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ALBANY, NEW YORK

March 7, 1995

3:00 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

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

2 ACTING PRESIDENT KUHL: The
3 Senate will come to order. Senators will please
4 find their chairs. Ask the gallery to rise with
5 us and join in the Pledge of Allegiance to the
6 Flag.

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

9 We're very pleased to have the
10 Reverend Peter G. Young of the Blessed Sacrament
11 Church of Bolton Landing with us once again.

12 Father Young.

13 REVEREND PETER G. YOUNG: Thank
14 you, Senator.

15 Dear God, we pray articulately
16 today for our dear friend of 23 years who has
17 served in a very dedicated way in this chamber.
18 We are all moved and we gather in prayer to
19 support this special friend from Queens and
20 offer our condolences and our prayers for the
21 loss of his loving wife Johanne. We ask, O God,
22 that all the prayers of the Senators and their
23 staffs and those who love him will give him

1 strength and courage so that he can bear with
2 the sufferings, and we pray too for the repose
3 of Johanne's soul.

4 We ask You this now and forever
5 more. Amen.

6 ACTING PRESIDENT KUHL: Amen.

7 Reading of the Journal.

8 THE SECRETARY: In Senate,
9 Monday, March 6th. The Senate met pursuant to
10 adjournment. The Journal of Sunday, March 5th
11 was read and approved. On motion, Senate
12 adjourned.

13 ACTING PRESIDENT KUHL: Hearing
14 no objection, the Journal stands approved as
15 read.

16 Presentation of petitions.

17 Messages from the Assembly.

18 Messages from the Governor.

19 Reports of standing committees.

20 Reports of select committees.

21 Motions and -- communications and
22 reports of state officers.

23 Motions and resolutions.

1 Senator Tully.

2 SENATOR TULLY: Yes, Mr.

3 President. On behalf of Senator Levy, on page
4 14, I offer the following amendments to Calendar
5 Number 79, Senate Print Number 384, and ask that
6 said bill retain its place on the Third Reading
7 Calendar.

8 ACTING PRESIDENT KUHL:

9 Amendments are received and adopted. The bill
10 will retain its place on the Third Reading
11 Calendar.

12 Senator Skelos.

13 SENATOR SKELOS: Mr. President,
14 on behalf of Senator Bruno, I offer up the
15 following resolution and ask that it be read in
16 its entirety and adopted.

17 ACTING PRESIDENT KUHL: Secretary
18 will read the privileged resolution at the desk
19 in its entirety.

20 THE SECRETARY: Senate Resolution,
21 by Senator Bruno and others, authorizing the
22 Temporary President of the Senate to file the
23 required election allowing certain employees of

1 the Senate and employees of certain components
2 of the Senate to be considered for the retire
3 ment incentive authorized by the chapter of the
4 laws of 1995 as proposed in Legislative Bills
5 Number S. 2545, Assembly 4305.

6 RESOLVED that the Temporary
7 President of the Senate is hereby authorized to
8 file the election required by paragraph (f) and
9 subparagraph (i) of paragraph (h) of subdivision
10 (f) of section 1 of the chapter of the laws of
11 1995 as proposed in legislative Bills Number S.
12 2545, Assembly 4305, to allow certain employees
13 of the Senate and certain employees of compon
14 ents of the Senate to be considered eligible for
15 the retirement incentive offered by such
16 chapter.

17 ACTING PRESIDENT KUHL: Question
18 is on the resolution. All those in favor
19 signify by saying aye.

20 (Response of "Aye.")

21 Opposed nay.

22 (There was no response.)

23 The resolution is adopted.

1 Senator Skelos.

2 SENATOR SKELOS: Yes, Mr.

3 President. At this time, I'd like to adopt the
4 Resolution Calendar.

5 ACTING PRESIDENT KUHL: Question
6 is on the Resolution Calendar at the members'
7 desks. All those in favor signify by saying
8 aye.

9 (Response of "Aye.")

10 Opposed nay.

11 (There was no response.)

12 The Resolution Calendar is
13 adopted.

14 Senator Volker for a motion.

15 SENATOR VOLKER: Mr. President, I
16 wish to call up my bill, Senate Print Number
17 2649, recalled from the Assembly which is now at
18 the desk.

19 ACTING PRESIDENT KUHL: Secretary
20 will read.

21 THE SECRETARY: By Senator
22 Volker, Senate 2649, an act to amend the Penal
23 Law, the Criminal Procedure Law and the

1 Judiciary Law, in regard to the imposition of
2 the death penalty.

3 SENATOR VOLKER: Mr. President, I
4 now move to reconsider the vote by which this
5 bill was passed and ask the bill be restored to
6 third reading.

7 ACTING PRESIDENT KUHL: Motion is
8 to reconsider the vote by which the bill
9 passed. All those in favor signify by saying
10 aye. No, I'm sorry. Clerk will call the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 33.

13 ACTING PRESIDENT KUHL: Senator
14 Volker.

15 SENATOR VOLKER: Mr. President, I
16 now move to recommit Senate Number 2649,
17 Calendar Number 106, to the Committee on Rules
18 with instructions to said committee to strike
19 out the enacting clause.

20 ACTING PRESIDENT KUHL: Bill is
21 recommitted; the enacting clause is stricken.

22 Senator Skelos, we have a
23 substitution at the desk. Would you like to

1 take that up now? Secretary will read.

2 THE SECRETARY: Senator Farley
3 moves to discharge from the Committee on Civil
4 Service and Pensions Assembly Bill Number 2331
5 and substitute it for his identical bill
6 Calendar Number 155.

7 ACTING PRESIDENT KUHL:
8 Substitution is ordered.

9 Senator Skelos.

10 SENATOR SKELOS: Could we proceed
11 with the non-controversial calendar.

12 ACTING PRESIDENT KUHL: Secretary
13 will read the non-controversial calendar.

14 THE SECRETARY: Calendar Number
15 57, by Senator Johnson, Senate 575, an act to
16 amend the Penal Law, in relation to the adminis
17 trative provisions relating to issuance of
18 firearms licenses.

19 SENATOR PATERSON: Lay that
20 aside.

21 ACTING PRESIDENT KUHL: Bill is
22 laid aside.

23 SENATOR SKELOS: Lay that aside

1 for the day.

2 ACTING PRESIDENT KUHL: Lay it
3 aside for the day.

4 THE SECRETARY: 65, by Senator
5 Kuhl, Senate Print 1475, Agriculture and Markets
6 Law and the Vehicle and Traffic Law, in relation
7 to exempting farm vehicles from the Motor
8 Vehicle Financial Security Act.

9 SENATOR PATERSON: Lay aside.

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

12 THE SECRETARY: Calendar Number
13 68, by Senator Holland, Senate Bill Number 211,
14 authorizing the United States Military to
15 recruit on the campuses of the State
16 University.

17 SENATOR PATERSON: Lay aside.

18 ACTING PRESIDENT KUHL: Lay the
19 bill aside.

20 THE SECRETARY: Calendar Number
21 94, by Senator Johnson, Number 571, an act to
22 amend the Tax Law, in relation to procedures for
23 written communications.

1 ACTING PRESIDENT KUHL: Secretary
2 will read the last section.

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

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 36.

9 ACTING PRESIDENT KUHL: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 102, by Senator Holland, Senate Bill Number 35,
13 an act to authorize the Salvation Army Eastern
14 Territory School for Officers' Training.

15 ACTING PRESIDENT KUHL: Secretary
16 will read the last section.

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

19 ACTING PRESIDENT KUHL: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 36.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 112, by Senator Holland, Senate 474, an act to
4 amend the Penal Law, in relation to the
5 possession of noxious materials.

6 SENATOR PATERSON: Lay aside.

7 ACTING PRESIDENT KUHL: Lay the
8 bill aside.

9 THE SECRETARY: Calendar Number
10 113, by Senator Johnson, Senate 574, an act to
11 amend the Penal Law, in relation to term of
12 licenses to carry a pistol.

13 SENATOR PATERSON: Lay aside.

14 ACTING PRESIDENT KUHL: Lay
15 aside.

16 THE SECRETARY: Calendar 115, by
17 Senator Lack.

18 SENATOR LACK: Lay aside for the
19 day.

20 ACTING PRESIDENT KUHL: Lay aside
21 for the day.

22 THE SECRETARY: 121, by Senator
23 Levy, Senate Bill 372, Vehicle and Traffic Law,

1 in relation to increasing the penalty for
2 aggravated unlicensed operation.

3 SENATOR PATERSON: Lay aside.

4 ACTING PRESIDENT KUHL: Lay the
5 bill aside.

6 THE SECRETARY: Calendar 127, by
7 Senator Johnson, Senate 2356, an act to provide
8 for special vehicle identification numbers.

9 ACTING PRESIDENT KUHL: Read the
10 last section.

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

13 ACTING PRESIDENT KUHL: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 38.

17 ACTING PRESIDENT KUHL: The bill
18 is passed.

19 Senator Skelos, that completes
20 the non-controversial calendar.

21 SENATOR SKELOS: Proceed to the
22 controversial calendar.

23 ACTING PRESIDENT KUHL: Secretary

1 will read the controversial calendar.

2 THE SECRETARY: On page 28, 211,
3 authorize United States Military to recruit on
4 the campuses of the State University of New
5 York.

6 SENATOR PATERSON: Explanation.

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

10 SENATOR HOLLAND: Simply, this
11 bill would override Executive Order 28 issued
12 November the 19th, 1993 and allow U. S. Military
13 recruiters to operate on State University
14 campuses.

15 ACTING PRESIDENT KUHL: Chair
16 recognizes Senator Paterson.

17 SENATOR PATERSON: Would Senator
18 Holland yield for a question?

19 ACTING PRESIDENT KUHL: Senator
20 Holland, do you yield to Senator Paterson?

21 SENATOR HOLLAND: Yes.

22 ACTING PRESIDENT KUHL: Senator
23 Holland yields.

1 SENATOR PATERSON: Senator
2 Holland, this particular legislation, as I see
3 it, is not in compliance with Article I, Section
4 2, of the New York State Constitution, which
5 prohibits the discrimination of anybody in this
6 particular state.

7 Now, the military right now has
8 an active ban against gay and lesbians from
9 serving in the military. That's the federal
10 standard, but in this case there has to be some
11 compliance by the state to allow this program to
12 be in universities and, since there's a case,
13 Doe V. University of Buffalo, which is similar
14 to this point, we feel that the bill actually on
15 its face is unconstitutional.

16 I guess you don't feel that way
17 because you wrote the bill, and that's the
18 explanation that I wanted.

19 SENATOR HOLLAND: No. No, sir,
20 absolutely not.

21 As a former Marine, and all the
22 money that is spent for education -- I am, yes
23 -- and all the money that is spent for

1 education in this country and in this state, I
2 just cannot understand how we can not allow a
3 federal agency to recruit for a volunteer
4 service on tax funded university campuses.

5 That's all it is. It's not
6 discrimination. It's not bias. It's just
7 allowing our federal government to recruit for a
8 volunteer service to protect the citizens of
9 this state and this nation on our university
10 campuses. That's all it is to me, Senator.

11 ACTING PRESIDENT KUHL: Chair
12 recognizes Senator Paterson.

13 SENATOR PATERSON: Thank you for
14 the answer, Senator Holland. Then I just have
15 this follow-up question. The executive order -

16 ACTING PRESIDENT KUHL: Senator
17 Holland, do you yield?

18 SENATOR HOLLAND: Yes.

19 ACTING PRESIDENT KUHL: Senator
20 Holland yields.

21 SENATOR PATERSON: If the
22 executive order of Governor Cuomo is rescinded
23 by Governor Pataki, that really would solve the

1 problem, and that's the problem we are trying to
2 address. We don't have a problem with the
3 actual recruitment on the campuses itself.

4 SENATOR HOLLAND: Senator, I'm
5 almost positive, if not positive, that the
6 Governor will rescind this executive order and
7 solve the problem. However, in the meantime, I
8 want to make it the legislative intent that we
9 feel that it is only right and just that the
10 federal military should be able to recruit for
11 volunteer services on our campuses.

12 I think you're right, I think
13 the Governor will rescind the executive order.
14 However, in the meantime, I would like the
15 people to know that we believe it is only fair
16 that the federal military can recruit on our
17 campuses. Fair and just.

18 ACTING PRESIDENT KUHL: Chair
19 recognizes Senator Paterson.

20 SENATOR PATERSON: Well, thank you
21 very much, Senator Holland, for the explanation
22 and I'm happy to hear that you believe the
23 Governor will rescind this executive order.

1 What we are saying is that our
2 Constitution is a precious document in this
3 state. Our federal Constitution is very
4 precious, but we have a history in this country
5 of not always upholding what we write in print.
6 We write some things that sound very nice and
7 then manifest it in conduct that is often very
8 much in opposition to what we are documenting.

9 Originally, we had Article I,
10 Section 2, clause 3 of our original federal
11 Constitution which was enacted in 1787, that
12 allowed for slavery in this country. We had a
13 further section, Article IV, Section 2, clause
14 3, which was the provision that allowed for the
15 recovery of runaway slaves, which is still in
16 our Constitution. If you open up the federal
17 Constitution, and we have them right here in
18 this chamber, you'll see it there and -- but in
19 my version, it says in a very scholarly way that
20 that probably doesn't have very much meaning
21 after the passage of the Thirteenth, Fourteenth
22 and Fifteenth Amendments, so hoping that the -
23 that the Legislature in Washington doesn't

1 repeal those amendments so that I can still
2 stand here, I would suggest that, in our state
3 Constitution our mandate that there not be any
4 discrimination against any individual is so
5 important that I would wish that we would wait
6 until such time as we can guarantee there won't
7 be any discrimination.

8 And what is it that we are
9 discriminating against people, whoever they are?
10 We're discriminating in a form that we're
11 telling them that they can not serve the United
12 States of America. At times that we have all of
13 the political dissension that we have in this
14 country, we're talking about individuals who are
15 willing to go overseas and fight and risk their
16 lives for this country if possible, and because
17 of their sexual orientation we're telling them
18 that we don't want them.

19 Well, I don't think that we
20 should have that attitude against anyone,
21 whether it's because of their race, religion,
22 their national origin, their sexual orientation,
23 their sex, their age or any disability, and I'm

1 saying that I would have to vote against this
2 bill until such time as we can provide, if we're
3 going to be using any state facilities or any
4 campuses as it's said in Doe v. University of
5 Buffalo, that we can provide for an equity
6 system such that all people, whoever they are,
7 can be recruited in service to this country.

8 Thank you, Mr. President.

9 ACTING PRESIDENT KUHL: Senator
10 Abate.

11 SENATOR ABATE: Yes, on the
12 bill.

13 All of us -- maybe not all of us
14 but most of us come from a long line of
15 immigrants and our families, whether it be our
16 fathers, our mothers, our grandparents, the
17 relatives that preceded that came to America
18 with the notion that it was a land of
19 opportunity for all people regardless of who you
20 are and what you stood for, and whether you were
21 Irish or Italian-American or German or Scottish,
22 people came to America. They risked their lives
23 because America stood for freedom and is the

1 land that was free of discrimination.

2 I believe that we as legislators
3 -- and let's put aside the Constitution; let's
4 put aside Article 28; let's put aside case law
5 -- I believe we have a moral obligation to
6 protect the human rights of all people. If this
7 was a law that discriminated against the Irish
8 or African-Americans or women or Jews or anyone
9 else, we would be offended that we would allow
10 programs to be cut off or employers to be
11 allowed in state taxpayer funded programs such
12 as state campuses, that we would sanction
13 discrimination. We would never allow it if it
14 was closer to ourselves.

15 I have the privilege of
16 representing a community that has probably the
17 largest lesbian and gay community in this state.
18 And who are they? Who are these individuals?
19 They are our brothers and sisters. They are our
20 children; in some cases they're our parents.
21 They're our friends; they're our loved ones, but
22 we should not lose sight that they are taxpayers
23 and that many of these students work long and

1 hard to pay tuition, and I feel that not only
2 are we turning our backs on individuals, tens of
3 thousands, probably close to millions of people
4 in New York State, but we're also turning our
5 back on a 12-year commitment that we said that
6 we would speak for all people in New York
7 State.

8 And what are we doing here?

9 Twelve localities -- and let me read some of the
10 localities: Syracuse, Rochester, Ithaca, New
11 York City, Albany, Plattsburgh -- all have civil
12 rights provisions that prohibit discrimination
13 whether it's in housing, employment, public
14 accommodation. So these statutes, these local
15 ordinances, cover 60 percent of the state. Are
16 we saying that, if you happen to live and work
17 and attend a state campus that's in your
18 district that you're protected, but if you move
19 beyond these local jurisdictions the state
20 Legislature is saying you don't have those kinds
21 of protection?

22 There should be some
23 consistency. There should be some uniformity,

1 and I think we need to take the high road, and
2 the high road is, no matter who you are and what
3 you stand for that they should have equal
4 protection under the law, and I again want to
5 state and stress in no way should the state be
6 allowed to use taxpayer supported facilities as
7 a vehicle to sanction overt discrimination.

8 ACTING PRESIDENT KUHL: The Chair
9 recognize Senator DeFrancisco.

10 SENATOR DeFRANCISCO: Senator
11 Abate just mentioned Syracuse as one of those
12 areas that has an anti-discrimination ordinance,
13 and I happened to be on the City Council at the
14 time and voted for it, and the reason I voted
15 for it was because the legislation basically
16 indicated that you can not discriminate in
17 housing, and you could not discriminate in
18 certain employment areas in the city of
19 Syracuse.

20 The city of Syracuse does not
21 make policy for the United States government nor
22 does it make the rules and regulations for the
23 United States Military which we all want to

1 protect us.

2 Similarly, this bill deals only
3 with the concept that a federal agency, in this
4 case the military, whether or not it can be
5 allowed on campuses to recruit. Once again the
6 state of New York does not make the policy that
7 the federal government does, but we do get
8 protected by the military, and I think it's
9 logical for us to allow military to be on campus
10 so that we can continue the voluntary armed
11 services.

12 I have stated repeatedly that I
13 am in favor of the so-called "gay rights"
14 legislation that has been proposed in this
15 house, but as a former member of the United
16 States Air Force, as a member of this -- as a
17 citizen of this country that must rely on the
18 military and would much rather have a volunteer
19 service than a selective service as we had in
20 the past, I think it is important that we allow
21 the military which we seek to protect us, to
22 have all opportunity to make sure that the
23 volunteer army works, the volunteer Air Force

1 works, and so forth, and that we allow
2 recruiters on military bases so that the
3 students can decide whether or not they choose
4 to participate, they choose to enlist.

5 If they don't want to become a
6 member of a body which they feel discriminates,
7 then that's a choice they have, but the
8 opportunity should be provided to give them that
9 choice.

10 ACTING PRESIDENT KUHL: The Chair
11 recognizes Senator Leibell.

12 SENATOR LEIBELL: Thank you, Mr.
13 President.

14 I'm very pleased that my
15 colleague, Senator Holland, has brought this
16 bill before the house and I, too, hope that the
17 executive will see fit to rescind the executive
18 order of the previous administration. I think,
19 when we have service men serving around the
20 country and many thousands of them are from New
21 York State, we must send out to these service
22 men and women a very terrible message to think
23 that this same service which they serve in so

1 willingly and honorably, is not allowed to
2 recruit on State University campuses.

3 I had the opportunity in the
4 other chamber to hear this type of issue
5 debated. My former colleague over there, John
6 Behan, who had a distinguished career although
7 too short, in the Marine Corps, noted that the
8 military, by its very nature, cannot always be
9 what we as civilians might consider to be fair.

10 I've worn that hat of the
11 military for many years. I've worn it proudly.
12 I firmly believe that the military has to create
13 certain norms of conduct within the military.
14 It is a unique body. It lives by a different
15 set of rules, and the very nature of its work
16 requires it to.

17 I would expect that to continue.
18 I would hope it would continue, and I would
19 certainly hope that our recruiters would be
20 allowed to recruit on New York State campuses.

21 Thank you.

22 ACTING PRESIDENT KUHL: The Chair
23 recognizes Senator Hoblock.

1 SENATOR HOBLOCK: Thank you, Mr.
2 President.

3 I'd like to congratulate Senator
4 Holland for bringing this legislation forward.
5 You know, several years ago, I was a member of
6 the other house, the New York State Assembly,
7 and had similar legislation that was brought
8 forth, and I didn't hear a lot of the same
9 arguments that I'm hearing today, but somewhat
10 similar.

11 I also have had the opportunity
12 and privilege of wearing the uniform of our
13 country and, although I didn't choose to, I did
14 spill blood for this country, and I think as
15 Senator Leibell has mentioned, the military does
16 have to operate under a different set of rules
17 in order to accomplish its mission and perhaps
18 there's many in this house will not agree with
19 those rules, but I have to tell you that if it
20 were not for those rules, many of us may not be
21 in this house having the privilege to debate
22 this piece of legislation today.

23 And, as I have met with many

1 veteran groups over the past few weeks as
2 chairman of that committee, and they've tried to
3 impress upon me, like preaching to the choir,
4 the importance that they played in our country's
5 history and what they gave by way of sacrifice
6 and living to a different set of rules and
7 standards that perhaps they didn't want to do
8 either because they might have been subject to
9 the draft or some other involuntary enlistment.

10 I think we could go on and on and
11 talk about what the military has done for us and
12 what it stands for and, if we happen to disagree
13 with some of their policies, rules and
14 regulations so be it.

15 Well, I have to tell you I'm sure
16 there's a lot of activity that goes on on our
17 campuses day in and day out, with which I may
18 disagree, but I'm not up on this floor to ban
19 that, to do away with it, because I feel they
20 may be discriminatory, but rather that's
21 something that the university and the students
22 attending that school decide whether they
23 participate.

1 The campuses that I've been on,
2 I've seen posters and signs and advertisement
3 and I often wonder why they let those folks on
4 when they preach against authority, they preach
5 against the government, and they talk about
6 rebellion, and they talk about taking this on
7 and taking that on and, quite frankly, I feel
8 that's discriminatory; but we allow it to go on
9 because that's part of the education, it's part
10 of the opportunity, that's part of getting a
11 grasp of what's going on in the world, and I
12 think giving a college student the opportunity
13 to explore a career such as the military should
14 be advantageous. We should encourage it. Maybe
15 none will take advantage of it. But why
16 shouldn't they be exposed to what is available?

17 Or we could put a sign up perhaps
18 and say they're not allowed on campus because...
19 but here's directions to the recruiting
20 station. Maybe we could do that. I don't think
21 there's anything wrong with it. If you think
22 that there's somebody's civil rights are going
23 to be damaged because of this, I think you ought

1 to go to those in uniform to thank them for
2 giving you the right to express that displeasure
3 now.

4 With that, I want to thank you,
5 Senator Holland, for putting this legislation
6 forward.

7 Thank you, Mr. President.

8 ACTING PRESIDENT KUHL: The Chair
9 recognizes Senator Gold.

10 SENATOR GOLD: Thank you, Mr.
11 President.

12 As usual, you come into this
13 chamber and you figure it's a short day and
14 we're really going to have nothing to talk about
15 and then some of the comments that are made are
16 just so outrageous that we find ourselves with
17 the best intentions to come in here and shut up
18 being drawn into it. You know, this -- I think
19 I told you yesterday, which I'm sure everybody
20 remembers since you took notes, I saw this Sam
21 Shark, whatever Redemption -

22 SENATOR ABATE: Shawshank.

23 SENATOR GOLD: -- Shawshank

1 Redemption, and some of the people I saw walked
2 out of the movie and said, you know, it's the
3 strangest phenomena. How can you watch a movie
4 and you've got these fellows all convicted of
5 murder and you're rooting for them over the
6 guards? Well, when you see the violence that
7 came from the guards, you know, you start to
8 understand it. You say to yourself, There's got
9 to be away to run a prison other than with the
10 kinds of violence that they are portraying from
11 guards.

12 Now, somebody gets up and says,
13 if you've been in the military, you know there's
14 got to be a set of rules, and I say to myself,
15 boy, I guess when -- when Senator Leibell read A
16 Few Good Men or saw the movie, he was rooting
17 for Jack Nicholson. After all, you know, if
18 you're a Marine and you don't shape up, you go
19 kill them; that's all, Code Red.

20 There's got to be a set of rules,
21 and I'm tellin' you, I, for one, just don't
22 understand that philosophy. I think it was a
23 proud day when Governor Cuomo came up with

1 Executive Order 28. Now, people stand up and
2 they say, We can't wait for that day when
3 Governor Pataki will eliminate that. And I'm
4 saying to myself, why would they do that?

5 And then I remember, oh, yeah, I
6 remember yesterday. Yesterday I remember that
7 Governor Pataki's approval rating is terrible.
8 Now, for a new governor to come in, you figure
9 with a -- with a mandate from the people, you
10 know, it's like a new president, the rates -
11 ratings are already up. Why would they be low?

12 They're already low, so let's
13 divert attention. People have been running
14 around the Capitol saying, "Wait a minute. We
15 voted for Pataki, and we didn't know this was
16 going to happen, and we didn't know the budget
17 cuts were going to be this, and I know govern
18 ment is too big we've got to cut government
19 down, and we've got to get it under control, but
20 I didn't know my kid wasn't going to be able to
21 go to school."

22 So I consider all of this as just
23 diverting attention. You know, if we can get

1 everybody worrying about -- about gays and
2 lesbians and the fact that they may be in the
3 trenches fighting for America, then maybe people
4 will forget about all of the other terrible
5 things.

6 This is an incredible debate -
7 incredible debate. Senator Holland, I don't see
8 anything wrong with the military trying to get
9 young people to get involved, and I think an
10 awful lot of people have had their lives saved
11 by going into the military and getting them
12 selves straightened out and getting themselves
13 set on careers, and I think that's fine. But
14 when we have a situation where the kind of
15 barrier and wall that's been discussed by people
16 like Senator Abate, you know, exists, and there
17 is something that's offensive to part of
18 society, we can deal with that. We shouldn't
19 have to sweep it under the carpet and raise the
20 flag and push the flag in everybody's face as if
21 we don't understand what military service is all
22 about.

23 We understand. We understand,

1 and it's done a lot of good and we need a
2 military service, but there's a problem. So why
3 sweep it under the table? And worse than that,
4 why in a bill like this do we get involved in a
5 situation where everybody has to get on a
6 platform and beat up gays and lesbians when the
7 point of the matter is that, if the order stayed
8 in effect, society would move along very, very
9 smoothly.

10 It's the -- it's the elimination
11 of something like Executive Order 28 and talking
12 about it that causes the problem, not leaving it
13 in existence. It's the -- it's the gay bashing
14 that goes on within the concept of changing the
15 military that causes the problem because there
16 were gays and lesbians in the military, have
17 been for years, and that has not been the
18 problem.

19 So the answer is that I apologize
20 for taking my three or four minutes. I tell you
21 I didn't come in to talk about it, but that's
22 what happens all the time. You come in and
23 somebody has to, all of a sudden, find a scape

1 goat in order to justify or in order to talk
2 down some idea, and we get into these silly
3 kinds of discussions.

4 ACTING PRESIDENT KUHL: The Chair
5 recognizes Senator Paterson.

6 SENATOR PATERSON: Thank you, Mr.
7 President.

8 I want to thank all of the
9 people, men and women, who serve in the armed
10 forces to protect the rights of American
11 citizens so that we can be standing up and
12 having this discussion.

13 But for purposes of this
14 discussion, I want to thank the African-American
15 soldiers who fought in World War II who not only
16 gave their lives for this country but were
17 discriminated against and segregated during the
18 same service, so I want to thank them for,
19 number one, putting up with the indignity and,
20 number two, the additional burden of risking
21 one's life for our country.

22 What I'm saying is that that
23 situation that occurred yesterday is occurring

1 today when this same kind of talk about the
2 military being an operation that is governed
3 differently than a government, which I
4 understand, but then going on to say that there
5 are certain norms of life style and procedure
6 that have to be carried out in the military.
7 They would have to be carried out for any kind
8 of protection of these soldiers.

9 Now, it was deemed over 50 years
10 ago that that protection involved segregating
11 people because of the color of their skin, and
12 what we are saying today is that there is no
13 need for any different type of conduct in terms
14 of the administration of the military whether
15 the soldiers be gay or lesbian or whether they
16 be straight or whatever it is that we define the
17 rest of society, and when we look at government
18 resources actually assisting the recruitment,
19 then we are -- then we are talking about
20 taxpayer dollars, the dollars that come from the
21 same individuals who may be not allowed to serve
22 actually financing this process.

23 Now, there's a way around it. At

1 the University at Albany and University of
2 Buffalo, what they'll have is a foundation that
3 is private that is near the college campus, they
4 do the recruiting on the campus, and this is how
5 they get around it. I don't know if I
6 necessarily like it, but I know that my taxpayer
7 dollars are not going toward it.

8 Now, there are a lot of things
9 that we all pay taxes for with which we
10 disagree, but there's one uniform thing that we
11 pay taxes for that we do agree: Equal
12 protection. It was in the same Pledge of
13 Allegiance that we recited at the beginning of
14 this session, and what I'm saying is, if this
15 country was in a crisis, if this country were
16 under attack and we needed people to defend this
17 country in that dire circumstance, we would hope
18 people went and got a gun and we wouldn't give a
19 damn who they were, and I'm saying that this is
20 the same kind of situation that we have always
21 been faced with in our society. When there is
22 an emergency, we will let anybody participate,
23 but at a time that there is peace in the land

1 and that we are recruiting to try to make sure
2 that our volunteer forces are secure, I think
3 that this state has a right to insist on there
4 being equality.

5 I'm just very happy to hear that
6 Senator Holland believes that the Governor will
7 rescind that executive order and that gives me
8 some solace as I hear this bill today.

9 Thank you, Mr. President.

10 ACTING PRESIDENT KUHL: Chair
11 recognizes Senator Larkin.

12 SENATOR LARKIN: Thank you very
13 much, Mr. President.

14 Senator Gold just said this is a
15 very small bill. Yes, it's less than 50 words.
16 As I stand here, having read Governor Cuomo's -
17 former governor's executive order before, and
18 the dialogue between then Senator Daly and the
19 Governor on the opening up of our campuses, I'm
20 really wondering what a young G.I. says who is
21 serving in Korea, Haiti, just coming out of
22 Somalia, some place else, said, you know, they
23 don't want us to recruit the best, the

1 brightest, somebody who can make a career,
2 somebody what can make a contribution to
3 themselves or their country.

4 All we're asking for is an
5 opportunity -

6 SENATOR GOLD: Mr. President.
7 Will Senator yield for just one short question?

8 ACTING PRESIDENT KUHL: Senator
9 Gold. Senator Larkin, will you yield?

10 SENATOR LARKIN: Yes.

11 SENATOR GOLD: Senator, what if
12 the best and brightest on our campus just
13 happens to be gay?

14 SENATOR LARKIN: There's nothing
15 in this that says anything about gay. Senator,
16 I will acknowledge to you that I spent 23 years
17 on active duty, and I'm sure there was some gays
18 and lesbians in the military during my tenure,
19 but I also think that the military is a great
20 opportunity for a lot of young men and women.

21 They have an opportunity to get a
22 career that they may be denied of in this state
23 because we have an executive order. The

1 Governor said in his correspondence that it was
2 not his intent to deny recruiting. Yet he never
3 took any action to correct it.

4 When we start to say here, all
5 we're looking for is excuses around here to deny
6 the military an opportunity to go onto our
7 campuses. I think it's childish. It's
8 defending something that's not defensible. We
9 have a country, we have a down-sizing of
10 country. We have men and women that can't get
11 jobs because there are no jobs, but there's also
12 an opportunity for them to go into the military
13 and get a job, get a good career and be
14 something productive.

15 You know, I shouldn't say this
16 but I will: In 23 years I've seen some people
17 that didn't come back. I wonder if they're
18 looking down and saying, "What the hell did I do
19 that for?" I hope that we're not that thick
20 headed that we won't respond. This is an
21 opportunity whose time has come.

22 ACTING PRESIDENT KUHL: Chair
23 recognizes Senator Dollinger.

1 SENATOR DOLLINGER: Will the
2 sponsor yield to a question, Mr. President?

3 ACTING PRESIDENT KUHL: Senator
4 Holland, do you yield to Senator Dollinger?

5 SENATOR HOLLAND: Yes.

6 ACTING PRESIDENT KUHL: Senator
7 yields.

8 SENATOR DOLLINGER: Senator
9 Holland, I've read through the memorandum that
10 accompanied this, and I was wondering whether
11 you had any information that would suggest that
12 during the course of the 11 or 12 years that
13 this executive order has been in effect, whether
14 there's been any change in the recruitment,
15 total numbers of recruited people from the state
16 of New York into the United States military?

17 SENATOR HOLLAND: I have no idea,
18 Senator.

19 SENATOR DOLLINGER: So we don't
20 know whether Governor Cuomo's executive order in
21 any way affected the accessibility of the
22 military?

23 ACTING PRESIDENT KUHL: Senator

1 Dollinger, are you asking Senator Holland to
2 yield?

3 SENATOR DOLLINGER: That's the
4 point.

5 ACTING PRESIDENT KUHL: Senator,
6 are you asking Senator Holland to continue to
7 yield?

8 SENATOR HOLLAND: No, that's not
9 the point.

10 ACTING PRESIDENT KUHL: Senator
11 Holland. Senator Holland. Senator Holland.

12 SENATOR HOLLAND: All right. I
13 believe you have the floor. Now I'll yield.

14 ACTING PRESIDENT KUHL: Senator
15 Holland.

16 SENATOR DOLLINGER: I withdraw
17 the question, Mr. President.

18 So there's no evidence, again
19 through you, Mr. President, that you have,
20 Senator Holland, in effect that suggests that
21 this executive order has in any way affected the
22 recruitment of individuals into the United
23 States Military from my place in the state of

1 New York, is there?

2 SENATOR HOLLAND: Senator, it
3 could have gone any way. It could have gone -
4 it could have fallen. It's -- it could have
5 gone any way. I don't have any idea. I don't
6 think you have any idea.

7 The point of the bill is the
8 fairness and that tax subsidized universities
9 should allow the federal government to recruit.
10 That's all the point is. It's not a gay/lesbian
11 thing. Your President said, Don't ask, don't
12 tell. We don't care. It's not in the bill, as
13 Senator Larkin said. It's only a question of
14 fairness to allow the federal government to
15 recruit on our campuses which are supported by
16 our taxpayers, and it's a volunteer force.

17 SENATOR DOLLINGER: On the bill,
18 Mr. President.

19 ACTING PRESIDENT KUHL: Senator
20 Dollinger, on the bill.

21 SENATOR DOLLINGER: I agree with
22 the wisdom of Senator Gold. I came in here not
23 quite knowing how I'd vote on this, but I guess

1 I get troubled when we talk about different
2 rules and all kinds of different things. I
3 guess I would tell that to the same people that
4 Senator Larkin referred to, the gay men and
5 women who have given their lives for their
6 country, and to be told that they played under
7 some different rules, I think, would offend them
8 terribly, and I think it's a shame that we have
9 those different rules in place.

10 I don't see -- and I know,
11 Senator Holland, I understand the spirit in
12 which this bill comes forward, but I don't see
13 the evidence that this has one way or another
14 affected the recruiting practices in this state
15 and, number two, I think that it's within the
16 province of the government -- the governor to
17 have issued this executive order. If Governor
18 Pataki wants to rescind it, he can clearly go
19 ahead and do that and change those practices and
20 it seems to me that there still is a principle
21 underlying that original order and that was that
22 we won't allow institutions that overtly
23 discriminate to recruit on state campuses, and I

1 think that does send a message about what we
2 believe in the state of New York.

3 ACTING PRESIDENT KUHL: The Chair
4 recognizes Senator Abate.

5 SENATOR ABATE: Yes, on the
6 bill.

7 I just wanted to clarify
8 something I said. Every time we look at a bill
9 there are often competing interests and the
10 interest here, are we in fact denying the right
11 to the military to recruit? And if we reject
12 this legislation, we clearly are not denying
13 them that right. They can go into private
14 campuses. They can set up recruitment offices
15 near state campuses, but this bill does, it
16 says, even though you're the federal government
17 you're a discriminating employer that practices
18 overt discrimination against a large community
19 within New York State, and it's really a
20 question of values.

21 If, in fact, we are not hurting
22 the military, they still have the right to
23 recruit, but we're saying they don't have the

1 right to recruit when they discriminate on state
2 facilities. So when you balance that we must,
3 in terms of values, always protect the life and
4 human dignity of our residents. Yesterday we
5 talked about life and human dignity. Shouldn't
6 we today be talking about the same protection to
7 gay men and lesbian women?

8 And I believe and have said over
9 and over again, if one group is discriminated
10 against, isn't it an assault on all of us who
11 have, once in our lives, felt pain and
12 discrimination? We've felt the ugly arms of
13 prejudice. If any of you have ever felt that,
14 if any of your relatives have confronted
15 prejudice, why are we allowing prejudice against
16 any group in New York State?

17 It's a question of values. It's
18 a question of balance, and the interests of gay
19 men and lesbian women who are taxpayers, are
20 students who are part of our communities, should
21 be protected.

22 ACTING PRESIDENT KUHL: Chair
23 recognizes Senator Wright.

1 SENATOR WRIGHT: Thank you, Mr.
2 President.

3 I was pleased last year to join
4 Senator Daly and other colleagues calling upon
5 the Governor to rescind his order at that time,
6 and I'm equally pleased to join in co-sponsoring
7 this legislation for a couple of reasons.

8 A year ago, we had
9 representatives from the Tenth Mountain Division
10 of the United States Army here in this chamber,
11 and I was very proud to have all of you join
12 with me recognizing those young men and young
13 women who represented this country so well in
14 Somalia, have done so again in Haiti, as well as
15 served right here in our own country down in
16 Florida addressing the concerns of the hurricane
17 victims.

18 When we all join together to
19 recognize those individuals, we're very proud to
20 have the military in this state. We were very
21 proud to have this state serve as host to that
22 military, and now we as a state and many other
23 states in this nation are competing to retain

1 those military bases, to retain the employment
2 and the economic benefit of those military
3 installations in this state, and in my district
4 alone we're talking some 11,000 uniformed
5 personnel who live and work, go to school,
6 participate in our community, as well as another
7 3,000 civilian employees.

8 I think, in fairness to all of
9 those individuals, we should be sending a
10 message that New York State welcomes the
11 military and welcomes them on our university
12 campuses for the purpose of recruiting our
13 students to join that military, and I think
14 we're sending the wrong message when we're
15 concerned about base closures at Fort Hamilton,
16 when we're concerned about base closures at the
17 Seneca Army Depot, when we're trying to compete
18 with other states and say, the United States
19 Army, the United States Military, should be here
20 in New York State as a presence to create jobs
21 and to participate in New York State's economy,
22 I think we ought to be sending a consistent
23 message, and that is we not only welcome you for

1 the purposes of jobs and economic growth, we
2 welcome you for the purpose of recruiting our
3 students and affording them a career in the
4 military.

5 It's for that reason I support
6 this legislation and would encourage my
7 colleagues to do likewise.

8 Thank you, Mr. President.

9 ACTING PRESIDENT KUHL: The Chair
10 recognizes Senator Montgomery.

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

13 Would the sponsor yield for a
14 question?

15 ACTING PRESIDENT KUHL: Senator
16 Holland, do you yield to Senator Montgomery for
17 a question?

18 SENATOR HOLLAND: Certainly.

19 ACTING PRESIDENT KUHL: Senator
20 yields.

21 SENATOR MONTGOMERY: Senator
22 Holland, the court decision in Doe v. Rosa was
23 interpreted to include prohibiting military

1 recruitment on SUNY campuses as part of the
2 Executive Order 28?

3 SENATOR HOLLAND: The court had
4 said that the legislative intent was not clear,
5 and here we're trying to clarify.

6 SENATOR MONTGOMERY: Oh, so your
7 bill attempts to clarify.

8 SENATOR HOLLAND: That's what
9 we're trying to do until, if, or when the
10 governor -

11 SENATOR MONTGOMERY: That case
12 was brought as a discrimination case.

13 SENATOR HOLLAND: Yes, it was,
14 yes.

15 SENATOR MONTGOMERY: Now, I'm
16 just wondering if your -- if your bill in any
17 way deals with the whole issue of
18 discrimination.

19 SENATOR HOLLAND: No, I don't
20 believe.

21 SENATOR MONTGOMERY: How -- how,
22 do you intend to deal with that as an issue in
23 and of itself; I guess that's my question?

1 SENATOR HOLLAND: No, it's not
2 the purpose of the bill. The bill's only
3 purpose is to allow the U. S. Military to
4 recruit on State University campuses as they do
5 in every other state in the nation.

6 SENATOR MONTGOMERY: O.K. Mr.
7 President, on the bill.

8 ACTING PRESIDENT KUHL: Senator
9 Montgomery, on the bill.

10 SENATOR MONTGOMERY: Briefly.
11 It's very unfortunate that we're not dealing
12 with the whole issue of discrimination. I think
13 that's obviously a very important aspect,
14 particularly as it relates to the military.

15 However, I do want to speak on
16 another -- another aspect of this issue if you
17 would allow me, and that is the whole notion of
18 access to the military, particularly by young
19 people, and I would extend it to high schools,
20 and this is a conclusion that I have come to
21 recently, Mr. President, because it is of great
22 concern to me that we have 65,000 young people
23 or people in 68 state prisons in this state.

1 I was recently in Louisiana and
2 as I was approaching the state Department of
3 Health and Human Services, there was a van in
4 front of me where there were about 25 young
5 African-American men, every single one of them,
6 boarding this prison bus, and I was told that
7 these young men are now doing work, maintenance
8 work, at the state office buildings and that
9 Louisiana is, I think, the number one state with
10 prisoners and Texas is next and New York is
11 about third, and it occurs to me that as we have
12 lost opportunity for young men to go into the
13 military, we have increased the number of young
14 African-American and Latino men who find
15 themselves locked behind prison -- prison doors
16 throughout this nation, and I am very aware that
17 it was the military that brought these young men
18 in and gave them the kind of discipline, gave
19 them benefits, gave them education, the ones who
20 were not as smart, the ones who were smart we
21 had options, opportunities for them to go into
22 the Reserve Officer Training Corps.

23 There was an alternative for

1 these young men at a very significant time in
2 their lives and a very difficult time in their
3 lives, and I have personally felt the loss of
4 that opportunity notwithstanding the fact that I
5 had brothers who have been to -- to war, and I'm
6 very thankful to God that they came back alive.
7 I've had relatives to die in the war.

8 But nonetheless, I really feel a
9 very -- it's very troubling that we have not
10 been able to somehow provide an opportunity for
11 large enough numbers, particularly of young men
12 at a time in their lives when they most need it
13 and, therefore, the prison has consumed them.

14 And so I am going to vote for
15 this legislation, because I think that it is now
16 time for us to rethink the whole notion of what
17 the military does, what its function is, and I
18 think that its function is not only to protect
19 us from war, but it does something else very
20 special that I am not able to necessarily
21 articulate. It's just that I know from what I
22 see and what I've experienced in my own family
23 and the lives of young men and how many young

1 men I see going in the other direction, and I'm
2 not able to give -- I don't have an answer for
3 those young men. But I know that the military
4 has been an answer that's much more constructive
5 and positive for young men.

6 So, Senator Holland, I abhor
7 discrimination because I have suffered it on
8 many levels, many levels, you know, because I'm
9 a poor person, because I'm a woman, I'm an
10 African-American. You name it, I have every
11 kind of discrimination that there is. So I'm
12 opposed to that, but I -- I must say that I
13 would like to see much more opportunity for
14 young men to have a kind of constructive
15 structured experience at a time in their lives
16 when it will make a difference for them, and I
17 think the military is a possibility, and I would
18 like to see that open and available and
19 accessible for those young men where they are
20 and where they are or their schools and
21 including high schools. I don't know why you
22 didn't add high schools in the bill, but I would
23 certainly -- I would be in favor of that also.

1 Thank you, Mr. President.

2 ACTING PRESIDENT KUHL: The Chair
3 recognizes Senator Hoffmann.

4 SENATOR HOFFMANN: Thank you, Mr.
5 President.

6 I'm pleased to support this bill
7 also. I understand the objections raised by
8 some of my colleagues on this side of the aisle,
9 but we are not going to have the luxury of
10 redefining a perfect military in this chamber.
11 And what we do have, however is an opportunity
12 to enhance the participation and the active
13 involvement of New York State's citizens in
14 defining military policy for the future in this
15 nation and, regrettably, that has not been the
16 case for many years and we are now paying the
17 price for that extreme imbalance in the form of
18 actions brought forth by the Pentagon through
19 the "bottoms up" review and through the BRAC
20 Commission in announcing base closures, and some
21 of these base closures that affect this state
22 are done with a callous disregard to the
23 economic reality and the educational reality in

1 New York State, but they're also done in part
2 because the military decision-makers have no
3 personal frame of reference for New York State.

4 And what better way for us to
5 correct that imbalance than to ensure that the
6 opportunity exists for the best and the
7 brightest New York State students to become
8 members of our military? Let's give them an
9 opportunity on an equal footing with young men
10 and women in South Carolina and Arkansas and
11 California to find out about the advantages of a
12 military career.

13 I'm not concerned solely about
14 the technical and the educational opportunity
15 for advancement or, as Senator Montgomery so
16 eloquently put it, the opportunity to have a
17 career track as an alternative to a life that
18 could possibly be one with no hope and result in
19 a life of incarceration.

20 I also expect that, with this
21 recruitment option, we will have the generals
22 and the admirals of the future from New York
23 State making decisions that will affect our

1 national security and will bode well for the
2 economy of this state.

3 Had we been as supportive of the
4 military over the last 20 years, we might not be
5 faced today with a situation where we're about
6 to lose one of our few remaining military
7 installations in New York State. I have the
8 distinction of representing Griffiss Air Force
9 Base and, like Senator Wright, I know the agony
10 that's faced by a community faced with
11 indecision and uncertainty, but like Senator
12 Stafford, I know how that community feels when
13 the word comes down that that base is going to
14 be closed.

15 First, we thought that it would
16 just be realigned. Realignment was a cruel
17 hoax. It meant we'll take all the planes away;
18 you take care of the runway. We'll let you have
19 the lab, but you're going to have to pay for a
20 big chunk of the lab and, after a few years with
21 that arrangement, the military has now said,
22 "We're taking the lab away too." A complete
23 violation of the contractual agreement the state

1 of New York entered with the Department of
2 Defense and Department of the Air Force a number
3 of years ago, but brought on in part because we
4 do not have the kind of shrewd, insightful
5 military analysts in the top ranks of the United
6 States Department of Defense.

7 It's our responsibility to
8 prevent that inequity, both for the citizens of
9 New York State and for the people of this nation
10 because, as we look at the national security
11 issues surrounding Plattsburgh, Griffiss and
12 Fort Drum, we also have to recognize that we are
13 the last outpost here in the northeastern part
14 of the United States.

15 When they take the last planes
16 away from Griffiss Air Force Base, the
17 easternmost northernmost base in the United
18 States from which planes will depart is Maguire
19 in New Jersey, in the midst of a very congested
20 air corridor that shares air space with the
21 largest volume of commercial traffic in the
22 world, the New York City metropolitan market.

23 It makes little military sense

1 for it to be that way, but that decision was
2 made, in part, because we did not have the
3 experienced military personnel with the right
4 kind of clout to advocate for New York State.
5 We will pay that price down the road. Within
6 our lifetimes we will see not only an expanded
7 runway at Fort Drum at enormous cost to the
8 taxpayers while we lost one 60 miles away in
9 Rome. We will probably see yet another base
10 built in the northeast because it will have
11 become necessary, but we've lost the opportunity
12 because we were not aggressive in years past in
13 inviting the military to recruit on our
14 campuses.

15 So I'm proud to support this
16 measure today, and I'm urging all of my
17 colleagues on this side of the aisle to think of
18 it not just as an issue around discrimination
19 but to think of it as an issue around national
20 security as well.

21 Thank you, Mr. President.

22 ACTING PRESIDENT KUHL: Chair
23 recognizes Senator Waldon.

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

3 I served in the U. S. Army, RA
4 12507507, September 19, 1956 until September 10,
5 1959. I was standing on the corner of Patchen
6 Avenue and Decatur Street, and some of the guys
7 from what now is characterized as "the Hood" at
8 that time, at that time we called Bed-Stuy, and
9 we didn't know where we were going. At that
10 time in vogue was white port/lemon juice; people
11 liked the moon glows, the harmonizing well, and
12 we were trying to duplicate what they were doing
13 under street lamps, but not with a whole lot of
14 direction.

15 I had been in ROTC with, of all
16 people, Colin Powell at City College, but Colin
17 was serious at that time. When he was studying,
18 I was in the cafeteria playing Whist, trying to
19 become the world's greatest Whist player, but
20 eventually I recognized that standing on the
21 corner was not going to cut it, and the
22 alternative for me at that age, that very tender
23 age as a teen-ager, was the U. S. Army.

1 It was the smartest move, other
2 than marrying my wife, that I've ever made in my
3 entire life. I left a boy, came back a man. I
4 had the G.I. Bill which allowed me to finish
5 college at night and law school at night, the
6 G.I. Bill which allowed me to buy our home. I
7 also grew up and traveled. For a young man
8 whose father couldn't read and write, met his
9 mother and married her when she was 15, to
10 understand the Louvres and Piccadilly, to have
11 experienced Barcelona and Madrid, to understand
12 that the Eternal City is Rome and has a lot to
13 offer, did not happen other than the U. S. Army
14 sent me to Europe and I was able to be exposed
15 to these things, and now I'm able to speak
16 sometimes on the level of my colleagues here
17 with eloquence because of that exposure.

18 The point that I'm trying to make
19 with all of this is that I absolutely see
20 nothing wrong in recruiting on the campuses for
21 those who wish to represent our nation when
22 called upon to sometimes give their lives so
23 that the rest of us can breathe free. I applaud

1 the military. I love the military. I was a guy
2 who called cadence for the entire regiment,
3 First Training Regiment. I was in Fox Trot
4 Company at Fort Dix. It was one hell of a good
5 experience. I wish more of you could have had
6 such a good time as I as a teen-ager.

7 Thank you very much, Mr.
8 President.

9 ACTING PRESIDENT KUHL: Chair
10 recognizes Senator Espada.

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

13 I, after the series of debates
14 that we've had of recent note, I was with
15 Senator Gold, I was kind of looking forward to a
16 quiet day but, again, here we have the product
17 of a, I think, twisted logic. You know, we have
18 these kids coming up throughout the building,
19 they can't get into some of our colleagues'
20 offices, they simply won't be heard on these
21 cuts to education in our SUNY campuses, and so
22 now we hear the -- again here's the twisted
23 logic. We hear that we're trying to build

1 opportunity, we're trying to make opportunity
2 more accessible, but yet these very same kids -
3 and I'm old enough to call them kids, because I
4 have one that's 21 years of age -- we're talking
5 about they want to be veterinarians, they want
6 to be doctors, they want to be businessmen, they
7 want to be Senators, they want to be Assembly
8 people, but they're going to have to go back
9 home to AFDC, go back home to nothing really,
10 and they're on our state campuses.

11 And so what troubles me the most
12 is the context, not just the letter of the bill
13 but the context and the history, the history
14 that every opportunity that this Assembly has
15 had, whether it be to contribute to the defeat
16 of apartheid, to contribute to other forms of
17 discrimination, the bias bill of recent note, we
18 don't seem to get up the gumption and the
19 courage to bring it out to the floor for debate;
20 but here we stand on principle.

21 I don't think that this is solid
22 principle here. I think it's rather on shaky
23 ground because of the patterns and the

1 consistent behavior that has been shown here in
2 this house on matters of prejudice and
3 discrimination.

4 So I can't just flow with this,
5 even though I could have originally, but upon
6 hearing the real deal, upon hearing the real
7 values that are going to drive this thing, I
8 have to say no. I vote against this bill.

9 ACTING PRESIDENT KUHL: Chair
10 recognizes Senator Stavisky.

11 SENATOR STAVISKY: Mr. President,
12 on its surface, the legislation appears to be
13 positive. It appears to be inane. It appears
14 to be non-controversial. On the surface, it
15 would appear that every member of this chamber
16 should gleefully and proudly support this bill.

17 But why not write into the
18 provisions of the bill the real meaning? And
19 the real meaning is not necessarily contained in
20 the language of this legislation. Would we, as
21 a state, encourage a private corporation or
22 public agency of any sort that practices
23 discrimination to recruit on the campuses of the

1 state University of New York, the City
2 University or the independent colleges. I think
3 not.

4 We would not be so proud if it
5 were stated that the purpose of this legislation
6 is to deprive individuals of their opportunity
7 to serve in the military for reasons that have
8 nothing to do with their competency to serve in
9 the military and the armed forces of the United
10 States.

11 That is a privilege, a privilege
12 that we encourage young people to engage in, but
13 it is still a clouded area. It's an area where
14 unless you're willing to follow the precept of
15 "don't ask and don't tell", whatever that
16 means, you might be in jeopardy as a member of
17 the armed forces of the United States if you
18 violate that "don't ask, don't tell" precept.

19 Why wasn't this legislation
20 written in such a way so to say now that former
21 Governor Mario Cuomo is no longer there, now
22 that he's no longer able to exercise his
23 influence in drawing up executive orders that

1 prohibit discrimination based upon sexual
2 orientation, we are going to repeal that?

3 Fine, say that. Have government
4 or the new governor of the state, whose views on
5 this might be different from Mario Cuomo, take
6 the responsibility by executive order of
7 revising what is the current state policy. But
8 let us not, by the side door, deal with this
9 issue as a legislative issue when, in fact, the
10 real purpose of this legislation is to erode and
11 overturn former Governor Mario Cuomo's executive
12 order.

13 There's an executive order you
14 didn't like? Talk to Governor Pataki if you get
15 off the elevator on the second floor. They seem
16 to have it sealed off from some of the
17 elevators, but I know you have the ability to
18 get off at the second floor even if you have to
19 walk around from one elevator to the other, and
20 talk to the new governor.

21 That's what you really want but
22 don't do it in this back of the room legislative
23 compartment. It is not worthy of the

1 Legislature to do this when the real objection
2 is to the executive order that former Governor
3 Mario Cuomo had devised.

4 Now, if you really think that
5 sexual orientation has a bearing on the ability
6 of someone to serve in the military then, by all
7 means, say that in the bill. Say what the bill
8 means. Don't obfuscate. Don't come up with
9 language that is so gentle and non-controversial
10 that nobody knows what the real purpose is.

11 This legislation has not seen -
12 this Legislature -- this house of the
13 Legislature has not seen fit to pass a measure
14 prohibiting discrimination based upon sexual
15 orientation. That's your prerogative. You have
16 studiously excluded that from any anti-bias
17 bills, and this Legislature, this house of the
18 Legislature has not seen fit to take a positive
19 stance against life styles that you do not agree
20 with, and I'm not referring to the life styles
21 of the rich and famous. I'm referring to the
22 life styles that some members may not agree
23 with. I may not agree with those life styles

1 but say it, if that's the purpose. Don't
2 conceal it. We don't need trappings that don't
3 tell the public and didn't tell the members what
4 is involved here.

5 If you want the executive order
6 rescinded, go see the Governor. But don't do it
7 through this back door approach. It's not
8 worthy of this house. I hope that there will be
9 some people, under these circumstances, who will
10 have the good sense to vote against this bill,
11 not as an affront to the military because that
12 should not be the purpose, but against the
13 policy that is invoked by the military to keep
14 certain individuals, male and female alike, from
15 serving this nation when they may have the
16 skills and the talent to render exemplary
17 service in behalf of the United States of
18 America.

19 Don't let the privacy of a
20 bedroom interfere with the public function to be
21 rendered by people in the military and don't
22 confuse these two things. They are not subject
23 to the same standards. We are not passing on

1 life styles by this legislation, although we
2 are, and I think we should come out of the
3 closet. Come out of the closet, those of you
4 who wish to challenge somebody's life style.
5 Say it, proudly, affirmatively. You want to
6 come out of the closet, you want to challenge
7 somebody's life style, God bless you, and, if
8 you say that in a bill, then nobody can quarrel
9 with you because then the purpose will be
10 clear.

11 I hope there will be some
12 negative votes on this bill.

13 ACTING PRESIDENT KUHL: Is there
14 any other Senator wishing to speak on the bill
15 before the house?

16 Hearing none, the Secretary will
17 read the last section.

18 SENATOR OPPENHEIMER: I'll
19 explain my vote.

20 ACTING PRESIDENT KUHL: Secretary
21 will read the last section.

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT KUHL: Senator
5 Oppenheimer to explain her vote.

6 SENATOR OPPENHEIMER: Thank you.
7 As you all know, I do support equal rights for
8 all people, and I mean those with different
9 sexual orientation from mine.

10 I believe there is a problem in
11 the military. I think the answer lies at the
12 federal level, not at the state level.
13 Therefore, I'm going to be voting in favor of
14 this bill because I think we have to offer the
15 equal opportunity to all of our students.

16 I wish it was a high school
17 bill. I was very much moved by Senator
18 Montgomery's speech, but since it is offered,
19 recruitment is offered on all of our private
20 campuses in New York State and offered on all
21 public and private campuses outside of this
22 state, I feel it does prejudice our students
23 that are at SUNY and CUNY not to offer it and,

1 in part, I do believe that the military is a
2 good option for -- for our youngsters who come
3 from environments that have deprived them of
4 many of the benefits, both culturally and
5 academically, and I would like to see the
6 military as an option for these students and
7 yes, that is spoken as the daughter of an Army
8 Colonel.

9 Thank you.

10 ACTING PRESIDENT KUHL: Senator
11 Oppenheimer, how do you vote?

12 SENATOR OPPENHEIMER: Yes.

13 ACTING PRESIDENT KUHL: Senator
14 Oppenheimer in the affirmative.

15 Senator Montgomery to explain her
16 vote.

17 SENATOR MONTGOMERY: Yes, Mr.
18 President, very briefly.

19 Discrimination is discrimination
20 no matter in what form and for what reason and,
21 as I said, I am adamantly opposed to it
22 including against people because of their sexual
23 orientation and what have you.

1 However, I want to be very clear
2 about this. I think that -- I question, in
3 fact, whether it's going to ultimately be the
4 best and the brightest even, because that has
5 not been necessarily the history of who goes
6 into the military and especially looking at the
7 array of possible candidates for President, many
8 of them were not in the military. They found a
9 way to escape it, and the brightest and the best
10 did and still do probably and probably still
11 will.

12 However, it's the average person
13 that the military -- who has access to the
14 military, the kind of training that they do, the
15 kind of support that is offered. Those are -
16 that is where it makes the most difference, Mr.
17 President, that it can take an average young man
18 or woman and prepare them in a way even at the
19 high school level that can prepare them to be
20 able to go to West Point from states like
21 Mississippi, Texas, Louisiana and wherever.

22 And so that is why there is a
23 possibility, that is why I am supporting this

1 because it is a possibility to open up options
2 to people and, if it's not, if it's not brought
3 to them, they may not reach out for it.

4 And so I am voting yes for this
5 legislation, because of the intent and because
6 of what I believe to be a necessary issue for us
7 to open up in this Legislature and legislatures
8 across this country and in Congress, what are we
9 going to do in a very real sense for young men
10 especially, young men and women, to prepare them
11 to bridge them into adulthood in a more
12 productive way than sending them by the hundreds
13 of thousands into the prisons across this
14 nation?

15 So I vote yes.

16 ACTING PRESIDENT KUHL: Senator
17 Montgomery in the affirmative.

18 Senator Leibell to explain his
19 vote.

20 SENATOR LEIBELL: Yes, Mr.
21 President.

22 It may grieve some people in this
23 chamber, but this nation is, and I hope for the

1 foreseeable future will be, the world's leading
2 power. As a result of that, this nation with
3 its two coastlines and its commitments worldwide
4 is going to maintain a large military.

5 It's very distressing to me to
6 hear some of the debate today, especially from I
7 believe some members who have been probably the
8 loudest in their complaint about the Department
9 of Defense removing facilities from New York
10 State.

11 I had the opportunity when I
12 served in the other house to be before the BRAC
13 Commission and to try to save Naval Base, Staten
14 Island, but I remember meeting with a Navy
15 Commander there who said to me, "I have a letter
16 here from your mayor who says that he really
17 doesn't want our Navy ships in New York harbor
18 because they might carry nuclear weapons."
19 Well, for over 200 years, United States Navy has
20 been used to taking its weapons with them on
21 board ship.

22 If we intend to be a part of the
23 American military presence, if we intend to have

1 an officer and enlisted corps that's recruited
2 north of the Mason/Dixon Line, we had better
3 learn to put out the welcome mat in New York
4 State to our own armed forces, and this would be
5 a first strong signal in that direction.

6 Thank you. I'll vote in the
7 affirmative.

8 ACTING PRESIDENT KUHL: Senator
9 Leibell in the affirmative.

10 Senator Jones to explain her
11 vote.

12 SENATOR JONES: You know, it
13 always seems to me in this house that we make
14 such a complicated thing out of such a simple
15 issue. I've heard us discuss everything today
16 from nuclear weapons, military bases,
17 patriotism, religion, God, country, geography,
18 discipline, when the issue was clearly to me,
19 one of choices.

20 I think what Senator Hoblock said
21 was correct. It has really nothing to do
22 basically with discrimination. I'd be the first
23 one, I would love to debate on this floor the

1 anti-discrimination bill that we've avoided the
2 last few years. Certainly the military should
3 accept anyone regardless of what they may
4 believe or practice or do, but none of those
5 things have a thing, in my opinion, to do with
6 what we just talked about today.

7 It's about choices. I don't want
8 my child -- there's many things that happen, as
9 Senator Hoblock said, on college campuses that I
10 clearly would not want one of my children
11 participating in. We send them there. They're
12 adults. I think they should be allowed to make
13 a choice if they want to join the military or
14 any other things that are there, and I think
15 that's a very simple thing, and I support it for
16 that reason.

17 ACTING PRESIDENT KUHL: Senator
18 Jones in the affirmative.

19 Senator Paterson to explain his
20 vote.

21 SENATOR PATERSON: First of all,
22 Mr. President, I want to apologize to Senator
23 Holland. I didn't realize that he was saying

1 that he thought the Governor would rescind the
2 executive order, and so the end of my last
3 statement may have come across as sort of pious,
4 and I just disagree. I thought the Governor
5 should continue the executive order.

6 I see this bill as a matter of
7 human rights. I think that, when we, as a
8 state, sponsor anything that discriminates
9 against people, in the Doe v. University of
10 Buffalo case, the reason that the complaining
11 witness brought an action was because they went
12 into a recruitment office and the first thing
13 they said to this particular person is -- this
14 was a woman -- they said, Are you a lesbian?
15 They asked her that question. Are you over 35
16 years of age? Most of us would never have to
17 answer questions like that, but if you've ever
18 had to answer a question and you happen to be
19 whatever it is that they're excluding, you might
20 understand why this is a human rights bill.

21 We have another resolution that
22 Senator Montgomery had put forward in this
23 chamber some years ago about withdrawing pension

1 funds from the 133 of the 408 corporations that
2 do business in South Africa, and at that time I
3 heard some of the same arguments. Well, you
4 know, we don't want to ruin the pension funds.
5 We don't want to ruin business in this state.
6 But the fact is, we really are opposed to the
7 conditions in South Africa, and so we found that
8 in the years they did something about it and
9 when they were ushering in President Mandela, we
10 had a big ceremony in this chamber and I don't
11 know what they were doing about it. We had no
12 right to be in here, because they did it without
13 us, and I guess perhaps they would desegregate
14 the military or sexual orientation without us.

15 But I'd just like to close on
16 this point, that child labor laws were passed in
17 19 states, including this one, before it ever
18 became federal law. The overtime laws in this
19 country were abolished in 27 states before they
20 actually became federal law. We have an
21 opportunity to do something as a state, as a
22 state Senate, to influence our national
23 government and to let them know how people in

1 New York State feel about the discrimination of
2 people.

3 I think it's a principled issue.
4 I vote no.

5 ACTING PRESIDENT KUHL: Senator
6 Paterson in the negative.

7 Secretary will announce the
8 results.

9 THE SECRETARY: Those recorded in
10 the negative on Calendar Number 68 are Senators
11 Abate, Connor, Dollinger, Espada, Galiber, Gold,
12 Leichter, Nanula, Paterson, Smith and Senator
13 Stavisky. Ayes 45, nays 11.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 Secretary will continue to call
17 the roll.

18 THE SECRETARY: Calendar Number
19 112, by Senator Holland, Senate Print 474, an
20 act to amend the Penal Law, in relation to the
21 possession of noxious materials by members of
22 auxiliary police forces.

23 SENATOR PATERSON: Explanation.

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

4 SENATOR HOLLAND: Mr. President,
5 this bill would allow auxiliary police, upon
6 local authorization and upon appropriate
7 instructions, to possess mace and to use it as a
8 defensive weapon.

9 I might also just add that this
10 is -- similar bills have been passed in this
11 house, maybe with Senator Volker's sponsorship.
12 In the late '70s, the state Legislature granted
13 the auxiliary police the right to carry batons
14 in self-defense, so this is not a new thing.

15 Also you might also know that
16 most postmen carry some kind of mace and
17 probably 30 percent of the women in this state
18 carry some kind of mace. I really don't see any
19 reason why auxiliary police can't use it as a
20 defensive weapon and that's the whole purpose of
21 the bill.

22 ACTING PRESIDENT KUHL: Chair
23 recognizes Senator Paterson.

1 SENATOR PATERSON: Would Senator
2 Holland yield for a question?

3 ACTING PRESIDENT KUHL: Senator
4 Holland, would you yield to Senator Paterson?

5 SENATOR PATERSON: Certainly.

6 ACTING PRESIDENT KUHL: Senator
7 yields.

8 SENATOR PATERSON: Senator
9 Holland, sometimes I don't really say these
10 little expressions, I just say them to myself
11 and expressions like mixing apples and oranges
12 or putting the cart before the horse.

13 I wanted to know if you thought
14 that perhaps we were putting the cart before the
15 horse in this particular piece of legislation
16 because for openers, I don't understand what the
17 definition of "auxiliary police" is under the
18 law, and I was wondering if you agreed with me
19 that maybe what we really need to do is define
20 what the auxiliary police are.

21 At least the New York City Police
22 Department feels that auxiliary police, just in
23 terms of their living definition, are those who

1 assist the police, not any who carry out arrests
2 or any other police action.

3 SENATOR HOLLAND: Well, they do
4 -- Is that a question?

5 ACTING PRESIDENT KUHL: Senator
6 Holland.

7 SENATOR HOLLAND: They do assist
8 the local police. They do not carry weapons.
9 They -- the definitions of their jobs are done
10 on a local level. Many of them wear bullet
11 proof vests if they have the money to wear
12 bullet-proof vests. They do get into dangerous
13 situations and do not carry a weapon. They may
14 wear the same exact uniform of the local P.D.,
15 and, therefore, people might assume that they
16 have weapons.

17 So that's another reason, in my
18 estimation, why they should be at least able to
19 have a defensive weapon.

20 ACTING PRESIDENT KUHL: Senator
21 Paterson.

22 SENATOR PATERSON: Thank you,
23 Senator Holland.

1 Will Senator Holland yield for
2 another question?

3 ACTING PRESIDENT KUHL: Senator
4 yields.

5 SENATOR PATERSON: I agree with
6 you, Senator Holland, if they're going to be
7 wearing police uniforms and have the appearance
8 of police, that is in many respects going to
9 force them into the position of perhaps acting
10 or having to act as police and, if that were
11 actually the case, then I would agree with you
12 that whatever they would need to protect
13 themselves I'd be in favor of having; and they
14 are volunteers. They do care about their
15 communities. They are performing a service that
16 they're not paid, and that's a terrific thing to
17 have in this society.

18 But may I ask you, since we don't
19 have a definition under the law of what auxili
20 ary police are, do you have any information on
21 what training the auxiliary police have?

22 SENATOR HOLLAND: I have Section
23 9185 of the Unconsolidated Laws, Powers of

1 Auxiliary Police, if that will help. The local
2 legislative body of any county, town, city or
3 village may, by resolution, confer or authorize
4 the conferring upon members of the auxiliary
5 police, the powers of peace officers subject to
6 such restrictions as such body shall impose.

7 That's the only thing I have,
8 Senator. I hope that helps.

9 SENATOR PATERSON: Would Senator
10 Holland yield, Mr. President, for yet another
11 question?

12 SENATOR HOLLAND: Yes.

13 ACTING PRESIDENT KUHL: The
14 Senator continues to yield.

15 SENATOR PATERSON: My
16 understanding of that section, Senator Holland,
17 is that that applies in what would be emergency
18 kinds of situations, that that's not a continu
19 ing definition for what the auxiliary police
20 is.

21 Do you have an opinion about
22 that?

23 SENATOR HOLLAND: I don't know

1 that they use them or they work 40 hours a week,
2 Senator. I think what they do is they call them
3 out when they have crowd control, a problem and
4 that's -- control. Does that answer your
5 question, sir?

6 SENATOR PATERSON: Yes, it does.
7 Thank you, Senator Holland.

8 Mr. President, would Senator
9 Holland yield to another question?

10 ACTING PRESIDENT KUHL: Senator
11 Holland, do you continue to yield? Senator
12 yields.

13 SENATOR PATERSON: The question I
14 have now, Senator Holland, relates to mace. If
15 we permit people to sell mace, but we don't
16 permit them to actually carry it under the law,
17 it seems to me that we have to come to some
18 definition of what we're doing about mace.

19 As you said, a number of women
20 are carrying mace as a sense of protection and
21 it's something that they may very well need and
22 maybe something that we might have to look to as
23 a body to assist them and doesn't necessarily

1 have to be women. It's anybody, men as well,
2 who are in a situation that might not want to
3 carry something that would be larger or
4 something that would inflict more pain would be
5 more of a forceful law enforcement weapon and
6 all I'm saying is that it seems very difficult
7 to interpret what this bill will mean when we
8 don't know about the training of auxiliary
9 police.

10 We don't really know who they are
11 under the law. We don't really understand how
12 much experience they actually have. Now, your
13 bill, which is a lot more responsible, does say
14 there should be training about how to use mace
15 but that's just a functional definition of how
16 to use mace. It doesn't say anything else about
17 the position the auxiliary policemen or women
18 might be in.

19 So my question to you is, just
20 how can we pass this bill when we really haven't
21 cleared up who should and should not be carrying
22 mace in this state?

23 SENATOR HOLLAND: I believe,

1 Senator, that a bill has been introduced here in
2 the past about legalizing mace and you might
3 also note, and everyone must know that mace is
4 sold in stores throughout the state. That's how
5 the women and the men purchase it; so it's out
6 there, whether we legalize it or not, or whether
7 we let the auxiliary police use it as a
8 defensive weapon or not. It is out there.
9 We're a little bit behind the time as far as I'm
10 concerned.

11 SENATOR PATERSON: My final
12 question, Senator Holland, relates to just the
13 seeming opposition that's coming from a lot of
14 the police departments with respect to where
15 their auxiliary police officers fit in, their
16 belief that this already granting of self
17 defense privileges of police to carry the
18 batons, that now adding that they might also
19 carry mace would empower them in a sense create
20 a perception with the uniform and the
21 bullet-proof vest, as you pointed out, that they
22 are actually acting as police officers and we do
23 see a number of departments around the state and

1 associations of police opposing this bill.

2 Do you feel that they might have
3 some idea about where they think the auxiliary
4 police should be limited?

5 SENATOR HOLLAND: First of all -
6 first of all, Senator, auxiliary police cannot
7 arrest, and it's up to the individual community
8 whether they want to allow auxiliary police.

9 As far as the memo in opposition
10 that you mention, that's simply an attempt by an
11 organization to maintain their membership. They
12 feel that the auxiliary police are taking over a
13 part of their responsibilities. Therefore, if
14 they allow it to grow and be successful in a
15 volunteer force that some of their people will
16 lose jobs. That's what their position is.

17 SENATOR PATERSON: Thank you,
18 Senator Holland.

19 I think that that's Senator
20 Holland's conclusion on what their position
21 might be. They might actually be a little
22 worried about how auxiliary police officers
23 function. Also even if Senator Holland is

1 correct and where demur to his complaint and
2 they are doing it because of the organizational
3 purposes, these are the individuals who are
4 trained, highly trained, all the police officers
5 in this state.

6 I just feel that this piece of
7 legislation is unclear and, in addition to that,
8 it actually allows for the use of mace by
9 individuals who may not be trained to do so.

10 Thank you, Mr. President.

11 ACTING PRESIDENT KUHL: Chair
12 recognizes Senator Volker.

13 SENATOR VOLKER: Mr. President, I
14 know this is not going to impress you, David,
15 but before I was a police officer I was an
16 auxiliary police officer, so I know that's not
17 going to impress you at all.

18 The training throughout the state
19 of auxiliary police officers is not as extensive
20 as it used to be because years ago when there
21 was a massive civil defense network in this
22 state and, in fact, my father one time was
23 counsel to the civil defense after he left the

1 Legislature, there was really, I think, much
2 more training of auxiliary police than there is
3 today, although virtually every area of the
4 state that has auxiliary police -- and that's
5 most areas of the state -- their prime function
6 is really to direct traffic and in some places
7 not as much as they used to, but they still
8 occasionally will drive in a car with a -- with
9 a police officer.

10 Now, the -- this bill came out of
11 my committee, and some of the law enforcement
12 agencies, yes, they are opposed to it, but the
13 real reason they're opposed to it is not because
14 of mace or this bill and the baton bill -- by
15 the way, I believe I passed myself some years
16 ago.

17 They're really opposed to it
18 because in places just outside of New York City
19 there have been proposals by some local
20 officials to use auxiliary police to supplant
21 police officers, but they need a lot more
22 authority than the issue of mace or a baton, and
23 these people, by the way basically have no more

1 authority than a private citizen except for the
2 fact, generally speaking, that they're
3 designated by the municipality. They have a
4 uniform, and they can do certain designated
5 duties. As far as an arrest is concerned, they
6 have to have a police officer there or whatever
7 to actually make an arrest.

8 As far as mace is concerned, we
9 have sort of this ambivalence on mace. People
10 are using what they call pepper spray now and
11 various noxious materials which are really
12 mace. In fact, postmen have been using them. I
13 remember myself as a police officer carrying a
14 canister, primarily frankly, for dogs because
15 everybody was concerned about dogs running
16 around, and so forth, and they were. They were
17 used to discourage dogs from biting you, and so
18 forth.

19 The truth is that this, I think,
20 if we are on the verge, and I would hope that
21 this year we will legalize mace in general, the
22 Assembly has indicated that they -- on several
23 occasions that they were very interested and,

1 Senator Johnson, we passed a bill in this house
2 by overwhelming numbers on a number of
3 occasions, it just seems to me that if this
4 house is inclined to pass a bill that allows
5 totally untrained people, if you want to call
6 them trained -- untrained people, to use mace
7 that it certainly behooves us to allow auxiliary
8 police who -- most of whom have much more
9 training certainly than the average individual
10 to at least use something that people that are
11 totally untrained are using now anyways, and I
12 think we are about, in a very short period of
13 time, to totally legalize.

14 A lot of the things that are
15 being used now, as I say, like pepper spray and
16 those things, are really mace in a little
17 different -- a little different compound, so my
18 feeling is, and I certainly support the police
19 100 percent and I -- and I have taken the
20 attitude that a bill that would generally really
21 damage police officers, I would not allow to
22 come out of my committee, and I just don't think
23 that this is -- is as big a deal as some people

1 are making of it, very honestly, although I
2 understand the concern, and you have a right to
3 be concerned, but I just think this is just
4 another progress in just protecting some people
5 who do a limited job on a limited basis.

6 ACTING PRESIDENT KUHL: Secretary
7 will read the last section.

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

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT KUHL: Announce
14 the results when tabulated.

15 The Chair recognizes Senator
16 Solomon to explain his vote.

17 SENATOR SOLOMON: Thank you, Mr.
18 President.

19 Normally, I would vote for this
20 bill. However, I am voting against this bill in
21 view of the fact that the New York City Police
22 Department and the office of the city, mayor of
23 New York, Mayor Giuliani, who has been telling

1 us that he's particularly tough on crime is in
2 opposition to this bill. In addition, the
3 Police Conference of New York has come out in
4 opposition to this bill.

5 That's why I'm going to vote no.
6 Thank you.

7 ACTING PRESIDENT KUHL: Senator
8 Solomon in the negative.

9 Senator Paterson to explain his
10 vote.

11 SENATOR PATERSON: Because of the
12 comparison, Mr. President, between the pepper
13 spray which we know is in use and the fact that
14 it is a noxious fume, that it basically is mace
15 and Senator Volker is pointing that out, I would
16 like everyone to know in this chamber that he
17 has convinced me.

18 I will vote for this bill. Too
19 bad he didn't have as good material yesterday.
20 He might have convinced me.

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 112 are Senators
23 Abate, Connor, Dollinger, Jones, Kruger,

1 Markowitz, Mendez, Montgomery, Onorato, Santiago
2 and Senator Solomon. Ayes 46 -- also Senator
3 Smith; also Senator Gold. Ayes 44, nays 13.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 Secretary will continue to read
7 the controversial calendar.

8 THE SECRETARY: Calendar Number
9 113, by Senator Johnson, Senate Print 574, an
10 act to amend the Penal Law, in relation to the
11 term of licenses to carry or possess a pistol or
12 revolver in the county of Suffolk.

13 SENATOR PATERSON: Explanation.

14 ACTING PRESIDENT KUHL: Senator
15 Johnson, we're on Calendar Number 113. An
16 explanation has been asked for by Senator
17 Paterson.

18 SENATOR JOHNSON: Thank you, Mr.
19 President.

20 This is a rather straightforward
21 bill. It simply extends the term of a pistol
22 license in Suffolk County from three years, as
23 it presently is, to five years. There are no

1 fiscal implications except for perhaps it would
2 save processing, because we understand in
3 Suffolk County, it would cost more to process a
4 license and then the fees, and perhaps it would
5 save them some money by extending the term of
6 these licenses.

7 When this bill was first
8 introduced several years ago, we had a letter
9 from the County Executive endorsing this bill.
10 I think it's still valid; he's still in office.
11 This bill passed two years ago and passed both
12 houses and was vetoed by Governor Mario Cuomo.
13 I believe, when we pass it this time, this
14 Governor will sign it.

15 Thank you.

16 ACTING PRESIDENT KUHL: Chair
17 recognizes Senator Paterson.

18 SENATOR PATERSON: Mr. President,
19 on this bill, Governor Cuomo vetoed this bill
20 last year because he would like to bring the
21 entire state in compliance on some reasonable
22 time period in which we would feel that there
23 would be a review of gun licensing. If the time

1 period was three years, as it is in New York
2 City, Suffolk County and Nassau County, we think
3 that would be an apt time to make that kind of
4 review.

5 If you had a periodic review of
6 gun licenses, you could determine whether or not
7 the individual has been involved in any orders
8 of protection, any domestic violence, any kind
9 of conduct relating to their ability to take on
10 the responsibility of owning and handling a gun
11 in a manner that would be commensurate with the
12 licensing.

13 To have an unlimited license,
14 which is what we have statewide, is really an
15 invitation to an individual walking around
16 carrying a gun who may have undergone some kind
17 of psychosis or any kind of circumstance that
18 would not -- that later on people might have
19 said, that but for the circumstance, if someone
20 had done something and taken the gun out of this
21 person's hands, they wouldn't have done the
22 damage that -- that they may have, as has
23 occurred in a number of criminal cases.

1 For that reason, Senators Espada,
2 Galiber, Leichter, Mendez and Smith voted for
3 the bill last year, and -- I'm sorry, Senator
4 Gold voted for the bill last year -- I'm sorry,
5 voted against the bill last year.

6 Senator Galiber wants to know how
7 he voted last year. He didn't vote. He voted
8 affirmatively, and so I'm going to vote against
9 the bill, but then again I'm not sure what I'm
10 doing, Mr. President.

11 ACTING PRESIDENT KUHL: Secretary
12 will read the last section.

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT KUHL: Announce
19 the results when tabulated. Results.

20 THE SECRETARY: Those recorded in
21 the negative on Calendar Number 113 are Senators
22 Abate, Connor, Galiber, Kruger, Leichter,
23 Montgomery, Paterson and Solomon, also Senator

1 Smith. Ayes 48, nays 9.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 Senator Skelos.

5 SENATOR SKELOS: Yes. Would you
6 lay aside the next bill for the day. I believe
7 it's Calendar Number 121.

8 ACTING PRESIDENT KUHL: Calendar
9 Number 121 is laid aside for the day.

10 SENATOR SKELOS: Mr. President,
11 would you return to reports of standing
12 committees.

13 ACTING PRESIDENT KUHL: Return to
14 reports of standing committees. Secretary will
15 read.

16 THE SECRETARY: Senator Sears,
17 from the Committee on Consumer Protection,
18 offers the following report:

19 Senate Print 1667, by Senator
20 Sears, an act to amend the General Business Law
21 and the Personal Property Law, in relation to
22 the cancellation of personal emergency response
23 service agreements;

1 Senate Print 1716, by Senator
2 Kuhl, an act to amend the General Business Law,
3 in relation to automobile auctioneers.

4 Senator Hoblock, from the
5 Committee on Veterans, offers the following:

6 Senate Print 256, by Senator
7 Maltese, an act to amend the Real Property Tax
8 Law, in relation to an optimal school tax
9 exemption;

10 Senate 257, by Senator Maltese,
11 an act to amend the Real Property Tax Law, in
12 relation to exemption of the real property of
13 seriously disabled veterans from taxation;

14 Senate Print 441, by Senator
15 Maltese, an act to amend the Vehicle and Traffic
16 Law, in relation to authorizing the distinctive
17 license plates for veterans of the Korean War.

18 Senate Print 1739, by Senator
19 Sears, an act to amend the Vehicle and Traffic
20 Law, in relation to eliminating the annual
21 service charge imposed on distinctive license
22 plates issued to Purple Heart recipients.

23 All bills ordered directly for

1 third reading.

2 ACTING PRESIDENT KUHL: All bills
3 going directly to third reading.

4 Chair recognizes Senator Skelos.

5 SENATOR SKELOS: Yes. Thank you,
6 Mr. President. Would you recognize Senator
7 Oppenheimer.

8 ACTING PRESIDENT KUHL: Senator
9 Oppenheimer.

10 SENATOR OPPENHEIMER: Thank you
11 very much.

12 I'd like unanimous consent to be
13 recorded in the negative on 112.

14 ACTING PRESIDENT KUHL: Without
15 objection, Senator Oppenheimer will be recorded
16 in the negative on Calendar 112.

17 SENATOR SKELOS: Any further
18 housekeeping items?

19 ACTING PRESIDENT KUHL: None at
20 the desk, Senator Skelos.

21 SENATOR SKELOS: Then, Mr.
22 President, there being no further business, I
23 move we adjourn until Wednesday, March 8th, at

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11:00 a.m.

ACTING PRESIDENT KUHL: Without
objection, the Senate stands adjourned until
tomorrow, Wednesday, at 11:00 a.m.

(Whereupon at 4:41 p.m., the
Senate adjourned.)