ALBANY, NEW YORK

March 22, 1995

11:01 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order, members please find their chairs. Ask all our visitors in the gallery, together with members, to rise and join me in saying the Pledge of Allegiance to the Flag.

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

We're very pleased to be joined today by the Rabbi Daniel Fried of the Congregation Anshe Emeth of Columbia County. Rabbi Fried.

RABBI FRIED: Ladies and gentlemen of the Senate, before taking up today's legislative business, I'd like to ask you to join me in a moment of reflection and prayer.

We invoke Your presence, O God, at this session of the Senate. We ask that Your spirit be a support and mainstay for these dedicated men and women who have taken upon themselves the weighty mantle of political

leadership. Help them in fulfilling their sacred trust of safeguarding the lives and ensuring the well-being of all of those who reside in the state of New York.

Let the awesome power vested in this assemblage in regulating, influencing and directing the lives of fellow New Yorkers be an ever present consideration for its members.

Lord, endow these legislators with the wisdom, skill and patience necessary to grapple with the great and perplexing issues of our day: How to make our streets and our neighborhoods safe once again; how to give the people of New York a healthy and wholesome environment in which to live and raise their children; how to create an economy in which there will be full employment for all those who desire to work; how best to feed the hungry, house the homeless and care for the sick and aged; how to rebuild the deteriorating infrastructure of our towns and cities; how to recapture the dynamism, sense of purpose and vision of the future that was once synonymous

with the Empire State.

May the legislative business conducted this day and every day be attuned to the collective needs of all the inhabitants of New York and, in the words of your ancient Psalmist we pray: (Phonetic) Vih-he naw-ahm hashem eh-law-kay-noo ah-lay-noo oo-mah-ah-seh yah-day-noo kay-nih-nah ah-lay-noo, oo-ma-ah-seh yah-day-noo kaw-nih-neh-hoo.

"And let Thy graciousness, O God, be upon us; establish Thou also the work of our hands for us; Yea, the work of our hands, establish Thou it." Amen.

ACTING PRESIDENT KUHL: Reading of the Journal. In Senate, Tuesday, March 21st. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Monday, March 20th, was read and approved. On motion, Senate adjourned.

Hearing no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions. Senator Skelos.

SENATOR SKELOS: There being no motions and resolutions at this time, Mr. President, if we take up the non-controversial.

Senator Farley.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Farley for a motion.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Leibell, Mr. President, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: That's Senate Print 2983.

ACTING PRESIDENT KUHL: The bill will be recommitted and the enacting clause will

be stricken.

The Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President, Calendar 198, Senate Bill 2655, I'd like to place a sponsor's star.

ACTING PRESIDENT KUHL: Sponsor's star will be placed on the bill.

Senator Skelos, we have one substitution at the desk if you'd like to take that now.

SENATOR SKELOS: Yes.

THE SECRETARY: On page number 5, Senator Volker moves to discharge from the Committee on Codes Assembly Bill Number 2659 and substitute it for the identical Senate Bill Calendar Number 237.

ACTING PRESIDENT KUHL: Substitution is ordered.

The Chair recognizes Senator Velella.

SENATOR VELELLA: Mr. President, my bill, Calendar 221, Senate 2442, would you

place a sponsor's star on that, please?

ACTING PRESIDENT KUHL: Sponsor's star will be placed on Calendar Number 221.

SENATOR VELELLA: And also 223, Senate Number 2766, would you also place a star on that?

ACTING PRESIDENT KUHL: Sponsor's star will be placed on Calendar Number 223. Senator Skelos.

SENATOR SKELOS: Yes, Mr. President, at this time if we could take up the non-controversial calendar.

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

THE SECRETARY: On page number 11, Calendar Number 10, by Senator Tully, Senate Print 185-A, an act to amend the Civil Practice Law and Rules, in relation to forfeiture of the proceeds of a felony related to a sexual performance by a child.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 146, by Senator Goodman, Senate Print 983, an act to amend the Arts and Cultural Affairs Law, in relation to the New York State fine arts collection.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 167, by member of the Assembly Schimminger, Assembly Print 2488, an act to amend the General Business Law and the Personal Property Law, in relation to the cancellation of personal emergency response service.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 1st day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 176, by Senator Velella, Senate Print 2946, an act to amend Chapter 696 of the Laws of 1887, relating to providing hospitals, orphan asylums and other charitable institutions in the city of New York with water.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 190 -- 179, by Senator Hoblock, Senate Print 1634, an act to amend the Judiciary Law, in relation to the seal of Albany County.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 191, by Senator Seward, Senate Print 1109, an act to amend the Real Property Tax Law, in relation to real property held in trust for certain senior citizens.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 194, by Senator Levy, Senate Print 1977, an act in relation to authorizing the Department of

Transportation to survey areas of the state.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 212, by Senator Farley, Senate Print Number 1092, an act to amend the Real Property Tax Law and the Social Services Law, in relation to withholding social service rents payable.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Skelos, that completes the non-controversial calendar.

SENATOR SKELOS: At this time, if we can take up the controversial calendar, Mr.

President.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 10, by Senator Tully, Senate Print Number 185-A, an act to amend the Civil Practice Law and Rules in relation to forfeiture of the proceeds.

SENATOR PATERSON: Lay it aside.

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

SENATOR TULLY: Thank you, Mr. President.

Mr. President, this bill requires civil forfeiture of property by certain persons convicted of sex offenses to include a person convicted of or a defendant who has been indicted for an offense related to the sexual performance of a child.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Senator Tully, you were extremely open to questions and to

amendments on this particular bill and we appreciate that. You're addressing a very serious issue in our society involving the criminality of individuals.

I'd like to know if you would yield for a question at this time.

ACTING PRESIDENT KUHL: Senator Tully yield for a question?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Tully yields, Senator Paterson.

SENATOR PATERSON: Senator Tully, the bill, as I read it, says that it requires the local district attorneys to take the action that they are taking in this particular case but, in my opinion, that conflicts with the C.P.L.R., particularly section 13-A which relates to civil forfeitures in that the civil forfeiture law is permissive, and so even at a point that there would be the threshold test in which the forfeiture might be achieved, why would we require the district attorney when -

and not leave it up to the district attorney as to whether or not they, at that point, want to achieve the forfeiture?

SENATOR TULLY: Thank you, Senator Paterson.

Mr. President, the concept is that mandating it would make sure that no one slips through the cracks, and the bill does authorize a forfeiture proceeding under C.P.L.R. Section 1311 which the Court of Appeals has already held to be possessive of the requisite procedural safeguards.

SENATOR PATERSON: Would Senator yield for another question?

ACTING PRESIDENT KUHL: Senator Tully, you continue to yield?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield, Senator Paterson.

SENATOR PATERSON: What I don't understand, Senator Tully, is that the district attorney has a number of options in this

particular situation. If the district attorney is really motivated by convicting the individual of the crime, they might not want to seek the forfeiture and, if we're mandating it, in a sense we're kind of micromanaging the district attorney's office relating to criminal offenses and their prosecution, which a district attorney is elected to do by the population.

I don't really see the need to have this bill require district attorneys where I would have written the law to have said -- to have stated that it enabled district attorneys to do so.

SENATOR TULLY: Thank you, Mr. President.

Senator Paterson makes a good plea on behalf of the district attorneys. As he indicated earlier, we have kept this bill open for amendment. We have amended it. We have had an opportunity to have it shown to the district attorneys' offices in this state and we have no memorandum or other indication from those offices that they are in opposition to the bill

as it exists today.

ACTING PRESIDENT KUHL: Senator Paterson, do you wish to continue to speak?

SENATOR PATERSON: Yes. I was just waiting to be recognized, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: On the bill, Mr. President.

The civil forfeiture law is, in my opinion, a very dangerous piece of legislation. It definitely conflicts, in my opinion, with the due process clause of the Fourteenth Amendment of our Constitution.

There are certain emergencies where I think that we actually recognize that the criminality has risen to such a threshold that we might seek civil forfeitures. In the cases of drug dealing and the openness and the notorious way the drug dealers present their assets, I think it's actually a good idea. In other words, we will seize the assets of these individuals and send a message, a message to

children, for instance, that we are going to go right after the profit of drug dealing.

I don't understand how this particular legislation actually would send that message in as visible a way as we have in other situations, and I think we're starting to open the door by mandating the civil forfeiture of people's property, people who are not convicted of a crime, people who are in many cases not even indicted for a crime, and yet we're going to pick up their assets because a preponderance of the evidence has been established that they may be guilty. In other words, we are suspicious that they may be engaging in the sale of child pornography. We have a reason to believe that they are profiteering off of the sexual performance of a child. But it's the belief that separates this country from other countries. In the Iron Curtain countries, the belief is enough for individuals to have many of their liberties subjugated by the state; but this is America, and we have a presumption of innocence and we're not saying that there

shouldn't be firm prosecution in this particular area.

What I'm arguing is that we want to force prosecutors to prosecute, not to give them the out of forfeiting the proceeds from the sexual performance of a child or from drug dealing or from anything else. We want to see these individuals convicted. If you seize the assets, this might actually have a chilling effect on the prosecutor going forward, which is why I would like for the district attorneys to have as much of an option in this situation, and I'm very glad to hear that Senator Tully is willing, if any of the district attorneys' offices want to come forward, to discuss this issue, as he's been very open in terms of the process of passing this bill all along.

But I can't vote for this bill in good conscience. I can't vote for it because I don't think it really conforms to the protections that set our country apart from other nations, and those are the presumptions of innocence and the rigorous burden of proof that

must be established before a person is incarcerated.

I think that there should be an additional burden before we start to seize the assets of individuals, and I think that that is the reason that I can't support this bill.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger on the bill.

SENATOR DOLLINGER: Thank you, Mr. President. My lips are unsealed.

Will Senator Tully yield to one question?

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

SENATOR TULLY: Yes, Mr. President, I will yield, and I would say in behalf of my colleagues on this side of the aisle, that we're at least happy that we had one in a row with Senator Dollinger.

ACTING PRESIDENT KUHL: The Senator yields, Senator Dollinger.

SENATOR DOLLINGER: Mr. President, through you. Was consideration

given, Senator -- I know this has been a bill that you sought input from other parties and suggested receptivity to amendments -- was it ever considered that the proceeds from the civil forfeiture would go to the crime victims assistance board for the purposes of reimbursing victims directly who are victims of sexual abuse or -- I know that this deals with the sexual performance by a child and I know that it's included in there to fund treatment programs, but my question is, was it ever considered to just give it to the crime victims assistance board to allow them to draw down the funds for treatment or pay -- compensation for pain and suffering or other consequences of being victimized in these instances?

SENATOR TULLY: Yes, Mr. President. That was considered and apparently there's a procedure in existing law that provides as to how these monies would be spread out and these are the ones that have not been considered, and that's the reason they were included in the statute.

SENATOR DOLLINGER: So again through you, Mr. President just so I understand that.

ACTING PRESIDENT KUHL: Senator Tully, you continue to yield?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield, Senator Dollinger.

SENATOR DOLLINGER: At one time it was considered to give it exclusively to the crime victims assistance board and then decided not to, and instead the funds -- training pro grams and other programs such as are described on page 2 of the bill.

SENATOR TULLY: Yes, Mr. President, and there is no need to consider that, because they are already provided for in C.P.L.R. Section 1311.

SENATOR DOLLINGER: Again, through you, Mr. President, just so I understand it.

ACTING PRESIDENT KUHL: Senator

Tully, you continue to yield?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Does the section -- does the section in 1311 deal with the pre-conviction forfeiture or does it simply say that's where the fines -- the post conviction fines and assessments against the convicted person, those funds go to the victims -- crime victims assistance board?

In other words, I'm trying to make a point, Mr. President, as to whether this is a pre-conviction forfeiture.

SENATOR TULLY: Mr. President, I'm advised by counsel it's the latter.

SENATOR DOLLINGER: It's -- maybe I should just ask for a clarification, then of my former and latter. Which one is it?

SENATOR TULLY: I wouldn't struggle the stenographer to read it back, so let's go through it again.

SENATOR TULLY: 1311, Mr. President, for the benefit of Senator Dollinger deals with post-conviction.

SENATOR DOLLINGER: Post conviction fines.

SENATOR TULLY: Yes.

SENATOR DOLLINGER: So the post conviction fines go to the crime victims assistance board. I guess my question is, if you have a pre-conviction forfeiture doesn't that take all the assets out of the defendant so that the post-conviction fine ends up being somewhat meaningless because the accused, the now convicted felon, doesn't have the assets to pay for the fine to go to the victims assistance board?

SENATOR TULLY: No, Mr. President. This statute is specific in that it indicates that when the forfeiture is based upon a post-conviction crime or a pre-conviction crime defined in Article 263 of the Penal Law as opposed to 1311 of the C.P.L.R., you then would give it for training as we've indicated in this

bill or to train law enforcement officers and to be a treatment program for the victims.

SENATOR DOLLINGER: Again, just one thing, again through you, Mr. President, just so I -

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

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield, Senator Dollinger.

SENATOR DOLLINGER: The effect of this bill is to allow the forfeiture to go to these items, and there's already current law that provides that post-conviction fines go to the victims assistance board?

SENATOR TULLY: No, the current current law does not. No, Mr. President, I think he has it reversed. The current law, C.P.L.R. Section 1311 is the pre-conviction. This statute deals with both pre-conviction or post-conviction and specifies those areas which are not covered in 1311 under section 263 of the

Penal Law.

SENATOR DOLLINGER: O.K. Thank you, Mr. President.

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

Senator Abate.

SENATOR ABATE: Yes. Senator Tully, would you yield to a question?

ACTING PRESIDENT KUHL: Senator Tully, do you yield to a question from Senator Abate?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields, Senator Abate.

SENATOR ABATE: Yes, I'd like clarification. It's my understanding that the district attorney is not required to commence a proceeding. He may be able to commence and that can be done either at the indictment stage or post-conviction. There's no mandatory requirement under this bill; am I correct?

SENATOR TULLY: Mr. President.

SENATOR ABATE: You had some discussion with Senator Paterson that it was mandatory. I don't see that language within the bill.

SENATOR TULLY: Mr. President, that's my understanding also. Senator Paterson was the one who indicated there was a possibility of that, and I responded that we hadn't heard anything to that effect from the district attorneys association.

SENATOR ABATE: Yes, because in many cases district attorneys will wait until there is conviction because they will not want their witnesses to undergo cross-examination and have premature discovery; so I read this that they can choose to proceed either at the indictment stage or post-conviction.

SENATOR TULLY: Thank you, Senator Abate. I'm delighted that one of my colleagues can read this legislation with such clarity.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 10 are Senators Leichter and Paterson. Ayes 46, nays 2.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 146, by Senator Goodman, Senate Bill Number 983, an act to amend the Arts and Cultural Affairs Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Goodman, an explanation has been asked for by Senator Stachowski.

SENATOR GOODMAN: Mr. President,

the purpose of this bill is to allow the State Museum to work with public and private holders of art works significant to New York State to develop a New York collection suitable for touring art, research and public access.

The bill adds another section to the Arts and Cultural Affairs Law requiring the State Museum to develop and implement a plan for a collection of fine arts of significance to the state whether owned by a public or private institution or an individual, with nomination of works in the collection based on historic significance, artistic achievement in relationship to New York.

The owner of the work must agree to be nominated, to have his work nominated to the collection, and the commissioner is required to establish standards for access to the work which may include access by researchers, preservation and maintenance of the work and loan to museums or other cultural institutions.

The State Museum is required to work with the owners to maximize public interest

in and exposure of the work by such means as publishing a catalogue of the work, mounting exhibits, pursuing research and other interpretive programs.

There are many major works of distinction in New York and in such schools as the Luminous and others, which are of interest to the public and the researchers. However, the works are scattered in various institutions and private collections throughout the state, and this bill would allow the State Museum to work with the holders and owners of the art work to develop a comprehensive approach to the work which will ultimately benefit the public and researchers.

ACTING PRESIDENT KUHL: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, will Senator Goodman yield for a question?

ACTING PRESIDENT KUHL: Senator Goodman will you yield.

SENATOR GOODMAN: Yes, I will, Mr.

President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR STACHOWSKI: The main reason I asked for the explanation was to ask this question. It's my understanding that the State Museum along with many other departments and areas of the state budget have received some cuts in their budget and, with that in mind, I found it interesting that we're finding some more work for them to do even though we're taking away some of their resources.

Do you have any idea that they'll be able to carry out this new task that you're giving them with the fact that they've had some budget cuts? I'm not sure, that's why I'm asking you.

SENATOR GOODMAN: Good question, Senator. Fact is this is a multi-year project and this year there's only planning to be done. The fiscal impact of it upon the museum would not be felt until future years, and I'm not certain that there would be any significant

fiscal impact at all.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stachowski.

SENATOR STACHOWSKI: I appreciate Senator Goodman's answer, and the only reason I asked the question was -- and it had nothing to do with the State Museum, but in other depart ments, when we've had prospective commissioners come in in the last couple of weeks, one of the big things they mention in anticipation of becoming the head of the department, was that in light of the budget cuts that their various departments were expecting to have, they were concerned that we were going to continue to pass bills that asked for new studies, new reports, new work loads after we had taken away some of their resources.

I will accept in this case Senator Goodman's explanation that he doesn't anticipate any problem with getting this particular bill done without causing any work load. However, if the museum makes a point that this could be a problem to us maybe we should

pass that on and maybe stop this bill further along in this procedure, either in the Assembly or at the Governor's offers.

ACTING PRESIDENT KUHL: Chair recognizes Senator Montgomery.

SENATOR MONTGOMERY: Yes. Mr. President, thank you. I wonder if Senator Goodhue would yield to just one question?

ACTING PRESIDENT KUHL: Senator Goodman would be happy to yield.

SENATOR LEICHTER: Senator Goodhue?

SENATOR MONTGOMERY: I'm sorry. I'm sorry. As you can see, I miss Senator Goodhue.

Senator Goodman, on this -- on this legislation, is there any -- any indication that you want to make sure that the collection is reflective of the wide variety of artists in our state? I know that I have a number of major African-American artists living in my district and -- African-American and white and other artists who live in my district -- and I

certainly would not want to see our collection skewed one way or the other and especially that it should leave out some of the works of some of those major artists.

SENATOR GOODMAN: Senator, I assure you that there is no -- that I'd be happy to work with you to be assured that that objective is realized, and there's nothing in the bill that would in any way be adverse to that objective.

SENATOR MONTGOMERY: All right.

SENATOR GOODMAN: I might just mention to you, at this very moment at the Museum of Modern Art in New York, there is - the single featured exhibit is that of a famous black artist who's chronicled black life in America, and obviously anyone who is familiar with art in any particular knows that artists of many backgrounds contribute greatly to the enrichment of our culture.

SENATOR MONTGOMERY: Absolutely. Thank you, Senator.

ACTING PRESIDENT KUHL: Chair

recognizes Senator Gold.

SENATOR GOLD: Yes, Mr. President, I feel a necessity.

Senator Goodman, I apologize to you. I think Senator Stachowski doesn't, after all these years -- apparently doesn't understand the system.

Senator Stachowski, you shouldn't worry about the budgetary implications here. The process is one of perspective and priority. So many of us have heard that there are certain budgetary freezes, but I understand -- it's only a rumor, but I understand that in the last few days there was a little bit of money that was released. It had to do with fixing stages up at Saratoga, I was told.

Of course, the Holocaust Center at Queensborough Community College has to cut back and there are people who are being told that they won't have hours of nursing care, et cetera, but I guess, you know, it's a question of getting your priorities straight.

Of course, I'll be able to give

everybody a better answer to that next week because it's my understanding from an announcement that just came to my district office that the Governor who, by the way, voted affirmatively for the Holocaust law last year that would mandate education, and the Governor, I know, does not like mandates so in voting for the Holocaust bill, I know that was quite a step -- on this Sunday I just got an announcement the Governor is going to be speaking at the installation of officers of the Queens Jewish Community Council, so I know when the subject of the great damage to the Holocaust Museum is raised by someone -- I don't know who might ask that question -- maybe we'll get a better insight into the budget, Senator Stachowski, and then we can understand how this bill by Senator Goodman, which I think is a wonderful idea and a great priority and great perspective, I'll tell you next week how all of this budget stuff works.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President.

Senator Goodman, your erudition, as always, is very admirable and striking. I was just intrigued at your memo in the reference to the "Luminous" and I wondered if you could tell us a little bit about that school of art and the reason they've been identified here as a group that's worthy of being part of this collection or at least the study that your bill requires.

ACTING PRESIDENT KUHL: Senator Goodman, would you be so kind as to augment the information that's available to Senator Leichter.

SENATOR GOODMAN: Yes, Mr. President, I shall be so kind.

ACTING PRESIDENT KUHL: Thank you.

SENATOR GOODMAN: Senator Leichter, as you may be aware the "Luminous" refers to the Hudson River school of painters, and the Hudson River school of painters are

peculiarly identified with New York because in the period during the 19th Century when they did their work, they focused at first on a number of scenes within the Hudson River area.

These are particularly interesting works of art, not just from the standpoint of depiction of the beauty of New York State, but also because in the school of painting romanticism, the Hudson River school occupies a unique place in the world firmament of artists.

The Romanticists, as you may know, had a unique style which generally could be identified because in the foreground of paintings, there was usually a depiction of work which was more or less in shadow and which typically was represented in a arch form of presentation and through the arch there was a luminous depiction of either sunsets or sun or other bright and very intense chromatic depiction of a scene which contrasted vigorously to what was in the foreground.

This type of romantic approach

was used by many other world artists, but we innovated this and because we did the Luminous school plays a decisive role in the history of art. That was simply one example of the kind of work, but a foremost variety of work which is to be utilized, and I think what you can understand is that by identifying the location of all of these types of work and at some point perhaps bringing them together in a master presentation of an art show, it gives the public great oppor tunity which it would not otherwise have if we hadn't catalogued and identified the location of these diverse works of art.

So I think over time, although this is certainly not an expensive matter and impacts virtually not at all on the budget and is especially assisted, incidentally, by computerization and technology which enables us at low cost to input all of the data relating to location of art works, that this is a very constructive idea and one which is largely organizational and conceptual in bringing before the public the very best that the state has to

offer from its vast resources and collections.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: I don't think I did Senator Goodman justice when I talked about his erudition. Obviously it goes far beyond that. I want to say that that was an extremely edifying explanation. I never knew that the Hudson school had been referred to initially as Luminous, but your explanation is very good, and I would just add to the bill if I had a chance to make an amendment that in working on this collection, this compilation, that the State Museum ought to check with you because you bring a great deal of knowledge. I say that very sincerely. Thank you.

I will support the bill enthusiastically.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 176, by Senator Velella, Senate Bill Number 2946, an act to amend Chapter 696 of the Laws of 1887, relating to providing hospitals, orphan asylums and other charitable institutions in the city of New York with water.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, would the sponsor be willing to lay this bill aside for the day? We have a number of members and also groups, including the city of New York, that would like to comment on this bill.

SENATOR VELELLA: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside for the day.

THE SECRETARY: Calendar Number 212, by Senator Farley, Senate Bill Number 1092, an act to amend the Real Property Tax Law and the Social Services Law, in relation to withholding social services rents payable to landlords.

SENATOR PATERSON: Explanation.

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

SENATOR FARLEY: Thank you, Mr. President. Incidentally, New York City is excluded from this bill.

This was a bill that came about as a request from a county, and the counties are very enthused about it. It would permit counties the option of withholding social services rent payments to landlords who are delinquent in payment of their real property taxes. That's over a three-month period, you know, when it goes back to the county, not just modestly delinquent.

Under the section 159 of the Social Services Law, landlords who have welfare recipients as tenants may receive rental payments directly from the Department of Social Services as you're aware. Specifically, some counties are sending Department of Social Services checks to landlords, when those same individuals are failing to meet their financial obligations to the county by not paying their property taxes.

Incidentally, they are not permitted to evict the tenant. All -- and this -- there's precedent for this in that they are, for instance, allowed to withhold rent if the property becomes unsafe or in bad repair, that sort of thing, and let me see, it would apply to all property taxes. As I mentioned, the city of New York is excluded and he can pay partial payment, it's held in escrow.

Are there any other questions?

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Would Senator

Farley be willing to yield for a question?

SENATOR FARLEY: I'll be delighted to yield.

ACTING PRESIDENT KUHL: Senator Farley is delighted to yield to you, Senator Paterson.

SENATOR PATERSON: Thank you. Senator Farley, have you considered expanding this bill to actually allow the county to notify all tenants in the particular buildings that - for which the landlord has not paid taxes and then basically pick up everybody's rent and send it to the county to pay the taxes, instead of isolating just the clients of social service which we think might have a chilling effect even though you have -- you've addressed this in your bill by prohibiting the landlords from evicting those tenants because of the non-payment of rent; but at the same time the chilling effect that I'm describing is the landlord that will decide that maybe they could have tax problems in the future and they're just not going to rent to clients of Social Service or welfare

recipients because later down the road that money could go to the county? They've already eschewed the opportunity to pay their taxes. I think they would take the next step and just not rent to individuals whose rent payments could be confiscated by the county.

So what I'm suggesting is that we expand the bill and allow the county to notify all the tenants that the landlord's rent, that the landlord's taxes are in arrears and at that point, I think we might, you know, not create a circumstance where certain individuals are stig matized by this legislation. And my question to you is, have you considered expanding the legislation?

SENATOR FARLEY: I understand your point. I'm afraid that, again, we're philosophizing that the counties might be opposed to that because of the extra effort that may have to be imposed upon them as far as notifying.

Actually, the Social Services tenants are not notified per se. They're not

notified or they wouldn't be aware of this. It's just that the landlord will not receive the social service payments for rents when he's not meeting his obligation to pay the taxes. The counties have to pick up that burden, and the counties are very enthusiastic for this.

There was a concern, and a concern that I had, that maybe landlords would be reluctant to rent to welfare clients, but the Department of Social Services says, at least has said to me, that they don't feel that that's a problem at all.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Rath.

SENATOR RATH: Yes, Mr. Chairman. I'd like to commented on the -- excuse me -- on the legislation. As it came by us last year, I think I probably commented also, and I said to Senator Farley there are wonderful things that happen if you spend enough time in a legislative body as I did in the Erie County Legislature, and this was an item that we did in Erie County about ten years ago. We called it Project

Intercept, and we only did it for about three or four weeks until we were notified by the state that we couldn't do it.

So now what Senator Farley is making happen is making it possible for counties to take this action, and I would like to tell you the results of one county who did it, if you will, kind of by the seat of our pants for a period of three to four weeks. We collected over $400,000, and people came forward asking, number one, please don't publish in the newspaper who those of us are whose rents are in arrears because you would be surprised how many people I knew and how many community people that you would think that they had paid all the rents on their property, how they showed up and how quickly they walked into the Tax and Finance Department and wrote out major checks in order to make sure that they would not have their names published.

It's a wonderful program. It could probably stand some expansion and contin uing activity. We found the city of Buffalo was

not able to participate with us because of additional circumstances that foreclosed them from this possibility, but as this stands right now, this is a piece of legislation and a program or a Project Intercept, if anyone picks up the same name, that will pull money together for counties, monies they should have, monies that they deserve, and monies that will help them in their budgetary problems.

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

(There was no response.)

Hearing none, Secretary - Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

SENATOR FARLEY: Incidentally, that bill is open to anybody that wishes to get

on it.

THE SECRETARY: Those recorded in the negative on Calendar Number 212, Senators Abate, Connor, Markowitz, Paterson. Ayes 49, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the controversial calendar.

SENATOR SKELOS: Yes, Mr. President. Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: Nothing at the desk, Senator Skelos.

SENATOR SKELOS: Mr. President, just a reminder to the members of the Majority that there will be a conference immediately following session tomorrow, and now there being no further business, I move we adjourn until Thursday, March 23rd, at 10:00 a.m., sharp.

ACTING PRESIDENT KUHL: Without objection, the Senate will stand adjourned until tomorrow -- note the time change, to 10:00 a.m.

Senator Gold, before we adjourn?

SENATOR GOLD: Yes, before you adjourn, on Calendar Number 212, may I have unanimous consent to be voted in the negative, please. Thank you very much.

ACTING PRESIDENT KUHL: Without objection, Senator Gold will be recorded in the negative on Calendar Number 212.

Without objection, the Senate stands adjourned until tomorrow, Thursday, at 10:00 a.m. Immediate conference of the Majority thereafter.

(Whereupon, at 11:45 a.m., the Senate adjourned.)