

Let's create a super Rules Committee, you know, you could have one committee conference representing leadership, for example, conference all the major bills on which there are differences, or you could turn around and have for each issue area which you and the Speaker wish to have conferenced, a different conference committee, and I was wondering just to get a sense of intention, what the intention is with respect to that.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, the intent is that on each issue, that we establish an individual conference committee, not one major committee covering a number of areas, but address each subject individually with a committee, with a chair appointed for that discussion, and it would be my intent to appoint people on the committee that would be supportive of the legislation so that you ensure that there be at least a continuity of interest as they go forward.

SENATOR CONNOR: If I may, Madam

President, one further question. Senator Bruno, I notice the resolution says that the Majority Leader shall appoint the Minority members, member or members, and I would just like your assurance that while the rules, of course, allow the Majority Leader, the Temporary President, to make all committee appointments, it is the unvarying custom of this house that Minority appointments by the Majority Leader are upon the recommendation of the Minority Leader.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Yes, Madam President. We intend to go forward in the same spirit as you've just reflected with the normal standing committees in the conference committees taking the recommendation from the Minority Leader.

SENATOR CONNOR: Thank you, Madam President.

THE PRESIDENT: On the resolution, all those -- I'm so sorry, Senator Leichter.

SENATOR LEICHTER: Yes, Madam

President, it -- I think it's appropriate to get up and just note, because I think it deserves to be emphasized and underscored what a very significant step this is, and I want to commend Senator Bruno for it. Obviously it would not have happened except for his leadership. Obviously, I commend the Speaker and you said Senator Lack was involved, and I think that Senator Paterson and Senator Connor have clarified this, and I think have made it somewhat more workable and I think fairer.

I just hope that we really use this system, which is obviously at the discretion of the Majority Leader and the Speaker, and there well may be a temptation to go back to a system that has stood us in such poor stead for so long, and I understand the pressures that come up and sometimes, as we all know, democracy can be somewhat frustrating, but I really think that, if we proceed on this, we're going to become a more effective legislative body in carrying out the wishes and the needs of the people of this state.

So it's -- it's really -- it's a terrific milestone. It's something, as you know, that this Minority has urged for many years, something I've spoken about, I feel very strongly about, because my aim and my desire is really to make this the sort of legislative body that I think we can be and the sort of legislative body that the people of this state need, and I think it is a real red letter day for the Senate and the Assembly of the state of New York that we're -- that we have this resolution before us.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: I'll be very brief, Madam President.

I join my colleague, Senator Leichter, in his comments with respect to the Minority and the Majority Leader for this particular issue, given the clarifications that have been made to Senator Paterson and Senator Connor about how the conference committees are going to operate. I think that addresses some

of the concerns that we had.

I think there are two other names that ought to be mentioned, two of my colleagues and perhaps others who have been at the fore front of this issue over the last couple of years, but certainly Senator Leichter and Senator Hoffmann have talked about the importance of conference committees and pushed the concept of conference committees in the past. I would be remiss if I didn't recognize their contribution in making this happen as well.

I agree with Senator Bruno, I think this is something that the entire Senate can take gratitude in recognizing and putting into effect. My hope is that it will achieve the real goal that we're all here, and that is better serve the people of this state. Let's go forward.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Lack on the resolution.

SENATOR LACK: Thank you, Mr. President.

I, too, would like to add my congratulations to Senator Bruno who was more than receptive when this -- when this was suggested and has worked very hard to reach agreement with the -- with the Assembly and come out with, I think, a good set of regulations with respect to the conference committees.

Just to allay any fears, every state in the country, and that's really every state in the country that has conference committees, either has a set membership of three members or five members, and I think Senator Bruno, by adopting the flexibility standard that he has, I've been able to assure that we've been able to establish conference committees on a case-by-case basis as the -- as the issue might merit, so that if three members are needed for whatever the bill might be, it will be three members. If it's five members, it can be five members. It can be any number, but just recognize, of course, that five members on each side, including the Minority plus staff on all four sides, starts to add up to a fairly big

number of people actually negotiating the bill and in any event, the end product always comes back to each house that has to be repassed as a -- in the same format as the original bill passed before it can go to the Governor of this state and become law.

So my congratulations also to Senator Bruno. I think this is an excellent movement forward and one that certainly has been necessary in this house for a long period of time.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

As we are two days away from receiving the budget -- the budget -- it is probably very appropriate that once again we are showing in this chamber our complete sense of flexibility about numbers.

Under your leadership, Senator Bruno, you have once again demonstrated, to the admiration of us all, your remarkable commitment

to true democracy, with a small "d", a great sense of egalitarian leadership and farsighted ness that has been missing in this chamber for many, many years, and I know in my heart that this is just one more step on that long road to true open meetings in the interest of the best possible government in New York State, and this is a proud day for all members of the New York State Senate under your leadership, Senator Bruno.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the resolution?

Hearing none, the question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

Senator Bruno, what's your pleasure?

SENATOR BRUNO: Mr. President, I think it's time to return to the controversial calendar and proceed. Thank you.

ACTING PRESIDENT KUHL: Secretary will proceed to the controversial calendar and continue reading in order.

THE SECRETARY: Calendar Number 17, by Senator Holland, Senate Bill Number 136, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Senator Holland, an explanation has been asked for by Senator Paterson.

SENATOR HOLLAND: Mr. President, this is a bill that passed last year 57 to zero, and simply requires the local -- the state DSS to offer waivers and look for innovative programs, both from the local DSS offices as far as home relief clients go. We are trying to encourage the local offices of DSS to develop innovative programs, then give them to us so we can run them statewide and, if they develop an innovative program, we will give them 60 percent reimbursement for that program instead of 50

percent.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 18, by Senator Holland, Senate Bill Number 313, an act to amend the Social Services Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Holland, an explanation has been asked for by Senator Paterson.

SENATOR HOLLAND: Mr. President, if a client refuses a requirement of the Department of Social Services, they have an option of going in for conciliation. This bill basically reduces that time limit for

conciliation from 44 days to 30 days.

ACTING PRESIDENT KUHL: The 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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 25, by Senator Stafford, Senate Bill Number 619, an act to amend the Highway Law, prohibiting abandonment of Crane Pond Road in the town of Schroon.

SENATOR OPPENHEIMER: Explanation, please.

ACTING PRESIDENT KUHL: Senator Stafford, we're on Calendar Number 25. Your Senate Bill is 619. Explanation has been asked for by Senator Oppenheimer.

SENATOR STAFFORD: Yes, Mr.

President. I apologize for the delay. We were talking about subcommittees.

This, again, is a Crane Pond Road bill which we have all heard about, and the road has been there and it was decided it should be closed due to being near a wilderness area.

I have explained to all of you for a number of years I've appreciated the bill passing. This wilderness area, you can stand in the middle of it and hear the cars on the Northway. So I suggest maybe we're not in the wilderness that we're talking about. We are not. This will allow people to be in -- to get into this area, people who could not get in otherwise if the road does not remain open.

And I assure you, Mr. President, that it certainly makes sense, and it makes sense for the people who live in the area and those who can enjoy the area from other parts of the state.

SENATOR OPPENHEIMER: Madam President.

ACTING PRESIDENT KUHL: Chair

recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: Oh, Mr. President.

We've discussed this in past years, and I think it's the precedent here that has us most disturbed who are interested in preserving the wilderness of the Adirondacks. The Pharaoh Mountain area, which is the area we're talking about, is classified as wilderness in the State Land Master Plan; and, therefore, it doesn't allow within this area any motorized vehicles.

Approximately half of the forest preserve land in the Adirondacks is considered wild forest; and in wild forests, motor vehicles are permitted. In this area, the State Master Plan says that wilderness areas should have no vehicles. That's why they're wilderness areas. We're attempting to protect our wilderness areas.

By permitting the motorized intrusion, what we are doing is we are just flaunting -- flaunting the law, the law that

says that in the State Land Master Plan -- in that plan, there should be no motorized vehicles in specific areas, and so I would urge all of you to vote against this as it is against our very law.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President. Senator Oppenheimer and I are having our annual visit.

This has nothing to do with your position, Senator. It is misclassified by someone who sat there at a desk and said this is a wilderness area, and I suggest a mistake has been made. People have driven in the area for years. The town maintains the road.

And when I suggest to you that - again, I emphasize -- you can stand in the middle of this area, and I have many times, and hear the cars on the Northway, this isn't what wilderness area is all about; and we are correcting the situation by passing this

legislation.

ACTING PRESIDENT KUHL: Chair recognizes Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

Senator Stafford has been before this house with this legislation and tried to represent a point of view of the people back home; and as he said, where at one point this road was misidentified, what he is trying to do -- and it's really a shame that he has to go through the legislative process to make this accommodation.

And I chose to rise today to speak on this bill because having passed the Pine Barrens Preservation Act and the fact that back home, we have established a process that allows people to -- back home in the county of Suffolk -- to sit around a table and to speak to one another about how they can accommodate protection of the environment but at the same time accommodate reasonable uses of land by the people who live in and around it.

And so, I hope that during the session that we take a look at and spend our energies at protecting our environment but at the same time not putting our heads in the sand to turn away from practical, reasonable uses of the land that the good Lord gave to us.

And what I believe we're doing is setting the pace back in the county of Suffolk and breaking through some new, to use a pun, territory in terms of land use policy; and hopefully, maybe some of those methodologies and techniques that we're using in Suffolk County might be brought up to the Adirondacks to allow for more reasonable debate to take place between those who live in and around the land and those who want to protect it.

It's a shame that those of us who have as a high priority the environment might be judged through some rating process on whether we favor our environmentalists or not on this vote. But I am going to vote with Senator Stafford on this because I think that processes have been used and abused and I think we really

need to bring people together to have a reasonable dialogue on this. So I'm going to support you, Senator Stafford.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President. Would Senator Stafford yield for a question?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to Senator Paterson?

SENATOR STAFFORD: (Indicating yes.)

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Stafford, first of all, as an old friend of mine, I hope you will take me to the Crane Pond Lake some time, to Crane Pond Road, because -

SENATOR STAFFORD: We will take you right in the area, and we'll go to the Crane, Goose, Oxshoe, Bird, Horseshoe and Crab pond, and I hope you will enjoy it.

SENATOR PATERSON: Senator, I

also hope you'll assure me that I'm coming back.

SENATOR STAFFORD: We'll make sure that we'll come back because we will have the right clothing, and we'll also have a guide.

SENATOR PATERSON: My question, Mr. President, for Senator Stafford is that the Joint Legislative Committee on Natural Resources who basically authored the Environmental Land Master Plan, their prerogative in this case was to declare this area a wilderness area, and should it be that they have erred in that judgment, Senator Stafford -- and we have an individual case that we're discussing right now, but I also notice that Calendar Number 27 relates to a bill that you are submitting which is really the generic form of this bill in which I would imagine you are trying to protect this problem from occurring before; that where a town voices an objection -

SENATOR STAFFORD: Right.

SENATOR PATERSON: -- to a road that runs through the town, you want it not to be closed if the town is actually objecting.

So my question is, then how can we have viable environmental planning, how can we have land use planning policy as it would be set forth in a plan as has been issued in the Environmental Land Master Plan if we're going to circumvent it in all individual cases where a local town is objecting?

SENATOR STAFFORD: That's an excellent question, and I would share with all of my colleagues that the interesting point - and I think even Senator Leichter will have to agree with me. When we sit down with the people of the Adirondacks and really talk with them, explain various points of view, do your best to have reason prevail, sometimes your people living there will be even stricter - interestingly enough, stricter than some of the plan is now but maybe have differences like this here today, have differences and want it changed.

I would suggest that going back -- and I remember when this master plan was passed, and I have to share this with you

because we're all people. That's how things pass. You put up a plan. It depends on the ability of people, those who can lobby, and I know the two people who lobbied for this to be wilderness -- and many, many people were against this; they said that it should be wild forest - and they prevailed. We said they were wrong then. We say they are wrong now.

But I would share with you -- I would share with you one of the biggest mistakes that was made back in 1971 and '72 was that the people really weren't consulted enough. These people really believe in the area they live in. Interestingly enough, they don't want a lot of people coming around into these areas, and you can really talk with them; and I would hope that sometime, when we have a revision of the master plan, that the local people will have much more of a say in what is now in use or in law.

I could name about ten areas that can be debated. Now, some of you are going to be shocked to hear this. I can name over ten areas that should be wilderness that aren't,

which is very interesting, but they felt they couldn't do it then. So, again, it's reason, to sit down and communicate; and the people in Schroon Lake that live on Route 9, they have a beautiful lake there. I might add -- I know it's getting late, but that's a lake that I have seen come back. When I was here my first year -- I no longer mention the number of years. It was a number of years ago -- I tried to swim one time on the way home and you couldn't. You couldn't swim in Schroon lake, and now you can. That's an example of some of the things we've done.

SENATOR PATERSON: Thank you, Senator.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Senator Paterson, would you yield to me for just one minute, please, because Senator Stafford mentioned my name, and I want to -- I want to bear witness to what he said. He spoke about

the reasonable people in the Adirondacks, and I have been fortunate to have a home there, and I want to say they are extremely reasonable. They are just wonderful, fine, fair-minded people, and I want to say their representative is eminently reasonable, but even reasonable people sometimes, being fallible, can make a mistake, which I think is the case now, but it in no way detracts from the fact that the people there are reasonable and their representative is eminently reasonable.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the issue?

Senator Oppenheimer.

SENATOR OPPENHEIMER: This is a question for Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, do you yield?

The Senator yields.

SENATOR STAFFORD: Thank you.

SENATOR OPPENHEIMER: Senator Stafford, you are an eminently reasonable man,

and you have just said some reasonable things; and prior to that, some other things have been said. We who consider ourselves environment alists do not want to be perceived as anti economic development, obviously. We need jobs as well as we need protection of the environment.

What you said that interested me very much was that you had thought of some areas that could be called wilderness, where certain areas, you think, like this limited road, are prime for not being wilderness. But what do you think the possibility is of sitting down and discussing perhaps a give and a take, this for that?

SENATOR STAFFORD: I think we should. By all means, we should discuss. I would say this, that when I had "torts" in law school, Judge McGruder was our professor, and he was from Harvard, and we discussed for one hour what the reasonable man was. When we left, no one knew. So it just shows we can all differ, but I certainly will be glad to go over some of

these with you.

SENATOR OPPENHEIMER: Thank you, Senator. I think it's something that we might be able to see if there is any avenue that could be pursued at this time; and I think on the side of Hunter College on Park Avenue and 68th Street, it's written, "We may at different times in different conditions disagree; however, it can always be said that we are at heart trying to arrive at the truth." So it is true that while we disagree, there certainly is a lot of commonality there and a lot of honesty there even though there is disagreement.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Again through you, Mr. President, just one short question of Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to Senator Dollinger?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: I voted against this in the past. I guess my question is why can't the state land management plan be changed to exclude this area? What is the process? Is there a process for doing that?

SENATOR STAFFORD: It would have to change the plan; and we're, in effect, changing the plan with this law.

SENATOR DOLLINGER: But is - again, through you, Mr. President.

SENATOR STAFFORD: Sure.

SENATOR DOLLINGER: Is there another process by which -- obviously that process in the early 1970s resulted in a wilderness declaration. Is there some process by which that could be repealed now other than through this legislative body?

SENATOR STAFFORD: Good question. It would be possible for -- and, again, it's all changed now, but it used to be the Bureau of Lands and Forests, but I don't know exactly what that's called in DEC now, but periodically they review it, and they can come

up with suggestions. But, again, we would have to change the plan or if we passed a new plan, you know.

SENATOR DOLLINGER: I guess my suggestion is, Mr. President -- for procedural reasons, I will continue to vote against this, but if the town of Schroon in that wonderful part of this state was wrongfully classified as a wilderness, there is obviously a different person on the second floor now. I assume there may be different people in certain parts of the state bureaucracy who may be interested in looking at amendments to the wilderness plan, and they could re-examine the logic out at Pharaoh Lake, and the logic which I've heard here today may be eminently persuasive when they hear and, as a consequence, we may not have to do it here. It could be done through the process by which the initial wilderness designation was put on; it could then be repealed.

I would encourage the Senator to take his advocacy there rather than have us

intervening in the process at this stage.

SENATOR STAFFORD: I compliment you on your perceptiveness, because it was on the western side of the Adirondacks where there are many, many people from Rochester who have homes and I mean large tracts of lands like the Braniff tract, many of them are reasons why it changed on the second floor. So I think they are going to be hearing.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I'd just encourage Senator Stafford to take that advocacy on behalf of my constituents and Senator Jones' constituents. Certainly those changes may bring about the kind of change that the Senator seeks without going through this body.

ACTING PRESIDENT KUHL: The 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.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

Chair recognizes Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Thank you, Mr. President. That took some doing.

I just want to say that I certainly don't want to turn a deaf ear. I feel there are areas that can be discussed. I just feel that as long as the law is the law and we have wilderness areas declared in our State Land Master Plan that we have to -- as long as the law is written as it is, we must vote against this now, but there are alternatives, and I am looking forward to exploring them.

I vote no.

ACTING PRESIDENT KUHL: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 25 are Senators Abate, Connor, Dollinger, Espada, Goodman, Jones, Leichter, Levy, Onorato, Oppenheimer,

Stachowski, also Senator Leibell. Ayes 42, nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Johnson.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT KUHL: That completes the controversial calendar, sir.

SENATOR JOHNSON: Any housekeeping at the desk, Mr. President?

ACTING PRESIDENT KUHL: Secretary indicates there is none.

SENATOR JOHNSON: Mr. President, then there being no further business, I move we adjourn until Tuesday, January 31st, 1995, at 3:00 p.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until the last day of January, tomorrow, at 3:00 p.m.

(Whereupon, at 4:35 p.m., the Senate adjourned.)