ALBANY, NEW YORK

April 17, 1995

3:01 p.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. Ask the members to find their chairs. I'll ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance to the Flag.

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

We are very pleased today to be joined by the Reverend Peter G. Young of the Blessed Sacrament Church of Bolting Landing to deliver the invocation.

Reverend Young.

REVEREND PETER YOUNG: Let us pray. We pray today for all of our New York State people, that their wealth and their power might become a force for peace rather than conflict, a source of hope rather than discontent, as an agent of friendship rather than enmity. May the actions of this Senate body be the example and may we then continue in Your work now and forever. Amen.

ACTING PRESIDENT KUHL: Reading

of the Journal.

THE SECRETARY: In Senate, Sunday, April 16th. The Senate met pursuant to adjournment, Senator Bruno in the Chair. The Journal of Saturday, April 15th, was read and approved. On motion, the Senate adjourned.

ACTING PRESIDENT KUHL: 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.

The Chair recognizes Senator Wright.

SENATOR WRIGHT: Mr. President, on page number 29, I offer the following amendments to Calendar 229, Senate Print Number 3488, and ask that said bill retain its place on

the Third Reading Calendar and request that the star be removed.

ACTING PRESIDENT KUHL: The amendments are received and adopted. The star will be removed at the request of the sponsor.

The Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Yes, Mr. President. On behalf of Senator Velella, please place a sponsor's star on Calendar Number 222.

ACTING PRESIDENT KUHL: A sponsor's star is placed on Calendar Number 222.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: I would like to call an immediate meeting of Finance in Room 332, and that meeting to be immediately followed by a Rules Committee meeting in the same room, 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332. At the conclusion of the

Finance Committee meeting, there will be an immediate meeting of the Rules Committee in the same room, Room 332.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we now take up the non-controversial calendar?

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

THE SECRETARY: Calendar Number 157, by Senator Velella, Senate Print 2872, an act to amend the General City Law and the Penal Law, in relation to creating the crimes of urinating or begging.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 276, by Senator Leibell, Senate Print 3480, an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 285, by Senator Trunzo, Senate Print 2859, an act to amend the Civil Service Law, in relation to suspension of pension.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 292, by Senator DiCarlo, Senate Print 499-A, an act to amend the General Obligations Law, in relation to exoneration of certain police officers.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

THE SECRETARY: Section 2. This act -

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, we want to know if we can -- might lay this aside for a day. We have a unique opportunity if we do that, but I don't want to tell you what that opportunity is, but if we could lay it aside for a day, we would -

ACTING PRESIDENT KUHL: Senator DiCarlo, a request has been made to lay the bill aside for the day.

SENATOR DiCARLO: For Senator Paterson, that's okay.

ACTING PRESIDENT KUHL: The bill will be laid aside for the day.

THE SECRETARY: Calendar Number 297, by Senator Marchi, Senate Print 3009, an act directing the city of New York to refund to

certain not-for-profit organizations.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 298, by Senator Trunzo, Senate Print 3282, an act to amend Chapter 738 of the Laws of 1988, amending the Administrative Code of the city of New York.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 305, by Senator Wright, Senate Print 2262, an act to amend the Vehicle and Traffic Law, in relation to having care or control of a motor vehicle while impaired by alcohol.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 319, by Senator Saland, Senate Print 2109, an act to amend the Surrogates Court Procedure Act and the Domestic Relations Law.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 324, by Senator Tully, Senate Print 3642, an act to amend the Environmental Conservation Law, in relation to project ineligibility.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 331, by Senator Kuhl, Senate Print 2315, an act to amend the Agriculture and Markets Law, in relation to the producer referendum.

ACTING PRESIDENT KUHL: The 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 48.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the non-controversial calendar.

SENATOR BRUNO: Mr. President, can we now take up the controversial calendar?

ACTING PRESIDENT KUHL: The Secretary will read the -

SENATOR BRUNO: Can we go right to Calendar Number 276?

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar, beginning with Calendar Number 276.

THE SECRETARY: On page number 18, Calendar 276, by Senator Leibell, Senate Print 3480, an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974.

SENATOR PATERSON: Explanation.

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

SENATOR LEIBELL: Yes, Mr. President. This is an act to amend the Administrative Code of the city of New York, the Emergency Tenant Protection Act of 1974, in relation to determining the primary residency, and it also -- the Tax Law, in relation to the verification of residents. The goal of the legislation is to provide a fair and effective mechanism for determining primary residency.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 276 are Senators Abate, Bruno, Leichter, Markowitz, Mendez, Onorato, Paterson, Smith, Solomon and Waldon. Ayes 38, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we now take up Calendar Number 175, by Senator Velella?

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 175.

THE SECRETARY: On page 13, Calendar Number 175, by Senator Velella, Senate Print 2872, an act to amend the General City Law

and the Penal Law, in relation to creating the crimes of urinating or defecating in public.

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

SENATOR VELELLA: This is a very basic, simple bill and it's basically self-explanatory.

What it does is it creates the crime of urinating or defecating in public and of aggressive begging in cities where there is a commercial zone and, basically, that's what the bill does. It doesn't provide that we put people in jail for this. It provides the alternative of a fine or community service, so that we're not locking people up for this.

That basically is the bill, Senator.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Velella would yield for a question?

ACTING PRESIDENT KUHL: Senator

Velella, do you yield for a question from Senator Paterson?

SENATOR VELELLA: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator Velella, there's a case on appeal right now, Portinger versus Miami, and some of the dicta from that court really states that it's almost a violation of the Eighth Amendment to, in all public places, deny certain -- what would be considered to be functions such as sleeping or lying down or sitting down, which occur all over the place. In other words, punishing people would be cruel and unusual punishment.

Now, while that is the case, there's another case I looked at from 1994, Roulette versus Seattle. Now, in Seattle, they're doing very similar things that your bill proposes right here in New York. They designated a certain amount of the area -- the sidewalk area, during the daytime, if people sit or lie down in those particular areas, then it's

considered to be a violation of the law.

Now, what my question to you involves is an explanation from you as to how we rationalize these two tests. In other words, if we're going to be making this against the law in one -- in -- by setting aside in your bill 15 percent of the land mass of the sidewalk area, what we are going to be doing is -- let's say, in New York City, we could make the entire borough of Manhattan part of that area. It's pretty much a commercial strip or a great deal of the borough is a commercial area, not as residential as Kings County and Queens County.

What I'm saying is how are we going to avoid the Eighth Amendment test where the exercise of law enforcement for these types of penalties creates a cruel and unusual punishment?

SENATOR VELELLA: Well, Senator, again, we have this problem whenever we discuss legislation. I don't know what the Supreme Court is ultimately going to decide, and I think they will decide on the side of common sense,

common decency and the ability of local governments to control their own environments.

We have bills and laws that will limit people where they can smoke because they pollute people's air so why not where they can defecate or urinate? Certainly that pollutes the environment. I think that we have just as much a right to stop people from defecating in public places as smoking in public places. I hope the Supreme Court agrees with me. If they don't, we'll come back and we'll revise the law and we'll do it so that it's constitutionally permissive, but we have to be in a position where we do what we think is right, and if the court should determine that it's wrong, we'll come back and revisit it and make it constitutionally allowable as we've done with the death penalty, as we've done with many, many bills that we've passed where the courts said they didn't think we were doing the right thing.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President,

I'm sure you'll agree that that was a very fair answer and a very honest answer and, if Senator Velella would yield for one last question.

ACTING PRESIDENT KUHL: Does Senator Velella yield again? The Senator continues to yield.

SENATOR PATERSON: Senator Velella, I see four ways to prosecute individuals under the law currently, criminal law sections 265.25, 265.20, 165.30, for violations such as harassment, loitering. Do you think that we need this additional law, being that we have protections already built in?

SENATOR VELELLA: Well, Senator, I really think that it's time that we make a statement that we're not going to tolerate in the major cities of this state anti-social behavior, behavior that invades the ability of local governments to promote the tourism, promote the ability of commercial enterprises and to really just stand up and say to those people in society who wish to have anti-social

behavior that we're not going to tolerate it in the areas of our city that are commercially invigorating and supporting the ability of the city to survive.

So I think that this is going to be a very positive step in making a statement that anti-social behavior will not be tolerated in our cities. If it were up to me, I would ban it anywhere. That's my personal preference, that type of behavior but, unfortunately, we have to try to deal with what we can pass in this Legislature and what is permissible by local ordinance. The city will determine where these zones will be, where this type of anti-social behavior will not be tolerated and will be punished by community service.

Again, we're not putting people in jail. We're saying, "Either act properly and behave within an acceptable social pattern or, if you can't do that, you're going to have to do community service."

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator Velella.

Mr. President, I believe Senator Waldon wanted to make a -

ACTING PRESIDENT KUHL: Yes. The Chair recognizes Senator Waldon.

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

Would the gentleman from Bronx County yield to a question or two?

ACTING PRESIDENT KUHL: Senator Velella, do you yield to a question from Senator Waldon?

SENATOR VELELLA: Yes, Senator.

ACTING PRESIDENT KUHL: The Senator yields.

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

Senator Velella, have you traveled in Europe at all?

SENATOR VELELLA: Yes, Senator. I have had the opportunity many years ago to travel in Europe.

SENATOR WALDON: In that travel, have you happened to travel through France?

SENATOR VELELLA: Yes.

SENATOR WALDON: Were you ever in Paris?

SENATOR VELELLA: Yes.

SENATOR WALDON: Are you -- in your frame of reference or in your recollection, can you recall that there were public toilets almost everywhere in France?

SENATOR VELELLA: I can't say almost -

SENATOR WALDON: In Paris?

SENATOR VELELLA: I can't say almost everywhere but, yes, I did see the public toilets along the streets of the main thoroughfares in Paris. I was hoping to go there this week, but we were supposed to be on vacation, so I can't make it.

SENATOR WALDON: You were on the same flight as me.

Senator, is there any provision in this legislation to provide for public

toilets?

SENATOR VELELLA: The answer to that is no, and the reason for that, although you didn't ask me, is because it's not necessary. The City can do that now without having to have permissible legislation for public toilets, and they have been experimenting with that, as I understand it. They have the authority from the state to do a local ordinance to allow for public toilets.

SENATOR WALDON: May I continue, Mr. President?

ACTING PRESIDENT KUHL: Do you continue to yield, Senator Velella?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

Lastly, Senator Velella, in your creating this proposal for our consideration, was there a specific target group that it was directed towards?

SENATOR VELELLA: Well, the only target group, Senator, that I would be targeting, would be the people who would like to defecate in public, who would like to urinate in public and who would like to lie down in doorways, whomever they may be. I don't differentiate. Anyone that lies down in a doorway, anyone who defecates in public or urinates in public ought to fall under the parameters of this law.

SENATOR WALDON: Thank you very much.

ACTING PRESIDENT KUHL: Senator Waldon on the bill.

SENATOR WALDON: On the bill. Thank you very much, Senator Velella.

Those people, who I have been advised most recently fall subject to this kind of activity, to a great extent are those who are homeless; secondarily, other folk who are caught in a bind, meaning someone who has driven a long distance and has to stop. You see them oftentimes on the highways. Men will stop their

cars and open the door in a kind of kitty-corner way. Those people certainly are not evidencing criminal behavior or a desire to violate the law. They are in a state of personal emergency. So I wouldn't categorize those good citizens who are middle class, hard-working, taxpaying, law abiding in the same manner, perhaps -- and this may be my own bias -- as those who may do this more readily.

However, those who are practicing this, if that's an appropriate way to describe it, for the most part, are the homeless. I think that the better approach is to create sit uations where the homeless will have adequate toilet facilities, and I would have appreciated very much if your legislation had either provid ed that in a financial sense or given a direc tion to the cities, the local municipalities, to take care of this concern for this human condition.

Thank you very much, Mr. President.

SENATOR ONORATO: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Onorato.

SENATOR ONORATO: Will Senator Velella yield to a question, please?

ACTING PRESIDENT KUHL: Senator Velella, do you yield to Senator Onorato?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ONORATO: How will this affect -- as I'm sure most of us at one time or another have witnessed or maybe even partici pated ourself, with a young child walking along the street and has to urinate and the mother or father simply brings the child to the curb; who will then be responsible for assisting the child in urinating on the curb?

SENATOR VELELLA: Senator, under the laws that exist -- not this bill -- I would assume that the parent who is taking that child and making them urinate or defecate on the public sidewalk or in the public streets or main public thoroughfare in public view -- and I

point out that this is where people can see the act going on -- ought to be publicly punished for that by being given a ticket or violation order. It's not the kind of thing you want to encourage people and young children to have the behavior of going to the bathroom on the public streets. I think that's basic common sense and it makes sense. Parents ought not to be telling their children to do it. Children ought not to be growing up thinking it's acceptable.

If it's an emergency situation, again, it's like a lot of other laws. Police officers have some discretion as to whether or not to issue a ticket, but bottom line, if you're doing it, yes, you ought to be given a citation.

You're not going to jail. You're not being carted away in handcuffs. You're be ing given a citation for doing something that's unhealthy and socially unacceptable, and you endanger the health and well-being of society in general when you do these things on public streets and let it stay around. Certainly, I

believe a lot more dangerous than a puff of smoke that you might happen to catch as you're passing through a building.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, I have to -- as you may know, the canons of ethics require lawyers to reveal information when it comes to the lawyer in the case even though the information may be detrimental to the case, but the lawyer has this responsibility to the court.

So I would like Senator Velella to know that, although I plan on voting against this bill, some very important information has come across my desk from another member of my conference who has some ideas about how to address some of these problems, and just in case this bill is not signed into law this week, Senator, I suggest that you consult with my colleague, and she has some extremely creative ideas. I don't know if they comply with the Eighth Amendment, but they certainly would stop

public urinating.

SENATOR VELELLA: I would be happy to.

SENATOR PATERSON: Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Would Senator Velella yield to just one question?

ACTING PRESIDENT KUHL: Senator Velella, do you yield to just one question?

SENATOR VELELLA: Certainly, Senator. For you, any time.

SENATOR DOLLINGER: The urban commercial zone in which the lying down or sitting on the sidewalk is going to be prohib ited, what's to prevent the homeless person, as I think Senator Waldon properly describes it, from simply walking right outside that zone limit and camping out on the sidewalk, sitting down, lying on the sidewalk? By virtue of their homelessness, they tend to be highly transient. Aren't they going to find the -- stop right next to the zone where they can camp out and sit and

lie on the sidewalk?

SENATOR VELELLA: Senator, my response to that is that you may believe that the homeless cannot be educated. I don't believe that. I believe by providing good examples and providing good legislation and letting them know that they're breaking the law, that simply because they're homeless, doesn't mean they have an intention to break the law or to be anti-social. We help by setting an example and setting a standard of conduct that they will follow, and I believe they will learn and follow that. Maybe you don't, but I do.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I'm not so sure I agree with Senator Velella. I think we've spent a lot of time and a lot of groups have worked with the homeless for years to try to educate them, to educate them about their behavior. Part of the problem is they remain

homeless and, I think, oftentimes they resist - by virtue of mental illness or other factors, they resist the simple instructions perhaps than others would.

I'm going to vote in favor of this bill. I would, however, call Senator Velella's attention to one portion of it. I read the aggressive begging section, and I would suggest that there might be 211 possible misdemeanorants who would constitute the members of the New York State Assembly and State Senate who have spent maybe, perhaps, an unfortunate part of our political lives agressively begging for money, not in a charitable spirit but perhaps in the spirit of raising political campaign funds, and the definition may be broad enough to include all of us as potential misdemeanorants in that category as well.

I would be voting in favor of the bill. I still have some serious questions as to how it will work, but I'll vote in favor.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

Senator Gold to explain his vote.

SENATOR GOLD: Thank you, Mr. President.

To be very brief, Senator Velella, a number of years ago -- this is a true case -- a lawyer was in the New York City subway where you know you're not allowed to expectorate, and in an emergency choking, he did, in fact, spit on the tracks. One of the more intelligent -- or less intelligent policemen around actually gave him a summons for spitting in the subway even though it was an emergency.

So, Senator, you know, it's nice to talk about passing laws and then saying

"We'll leave it up to the cops in street." I think that's just the wrong thing to do. We ought to be passing laws that are sensible and enforceable, and not leave it so that cops can do what they want to in the street.

I like cops. I support cops. Having said that, I assume that's the way I'm supposed to start. I'm sorry I said it in the end. I think this bill is not really well thought out.

I vote no.

ACTING PRESIDENT KUHL: Senator Gold in the negative.

The Secretary has asked all those members who are voting in the negative, please raise your hand once again.

Senator Maltese, to explain your vote?

SENATOR MALTESE: Yes, Mr. President.

It's all very well for some members of the Minority to demean this type of legislation. The unfortunate -- the unfortunate

situation is that in many of the areas that we represent, many of the urban areas, this is absolutely necessary, and while some may take Senator Velella to task for proposing this excellent legislation which I co-sponsor, at the same time, since the daily papers have indicated that this legislation exists, we have received, I know, in my office and in many of the other offices, nothing but approbation from our constituents.

So the unfortunate situation is that it is necessary. We are taking steps to attempt to alleviate a situation that is very detracting from our communities, takes away from the good order in our communities, and rather than attack those or demean those who propose the legislation, they should come up with alternate legislation.

I vote aye, Mr. President.

ACTING PRESIDENT KUHL: Senator Maltese in the affirmative. Announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 175 are Senators Abate, Gold, Leichter, Paterson, Smith and Senator Waldon. Also, Senator Galiber. Also, Senator Mendez. Ayes 41, nays 8.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the controversial calendar.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: Yeah. While I was at the Finance Committee meeting, apparently we passed Calendar Number 276, and I ask that I be recorded in the negative.

ACTING PRESIDENT KUHL: Without objection, Senator Gold will be recorded in the negative on Calendar Number 276.

Senator Galiber.

SENATOR GALIBER: Yes. I would like to request unanimous -- request consent to be recorded in the negative on 276 also.

ACTING PRESIDENT KUHL: Without

objection, Senator Galiber will be recorded in the negative on Calendar Number 276.

Senator Nanula.

SENATOR NANULA: Mr. President, I too would like to be recorded in the negative, unanimous consent, on Calendar Number 276.

ACTING PRESIDENT KUHL: Without objection, Senator Nanula will be recorded in the negative on Calendar Number 276.

Senator Kruger.

SENATOR KRUGER: Mr. President, I as well would like to be recorded in the negative on 276.

ACTING PRESIDENT KUHL: Without objection, Senator Kruger will be recorded in the negative on Calendar Number 276.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees. I believe there's a report from the Rules Committee.

ACTING PRESIDENT KUHL: You're correct, Senator Skelos, there is a report of

the Rules Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers the following report: Senate Bill 4205, Budget Bill, an act to provide for payments to municipalities and providers of medical services.

Senate Print 4206, Budget Bill, making an appropriation for the support of government.

Senate Print 4207, Budget Bill, an act making an appropriation for the support of government.

Senate Print 4208, Budget Bill, an act to provide for payments to vendors under the Women, Infants and Children program and making an appropriation therefor.

All bills recorded directly to third reading.

SENATOR SKELOS: Mr. President, I move that we adopt the Rules Committee report.

ACTING PRESIDENT KUHL: The

motion is to accept the Rules Committee report as read. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Rules report is adopted.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. If we could take up Calendar Number 434, Senate 4205.

ACTING PRESIDENT KUHL: Calendar -- the Secretary will read Calendar Number 434.

THE SECRETARY: Calendar Number 434, Budget Bill, Senate Print 4205, an act to provide for payments to municipalities and to providers of medical services under the Medical Assistance Program.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation has been asked for by Senator Paterson on Calendar 434.

SENATOR STAFFORD: Thank you, Mr.

President.

This is a Medicaid emergency appropriation.

ACTING PRESIDENT KUHL: Senator Stafford, excuse me just a minute. Could we have some order in the chamber, please. An awful lot of conversations going on. It's very difficult to hear. Please show a little respect to your colleagues who want to debate the bill.

The Chair recognizes Senator Stafford for an explanation.

SENATOR STAFFORD: Thank you, Mr. President.

As we have done in the past, this is a Medicaid emergency appropriation bill.

It appropriates 140 million from the general fund for Medicaid payments to vendors due on April 19, 1995.

It also appropriates federal funds amounting to 165 million for a total of 305 million. Passage of this bill will ensure payment of the April 19th Medicaid cycle.

The general fund appropriation

includes 115 million for Medicaid and 25 million for income maintenance which will be used for the local share of upstate Medicaid payments.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter, why do you rise?

SENATOR LEICHTER: I want to inquire because I don't believe the bills have been distributed yet.

SENATOR STAFFORD: They should be. They're in the black book, Senator.

ACTING PRESIDENT KUHL: These bills were -

SENATOR LEICHTER: Were they put in the book? I see.

ACTING PRESIDENT KUHL: They're right on your desk, Senator Leichter.

SENATOR LEICHTER: Okay. I thought they had been -- yes, they are in the back of the black book.

Thank you.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

I'll be brief. This is one of a package, and I guess the bills are necessary because of the failure of the -- this house and the Governor to be able to put together a budget. So I, on this occasion, will probably vote for them, but I wanted to make a couple of brief points.

First of all, I can't forget the press releases that came out of this house by essentially the same group of people, because there are few new faces on your side, but it's essentially the same group, and those press releases were blaming Mario Cuomo for not passing a budget on time and, as a matter of fact, not only did you blame Mario Cuomo, but you wouldn't agree to a budget on time because some of you said you were fighting for things that you thought were right and, after all, the budget was late, but you were fighting for what was right.

Now, I understand that the

Assembly Democrats, thank the Lord, are fighting for what many of us think is right and you say it's their fault. Well, that's not the way logic works. The fault has to be under the logic of the Majority in this house, the fault of George Pataki and Joe Bruno and all of you.

As a matter of fact, while I have the luxury of being with my family and not having to worry about leaders' meetings, my understanding is the Governor has not even called a leaders' meeting for five or six days.

Today while the state has no budget, the Governor, as I understand, is not in town. I understand he is flying around and doing some campaigning in different places on the budget, but I guess it's still in the nature of campaigning and, of course, I think that all of this is fascinating from another point of view.

I asked the question in Finance whether or not any of these bills provided for the Senate to make payments on contracts. We are past April 1st. We all have district

offices. I assume that they are leased. Those landlords don't work for the state. They just in good faith assume that, if they gave property to us, their rents would be paid and, of course, nobody seems to worry about that.

But what I worry about most of all is the fact that the bills are patently unfair and they are absurd, politically absurd. The concept that we are not working as a Legislature because we do not agree is childish and it's absurd.

Not only that, I mean, I can take it. You know, you want to withhold my check. I know I'm getting the check. Everybody knows I'm getting the check. It's in the Constitution I'm getting the check, but what is unfair is that, while we are at least statutorily and constitu tionally a part-time Legislature and those of us who want can engage in other business, our employees are full-time people; not only that, we make sure they're full-time people.

Years ago, there were people who were part time and, with a number of things that

went on, we now have absolutely, for the most part, full-time people who are working, so they have no other source of income and, as I pointed out before and I'm going to stress again, the Governor's public position about his not being paid and we in the Legislature will not be paid is a fraud; it's an absolute fraud.

There are people who I know - very, very decent people -- who work for the Republican Majority in this house who supported George Pataki and you, and worked very hard to keep their jobs, who rent homes, who own homes and whose banks and landlords expect that, if they are going to sleep at night and live in those homes, that the mortgage or the rental be paid. That's not George Pataki's problem. He's living free over at the mansion.

Those people, before they come to work, eat food that they shop for, many of them working mothers and fathers go shop on the weekends. George Pataki didn't have to shop this weekend because he eats for nothing at the mansion.

A lot of the people who work in the Capitol live in our surrounding areas. They come down the Northway a little bit. They come up from the south a little bit, and when they get up in the morning and they have to get in a car, there's gas in it if they have money to put gas in it, but if George Pataki wants to go to New York, we give him a plane. We even put the gas in it. We don't expect him to fly by himself. If he wants to come in the Capitol, drive around town, we give him a car and there's gas in it, and he does everything he wants to. He eats. He travels. He has a roof over his head. So when George Pataki says that "I'm withholding my money just like I'm withholding your money," that's a fraud because the people who work for the Legislature use that money to buy their housing, buy their food, buy their transportation. And so it is not an equal playing field.

And I say again, I would have more respect for George Pataki's position if he moved out of the mansion, went into a hotel or

an apartment, started buying his own food and walked to work and took cabs or flew commercial flights, then he would be on an equal playing field with everybody.

But this bill, the one that deals with the Legislature and the Governor's office, is the worst kind of political grandstanding. That's exactly what it is. And the fact is that, while we are here in Albany today, I haven't heard anybody talk about budgets other than these bills which deal with temporary solutions, and the temporary solutions are there because we are a ship without a leader. The Governor is not here negotiating. The Governor is some place else in this state, so I am told.

SENATOR SKELOS: If you would yield for a minute. The Governor is on the second floor, I believe, having discussions -

SENATOR GOLD: Oh, is that right?

SENATOR SKELOS: -- with Senator Bruno.

SENATOR GOLD: Well, if that's the case, I'm thrilled.

SENATOR SKELOS: So before you make that type of misstatement, you should know what you're talking about.

SENATOR GOLD: No. I'm talking about -

SENATOR GALIBER: Ask him to yield.

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GOLD: No, no. That's fine, Senator Galiber. Thank you.

If I was told something wrong, Senator Skelos, I'm delighted. I'm delighted, and I hope he stays in Albany.

SENATOR SKELOS: I think your efforts should be -

ACTING PRESIDENT KUHL: Senator Gold, do you yield to a question from Senator Skelos?

SENATOR SKELOS: -- with Assemblyman -- with Speaker Silver. We have passed a budget in this house. We are waiting for the Assembly to pass a budget, so that just

like with 65 miles an hour, there's a thing we established called a Joint Conference Committee. You can go to joint conference once there's legislation passed in both houses. The Speaker would pass his budget rather than saying "I have a budget. We've done a budget in the Assembly", pass it, take difficult votes like we have on this side of the aisle, your side criticizing as your constitutional right to do. The same thing you have in the Assembly. The Speaker should be a leader, pass a budget. We can go to Joint Conference Committee, resolve the differences, and then there will be a final budget for the state of New York.

SENATOR GOLD: Would the Senator yield to a question?

SENATOR SKELOS: Absolutely.

SENATOR GOLD: Senator, last year there was a different governor and we were late, and your conference refused to pass a Mario Cuomo budget on time. Are you telling us that your conference was irresponsible?

SENATOR SKELOS: There's a

difference.

SENATOR GOLD: Answer the question.

SENATOR SKELOS: I'm going to answer the question.

SENATOR GOLD: Good.

SENATOR SKELOS: But don't tell me how I should answer it.

SENATOR GOLD: Oh, I wouldn't tell you anything, Senator.

SENATOR SKELOS: There's a difference right now in leadership, and the decision was made this year under the leadership in our house that we would pass a budget by March 31st, which we did. The Assembly has refused other than debt service -- I think just debt service they have passed, one other bill, two out of 82 that we have passed. They have refused to do so, and there's no way you can go to Joint Conference Committee. We passed our bills for years. You have been yelling on that side, "The light of the day, not in the evening; let us see the bills."

We've done it. We've passed a budget. We've accepted your amendments. We've accepted your criticisms. Fine. That's the process, but the Assembly has failed to do the same. Let them pass their budget. We can have a Joint Conference Committee and resolve the differences.

SENATOR GOLD: Will the Senator yield to question?

SENATOR SKELOS: Absolutely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Are you saying that the failure of the Republicans in this house to pass a budget on time last year, the year before, maybe 12 years in a row is because there wasn't a Joint Conference Committee? Let me finish the question. Isn't it a fact that, in all of those years, the same thing was available as is available today, the opportunity of the leaders to sit down and talk this out; isn't this a fact?

SENATOR SKELOS: Senator Gold,

we're breaking with tradition on this side of the aisle. For all the years, there was a Democratic governor, a Democratic Assembly. They never passed a bill on their side of the aisle in their house by March 31st.

The Senate Majority under Joe Bruno is breaking with tradition. We have passed a budget. We are asking Speaker Silver to stop the ways of the past that he was part of, pass a budget and let's go to joint conference, resolve the differences with the press watching the negotiations, being there, seeing what's happening in the light of day. That's what you all talked about on this side of the aisle, reform, openness, light of day. We've done it, but what about Speaker Silver? Where is he? Pass a budget.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yes.

ACTING PRESIDENT KUHL: You have the floor.

SENATOR GOLD: Yes, thank you.

The simple fact, Senator Skelos, is that nothing has changed in terms of the fact that this house passing a bunch of bills does not create a budget. That's a fact. Ever since I'm here, I have sat in day after day and seen your house pass one-house bills.

Now, do I think that's a waste of time? Politically it isn't, because your side of the house gets press release, press release, press release on one-house bills, and that's what you've done.

As a matter of fact, there's an old story -- and I won't give you the whole story -- a young man who works for his father's law firm and they give him some work -- work on a railroad case, and the kid comes back in six months and he says, "I need some more work." He says, "What do you mean?" He said, "I settled the case." He said, "You jerk, you settled the case? That case has been supporting this family for 20 years!" And you guys have bills that have been supporting your political careers for 20

years and, God forbid, the day that we pass them in two houses you may have to think -- think about something.

But nothing has changed, Senator Skelos. The fact is that the one thing that doesn't change is that the Governor is supposed to show leadership and, if the Assembly passed a bill and we went to the Conference Committee, that's all well and good, but the fact of the matter is that in the days of yore when your side was intent on embarrassing a Democratic governor, the fact is he called meetings and your side would go to the meetings. Sometimes you'd walk out in three minutes, sometimes you'd walk out in eight minutes, but the Governor at least called the meetings.

This Governor is not calling meetings. People can sit in a room and with or without -- with or without bills that have been passed, the bottom line is you get negotiations and you get this work done, and the fact is that we're not getting the work done; but the bottom line, Senator Skelos, which I know you really

don't want to deal with, is that we're passing measures that take care of the state on a temporary basis. We've done that in the past, but we have never taken the position -- we never had a governor take the position that, if you don't agree with me, I am going to penalize people who work for a living, not legislators, but people who work for a living while the Governor eats free, lives free, rides free, and that part of it, Senator Skelos, is unconscionable.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

Senator DeFrancisco.

SENATOR DeFRANCISCO: On the bill.

ACTING PRESIDENT KUHL: Senator DeFrancisco on the bill.

SENATOR DeFRANCISCO: You know, you can't win no matter what you do.

The first two years in this Senate, I heard Senator Gold over and over and over again, "Pass bills in the light of day.

Don't go behind closed doors. Don't have these meetings that we're not participants in. Do these things in the light of day." So this year comes around, there's a Republican governor, a Republican, new Senate Majority Leader who says, "Let's do it. Let's change. Let's have a breath of fresh air in the way government works, and, Speaker Silver, do the same thing," so the world can see in public each of your positions on the budget and so the Minority in each house can debate the bills and show the defects in those bills so that democracy works.

And now this year, Senator Gold looks back to the past and speaks with fondness over the meetings that were in private where our side walked out of the meetings. He forgets to mention that Sheldon Silver has been walking out regularly, but nothing, not an ounce of criticism, not an ounce of criticism for the Assembly who has not passed the budget bills from which we could try to make a public discussion and a public compromise.

SENATOR SKELOS: Mr. President.

SENATOR DeFRANCISCO: So simply stated, I think that it's -- the time has come to tell it like it is and be consistent, and consistency would call for both houses to pass a budget so that we can negotiate and get a final budget in this state.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President, would Senator DeFrancisco yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to Senator Skelos? The Senator yields.

SENATOR SKELOS: Senator DeFrancisco, I recall for the two prior years when our good friends on the Minority side of the aisle were yelling about reform and changes in the light of the day, one of the major reasons, I understand, that they voted against the budget, Mario Cuomo's budgets of the past, was the fact that the Minority Leader of the Senate and the Minority Leader of the Assembly

were not allowed to go to the leaders' meetings. Do you know whether that's changed this year and whether it's five-way negotiations now, or not?

SENATOR DeFRANCISCO: I know it's five-way negotiations. That's my under standing.

SENATOR SKELOS: Thank you very much.

SENATOR GOLD: Would the Senator yield to another question?

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to Senator Gold?

SENATOR DeFRANCISCO: I would be more than happy to.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator, maybe it works differently in Syracuse than in New York City, but how do you go to meetings -

SENATOR DeFRANCISCO: I hope so.

SENATOR GOLD: How do you go to meetings that don't get called, Senator? Would

you explain that to me.

SENATOR DeFRANCISCO: Well, there's a meeting going on right now, I understand, and the last meeting that was held, after about ten minutes Mr. Silver left, said he didn't want to sit down with David Duke, I believe. So why call a meeting if someone is going to walk out and not participate? Why call a meeting to negotiate when there's nothing on the table to negotiate with?

SENATOR GOLD: Will the Senator yield to a question?

SENATOR DeFRANCISCO: And that's the way we do it in Syracuse.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR DeFRANCISCO: Let me just finish.

The way we do it in Syracuse - this is how negotiations go on in Syracuse. I don't know how they go on in New York City. In Syracuse, one negotiator puts a plan on the table, the other negotiator puts a plan on the

table and you negotiate from two plans. It's not one person puts a plan on the table, another person says, "No, that's not good. Give me something else. No, that's not good. Give me something else." I don't think they negotiate that way in New York City either.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator DeFrancisco yields.

SENATOR GOLD: First of all, Senator, I'm sure in Syracuse, when one puts their plan on the table and the other one puts their plan on the table, it's in the same room, and if the Governor doesn't call people into the same room, I don't know what help that is but, Senator, I'm told that, while Senator Bruno, according to Senator Skelos, may be meeting with the Governor, that that is not a five-way meeting, so I may be missing something. I want you to explain to me how significant it is to stand up and say that negotiations are five-way,

not three-way if, in fact, there are no meetings and no conversations.

SENATOR DeFRANCISCO: Well, quite frankly, I think the meetings should be 211-way meetings, and the way that happens is both houses put bills on the floor, debate so the Minority has a chance to criticize, the Majority has a chance to promote their particular points of view and, to me, it's not a question of us being in the same room with bills, because we have a different chamber here. We've passed our bills in this chamber while the Assembly puts out press releases.

So I think the breath of fresh air that you have been begging for and complaining about over the last several years is here. It's really here. We need one more component; that's the Assembly to pass some bills so the public can see where everybody stands.

ACTING PRESIDENT KUHL: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Would Senator

DeFrancisco yield to a question?

SENATOR DeFRANCISCO: Yes.

SENATOR DOLLINGER: I appreciate your -

ACTING PRESIDENT KUHL: Senator Dollinger, wait just a minute. The Chair has been very, very lax in not asking all of you to go through the Chair. This is not meant to be a dialogue nor a diatribe in this chamber. I would respectfully request that you wait for the Senator to be asked if he yields, and then for him to respond, and then for the recognition on the floor of the chamber.

Now, Senator DeFrancisco, do you yield to Senator Dollinger?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I appreciate your comments about the breath of fresh air. If that breath of

fresh air is blowing -- my understanding is that we passed a capital budget bill and the Assembly has passed a capital budget bill -- why has there been no Conference Committee to reconcile the difference between those budget bills, exactly the same as the two bills that we did for the 65-mile-an-hour speed limit?

SENATOR DeFRANCISCO: Thank you for asking.

Now, let me -- let me -

SENATOR DOLLINGER: You're welcome.

SENATOR DeFRANCISCO: Since you're a lawyer and you've negotiated things, let's -- let me ask you this: Don't you have to have the whole proposal on the table to negotiate a budget? Do you go in on a litigation and say, "Well, listen. Let's negotiate the pain and suffering aspect of this lawsuit. Let's not worry too much about the wrongful death case because we'll get to that later. Let's try to get as much as we can here and then we're going to negotiate the wrongful

death, then we'll negotiate attorneys' fees, then we'll negotiate something else, one at a time"?

Anybody that negotiates that way over a complete settlement is an idiot, and anybody who negotiates that way without having the complete budget package on the floor so that you know what the final numbers are that we're working from would not be negotiating properly.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, excuse me just a minute.

Senator Skelos, why do you rise?

SENATOR SKELOS: I believe Senator DeFrancisco has the floor and I believe the question was why we're not conferencing state operations. I believe the Assembly amended the Senate bill but did not pass it. They passed debt service and state op's, not capital projects.

ACTING PRESIDENT KUHL: Thank you for the point of information, Senator Skelos.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I guess I would just respond to Senator DeFrancisco. The one thing I would never do in litigation is put a proposal -

ACTING PRESIDENT KUHL: Senator Dollinger, if you're asking Senator DeFrancisco to continue to yield, that's fine.

SENATOR DOLLINGER: I would like to go on the list.

ACTING PRESIDENT KUHL: Senator DiCarlo, Senator Waldon and after Senator Dollinger on the list.

Thank you.

The Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President.

I wasn't going to speak on this, but I just feel I've got to stand up. I've only been around here -- this is my -- beginning of my second year, and from my -- basically, a layman's position, I find it amazing that the

other side of the aisle doesn't understand what the real story here is.

The real story is that the people in this chamber and a number of you on that side of the aisle who might have voted yes on parts of this budget put their positions out in the open for the voters and their constituents and their people to see. A lot of what was in this budget that we passed was not the easiest thing in the world to vote on. A lot of the things in the budget some of us might have had some problems with because this is a very difficult year, but the people in this chamber had the guts as elected representatives to speak openly about their positions and to vote on the future of this state.

Some of us didn't like everything in it. Some of us might have liked everything in it, but at least we did what we were sent here to do, and that is to take a position. I believe, and I would hope that the rest of the people in this state would understand what's happening on the other side of this building.

The reason that they haven't voted on a budget, the reason they haven't passed a budget is that they cannot pass a budget in the light of day.

Speaker Silver and the people who control the other house know that, if they ever came public with what they really want, it would upset a lot of people, namely a lot of their own members. So they would rather lurk in the dark hallways of the Capitol and try to come out with an agreement in the darkness rather than come out in the light and say what they really believe and what they really stand for.

I say shame on Speaker Silver. Shame on the Democrats who control the Assembly. If you have the guts to go back home and say that you're against so many things or you're for so many things, then you should have the guts to stand here, to debate it, to take a vote and to be on record with your position.

I'm proud of what this chamber has done. As I have said earlier, I might not agree with everything that we voted on, but we voted on it while the Assembly is afraid to vote

on it because, frankly, I don't think they could pass it. Frankly, I don't think the Speaker over there has enough of his own members to pass a bill.

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

SENATOR DOLLINGER: Thank you, Mr. President.

Two quick things. One, I want to clarify my comment to Senator DeFrancisco. I'm sorry he's left. There's one thing I would never do in negotiation as a lawyer, is something I think was done in this house. I would never put a proposal on the table and say, "The proposal is there. Let's negotiate the budget proposal," and the very next day say, "Oops! I got this 250-, 280-, $300 million piece that I left out of the proposal, but I can't call it a budget. I'm instead going to call it economic development, and it'll have stadiums in it and it'll have tax cuts in it. It'll look a lot like an amendment to the budget proposals." That's the one thing that I would

never do in litigating -- in trying to settle a case, is to say, "I've done my job.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR DOLLINGER: "Oops! I've got this big thing I want to tack onto the end of it which I'm going to call by another name."

ACTING PRESIDENT KUHL: Senator Dollinger, excuse me just a minute.

Senator Libous, why do you rise?

SENATOR LIBOUS: Would Senator Dollinger yield for a quick question?

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

SENATOR DOLLINGER: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LIBOUS: Mr. President, how did Senator Dollinger vote on that proposal?

SENATOR DOLLINGER: How did I vote on that proposal? Oh, I'm willing to buy -- as I've said throughout this chamber, I'm

willing to vote in favor of all that stuff; you tack it on.

SENATOR LIBOUS: How did he vote on that?

ACTING PRESIDENT KUHL: Senator Dollinger?

SENATOR DOLLINGER: I voted yes.

SENATOR LIBOUS: Thank you, Mr. President.

SENATOR DOLLINGER: Exactly what I said at the time I voted is that, if you want to play that game, if you want to do that, I'm willing to buy into that. I understand the politics of that. What I'm simply suggesting is -- in response to Senator DeFrancisco is I don't think it's one way to negotiate to say, "Here's the lump sum; it's all done and, oh, by the way, we got this other thing that we want to tack on off-line."

I would just point out one other thing, Mr. President. A lot has been made about guts and courage. May be a lot of courage on the other side of the aisle. From another

perspective, it might simply be that there hasn't been a lot of courage; that the whistle has been blown by Chairman Powers to back the Governor and to put George Pataki's plan in front of the people of this state and, instead of exercising courage, what people are doing is simply falling in line. That may be another way to look at it. Maybe we'll let the voters decide that, because it certainly seems that that's the politics of what's going on in this state today.

ACTING PRESIDENT KUHL: Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Mr. President, would the Senator yield for a question?

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

SENATOR DOLLINGER: I would be glad to.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MARCELLINO: Senator

Dollinger -- through you, Mr. President -- I would think that we would all be in favor of a budget that spends less than we did last year. Would that be a fair statement, sir?

SENATOR DOLLINGER: I'm not sure -- I wouldn't make that judgment until I saw what it looked like, Mr. President.

SENATOR MARCELLINO: Through you, sir, Mr. President.

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

SENATOR DOLLINGER: I will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MARCELLINO: Would you be in favor of a budget that provided tax relief for our population?

SENATOR DOLLINGER: Depending on what the spending was attached to it, Mr. President, I would certainly look at that. I'm not convinced that that would necessarily earn my vote, that fact alone.

SENATOR MARCELLINO: So would it be fair to state then that -

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

SENATOR DOLLINGER: I will, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MARCELLINO: Through you, sir. Would it be fair to state then that the Senator would want to spend more and raise taxes?

SENATOR DOLLINGER: Mr. President, it all depends on what that spending would go for. I have talked a number of times in this chamber about what I would support and what I wouldn't support. What I made very clear with this budget by my votes is that I'm not prepared to spend -- support the spending package and the taxing package that's been approved by the Majority of this house, period.

SENATOR MARCELLINO: Mr. President, would Senator -

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

SENATOR DOLLINGER: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MARCELLINO: Would the Senator agree that, at the very least with respect to negotiations, that this house has presented a package that you and all of us could make a fair decision; whether you agree with the tax cuts, whether you agree with the lack of spending or the reduced spending, whether you agree with the capital funding, whether you agree with any aspect of it, at the very least, this house has had a budget to negotiate, to debate and to argue back and forth with; do you see another budget on the other side to do the same critical analysis of -

SENATOR DOLLINGER: Mr. President, just by way of clarification, do you include the economic development stimulus package as part of that budget?

SENATOR MARCELLINO: Include it all.

SENATOR DOLLINGER: Include the whole thing?

SENATOR MARCELLINO: You got it all in front of you. My question, sir, is we have it all in front of us, whatever it is, the economic development package. We have the reduced spending package. We have the tax cut package. We have the capital budget package. We have state op's. We have it all.

Now, I'm new to this chamber. I will admit to being green as grass in all of this stuff, but at least it's there in front of you. You could take that home to your district and rant and rave and do whatever you want - and I don't mean to characterize anything you do. It's just a statement, but you could make anything of it you wish. At least it's something to put your teeth into.

I see nothing coming from the Assembly that we -- until very recently, that we could do the same with. Would you agree with

that, sir?

SENATOR DOLLINGER: I would certainly agree, Mr. President, by passing this budget and perhaps by making a statement about economic development, there has been a position advanced by the Senate Majority that they would like to accept the Governor's proposals from downstairs. I believe that's a clear statement.

SENATOR MARCELLINO: You think the budget would certainly -

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

SENATOR DOLLINGER: Yes, I will, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: I apologize.

SENATOR MARCELLINO: Are you okay?

SENATOR DOLLINGER: Yeah, I am.

SENATOR MARCELLINO: I can give you CPR. A little Heimlich is good too.

Do you think the budget that we

passed is the same budget that the executive branch sent down originally?

SENATOR DOLLINGER: At least from my perspective -- again, talking from my perspective in my district, I think with minor alterations, it is. That's my personal opinion.

SENATOR MARCELLINO: $500 million -- sir, on the bill. $500 million -

ACTING PRESIDENT KUHL: Senator Marcellino, there are a couple other people ahead of you.

SENATOR MARCELLINO: Go right ahead. I'm sorry.

ACTING PRESIDENT KUHL: Thank you, Senator Dollinger.

Senator Paterson.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Dollinger yield to a question?

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

SENATOR DOLLINGER: I would be

glad to, Mr. President.

ACTING PRESIDENT KUHL: Senator DeFrancisco, the Senator yields.

SENATOR DeFRANCISCO: Senator Dollinger, do you believe that the Assembly should pass a budget of its own in the light of day so that we could see what their position is in this budget process?

SENATOR DOLLINGER: Mr. President, I'm not -- for one, I'm not prepared to substitute my judgment as to what the Assembly would do or the Speaker or the other two -- 150 members over there, but I do agree with Senator DeFrancisco, that there is a starting point for every negotiation, there is a continuation point in every negotiation, and there is an end point. I'm not sure -- and I guess I'm not satisfied that what I have heard about the negotiations today suggest that the - even the negotiators have gotten to the point of talking about major issues that would affect this budget and, from my point of view, again, I'm not defending the Speaker. I don't know

what the Speaker wants to do. I haven't talked to him about it. I leave that up to the wisdom of the Speaker. It's his house. It's his Majority. It's his members that elect him. Let him decide what his members want him to do.

SENATOR DeFRANCISCO: Would Senator Dollinger yield to the same question?

ACTING PRESIDENT KUHL: Senator Dollinger, do you yield?

SENATOR DeFRANCISCO: I'm asking you your opinion as a member of the legislative branch, do you believe it would be helpful to have the Assembly pass a budget so that negotiations -- the starting point of negotiations could be defined on April 17th?

SENATOR DOLLINGER: I would just ask Senator DeFrancisco to yield to the same answer. I think I made it clear. I would leave that up to the Speaker.

SENATOR DeFRANCISCO: So you have no opinion on that?

SENATOR DOLLINGER: From the point of view of negotiating this budget, I

leave that judgment up to the Speaker.

SENATOR DeFRANCISCO: I have nothing further.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Mr. President, if I'm correct, we're on Calendar Number 452, which relates to Medicaid, but it seems that we have gravitated into a discussion that will involve Calendar Number 436, and I wanted to know if the Acting Majority Leader would yield to a question related to the payment of state personnel?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator Velella?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR VELELLA: Yes.

SENATOR PATERSON: Thank you, Mr. President.

Senator Velella, in this bi weekly piece of legislation that will provide for the payment of -- will conduct state operations and will pay the legislative and judiciary, I noticed the same items that existed two weeks ago, meaning that members of the Governor's staff will continue to be paid under the Federal Fair Labor Standards Act; is that correct?

SENATOR VELELLA: Yes, that's correct.

SENATOR PATERSON: And I would like an explanation, if you would yield for this question, as to why it is that these employees would be paid when those of equal worth and value who work for the legislative staff, my secretaries and support personnel, and yours as well, will not be paid?

SENATOR VELELLA: Well, not everybody in the Governor's office is getting paid under this, as you well know, and his secretarial staff will be paid whereas ours will not, and that is because, as I understand it,

the interpretation of the federal law which would require that they be paid as opposed to it not requiring that ours be paid.

SENATOR PATERSON: In other words, the Governor is interpreting under the federal law that he has to pay?

SENATOR VELELLA: Well, I don't know that the Governor is interpreting. I know it has been interpreted.

SENATOR PATERSON: It has been interpreted?

SENATOR VELELLA: I don't know if that -- I honestly don't know if that's been by judicial determination or by the Secretary of Labor or anybody of that nature, but it has been determined. I don't believe it was the Governor himself. I believe it was possibly some bureaucrats in Washington.

SENATOR PATERSON: Well, thank you very much, Senator.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President,

again through you, if Senator Velella would yield. My question is -

ACTING PRESIDENT KUHL: Senator Velella, do you yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Who is making the interpretation and why did they interpret that the legislative staff who are doing the same jobs as secretarial and support staff, why would they not be paid?

SENATOR VELELLA: Well, they're not covered under the Federal -- what's the name of the -- Fair Labor Standards Act, and they're not covered under it, and the intent is to cover those people under it by law. Those who are not will not get paid, unfortunately.

However, I believe that there is an adequate amount of funds available so that 70 percent of the pay will be coming to our employees that will be paying them up to March 31st, and that will be probably 70 percent, I

believe, of the pay that they will be due.

SENATOR PATERSON: Thank you, Senator.

I'm aware of that because two weeks ago, I stated right here on this floor that the Comptroller advised us that he would pay out of that fund and, at that time, he was actually able to pay the whole salaries, and he would be very interested in paying the entire salaries for the staff right now, but for the fact that there isn't sufficient money in there, and so he has enough to pay 70 percent of the staff and he will -- he will pay 100 percent of the staff 70 percent of their wages and on Wednesday, April 19th, he will do that.

But, if Senator Velella would yield for another question -

ACTING PRESIDENT KUHL: Senator Velella, do you yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: I have in

front of me, Senator Velella, Article 14 - actually, Article -- Section 200 of Article 14 of the State Finance Law, and it says very clearly that the state's -- that "the salaries of officers and the wages of employees thereof shall be paid -- shall be due and payable in the beginning of the fiscal year," which, at the time they wrote it, was April 1st, 1956.

So what I'm saying is that, under our own state law, it would seem to me that those employees must be paid, and what I'm trying to find from anyone, but I'm asking you, Senator, is an answer as to why they're not going to be paid.

SENATOR VELELLA: Well, Senator, let me explain to you, and I can only make it as very basic and plain as possible. They would be paid if the Assembly would pass a budget that we could all agree upon and they could be reimburs ed for the fair value of their services.

This house has acted. If they would pass our bill, everybody could be paid. There would be nobody going home without a

paycheck. However, the Assembly chooses to turn this into a political football and they refuse to pass a budget, and people are not going to be paid on account of that.

Now, I think that's unconscionable but, unfortunately, we have to live with the facts as they are. We have no budget in place and, in spite of the fact that that law may say and that section may say that people should be paid, they cannot be paid unless we have a budget appropriating the money. If we don't have the money, we can't pay. If the Assembly doesn't pass a budget, nobody gets paid.

Speak to Shelly Silver; don't speak to me.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, through you to Senator Velella.

ACTING PRESIDENT KUHL: Senator Velella, do you yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: This calendar number, 436, and this legislation is providing the money for them to be paid. Now, what I'm going to do, Senator, is I'm going to demur to your complaint. I think Senator Gold has pretty much stated the argument on behalf of the Speaker of the Assembly. So for want of the discussion, I'm going to go along with you. Whatever you want to say about the Speaker, I'm not going to argue with you about it right now. What I'm saying to you, though, is that I just read you the section of the law, Article 14, Section 200, and it says that these employees shall be paid. It doesn't say, well, if you're having a big fight over the budget, you might decide you don't feel like paying them. It doesn't say that they can work but not be paid. They did work; we both concede that. I think it was a great Republican that said, In your heart you know I'm right. Senator Velella, in your heart you know that I'm right, so what I'm

really asking you is how can we pick and choose the laws that we're going to abide by and then just forsake those that we don't want to abide by?

The State Finance Law says when people work, they shall be paid. We can't blame the employee for the actions of the employers who are having a problem getting along. We have the money; we're appropriating it to pay everybody else. We're appropriating that money to pay the secretaries in the Governor's office and the support staff under the federal Fair Labor Standards Act.

We're appropriating the money to pay the salaries of some individuals who are unit heads who make 104,000 a week and we're not paying the interns -- I mean who make $104,000 a year and we're not paying the interns who make $104 a week.

And so what I'm saying to you is I don't understand how anything can be unconscionable, how you can make the comment about the Assembly being unconscionable because

if you're going to make an argument in equity you've got to come to the table with clean hands. You can't not pay the staff and then turn around and argue about what your adversary is doing. You may be one hundred percent right about what you want to say about your adversary, but now you've made yourself a hundred percent wrong by manifesting this conduct in an action that is really loathesome.

How can you not pay the staff? They worked the time. Why don't they get paid?

SENATOR VELELLA: You asking me to yield to that question? Why don't they get paid? Very simply, the reason why anybody in this state is missing a paycheck is because the Assembly has failed to pass the budget. Now, we have done what we think is right. The Governor has openly said he would sign that budget bill. Everybody would be paid if Shelly would get off the dime and pass a bill, but we can't negotiate with someone who refuses even to act. Everybody would be paid.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: I yielded to Senator Velella.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: And I commend you, Senator Velella, because in fact, I think that if I ever commit a crime and I'm on my way to the lethal injection because we have the death penalty in this state I would want you, Senator Velella, to -- to defend me.

The reason I would want you to defend me is because -

SENATOR VELELLA: Will the Senator yield for a question?

SENATOR PATERSON: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR VELELLA: As you know, attorneys, under the special laws now are allowed to advertise. Would you publicly allow me to use that statement in the future?

SENATOR PATERSON: I absolutely

would want Senator Velella to defend me.

SENATOR VELELLA: Thank you.

SENATOR PATERSON: I'm not backing away from that and let me tell you why: Because I know I'm guilty. I know I committed the crime. I know that I did it and everyone knows I did it, but Senator Velella can still get up and perhaps make an argument that could get me out of it, and I think that is quite commendable especially in this forum, because it's really, in my opinion, the artistry of advocacy, and we've seen an example of it by Senator Velella, and I'm impressed to the point that I would retain him myself if I ever had a -- that kind of a problem.

But when we talk about the bill, Mr. President, Senator Velella's, I think, expert soliloquy cannot move us away from facts that are staring us right in the face. Somebody years ago thought about this. That's why our Constitution, both the federal one and the state one, which Governor Pataki took an oath that he would uphold, that's why they are such unique

documents and that's why they've held up over such a long period of time, because our ancestors thought of this. They thought about this, and they decided that some things, as they say, should be written in stone.

The staff works, the staff gets paid, the federal employees under the Fair Labor Standards Act, the state employees under the State Finance Law. It all says the same thing. If people work, they who travel here at distances, they who don't make very large salaries, some of them work seasonally, some of them work session, they aren't involved in the process. It's really not their issue to be debating. They don't have political agendas as we often did. They don't engage in absurd extremes as we do in this chamber every day. They don't walk around peddling a bunch of simplistic exaggerations that often parody the truth.

If we really want to do something to set an example, we should pay them. They earned it. That's what we could do to set an

example. But, instead, we drag them into the mire of our confusion just as much as if they had participated in it, and we all know good and well they didn't have anything else to do. If anything, they worked long hours; they've been loyal, they've sponsored us with the ability to have often these types of debates, and what I'm saying is they earned the right to get paid, and we have found a way, and this is why many of us in this profession are suffering from the public ridicule now.

We found a loophole, but we didn't even find a loophole. We just didn't pay them and engaged in the art of sophistry, of standing up and making a bunch of intellectual explanations that actually parody the truth, and the truth is they worked and they should have gotten their money, and we didn't pay them.

That's the whole truth of the whole issue, and we have spent more time on this floor debating this absurd discussion -

ACTING PRESIDENT KUHL: Senator Paterson, excuse me just a minute. Senator

Waldon, why do you rise?

SENATOR WALDON: I would like to know if the learned Senator from the town of Harlem would yield to a question or two?

ACTING PRESIDENT KUHL: I assume that was Senator Paterson you're talking about?

SENATOR WALDON: Yeah.

ACTING PRESIDENT KUHL: Senator Paterson, would you yield to Senator Waldon?

SENATOR PATERSON: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Thank you very much, Mr. President. Thank you very kindly, Senator Paterson.

Senator Paterson, I just heard you say "we" did not pay them. Are you aware, Senator, of a letter that came across your desk some many days ago, signed by the Governor of this state, stating that he would stop all checks for all state employees if we, the legislative body, did did not pass his budget? Are you aware of that, Senator Paterson?

SENATOR PATERSON: Yes, I am, Senator Waldon. He didn't actually sign my letter, but he did send it to me. You're absolutely correct, and to augment that answer, I would say that when I used the term "we", I was just taking responsibility, as I'm sure we all do, for being unable in three weeks of discussion, to convince the Governor as his colleague, as someone that works with him in the Legislature, he being the head of the executive branch and those of us being the legislative branch, I was really talking about those of us in the profession, those of us who are elected officials, those of us who are politicians, and I meant that when Governor Pataki fails, in my mind, in some ways we all fail because it is hard for individuals to distinguish who is actually doing it and of those such as yourself, Senator Waldon, who are sophisticated and understand these things, we're here every day, although I would suggest sometimes when you're here every day you understand things less than if you weren't here, those who don't have that

privilege really just know that there is some kind of discrepancy and can't put a label on it, and so in using the term "we," I was really just trying to say that it's something that in a sense is a cross we're all going to have to bear. It is a responsibility that we're all going to have to take and turning the discussion into whether or not the Assembly passed the budget, well, what if the Assembly did pass the budget? The Assembly could have passed the budget before April 1st, I'm sure that wouldn't have been a particularly difficult thing to do. They pass the budget and the two budgets don't agree, we'd still be standing here, but our staffs would still not be paid, so the Assembly not passing the budget couldn't have been the answer.

The answer, I think, is in your question, Senator Waldon, that the Governor decided that he was going to take responsibility and he wrote to all of us, and he was very public about this; he said this at his State of the State message, or on January the 5th, he

said that, "if the budget does not get passed, you will not get paid and neither will I."

At the time, he didn't say anything about the staff, but he went on to, at one point, threaten to close down the whole state. He was going to pay -- he wasn't going to pay any of the state employees, but their unions came forward and stood up on the issue and then the Governor backed down.

Now, we come to the legislative staff, and when we look at the legislative staff, they don't have a union. Nobody wanted to speak up for them, and so finally, it was determined to do it in this particular way which is a manner that is disproportionate, and then to use a term, the federal Fair Labor Standards Act, which is really nothing more than a term. It's an act, but it's not even the reason that the Governor's support staff should be getting paid. They would qualify under the State Finance Law as does every other state employee that happens to be part of the legislative and executive staff.

And so the real answer to this is that, again, we have played a game to try to gain political advantage, and then to get up and talk about whatever political advantages that the Assembly is trying to take really ridicules the whole process, because if anybody is going to stand on principle, then they can't at the same time be violating the laws of the state of New York.

And so, I am -- I stand corrected, Mr. President, by Senator Waldon. I guess it really isn't "we." Senator Waldon got up and talked about this two weeks ago. I talked about it. Senator Gold did. Senator Leichter did and Senator Dollinger spoke about it and so did others, and yet two weeks later we're right back here in the same bill. I feel as if the two weeks of my life meant nothing. I'm still standing here.

I feel like Bill Murray on Groundhogs' Day. I'm back up again making the same mistakes that we made two weeks ago as if it was yesterday. And does this mean that two

weeks from now zero percent of the salaries of the staff won't get paid if we don't pass the budget? We're going to blame that on the Assembly when, in fact, we come to the Governor.

Now, we come to the person who really should account for this situation. He is the person that put this discussion on the table in the first place. Now, either he wants to pay the staff or he doesn't want to pay them. He hasn't answered in the affirmative or in the negative. He has just decided to engage in this sophistry of trying to make some sort of comparison between a federal act and a state act when they both mandate that the employees be paid.

If you ask the individual -- the individuals who drafted the federal Fair Labor Standards Act and told them that you were going to use that act to pay some employees and not pay the others, they would be outraged. That's not what the federal Fair Labor Standards Act was written for. It was in -- it was written to

protect federal employees, but the under standing was the dicta, the spirit of that act is that everybody would get paid as long as they were individuals who were employees in the actual process.

SENATOR WALDON: Mr. President, will the Senator yield to another question?

ACTING PRESIDENT KUHL: Is that explanation satisfactory, Senator Waldon?

Senator Paterson, do you yield to another question? The Senator yields.

SENATOR PATERSON: From the distinguished Senator from the 10th Senatorial District, I would do just about anything.

SENATOR WALDON: Thank you very much, Senator Paterson.

SENATOR PATERSON: Mr. President, just suggest no, I wouldn't do anything but most things.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: I won't ask you to do anything; I'll just ask you to do most

things, Senator.

Senator, in your knowledge of this nation, have you ever seen a precedent such as this before in the books you've read and the conversations you've had and the information that's been brought to you by various and sundry sources, that a Governor, on his own initiative and in absolute contraindication of the laws of the state he serves, refused to pay people for their labor?

SENATOR PATERSON: Mr. President, through you: Senator Waldon, this is unprecedented. This is, in my opinion, a real misfeasance of duty when if comes to applying the laws of the state of New York. This is why we all, whether we be governors or state Senators or Assembly members, take an oath and that oath means that we're not disallowed from having political agendas. We're not in any way askance from having a point of view. We don't eschew our right to be individuals, but at the same time we have sworn to uphold the Constitution and the laws therein.

The laws speak to this issue very clearly. The laws speak to the fact that the individuals who drafted them understood that in a very contentious negotiating process during a budget, that there could be this attempt to drag others into the process, to create a climate that would be more conducive to passing a budget through the individual's eyes. And they ruled on it.

They wrote the law, and you know what they wrote, Senator Waldon? They wrote, Pay the staff. They worked and they earned it. Pay the staff, and what's so amazing about this is the contradiction in the roles of those who are going to be paid or not paid. We're going to confirm two people today who are going to get paid. We're just getting around to confirming them, and we have individuals who are making 91-, $92,000 a year, $104,000. Mr. King makes 104,000. We're not even paying our interns. We're not paying secretaries. We're not paying computer operators; we're not paying support staff. We're not paying people who may live on

a check to check basis. We're not paying people who need that money.

They're not putting it in an IRA. They're not putting it in savings and loans associations. They're not frittering it away in stock options. They need the money. They need it for the tangibles of existence, the fungibles of life, and we're not going to do that because we're having an argument.

What an example that we're setting! What a mockery of the system! And yet getting up and blaming each other on a bi... on a basis of political rhetoric, it really is something that is as unpardonable as whatever it is that's being objected to and so, Senator Waldon, in answer to your question, no, I've never heard of something such as that.

SENATOR WALDON: Just to close, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: I may ask the Senator to yield to only one or two more

questions.

ACTING PRESIDENT KUHL: Senator Paterson, do you yield to another question from Senator Waldon?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: Senator Paterson, let me thank you for your kind indulgence to these questions. I do not want you to specifically blame -- I do not want you to specifically blame anyone for the dilemma that we're facing now in terms of the little people not being paid, but would you, in a hypothetical sense, characterize the refusal to pay the little people in this scenario, an absolute and unequivocal abuse of power? Or could you? I said hypothetical, Senator.

SENATOR PATERSON: Mr. President, would the Senator please repeat the question in a shortened version?

SENATOR WALDON: I shall attempt,

Mr. President, through you.

Senator Paterson, the issue we're talking about or have been dialoguing about over the past few minutes is an absence of pay in part this week and, in futuro, an absolute absence of pay for the little people and a distinction between those who will be paid and those who will not, with those being paid being closest to certain power zones versus those who are not closest to those power zones.

And so rather than be extremely specific about the antagonists in this particular life drama, I ask you in a hypothetical sense, would you characterize an abuse -- an action of this nature, refusing to pay the little people who have, in fact, worked for their pay, and I've said before an absolute unequivocal abuse of power, this time I'll rephrase it and say would you characterize and say in this hypothetical, that this as an abuse of power?

SENATOR PATERSON: Yes.

SENATOR WALDON: I appreciate the

succinct response this time, Senator Paterson.

SENATOR PATERSON: Mr. President.

SENATOR WALDON: What it lacked in -

ACTING PRESIDENT KUHL: Senator Paterson, do you continue to yield? The Senator yields.

SENATOR WALDON: Senator Paterson, I will preamble my question with some reflections. We have heard from the other side of the aisle today many admonitions blaming Sheldon Silver for his refusal to put on the table a package that could be dealt with, that could be negotiated.

We have heard barbs thrown from both sides of the aisle in regard to the current process and previous processes which we have dealt with regarding the budget. What we need to do in our deliberations, it seems to me, is to come up with an answer. Do you have any idea or any recommendations to the second floor, to our house or to the other house, how we can

bring this process to closure so that the little people will not suffer so who live hand to mouth, week to week, paycheck to paycheck, and so that we could come to a resolution of the budget process?

And I thank you very much for your indulgence, Senator Paterson, and I thank you very much, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Pay the staff. That would be my answer, and the reason that I would say that is that, how much more foresighted -- foresighted would it have been had we determined at some time in the past that we were going to handle the situation either by not paying anybody or, if we were going to just let those individuals who are in the decision making process, being those of us who are legislators, let us stand up and take responsibility for the fact that we haven't passed a budget and deny ourselves the salaries during that particular time.

Now, I actually think that constitutionally that there is really a preemption to some degree, and that there is an unfair advantage when one branch can influence the salaries or the paycheck receiving of another branch, and that it really impinges upon the constitutional advice that we get on separation of powers.

But I'm not even here to discuss really the legislative staff, most of the legislators kind of accept that, but this idea of finding a reason to pay some staff members and not to pay others, and shrouding it in a federal Fair Labor Standards Act which was never intended for that particular purpose, and it just happens that those individuals who qualify under that act work for you and the individuals who are in the legislative branch, meant all of them in this chamber, not just the Minority but the Majority, really is, as Senator Waldon said, boggles the mind as to the integrity of the process.

And at that point, to get up and

let the public think that we're really talking about budget negotiations when we're spending our time arguing over the same issue we argued over two weeks ago, I just would submit, Mr. President, that this is not the way to run an airlines; it's not the way to run a government. It is really not something that we should be proud of. It really brings a cloud of sort of mournful circumstance over the entire process because it opens the door to the insinuation that we are politicizing the process.

ACTING PRESIDENT KUHL: Excuse me, Senator Paterson. Senator Waldon, why do you rise?

SENATOR WALDON: I wanted to ask one last question.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: I was going to ask you to yield, but I yield to Senator Waldon.

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

SENATOR PATERSON: Yes, Mr.

President.

ACTING PRESIDENT KUHL: Senator Paterson yields. Senator Waldon.

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

Senator Paterson, I read in the paper the other day that we're losing $13.2 million a day, because we do not have a budget in place. I don't -- my memory may fail me in terms of the specific figure, but I think that's a ball park that's fairly accurate. Are you aware of that figure?

SENATOR PATERSON: Well, that would be 221 -- $224.2 million that we've lost since April 1st by my calculations.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson continue to yield?

SENATOR PATERSON: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Mr. President,

considering that we've lost that by not having passed a budget to this date, would the small amount of money that it would take to pay staff put us much deeper in the hole, staff that we've been talking about this afternoon, or would it be minuscule in comparison to that amount of money that we've already thrown away by not having a budget?

SENATOR PATERSON: Mr. President, through you to Senator Waldon, I think it would be kind of what Senator Stafford often refers to as de minimus res manos lex. It's such a small amount of money when it is transposed over the incredible amounts of money that we're losing and the fact that we are going to have to put this money back into the budget and pay the staff later on, that it is really a non-issue except for whatever institutional political value it would have, because it is well known that the staff members are considered to be cronies of the elected officials. They are labeled by the press to be at times unqualified. There are allegations of

corruption. There are stories that people hire their relatives and their family members to work on their staffs.

Very much to the contrary of how -- the staffs that I have had to work with among my colleagues and right here around the Legislative Office Building and the Capitol. I find that these individuals display a high degree of professionalism. They don't know when they're going to go home when they come to work. They don't really have any reprisal if they are dismissed by the principal.

They are individuals who work far into the night when we have sessions that evening. There's no overtime pay. I think that, as in any other profession, there are individuals who certainly bring harm to the profession too, by their independent acts, but I think these are people who don't need to be pawns in a chess game, who don't need to be relegated to the uncertainties that they're in right now.

And so I agree with you, Senator

Waldon, there's absolutely no reason to even fiscally cause the -- the state employees to - the legislative staff to endure a burden. It's not even costing us that much money to pay them.

SENATOR WALDON: Thank you, Senator Paterson. I thank you, Mr. President. I thank my colleagues for indulging me.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: Would Senator Paterson yield to one question?

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

SENATOR PATERSON: Yes, Mayor Gold.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator, I mean this has been going on. Isn't it a fact, that if the truth be told, that we have really lost the day already? We've been talking, we have let the other side convert this into a

conversation as to who's at fault, who is not at fault, whether the budget delay is the fact that Shelly Silver did or did not do this or they did that, isn't it really a simple issue that we have a series of bills put forth by a governor who is defrauding the people? He has taken the position that he will not accept money, that nobody should get money while he lives in a free house provided by the people, eats free food provided by the people, who is able to go down to Long Island and apparently come back in time to meet with Senator Bruno, I assume the state plane provided by the people, all of this while we go through the silly machinations of who's at fault.

Isn't it a fact, Senator Paterson, that, when Governor Cuomo could not reach an agreement, at least he kept calling people together. It didn't matter whether Senator Anderson walked out; it didn't matter whether Senator Marino walked out. It didn't matter what they did. It didn't matter how insulting they were. It didn't mean how

irresponsible they were. It was up to the governor to gulp and keep it going, keep the conversations going, whether it was behind closed doors, out in the front, in the press, by bills, it didn't matter. It was the governor's responsibility to keep it going.

Ego is not the issue. The rhetoric that we've heard has been terrible, from everybody. I don't -- I'm not here to defend Shelly Silver. I didn't elect him. The rhetoric's been terrible, but isn't it a fact that the bottom line here is hypocrisy, hypocrisy, because the Governor doesn't keep it going, hypocrisy because the Governor takes his food, takes his shelter, takes his planes and cars and then tells secretaries, come to work, pay your rent, eat. We're not giving you money to do it.

SENATOR PATERSON: Yes.

You know, Mr. President, obviously from what I've said, I agree with Senator Gold, but I was reflecting when he was talking about how this could actually come

about. I would assume that the Governor is not deliberately out to hurt individuals, and I was wondering how we could be at this point where we are and have both of those circumstances acting in time coordinately.

And so my answer to you, Senator Gold is this: Maybe that's the problem with the giving out free cars, for giving out the use of the state plane, that an individual begins to see the process as one of self-righteousness and indignation when it really is emanating from disagreement and public policy -- a disagreement of public policy, excuse me.

What we have as a result is a - an attempt to influence the process in -- by any means possible in order to effect the end that's most desired, and so the question that I have to ask, and since I didn't ask anyone to yield, I guess I'll answer it myself.

ACTING PRESIDENT KUHL: Excuse me, Senator Paterson. Senator Waldon, why do you rise?

SENATOR WALDON: A thought popped

into my head, and I wondered if the good Senator from Harlem would yield to one question.

ACTING PRESIDENT KUHL: Senator DiCarlo, why do you rise?

SENATOR DiCARLO: Also to ask a question, but I'll wait.

ACTING PRESIDENT KUHL: Senator Paterson, they're standing in line for you. Senator Waldon has asked you to yield. Do you yield to a question from Senator Waldon first?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields, Senator Waldon.

SENATOR WALDON: I thank you, Mr. President. I apologize, Senator Paterson. I'm not trying to dominate your time, but please suffer this intrusion.

It is my understanding that we've had a budget late at least 11 or 12 consecutive years. Is that your understanding in a very short fashion, Senator, because I'm trying to get at something? Is that your understanding?

SENATOR PATERSON: Yes, it is, Senator Waldon. I'd just like to add to that that six of those years have now been exceeded by the elapsed time that this budget has not been passed.

SENATOR WALDON: And, if I may continue, Mr. President.

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

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator Paterson, in all of those previous years, did the previous governors ever, ever, ever say that they would not pay the little people if we, the Legislature, did not pass a budget on time?

SENATOR PATERSON: No, they never, never, never did.

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

ACTING PRESIDENT KUHL: Senator DiCarlo, you asking Senator Paterson to yield?

SENATOR DiCARLO: Yes, I am, yes.

ACTING PRESIDENT KUHL: Senator Paterson, do you yield to Senator DiCarlo? Senator yields.

SENATOR DiCARLO: Senator Paterson, Senator Gold is out of the room, so I will ask you. He's raised the point of the Governor receiving free transportation and everything else that goes along with it. Do you -- and I don't know if Senator Gold any longer, but in leadership positions, do you receive a vehicle, a state car paid for by the taxpayers for your use?

SENATOR PATERSON: Yes, I have, Senator DiCarlo, and the fear that I will drive it has curtailed drug dealing and juvenile delinquency in my district.

SENATOR DiCARLO: Follow up on the question.

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

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DiCARLO: And in the use of that vehicle, does somebody else drive for you? Do you also possess and are continuing to use a credit card for the purchase of gas during this period when we're not paying the little people?

SENATOR PATERSON: Mr. President, first of all, the one thing we're not sure of is gas, but the second thing is that, Senator DiCarlo, you may have misunderstood what I was actually saying before, and I'll continue to answer the question. I don't have a problem with that, but I'm not saying that any of those things are wrong. I'm not saying that there are not times that those who are in leadership, for instance, I would rather that the Governor use the state plane. I remember a criticism of one of New York City's mayors once that, why was he using the helicopter so much. I would rather my Governor be able to get from one place to another in the shortest period of time; so, in

other words, I agree with that whole concept.

What I was saying is that quite often just the fact that it exists allows individuals not to understand that, although they can go a few weeks without a paycheck, that those who are living in the lower frequencies of life, those who have very high bills, we have, I think the average Niagara Mohawk bill is $76 a month right here in Albany. The -- the telephone bill, if you get the flat rate you're paying $25 and you haven't even picked up the phone. I mean these are some of the day-to-day encumbrances that individuals who are not riding on state planes or driving around in state vehicles don't understand.

So I wasn't objecting to the fact that we give out those, I think often essential items to try to speed up government. What I was objecting to, Senator DiCarlo, is that the prevalence of their use can lead an individual to the misunderstanding of feeling that, oh, you know a couple of weeks without a paycheck, that won't hurt anybody. But it really can. It can

damage people's credit ratings. It can make it such that they're not paying their rent, the landlord starts asking, and the landlord doesn't want to be referred to, not even Governor Pataki but the bureaucrats, as Senator Velella said before, as to who made the determination of why the next door neighbor who works for the executive branch can pay her rent and you can't pay your rent. That was why I brought that up.

SENATOR DiCARLO: Mr. President, through you also, a question for Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson, do you continue to yield to Senator DiCarlo? Senator Paterson yields.

SENATOR DiCARLO: Senator Paterson, probably you're not the best person for me to be asking this question, but you're in the leadership position, and my question is coming basically from the angle of hypocrisy from some on your side who attacked the Governor for things which are provided him by our government, but yet I would find that they don't

object or they haven't objected or when they were in leadership positions they did not object to continuing some of those perq's they got.

So my question to you, and you've answered it, is yes, those little credit cards which are used for gasoline are still being used and I thank you for answering that question.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, you have the floor.

SENATOR PATERSON: I'd like to answer the question again so that I can just make this very clear. I have not attacked the Governor for using the state plane or any of the state cars or the meals or anything like that. I don't have a problem with with it. I think that he should use them, but what I said earlier was not that he shouldn't. What I said was that the prevalence of that type of conduct can often lead individuals to not understanding the difference between the social strata that they may be in and that of individuals who are not as fortunate -- individuals who are not on a social

service program, individuals who are working. They have jobs; they work here, and I'm sure Senator DiCarlo will agree with me that they deserve to be paid.

Now, rather than reciting a mantra about whose fault it is that the budget hasn't reached a conclusion, what I would suggest -- and this is why, Senator DiCarlo, Senator Waldon got up and asked me why did I say "we", because I did not absolve myself from responsibility, even though I haven't made the decision.

I would pay my staff, and I sure would pay myself, but the point that I'm trying to make to you, Senator DiCarlo, is that where have we gotten as legislators when it is our real charge to speak for our constituency when we can't understand why our constituency -- for the most part, people who are not making $104,000 a year or $92,000 a year as some of the Governor's paid unit heads are -- when we can not understand why individuals who make $9,000 a session, $22,000 annually, would object to

getting 70 percent of their salary this Wednesday and, if we don't pass the budget by May 3rd, they won't get anything.

I'm saying what kind of example have we set for them, engaging in this social diatribe about whose fault it is that the budget didn't pass. That's just the adversarial system. We are going to blame you; you're going to blame us, that's fine as long as we keep it between ourselves, but this reminds me of the school bully threatening to beat up your little sister because you don't want to do what he wants you to do, and what I'm saying is it has no place in the budget discussion and so, while I don't have any -- I don't see any hypocrisy in the Governor using a state plane or anyone in leadership using those items that were designated for their use, I'm saying that the proliferation of that use can often lead us all almost spiritually into looking at life through a different prism, if you would, looking at life such that we have forgotten exactly what it was we were sent here for.

Government's credo is to represent people and to understand people, and I'm saying that we can debate what to do with people who don't have jobs in this budget process, but these people did have jobs but somebody decided that their jobs were expendable for a couple of weeks to try to make a political point, mixing apples and oranges and, in my opinion, adding disingenuous to a process that we would like our citizenry to think of in the highest of value.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: Well, just a quick follow-up question and comment.

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

SENATOR DiCARLO: Senator, I just want to assure you -

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DiCARLO: -- that I have the highest regard for you, and my question was

not pointed at you but you as the representative leadership on the floor on that side. That's why the question was directed, and I thank you for your very honest answer, as always.

ACTING PRESIDENT KUHL: Senator Paterson, you still have the floor. The Chair would simply make a notation that this debate began at 3:30. There are four people still wishing to speak and so, my colleagues, can we keep that in mind as we progress with the debate.

Senator Paterson.

SENATOR PATERSON: Mr. President, I want to thank Senator DiCarlo for clearing that up for me and, as long as he will allow me to ride home in my car, then I guess I'll conclude my comments for this afternoon.

ACTING PRESIDENT KUHL: Chair recognizes Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President.

Senator Velella isn't here and I want to warn him that he thought he was being

given a compliment by Senator Paterson that he might well use in advertisement. You remember Senator Paterson said if he were to find himself being in the unfortunate position of being wheeled in for lethal injection, he would like to have Senator Velella there.

I think his point was that he knows that Senator Velella would miss his arm, just as the point of Senator Velella's argument really missed the point of what this debate is about.

I'd also say to Senator Velella that, when Senator Paterson said "in your heart you know I'm right" he really meant "in your pocketbook you know I'm right." But I think we're -- the debate, since we seem to be looking at all of the bills before us as one, is really two separate issues.

One is, we started discussing why we have a budget and why we don't have a budget, and I think that's maybe not a particularly productive exercise, but it's an understandable exercise. The other one is really the issue of

when we do not have a budget, should staff and legislators and the Governor and other statewide officials not get paid?

I just want to address the first issue, because I was quite taken by what Senator DeFrancisco said, and I want to say, Senator, in principle I agree with you. I think it would be useful if the Assembly had a bill -- a budget bill out there, and we -- we could address that. But let's, in all fairness, consider why that is not out there.

One of the reasons that it's not out there is not just, as Senator DiCarlo said, because the Speaker doesn't have the votes to get it passed. One of the problems that we've created, and here I say "we," I mean Democrats and Republicans, we have more than politicized the issue, and obviously budgets are political issues, but we've been part of what unfortunate ly is a debasing of democracy where any position becomes a focus of such mean attacks, and I'm thinking of the fact that the Republicans are now gloating, as I read today in the paper, that

they're going to spend $4 million to show that the Democrats in the Assembly are unwilling to deal with social service expenditures and, as I read about those advertisements, they were such gross misunder... misleading statements. They were lies! They were lies!

How can we have any sort of debate on very tough issues which we as a nation, and certainly we as a state have to address, which is the social service expendi tures, a lot of the other things, what are we doing to higher education, and so on, when any time anybody takes a position, it becomes so twisted and just becomes more fodder for political cannons?

I think we're all part of it, and I think we see it on the national level. We see the negativism which makes it so difficult ever to have any sort of intelligent debate, and I think that's probably one of the reasons that the Assembly has not put forward a bill.

I think a second exception I would take from the agreement in principle that

I have with Senator DeFrancisco is that the conference system, while it exists in principle -- and I think it's a significant step forward that we've committed or that Majority Leader Bruno committed himself to that, but we know it really isn't functioning, and we did have this one exercise in connection with the 65 miles an hour speed limit; but I must say with some disappointment that some members went to that conference and said, Well, this is a waste of time, and I think the Majority Leader who was there afterward said, Well, it's a lot of words.

Well, you know, that's -- that's what debates generally involve is words. So I'm not so sure that there's a true, honest commit ment on both sides, Majority in the Assembly, Majority in the Senate, that if the Assembly passed a bill that we would truly have a conference committee. If we did, then I think it would be a healthy matter for the Assembly to put a bill out.

ACTING PRESIDENT KUHL: Senator

Skelos, why do you rise?

SENATOR SKELOS: Would Senator Leichter yield to a question?

SENATOR LEICHTER: Certainly.

ACTING PRESIDENT KUHL: Senator Leichter, do you yield? The Senator yields.

SENATOR SKELOS: Senator Leichter, do you feel that because perhaps a joint conference committee may not be called, hypothetically that that's enough reason for the Assembly not to pass a budget and try to move forward to a conference committee? I mean you were one of the strong proponents of a conference committee.

You know, there may have been some rough grounds with determining whether New York State, in certain areas, should go to 65 miles an hour, but the words, the differences were worked out. They were ironed out the first time it went to conference committee, and there will be a proposal to both houses of the Legislature on a bi-partisan basis, in certain areas of the state to go to 65 miles an hour.

Why can't we do it with the budget? We have reasonable people. We have an excellent Finance Committee chairman in Ron Stafford. Assembly Ways and Means, your side of the aisle, has some very, very bright legislators, Senator Galiber. We could have a wonderful conference committee and resolve the differences.

But you need a budget from Speaker Silver. Pass the budget! Don't just amend bills and let them sit there. Pass a budget, and let's go to conference committee and have a budget for the people of the state of New York.

SENATOR LEICHTER: Senator - Senator Skelos, if you're saying that you foresee, and that you're in a position to represent on behalf of the Majority here, that there would be an actual honest conference committee that would really involve those members who are part of the conference committee in making decisions as to what sort of a budget, I would like to see that process. I've stood

for it all these many years, and that's why I got up and wanted to make the point that in principle, I happen to agree with Senator DeFrancisco.

SENATOR SKELOS: Senator Leichter, you can't -

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

SENATOR SKELOS: I'm sorry, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SKELOS: Senator Leichter, you can't even get to that position of the leaders making a determination as to whether a conference committee could work in resolving the budget differences unless the Assembly passes a budget. So you can't move the process forward. We've tried to move the process forward by voting on a budget, by putting out our bills, as I said to Senator Gold, by you and Senator Dollinger offering up amendments to the budgets, to our proposals, make changes that you

thought were appropriate.

Now it's up to the Assembly to do the same thing. Put out your document. Put out what budget you would like to see passed for the people of the state of New York. Let the Assembly Minority offer their amendments and then we can move forward.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Senator, in principle, I have no disagreement with you, but I'd like to add -- I'd like you to add one other thing to that, and I think you could at the same time ask that that same sort of addition or representation that I would ask of you be made of the Assembly, that we can try to have this debate without people licking their chops and saying, All right, that's great. Boy, they've given me a wonderful campaign issue, and then going out and misrepresenting positions, as the Republicans seem to be doing. I don't mean you or anybody in this house necessarily, but if what is true of what I read about the ads, it's

a total misrepresentation. The system can't function if, every time somebody takes a position, there's going to be that degree of misrepresentation, that degree of attack dog like commercials.

Senator, we may have differences and those differences are fair to bring to the people, but I think to misrepresent the position of the Assembly on welfare, as I believe the Republican ad -- advertisements are doing, and the way they're being pictured, Senator, that's wrong.

So to make the process work, there's got to be better faith. There's got to be a willingness of people to debate the issues and not to politicize it to the extent where you can't have any -- any debate.

ACTING PRESIDENT KUHL: Senator Skelos, why do you rise?

SENATOR SKELOS: Will Senator Leichter yield?

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

SENATOR LEICHTER: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SKELOS: Senator Leichter, politics is a tough business and perhaps sometimes people's skin is a little thinner than others, and you can't take the criticism. But the bottom line is, the criticism goes to the basic fact that Speaker Silver and the Assembly Democrats have not passed a budget. If they had passed a budget, laid their cards on the table like -- like we did -- we bared ourselves. We said, This is our budget proposal. We've had the courage in the Senate Majority to take a difficult vote -- to take a difficult vote. But the bottom line is the people of the state of New York are supporting the approach of Governor Pataki, the Senate Majority, to cut taxes, to cut spending, to create jobs, to go to Workfare rather than welfare, and to turn around this state once again.

That's the direction that the people want to see this state move, but we can't even take that first small step unless Speaker Silver and the Assembly Majority passes a budget, can't take that small first step unless they pass a budget and have the courage to do what we've done in this body and move the process forward.

SENATOR LEICHTER: Senator, I did not hear you make that representation. Now, if you want to go out in an advertisement and say the Assembly didn't pass a budget, that's fine, but some of the ads are totally false. When you're putting out ads saying that Republicans -- that Democratic members of the Assembly from upstate are knuckling under to liberal bosses in New York City, that they want to increase spending on welfare when, in fact, their proposal calls for a decrease in welfare, that is wrong. Make the representation, make the representation that you're not going to engage in that degree of misrepresentation, and if you do that, then I think we've got a better chance

of doing what I think ought to be done, which is if there's a disagreement between the two houses, let them each pass their budget.

Let me just say one other thing because I think some of the -- some of the people on this side of the aisle and including you, Senator, may be believing there's all this chest beating. We were so brave, we were so courageous; we passed a budget. Well, I don't know about courageous. I saw a Capital budget that some of us criticized and you said, No, no, we're biting the bullet. Next day or a couple days later, we get this, I forget what was it called, Joe Bruno's full employment or economic recovery package -

SENATOR SKELOS: Economic development.

SENATOR LEICHTER: -- and here these brave people, these people who are going to tighten their belts, and we're not going to have the sort of programs that we had in the past, lo and behold, all of these things come back, and suddenly this balanced budget isn't

balanced any more, so in all -- in all fairness, Senator, you ought to admit that what you did was hardly giving the people of this state that balanced budget and the one that shows that we're really going to cut down government programs.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: If Senator Leichter would yield.

ACTING PRESIDENT KUHL: Senator Leichter, do you yield? He does.

SENATOR SKELOS: Mr. President, if I might comment on that, and at least the members in this house, and you, had the opportunity as a member of the Minority to vote on our proposals. I'd love to see my Republican colleagues in the Assembly have the opportunity to vote on a budget that's proposed by the Speaker, to offer up the amendments that they think are appropriate, rather than the Speaker sheltering his members from any possible

criticism that they may have in a non-budget.

You have capital projects. They offer up amendments, and they don't pass it. Why? They should have the courage of passing a budget and moving the process forward. They just don't have the courage to do it because they know the people of the state of New York last November 8th, when they sent Mario Cuomo a packin', sent the message, they wanted change. We're prepared to give them that change and unfortunately, Speaker Silver still wants status quo.

SENATOR LEICHTER: Senator, I think the election last year, maybe that's one of the reasons that we're having so much of a problem in passing a budget, there was one mandate and that mandate was that Mario Cuomo having served 12 years should not serve another four years. Governor Pataki started to read that message in a far different way, as you apparently are doing, and he put out a -- and he put out a budget that was highly unpopular.

SENATOR SKELOS: Senator

Leichter.

SENATOR LEICHTER: May I just finish?

SENATOR SKELOS: I'm sorry.

SENATOR LEICHTER: That was extremely unpopular. He has a popularity rating that is so low, unheard of, unheard of for a new governor, because the fact of the matter is that during the campaign, he never put forward any specifics. You would ask him, Wait a second, how are you going to have a 25 percent tax cut? Where is the money going to come from? And all he'd ever say was, "I'm going to get rid of the energy department." The energy department, I think, has six employees, hardly the $6 billion that that tax cut is going to cost.

When people saw what his budget was, they saw the cuts to Medicaid, they saw that he was cutting support for higher education, increasing tuition, all of the other horrors that I see and other people saw in the budget. People said, We didn't vote for that. That isn't what you told us you were going to

do.

But that -- that's a substantive debate on the budget. We were talking process.

SENATOR SKELOS: Were those in TV ads also?

SENATOR LEICHTER: Pardon me?

SENATOR SKELOS: Were those in TV ads also?

SENATOR LEICHTER: Those were - those were in the teeth. But let me say again, make that representation, representation that we will not misrepresent, we will not lie about the position of the Assembly, and I think you're going to have a much better chance of doing what I think ought to be done. There I don't -- I don't disagree with you. I think it would be healthy if we had the Assembly pass a budget, and while it's true -- and I got up and said that without prompting, Senator -- and while it's true that I'm quite critical of your budget and I don't think it's balanced, but you've put out a document and if we could have a true conference committee, you're willing to

represent that at least, maybe it would move the process along.

I -- I've no difficulty with that. I think maybe some people on this side of the aisle may not agree with me, and obviously I'm not talking for the Minority here, but I think -- I think it would be healthy, but I think it's really crucial that we stop the sort of political attacks, and here I'm not just saying the Republicans, the Democrats too, because how can you ever debate anything when positions become so twisted, become so misrepresented that any -- that anybody is afraid of taking any position?

SENATOR SKELOS: Mr. President, would Senator Leichter yield?

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to Senator Skelos? Senator yields.

SENATOR SKELOS: Senator Leichter, we are having, I think, a very productive debate, and certainly when we put forth our budget, we had a very productive

debate. Unfortunately, it appears that the Speaker and the Assembly Democrat Majority is too busy watching TV to see if there are ads on TV, rather than having that budget debate with the Assembly Republican Minority just like we had our debate. So stop watching TV, don't worry about TV. There'll be reruns in the '96 election, I'm sure, but don't worry about TV. Start debating a budget. That's what the people want. They don't want to hear that Speaker Silver or some Assemblyman doesn't like an ad that's on TV. It's too bad if you don't like it. Debate the budget. That's what you should be doing, in your chambers. Debate your budget.

SENATOR LEICHTER: Senator, I hope that you're not saying it doesn't matter the degree to which you mismisrepresent positions, the degree to which you're actually -

SENATOR SKELOS: That's what you're saying.

SENATOR LEICHTER: Let me finish.

ACTING PRESIDENT KUHL:

Gentlemen, if I could, just through the Chair, Senator Leichter, you have the floor.

SENATOR LEICHTER: Yeah. I -- I think what you're saying is it doesn't matter what's on TV, it doesn't matter how we misrepre sent positions, doesn't pay any attention to that, and so on, and I am -

SENATOR SKELOS: You're characterizing me now, and what you're saying -

ACTING PRESIDENT KUHL: Senator Skelos. Senator Skelos, are you asking Senator Leichter to yield to a question?

SENATOR SKELOS: I'm asking -

ACTING PRESIDENT KUHL: It's important, and I emphasize that.

SENATOR LEICHTER: Let me answer one question before I yield to the next one. I'm just suggesting to you that would be helpful. I'm not speaking on behalf of the Assembly Majority; I haven't talked to the Speaker. I don't know what is prompting him, but I know that I am disturbed about the

inability of us to have a productive, deliberative discussion on what are some very tough issues if we're going to get that sort of lip smacking "I've got 'em now, I can misrepresent their position," as the Republican State Committee seems to be doing.

I read the comments of Mr. Powers and I think it makes it extremely difficult with that sort of an approach for us here in the Legislature to do what I think you and I genuinely want, which is let both houses pass a budget. If there's a disagreement, let's go to an honest productive conference committee and see if that will work. I'd like to see that.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: I want to thank Senator Leichter for coming to our side now. Do you want the Assembly -

ACTING PRESIDENT KUHL: Senator Skelos, are you asking Senator Leichter -

SENATOR SKELOS: Well, it may end up with a question.

ACTING PRESIDENT KUHL: Well, Senator Skelos, Senator Leichter has the floor.

SENATOR LEICHTER: I will yield for a comment or a question.

SENATOR SKELOS: Senator Leichter, based upon the fact that you now congratulated us for passing a budget, for at least having the courage to do this and for you having the opportunity to debate us, the fact that we paid compliments on the fact that we've passed it during the light of day, that it hasn't been in the middle of the night, that it's been an open process because all five leaders now, the four leaders and the Governor, participate in the leadership negotiations, my suggestion to you now is, since you are very happy with what's happened in this house, you may disagree with the final document, that you go to the Assembly, you are a senior respected member of the Senate, of the Legislature, that you and perhaps Senator Dollinger, former member of the Assembly, as there are now 17 of us on this side of the aisle, that you go and talk to some of your

former colleagues and say, Pass a budget. Have the courage to pass a budget, take the heat that may be there from the Assembly Minority, but have the courage.

Would you do that for me, Senator Leichter, please?

SENATOR LEICHTER: Senator - Senator Skelos, as my dear friend, Senator Stavisky, said, tell him that you left the Assembly.

But, Senator, it would be a lot easier for me, if I could go there and say that a very senior respected member of the Majority in the Senate, holding a leadership position, had said he disagrees with these misleading ad vertisements, that he abhors some of the things that are being said, and to make the process work, he's going to use his best efforts to see that we don't have the sort of lies that are being put out now on television. And I think if you did that, Senator, it would help.

Also, let me say that while I have certain agreement in principle with you and

Senator DeFrancisco, I think it's hardly fair to say that I've been praising you, and I'm jumping here with joy, and that I'm -- and I'm looking with amazement at the courage that -- that you have shown, but I'd love to see the process move forward.

SENATOR SKELOS: Thank you.

SENATOR LEICHTER: Good. Thank you, Senator Skelos.

But let me -- let me just talk about something I really feel strongly.

ACTING PRESIDENT KUHL: Senator Leichter, let me just -- let me just interrupt for a moment here. I would note that the debate started at 3:30. There are still three people who have indicated a desire, but more importantly, three times at least during your discussion with Senator Skelos, the stenographer in the chamber threw her hands in the air indicating to me that she could not take down what was meant to be a historical debate in this chamber, so I would just remind the members there is another purpose for going through the

Chair and for showing respect, and that is so that we can get every word that each one of you says down on record; so if you could continue to recognize the tradition of this chamber, I would appreciate it, and I know the stenographer would appreciate it, and all of the historians in this state who are looking to review these records at a future time, I know, would appreciate it.

SENATOR SKELOS: Point of information.

ACTING PRESIDENT KUHL: Yes, Senator Skelos.

SENATOR SKELOS: Would you like us to repeat the debate?

ACTING PRESIDENT KUHL: The stenographer is indicating that's not necessary.

SENATOR SKELOS: Let me just say, and I'm not going to speak for Senator Leichter, but on a bi-partisan basis, I know that I am properly admonished as to the proper procedure in debating a bill.

ACTING PRESIDENT KUHL: Senator

Leichter, the floor is yours to continue.

SENATOR LEICHTER: Mr. President, I agree with everything you've said, and I will be very brief. I did have difficulty with one word you used when you said "meant to be a historical debate." I don't know whether it was necessary to use the word "meant".

I do want to -

ACTING PRESIDENT KUHL: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Would Senator Leichter yield to a question?

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to a question?

SENATOR LEICHTER: I will, Senator, but I -- sure.

SENATOR DeFRANCISCO: All right. Very quick.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DeFRANCISCO: Do you recall ever on March 31st, the day before the budget was passed, anyone in this house voting

to increase SUNY tuition by $1800 or close SUNY campuses?

SENATOR LEICHTER: Yeah, I think that the vote was -- the votes that you have cast are going to result in a significant increase in tuition at SUNY, CUNY, probably in excess of a thousand dollars, and will probably lead to the closing of campuses.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would you yield to another question?

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to another question?

SENATOR DeFRANCISCO: Do you recall anyone on the Senate floor voting to increase SUNY -- SUNY tuition $1800 a year and to close SUNY campuses?

SENATOR LEICHTER: You just asked that question and I thought I just answered it.

SENATOR DeFRANCISCO: You didn't answer it. You said over a thousand dollars. Did you say did we vote a specific increase of

$1800?

SENATOR LEICHTER: Senator, you and I know how tuition increases are imposed. They're never voted by the Legislature. They are the natural result of the funding that we provide for SUNY and CUNY.

SENATOR DeFRANCISCO: Senator yield? Senator Leichter yield to one last question?

ACTING PRESIDENT KUHL: Senator Leichter yield to one last question? Senator yields.

SENATOR DeFRANCISCO: You think it would be misleading in advertising to send a brochure or hang a leaflet that said that Senator Present, Senator DeFrancisco voted on March 31st to raise SUNY tuition $1800 and to close SUNY campuses?

SENATOR LEICHTER: Senator, I think I answered it and let me also say, Senator, and I made that very clear when I was answering Senator Skelos, that I believe that both sides, the Democrats, Republicans, have

tended to politicize the process to such a degree with very negative advertisement, and I don't mean just here in our budget debate, but I think generally.

Would I send out something of that sort? I would -- I would word it much, much more carefully, and I think more -- more precisely, but I think it's fair to say that the result of the vote that was cast here, if that becomes law, if that becomes the budget, it will mean a significant increase of over a thousand dollars in tuition and, as the chancellor said, he's going to have to close some campuses.

But let me -- let me address, and I want to do it quickly, I guess one of the reasons, Mr. President, that the debate is going on, as I pointed out, we're really debating four bills at once and the bill that I really wanted to address, and I'll try to do it quickly, because I think it's terribly important, this is the bill that provides for the wages of state employees for many members of the executive branch, but says that legislators and their

staff will not be paid, and what we're engaged in is, we're doing this and I tried to make that point last time, because really what this is, it's a debasing of democracy, and I quoted Representative Hyde last time when he said, "I don't want to be part of the dumbing down of democracy," and that's really what we're doing.

This is the worst sort of pandering, the idea that in some way legislators and their staff are not entitled to be paid because they have an honest disagreement. I've seen people here working. Now, Senator Velella, you -- I don't know whether you were enthusias tically defending the bill which included legislators and their staff but I've seen you here, I know you're working. I think you're entitled to be paid. Maybe you don't think you're entitled to be paid, but I think you've worked, and I think the members of the Assembly, they've been here, they were here last week until late on Thursday, I think they're entitled to be paid.

The idea that somehow or other

you're going to coerce legislators into voting for a budget by not paying them is appalling. This is so contrary to what our democracy and our exchange of ideas is based on.

ACTING PRESIDENT KUHL: Senator Velella, why do you rise?

SENATOR VELELLA: Senator Leichter yield?

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to Senator Velella?

SENATOR VELELLA: I have just one more question. If you just think back over the history of your working here in Albany, can you tell me, Senator, in a very short direct way when was the first time that you heard the concept of legislators not being paid if there was a budget that wasn't in place and who was the person that first proposed it? Could you just give me the name, if you know?

SENATOR LEICHTER: You're absolutely right. It was Mario Cuomo and it was -

SENATOR VELELLA: Thank you,

Senator. That's adequate.

SENATOR LEICHTER: And as we know, Mario Cuomo was not above putting forth ideas that I can only say are pandering and, in fact, when he first made that idea -- when he first made that idea, I was sitting next to Senator Skelos and Senator Skelos muttered, "Is he willing to give up his honorariums during that time?" And the point is, though, that Mario Cuomo was smart enough not to carry through on something that was a bad idea. George Pataki apparently doesn't have that same sort of intelligence, and the result is that we now -- that we now find ourselves where our staff -- our staff, they're working hard, has no responsibility for there not being a budget and they're not being paid.

SENATOR VELELLA: Will you yield to one more short question?

ACTING PRESIDENT KUHL: Senator Velella, why do you rise?

SENATOR VELELLA: Senator Leichter yield to one last short question?

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to one more question?

SENATOR VELELLA: Senator, if you said rather than the lack of intelligence it was the ability of one particular governor to accomplish his goals as opposed to the ability of the other governor to accomplish a goal which you may disagree with.

SENATOR LEICHTER: Senator, I think you're absolutely right. Mario Cuomo realized he could never accomplish his goal by carrying through on something that he had thrown out which may have curried some political favor at that time with the voters, but which he knew was a lousy idea, so you're right, he did achieve his goals, but George Pataki is not achieving his goals because, as I pointed out last time, this makes it more difficult to pass a budget. You pass a budget, you go back in your district and people in your district aren't going to like the budget. They're going to say "Ah, you voted for it because you weren't being paid."

That's the whole basis of this idea. Don't pay them, and force them in that way to pass a budget. That's not how we're supposed to represent our people. We're not supposed to do it on the basis of dangling money, our paychecks, before us.

ACTING PRESIDENT KUHL: Senator Skelos, why do you rise?

SENATOR SKELOS: I'd like Senator Leichter to yield for a short itsy-bitsy question.

SENATOR LEICHTER: Only if it leads to a debate that the president is going to say "was historical" instead of "meant to be historical".

ACTING PRESIDENT KUHL: The Chair is not in a position to rule on that at this moment, Senator Leichter, but Senator Leichter yields, Senator Skelos.

SENATOR SKELOS: Senator Leichter, you mentioned pressure. You've used the word "coercion". Recently I read in the paper, since you're receiving a lot of your in

formation from the newspapers, that certain chairman of major committees within the Assembly have refused to meet with people from The Business Council, leaders in industry, whether it's banks, insurance, small businesses, large businesses, because they didn't like the fact that they were exercising their First Amendment right, which I know you're a strong supporter of the First Amendment.

Now, these are the Assembly Democrats, some of them liberal, that are exercising, believe in the First Amendment and they are now refusing to meet with members of industry, Business Council people, people that create jobs in the state of New York, because they disagree with the fact that they suggested the Assembly should pass and are supporting the proposition that the Assembly should pass Governor Pataki's budget.

Now, do you think that's a bit coercive, that they -- that the chairman of committees in the Assembly refuse to meet with people because they don't like the fact that

they're exercising their First Amendment rights?

SENATOR LEICHTER: Senator, I don't know why they're not meeting with them, and I know some of the circumstances that people have met with them to let them know that there's a nice event going on, and that they hope they're there and if they're not doing it for that purpose, maybe that's all for the good.

I don't know, frankly, what that has to do -- I think the president is going to rule that this is not -- this is not going to lead to a historical debate.

But I think that the message has to go out, it seems to me, to Governor Pataki that this is just the wrong way to proceed and not to pay the staff is unconscionable. It's wrong; it's probably unconstitutional. It makes us, to my mind, lawbreakers, and if some people on your side of the aisle or on this side of the aisle feel that this is the way to go, I suggest that it just is more pandering. We're debasing democracy when we do this.

So I would -- I would urge very

much that we have a good honest productive debate on the budget, that we pass a budget, but that we don't use these coercive measures, and I'm just reminded in the Middle Ages when the Popes were chosen, as you know, and they still are today, by a Cardinals' meeting in a walled in enclosure, and sometimes when they were a little slow, they wouldn't get fed, and the result was that maybe you had some Popes chosen who weren't particularly great Popes. You also had some emaciated Cardinals.

It's not the way -- it's not the way to create a consensus that's going to serve the public, and I think all of us who said this is what we ought to do, we've just been really part of pandering, and if I go back to my district, you go back to your district, I imagine the public initially is going to say, Oh, that's right, you didn't pass a budget. You don't deserve to get paid.

But I'll tell you this, if you put the proposition to them that you want me to vote for a budget that you don't agree with,

because you want me to get paid and obviously the answer is no. So if you look at the premise under which the Legislature and its staff is being excluded from pay, it's really appalling. It lacks any sort of logic, and it's contrary, as I said, I think, to the democratic aims and goals and process that I hope we're all committed to.

ACTING PRESIDENT KUHL: The chair recognizes Senator Libous.

SENATOR LIBOUS: Pass.

ACTING PRESIDENT KUHL: Passes. Senator Waldon? I don't see him in the chamber. Senator Gold? Not in the chamber.

The Secretary will read the last section.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stafford.

SENATOR STAFFORD: I have -- will be very brief, and I believe debate started at 3:30, so we're close.

I would only say to Senator

Leichter, I understand it had something to do with the type of smoke that was eaten, I think that was what really, the decision on the effect that people ate that long ago and as you know, when white smoke went up, it meant they had chosen a Pope; I believe that's correct, isn't it, John?

But on this bill, a serious note, the reason we're here is that the Senate and the Governor understand that we had a state that was completely out of control, and some of us who have been here a little longer have to realize it was a lot easier when you could say in your district especially, Don't blame me, I wasn't there.

Well, up through the years that gets to be rather difficult, but we did have to make some changes, and we've heard Social Services. That subject was raised. Again, I emphasize, just emphasize, I'm not saying right or wrong, it's just it shows that we have to make some changes and, yes, I do think it was right that we made the changes, but for

instance, California has over a million more people in the social service programs than we do and -- and that's all all over the state and all over this state, their budget is less than ours and we took 15 percent of the Medicaid money out of Washington and we are 7-1/2 percent of the people; that's just an example.

But unless we make these changes in the budget and get the Assembly to sit down and negotiate as was mentioned and have them either pass a budget or pass ours, we're going to just continue having the problems we've had and the engine that keeps our locomotive going is the economy and, if we were doing things to the economy that was in effect killing it, then we wouldn't have the funds to do anything in this -- in this state, whether it's social services or whether it's the infrastructure or whether it's education or anything and, again, that's why we're here. That's why we're debating this bill.

We need to pass this bill but, as has been mentioned here many, many times much

better than I can say it, we should be sitting down and we should have the Assembly cooperating with the Senate, with the Governor and getting a budget that we all can live with, that we can afford, so that we don't have this, in effect, emaciation, whatever you want to call it, killing of the economy, because that's exactly where we were going.

So I ask that this bill have its last section.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 435, Senate 4206.

ACTING PRESIDENT KUHL: Secretary will call Senate Calendar Number 435.

THE SECRETARY: Calendar Number 435, Budget Bill, Senate Print Number 4206, an act making an appropriation for the support of government.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call Calendar Number 436, Senate 4207.

ACTING PRESIDENT KUHL: Secretary

will read Calendar Number 436.

THE SECRETARY: Calendar Number 436, Budget Bill, Senate Print 4207, an act making an appropriation for the support of government.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, this is the last chance to stop it.

ACTING PRESIDENT KUHL: Secretary will call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Mr. President, just on this bill ever so briefly. We've had a lot of discussion about it. I was -- I guess I refer to this as total political warfare where we take the innocent and we try to affect the innocent to somehow affect those who may be guilty, and what I see here is sort of a total political war against our staff and the people who should be paid for what they're working.

I regret the fact that we've

escalated to this form of total political warfare which means that the innocent people who work for us are going to be punished, are not going to be able to pay their mortgages, not going to be able to, in some cases, to buy food. I know I've got at least one employee with seven children who isn't going to be able to pay his mortgage. He was in a tough situation. He carries two houses. It's just not a good idea.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Mr. President, would you please take up Calendar Number 437,

Senate 4208.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 437.

THE SECRETARY: Calendar Number 437, Budget Bill, Senate Print 4208, an act to provide for payments to vendors under the Women, Infants and Children Program and making an appropriation therefor.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stavisky.

SENATOR STAVISKY: Mr. President, without objection, I should like the record to reflect that I wish to be recorded in opposition to Calendar Number 276.

ACTING PRESIDENT KUHL: Without

objection, Senator Stavisky will be recorded in the negative on Calendar Number 276.

Senator Skelos.

SENATOR SKELOS: I believe Senator Montgomery wishes to be recognized.

ACTING PRESIDENT KUHL: Chair recognizes Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 175.

ACTING PRESIDENT KUHL: Without objection, Senator Montgomery will be recorded in the negative on Calendar Number 175.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. Could we return to reports of standing committees. I believe there is a Finance Committee report at the desk.

ACTING PRESIDENT KUHL: There is a Finance Committee report at the desk. I'll ask the Secretary to -

The Chair would recognize for the record that Calendar Number 437 was passed.

Secretary will read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers the following nominations: Thomas J. Murphy, of Latham, member of the Dormitory Authority, and Anthony J. Colavita, Esq., of East Chester, member of the New York State Bridge Authority.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominees are confirmed.

Senator Skelos.

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

ACTING PRESIDENT KUHL: There is several -- several things to be done at the desk.

The Chair recognizes Senator Seward.

SENATOR SEWARD: On page 28, on behalf of Senator Levy, I offer the following amendments to Calendar Number 79, Senate Print Number 384-B, and ask that the said bill retain its place on the Third Reading Calendar.

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

Senator Seward.

SENATOR SEWARD: Yes, on behalf of Senator Johnson, I wish to call up his bill, Print Number 2724, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 209, by Senator Johnson, Senate Print 2724, an act to amend the Environmental Conservation Law, in relation to limiting access to commercial fisheries.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Mr. President, I

now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: Motion is to reconsider the vote by which the bill passed. Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Mr. President, I now offer the following amendments to that bill.

ACTING PRESIDENT KUHL: Amendments are received and adopted. Senator Seward.

SENATOR SEWARD: And finally, Mr. President, on behalf of Senator Lack, I move to amend Senate Bill Number 2135-A by striking out the amendments made on March 27th and restoring it to its original Print Number 2135.

ACTING PRESIDENT KUHL: Amendments are stricken and it's returned to its original form.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Levy, please place a sponsor's star on Calendar Number 407.

ACTING PRESIDENT KUHL: Calendar Number 407 will be starred at the request of the sponsor.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Libous, please place a sponsor's star on Calendar Number 417, Senate Bill Number 1848-A.

ACTING PRESIDENT KUHL: Calendar Number 417 is starred at the request of the sponsor.

Senator Skelos, we have one substitution at the desk.

SENATOR SKELOS: Could we have the substitution?

ACTING PRESIDENT KUHL: Secretary will call it.

THE SECRETARY: On page 20, Senator Goodman moves to discharge from the

Committee on Investigations, Taxation and Government Operation, Assembly Bill Number 5542, and substitute it for the identical Senate Bill Number, Calendar 309.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be a conference of the Majority tomorrow at 12:00 noon, and there being no further business, I move we -- Senator Stafford?

SENATOR STAFFORD: Thank you, Senator Skelos.

I was just -- could I just please state for the record that the nomination of Thomas J. Murphy for the state Dormitory Authority was moved by Senator Hoblock, and the nomination of Senator Anthony Colavito was moved by Senator Spano.

ACTING PRESIDENT KUHL: Thank you, Senator Stafford. The record will reflect such. Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. I move we adjourn until Tuesday, April 18th, at 1:00 p.m., sharp.

ACTING PRESIDENT KUHL: There will be a Majority Conference in Room 332 to morrow, April 18th, at 12 o'clock. Without objection, the Senate stands adjourned until tomorrow, April 18th, at 1:00 p.m.

(Whereupon at 5:35 p.m., the Senate adjourned.)