ALBANY, NEW YORK

June 28, 1995

10:03 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Members please find their chairs, staff their places.

Ask everybody in the chamber to rise and say the Pledge of Allegiance to the Flag.

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

In the absence of clergy, may we bow our heads in a moment of silence.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 27th. The Senate met pursuant to adjournment, Senator Holland in the Chair upon designation of the Temporary President. The Journal of Monday, June 26th, was read and approved. On motion, 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.

Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 15B, by Senator Farley, an act to amend the Public Health Law, in relation to creating a Health Care Information Privacy Advisory Board;

32A, by Senator Holland, an act to amend the Highway Law, in relation to increasing bonded indebtedness;

5025, by Senator Goodman, an act to amend the Tax Law and the Administrative Code of the city of New York, in relation to increasing the effectiveness and efficiency of tax collection;

2302, by Senator Stavisky, an act to amend the Penal Law, in relation to penalties for criminal solicitation;

4746A, by Senator Saland, an act in relation to authorizing the city of Beacon, county of Dutchess, to opt out of the provisions;

5045A, by Senator Velella, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking system;

4827A, by Senator Maziarz, an act to amend the Public Authorities Law, in relation to the financing and construction of certain facilities;

5403, by Senator Nozzolio, an act to amend the Penal Law, in relation to estab lishing the crime of aggravated harassment;

5447, by Senator Rath, an act to amend the Executive Law, in relation to changing the name of the Office for Regulatory and Management Assistance;

5398, by Senator Goodman, an act to amend the General Business Law, in relation to delinquent accounts;

621, by Senator Stafford, an act

to amend the Real Property Tax Law, in relation to the assessment of private forest lands;

1094, by Senator Gonzalez, an act to amend the Election Law, in relation to imposing penalties;

3066B, by Senator Larkin, an act to amend the General Obligations Law, in relation to authorizing a charge of $20;

3197, by Senator LaValle, an act to amend the Town Law, in relation to making technical changes;

3215, by Senator Larkin, an act to amend the Administrative Code of the city of New York, in relation to the change of retirement options;

3342A, by Senator Padavan, an act to amend the Public Health Law, and the Family Court Act, in relation to notice of abortions;

3377A, by Senator Seward, an act to amend the General Municipal Law, in relation to conflict of interest;

3484, by Senator Padavan, an act in relation to the reduction of retirement

benefits received by long-term New York City employees;

3567, by Senator Larkin, an act to permit Olaf Allen Takvam to revoke a previous election of death benefit coverage;

3789A, by Senator Larkin, an act to amend the Real Property Tax Law, in relation to making technical and clarifying amendments;

4113B, by Senator Velella, an act to amend the General Business Law, the Public Health Law and the Vehicle and Traffic Law, in relation to safety requirements;

4183C, by Senator Skelos, an act to amend the General Business Law, and the State Finance Law, in relation to the licensing of executive protection specialists;

4202, by Senator Spano, an act to provide permanent competitive civil service status as police officers;

4254, by Senator Larkin, an act to authorize the town of Cornwall to discontinue certain park land;

4320, by Senator Skelos, an act

to amend the Retirement and Social Security Law, in relation to the retirement of supervising fire inspectors;

4379A, by Senator Spano, an act to amend the Criminal Procedure Law, in relation to the powers of certain special patrolmen;

4466A, by Senator Larkin, an act to incorporate the voluntary and exempt fire men's benevolent association of Coldenham, Inc.;

4490, by Senator Libous, an act to amend the Mental Hygiene Law, in relation to disclosure by members;

4636A, by Senator Maltese, an act to amend the Penal Law, in relation to authorizing a sentence of community service;

4696A, by Senator Skelos, an act to amend the Retirement and Social Security Law, in relation to the retirement of ambulance medical technicians;

4714, by Senator Velella, an act to amend the Executive Law, in relation to obtaining nationwide criminal history checks;

4753, by Senator Padavan, an act

to amend the General Municipal Law, in relation to providing coverage;

4882A, by Senator Larkin, an act to amend the Real Property Tax Law, and Chapter 602 of the Laws of 1993;

5086A, by Senator Kuhl, an act to amend the Agriculture and Markets Law, in relation to transportation and storage of pasteurized milk;

5105A, by Senator Saland, an act to amend the Uniform City Court Act, in relation to the City Court of the city of Poughkeepsie;

5251A, by Senator Stafford, an act to validate, ratify and confirm certain proceedings;

5294, by Senator Rath, an act to authorize Judith E. Fillinger, employed by the county of Erie, as a program analyst;

5378, by Senator Lack, an act to amend the State Finance Law, in relation to court facilities;

5384A, by Senator Lack, an act to amend the Alcoholic Beverage Control Law, in

relation to storage of alcoholic beverages;

5431, by Senator Velella, an act to amend the Insurance Law, in relation to clarifying and revising liability insurance requirements;

5433, by Senator Lack, an act to authorize the State University of New York to convey certain parcels;

5473, by Senator Hoblock, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking permit system in the city of Albany;

5479, by Senator Volker, an act to enact the Persistent Child Predator Act;

5480, by Senator Tully, an act to amend the Environmental Conservation Law, in relation to sanctions;

5491, by Senator Volker, an act to amend Chapter 737 of the Laws of 1994;

5494, by Senator Volker, an act to amend the Criminal Procedure Law and the Public Authorities Law, in relation to peace officer status;

5497A, by Senator DeFrancisco, an act authorizing the establishment of the Northern Onondaga Public Library District;

5499, by Senator Volker, an act to amend the Criminal Procedure Law Reform Act of 1995;

5504, by Senator Volker, an act to amend the Public Authorities Law and the Executive Law, in relation to the creation of the Livingston County Sewer and Water Authority;

5505, by Senator Holland, an act to amend a chapter of the laws of 1995 as proposed in Legislative Bill Number A. 6516;

5507, by Senator Stafford, an act to authorize the Commissioner of Environmental Conservation;

5517, by Senator DiCarlo, an act to amend the Tax Law and Chapter 190 of the Laws of 1990;

5520, by Senator Spano, an act in relation to establishing a public work enforce ment fund;

5522, by Senator Goodman, an act

authorizing the Dormitory Authority of the state of New York to plan, design and acquire;

5523, by Senator Goodman, an act to amend Chapter 54 of the Laws of 1995, enacting the Capital Projects Budget;

5525, by Senator Skelos, an act to amend Chapter 704 of the Laws of 1991, amend ing the Arts and Cultural Affairs Law;

5541, by Senator Bruno, an act to amend the Public Authorities Law, in relation to the Saratoga County Water Authority; and

5296, by Senator Abate, an act to amend the Criminal Procedure Law, in relation to authorizing the Crime Victims Board to make limited awards.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are referred directly to third reading.

SENATOR SKELOS: Move we adopt.

ACTING PRESIDENT KUHL: Motion is to adopt the report of the Rules Committee. All

those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Rules report is adopted. The bills are ordered directly to third reading.

Reports from select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Johnson, I wish to call up his bill, 4469, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 831, by Senator Johnson, Senate Print 4469, an act to amend the Election Law, in relation to the transmitting of certain information.

ACTING PRESIDENT KUHL: Senator Farley.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 38.

SENATOR FARLEY: Mr. President, I now wish to recommit that bill.

ACTING PRESIDENT KUHL: That bill is recommitted.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Goodman, I wish to call up his bill, Senate Print 5389, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1424, by Senator Goodman, Senate Print 5389, an

act to authorize the conveyance of certain lands.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which the bill passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 38.

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

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Hoblock, I wish to call up his bill, 3230, which having passed both houses and was not delivered to the Governor.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 375, by Senator Hoblock, Senate Print 3230, an act to amend the Education Law, in relation to the board of education of the city of Albany.

SENATOR FARLEY: I now move to reconsider the vote by which this bill was passed, and I ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 38.

SENATOR FARLEY: Mr. President, I now offer up the following amendments to Senator Hoblock's bill.

ACTING PRESIDENT KUHL: Bill is restored to third reading calendar. Amendments are received and adopted.

Senator Farley.

SENATOR FARLEY: Mr. President, on behalf of Senator Goodman, I wish to call up his bill, Print 4002, which was recalled from

the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 936, by Senator Goodman, Senate Print 4002, an act to amend the Public Buildings Law, in relation to deleting the value of limitation.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 38.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I move we adopt the Resolution Calendar.

ACTING PRESIDENT KUHL: Motion is to adopt the Resolution Calendar. All those in

favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Skelos, we have some substitutions at the desk. If it's all right, we could take those now.

SENATOR SKELOS: Would you make the substitutions, please.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: On page 4, Senator Kuhl moves to discharge from the Committee on Rules Assembly Bill Number 2230B, and substitute it for the identical Calendar Number 61.

On page 4, Senator Marchi moves to discharge from the Committee on Rules Assembly Bill Number 4120A, and substitute it for the identical Calendar Number 165.

On page 5, Senator Skelos moves

to discharge from the Committee on Rules Assembly Bill Number 6488C, and substitute it for the identical Calendar Number 564.

On page 5, Senator Levy moves to discharge from the Committee on Rules Assembly Bill Number 7896A, and substitute it for the identical Calendar Number 583.

And on page 7, Senator Maltese moves to discharge from the Committee on Rules Assembly Bill Number 5329B, and substitute it for the identical Calendar Number 1445.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Skelos, that brings us to the calendar.

SENATOR SKELOS: Mr. President, if we could take up the non-controversial calendar, please.

ACTING PRESIDENT KUHL: Secretary will read the non-controversial Calendar Number 61.

THE SECRETARY: On page 4, Calendar Number 61, substituted earlier today,

by member of the Assembly Parment, Assembly Bill Number 2230B, an act to amend the Agriculture and Markets Law and the Environmental Conservation Law, in relation to the siting of solid waste management facilities.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 165, by member of the Assembly Connelly, Assembly Print Number 4120A, substituted earlier today, an act to amend the Public Authorities Law, in relation to and for the purpose of enabling the Dormitory Authority.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

(Pause)

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 31, nays one, Senator DiCarlo recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 564, by member of the Assembly Becker, Assembly Bill Number 6488C, substituted earlier today, an act to amend the Nassau County Civil Divisions Act, in relation to the volunteer and exempt Firemen's Benevolent Association of Lynbrook, New York.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 583, by the Assembly Committee on Rules, Assembly Bill Number 7896A, substituted earlier today.

SENATOR SKELOS: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1445, by member of the Assembly McLaughlin, Assembly Bill Number 5329B, substituted earlier today, an act to amend the Penal Law, in relation to false reporting of incidents.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1477, by the Assembly Committee on Rules, Assembly Bill Number 7825, substituted earlier today, an act to amend the Surrogate's Court Procedure Act, in relation to the appointment of a guardian ad litem.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1491, by Senator Libous, Senate Print 5441, an act to amend the Criminal Procedure Law and the Mental Hygiene Law, in relation to providing criminal history records.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1445, by Senator Maltese.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1445.

THE SECRETARY: Calendar Number 1445, by member of the Assembly McLaughlin, Assembly Print 5329B, an act to amend the Penal Law, in relation to false reporting of incidents.

SENATOR ONORATO: Explanation.

SENATOR DOLLINGER: Could we have an explanation, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Maltese, an explanation of Calendar Number 1445 has been asked for by Senator Dollinger.

SENATOR MALTESE: Yes, Mr. President.

This section basically increases

the penalty for the false reporting of an incident. The -- it specifically applies to members of the volunteer firefighting units, fire department, the fire companies, the fire units or the volunteer ambulance corps, volunteer ambulance workers.

It requires that if they would suffer serious physical injury or be killed traveling to or returning from a firehouse, a police station or other quarters. This specific section has been amended from a prior bill that did not include the returning to a firehouse, police station or the facilities from whence they came.

The reason that this was added is so that it would exclude, for instance, when the emergency vehicle was not on its way to or from an emergency rather than merely proceeding on some non-emergency trip.

The reporting -- the false reporting of incidents has become a very serious situation especially in the city of New York where the workers or others are seriously

injured or killed when these emergency vehicles are -- are responding to an incident as a result of a false alarm. The definitions include the definition of emergency vehicles and specifically in the case which groups would be covered by this specific legislation.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, would the sponsor yield to a question?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield to a question from Senator Dollinger.

SENATOR MALTESE: Sure.

SENATOR DOLLINGER: Does this legislation, in any way, affect the reporting of bomb threats?

SENATOR MALTESE: Mr. President, no, this is not that type of legislation.

SENATOR DOLLINGER: Another question, Mr. President, if the sponsor would yield.

ACTING PRESIDENT KUHL: Continue to yield, Senator Maltese?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Isn't it a fact that, under state law, the false reporting of a bomb threat is about one year -- a one-year sentence of imprisonment and that, under federal law, if you call in a bomb threat to a federal building, the penalty is five times as great?

SENATOR MALTESE: Mr. President, I was not aware of that startling revelation.

SENATOR DOLLINGER: Well, Mr. President, if the sponsor would yield to another question.

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Mr. President, I would ask that this be laid aside

so I could present an amendment -- it's sponsored by about 14 Senators -- that would increase the penalty for false reporting of a bomb threat to a state building, increase the penalty much like your bill would increase the penalty for false reporting and make it aggravated false reporting of an incident, increase the penalties, give our prosecutors the power to increase the penalties for false reporting of incidents. That would be a false fire alarm or police alarm.

My bill would have the effect of quintupling the penalty in New York State for false reporting of a bomb scare. It's really a bill that came out of the wake of the Oklahoma affair when there were bomb scares, a number of them in the Federal Building in Rochester and also in the state buildings in Rochester where buildings had to be closed, they had to be evacuated, and it would seem to me that that would send a strong message to people of this state that false reporting of incidents, both fire incidents and police incidents but a bomb

threat where they clear out the building, and the potential for a bomb threat, it seems to me that would serve the goal that you seek and expand the penalties for the false reporting of a bomb threat.

I'd ask the Senator if he would just entertain an amendment which would include my bill. I'll be glad to make it available to you. I didn't know this bill was coming to the floor today, so that we could send a message not only those who falsely report fire alarms and police alarms but those who falsely report bomb threats that require the evacuation of our state buildings, that we're not going to be any more tolerant of that than the federal level.

Would you entertain such an amendment to the bill?

SENATOR MALTESE: Mr. President, as my good colleague, Senator Dollinger, knows, we're speedily racing toward a deliberate adjournment, and the time is very short. His legislation seems to have a most salutory purpose, and I would be glad, on the advent of a

new session, to join him in that legislation, to have similar legislation with relation to placing a false bombs, bombs that are fixed to appear like a bomb but have no -- no mechanisms and would not ultimately result in any type of an explosion, but I don't believe that this specific legislation is the vehicle by which we can add those sections to this legislation.

I don't think this perhaps is the time to do that, but I certainly would join Senator Dollinger in his legislation at a more appropriate time.

SENATOR DOLLINGER: Mr. President, I appreciate the sponsor's comments. I understand that we are winding our way down here to a conclusion. Unfortunately, often times I don't get a chance to know what bills are going to come from the floor. When we make requests for bills to come out of committee, we don't know whether they're going to come out and, consequently, you can understand our position, where if we don't know what's going to happen on the floor, what bills are finally

going to hit the passage point, and I appreciate your bill and we've looked at your bill that deals with the false placing of a bomb-like device that requires the police to come in and bring out the dogs and evacuate the building. I support that bill as well.

It just seems to me that a comprehensive approach to trying to send the right message to people who are taking advantage of the police, taking advantage of the public, taking advantage of the firefighters, it seems to me that we can send a comprehensive message by including your bill with respect to the false placing, and our bill with respect to the false reporting of the bomb threat and this bill which I think is also a good bill that does something effective as well.

If we're trying to get a message out to people of this state that these are no longer childish pranks, these are no longer boyish pranks, girlish planks, these are no longer things that you do for fun in the middle of the summer so that you see the police and the

firemen come and stick around your neighborhood for a matter of a couple hours, these are far more serious things. They are resulting in injuries.

Your bill properly points that out, but I would just encourage you, if it's possible, to entertain this amendment. Frankly, we don't have it done yet, I don't believe, on this side yesterday, but it seems to me that we should be sending a comprehensive message about how we deal with the problem that you really properly point out, which is the dangers created when people play around with the telephone and falsely report incidents.

So I don't believe we have the amendment ready at this point, but I'd look forward to your support next year. Maybe we can put your bill, my bill together, take it to the other house and get the whole package done. It's something that's long overdue. We need to send a powerful message, and I'll be reporting in favor of this bill, Mr. President.

It's a good start. I hope we can

do more. I think we can do more. I wanted to do it today, but if we can do it next year, that will be fine.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Would you please lay aside Senator Libous' bill, 1491, for the day.

ACTING PRESIDENT KUHL: Calendar Number 1491 will be laid aside for the day.

SENATOR SKELOS: Your bill, Calendar Number 61, we're laying aside temporarily, some questions to be asked, so at this time if we can take up Senate Supplemental Calendar Number 1, non-controversial.

ACTING PRESIDENT KUHL: Secretary will read Senate Supplemental Calendar Number 1 non-controversial.

THE SECRETARY: Senator Farley moves to discharge from the Committee on Rules Assembly Bill Number 161A, and substitute it for the identical Calendar Number 416.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 416, by member of the Assembly Feldman, Assembly Print 161A, an act to amend the Public Health Law, in relation to creating a Health Care Information Privacy Advisory Board.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 565, by Senator Holland, Senate Print 32A, an act to amend the Highway Law, in relation to increasing bonded indebtedness in the town of Ramapo, Rockland County.

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

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 942, by Senator Goodman, Senate Print 5025, an act to amend the Tax Law and the Administrative Code of the city of New York.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1089, by Senator Stavisky, Senate Print 2302, an act to amend the Penal Law, in relation to penalties for criminal solicitation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 1259, by Senator Saland, Senate Print 4746A, an act in relation to authorizing the city of Beacon, county of Dutchess, to opt out of the provisions of Chapter 602.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1312, by Senator Velella, Senate Print 5045A, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking system in the village of Pelham.

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

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar - Senator Maziarz moves to discharge from the Committee on Rules Assembly Bill Number 7610A, and substitute it for the identical Calendar Number 1416.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1416, by the Assembly Committee on Rules, Assembly Print Number 7610A, an act to amend the Public Authorities Law, in relation to financing and construction of certain facilities.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1428, by Senator Nozzolio, Senate Print 5403.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1433, by Senator Rath, Senate Print 5447, an act to amend the Executive Law, in relation to changing the name of the Office for Regula...

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator Goodman moves to discharge from the Committee on Rules Assembly Bill Number 5950A, and substitute it for the identical Calendar Number 1457.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1457, by member of the Assembly Eve, Assembly Print Number 5950A, an act to amend -

SENATOR SKELOS: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1495, by Senator Stafford, Senate Print 621, an act to amend the Real Property Tax Law, in relation to the assessment of private forest lands.

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.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1496, by Senator Gonzalez, Senate Print 1094, an act to amend the Election Law, in relation to imposing penalties for inducing a person to be a candidate for election.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1497, by Senator Larkin, Senate Print 3066B, an act to amend the General Obligations Law, in relation to authorizing a charge of $20 for unpaid or dishonored checks or drafts.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator LaValle moves to discharge from the Committee on Rules Assembly Bill Number 5480, and substitute it for the identical Calendar Number 1498.

ACTING PRESIDENT KUHL:

Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1498, by member of the Assembly McGee, Assembly Print Number 5480, an act to amend the Town Law, in relation to making technical changes.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1499, by Senator Larkin, Senate Print 3215, an act to amend the Administrative Code of the city of New York, in relation to the change of retirement options.

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

read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, just a point of order. Could somebody direct me where the bills are located that we're doing. I don't seem to have them on my desk.

SENATOR SKELOS: They're at the front of your desk.

SENATOR DOLLINGER: I've been to the front of my desk and they're not there.

SENATOR JONES: This isn't the bills; it's just the calendar.

SENATOR SKELOS: Mr. President, if we could stand at ease.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon at 10:39 a.m., the Senate stood at ease until 10:55 a.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Skelos.

SENATOR SKELOS: If we could continue with the Supplemental Calendar Number 1. I believe we're at Calendar Number 1500, non-controversial.

ACTING PRESIDENT KUHL: The Secretary will continue to call the non-controversial calendar on Supplemental Calendar 1, beginning at Calendar Number 1500, by Senator Padavan.

THE SECRETARY: Calendar Number 1500, by Senator Padavan, Senate Print 3342A.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1501, by Senator Seward.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1502, by Senator Padavan, Senate Print 3484, an act in relation to the reduction of retirement benefits.

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

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Senator Larkin, Senate Print 3567, an act to permit Olaf Allen Takvam to revoke a previous election of death benefit coverage.

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.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1504, by Senator Larkin, Senate Print -

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Rules Assembly Bill Number 5954C, and substitute it for the identical Calendar Number 1505.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1505, by member of the Assembly Kaufman, Assembly Print Number 5954C, an act to amend the General Business Law, the Public Health Law and the Vehicle and Traffic Law.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1506, by Senator Skelos.

ACTING PRESIDENT KUHL: Bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1507, by Senator Spano, Senate Print 4202, an act to permit -- to provide permanent competitive civil service status as police officers.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. 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 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1508, by Senator Larkin, Senate Print 4254, an act to authorize the town of Cornwall to discontinue certain park lands.

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

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 1509, by Senator Skelos, Senate Print 4320, an act to amend the Retirement and Social Security

Law, in relation to the retirement of supervising fire inspectors.

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

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Present.

ACTING PRESIDENT KUHL: Chair recognizes Senator Present.

SENATOR PRESENT: Mr. President, there will be an immediate meeting of the Commerce, Economic Development and Small

Business Committee in Room 332.

ACTING PRESIDENT KUHL: Immediate meeting of the Commerce, Economic Development and Small Business Committee in the Majority Conference Room, Room 332. Immediate meeting of the Commerce, Economic Development and Small Business Committee in the Majority Conference Room, Room 332.

Secretary will continue to call the non-controversial calendar.

THE SECRETARY: Calendar Number 1510, by Senator Spano, Senate Print 4379A.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1511, by Senator Larkin, Senate Print 4466A, an act to incorporate the Volunteer and Exempt Firemen's Benevolent Association of Coldenham, Inc.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar - Senator Libous moves to discharge from the Committee on Rules Assembly Bill Number 6783, and substitute it for the identical Calendar Number 1512.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1512, by member of the Assembly Brennan, Assembly Print Number 6783, an act to amend the Mental Hygiene Law, in relation to disclosure by members, officers and employees.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Senator Maltese moves to discharge from the Committee on Rules Assembly Bill Number 6561A, and substitute it for the identical Calendar Number 1513.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1513, by member of the Assembly Katz, Assembly Print Number 6561A, an act to amend the Penal Law, in relation to authorizing a sentence of community service.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1514, by Senator Skelos, Senate Print Number 4696A, an act to amend the Retirement and Social Security Law, in relation to the retirement of ambulance medical technicians in the county of Nassau.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect January 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1515, by Senator Velella, Senate Print 4714, an act to amend the Executive Law, in relation to obtaining nationwide criminal history checks.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect 60 days after it shall have become law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 1516, by Senator Padavan, Senate Print 4753, an act to amend the General Municipal Law, in relation to providing coverage for injuries sustained.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1st.

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 1517, by Senator Larkin, Senate Print 4882A, an act to amend the Real Property Tax Law and Chapter 602 of the Laws of 1993.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 24. 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: Senator Kuhl moves to discharge from the Committee on Rules Assembly Bill Number 7645B, and substitute it for the identical Calendar Number 1518.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1518, by the Assembly Committee on Rules, Assembly Print Number 7645B, an act to amend the Agriculture and Markets Law, in relation to transportation and storage of pasteurized milk.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

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

1519, by Senator Saland.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1520, by Senator Stafford, Senate Print 5251A, an act to legalize, validate, ratify and confirm certain proceedings.

ACTING PRESIDENT KUHL: There is no home rule message at the desk. The bill will be laid aside.

THE SECRETARY: Calendar Number 1521, by Senator Rath, Senate Print 5294, an act to authorize Judith E. Fillinger, employed by the county of Erie as a program analyst.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce

the results when tabulated.

THE SECRETARY: Ayes 47, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1522, by Senator Lack, Senate Print 5378.

SENATOR SKELOS: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1523, by Senator Lack.

ACTING PRESIDENT KUHL: Bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1524, by Senator Velella, Senate Print 5431, an act to amend the Insurance Law, in relation to clarifying and revising liability insurance requirements.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1525, by Senator Lack, Senate Print 5433, an act to authorize the State University of New York.

SENATOR SKELOS: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1526, by Senator Hoblock, Senate Print 5473, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking permit system in the city of Albany.

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

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1527, by Senator Volker, Senate Print 5479.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1528, by Senator Tully, Senate Bill Number 5480.

SENATOR SKELOS: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1529, by Senator Volker, Senate Print 5491.

SENATOR VOLKER: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1530, by the Senate Committee on Rules, Senate Print 5494.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator DeFrancisco moves to discharge from the

Committee on Rules Assembly Bill Number 2070C, and substitute it for the identical Calendar Number 1531.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1531, by member of the Assembly Bragman, Assembly Print 2070C, an act authorizing the establishment of the Northern Onondaga Public Library District.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1532, by Senator Volker, Senate Print 5499, an act to enact the Criminal Procedure Law Reform Act of 1995.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator Volker moves to discharge from the Committee on Rules Assembly Bill Number 8222, and substitute it for

the identical Calendar Number 1533.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1533, by the Assembly Committee on Rules, Assembly Print Number 8222, an act to amend the Public Authorities Law and the Executive Law, in relation to the creation of the Livingston County Water and Sewer Authority.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date as a chapter of the laws of 1995.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Holland moves to discharge from the Committee on Rules

Assembly Bill Number 8186, and substitute it for the identical Calendar Number 1534.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1534, by the Assembly Committee on Rules, Assembly Print Number 8186, an act to amend a chapter of the laws of 1995 as proposed in Legislative Bill Number Assembly 6516.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1535, by Senator Stafford, Senate Print 5507, an act to authorize the Commissioner of

Environmental Conservation to contract with Sagamore Institute.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1536, by Senator DiCarlo, Senate Print 5517, an act to amend the Tax Law and Chapter 190 of the Laws of 1990, amending the Business Corporation Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator Spano moves to discharge from the Committee on Rules Assembly Bill Number 7975A and substitute it for

the identical Calendar Number 1537.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1537, by the Assembly Committee on Rules, Assembly Print Number 7975A, an act in relation to establishing a Public Work Enforcement Fund.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1538, by Senator Goodman, Senate Print 5522, an act authorizing the Dormitory Authority of the state of New York to plan, design and acquire a facility.

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1539, by Senator Goodman, Senate Print 5523, an act to amend Chapter 54 of the Laws of 1995, enacting the Capital Projects Budget.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1540, by Senator Skelos, Senate Print 5525, an act to amend Chapter 704 of the Laws of 1991 amending the Arts and Cultural Affairs Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act -

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1541, by Senator Bruno, Senate Print 5541.

ACTING PRESIDENT KUHL: Bill is high. Lay the bill aside.

THE SECRETARY: Senator Abate moves to discharge the Committee on Rules from Assembly Bill Number 8102 and substitute it for the identical Calendar Number 1542.

ACTING PRESIDENT KUHL: Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1542, by the Assembly Committee on Rules, Assembly Print Number 8102, an act to amend the Executive Law, in relation to authorizing Crime Victims Board.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Skelos, that completes the non-controversial calendar.

The Secretary informs me that the home rule message has arrived on Calendar Number 1520 which was laid aside for the reason there was no home rule message.

SENATOR SKELOS: Would you please call up Calendar Number 1520.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1520.

THE SECRETARY: Calendar Number 1520, by Senator Stafford, Senate Print 5251A, an act to legalize, validate, ratify and confirm certain proceedings.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time on the first calendar, Calendar Number 61, by Senator Kuhl, if we could call that up, please, Senator Leichter is now here.

ACTING PRESIDENT KUHL: We'll return to the first calendar of the day, Calendar Number 61 and we'll ask the Secretary to read the title of Calendar Number 61.

THE SECRETARY: Calendar Number 61, substituted earlier today, by member of the Assembly Parment, Assembly Print Number 2230B, an act to amend the Agriculture and Markets Law and the Environmental Conservation Law, in relation to the siting of solid waste manage ment facilities.

SENATOR PATERSON: Can we have an explanation, please.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, an explanation has been asked for

by Senator Stachowski. Senator Kuhl.

SENATOR KUHL: Yes, Mr. President.

This is a bill that has seen this house before, although in a slightly different form. The concept is essentially the same.

One of the underlying fundament als that was adopted by this Legislature many years ago was the basic policy that was meant to try to encourage the development of agriculture in the state of New York. As a result of that, we have done a number of things to try to encourage that industry, and this is another bill which is meant to do that same thing and that is to preserve viable currently being worked farm land in the state of New York.

This is a bill that would essentially prohibit the siting, I should say prohibit the involuntary siting of landfill - landfill/solid waste kinds of development in currently working farm land.

The bill has passed the Assembly. It had -- it has this year -- it was

substituted earlier today. I fully expect that it will be signed by the Governor because all parties to the legislative process have been involved in the development of this particular bill.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer.

SENATOR OPPENHEIMER: If you would yield for a question, Senator Kuhl.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, do you yield to a question from Senator Oppenheimer?

SENATOR KUHL: I'd be happy to yield to Senator Oppenheimer.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, the Senator is happy to yield.

SENATOR OPPENHEIMER: Can you tell us what the change is. We're trying to figure it out here from everybody. We would ask you to explain that to us, because we believe

the environmental groups are now essentially supporting this, and we want to know what that change is.

SENATOR KUHL: You're asking for -- excuse me, Senator Oppenheimer. You're asking for some of the changes in the "B" print from the previous print. All right. There - if you want to pull up the bill and take a look at the bill -- do you have it in front of you?

If you'd look, oh, let me see, on the "B" print -- if you'd look at the "B" print, on line 5, after the word "district" there was previously language, about eight words, that read "*** and receiving an agricultural assessment pursuant to this article." That line was eliminated.

You then go down to line 24 - excuse me, line 23, and you find the words "solid waste transfer station". After that, the language "*** for land -- or land upon which sewage sludge is applied," was added, that phrase, "*** or land upon which sewage sludge is applied." That was added.

Then the only other change was on the second page, that same phrase was added down on line, I believe it's 34 -- it's above that - 28 -- on line 28. That's -- you can see after the word "again," the words, "solid waste transfer station," the phrase "or land upon which sewage sludge is applied" was added.

That's basically, just essentially technical amendments, some language change meant to include one -- one little different area, and that is certainly land application area where there is sewage sludge being applied. I believe that's the difference in the bill.

SENATOR LEICHTER: Mr. President.

Senator Oppenheimer, would you -

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

SENATOR LEICHTER: Yes, if Senator Kuhl will yield, please.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, do you yield to Senator Leichter?

SENATOR KUHL: Be happy to yield.

ACTING PRESIDENT MARCELLINO: Senator Kuhl yields.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MARCELLINO: Can we have some order in the house, please? Excuse me, Senator Leichter. Thank you, Senator Leichter.

SENATOR LEICHTER: Senator, I don't find your bill, because I have the "A" print but somebody handed me what purports to be a "B" print. Seems like it has a provision in there, and on line 12, about the applicant for a permit has made a commitment in the permit application to fund a farm land protection conservation easement within a reasonable proximity to the proposed project in an amount not less than the dollar value of any such farm land purchased for the project.

Am I correct that that is also a change?

SENATOR KUHL: There is no change between the "A" print and the "B" print in that language. That language continues. That's in the "B" print.

SENATOR LEICHTER: That's -- and you say that was in the "A" print.

SENATOR KUHL: Yes, that's in the "A" print too.

SENATOR OPPENHEIMER: Senator, I have a question.

SENATOR LEICHTER: Well, can I just finish, please?

ACTING PRESIDENT MARCELLINO: Senator Kuhl, do you yield to a further question?

SENATOR KUHL: Yes.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR LEICHTER: Senator, I mean I have the "A" print. I don't find that language in the "A" print.

SENATOR KUHL: The "A" print, the "A" print.

SENATOR LEICHTER: Can you show me where in the "A" print that language is?

SENATOR KUHL: Yeah, just to make sure we're talking about the same bill, Senator, the "A" print was printed on January 31st of this year, at the top.

SENATOR LEICHTER: The "A" print says of January 17th.

SENATOR KUHL: I'm reading - excuse me. I'm reading off the Assembly "A" print.

SENATOR LEICHTER: Excuse me?

SENATOR KUHL: I'm reading off the Assembly "A" print.

SENATOR LEICHTER: Oh, then that may be the problem. I'm reading off the Senate "A" print. Is the Senate -- is the Assembly "A" print the same as -- as the Senate "B" print?

SENATOR KUHL: With the exception of the language that I referred to that was added and that one phrase that was strucken in response to Senator Oppenheimer's question.

SENATOR LEICHTER: I see. I see. I don't seem to have that bill, but just working for a moment off your "B" print -

ACTING PRESIDENT MARCELLINO: Senator Kuhl, do you yield to a further question?

SENATOR KUHL: I'd be happy to yield.

ACTING PRESIDENT MARCELLINO: He yields to a further question, Senator.

SENATOR LEICHTER: Now, am I correct in understanding that even where the owner of the agricultural lands does not consent to that land being used for solid waste siting, that if an application for a permit is made which provides for an agricultural easement within a reasonable proximity, that the solid waste landfill siting can proceed?

SENATOR KUHL: Senator, you're correct, that -- that is one of -- point that you raise is one of the differences between the bill that's before you this year and the bill that was before you in years past.

We've taken into consideration places where there are currently landfill operations being proposed and being worked upon. This is not meant to prohibit the continuation and actually the implementation of those programs, and that's essentially what this does.

SENATOR LEICHTER: Good. Senator, if you'd be good enough to continue to yield.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, do you continue to yield for a question?

SENATOR KUHL: I'd be happy to.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR LEICHTER: How do you define "reasonable proximity"; who is going to make that determination?

SENATOR KUHL: Well, if we can't come to an agreement on what that is amongst the parties, obviously that would be defined by a court. We're not intending that that be that

way, but we're talking about situations that maybe are 500, 1,000 feet, so we're not talking several miles.

SENATOR LEICHTER: So the intent that you give that expression is that "reasonable proximity" means really in very close proximity.

SENATOR KUHL: Yes.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, will you yield for another question?

SENATOR KUHL: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR LEICHTER: Another change that I have, Senator, at least between the Senate "B" print and the Senate "A" print is that there can be a taking if such agricultural land that is taken constitutes less than five percent of the projected site; is that correct too?

SENATOR KUHL: That's correct.

SENATOR LEICHTER: And that

determination has to be made both by the Commissioner of Environmental Conservation and the Commissioner of Agriculture, is that correct?

SENATOR KUHL: That's correct.

SENATOR LEICHTER: Just briefly on the bill.

ACTING PRESIDENT MARCELLINO: Senator Leichter, on the bill.

SENATOR LEICHTER: And maybe it could be in the nature of a question if Senator Kuhl wants to address it.

Senator, I certainly share your desire to keep as much agricultural land as we possibly can in agricultural production or we say for future agricultural production if it isn't used presently.

I am, however, concerned that, in some communities and localities, it's going to be very difficult to find sites for waste facilities for landfills and, as you know, those are necessary.

I mean there's a lot of valuable

land in this state other than for agricultural purposes, land that's forests, lands that's near lakes, land that has scenic value. On the other hand, we have to deal with the problem of disposing of solid waste in our society.

Are we really justified in just taking agricultural land and say that we're going to protect agricultural land or we're not going to concern ourselves with these other valuable lands? That's really my problem with this bill. I mean I wish we didn't have all our solid waste disposal, but we do and don't we have a responsibility to the people of this state to provide some means and some possible potential for disposing of solid wastes throughout the whole state, even if in some instances it means taking agricultural land?

ACTING PRESIDENT MARCELLINO: Senator Kuhl, did you wish to address that?

SENATOR KUHL: Yes. I think the question is close, and I think Senator Leichter deserves an honest and frank answer, and I'd like to provide that because I think that I can

belie some of his fears.

Senator, if you were to look at the statistical information that is coming to us relative to agriculture in the state of New York, I think you would become very, very concerned about the long-term viability of agriculture in this state. We have, as you know, 18 million people. They're certainly dependent upon produce. If we don't do something to try to maintain our base here, we'll be totally at the whim of maybe foreign countries, other states, and we won't be able to produce for our own people. That's a great concern and, number one, also, it's a great concern that we don't have jobs for many of our people who would like to be in them.

The statistics will show you that the number of farms in this state has seriously decreased, and that the -- in the last ten years over a million acres have gone out of produc tion. Now, this bill specifically deals only with land that is currently under production. That means there has to be some sort of a crop

or something being planted and harvested.

There's a further condition that you wouldn't know anything about necessarily unless you were fully familiar with the new assessment process that was created in the Ag Districts Law that was passed by this Legislature back in 1971, and that is for a person to receive that assessment they have to have been in existence and under production for at least two years prior to that, and there has to be, I believe it's an eight-year commitment to continue in agriculture, so what we're talking about here is that unique situation where we have a municipal government who decides for their own purposes just to come in and take a farm from a farmer who wants to continue in the farming business and we're simply saying that, unless there's already a permit application and the other kinds of situations, the exemptions that are created, that you no longer can do that because one of the things that we're finding is that there is a, what we call a critical mass to the via... economic

viability of agriculture.

If you continue to pull out little pieces of farms around the state, then you end up with less property being actually worked than will -- will continue the need for secondary services that are provided to the agricultural community, and all of a sudden you start to see that little agribusiness that does things like sell equipment, farm equipment, that disappears and it goes some place else, and this all kind of adds to a trend to essentially unweave the fabric of the agricultural community and dry it up, and that's what this bill is meant to do and, for those existing plots out there who are no longer in production, this bill doesn't apply, so there are millions, literally millions of acres of land that are available to site solid waste landfill facilities that would have absolutely nothing to do with agriculture, but would -- and wouldn't threaten agriculture, O.K., so what we're saying is there are many, many other sites, many, many other acres or possibilities, but just don't come in and

destroy and take without the voluntary consent of the landowner, a piece of property that might totally undermine the agriculture in that area.

SENATOR LEICHTER: Mr. President, if Senator Kuhl will yield to one more question.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, will you yield to Senator Leichter?

SENATOR KUHL: Be happy to.

ACTING PRESIDENT MARCELLINO: Senator Kuhl yields.

SENATOR LEICHTER: Senator Kuhl, I think you make very good sense, and I think I understand the bill better now, and I think your amendments make it less of a problem.

I just have one question. If land -- agricultural land that's in an agricul tural district is used solely for haying, somebody goes in and mows it, is that considered agricultural production?

SENATOR KUHL: If they're just mowing it?

SENATOR LEICHTER: Yes, all they do.

SENATOR KUHL: You mean for aesthetic purposes?

SENATOR LEICHTER: Excuse me?

SENATOR KUHL: For aesthetic purposes?

SENATOR LEICHTER: No, they go and they cut the hay and sell it for whatever the hay may be worth.

SENATOR KUHL: Then that would be agricultural production, but there's another - there are two -- two criteria to getting an ag' district exemption. You also have to have a gross dollar amount of production and so, if you were just saying, going in and mowing it and baling it and selling it and it was less than say $10,000, they wouldn't qualify for the exemption, and then the land wouldn't be exempt under this bill, so this is not meant to allow the so-called hobby farms that don't have an agricultural component, I mean on a real existence as far as the agricultural community,

as far as being able to utilize this piece. It has to be a viable commercial agricultural business really to qualify for the ag' district exemption.

SENATOR LEICHTER: Thank you, Mr. President.

I'm certainly satisfied. I think I understand the bill much better, and I thank Senator Kuhl for his explanation. Certainly we understand that the reason that farming has declined in this state is because of worldwide forces and agricultural production that has increased in so many parts of the world, but I think it makes sense to say that, if we had a farm that is indeed in agricultural production, as Senator Kuhl explains it, is defined according to law that that particular farm should not be taken out of production, particularly when you point out that there's a lot of former agricultural land that should be available.

I'm going to support the bill.

ACTING PRESIDENT MARCELLINO:

Thank you.

Senator Oppenheimer.

SENATOR OPPENHEIMER: This is an observation, maybe a question to Senator Kuhl. As I understand it, one of the changes is that the -- the site for the -- the solid waste facility would be 95 percent in non-agricultural land and only five percent would be the taking of the agricultural land that's under production.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, I believe that was a question. Will you yield to it?

SENATOR KUHL: I'd be happy to yield. I think you're -- do you want to state that again, Senator Oppenheimer. I don't know as I heard it.

SENATOR OPPENHEIMER: Right here it says -

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, please. Thank you. Senator?

SENATOR OPPENHEIMER: -- the

Commissioner will determine that the agricul tural land to be taken constitutes less than five percent of the project site, so the major ity of this site would be in non-agricultural land and only five percent would be taken that would be farm land that was in production.

SENATOR KUHL: This, again, was another one of those exceptions where we saw that there might be, in the original bill, just a true definition might not really take into consideration some of the practical applications so if you might have, for instance, a site that would be -- let's say you're going to be a hundred acres and say three acres of that might just come into an ag' district area, O.K., that would be an occasion which would be -- that three acres would not be exempt under this bill, that they would be able to take that because it's such a small piece of the overall project that we didn't want to undermine or jeopardize the whole siting project because of those three acres.

SENATOR OPPENHEIMER: Excellent.

Thank you very much. On the bill.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I also will be supporting this bill this year. It is a fine line that we have to draw in this state. We understand that agriculture is the primary business of this state. It's the number one item in our gross product, and we have to face the fact that small farms are having difficulty in a world of agroeconomics where the huge farms seem to be taking over.

And so, in trying to find a compromise I think this bill has done it, and I will be supporting it.

ACTING PRESIDENT MARCELLINO: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect January 1st.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, can we now move to the Senate Supplemental Calendar Number 1 and take up the controversial calendar.

ACTING PRESIDENT MARCELLINO: Can we have -- Secretary will read.

THE SECRETARY: Calendar Number 416, substituted earlier today by member of the Assembly Feldman, Assembly Print Number 161A, an act to amend the Public Health Law, in relation to creating a Health Care Information Privacy Advisory Board.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

This bill creates a temporary expert advisory board within the Health Department to advise and report to the

Legislature and the Governor and the Health Department and the Insurance Department on issues involving health care data privacy.

The legislative finding states it's computerization and changes in technology made through health care delivery, but it may also present new challenges to the protection of personal privacy. This board will be comprised of ten legislative and five gubernatorial appointments with expertise in different medical topics such as practice genetics, et cetera.

The bill passed the Assembly unanimously back in 1994. In '95 it was 143 to one over there. It was recalled and amended. It would -- basically, this bill is supported by the state Consumer Protection Board.

Is there any particulars that you'd like to know about?

ACTING PRESIDENT MARCELLINO: Senator Stachowski.

SENATOR STACHOWSKI: If Senator Farley will yield to one question, please.

ACTING PRESIDENT MARCELLINO:

Senator Farley, will you yield?

SENATOR FARLEY: I will be delighted to yield.

SENATOR STACHOWSKI: Can you tell me the breakdown of those appointments?

SENATOR FARLEY: Yes, I think I can. I gather you mean whom they're appointed by. I understand what you're talking about. I got to look at this. Ten from the Legislature. I don't have that -- I can't find that information at the moment, Senator. I'll be happy to get back to you on it.

Page 2, that's where I'm looking. Thank you. My good friend, here it is. Thank you, Senator Present. Shall consist of 15 members; three shall be appointed by the Temporary President of the Senate, two by the Minority Leader of the Senate, three by the Speaker, two by the Minority Leader of the house.

I knew that's what you were driving at. That's always been my feeling that they should do it that way, and five shall be

pointed by the Governor.

ACTING PRESIDENT MARCELLINO: Read the last section.

SENATOR FARLEY: Also for the legislative intent, I want to note, want the record to show, because it was asked me by learned counsel on your side, that the intent of this bill is that the Health Department only make recommendations, and so the legislative intent shall show that.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO: This bill is passed.

THE SECRETARY: Calendar Number 942, by Senator Goodman, Senate Print 5025, an act to amend the Tax Law and the Administrative

Code of the city of New York, in relation to increasing the effectiveness and efficiency of tax collection.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: Mr. President, this bill's purpose is to increase the effectiveness and efficiency of tax collection and administration of the Tax Department, whose bill it is, by improving certain administrative and supplemental collection divisions, to discontinue the use of automotive fuel carrier permits under Article 21 of the Tax Law, that's the highway use tax, and to conform the state and local personal income taxes to the federal income tax division which allows a credit upon repayment of same rate of income.

This is a very complex bill and like Moby Dick, I could render an explanation on three levels. I've just given you level one which is the quickie. I could give you level

two, which is the half hour version and level 3 which is the three-hour version, and I'm at your disposal for whichever level you choose.

ACTING PRESIDENT MARCELLINO: Senator Leichter, you rise at your own risk.

SENATOR LEICHTER: Yeah, if Senator Goodman will yield.

ACTING PRESIDENT MARCELLINO: Senator Goodman, do you yield to a question?

SENATOR LEICHTER: I didn't want to go into the post-graduate course on this bill, Senator.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR LEICHTER: But let me just ask you one question. Could you tell us what the fiscal implications are, if any, with this bill? Are we going to have any loss of revenue as a consequence of this bill?

SENATOR GOODMAN: Senator, the bill allows the Tax Department to focus on more significant cases by allowing the Department to abate small amounts of tax, and the cost of

collection efforts would exceed the tax collected.

There is no way in which, in an ticipation of these actions, I could give you a fiscal implication, but I think that the net of this is clearly that the state stands to benefit by virtue of improved tax administration.

Now, I might just add a couple of other thoughts to this so that you'll have a similar clear idea of the bill's overall scope. It unifies the erroneous refund provisions across all the taxes and provides a rational structure for the imposition of interest.

It adopts the federal standard in the area so that state and federal taxes are not dealt with in a conflicting manner. Currently, when the state issues an erroneous refund, it may charge interest from the date issued. This would allow interest only from the date that they ask for the return of the erroneously refunded money.

Tax Department personnel would be allowed to vacate warrants which is to the

taxpayer's benefit, by filing in the county clerk's office rather than overburdening the Attorney General's office, that when a taxpayer check bounces, the Department may already have issued a satisfaction piece.

This would allow them to work 40 rather than 20 days to issue the satisfaction piece to assure that the check clears. If the taxpayer needs the satisfaction piece sooner than 40 days, they may still obtain it by paying certified funds.

Divisions requiring fuel carriers to have special permits, or in the fields, are no longer necessary as an enforcement device and are redundant with other permits. This would also permit a claim of rights credit under the state's personal income tax in those instances where the taxpayer elected the term of right credit under the federal income tax.

This would conform state law to the federal so the taxpayer does not have to file in two different manners for the same taxed income, so I would summarize this by saying that

on the one hand this seeks to be more user friendly to the taxpayer while at the same time providing a pragmatic approach to the collection of taxes, so that the efforts of the Department would be against the big liabilities rather than the inconsequential ones in which cost of collection can exceed the amount that's actually collected.

SENATOR LEICHTER: Mr. President.

SENATOR GOODMAN: There is a slight revenue enhancement, I'm informed by counsel, to the state, as the Tax Department staff work on collecting the large bills rather than the very small amounts which I think is what I've already said, but statement is reiterated.

ACTING PRESIDENT MARCELLINO: Senator Goodman, will you yield to another question by Senator Leichter?

SENATOR GOODMAN: Yes, I will certainly.

ACTING PRESIDENT MARCELLINO:

Senator yields.

SENATOR LEICHTER: Senator Goodman, you sort of made an analogy. You want to be Moby Dick, I don't want to be Captain Ahab.

SENATOR GOODMAN: Well, Ahab -

SENATOR LEICHTER: I know what happened to Captain Ahab at the end.

SENATOR GOODMAN: And Moby Dick is a whale, so the seafaring reference is quite clear.

SENATOR LEICHTER: Senator, I know there's a provision in here that affects the registration of the New York City income tax. In regard to the -- to the city income tax, the administration, has that provision been cleared with the city of New York?

SENATOR GOODMAN: Yes, it has.

SENATOR LEICHTER: Thank you.

SENATOR GOODMAN: Thank you, Senator.

ACTING PRESIDENT MARCELLINO: Secretary will read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1428, by Senator Nozzolio, Senate Print 5403, an act to amend the Penal Law, in relation to establishing a crime of aggravated harassment.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, Senator Paterson has asked for an explanation.

SENATOR NOZZOLIO: Thank you, Mr. President.

Senator Paterson, this is a measure that is identical to a measure that we passed a few weeks ago that was enacted by this body 52 to 1. It's a measure that basically says those who are in prison and use their

bodily fluids as a weapon and attack, assault correction officers and other correctional personnel would be guilty of a Class C felony.

One of the provisions that was omitted from the original measure which was passed by this house was a provision to require a mandatory AIDS test for those who were participating in this biopractice. That AIDS test is no longer required by this bill, and we are in negotiations with the Assembly. We are close to reaching agreement and one of the requirements of the Assembly was to eliminate the mandatory AIDS test.

SENATOR PATERSON: Senator, I had a question about HIV testing.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, do you -- do you yield to a question?

SENATOR NOZZOLIO: I'd be honored to yield to the distinguished Minority Leader.

ACTING PRESIDENT MARCELLINO: Senator yields, Senator.

SENATOR PATERSON: I'm very

pleased, but Senator, I will have to tell you that somehow psychicly you addressed my question in your explanation, and your explanation is quite satisfactory.

SENATOR NOZZOLIO: Thank you.

ACTING PRESIDENT MARCELLINO: Secretary will read the last section. Quickly before they have a question.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MARCELLINO: We haven't read anything yet. What would you like an explanation of?

SENATOR PATERSON: Mr. President,

we just want to know why we're here.

ACTING PRESIDENT MARCELLINO: We have to call the bill first, Senator, if you just wait for one second.

Secretary will read.

THE SECRETARY: Calendar 1433, by Senator Rath, Senate Print 5447, an act to amend the Executive Law, in relation to changing the name of the Office for Regulatory and Manage ment Assistance.

SENATOR RATH: Yes, the explanation that's been asked for, probably seems like a very familiar bill and although this is a bill sponsored by the Governor, it's identical to one that this body passed on July -- pardon me, on June the 12th. That was an extender for what we will hopefully be calling the Governor's Office of Regulatory Reform and it was for six years.

This bill in front of us changes the name as that bill did from ORMA to the -- to GORR, G-O-R-R, and extends it for two years rather than six years.

ACTING PRESIDENT MARCELLINO: Read the last section.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, maybe I missed something. If the Senator would yield for a question?

SENATOR RATH: Surely.

ACTING PRESIDENT MARCELLINO: Senator Rath, do you yield?

SENATOR RATH: Yeah.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR PATERSON: Senator, in light of that, why are we changing the name?

SENATOR RATH: Yeah, in order to reflect more clearly the role that regulation reform is playing in the state right now. The Governor has taken a very, very big interest in it, and he has an office now that has that full responsibility, and although many of the duties will remain the same, identical, the extender

does not change the duties of the office or the responsibilities, and I think it's important that we also recognize that by having this in statute, that the Legislature then has an opportunity to revisit the -- the office and its responsibilities periodically through the extension of the legislation, and that there's a great deal of discussion continuing regarding regulatory reform and, of course, the home of that is in formerly ORMA, hopefully soon to be called GORR.

SENATOR SOLOMON: Mr. President, will Senator Rath yield?

ACTING PRESIDENT MARCELLINO: Senator Solomon. Senator Rath? Senator Solomon, she yields.

SENATOR RATH: Surely.

SENATOR SOLOMON: Senator, the previous remarks, you had stated that we passed the piece of legislation on June 12th which was your bill which did exactly the same thing here except we did it for six years, and now this bill is going to do it for two years.

Can you tell me what has transpired in the last 15 days where we had to go from six years to two years?

SENATOR RATH: It's the Governor's request that we do this for two years rather than six years. I think that was a hopeful thing on June 12th that six years might be an opportunity, but now the Governor says two years is just fine with him.

SENATOR SOLOMON: (Gestures) Thank you.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President,

could we move to Calendar Number 1497, Senator Larkin.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 1497.

THE SECRETARY: Senator Larkin moves to discharge from the Committee on Rules Assembly Bill Number 5384B, and substitute it for the identical Calendar Number 1497.

ACTING PRESIDENT MARCELLINO: Substitution ordered. Secretary will read.

SENATOR LARKIN: What this bill does is -

ACTING PRESIDENT MARCELLINO: Senator Larkin, got to read it first.

THE SECRETARY: Calendar Number 1497, by member of the Assembly McLaughlin, Assembly Print Number 5384B, an act to amend the General Obligations Laws, in relation to authorizing a charge of $20.

SENATOR LARKIN: Senator Paterson, this bill provides any person to whom you make a check, other than a cashier's check,

money order or certified check is tendered, which check is subsequently dishonored, may collect a $20 fee from the party which issued the check.

Right now we do it for consumer accounts or your private accounts. All this does is bring private accounts in line with what is in existing law today.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

If we could just hold for one second, please.

SENATOR LEICHTER: Mr. President, are we -- are we in between bills?

ACTING PRESIDENT MARCELLINO:

Yes, we are, Senator.

SENATOR LEICHTER: O.K. Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Leichter.

SENATOR LEICHTER: Calendar 1409 which passed on a slow roll call on June 15th, I was out of the chamber at that time. If I had been in the chamber, would the record please show I would have voted in the negative on that.

ACTING PRESIDENT MARCELLINO: The record will show that, had you been in the chamber, Senator, you would have been in the negative on that bill.

Secretary will read.

THE SECRETARY: Calendar Number 1500, by Senator Padavan, Senate Print Number 3342A, an act to amend the Public Health Law and Family Court Act, in relation to abortions performed on unemancipated minors.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT MARCELLINO:

Senator Padavan, an explanation has been asked for by several Senators.

SENATOR PADAVAN: Thank you, Senator.

The bill before us would require parental notification in the case of any abortion performed on a child under the age of 16. Notification would be to parents or individual parent as the bill prescribes.

The proposed law has a judicial bypass under the jurisdiction of the Family Court. The bill precludes its application for any emancipated minor. It provides a method for parental responsibility, parental authority, parental concern to be exercised when and where appropriate.

In this state, we have a body of law that relates to medical procedures performed on minors. The law requires parental consent in any type of surgery, tooth extraction, broken limb, and we also know that in even unrelated areas, unrelated to health care, parental

consent is often required. A school trip planned by an educational institution would require, as most of us know as parents, a slip to be signed giving permission.

It's an anomaly that, in an area that is certainly a serious medically significant intrusive surgery, that in this one area not only is not consent required but not even notification, and in the latter category the bill before us would seek to ensure notification.

We outline in the preamble of the bill the reason why this is so important. Certainly a young girl under the age of 16 at this point in her life is undergoing emotional trauma. I think that goes without saying. A youngster of that age may not be familiar with her own medical history so important to her well-being when such a procedure is to be undertaken.

The need for counseling, the need for psychology or psychologists to be involved certainly is something that we could acknowledge

as a potential fact in many cases. But if the parents don't know about it, don't know about the pending abortion, don't know about after the abortion, certainly, all of these things that we as parents would be concerned about and want to see happen can, in some instances, be precluded. We think that's wrong. It's wrong in a very substantive way, and we think primarily of the well-being of the young girl involved.

In terms of society, I think we have an overriding responsibility to ensure that parental responsibilities, parental obligations, parental authority are given maximum opportunity to be exercised, and I can think of no more traumatic situation than a 13- or 14- or 15-year-old girl about to have an abortion and parents not being able to provide the kinds of support, the inputs needed and the oversight, I think, so critical to ensuring that should an abortion take place that it would be done properly and with minimum negative impact.

So often we have read and learn

from reports provided that teen-age abortions are not a one-time event, regrettably, and it would seem, I think, logical to me and I'm sure to you that these children need help and the best people to ensure that it be provided are the parents or parent as the case may be, or guardian, all of whom are prescribed for in the bill.

Now, let me share with you just one story, and then I will be happy to answer any questions. Several years ago in my district, in a community called Queens Village, a 13-year-old girl, Dawn Ravenell, was taken by an individual to an abortion clinic. During the course of the abortion, serious complications developed and the young girl was rushed to a hospital. That night the parents received a phone call from that hospital and they were told that "Your daughter is here and she is in a coma."

They rushed to the hospital and that night Dawn Ravenell died. The parents were here in Albany a couple years ago to discuss

this legislation, and a reporter asked them a very pointed question: "If you had known about your daughter's situation, would you have precluded an abortion?" Mrs. Ravenell answered the question, I thought, in a way that I would like to share with you. She said, "We would have discussed it as a family, and we are a very tight knit family, not a dysfunctional family, and if we had decided in the best interests of Dawn that an abortion was required or desirable, we would have gone forward with it, but it would have been in a hospital and our family physician would have been involved and Dawn's medical history would have been known, and she would be alive today."

That, in a very real life story, highlights why this bill is important. I don't want to see any other Dawn Ravenells die in this state. At the same time, I recognize that there are situations that are different than that family where there are dysfunctional families where one or more parents cannot be involved and the bill very carefully provides a bypass

provision so that, in the event such a situation does exist, the Family Court would have the full authority to assume responsibility or to correct whatever is appropriate in the court's view.

That, briefly, is the explanation of the bill.

ACTING PRESIDENT MARCELLINO: The Chair would just like to recognize Senator Bruno. We would just say there's a list of speakers up here. If you want to speak we will put you on the list. It goes Senator Bruno, Senators Paterson, Dollinger, Abate, Cook, Oppenheimer, Marchi, Goodman, Spano and Maltese.

Senator Bruno.

SENATOR BRUNO: Mr. President, I stand and speak in favor of passage of this parental notification bill, and I speak in favor of passage because I think it's critically important.

Senator Padavan said it as well as anyone could say it describing very specifically the critical need for parental notification any time a young person under 16 is

going to have something happen to that person that could be life-threatening, especially if it can be life-threatening.

The unfortunate part of this issue is it gets very emotional, and there are the pro-choice people and the pro-life people, and it becomes a pro-life or a pro-choice issue. It is not, Mr. President, in my mind, a pro-choice or a pro-life issue, and I think it's unfortunate for the public in New York State, who overwhelmingly support parental notification, that this becomes an issue of pro-life or pro-choice.

This is an issue of parenting. This is an issue of families, of relationships between parents and their children. That's what this issue is all about; and I, in my mind and in my heart, find it hard to understand how people can't recognize how critically important it is that, if their child breaks their arm, that they consent to having that arm set and taken care of, and those same people who would not have a doctor in a hospital touch their

child would still feel that it's okay for that child to be invaded, intruded upon in the most private of ways without their knowledge or their consent.

This bill has been modified from age 18 to 16, from consent to notification. I agree with the 82 percent of the people in New York State that this bill should become law, and I urge my colleagues to vote in favor.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

This is another very sensitive issue, an issue that challenges our ability to reason and understand and it certainly is one that conflicts with our sense of values and our purpose as legislators, and I can certainly understand the prolonged discussion of this bill. The last time it reached the floor of the Senate was in 1977; and as long as anyone wants to bring it up, I am willing to debate it.

But I think perhaps we can

enlighten everyone to some basic issues that arise when we discuss this bill. One is that we already have written into our law the opportunity for medical care to be provided for younger people even though there is no parental consent. It exists in the Public Health Law under Section 2504, Subdivision 4, and it exists in the Mental Hygiene Law, under Section 1211.

We also have a law that allows for a woman to have an abortion. That is the law of the land. If anyone doesn't like the law of the land, they can seek to change it, and we saw that happen earlier this year with the death penalty, and I don't like the resolution of the debate on the death penalty in the Legislature this year, but I have to, as we all do in a civilized society, live within the law of the land. Unfortunately -

SENATOR BRUNO: Mr. President, can I ask Senator Paterson if he would suffer an interruption? And I apologize for this.

ACTING PRESIDENT MARCELLINO: Senator Paterson, would you yield to Senator

Bruno?

SENATOR PATERSON: Certainly, Mr. President.

SENATOR BRUNO: I have Senator LaValle that is, literally, catching a plane and he will be returning, but I would ask, with your indulgence, that he be allowed to vote on this issue before he leaves.

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

SENATOR BRUNO: If he doesn't leave shortly, it will be academic.

ACTING PRESIDENT MARCELLINO: Read the last section.

SENATOR BRUNO: May we interrupt you, Senator?

SENATOR PATERSON: Oh, absolutely.

SENATOR BRUNO: Thank you, Senator.

SENATOR PATERSON: Sure.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO:

Senator LaValle.

SENATOR LAVALLE: Aye.

ACTING PRESIDENT MARCELLINO:

Withdraw the roll call.

Senator Paterson.

SENATOR PATERSON: Well, Mr. President, I guess I won't be able to convince Senator LaValle.

ACTING PRESIDENT MARCELLINO:

There's 60 others, sir.

SENATOR PATERSON: But, Mr. President, any attempt to undermine or confuse or in any way diminish the value of the law as it exists right now, in my opinion, is actually to, in a sense, repeal the law without ever really legislating it.

The only groups that I can find that are in support of this legislation are the Catholic Conference and other pro-life groups.

The fact is that the result of this law is going to have a chilling effect on younger people who are seeking abortions. Let me cite a couple of statistics to you. 74 percent of children aged 14 -- make it 90 percent -- do consult with a parent prior to having an abortion. For 15-year-olds the statistic is increased; and by 16, it's 59 percent.

So the younger the age of the individual who is seeking the abortion, the actual -- more likely it is for them to seek consultation with a parent. Interestingly enough, most are consulting the mother, so they are consulting one of the two parents.

In those cases where we do have an abortion being sought, 59 percent of 15-year-olds who seek them are doing it as a result of rape or incest, and for 14-year-olds, the number increases again to 74 percent. So the younger the age of the girl that is seeking the abortion, the higher the percentage is that this is resultant of a case of rape or incest.

As lachrymose as it would be for our society to accept, it actually exists that in many cases the parent or some guardian has actually violated the individual that is seeking the abortion, and what we have done is we have created a situation where both parents have to receive notification in order for the procedure to take place.

What we are somewhat ignoring when we start talking about health care and risk to life is that the pregnancy is a greater risk to life than the abortion itself. This is not a value. This is a medical fact.

And so when we look at the situation in toto, what we are doing is taking a situation that most young people resolve. In other words, most girls under 16 do seek the advice of their parents prior to taking this procedure. It is in the very few cases where the individual doesn't feel that they can consult that they are going forward and having these procedures.

You can not legislate morality.

You can not legislate family values. When 15-year-olds were questioned, 35 percent of them said that their parents never talked to them about sex or any of the possibilities that this is existing; and when we start talking about notifying the parents such as in a medical procedure, such as a tooth extraction or repair to a damaged limb, what we are understanding is that this is the repair that exists only for that period of time. If you get parental consent to go on a school trip, it only lasts for that day, but carrying a pregnancy to term is an existence that will be in the life of the individual forever. It will not necessarily be in the life of the parent who may make that decision forever.

ACTING PRESIDENT MARCELLINO: Senator Paterson, will you hold for a second?

Ladies and gentlemen, please. We need a little order in the house.

Thank you.

Excuse me, Senator.

SENATOR PATERSON: Thank you, Mr.

President.

When we look at the issue of notification as it exists in this bill, notification -- based on the statistics that we are citing, notification equalizes consent. Notification becomes, in a sense, the catalyst for consent and, although this legislation covers the possibility of the child wanting to go to term with the pregnancy, it does not allow for any coverage for the individual who seeks to have an abortion.

In other words, a young woman who brings a pregnancy to term can be emancipated and go on public assistance under this bill. If the young woman does not want to do that, if the young woman seeks to have the abortion and there's intimidation or some kind of coercion from the parent, there's absolutely no protection, and so the result of this bill is going to have a chilling effect on the opportunity for a legal procedure for a young person based on really what is an obfuscating message that is being sent through the passage

of legislation which is actually going to deny that.

And, of course, the Becky Bell case in Indiana, which was the case where the child only got the consent of one parent and then because they couldn't get the consent of - they couldn't reach the consent of the other, went ahead and had an illegal abortion and died from it. There are tragic circumstances on both sides that can come out of the discussion of this legislation, but as long as we're allowing the medical procedure to take place in this state, and it is a legal procedure, we have to understand that in the end, as sad as it may be, the decision most relevant will be the decision of the most affected party, which is the decision of the young person who is involved.

Eighty-one percent of those who were queried said that the reason they made such a decision, the reason they didn't want to have a child at 14 or 15 is because they thought they were too young to have the child, and that is probably what all of their parents, 100 percent

of their parents, would have told them prior to their becoming pregnant if there had been any kind of discussion of it.

So rather than lecturing society on what society's morality should be, we have to understand, as legislators, that we have to provide the protections for individuals who are undergoing a very difficult period.

Now, if Senator Padavan would yield for a few questions.

ACTING PRESIDENT MARCELLINO: Senator Padavan, do you yield to Senator Paterson?

SENATOR PADAVAN: Yes, I'll be glad to.

ACTING PRESIDENT MARCELLINO: The Senator yields, sir.

SENATOR PATERSON: Senator Padavan, the Medical Society opposes this legislation and although they feel that doctors should counsel and should certainly scrutinize the procedure maybe more closely than they do now, they feel that there is no real accurate

burden of proof set forth in the Penal Law by this legislation and that to pass it might even have a constitutional prohibition but at the least is not clear on what it is that the responsibility of the doctor is.

And I was wondering if you could explain to us what the doctor's responsibility is, and why we're going to prosecute the doctor when it is likely that the doctor may be given -- may not have the right information?

SENATOR PADAVAN: First, Senator, I believe you are but, if you are not, let me share with you the fact that parental notification and in some cases parental consent is currently the law in over 30 states in this country. Massachusetts, one of our neighbors, is an example, and the concerns that you have expressed relative to constitutionality have been addressed, and the laws where the Supreme Court has been called upon to evaluate them have been ruled constitutional.

Even consent, if properly crafted in terms of statute, is constitutional. So,

therefore, the concern that you just outlined of the Medical Society -- and I have not seen their memo directly to be able to respond to it fully, but from the part you've mentioned, constitutionality is not an issue here. It's long since not been an issue.

But we have received reports from some of these states that have had the statute on the books. Minnesota is an example, and there are no problems of the sort that you just outlined.

In regard to the physician, the bill is very clear. It says that the physician must notify parents or whether he is referring -- or if the referring physician has done so already, then the physician in the abortion facility does not have to -- within 48 hours prior to the surgery or the procedure having been undertaken. So I think the doctor's responsibility is very clear here.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR PATERSON: Senator Padavan, let me give you this scenario.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR PATERSON: Some public interest group decides that they are going to - since they are opposed to the actual legalization of abortion, they are going to plant themselves outside doctors' offices. They are going to follow the individuals who come out who have sought an abortion. They are going to find out how old all of them were. They are going to find out whether or not there was parental notification.

And I'm sure somewhere, in a large caseload, somebody has either arranged for some phony parental notification or there is incorrect information about the patient's age, but now you have the criteria to prosecute doctors, and in light of the fact that that is a very likely possibility when we see the tremendous effort that has been done to prevent individuals from going to clinics to receive

abortions who are adults, with that likelihood existing, would this not have a chilling effect on the right to a legal procedure for those individuals, even if they had parental consent, because the doctors now become unwilling because their licenses and even their livelihoods are at risk?

SENATOR PADAVAN: Senator, I think your point is so obtuse that it almost makes it impossible to respond to, but I'll do my best.

First, with regard to the physician, if you read the statute, page 2 -- or the proposed statute -- in the beginning of paragraph 5, we are very careful to say that the physician must intentionally -- I underline that word -- intentionally seek to avoid the application of notification. So I don't foresee, as has not been the case in 30 some-odd states where notification is currently the law.

Now, you are doing something that the Majority Leader in his well-presented remarks tried to preclude. You are bringing

this issue of parental notification and parental responsibility and parental prerogative into the issue of abortion rights, reproductive rights, and that is not the bill before us.

So, therefore, to relate this issue with, quote, I think you said "chilling effect" -- do I quote you properly -

SENATOR PATERSON: Yes.

SENATOR PADAVAN: -- is not only inappropriate but not applicable with regard to the matter before us.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator, if I'm correct, you said to me that this bill has been passed in 30 other states and that there has not been a sustained constitutional challenge. But when I said to you that there was a question of constitutionality about this bill, I wasn't referring to the constitutions of those 30 states. I was referring to the Constitution of New York State which has much different parameters than the other states,

including Article XVII, and so what I'm saying to you is that the application of law quite often goes beyond the scope of the intent when the law is drafted.

So if you were defining for me what was in your contemplation when you wrote the bill, well, that is not at issue because you can tell us what you mean. But what I'm telling you is that to suggest that there might not be a further application beyond the scope of what you have written would conflict with the purpose of many laws that we pass in this chamber.

Sometimes the intent of the law is written right into the law. Sometimes the purpose of the law is actually hidden, but I'm not even suggesting that in this case because you have told us what you are trying to address.

What I'm saying to you is, if that's the case, then why can't you find one group or anybody who basically is pro-choice who thinks this is a good bill? I mean, I understand the discussion. I understand what

your point of view is, and I think that it is very well worth the time discussing it, but what you are trying to suggest is that you can't talk about the legal right to have an abortion because you wrote a bill that addresses parental consent, and I'm telling you -

SENATOR PADAVAN: "Notification."

SENATOR PATERSON: I'm sorry, notification, and I'm telling you that at some point if the notification is perceived to be consent, at least by the child -- I mean I don't see any notification here for the bypass - where the child can go to Family Court. So since the child doesn't know that, if the notification feels like it's going to be consent to the child, then we're going to have a bunch of illegal procedures in the state, and that was one of reasons we legalized the process in the first place, so it does relate -- it does relate to the issue of abortion.

SENATOR PADAVAN: Senator, first -

SENATOR PATERSON: Whether or not

you agree with it, I'm saying it does relate.

SENATOR PADAVAN: I don't, obviously, otherwise I wouldn't be standing here, but let's respond as best we can to your points.

First, Senator, you say identify people who are pro-choice who are in favor of parental notification, and I would roughly tell you there would probably be about 10 million people in this state who, when asked the question, "Are you for legal abortions?" and they would say, "Yes," and then if asked the same question, as I have done in my own district, "Are you for parental notification?" and they would say, "Yes," because people make a distinction between the issue of so-called reproductive rights and the issue of a 13- or 14- or 15-year-old girl about to have a serious intrusive procedure performed on her body, and so, Senator, I give you millions of people in New York State who fall into the category you sought for me to identify.

Now, with regard to the other

issue, you mention that we will be forcing young girls into illegal abortions. I would urge you to find out for me where that has happened in any of the many states in this country that have this type of law in effect. It has not happened. It has not happened, nor would it happen, in my view, in New York State.

But let us concern ourselves with the potential harm that we know has occurred - potential in the sense of already been a reality and, therefore, potential in terms of future realities -- when young girls in the age groups we're talking about, without having had the benefit of psychological treatment and care, without having the benefit of follow-up medical care. I think you know, Senator, that the younger the age in terms of abortion, the more prevalent the opportunities are for serious complications not only at that point in time but in the person's future.

So we're talking not only about the present situation in regard to this 13- or 14- or 15-year-old girl, we're talking about her

future, her emotional health, her physical health and so, Senator, there's where the tragedies potentially lie, not in children rushing to be given illegal abortions in ways that we have heard related to in other cases in other situations.

So I suggest to you that your concerns are not valid, but mine are, and I say that to you with all due respect to you as a person. The concerns I talk about are ones that we have identified. We have come face to face with them. The concerns that you talk about have not been ones that we are aware of in those states where, currently, notification takes place.

SENATOR PATERSON: Mr. President, if Senator Padavan would continue to yield?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: In the cases

where you have illegal abortions, I don't know how you are asking me to document them. But even prior to your last remarks, I did document a case in Indiana where exactly what I was telling you occurred, so I don't know how that can be characterized as not -

SENATOR PADAVAN: If Senator will allow me, I'll be glad to respond to that. You are talking about the Becky Bell case in Indiana. Am I correct?

SENATOR PATERSON: Correct.

SENATOR PADAVAN: Let's talk about it if you want to bring it up. The autopsy report, which was publicly released, failed to show any abortion. None whatsoever. Even the advocates -- or, I should say, the opponents of this legislation are ceasing to use the Becky Bell case as an illustration of why this legislation is inappropriate or the wrong thing to do. However, we do have a case in Chicago and we have the one I talked about in Queens Village, where there was no question about the fact that an abortion took place and

there was no question about the fact that, in both instances, two 13-year-old girls died. So the situation you cite, the Indiana one, is certainly not applicable to the issue you and I are discussing. The ones I brought up are.

SENATOR PATERSON: Well, Senator, her father certainly doesn't feel that way, but what I would suggest to you is, are you saying that this is -- assuming that you're right, and I don't know where you are getting your information from, but let's assume that you're right. Suppose this case is a mis characterization of the issue that I'm raising. Are you telling me that a young person who doesn't feel that they would be able to seek to obtain the consent of their parents through the notification would never think of going out and trying to find a way to terminate the pregnancy when, in fact, when the issue of abortion was illegal in this state before 1972, this happened all the time, so why would these young people be any different than their predecessors?

SENATOR PADAVAN: Senator, you

are missing a major point here, if I may respond, Mr. President.

You are missing a major point. You keep bringing up the word "consent." There is no requirement of consent. Once the doctor or the abortion facility has rendered notification, that is the beginning and the end of what we are mandating or attempting to mandate. Consent is not a requirement in this proposal. Some states do have it, but that's not what is before us.

Incidentally, we passed the consent bill in 1976, which I sponsored in this house. It passed the Assembly, and was vetoed by then Governor Carey, who cites time and time again, in both speeches and in writings, why that was one of the worst mistakes he's made during his tenure as governor, but that's another story.

I simply wish to correct you when you bring up the issue of consent, because that's not what is before us; and while it may be inadvertent on your part, you have used the

word "consent" at least three times so far, and I would respectfully ask you not to use it because it's not applicable.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Excuse me, Senator Paterson.

Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: Would Senator Paterson yield for a second while I ask a question of something that Senator Padavan just said?

ACTING PRESIDENT KUHL: Senator Paterson has the floor if he wants to yield the floor.

SENATOR PATERSON: I would yield, Mr. President.

ACTING PRESIDENT KUHL: Senator Oppenheimer, you are asking Senator Padavan to yield to a question?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT KUHL: Senator Padavan, do you yield to a question from Senator

Oppenheimer?

SENATOR PADAVAN: Yes, I'll be glad to.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR OPPENHEIMER: Something you just said where I am a bit confused.

SENATOR PADAVAN: You're going to have to speak a little louder.

SENATOR OPPENHEIMER: There was something that you just made preference to. If the courts were to say -- the parent -- to decide -- the parent says no. They don't want the child to have the abortion. Can the child, the youngster, pregnant youngster -

SENATOR PADAVAN: Yes.

SENATOR OPPENHEIMER: -- then go ahead and have the -

SENATOR PADAVAN: Yes, that is the point I'm making here.

SENATOR OPPENHEIMER: I just wanted to clarify.

SENATOR PADAVAN: The involvement

of the Family Court is on the issue of notification, where the child through its advocates or directly, however the case may be, says, "I don't want to notify my parent or parents." The Family Court would make a determination on that issue alone, not on the issue of consent. That's why I interrupted Senator Paterson -- and I apologize for doing so -- on that issue because it's so critical.

And you are asking a proper question to clarify that, and I appreciate it.

SENATOR OPPENHEIMER: Thank you.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. Senator Padavan, "notification" is the word that you wrote in the legislation. Now, in the same legislation, you actually acknowledged the issue of coercion; in other words, where the parent is notified and now the parent is using the authority that a parent has to affect the decision that the young person is making, and you in your legislation provide for

the ability of the child to emancipate themself and then receive public assistance should the parent try to force the young person not to go ahead and have the abortion and the young girl doesn't want to have the abortion.

So while you tell us about the fact that this is only notification, you understand, in reality, what notification means -- and I don't think that there is any reason to, in any way, differ from that which you have written in your legislation, in debate on the floor and so, all of a sudden now, I don't think it's just as simple as notification, because we all know what notification means.

Where notification or where parental involvement existed in Minnesota, the number of second trimester abortions, which is certainly more dangerous than first trimester, went up 26 percent. In Massachusetts, where we had the parental -- I guess we'll call it involvement at this time because you don't want me to say consent -- where there was parental involvement, the number of out-of-state abor

tions among the young people in Massachusetts went to 35 percent, and back in Minnesota, the number of births, generally, went up 40 percent because the judges didn't think that the young people were fit to have abortions, but they were fit to be mothers, when 81 percent of them said, "We're too young to be bearing children."

Now, guess what? I agree with them. I think their parents agreed with them; and I think if this was before they were in the unfortunate predicament that they are in now, then that would have been exactly the advice we would have given them. The notification that we really wish that the parents had is that the young girls were having sex, but they are not getting that notification, and I'm saying that is not an issue that can change as a result of the discussion between you and I, but what I'm saying to you is that to, in some way, not really face what notification really means is not to really address what this bill is really going to affect, and that's perhaps why we're disagreeing because you are stopping short of

understanding what the bill does.

Whether you support the bill or not, whoever wants to vote on this bill, let's just get clear what this bill is going to do and what the bill means.

SENATOR MENDEZ: Mr. President.

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

SENATOR MENDEZ: Mr. President, I wonder if Senator Padavan would yield for a couple of questions?

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

SENATOR MENDEZ: Just a couple of questions.

SENATOR PATERSON: Oh, sure. Absolutely, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MENDEZ: Senator Paterson, would you say -- which would you consider to be a more risky medical procedure, to have an abortion or to have a tooth drilled?

SENATOR PATERSON: Having an abortion, Senator.

SENATOR MENDEZ: Now, how do you reconcile the existing facts today in New York State that a child, in fact, not one under 16 but one could be 17 and less than 18 years of age, would have to have not parental notifica tion but parental consent and that parent would have to go to the dental office and stay there throughout the procedure, while a 13- and a 14-year-old is just taken, let's say, from school and taken to a place where abortions are performed without the parents knowing anything about it? How do you reconcile that? What is your opinion on that?

SENATOR PATERSON: First of all, we're talking about legal abortions that are conducted in -

SENATOR MENDEZ: No, I mean - okay. First tell me that, and then we will talk about that.

SENATOR PATERSON: Which "that" do you want me to tell you first?

SENATOR MENDEZ: You know very well which one, my dear David, and that is, how do you reconcile, you already stated that an abortion is a more dangerous or more riskier procedure, medical procedure, than having a tooth drilled?

SENATOR PATERSON: Oh, okay.

SENATOR MENDEZ: And by law -- by law in New York State, parents have to go to the dental office and be there. Forget about the child being 14 or 15 or 16 years old. The child must be less than 18 years of age.

SENATOR PATERSON: Currently, if the child is pregnant, they don't need that permission, and the reason for that, Senator, is -

SENATOR MENDEZ: It's better for a parent to be advised -- or to be notified. It's better for a parent to be notified that their child must have a tooth drilled but that same parent -- it is okay not to notify them that their child is going to have a riskier medical procedure like an abortion is?

SENATOR PATERSON: What I would say, Senator, is it certainly is not okay. It is not okay. But what we're talking about in this bill is the damages that would be sought in civil liability against the doctor if this occurs, and so while -- I don't think it's okay.

SENATOR MENDEZ: And those -

SENATOR PATERSON: -- you know, if I can just finish. In most cases, Senator, the younger people are seeking their parents. In fact, the younger their age the more they are seeking their parents, but what they are doing is they are only going to one parent, preferably the mother in most of those cases. What this bill says is that both parents have to be notified within a 48-hour period.

SENATOR MENDEZ: And if both parents are not present because they are divorced, or if there are not parents around but there is a legal guardian, then that person will be notified. Isn't that so?

SENATOR PATERSON: Senator Padavan did address the issue of the unavailable

parent in the legislation. Now, what I would say is that he describes a reasonable period of time. I don't know what a reasonable period of time is. That's unclear. But I will concede that Senator Padavan has addressed the issue of not being able to find both of the parents or their unavailability.

But what I'm saying is if you have both parents available and you have a situation right now where a predominant number of the young people are actually informing one of the parents, but we're saying in this legislation, That's not enough; you have to tell both parents.

So, in other words, all of the issues that you just raised, the issue of the seriousness of the procedure, how it's more important than drilling a tooth, what I would like to know is why is it more important that both parents know than one because we even understand that an adult can make that decision. One adult can make that decision, but this bill says, That's not enough; we need two

adults, and I'm saying, why would we need two adults when the question you just asked could be answered through the intervention of one adult? Why do we need two?

SENATOR MENDEZ: Well, the bill states that if the two parents are not available but there is a legal guardian available -

SENATOR PATERSON: No, Senator, I'm saying the parents are available. In the situation that I'm suggesting, the parents are available. Why do we need two parents?

SENATOR MENDEZ: Senator Paterson, a point of clarification. If I have a 14-year-old daughter who becomes pregnant -- and let's assume that my home is a so-called dysfunctional home, let us assume that I am such a terrible mother that I use "crack" or I engage in alcoholic bouts and that I mistreat my child enormously -- let's assume all that -- and that child is pregnant, that child would feel -- the assumption is that that child would feel that she can not come to me because I am such a horrible mother that I mistreat her, I abuse

her; and thus, under this bill, what is that child supposed to do? She doesn't have to tell me, notify me, but would she go directly to the Department of Social Services and say, "I can not tell my mother, that horrible woman, that I am pregnant; she abuses me"? What will happen then? Will that child be able to get a waiver from the Family Court without letting me know? Is that in the bill?

SENATOR PATERSON: It's actually a very good point, Senator. You've actually made a very good point. I don't know why your point would argue in favor of passing the bill, but I acknowledge you've made a very good point.

But I just want to ask you -

SENATOR MENDEZ: But why? Tell me why. It is a point that would be good for passing this bill, wouldn't it?

SENATOR PATERSON: No, it's actually a reason not to pass this bill.

SENATOR MENDEZ: Explain to me why not, please.

SENATOR PATERSON: Because,

Senator, you've just described the circumstance that people are having of a parent you can't confide in. You have a parent you can't confide in, and that is a situation that isn't brought about by your point of view or Senator Padavan's or mine. It is a circumstance that exists. As unfortunate as it is, it is a circumstance that exists.

But I would just like to ask you, Senator.

SENATOR MENDEZ: Yes.

SENATOR PATERSON: You said that if a person goes to the dentist's office that a parent has to come with them. How many parents have to come with them?

SENATOR MENDEZ: How many parents does a child have?

SENATOR PATERSON: How many parents have to come to the dentist's office?

SENATOR MENDEZ: One? Or both?

SENATOR PATERSON: Only one, Senator. Only one.

And my question is, why do we

need two parents to be notified, unless the notification doesn't really have anything to do with the medical procedure, unless the notification is really the precursor to consent, which really is, in a sense, the way that you are chilling the opportunity of young people who legally can receive an abortion in this state from not getting one.

SENATOR MENDEZ: Do you think that this bill is anti-choice?

SENATOR PATERSON: Absolutely, without a doubt.

SENATOR MENDEZ: How do you define anti-choice? Anti-choice is not having a choice of doing anything. Why do you consider this bill anti-choice?

SENATOR PATERSON: I consider it that way because it goes one way and not the other. It provides for a protection for the young person who wants to bring the pregnancy to term. If they bring the pregnancy to term and the parent doesn't like it, the parent may take some action against the child, but the child can

emancipate themself, become an adult, strangely enough, and now make the decisions. We're going to let them become adults now. We're going to let them apply for social services.

But, strangely enough, if the child does not seek to bring the pregnancy to term, all of a sudden we don't have any protection. We are inviting coercion and intimidation by passing this legislation.

SENATOR MENDEZ: So you are not answering my question, Senator Paterson. Do you know why? Because you are saying that something occurs if a child chooses to have an abortion but something does not occur if the child chooses not to have an abortion, so that child then has a choice of either having an abortion or not having an abortion.

SENATOR PATERSON: No, Senator, it's not whether you are or are not having an abortion. It's whether or not you feel you should have one. It's not what you actually do. It's what your intention is and the ability of the parent to use the parental authority to

stop you.

SENATOR MENDEZ: That child has an option, has a choice.

ACTING PRESIDENT KUHL: Senator Mendez.

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

ACTING PRESIDENT KUHL: Senator Mendez, excuse me just a minute. I've been trying to let you go so that you could, hopefully, have a meaningful dialogue at the same time.

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

ACTING PRESIDENT KUHL: This is not your time on the floor; but if you would like Senator Paterson to yield to a question, certainly that's entirely permissible.

SENATOR MENDEZ: Mr. President, I think that Senator Paterson has been most enlightening on this issue, and I think that he has been courteous in allowing me to pursue this that interests me so very much. So I want to

thank him here; and, in private, we shall keep on discussing this issue.

Thank you, Mr. President.

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

SENATOR PATERSON: Thank you, Mr. President.

I want to thank Senator Mendez for the conversation with her. Even though we don't agree, it really brought me to the focus of what I was talking to Senator Padavan about, which is that, yes, I do consider this to be anti-choice legislation. I consider it to be legislation that actually undermines the laws that exist now, and I think the legislation is in existence because the individuals who are supporting it can't change the law that they would like to change.

Now, Senator Padavan and Senator Bruno cited the public that they feel is voting in favor of passing this bill, but when people see what this legislation actually would do - and that's what we're trying to point out here,

the fact that when 15-year-olds were queried that 36 percent of them said that their parents didn't talk to them about any of this, the time to start talking to young people isn't when they are pregnant and seeking some kind of assistance. The time to talk to them is beforehand.

But I'm not going to pretend to stand here and give society a lecture about what society should do. What I'm doing is, I am trying to advocate in favor of the law that we have in existence now which allows for that abortion. The individual, the 81 percent of the young people who've decided that they're too young to have children, they are right, Mr. President. They are absolutely right. They know that this would be a complicated burden for them through their lives, and it would be an endurance that they are really not up for.

We, as a society, aren't providing any early childhood care or public assistance or minimum wage rising to the level that we're going to give them a fair chance if

they go to term. But what we are doing is we are restricting the rights of individuals because we don't like the laws that exist now, and I think it's a little pious to stand up here and say that this really just relates to parental notification because it really doesn't.

In those situations where we need parental notification, then let's notify one parent. The kids are already doing that, 59 percent of them over 16, 74 percent of them over 15, 91 percent of them over 14, and higher for those who are younger than 14. They are vulnerable, they are in trouble, they seek the counsel of their parents.

But why do we need the second parent? We only need one adult to make a decision and to talk to the child. We need the second parent because we are trying to find as many people until we can get the veto to stop the process in the first place. That's what I think this bill actually does, and that's what I think the danger of this legislation actually

is.

In terms of the states that have put this parental involvement into effect, you have a higher incidence of out-of-state abortions, higher incidence of second trimester abortions, higher incidence of problems within the family, and the bypass that we allow the Family Court to allow, we don't even notify the individual who is concerned of their opportunity to receive that.

So for a number of reasons, I really think that this is legislation that is inappropriate and does not really relate to the importance of the legislation, and I urge a no vote on it.

Thank you.

ACTING PRESIDENT KUHL: For the benefit of the members present and those who can hear my voice, I would simply mention that this debate started at noon. The two hours would expire at 2:00. There are 13 other members who have requested time to speak.

Senator Dollinger is next on the

list.

SENATOR DOLLINGER: Mr. President. Will Senator Padavan yield to a series of questions?

ACTING PRESIDENT KUHL: Senator Padavan, do you yield?

SENATOR DOLLINGER: If I could, Mr. President, just ask for a series of questions so we don't have to -

SENATOR PADAVAN: Like the prosecutor.

SENATOR DOLLINGER: Excuse me?

SENATOR PADAVAN: That's all right. Yes. The answer is yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Senator, I think this is a very serious bill, and I understand the very serious concern that you have. What I want to do is go through this bill and ask a series of questions about whether what this bill does is achieve the effect that you want.

Let's start with the definition of "unemancipated minor". How does that come about? I would assume that the child walks in and the physician says, "How old are you?" What happens if the child says, "I'm 17 years old," what does the physician then do?

SENATOR PADAVAN: If the child is 17 years old or even 16 years old, the bill is not applicable.

SENATOR DOLLINGER: What if the child isn't telling the truth?

SENATOR PADAVAN: If a child is not telling the truth?

SENATOR DOLLINGER: The child is 15 years old and says to the physician "I'm 16," which is a common phenomenon in our society. My child, my son who is 16 years old has been heard to say "I'm 17," "I'm 18." He oftentimes - perhaps lying about your age is not the most serious crime that we have in our state, but it happens all the time.

What happens when a 15-year-old girl walks in and says, "I'm 16"? What does the

physician then do, if anything, under this bill?

SENATOR PADAVAN: If the youngster represents herself as not being within the age parameters that this bill provides, and the physician has no reason to disbelieve her, the abortion clinic or whatever, then obviously there is no liability -- if that's what you are asking me -- on the part of the entity performing the abortion.

SENATOR DOLLINGER: Okay. So there is no notification required if the child lies; is that correct?

SENATOR PADAVAN: There is no notification required if, in the view of the child -- you are asking a question that begs an answer. You are asking me a question like they know the child is lying. If they know the child is lying, then obviously notification applies. If they believe the child, based on information that's provided to them, and there are a variety of ways of doing that, then obviously notification is not required.

SENATOR DOLLINGER: But, in essence, by putting the age at 16, any child that says "I'm 16," the physician has discharged all his responsibilities under the law by simply saying, "The child is 16; I don't have to give notification." There's nothing in this bill that requires him to do anything more, is there?

SENATOR PADAVAN: Senator, we have ages of majority. Emancipation in all of our other statutes is 18 for a whole host of issues. So the question of verification of age is not unique to this proposal. It's embodied in thousands of sections of law ranging from the Alcoholic Beverage Control Law to the Motor Vehicle Law, and so on and so on and so on.

Someone comes in at 16 in some parts of the state can get a driver's license if they go to the Motor Vehicle Bureau. But the point of the matter is if, in the view of the performing entity, they believe the child to be 16 or older, then notification is not required. That's the only answer I can give you.

SENATOR DOLLINGER: Okay. But there's nothing in this bill that requires the physician to do anything more than ask the question and be satisfied with the answer; correct? There's nothing in here that requires him to verify it, to ask for a driver's license, to ask for a birth certificate, ask for school information? In fact, if they put down on the application form or on the medical form, "I'm 16 years old," the issue is settled and no notification applies, no matter how old the child actually is?

SENATOR PADAVAN: I have answered that question the only way I can, Senator. If you keep asking it, you're only going to get the same answer, so that's where we're at.

SENATOR DOLLINGER: Okay. What happens, Senator, if the child says, "I'm 15 years old, but I have been freed from the care, custody and control of my parents"?

SENATOR PADAVAN: I'm sorry. Would you repeat that again, please?

SENATOR DOLLINGER: What happens

if the child says to the physician, "I'm 15 years old, but I have been freed from the care, custody and control of my parents"? What, if anything, does the physician have to do to verify that statement? The bill doesn't require that he or she do anything. Simply, if the child says it -

SENATOR PADAVAN: Senator, if you look on page 3 of the bill, paragraph 5, where it says, "Any person who intentionally performs an abortion with knowledge that or with reckless disregard to whether the person upon whom the abortion is to be performed is an unemancipated minor and who intentionally or knowingly violates the requirements of this section shall be guilty of a misdemeanor."

That's the answer to your question; therefore, the responsibility on the performing entity would be to ensure that the child is emancipated.

SENATOR DOLLINGER: How does the person who is making that determination, the physician, the health care provider, how do they

do that? What would you recommend under the bill that they do to determine whether or not they have been freed from the care, custody and control of their parents?

SENATOR PADAVAN: Well, there are three parts to the emancipated minor definition, Mr. President. A minor has been lawfully married -- that's kind of obvious; I don't think it would be difficult to indicate that fact - or has by court order or otherwise been freed from the care, custody and control of her parents.

It is the responsibility of the performing entity to determine if one or more of those emancipating conditions are indeed true.

SENATOR DOLLINGER: But how does the physician do it? When the child says, "Doctor, I have been freed from the care, control and custody of my parents. I don't report to them. I don't live in the house."

SENATOR PADAVAN: "Then where do you live?"

SENATOR DOLLINGER: Excuse me?

SENATOR PADAVAN: "Where do you live? With whom do you live, and what is the person whom you live with" or whatever?

SENATOR DOLLINGER: But the child doesn't -

SENATOR PADAVAN: So, therefore, I think there -- you know, Senator, your question is somewhat disingenuous. We're talking about a physician, a professional person, about to perform a very -- potentially about to perform a very serious intrusive procedure.

SENATOR DOLLINGER: M-m h-m-m.

SENATOR PADAVAN: Now, you are suggesting within the framework of your question that these very reasonable determinations are beyond the scope and capacity of a doctor or a health professional to achieve, when those same professionals are requiring far more significant -- far more significant implementing requirements in other things other than abortion.

So I suggest to you, Senator, that your question is difficult to answer directly because it is an inappropriate

question.

SENATOR DOLLINGER: Senator, I have several other questions, but please recognize that my focus is not so much on the physician. My focus is whether or not we are going to make our children into liars because we're going to tell them, "If you say you are 17, you can get an abortion. If you say that you are free from the custody and control of your parents, you can get an abortion."

The question becomes, what are we doing to our children; what message are we sending to our children by doing this?

SENATOR PADAVAN: Senator, I will try once again. You heard me mention several times that this is law in many states, and the problems that you are talking about have not arisen.

Now, earlier, Senator Paterson asked me if I was aware of the opposition of the Medical Society of the State of New York. I told him I hadn't received a memo. Since he asked the question, I have. One of our

colleagues was kind enough to give it to me.

First, I will advise you and Senator Paterson that this memo -- and I'll quote it, "Statement Relative to Mandatory Parental Consent." Senator Paterson, I hope you heard me, "consent." But even at that, it's not a memo in opposition.

But with regard to your question, there is a part of this memo I would like to quote: "Physicians should strongly encourage minors to discuss their pregnancy with their parents. Physicians should explain how parental involvement can be helpful and that parents are generally very understanding and supportive."

In any event, I have full faith and -- in the fact that physicians and other health professionals would be able to apply the unemancipated minor definition in this bill without any difficulty, as is currently the case throughout the country.

SENATOR DOLLINGER: Mr. President, I have a series of other questions.

Let me just point out something,

Senator Padavan. You have been the leading advocate of restrictions on illegal aliens. In all of those bills, you have detailed in the statute exactly what is necessary to prove whether or not you are an alien, an illegal alien or a legal alien. I'd suggest to you that that issue of what standard you are going to apply to the physician to determine age, what verification is necessary, may be critical to the future of this bill if it some day becomes law.

Let me turn your attention to another area of this bill. The purpose of this bill according to the introduction is, it's designed to promote families; isn't that correct?

SENATOR PADAVAN: It's designed to do lots of things, and I think I explained that at some length earlier, and I really don't feel obliged to impose that on my colleagues all over again.

SENATOR DOLLINGER: But it's designed to protect family decision-making,

isn't that correct?

SENATOR PADAVAN: Family involvement, parental involvement is obviously the major motivation.

SENATOR DOLLINGER: If you believe in parental involvement, why don't you notify the father of this fetus? After all, he is the father, isn't he?

SENATOR PADAVAN: Senator, I restrain myself from even attempting to answer that question, so I will say to you I refuse to answer that question because it's beyond belief that you should even bring it up within the context of this bill. We're talking about a 13 or 14-year-old child. Do you want us to get involved in trying to track down the other 14 or 15- or -- whatever young boy who caused the pregnancy as a factor here? That's unfortunately an issue that we might want to address but not within the context of this legislation.

SENATOR DOLLINGER: Through you, Mr. President. But you certainly believe -

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

Senator Padavan, do you continue to yield to Senator Dollinger?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: But you certainly believe that the woman ought to have consultation with her parents, but you don't believe that the father of the child should have the right to consult with the woman who is supposedly, under your view of this, bearing his child?

SENATOR PADAVAN: Either you weren't here or you didn't hear a word I said. We're talking about this young girl's physical, emotional well-being at that point in time and in her future life. That is our primary focus.

The family issue is also important, but the primary focus is on the health of that young girl, and whatever might be desirable in regard to the young man or young

boy who caused the pregnancy is irrelevant to that major focus. Now, I don't understand why you don't understand that.

SENATOR DOLLINGER: Well, I'm not so sure I understand it. I understand this bill is designed to promote parental involvement -

SENATOR PADAVAN: That is -- what it's designed to do is -

SENATOR DOLLINGER: -- and yet one parent -- one parent -

SENATOR PADAVAN: -- to protect and ensure the physical and emotional well-being of a girl under 16 years of age. That's its primary focus, Senator. That's why I shared with everyone in here the very tragic story of the young 13-year-old girl in my district.

SENATOR DOLLINGER: We'll get to that in a second.

SENATOR PADAVAN: Well, we will get to it. It already happened.

SENATOR DOLLINGER: It did.

ACTING PRESIDENT KUHL: Senator Dollinger, are you asking Senator Padavan to

continue to yield?

SENATOR DOLLINGER: Yes, please, Mr. President.

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

Senator Dollinger, excuse me just a minute.

Senator Padavan?

SENATOR PADAVAN: Yes, I yield.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Senator Padavan, you contain in here language that says that coercion to undergo an abortion is illegal. Isn't that correct?

SENATOR PADAVAN: We have a provision here that prohibits coercion by a parent relevant to undergoing an abortion.

SENATOR DOLLINGER: What about - is there any penalty in your bill for coercion -

ACTING PRESIDENT KUHL: Senator Padavan. Excuse me, Senator Dollinger.

Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Is there any penalty in your bill for coercing a child not to undergo an abortion?

SENATOR PADAVAN: No.

SENATOR DOLLINGER: So the only penalty attaches -

SENATOR PADAVAN: Because -- if I might give you a complete answer.

SENATOR DOLLINGER: Yes, if you would.

SENATOR PADAVAN: And it's an answer that might be relevant to one of the questions Senator Paterson asked earlier in his dialogue with Senator Mendez.

Parental notification is the essence of this bill, not consent. Therefore, the abortion can take place without parental consent or prohibition. All the physician or

clinic must do is notify. Therefore, the coercion provision, in our view, is not necessary with regard to the issue you raise.

SENATOR DOLLINGER: How does the child who is coerced by -

ACTING PRESIDENT KUHL: Senator Dollinger, are you asking Senator Padavan to continue to yield?

SENATOR DOLLINGER: My apologies, Mr. President. If Senator Padavan would continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: How does the child who is coerced one way or the other get any relief? What do they do? Do they file a misdemeanor complaint against their parents for coercing them?

SENATOR PADAVAN: Well, let's read the whole section. If coercion takes place, we have involvement of a court of competent jurisdiction which provides relief,

and that court has the ability to provide the minor with counsel and give the matter expedited consideration, grant relief, including public support.

SENATOR DOLLINGER: So in other words, a child has to go into a courtroom and bring a legal complaint against their parents if they are coerced to undergo an abortion, but they don't have to do that if they're coerced - they don't do anything. There is no relief available if they are coerced not to undergo an abortion?

SENATOR PADAVAN: If the youngster has gone to an abortion clinic, been brought there, which is usually the case, by a social worker or some individual, the child is there and if notification takes place within the 48 hours, then the abortion can be performed as a matter of law.

So, again, the question is difficult to respond to beyond that statement on my part.

SENATOR DOLLINGER: Again,

through you, Mr. President.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: What evidence do you envision being presented at this court room where the issue is whether or not the child is being coerced to undergo an abortion? Can you tell me how you see that proceeding coming about, unraveling?

SENATOR PADAVAN: Well, first, Senator, I think you should be aware of the fact that in regard -- and if you'll turn to page 4, on line 46, beginning of line 46, you will see that we have provided that "the Supreme Court shall promulgate any rules and regulations necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner. The Supreme Court in its discretion may issue such other and further lawful orders as it deems necessary to protect

such person."

So we are providing for, in the bill, a mechanism to generate the answers to your questions. However, those are not answers that I think anyone here, certainly not I, can provide to you when you say, "Do you envision". I'm not in the business of envisioning. I don't think any of us are, but we do provide authority and direction to ensure that whatever is required is developed within the judiciary.

SENATOR DOLLINGER: Mr. President. If Senator Padavan will continue to yield?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Senator, I agree with you that we provide authority and direction, but one of the other things we should do is provide some kind of statutory history, some kind of discussion, as I'm undergoing now

with the sponsor of this bill, so that courts some day, when they look back and say, "How do we handle one of these coercion proceedings?" we'll be able to sit back and say, "Here's what Senator Padavan thought should be in the record of how these proceedings...." They will look to us for some guidance. That's why I ask the question.

SENATOR PADAVAN: The bill is far more specific in that regard, Mr. President. It provides the Court the mechanism and the authority and the direction to develop what you just outlined, rather than rely upon any dialogue between you and I, and I think that's far more appropriate.

SENATOR DOLLINGER: If Senator Padavan will continue to yield?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: The bill

creates a right of civil damages if for some reason the requirements are not complied with; isn't that correct?

SENATOR PADAVAN: Again, we refer to the bill itself -

SENATOR DOLLINGER: Correct.

SENATOR PADAVAN: -- page 3, line 5, with regard to penalties, and the operative word here should be clearly understood, "intentionally performs an abortion with knowledge..." and so on. The word "intentionally," meaning -

SENATOR DOLLINGER: Correct.

SENATOR PADAVAN: -- and, of course, I think that's quite clear where and when a civil action occurs.

If we're going to talk about civil actions, I think it might be of interest for you to know that in the situation, the tragic event that I discussed earlier with regard to Dawn Ravenell, her parents sued on a civil action and the award was over a million dollars.

SENATOR DOLLINGER: Mr. President, if Senator Padavan will continue to yield?

SENATOR PADAVAN: So, you know, in regard to the potential of civil actions, it falls both ways and the only major award that I'm aware of in this subject area was from a parent or parents suing an abortion clinic for having killed their daughter, so I'm not troubled by any language here.

SENATOR DOLLINGER: Mr. President, will Senator Padavan continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: He got off the answer to the question. Is it your intention in this bill that hospitals and health clinics themselves would be held accountable under the civil damage question, or just any person?

SENATOR PADAVAN: Well, it says

"any person who intentionally performs an abortion." I think it's clear.

SENATOR DOLLINGER: Is it your intention to include hospitals and health clinics in there?

SENATOR PADAVAN: I think the language here speaks for itself, Senator.

SENATOR DOLLINGER: Okay. Again, Mr. President, if Senator Padavan will continue to yield?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Could you tell me how you calculate the damages in a civil action?

SENATOR PATERSON: How I calculate it?

SENATOR DOLLINGER: What are damages?

SENATOR PADAVAN: No, Senator, I

can't tell you how it's calculated any more than I can tell you why the Court awarded the Ravenell family a million dollars in that circumstance; and, therefore, I'm not certainly going to be in a position to tell you how much they would award and why under these circumstances; nor could I in any other civil action.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Padavan will continue to yield?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: The Ravenell case involved a death. This is a civil action for civil liability based on the failure to notify the parent of the child's abortion. What are the damages to the parent upon failing to be notified?

SENATOR PADAVAN: What are the

damages on the who?

SENATOR DOLLINGER: Well, you're creating a civil liability for failure to provide notice.

SENATOR PADAVAN: That would be in any civil liability, Senator. That would be determined within the framework of the judicial process that dictates civil cases. It's not something I can answer.

SENATOR DOLLINGER: Well, the answer is you don't know.

SENATOR PADAVAN: Nor do I really think you expect me to.

SENATOR DOLLINGER: The answer is you don't know; right?

SENATOR PADAVAN: Well, do you?

SENATOR DOLLINGER: I don't know. I'm not the sponsor of the bill.

SENATOR PADAVAN: Do you know what the civil obligation or liability would be in any civil action permitted by law?

SENATOR DOLLINGER: Well, through you, Mr. President, if Senator Padavan will

continue to yield?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Tell me: What are the damages sustained by the parent for the lack of notice?

SENATOR PADAVAN: Senator, the damages are to the parent, and I have heard you on many occasions refer to your family. If someone were to do something to your child that you didn't know about that was harmful, you would not walk, you would run to the nearest place of legal jurisdiction to take out an action, if I measure you properly and I think I do. And what would be the damages you would talk about and why? You are a very competent attorney. You answer that question for yourself.

We're talking about something happening here that has potential harm to a

child, and the parents would certainly, with competent assistance, be able to make a judgment as to how they would proceed in a civil action.

SENATOR DOLLINGER: Okay. Just through you, Mr. President, one other question about the civil damage portion.

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

SENATOR PADAVAN: Senator, I'm going to yield to one more question, because it's 20 after 1:00, and I think the President indicated -

SENATOR DOLLINGER: That's fine, Mr. President. I'll ask one more question then, if the Senator will yield.

SENATOR PADAVAN: It's more than an hour, so I'm going to indulge you one more time, and then we will go on.

ACTING PRESIDENT KUHL: Senator Padavan will yield to one more question.

SENATOR DOLLINGER: Okay. It's unfortunate, because there is a lot in the procedure that is worthy of questions, but

perhaps Senator Padavan doesn't want to deal with it.

Let me ask you this question. The judicial bypass provision in the Family Court bill is designed to bypass the notice; correct?

SENATOR PADAVAN: Correct.

SENATOR DOLLINGER: So the only purpose of the proceeding is to determine whether or not the parents should get notice or not; isn't that correct?

SENATOR PADAVAN: The bypass provision, it's very clear. You know, you are asking the question, but all you have to do is read it. The answer is right there in front of you. It tells you clearly -

SENATOR DOLLINGER: Is it designed -

SENATOR PADAVAN: -- clearly when and how the bypass provision is applicable.

SENATOR DOLLINGER: But -

SENATOR PADAVAN: It begins - it's Article 10(a). It begins on page 3.

SENATOR DOLLINGER: But, through you, Mr. President.

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

SENATOR DOLLINGER: The purpose of judicial bypass -

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

SENATOR DOLLINGER: -- is determined -

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

SENATOR PADAVAN: There is a carryover, apparently.

ACTING PRESIDENT KUHL: Senator Padavan will continue to yield to this question.

SENATOR DOLLINGER: The judicial bypass provision is designed to determine whether or not you must give notice to the parents. What they are doing is bypassing notice; isn't that correct?

SENATOR PADAVAN: The bypass provision allows for a process to take place

where notification need not occur, yes, and the procedure, chapter and verse, is in front of you. Please read it.

SENATOR DOLLINGER: Again through you, Mr. President.

SENATOR PADAVAN: No more. That's it, Senator.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Fine. Mr. President, I'M disappointed that Senator Padavan wouldn't allow me to ask additional questions, because this bill has a lot in it. I know it's taken some time. I appreciate Senator Padavan's cooperation.

But what I find so amazing about the judicial bypass provision is that it doesn't say -- it doesn't say it bypasses notice. This isn't a judicial bypass provision. This is a judicial provision that allows the court to make the decision as to whether or not it's in the best interest of the child.

ACTING PRESIDENT KUHL: Senator

Dollinger, excuse me just a minute.

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President. I would like a clarification on a point of information. You told us -- I understand you are going to invoke the two-hour rule on this bill, and I understand that you had, at the last count, 19 potential speakers. I am wondering if you are going to allocate a time limit on each speaker so that they will all have an equal opportunity to speak on this bill?

If not, I don't know how we're going -- unless you are willing to go beyond the two-hour limit. I think we ought to have a clarification on that before we allow each speaker to -- we have gone an hour and a half on the bill almost, and we've only had two people on it so far.

ACTING PRESIDENT KUHL: Senator Onorato, your point is very well taken about raising the issue. I would just remind you that it is not the Chair's position to invoke any

rule of the house. Any member can do that. I simply made the notation for your benefit knowing -- so that you would know that any member could rise after 2:00 p.m. this afternoon and object to continuing discussion.

I don't know what the rest of the 60 members are going to be thinking about the length of this debate, but that is a rule of the house. I do not have the authority as the Chair of this body, presiding officer, to invoke a time limit for members to speak. It was merely my intention to remind the members because I know that they want to be most courteous and respectful of the requests of the other members of the house to give them an opportunity to speak on this issue which is an extremely emotional one and an important one and one that should be duly considered, and there are still 13 members who have requested to speak on this bill.

Senator Dollinger -- so that is the point of information answer, Senator Onorato.

Senator Dollinger, you have the floor.

SENATOR DOLLINGER: Consistent with your answer on this bill, Mr. President and my other colleagues, it wasn't my intention to tie up this time. I will yield the floor and explain my vote. I wish we had more time to do this, but -

ACTING PRESIDENT KUHL: Senator Abate is next on the list.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Mr. President, I know it is a very difficult issue for me, but I must ask one question of Senator Padavan that is most crucial to my making up my mind on this issue.

ACTING PRESIDENT KUHL: My only problem with that, Senator Mendez, is that you right now are about seventh or eighth on the list to take the floor. There are six or seven other Senators anyway ahead of you who have requested to speak, so it would be entirely out of the normal practice for me to bypass these

other seven Senators and give you the floor.

So with your permission, I would like to proceed with the list. Senator Abate is next. Then we have Senator Cook and Senator Oppenheimer, Senator Marchi, Senator Goodman, Senator Spano, Senator Maltese, Senator Saland and then you. So if you could hold that question until your time, I would appreciate it.

Senator Abate, the floor is yours.

SENATOR ABATE: On the bill. I have listened very carefully to the debate, and I do not in any way question the good intentions of the sponsor, but I believe this legislation will produce unfortunate results not just to the young women but to their families, the medical profession and also to the judges and the system of the Family Court.

I speak in opposition to this bill not just as a legislator but as a parent of an adolescent and also someone who is many years beyond adolescence, but I can remember my years of adolescence as a young woman, and while

everyone on this floor agrees that we need to encourage better communication between children and their families and that we want to foster good relationships between children and their families, but we have to understand that that communication, that bonding between a child and a parent comes about through many years of fostering a trusting, loving and supportive relationship, and no bill that we pass in this Legislature that mandates better communication, better love, better support, will produce that result. Communication is learned at home. It is built over time. It cannot be improved through legislation.

I think we also have to look at an example. Wisconsin does not have a notification bill and Minnesota has such a bill. Similar populations, and there is a study done to look at which had better communication rates between children and their parents, and the state which does not have a notification bill has a higher rate of communication between the pregnant woman and her parent. That should

tell us something.

Obviously, as a parent, I very much would like my child to come to me. But I know that as an adolescent, and I can remember that far back and I have a 16-year-old, that they are times of rebellion. They are times of independence, and even though my child will come from a very functional relationship, she may not choose to share this relationship, this pregnancy with me.

The one thing I want as a parent, I want to make sure that my child feels free to go to a doctor, that my child has access to the best health care possible and that she does not jeopardize her well-being and health because she's afraid to come to me in the first place. That's what I want from my child. I know in my relationship with my 16-year-old son, it takes years of getting them to be comfortable to talk to their parents. I know that at the age of 14 and 15 are the most difficult years, and those are the years where the child is going to be least likely to want to talk to their parents.

I would just like to read a letter from a ninth grader that I got from Hunter College High School. It's amazing. It's a very well written letter, and we may say this is such a sophisticated young woman, but I think it points out some of the problems young people have with this bill, and it also points out the problems with the bill. She goes on to tell me why she opposes the bill.

She says, "The bill is among the most dangerous legislation which faces young women like myself. It strips us of our rights by implying that we are not mentally capable of making important decisions on our own. It also puts teenagers seeking abortions in very dangerous situations because many girls must face severely abusive parents who will beat them or throw them out if they're aware of the situation. I myself have friends, for one reason or another, could never tell their parents if they got pregnant. Family communication cannot be forced and a situation like this will certainly do nothing to draw a

family together.

"In addition, this bill will scare younger women away from safe, licensed health care facilities and into dangerous and unsanitary back alleys where abortions are deadly. Especially for young women who are not ready financially or emotionally to have a child, it is crucial we be allowed to make a decision not to bear a child. If you think that we're not ready to make a decision on our own we're certainly not ready to raise children."

So this young woman points out that there are many reasons a child will not talk to her parent. She may not want to disappoint her parent, may not want to hurt the parent -- I'm talking about functional environments -- may not want to face their anger.

And let's not ignore that many young women come from dysfunctional families, from hostile environments either from drugs or alcohol, or from abusive family situations. These statistics were heard earlier today, but

they bear being repeated. Keep in mind pregnant women under 14, of that category, 74 percent are victims of incest or rape. Over 60 percent of these young pregnant women who are under 15 are victims of incest or rape.

So what we need to do is, as a society, hope that young people -- and the statistics show that most young people will speak with their families, but they won't speak with two sets of parents. They will only usually speak with their mother. That is the reality. This is a very emotional situation. If it is emotional for us on this floor and it's sensitive to us on this floor and many of us are well over the age of 16, you can imagine what it's like for an adolescent young woman who is struggling with a very dramatic decision, getting used to the idea that she's becoming an adult. Obviously, there is going to be tremendous fear about facing their parent around this issue.

I think there's another issue that has not been raised today, and I believe

that parental notification will jeopardize in some cases a young woman's health because it will increase the delays if she does, in fact, want to seek an abortion.

First, the young woman has to realize she's pregnant. Many women are not aware at this age what it means to be pregnant, and she will maybe go through denial a number of months, hope that her menstruation is late; and the longer she delays, obviously, she puts her health at risk. She will maybe delay it knowing that she has to talk to her parents because she won't have the courage. That will be another factor for the delay; and then if she finds out -- and I think it will be very difficult, because this is a young woman who is afraid to face her family, she's going to be even more afraid to go into Family Court.

But let's say she does decide to go into Family Court. The delays in the decision could also cause another 39 days. If she decides, and she's wealthy or she can borrow the money, that she doesn't want to go into

Family Court and she cannot talk to her parents, she will seek an abortion in a number of ways. If she can afford it, she will go to another state and travel. If she cannot afford it, and that will be the case with many women, she will seek an illegal abortion, and we know what that does. We've seen a history of young women being harmed, not able to bear children in the future and people dying because of illegal abortions.

Let me state again, as a parent, what I want ultimately is to develop a relationship where my child feels comfortable in talking with me, and I know that no legislation will produce that kind of communication, and the most important thing is I would not want my young daughter, because she's afraid to talk to me or she's afraid to go to the Family Court, to not get good health care and seek an unsafe abortion.

Now, let's ask ourselves, why do so many of these groups oppose this bill, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists,

Family Planning Advocates, the Medical Society of New York, the National Association of Social Workers, the Nurses Association, New York State Public Health Association, Planned Parenthood?

I think there is a reason. They are concerned about the health of the young woman, but I think they are also concerned that we are now talking about doctors being prosecuted and facing criminal charges and the ultimate result, are we driving women away from health care and also are we creating a disincentive for doctors to being involved in this field altogether? Will doctors want to be involved in family planning and prenatal care and gynecological services because now they are going to be facing criminal prosecution?

I mean doctors complain all the time about malpractice and high insurance. Are we now going to put a chilling effect -- which I think not only is this an anti-choice bill but it's an anti-medical care bill because we are putting young women at risk and now saying to the doctors, "Let's think twice before we even

want to get involved in this field."

I do not believe judicial bypass will work. The judges, the Women's Bar Association and the Association of Judges of the Family Court said that this won't make any sense, particularly in Family Court where the dockets are already overcongested. They do not have the resources in an emergency way to take on these cases, and the Association of Judges of the Family Court correctly suggested the decision whether a minor is mature enough to decide whether to carry a pregnancy to term is one best left to the pregnant young woman and the physician to whom she has entrusted her care rather than to a judge unfamiliar with her situation.

And let's not forget that many of these family courts are not anonymous courts. If you go into small communities and rural communities, we're saying to that young woman, "Okay, you may not have the courage to face your parents but go into a public setting and risk confidentiality and risk the fact that you

may be pregnant and go into Family Court" - this is an open setting -- "and declare to the world what your situation is." It's unrealistic for the 14- and 15-year-old to say, "I won't talk to my parents but I will go to Family Court."

It will create delays. It will be a great deal of cost. The judges will be put in a very difficult situation. Will they have enough information at hand to make this decision?

A week ago, we debated a bill around the Juvenile Offender Law, and many people stood up and said 12- and 13- and 14-year-olds should be held responsible for their actions. If they commit criminal acts, they should be treated as adults. Now, we have a double standard. We're saying that young women with the advice of their physicians can't consent to an abortion without notifying their parents and, on the other hand, two weeks ago, we said, "Let's make sure these young people" - and we're not talking about 14- and

15-year-olds; we were talking about 11-, 12- and 13-year-olds -- "Let's treat them as adults because they are responsible human beings." There's inconsistency with that argument.

So, in conclusion, I understand that this is an emotional issue, and I think there are a lot of good intentions because many of us are reacting to this bill as parents because we want to be involved in our children's decisions, that we do not want our children to make a decision at 14 and 15 that they will regret later on in their lives.

If I thought for an instant that would produce and this legislation would produce the kind of family relationships we would all like to see in an ideal world, I might consider this. We need to put foremost in our agenda protecting the health of that young woman, making sure she seeks a healthy relationship with her physician, that she does not seek an illegal abortion.

And let's not overburden a Family Court and doctors who are already trying to

provide decent health care. Let's not over burden those systems with a piece of legislation that may look good to some but, in fact, is really anti-choice and will produce terrible results for so many people.

Thank you.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: Mr. President. Everyone who has spoken deserves to be complimented on the high level of this debate, and I hope that I might be forgiven if I break the spirit a bit, but I do think that time has come for a bit of candor because this is not a bill about parents' rights. It's a bill about stopping abortions.

It's a bill about using the state as a weapon whereby parents can punish children who disobey their wishes. It's about forcing 13-, 14-, 15-year-old girls to bear the consequences of their acts by forcing them to carry to term pregnancies to teach them a lesson that sin doesn't pay.

Unfortunately, the bill won't work on any of these counts. This bill would really prevent abortions, and I might be tempted and other people might be tempted to vote for it. If the bill would really force children to talk to their parents, I might be tempted to vote for it, but the bill won't do either.

It is interesting to note that when you read this bill, you go through the entire first half of the bill, and they never talk about the person who is involved. They never talk about the girl. They talk about the physician. They talk about what procedures you are going to use to get this notification out. They talk about the parents. They never talk about the girl.

The girl's the one who's pregnant. The girl's the one who's got this problem that she's got to deal with, not the parents, not the doctor. Why don't we focus on the girl, on the problem that she's trying to deal with?

This is not about a girl who can

talk to her parents about alternatives. If she were in that kind of a family situation, then there would be no need for the state to intervene and to force that discussion to take place. If that relationship of trust really exists, the first person that the girl would go to would be her parents. No, on the contrary, this bill attempts to force by the power of the state a relationship that can only exist within a family if it's been nurtured since the time of birth.

The girl who trusts her parents and knows that they will always be there will go to them when she needs them. If she knows that they are the kind of parents who will be sensitive to her needs and to her problems, more than whether or not she's obeyed the rules, then she's going to go to those parents. She's going to go to them and seek their guidance and their counsel.

What this bill is about is the 13- to 14- to 15-year-old girl caught in desperation between an unwanted pregnancy,

facing parents who she knows will never consent or support her in an abortion. That desperate girl will, if this bill is passed, have only one option, an illegal or a self-induced abortion.

Laws legalizing abortion were not passed as a moral judgment. They were not passed to prevent girls and women -- I'm sorry. They were passed to prevent girls and women from dying as a result of unsupervised and unregulated abortions. This bill forces young teenage girls back to those bad old days when they only had the back room abortionist at their disposal.

This bill will be a boon to the black market. The abortion pill was not around when abortion used to be illegal. That pill will now be available on street corners for a few hundred dollars. Those pills are supposed to be administered in a clinic in three successive visits. Desperate young girls may well assume that they can buy those pills and take them all at once and subject themselves to some very grave consequences.

This is the new health dimension that's been added since abortion was first legalized, and it does not remove the prospect of all the other old, crude means of self-induced abortion that have been used through the years.

Mr. President, the irony of this bill is that, if it were passed, the most likely and tragic result perhaps would fall upon some parent who today is probably a fervent proponent of this bill. In the mistaken expectation that by changing the law they will take away the desperation that causes a girl to seek an abortion, they are forcing their own daughters into the very situation where those daughters will seek an abortion by some unsafe method.

I will cry with them when that tragedy strikes their daughter, but I will not be able to take away from them the feeling of guilt that they will carry that, by trying to use the law as a weapon to discipline their daughter, they have brought their daughter, whom they love, into pain and to suffering and

perhaps even death that will happen when she makes a desperate decision to have an abortion outside the protection of regulation that is provided by law for a safe procedure.

It's been said that the road to hell is paved with good intentions. I only hope that no one within the sound of my voice will have to endure the hell of knowing that their efforts have contributed to the death of someone that they love.

Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

Thank you, Senator Cook. Now I know why I admire you so much, Senator Cook.

I'm going to try and cut down what I want to say to just three or four minutes because I know we are pretty pressured, so I'm just going to list a few of the things that are problematic to me, and then I want to spend a couple of minutes talking about what the experience has been and what the judges say in

Minnesota and Massachusetts where the parental consent judicial waiver has been in effect since 1981.

Problems that I have: I agree with Senator Cook. I think all these laws that have been drafted concerning parental notification have been drafted by anti-choice people, and their intent truly is to end abortion if they could, but, of course, it's the law of the land and so they can't. But it seems that these very people, while they cannot change the law of the land, seem intent on depriving the free choice to young citizens and to poor citizens.

And, in the bill, I would say that the legislation requiring that both biological parents be notified is unrealistic and grossly inappropriate considering today's society, and, indeed, would probably preclude the option to the young person to get the notification to both, since invariably one or the other is not available.

There is no exception in this

bill for cases of incest or family violence or children in foster care or children living in dysfunctional families.

There seems to be an assumption that teenagers are going around willy-nilly getting abortions. The fact is that we know that children under the age of 16, for the most part, maybe 80 percent of them, do contact one parent, so that the vast majority of unmarried teens do tell a parent.

In many cases, as has been mentioned, sexual abuse is involved with these youngsters. The fact is that 74 percent of the women who have had intercourse before the age of 14 have had it through involuntary sex, and it's a little bit less -- it's 60 percent for those 15 and younger. So this is not a choice that they have made with their knowledge willingly. It has all been involuntarily.

Another fact that we should note is that -- and why we should be doing everything to help these teens who choose not to become parents because they feel that they are too

immature or too poor or, for a variety of reasons, feel that they are not in a position to accept parenthood -- we should note a University of Utah study that has recently been concluded which involved 130,000 pregnant teens.

Actually, they were mostly from middle-class white families, and there was a very interesting determination made because many felt that one of the reasons that these young teens had babies that were born premature or of low birth weight or having various problems, medical problems, it was thought that possibly that was due to the fact that these youngsters who were bearing the children were poor, had no medical care, a variety of reasons usually involving poverty. This study was done on youngsters who were, for the most part, white and of middle income or higher circumstances in life, and it was found that the children were still being born premature and still being born of low birth weight, and what was concluded in this study was that -- and it was a pretty broad study of 130,000 young women.

What was concluded was it really was the nature of the age of the young woman rather than her socioeconomic status. It was felt that the young woman's body was maturing and was still growing and due to the fact that her bones were developing and the calcium was needed for her body, as well as other factors involved in maturation, that it was being deprived to the infant, to the fetus; and for that reason it was quite an interesting study. It was just completed, and it shows what we all know, that really youngsters who are more like babies should not be having babies because they are simply experiencing at that age a maturation of their own bodies.

Certainly we all believe that parental involvement should be encouraged. But in families where there's violence or incest or alcoholism or drug abuse, it is simply more harmful to all to involve the parents.

Very often, the child feels that she would do an irreparable harm to her parents if the parents knew and, therefore, out of

filial obligations, she feels she can not tell her parents, and that's why these -- these laws are so harmful. They turn the vulnerable, pregnant young woman away from the very medical help and assistance, the professionals, that should be there to assist her, and this fact was recognized by the New York State Legislature in past years when there were laws enacted to remove the barriers to timely treatment of minors who had sexually transmissible diseases, needed HIV testing or a plan to carry a pregnancy to term.

In all three circumstances, Public Health Law allows minors to consent for their own health care in these circumstances with no parental notification, and that, we have found, avoids the harmful delays which this law would produce.

Now, let me turn, just for another minute, to these two states that do have the judicial waiver. It's been found that these laws have not discouraged sexual activity in Massachusetts or Minnesota, which have a long

history. It's like fifteen years now with this law, and that that only increased the number of late abortions. Those abortions, of course, were carried out in neighboring states, where there were no parental consent laws.

Research comparing Minnesota with Wisconsin -- and Wisconsin doesn't have a restrictive law -- showed that pregnant teens in both states notified their parents at exactly the same rate. Minnesota's law, therefore, did not increase parental notification and, of course, as many of us are aware, you can not legislate communication between children and parents. It's something that has to be developed at a young age and through a very supportive environment within the family proper.

Let me turn just for a moment to what the judges have said, and these are the people who are the most knowledgeable. Of course, they have been hearing these cases now in Minnesota and Massachusetts for the last fifteen years.

Let's see. Minnesota state court judge Alan Oleski has heard over 1,000 parental notification petitions. He characterized his function, quote, "like a routine clerical function on my part, just like putting my seal and stamp on it." He stated that minors were subjected to stress by the court procedure; moreover, he believed that the statute dissuaded some minors from having abortions because they feared going to court in a distant city.

Another judge named Gerald Martin stated that he did not, quote, "perceive any useful public purpose in what I am doing in these cases."

Another judge, Judge Garrity, who had adjudicated the same type of bypass petitions in Massachusetts testified that these laws accomplish nothing. Quote, "It just gives these kids a rough time. I can't think it accomplishes a darn thing. I think it basically erects another barrier to abortion."

Similarly, public defenders testified the law served no beneficial purpose

for youngsters. It just created an additional hurdle.

The guardians ad litem did not even know what purpose they served in the process.

It was the unanimous opinion of health professionals who work with minors in Minnesota that the law did not and could not serve its purported purposes of promoting family communication, helping decision-making of minors and helping with medical treatment.

Dr. Hogson concluded, and he was, of course, the person who brought the case, "I honestly think there is no benefit whatsoever." The law created nothing but problems for her teenage patients.

SENATOR FARLEY: Mr. President.

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

SENATOR OPPENHEIMER: I'm about to finish.

ACTING PRESIDENT KUHL: Excuse me, Senator Oppenheimer.

SENATOR FARLEY: Could I ask Senator Oppenheimer a question? There's about seven or eight people that would like to speak to this bill who are not going to have the opportunity to do it. They will probably have to explain their votes because there's probably going to be a request that the two-hour limit be invoked.

You know, I would ask that you'd kind of summarize what you are going to say because I know I'm not going to be able to speak to the bill. I'm going to have to only explain my vote, and I would appreciate a little courtesy.

SENATOR OPPENHEIMER: Okay. I have -

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

Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: Mr. President, I understand Senator Farley's point to Senator Oppenheimer. However, I might remind

you that the two-hour rule on the Senate rules is merely that you can ask for the debate to end at two hours. It's not necessarily the rule that the debate automatically ends at two hours.

SENATOR FARLEY: That's true. It's going to be asked for, though.

SENATOR STACHOWSKI: If the Majority Leader wants to let his members speak on this bill, that's the Majority Leader's prerogative, and that's not really Senator Oppenheimer's part one way or another.

So if Senator Farley has a problem with not being able to speak, I mean he should take that up with the Majority Leader on this particular issue, since there doesn't seem to be a whole lot more on this calendar. Then it wouldn't be a major problem to let each of these members speak on this bill, since it is a rather emotionally-driven and important issue to the various members who choose to stand up and speak on it.

ACTING PRESIDENT KUHL: Thank you, Senator Stachowski.

Senator Oppenheimer, you have the floor.

SENATOR OPPENHEIMER: I will be happy to wrap this up.

Although the judicial bypass is supposed to be confidential, I would like to note that in Minnesota, teenagers who went to court to get permission for an abortion had to deal with as many as 23 strangers who knew their first names and knew why they were there, and in Massachusetts the judicial bypass process delayed the abortions of teenagers who had to use it by an average of -- well, the range went up to 39 days, and that made the abortions much more medically concerning.

It was found -- and I will say this in conclusion -- that many of the pregnant teens who did find it impossible to involve their parents, they had -- it was found in the courts in both states that they really had substantial reasons, and they were sustained in most every instance because they simply could not tell a mentally ill mother or a drug abusing

father of their condition, so their cases were sustained.

So I think this is the wrong direction to be going and tells the youngsters in our state that we really don't care about their health and their well-being; and that when they say they are too young and immature to handle this, that we don't believe that they know that they are immature, even though we say they are immature.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marchi.

SENATOR MARCHI: Mr. President, I will be brief. I will not yield to questions in the interest of saving time, but it is an important issue that we are addressing. I don't think there are very many more important issues that we will face in the year 1995 than this issue.

I don't accept some of the characterizations and determinations that we've made on the attitude of the average family when

faced with this situation. I believe that we tend to go to dramatic extremes in defense of a policy which shields a child with the protection of a family. If you're going to have an aspirin, if you're going to have any kind of procedure performed, this is law in the state of New York.

Yet we say that there's something special about this circumstance that should impede and raise the law of separation between that child and their parents. If the family is not dysfunctional, it is an important consider ation. As a parent, as a grandfather of daughters and as a father of daughters, I would never -- and they're all past the age of 16, I would never have wanted to be in a situation where I didn't know because the law and the public policy of this state prevented me from knowing, not from my own child who may have been confused and sorely beset by the circumstances, but by public policy which precludes the doctor from telling me so, so that I can be of help. To preclude us from helping in those situations

is an anomaly, I think, when we -- when we consider all of the facts that we use to protect children.

I have here the Domestic Relations Law: If it shall appear upon the application of applicants as provided in this section -- and this is applicants to become married -- that either party is at least 16 years of age but under 18 years, the clerk shall not issue the license unless there is a written permission from both parents.

Five years ago we took off again, if the child is under 16, if under the age 16 years the town or county clerk shall require, in addition to any consent the written approval of the consent of a justice of the Supreme Court or the Family Court.

So that there is nothing -- there is nothing un-American or unusual to have the family participate and be -- and exercise its responsibility with reference to their children. If all of those ugly things, the back door illegal abortions are being performed as a

result of, or would be the result if this law was enacted, I invite your attention to the fact that there are over 30 states that do this already and the air is not redolent nor do we have any great spate of information coming with bills of particulars about the outrageous circumstances that are besetting people living in the great majority of the areas of this country.

They live with this law. They're not having back door and illegal abortions as a result, and to assume otherwise, I think, is to weigh the scales very heavily against the family, against -- who are the primary guaran tors unless they are utterly dysfunctional, of the welfare of their children.

I would recommend a vote that's consistent with everything that we do with respect to being protective of our children, including the age in which a lot of things take place, voting and drinking and going to war and whatever. This is even more sacrosanct. It involves their life, their very lives, and no

one cares more about the lives of those children, no bureaucrat cares more, no doctor cares more than the parent.

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: Mr. President, this has been a far-reaching multi-faceted debate and most of the technical aspects of this have been discussed in full, but I would like to share with you what I regard as the critical problem relating to this bill.

It can be summed up, my good friends, in two sentences.

Sentence number 1: "If my father knew, he would kill me."

Sentence number 2: "If I tell my father, it may kill him."

In those two sentences we have a simple summation of the reaction of a young woman who finds herself with an unwanted pregnancy, who is reluctant because she may have been abused by her parents, she may be the victim of incest. She may be the victim of

parental rape, or she may have a father with a heart condition or a sensitive parent whom she dreads the prospect of sharing this sad news with, and, Mr. President, whichever the case may be, we find the fundamental defect in this bill.

Now, let me just say I have the deepest respect for the sincerity of those on the other side of this question. It seems manifest that any parent would want to know if a child underwent -- underwent an abortion and, Senator Marchi, with his usual passion and luminous debating skill, made clear what the issue is here.

But I respectfully submit to you, my colleagues, that what we are talking about here is, in no sense, a normal family situation. We're talking about a possible - about a possible eight to ten percent of the children who are pregnant, not the normal American home which we see happily depicted in Walt Disney movies, not the wonderful loving interrelationship between parents who undergo

crises with their children.

We are speaking of homes in which there is a situation of social pathology. We are speaking of homes in a situation where a child does not either have any identifiable parent or may only have one parent or may have one adult parent so sociologically ill that they are incapable of rational discourse with their child about this very personal problem.

It is these people who seek to go outside the scope of parental guidance and judgment to shift for themselves forcibly. They don't want to do it; they have to do it. Mr. President, just stop and think for a moment. It's very hard for us to identify with these people because, thank God, most of us come from fairly normal homes, but there are people who live in circumstances not only related to poverty but emotional poverty, if you will, who simply cannot communicate in the normal fashion and it is with these people that we must identify for purposes of understanding the true implications of this legislation.

Mr. President, I would also like to dwell very briefly upon the obvious fact that the assurances we're given that judicial intervention will cover the situation as being grossly inadequate. I read you briefly from a memorandum of the Women's Bar Association of the state of New York. To obtain a judicial order, a pregnant mother would have to appear personally in Family Court and establish that she is mature or that the requested abortion would be in her best interests.

The bill does not permit the Family Court judge to rule expeditiously from the bench but, instead, requires preparation of an order with written and specific factual findings and legal conclusions supporting the decision.

The bill fixes no deadline for completion of the written opinion and establishes no procedure whereby the minor would be notified confidentially that the order had been filed.

Senator Abate very adequately

described the plight of a young woman who must go into a town Family Court to discuss this problem. The degree of public scrutiny to which this is exposed renders it almost impossible for any emotionally sensitive child to be able, if not willing, to go into a court under these circumstances.

The court also offers no remedy whatsoever. It is simply a fiction that any youngster below the age of 16 has the capacity to undertake complex litigation. What is this child, a Philadelphia lawyer imbued with some rare capacity to handle things which even adults find mystifying and confusing? This is patently preposterous.

I would also bring to your attention a very technical memorandum from Judge Leo Milonas, the Chief Administrative Court Judge, who points out that there are numerous defects in this matter in that there are no adequate spellings out of the type of proof that must be offered. I won't burden you with all the details of this, but I'd simply say to you

that it is evident from all of the judicial authority, the Family Court experts, the Family Court judges themselves, that the court option is no option at all.

This brings us back to the fundamental question: What about the parent and child? How easy it is to superficially consider that any child would, of course, if he's going to consult a parent about a toothache or about a fractured limb, would obviously have the same relationship with respect to an abortion.

But, if we stop to think about this for a moment, this, too, is an absolute fiction. It's inoperative. It doesn't work that way in the families where the youngster and the parents are already set apart by innumerable social forces which prevent any realistic degree of communication. This is simply absurd. It doesn't happen.

What is the child to do? The father may have committed incest, as I've said, or there may indeed have been violence visited on the child or, even more pertinent in this

case, the fear of violence.

Now, Senator Padavan, you have outlined this with your usual debating skill and to take the pure -- puristic approach which you have posited before us makes this seem a very simple matter because one would simply say, of course, parents must know, have a right to know and, in all probability, would be sympathetic and good and helpful to the child, but in many families the parent is the enemy of the child and that's the sad social truth which we have failed to grasp in this discussion. The parent is the enemy of its own offspring.

How is this possible? Well, it's possible because, in the first place, the child itself now grown to sufficient maturity to bear its own child may have been unwanted and may be resented from birth, or it may be that there are certain economic circumstances which make the relationship of the child intolerable to the parent or perhaps the child has psychological problems of its own and has acted out and has caused the parent grief, whether due to failure

in school or due to inac... certain types of inactivity or hyperactivity in his social pathology spread all across the map on this, but it's not evident to a group of people who wear suits and neckties and sit in the most beautiful chamber in the world to discuss these matters. We are above the smoke of battle. We are not able to be imbued with the perception which permits us to place ourselves in the position of the people most in need of our comprehension of their difficulty.

Mr. President, let's be very practical about what's going on here. This is a one-house bill. This bill will not pass in the Assembly. The Speaker has made it clear that he will not permit this bill to come to the floor of the Assembly, so we know that what we're indulging in today is essentially an exercise in futility, but it has its uses because it does permit us in, I think, a most mature, perhaps lucid, fashion in this debate to once again bring forward some of the more abstruse aspects of this problem.

I respectfully submit to you, Mr. President, and to everyone within the sound of my voice that the proper answer to this is for us to try to achieve that degree of maturity within ourselves which permits us to understand and identify with the difficulties which a minority of our population suffer from in this regard.

To the child who can't communicate with the parent, to the child who says, "My father would kill me if he knew," or to the child who says, "This would kill my father or mother if he or she knew," we must lend sympathetic understanding, and it's on that simple proposition that I urge the house to re consider and to defeat this ill-advised motion.

ACTING PRESIDENT KUHL: The Chair would note that Senator Spano is next on the list, but he elected not to speak. Also Senators Montgomery and Mendez have removed their names from those wishing to speak at this time.

Senator Maltese.

SENATOR MALTESE: Mr. President, I'll be brief and not take advantage of the opportunity to explain my vote at that time.

I think I've listened to all the debate and have listened to my colleagues on both sides of this issue. I share the belief of -- expressed by my good colleague, Senator Goodman, that in some cases there are members of this chamber who are in some type of a cloistered or ivory tower, but I feel it is those who are on the other side of this issue. I do not believe that we give aid and comfort to society as a whole or individuals in difficult situations by taking either the path of least resistance or perhaps retreating behind the argument that this is an exercise in futility since it appears to be a one-house vote -- a one-house bill. That has not prevented us in the past from taking positions on issues of conscience or morality or even of good government.

This is a simple matter. It is a matter that rises or falls on the question of

whether children of 12 or 13 or 14 or 15 up to 16 can have the maturity of judgment to undertake a procedure which will have a -- with all reports, and experts indicate that they will have psychological, mental and physical problems in the future. This is a very difficult decision, and when does it take place? It takes place under conditions of all types of stress, the conditions that members on both sides of the aisle have enumerated. This is not a value judgment made after due deliberation in solitude. This is a decision made under pressure, and who better than parents are in a position to offer advice, counsel and the benefit of their judgment?

Yes, there are dysfunctional families. Yes, there are parents who have caused many of these evils and who have taken tragic advantage of their own children, but fortunately those are still few and far between no matter what surveys or estimates that are made by people on either side.

In the ordinary case what we are

asking, those of us that support this bill, is that a child, a child is able to secure the input of a parent, the parent who, I might add, in most cases would bear the burden of the medical expenses if something goes wrong.

I'm not, other than -- I'm not stressing, although I share the dismay of Senator Padavan at Dawn Ravenell in our county, the 13-year-old girl who, in making that fatal trip to the abortion clinic, was taking her first trip on the New York State -- the New York City subway.

With that in mind, I'd like to say briefly some of -- and not repeating the arguments of some of my colleagues. What are we talking about? I notice that some of the -- my colleagues on the other side of the question keep referring to these children as "young women". In most cases, they are 12, 13, 14, 15-year-old children.

We have made a decision in order to bring this question before the house and after due deliberation, to lower that age.

There was some merit in some of the arguments on 17- and 18-year-olds, but it's interesting too, to allude to the argument of one of my colleagues that now miraculously she is -- she indicates that there is inconsistency in our position, but miraculously where we would take away the responsibility of those same youthful offenders that now they are -- they have been given the mantle of responsibility because this is a different question.

What are 13, 14 -- what do these children do? Many of them are under -- going through their Holy Confirmation at 13. They're doing their bar mitzvahs or bat mitzvahs. They're beginning puberty, a very difficult time at best, acne problems, entering high school, at 13 the eighth grade, 14 the ninth grade.

I ask some of my colleagues to think back, if they can think back that far, and I look at it from the vantage point of some 62 years and find it difficult, but I ask my staff and myself to speak to some of the youngsters of 13, 14 and 15. What are the books they're

doing? They're hanging out at the mall. They're rollerskating, they're bowling. They can't be admitted legally to an "R" rated movie. They're involved in school sports, first dates, group dates, school dances. They're taking school field trips. They're taking a foreign language, perhaps for the first time. They're studying algebra. They're reading Pride and Prejudice, To Kill a Mocking Bird, Old Yeller, Charlie and the Chocolate Factory, Anne of the Green Gables. They're going to the circus. They're joining the Girl Scouts. They're going to 4-H. They're doing Nintendo games. They can't buy cigarettes until they're 18, and they can't get a learner's permit until they're 16.

I submit they are children and so many of the things that are done or go on in our society rob our children of their youth. What I'm saying in this case, if a child is in an unfortunate situation, in a predicament that they simply don't know where to turn, the place to turn is not these abortion clinics. That is

not seeking the advice of a physician who knows something about their medical history or is able to consult with them. They are factories, abortion factories in the main, that offer nothing besides a cheap and easy abortion at this very, very sensitive time in a young girl's life.

We in the Legislature have an obligation to provide that at least in those cases where appropriate, a parent should be notified so that they can offer some aid and comfort to their child.

ACTING PRESIDENT KUHL: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I had initially anticipated a series of questions for the sponsor. What I would like to do is avoid having to do that and perhaps comment about some of the things that were my concerns in this bill. There is, however, one relatively innocuous question which totally befuddles me

and I must ask the question of Senator Padavan.

ACTING PRESIDENT KUHL: Senator Padavan, do you yield to a question from Senator Saland? Senator yields.

SENATOR SALAND: The fourth page of the bill, Senator Padavan, paragraph 6, leaves it to the Supreme Court, and I think you made mention to it in response to one of the questions earlier, to promulgate the rules and regulations necessary to assure the proceedings are handled in an expeditious and anonymous manner.

I'm just puzzled as to why the Supreme Court inasmuch as the court that has jurisdiction here is the Family Court and your appeal is not to the Supreme Court but to the Appellate Division. Is there a particular reason why, or is that perhaps an oversight in drafting, and should it be the Family Court or the Court of Appeals?

SENATOR PADAVAN: It's not an oversight in drafting. It was, in our view, a court that has such broad jurisdiction now in so

many areas that it would be the most appropriate level of the judiciary to examine carefully what this legislation is all about and come up with the rules and regulations that would be the basis of implementation, but certainly if someone said, another court, Appellate Division for example, it's not a question in my mind of argumentation, but rather a decision based on our judgment.

SENATOR SALAND: Thank you, and I would hope that were we to come to an agreement on a bill that might be considered by both houses that you would look a little more carefully and perhaps the court that you would be asking to handle these cases be the partici pant in promulgating the rules and regulations.

But let me share some of the things that are, as far as I'm concerned, of greater consequence and things that concern me. As was mentioned a bit earlier by Senator Good man, this is a one-house bill, as has been mentioned during the course of the debate, and I believe Senator Padavan has alluded to it on

more than one occasion.

The legislative purposes and findings certainly are clear. I'm certainly supportive of those findings and the thing that troubles my perhaps, however, is that I'm not voting merely on the findings; I'm voting on the bill.

Now, starting off in the penalty provision, paragraph 5, the penalty provision talks in terms of a person who intentionally performs an abortion with knowledge that or with reckless disregard as to whether the person upon whom the abortion is to be performed is an emancipated minor.

Now, I would suggest to you that the only parallel section I can find, and that deals with the subject of "reckless" is the definition section in the Penal Law, section 15 of the Penal Law, which defines "recklessly", and "recklessly" is defined as follows: A person acts recklessly with respect to a result or to a circumstances described by statute defining events when he is aware of and consciously

disregards a substantial and unjustifiable risk that such result will occur.

It goes on to say the risk must be of such a nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

This bill attempts to establish a standard of recklessness and yet, as you read further in the bill, it imposes liability and it doesn't distinguish between civil liability and criminal liability where, as follows. It says a person shall not be held liable under this section, if the person establishes by written evidence, whatever that means, that the person relied upon evidence sufficient to convince a careful and prudent person that the representa tions of the pregnant minor regarding information necessary to comply with this section are bona fide and true.

Now, there is nowhere in the Penal Law that I have been able to find even after a Lex' Law search, use of "careful and

prudent". I can show you instances in the Insurance Law where the term "prudent" is used. There are a number of instances in which there's a requirement of a person who's investing under the Insurance Law to do with a degree of care that an ordinarily prudent individual in a like position would use under similar circumstances. The Insurance Law has a number of references to that.

My fear is that we are creating a standard here, a standard that imposes a criminal penalty for which there is no definition, and to go back to some of the comments a bit earlier in the course of Senator Paterson's debate raising the substance of constitutionality, I'm not talking about criminal constitutionality, that's been resolved, but vagueness in a criminal statute particularly in our state with our Court of Appeals lends itself to the prospect of being overruled, and I'm very fearful in the absence of a definition, that we're creating a standard for which a criminal penalty can be imposed and

we're not defining that standard, and by going beyond the "reasonable man" or "reasonable person" standard and defining as "careful and prudent" the standard and not "reasonable person", we are requiring an undefined higher standard that will intentionally or unintentionally have the effect of paralyzing physicians who will fear for criminal liability and may have the chilling effect that was alluded to earlier.

In the precedent section, coercion prohibited. There is in section 135 of the Penal Law a section that deals with coercion. "Coercion" is defined; there are penalties. I believe there's a misdemeanor section, I'm not quite sure if there's a "D" felony associated as well for the higher degree.

This "coercion" section, I can only assume, creates a civil remedy, not a criminal remedy, and we don't describe what courts shall have jurisdiction. In the Article 10-A you say that the Family Court will be the

court of jurisdiction for purposes of the by pass procedure. We don't know what -- third, we don't know what relief is available; we don't know what penalties, if any, will be imposed and again my assumption is you're not redefining coercion for criminal purposes, but you're attempting to create something civil here.

Very, very importantly, reference has been had to this bill as a one-parent notification bill, and I truly believe that that is the intent of the sponsor. I fear, however, that it is more than a one-parent notification bill. I fear it is a two-parent notification bill effectively masquerading as a one-parent bill. We talk about notice being required to a parent, unless -- I'm sorry, the section reads, and even on page 2 of the bill, lines 39 through 42, and it reads as follows: Where the minor's parents are divorced or legally separated or one parent is not available to the person performing the abortion or the referring physician in a reasonable time or manner, then the notice to the parent with custody or report to the parent

who's available shall be sufficient.

Well, again, we're dealing with one of the most difficult subjects, one of the most emotionally packed subjects that we could deal with. Whether you define it as a family rights issue or an abortion issue, the practical application is the same.

Availability when we're talking in terms of parents who may not be legally separated or legally divorced, those parents, if their whereabouts are known, one could live on Smith Street, one could live on Main Street, one could live on Central Avenue, one can live on State Street. They're not divorced, and not legally separated. They are nonetheless not living under the same roof. They are not living there as husband and wife as they had previously, but they are the parents of the child.

It may well be that the offending parent, the offending parent, someone living out of the household, may have violated this young girl. Under this bill, that person has to get

notice. That troubles me as a parent. It troubles me as the chairman of the Children and Families Committee. It troubles me as a human being. I'm deeply troubled by that.

I have nothing but the utmost respect for Frank Padavan and what he's attempting to do here. I have always spoken in terms of my support for a parental notification bill and if, in fact, I will support this bill, it will be with the comfort of knowing that it's a one-house bill because I feel that this has to go back to the drawing board.

We're dealing with something far too precious and something that requires far too much work and far too much detail, and it may be a blessing in disguise for the sponsor of this bill that it is a one-house bill because some of the issues that have been raised here are issues that are going to have to be addressed if, in fact, you are to have two-house agreement and get it to the Governor.

So I commend him for his efforts. I wish that some of these comments and

certainly the ones I've indulged in are taken at the value for which they're given, basically to try and make corrections in a bill that I believe is flawed and requires work.

I'm concerned not only about that offending parent, I'm concerned about that class of children who are out there who are not technically emancipated, who may be living in this warp where they've left their home, the cops won't bring them back. They're out there, they're street people. Their connections with parents are virtually non-existent and, under this bill, there has to be an effort to try and reach out to those parents and again to both parents if, in fact, you know they're available.

So, Mr. President, I did -- as I mentioned in my opening remarks I had intended to engage in some bit of a dialogue with Senator Padavan for purposes of trying to elicit his comments. Given the fact that we're well past the two-hour rule and there are a number of people who have similarly deferred, I will spare

this house that dialogue and shall at this point conclude my comments and thank you for the opportunity.

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

SENATOR SKELOS: There is no intention at this time to cut off debate, but I do want to mention that we're well over the two hour limit of debate. If possible and again, there's no intention to cut off debate, if people can explain their vote, if they feel that's a sufficient amount of time, we would urge them to do so, so that we can continue with the day because there are many, many more bills to be brought up today.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'll be very brief, as brief as I would be to explain my vote.

There are a couple specific points I wanted to address, one of which was the concern that some of the people in this chamber

have concerning the doctor being subject to some type of penalty if they do not do the notification.

Well, that doesn't offend anybody when a person who's abused, the child who's abused goes to the hospital and the nurse or the doctor has to notify the authorities about abuse and, if the authorities aren't notified, there's penalties that could be attached to the physician, the nurse, the hospital or the like.

So this provision in this particular bill that deals with potential penalties and an obligation on behalf of the doctor to make some notification or a nurse to make some notification is not something that's just being created on this particular occasion.

Secondly, there's been a lot of discussion about coercion, that there's a concern that the parents will coerce the child into a decision that maybe the child might not think is best. I think parents have an obligation to care for a child and to provide the standards and the values that that parent or

parents has towards that child. In fact, we have certain obligations that parents have towards those children to raise those children in a proper manner and to indicate that the mere fact that a parent is going to try to counsel the child and be involved in this important issue, that that ultimately translates into coercion, I think, is the exception rather than the rule, which gets me to my main point.

The issue of parental notification should be framed in the way that I believe society wants to have people act; in other words, everyone in this chamber said it would be best if children talked to their parents, notified them. It would be best for everyone under those circumstances, but after saying that, even the opponents say, but there's dysfunctional families. There's pathological families. There's this type of family. There's abusive.

Of course, there is, but shouldn't the general rule be that the policy of this state is that parents and children should

talk about all issues, including this important issue, and that's the policy of this state? That's what Senator Padavan's rule does. There's exceptions and that's the dysfunctional family, the coercive parent, the abusive parent and for exceptions, you make exceptions to the general rule, and that's what this bill does providing for a vehicle for those exceptions; and so I think it's a well balanced bill and it upholds the responsibility of parents that they have in other areas to the most probably and most important decision that a young child could make if they find themselves in this situation.

So I'm going to vote in favor of this bill.

ACTING PRESIDENT KUHL: Senator Padavan? Senator Padavan waives.

SENATOR PADAVAN: I'll explain my vote.

ACTING PRESIDENT KUHL: Senator Padavan will explain his vote.

Senator Farley.

SENATOR FARLEY: Yes, I was going

to waive my right. I think I'm near the end of that list, am I not?

ACTING PRESIDENT KUHL: Senator Connor is next to conclude.

SENATOR FARLEY: All right. I'll speak very briefly as if I was going to, but I could speak on this for some time.

I think everyone knows how I feel about abortion. I don't view this bill in the same light at all. This is a family rights issue without a doubt. We're not talking about limiting a woman's right to abortion. These are children -- children; 15 and younger. It's unbelieveable that a child wouldn't need its mother, particularly at this time. Certainly a father is important also.

If there's no family structure, the courts intercede. But let me just say this. If there's an issue that the people of this state feel deeply about, it's this one. Put this one on the ballot, you'll see a land slide. You will see a landslide, regardless of how you feel about the right to choose or how

you feel about pro-life. The people of this state feel very deeply that there should be notification, if not consent. They feel very deeply about this.

I've taken a poll of my constituency on abortion. It's very close, it was 50/50. On this issue, it's a landslide. They want notification. Senator Padavan has already spoken to the fact that this Legislature, significantly, passed in my first year here consent, not notification, consent. I think it's very, very significant. I applaud our Majority Leader for bringing this issue before us, and I'll tell you, if this bill hit the floor of the Assembly, it would pass in a New York minute. Maybe the two hours are better, but it would pass easily.

We are at a significant time. This is a statement from this house. It's how we feel about families -- a family issue that is very, very significant. I listened carefully to what Senator Saland had to say, and I respect his legal mind. There's no perfect bill, and

I'm sure that Senator Padavan will consider some of these things. I applaud you, Senator Padavan, wherever he went, for bringing this bill before us.

I'm going to vote in the affirmative, and I certainly hope that my colleagues would join me.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, if we could have the last section read for purposes of two Senators voting.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Vote no.

ACTING PRESIDENT KUHL: Senator

Montgomery will be recorded in the negative.

KUHL: Senator Skelos, how do you vote?

SENATOR SKELOS: In the affirmative.

ACTING PRESIDENT KUHL: Senator Skelos is in the affirmative. The roll call is withdrawn. The debate will continue.

The Chair recognizes Senator Connor to conclude.

SENATOR CONNOR: Thank you, Mr. President.

This is an issue that I think many, many people care very much about and feel very deeply about because it does strike at fundamental relationships in the family and it does, as Senator DeFrancisco pointed out, it does go to what we would hold out as the ideal and what most New Yorkers would hold out as the ideal, and it's one that I care very, very much about, and in some sense feel a little bit of conflict.

I relate to this not just as a

legislator but as a parent of children, as a Catholic, as someone who's been in this Legislature many, many years and as someone who's had a chance to observe the real conditions in our state.

I would suggest a better bill, a better bill, would be a bill guaranteeing to every child in New York State, boy or girl, two loving, caring parents or guardians. That would be a good bill. My colleagues, would that not -- would that not represent better than this bill the ideal that New Yorkers hold out? Why don't we pass a bill guaranteeing every child in New York State loving, caring, supportive parents from the moment of birth until their majority. That's what we ought to do. I'll support that bill.

You say, Oh, how can we do that legislatively? You can't legislate that. That's just an ideal. Well, isn't that what this bill is, an ideal, and you're trying to legislate an ideal that doesn't exist? Of course, if you polled New Yorkers, as Senator Farley pointed

out, and you represent only those children who make important decisions consulting with loving supportive parents, of course New Yorkers are for that; but regrettably for a large number of children in New York you have to first find loving, supportive parents and/or guardians.

You know, Senator Maltese harkened back, I don't know, we didn't hang out in malls when I was 13. They didn't have malls; we hung out in the soda shop. He talked about the books these teenagers read, where they go, what they're doing. They're getting their confirmations, their bar mitzvahs, they're going to high school and they're reading wonderful books and all. How idealistic!

Were that only true for every 13 and 14-year-old in New York State. Let me tell you, my colleagues, about thousands, far too many 13- and 14- and 15-year-olds in New York State. They're hanging out on the streets until all hours of the morning. They're smoking dope or worse. They have no parents to go home to. Sometimes they're stealing to get some small

cash to buy food because they don't have a parent or guardian who worries about the three squares. Sometimes the only meal they get is in school. Yet their legislators -- their legislators -- there are legislators who think we ought not provide lunch in schools for these poor kids. We don't worry about their basic sustenance, much less do they have caring supportive parents.

I've learned one thing in 18 years in this Legislature. Every problem doesn't have a legislative solution and if that sounds conservative, label me so. Does this bill identify a problem? Gee, it does seem to be a problem. We do want to encourage children to be involved, to involve their parents in important decisions, that's a wonderful goal. That's a wonderful ideal. Can we legislated that? No more than we can legislate that every parent or guardian is loving, supportive and caring.

That may be regrettable as an ideal, a moral thing that we can't do that, but

we certainly have to realize we can't legislate it.

Senator Marchi said, a bureaucratic position, they couldn't possibly be more supportive than a parent. They couldn't possibly judge the best interest of the child and the emotional needs better than a parent. I wish that were so. He should have said they ought not. They ought not be able to be more supportive and caring and they ought to be - have the best interests of the child and know what that best interest is far better than a bureaucrat or a judge, and I would add judge, left judges out, judges in this bill, or a physician.

Regrettably, read the papers. Parents kill children. The social services system doesn't work. Kids go in and out of foster care because there are no loving and supportive parents. They go into foster care and they get returned to the natural parents. They get murdered. Happens every week, every week. That's the reality. That's the reality.

Regrettably, and it's abhorrent, but that's the reality for many of the children in our state and I say to those who rather blithely would cut down the basic subsistence paid to some of these families -- and we've heard that earlier in the session, cut 'em 15 percent -- that's not reality.

We owe these children more. We can't just pass a bill that says everything will be nice, notify the parents and the children will be loved, supported, encouraged and guided. That's not the reality, and I suggest -- I suggest that part of the evidence that that's not the reality is the very high instance of pregnancy among very young women, indeed girls of 13, 14. That's part of the evidence of the dysfunction in the families.

Now, I'm not suggesting that every young woman who gets -- finds herself with an unwanted pregnancy comes from a dysfunctional family because from Adam and Eve's time on, things happen. Things happen between young people, and there are pregnancies that aren't

desired.

I'm not suggesting that, but I'm suggesting in a very large percentage of young women who find themselves pregnant, that just may be part of the evidence that they don't have parents that are as involved or supportive in their lives as we ought to have in -- for every child. But we can't legislate that. If anybody can convince me we could legislate that kind of parent, then I'd say go all the way, Senator Padavan. Let's put in a bill and guarantee every child born in New York loving, caring parents for the rest of their lives.

That's what we ought to be concerned about. We can't do it by legislation, but we ought to be concerned about all the other legislation we have going or propose separate and apart from this, whether it's in the budget or anywhere else that doesn't foster that ideal. We ought to be concerned to push that ideal.

You know, you say, Well, but we've covered all these children who are from

dysfunctional families and whose parent or step parent or guardian is perhaps even responsible for the pregnancy in a very direct way because of abuse. Look at the statistics on abused children. You know, and you know one of my colleagues said, Hey, well, don't worry about the penalties. We already penalize health care providers if you don't report to the police children that are brought in and abused.

Well, you know, there's two edges on that sword. Yeah, we don't have them report to the parent. Why not? Often the number one suspect for that abuse. We don't say, if you see an abused child and you're a doctor in an emergency room, we don't say you must notify the parents. No, we say you must notify the police. Inherent in that is a suspicion that, gee, not every child, regrettably not every child in New York State has a loving, supportive parent. Some have abusive, drugged out non functional parents or guardians.

The reality, if we had a state where every 13- or 14-year-old was enjoying that

long list of recreational and educational activities that Senator Maltese pointed out, I'd say wonderful, wonderful, and we should give them all -- we should legislate free ice cream every afternoon.

That's not the reality. We have 13- and 14-year olds who aren't reading anything because they can't read, because they've been in and out of school. They can't read. They're not hanging out at malls. They're hanging out in slums. They're trading drugs or the victims of those who do that. They don't have a home to go to, much less a prom or a party or sporting events. These are the children that this bill would rather pretend don't exist.

I don't know, you say, Well, why don't we -- you can go to a Family Court judge, you can go to a judge. Well, I've learned one thing in all my years as a lawyer, and I have the highest respect for our judicial system, but I think it's terrible. It's the best one that anyone has ever set up anywhere, but it's terrible. It can't solve -- it cannot solve

social problems. It cannot solve -- judges can't solve family problems. We make that mistake all the time.

Why doesn't he do anything about it? You know, look at all the spousal abuses and murder situations. So -- but the court issued six protective orders. That six protective orders can't stop a maniac from killing his ex spouse. It happens all the time, regrettably it happens all the time. Courts may be the place of last resort, but they're not a very good place to send people with their personal problems. In fact, they're a very poor place.

If Senator Marchi did not doubt that physicians and bureaucrats can possibly substitute or appreciate as well as parents what's in the best interests of a child, why would you believe for a minute that a judge could do that? After you file all the right papers and get to the right courtroom, our courts are chock full of delay, disillusion ment and quandaries and our judges do a very good job within the law of trying to resolve

those quandaries. But I haven't met a judge yet who thinks, yep, in my courtroom we have the perfect solution to every problem. King Solomon is not sitting in the Family Court in New York State. We don't have any perfect justice. We have perhaps the best -- best system that we can fashion as mere mortals, but the courts don't have all the answers and they're a very, very poor place for this kind of personal decision that a young girl might have to make or have to resort to in the absence -- in the absence of caring parents and guardians.

So notification. I have to believe that those children in New York State who are fortunate enough to have what is their right, loving, supportive parent or parents and/or guardian, would if faced with this kind of crisis, discuss it with such a parent. I would believe that my children certainly would discuss something of that magnitude with me. But the fact of the matter is it's those others who have nowhere to turn, who have nowhere to turn, that this bill ignores. You know, the

bill does represent an ideal that I subscribe to, but it's best expressed in that guarantee that no Legislature can make regrettably, that every child should have that kind of supportive loving relationship.

And I might suggest, you say, well, but there are times when the child is even intimidated from confiding in loving, supportive parents. My colleague described what a crisis that is for a 13- or 14-year-old girl, and I agree, but I have a very, very strong idea that where there is a loving, supportive, close family, the parents certainly will perceive the kind of anguish, confusion and pressure their child is under, and might even initiate a discussion because of that.

So even if, in those kind of families, Gee, the daughter won't come forward without a notice being delivered, the fact is that's part of caring, supportive parents. Spend time with their children, notice changes in their behavior, be able to tell when their 14-year-old is under extraordinary pressure or

feels very, very conflicted and then offer an ear, but as to the other children, a notice in the mail to the parent can only cause more grief, more problems in the family relationship, indeed possibly a danger of violence or abuse and I really, really think that, for some of those young girls who are very young and immature, it could result in resort to back alley abortions, to death, to incredible damage, to the kind of thing New York has said no to taking a chance with for these many, many years.

Mr. President, I urge a no vote.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Mr. President, I'm going to rise to explain my vote.

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

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

SENATOR CONNOR: Slow roll call.

(The Secretary called the roll).

ACTING PRESIDENT KUHL: Slow roll call has been requested. I see five Senators requesting that.

The Secretary will call the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Babbush.

SENATOR BABBUSH: No.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: No.

THE SECRETARY: Senator Cook.

SENATOR COOK: Mr. President.

ACTING PRESIDENT KUHL: Senator Cook to explain his vote.

SENATOR COOK: Mr. President, aside from the issues that have been discussed,

I think this bill raises an interesting intellectual point. If we assume that a child of 13, 14 or 15 does not have the intellectual capacity to make a decision relative to having an abortion, then I think we ought to wonder what happens under the Social Services Law as we've now amended it which says that any girl, any minor girl, has to live in the home of a parent, and what happens if that girl comes home and says, "Gee, I'm pregnant," and the parent says, "I'm not going to have that kid living in my house. I haven't got the income, the ability to take care of a baby in this house. Besides that, you're too young, too immature to have a baby," and the girl says, "But I want to have the baby." Should the parent have the ability to say, "You will have an abortion because you're too immature to know whether you ought to have an abortion or not?" Should the parent have that kind of power, or does it only go one way when you can say, "No, you shall not have an abortion."

I think it's got to be one way or

another. Either the child is mature enough to make the decision both ways or the child is not mature enough to have -- to make the decision both ways and obviously I don't think any of us around here would be advocating a law whereby a parent could force a child to have an abortion, but if we don't make the decision in that direction, I don't see how we can make it in the opposite direction, let them deny that ability to have the abortion.

Therefore, I vote in the negative.

ACTING PRESIDENT KUHL: Senator Cook will be recorded in the negative.

Secretary continue to call the roll.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Explain my vote, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: I had a chance to ask Senator Padavan a series of questions, and I yielded the floor before I had a chance to express my views on this bill. I think it creates standards for physicians in interrogating their patient, but it doesn't tell you what they should do or how they should do it.

It talks about promoting the family and parenting, yet for some reason it says you give notice to the parents of the would-be mother, but there's no requirement that you gave notice to the father, or the putative father, an inconsistency that I, frankly, find troubling if the goal is to encourage parenting.

It will pit a child against her parents in what I think is a one-way street because this bill says, if you're coerced into

an abortion, that's wrong, but if you're coerced by your parents not to have an abortion, that's O.K. We're going to let our parents coerce our children to do what the sponsor of this bill and those who support it think they want to do which is, let's be blunt about it, stop abortions.

It creates civil liability on the part of our medical practitioners and potentially our health centers and our hospitals, but it doesn't talk about any standards.

It talks about creating a procedure for a courtroom bypass, but don't kid yourself, this isn't a bypass provision. This isn't a provision that says we will do without notice under these circumstances. This is a provision that transfers to the judge a determination about what the best interest of this child is.

I think it's a bad bill. I think it's also bad politics. I heard a couple speakers refer to the fact that this is overwhelmingly supported by the people in this

state. We know for a fact that the reason that something is supported by an overwhelming number of people in this state is not a reason for this house to do anything, because assault weapons or the ban on assault weapons is supported by almost the same amount of people percentages that this is supposedly supported by in the polls, and we've elected, or certain people in this chamber have elected not to do anything about assault weapons.

So when I'm lectured about the fact that 82 percent of the people support this, I'd simply go back to an argument we had several weeks ago. It's obviously not a reason to do anything in this house.

I made a promise a long time ago about this issue, and I said that this state should not make our children into liars in order to get health care. It should not make our doctors, physicians and hospitals into liars and into interrogators of their patients in order to give young women health care. We should not go back to the 1950s when young women whispered

amongst themselves, "I got a problem. Do you know where I can go?" "Yes, we've got a little address down a back alley up a couple floors." You'll meet someone who doesn't have M.D. at the end of their name, and you can there get your problem taken care of.

I'm not going to tell the desperate young women in this state, and I will admit something before I do say this, this bill may help someone. There may be some families where, if you give notice, the parent will lovingly support the child to come to the right decision, but there are thousands, and I agree with Senator Connor, there are thousands of young desperate women who will say, "I can't talk to my parents about this," and my position is simple. I promise not to do it. Even if it's my 13-year-old daughter, I will not take away her only hope.

I vote no.

ACTING PRESIDENT KUHL: Senator Dollinger will be recorded in the negative.

The Secretary will continue to

call the roll.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Farley.

SENATOR FARLEY: I vote aye.

THE SECRETARY: Senator Galiber excused.

Senator Gold.

(There was no response.)

Senator Gonzalez excused.

Senator Goodman.

SENATOR GOODMAN: Mr. President, to explain my vote.

If only the world were as it's so beautifully depicted by Senator Maltese a moment ago; if only it were possible that you could say that the children we're talking about read Charlie's Chocolate Factory and To Kill a Mocking Bird, everything would be fine. There'd be no problem.

The world is not that way. The world also unfortunately consists of people, of youngsters with very severe problems and they're

not talking about Charlie and the Chocolate Factory, we're talking about a Charlotte and the Baby Factory.

And that's the difficulty. That's the distinction. That's what this law fails to understand.

ACTING PRESIDENT KUHL: Senator Goodman, how do you vote?

SENATOR GOODMAN: In the negative.

ACTING PRESIDENT KUHL: Senator Goodman in the negative.

Secretary will continue to call the roll.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Mr. President.

ACTING PRESIDENT KUHL: Senator Hoblock, to explain his vote.

SENATOR HOBLOCK: Thank you, Mr. President.

I've listened intently for close

to three hours of the debate on this particular piece of legislation and found it not only interesting but very educational. This is an issue that I know that many of us in this chamber have struggled with over the years because you deal with your personal conviction, you deal with the interests of your constituency and then you try to deal with the actual piece of legislation to see whether or not it fits into that mold or it adapts to your personal conviction and that of what you feel is the need and desire of your constituency.

And I have to tell you that because this is such a personal and emotional issue, putting at least those three pieces together is very difficult and maybe there's more pieces to this that others are trying to put together. I've been in elective office many years like many of you and, on this particular issue, I have a personal conviction that I'm troubled by the fact that we as a state, we as a government, are not doing something for the 12 or 13-year-old females that are trying to make

this decision on their own, and that certainly leans me toward getting the family involved, whether it be by notification or some other method, and I think that we'd all like to live in that ideal world, and I think we need to have the faith and confidence to do that and we need to move in that direction.

Putting it into practice and developing a piece of legislation to accomplish that is an entirely different issue. I think that the findings and the intent of this legislation, the first couple of paragraphs sets forth what it is we'd all like to do. Then the problems develop.

I have some deep concern with this piece of legislation. Many of the problems, and I won't reiterate because they have already been mentioned, but I think it is a step in the right direction. Knowing that this bill is going to stay in this house and it will be worked on and there will be modifications and we will revisit this issue, I feel comfortable in moving in the direction that I've set out for

myself, and I vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Hoblock will be recorded in the affirmative.

Secretary will continue to call the roll.

THE SECRETARY: Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Explain my vote.

ACTING PRESIDENT KUHL: Senator Jones, to explain her vote.

SENATOR JONES: I was reading an article today in the Gazette, and one of the comments was that most of the bills we pass here are generally not read and very little discussion and resulting in what happened last week with the Long Island toll bill. Well, this bill certainly does not fall into this

category.

I feel very comfortable that everyone here has read it very extensively and has probably spent many, many an hour thinking about it. I guess I believe in my heart that this should be an easy yes vote if you just look at the surface of it, and to oppose it is far from easy. All parents say they want to be involved in their children's lives and, of course, all of us believe that they should be.

But then I say don't they have that right now at their disposal the means to do this? I asked myself, doesn't day-to-day good communication with your children allow you that now? Doesn't it every day you impart to your kids values by good example, by training, by taking them to church, doing all the right things, doesn't that help?

And I say to myself, doesn't education about sex, relationships, the importance of saying no, doesn't all those things have any impact on children? Well, my answer is yes, it does and should, which then

says to me that the only people that are going to be impacted by this piece of legislation is those who do not have those families, do not have a quality education and do not have the ability to hear this. In fact, if the child who not only doesn't have two parents, doesn't even have one quality parent, and this same child can be a victim actually of the parent. Right now, as someone said earlier, 74 percent of the teens who have sex before 14, it's because of incest.

Now, I know many of you have said there's a court option, and I understand that, that's true, but now we're saying let's have a judge who knows nothing of this child or the need to become not only the parent, the judge, but even the medical adviser to this child. I truly have agonized over this issue and there's no one knows better than I the political ramifications of it, but I know in my heart it is not as simple as picking up a telephone and making a phone call to two parents.

I have four children and thank God all of them grew up and maybe I was lucky.

I think that's a lot of it with children, but fortunately they all turned out well, and I have three beautiful grandchildren that I look on today, and while I'm agonizing about this, my daughter is always kind of my lightning rod or whatever, and I said, "Honey, what do you think about this? You have three daughters," and her answer to me was, "Mom, I'm going to do everything in my power to raise these children that they will not be afraid to come to me no matter what their problem, but, if I fail, then I want to know there's a safe place that they can go."

ACTING PRESIDENT KUHL: Senator Jones, how do you vote?

SENATOR JONES: (Talking over). Those of you who support this bill, let me just finish by saying preach the right thing from your pulpit, your children need to hear it. Talk to them in your home and show them by example the right thing and offer them your love and your comfort and your security blanket, they need it. Teach them in the classroom the values

and dangers of sex before marriage, the joys of family life, but please don't believe that the state of New York bears the ultimate responsibility for family values; it won't work.

I have to vote no.

ACTING PRESIDENT KUHL: Senator Jones' vote will be recorded in the negative. The Chair would remind the members that you have two minutes to explain your vote. I'm sure you all will remember that.

Secretary will continue to call the roll.

THE SECRETARY: Senator Kruger.

(There was no response.)

Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack excused.

Senator Larkin.

SENATOR LARKIN: Yes.

THE SECRETARY: Senator LaValle voting in the affirmative earlier today.

Senator Leibell.

ACTING PRESIDENT KUHL: Senator Leibell to explain his vote.

SENATOR LEIBELL: Thank you, Mr. President.

I'm one of those members that felt that, when I first saw the bill and had an opportunity to read through it, that this required a great deal more work before we had the chance to consider it on the floor. Despite its distinguished sponsorship, I can't describe this legislation as particularly well crafted.

It has been noted by the sponsors as well as many others here that this is not a choice vote. It's been changed to make sure that it does not provide for consent. There's been a change in the age levels that are involved.

Obviously we are nonetheless, though, grappling with one of the most contro versial areas that we have to deal with and, for that I -- I think it is a good thing that we have this opportunity this afternoon to at least

commence this dialogue. I would like to see this dialogue expanded to include legislation which Senator Cook and I have sponsored, the health clinic access bill, so that we could have an opportunity to view this great social issue in all its aspects.

Nonetheless, I am glad that we at this point in time have had a chance to discuss what is by -- I think everyone has acknowledged at this point in time a one-house bill, but one that we will have obviously a great deal of discussion on in the future. Its limitations have been noted. The general concept is one, however. That I can support, the idea that a family has an important role to play in these decisions.

With that in mind, I will vote aye.

ACTING PRESIDENT KUHL: Senator Leibell will be recorded in the negative -- the affirmative.

Secretary will continue to call the roll.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter to explain his vote.

SENATOR LEICHTER: To explain my vote. You just can't legislate love and trust between a child and parents, and that's really what you're trying to do here. Of course, children find themselves in a situation where they're pregnant and have to make a very difficult decision ought to make that decision in -- within their family and with the consultation of their parents, but we know that there's some children who will not do that, or where the family relationship does not allow this.

Where you have a dysfunctional family or you have other difficulties and in those circumstances to legislate and say, well, you must do that, or you must go to court, is just totally unreasonable.

I know I've heard on this floor

that, well, we're not deciding or voting on choice, but I must tell you that when I consider this bill and when I consider the bill earlier this year that Senator Farley had on denying Medicaid support for abortions, these are guerilla attacks on the basic constitutional right to have an abortion, and you can put it all in the guise of, well, we're talking about family values and family being together and loving relationships between mothers and fathers and their daughter, but that's hogwash.

Your aim and purpose and intent, I submit by this bill, is to try to limit abortions in this state and to force people to carry fetus to terms when they may not want to make that choice. I think it's an unrealistic bill, and I think it's an unjust bill.

I vote in the negative.

ACTING PRESIDENT KUHL: Senator Leichter will be recorded in the negative.

Secretary will continue to call the roll.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Yes.

THE SECRETARY: Senator Libous excused.

Senator Maltese.

SENATOR MALTESE: Mr. President.

ACTING PRESIDENT KUHL: Senator Maltese to explain his vote.

SENATOR MALTESE: I had not expected to explain my vote, but I simply wanted to respond to some of my colleagues who chose to mention myself and other supporters by name and indicated that they felt there was a certain naivete in espousing a list or speaking of a society in which traditional family values are adhered to or espoused.

I certainly having been brought up on the Lower East Side and being chairman of the board of a high school for some 19 years, I don't think I could be accused of being completely unaware of our young pre-teens and teenagers.

I simply want to indicate that together with other supporters of the bill, that

we are here because we feel that we are not satisfied with the status quo, not satisfied with the world as it is now, and we hope that by our efforts we can achieve a better place for our children to bring up our children, to bring up our families and, hopefully, by supporting legislation like this and similar legislation, we can come close to that goal.

Mr. President, I vote aye.

ACTING PRESIDENT KUHL: Senator Maltese in the affirmative.

Continue to call the roll.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Mr. President, I merely want to express my sadness in a way that some of the opponents of this bill express such dire judgments on the millions of families in this state. These are good families. These are good people and these are good people that want the best for their children. I'm sure that

they're intelligent and sensitive people that I'm speaking about, but on sober reflection they will -- and distance from the debate, they will come to a different conclusion about these families.

I vote aye.

ACTING PRESIDENT KUHL: Senator Marchi in the affirmative.

Continue to call the roll.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Explain my vote.

ACTING PRESIDENT KUHL: Senator Markowitz to explain his vote.

SENATOR MARKOWITZ: Thank you. Of course, I've heard these debates prior to this afternoon -- this is nothing new in this chamber -- in an attempt to lessen the right of women to choose, whether that woman is 16 years old or whether the woman is 20 or 30 or any age.

I would like if it was possible

to turn back our society to Father Knows Best. That would be nice, or Leave It to Beaver, but 1995, regrettably, in some ways is not the 1950s or late '40s or mid-'30s or '40s that some of you in the chamber grew up in.

Certainly for the latter part of the '40s, '50s and '60s, that hype came of age. As much as we care about these families, Senator Marchi, and we do care, Senator Marchi, we do. By and large, government has a certain role and when people make their decisions they make their decisions regardless of necessarily what government has issued, believe me.

In this case, I suspect that young women that are in loving families, that the chances are significantly less, where there's been that type of stronger family background that an abortion would even be contemplated or that the need for one or even the decision for one would be really academic. Where there is a strong bond between the young woman and her mom or dad, and should the issue of abortion come up, I believe that she would

naturally seek out that person in her life that she's closest to whom she loves and who she trusts, whether it be her mom or dad or both.

However, we don't live in The Father Knows best society any more, Senator Marchi. We haven't for years. So the question is, what is right for government to do? What is right for us as legislators? And it seems to me that voting for this bill will only force those young people that make the decision to terminate their pregnancy, we might force them to face consequences that no good person in this chamber would want that young person to experience; and so, therefore, we have to vote on the greatest good for the greatest number to protect those that need protection.

In this case, Senator Marchi, voting for this bill, I don't believe, protects the very people that you care about and I care about. There's no question of that in our society once we begin focusing in on the extraordinary sex that we see on television and in the movies over and over and over and over

and over again, and every advertiser and every quote, major corporation, the most conservative to the most liberal, they use whatever they have to to sell their product.

So on one side we say yes and on the other side we say no. Is it any wonder why society is as conflicted as it is today?

I vote no.

ACTING PRESIDENT KUHL: Senator Markowitz in the negative.

Continue to call the roll.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez.

ACTING PRESIDENT KUHL: Senator Mendez to explain her vote.

SENATOR MENDEZ: Mr. President, to explain my vote.

In -- in following the debate here today, Mr. President, I have been going from the position of affirmative position for the bill and a negative position for the bill back and forth all day long, because I do

believe very strongly that parents of young children should be notified. In fact, in New York City today -- and this was one of the reasons why I have been inclined to support this bill is, in the public school system in New York, one out of four children is sexually abused. Since -- and the usual thing for the school person, the usual thing that the school personnel do is that they transfer the guilty person to another district without telling the accepting or receiving district what that person has done. So that with school-based clinics in our schools, in the City, which I support, there is a risk, an enormous risk, of having a child that is abused sexually by school personnel and then that child being taken from that -- that school-based clinic and taken to an abortion clinic and the parents without knowing anything.

So in terms of protecting those children, I was thinking yes, I would support the bill.

In reading further the bill,

however, Mr. President, I saw that this bill - this bill forces children, I mean this bill, the state helps children who decide to keep the child by making them emancipated young people. In doing so, they are giving all the services that that child might do again when that is already forbidden by law in terms of the social welfare reform that we did here, while the girl who goes through with abortion, because when the parents do not want her to do so, she has her - her abortion, goes home and she still will be facing the same music.

So I think I -- for the record, I support parental notification. I, for the record, do not support parental consent. I want to thank Senator Padavan for bringing this issue to the fore. We know that this bill is not going to see the light -- is not going to go through in the Assembly. It will not be discussed in the Assembly, but I think that we have to go back to the drawing board and make a more equitable -- equitable bill to protect our children.

So, therefore, I will be voting in the negative.

ACTING PRESIDENT KUHL: Senator Mendez in the negative.

Secretary will continue to call the roll.

THE SECRETARY: Senator Montgomery voting in the negative earlier today.

Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

ACTING PRESIDENT KUHL: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Briefly, I think most of the people in this room probably would be sought out by their kids. For the most

part, what I've heard when I've spoken to the other Senators is that there's concern and involvement, parental involvement, with their kids that's been going on for many years, and I think that we understand that we can't legislate trust and we can't legislate confidence and we can't legislate communication between child and adult.

In the cases that we're talking about, 80 percent of these young people, these children 13, 14 and 15, did seek their parents' involvement, and so we're talking about a small minority of them that don't and where they don't in those states where they already have judicial bypass with parental notification, and where thousands and thousands of cases have already been heard, the assessment hasn't been good, and this is not just anecdotal that I'm talking about.

I read earlier what many of the judges in these states have said about the cases that they heard concerning judicial bypass, and they were specifically named judges and direct

quotes and each one of these justices said that in -- this process was just an enormous hassle for kids and accomplished very little else.

What we all would agree who have difficulty with this bill is, there are needs. There are certainly needs, and education is the first need. Family life education in all of our schools is an important need. More school-based clinics is an important need. There are a lot of needs out there. This bill does not address any of those needs.

I, for one, support reproductive freedom. I believe choice should be available to all females whether they're rich or poor or young or old or white or black or Latino. I think it is guaranteed by our Constitution and by our Supreme Court, and I'll be voting in the negative.

ACTING PRESIDENT KUHL: Senator Oppenheimer in the negative.

Continue to call the roll.

THE SECRETARY: Senator Padavan.

ACTING PRESIDENT KUHL: Senator

Padavan to explain his vote.

SENATOR PADAVAN: Mr. President, there's been a considerable amount of debate and I respect the views expressed on both sides of this issue during the several hours we've talked about it.

I would just like to set the record straight on a couple of issues which I think are important.

First, I want to assure Senator Goodman and some of the others that I, and I know everyone who supports this legislation, does not live in Disney World. We live in the real world. We understand fully the issues of dysfunctional families. We understand fully where this type issue falls hardest in many, many instances, but we also understand fully, contrary to comments made by Senator Cook, that we are not out to punish children. We are out, and our primary focus, to repeat what I said earlier, is to ensure the health, physical health, mental health and well-being of young girls who find themselves in this position.

Senator Connor indicated that the Family Court is not the place to replace parents, not the location that parents should have surrogates, and he's right. The Family Court, in this legislation, is for one and only one purpose, to make the determination as to whether or not notification should be implemented. It does not become involved in determining whether an abortion should be permitted or not. That is outside any court's jurisdiction. It is not a surrogate for parents in terms of advising children what to do and not do.

It is simply there to make a determination based on valid considerations such as the one brought up by Senator Saland, where you have an offending parent and you don't want that parent to get notification for obvious reasons. That's what the Family Court's role is in this legislation.

In sum, we have tried to craft something here that reflects not only the wisdom of the federal courts, Supreme Court, but also

tracks what is going on in states throughout this country. We think, on balance, it provides a level of protection for children that they do not have today, that youngsters who are willing to take an easy way out may be the wrong way out, and we think parents ought to be involved to prevent that from happening.

I vote aye.

ACTING PRESIDENT KUHL: Senator Padavan in the affirmative.

Continue to call the roll.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: No.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I certainly would think it an injustice to anybody in this chamber to somehow or other impugn whatever their motives may be for their respective positions. In my comments earlier, I intended to, with the utmost sincerity, praise Senator Padavan for his efforts, for his integrity and for his commitment to an extraordinarily important issue.

Now, while I expressed rhetorically by way of questions some reservations that I think have to be addressed in order to make this bill into a two-house proposal that will carry the day, I would not want to, in any way, shape or form, have that construed as somehow or other my lack of concern for the importance of the issue of parental notification.

I very strongly believe in that type of legislation, and would hope that, as this issue continues and as the session draws to

a close and we go back and review what we've done, that we will have the opportunity to work and to improve this measure.

I'll share with you an experience just within this past week back home. During my week off, I was on one of my extended walks with my wife, and asked her about her feelings about the parental notification issue, a person who doesn't necessarily agree with me on each and every one of my votes, and who certainly could be called pro-choice, and I expected her response to be, and we had never discussed it before, that she didn't like it.

Her response was, "If you take that away from the family, what's left?" And I think that's a very, very valid concern. I think it's a concern that we have to continue to endeavor to address. I'd like to be able to work with Senator Padavan and others in that effort, and I'm going to vote for this measure.

Thank you.

ACTING PRESIDENT KUHL: Senator Saland in the affirmative. Thank you.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Sears. Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward to explain his vote.

SENATOR SEWARD: Yes, Mr. President. Like so many other members of this chamber, I too have agonized over this legislation in terms of what to do in terms of casting a vote.

On one hand, as a parent of a daughter myself, God forbid that she ever had to face a decision whether or not to have an abortion, I certainly would want to know and be a part of that decision, and my wife and I are working very hard to make sure that we have that type of relationship so that would occur.

On the other hand, I fully agree

with those who would say you can not legislate parental/child communication. I fully recognize that as much as we do not like to think about it, we have so many dysfunctional families in the state of New York where parents would not make the best decisions on behalf of their children.

But the legislation before us today by Senator Padavan and others, is an improved bill when compared to previous bills of this type. This legislation today deals with those under the age of 16 years of age. It deals with notification rather than consent and while still not a perfect bill -- particularly bothersome to me is the Family Court proceedings which I consider to be cumbersome, time consuming, unduly intimidating in many ways.

I'm going to support the legislation today, because I feel that it should be the state policy in the state of New York that parents be notified, that parents be involved in this crucial decision on the part of their child under the age of 16 years of age,

and while not perfect, it is my hope that by the passage of this bill today, it will enhance and expedite serious discussions on developing a sensitive, workable law that will truly protect the young people of our state and their families alike.

I vote aye.

ACTING PRESIDENT KUHL: Senator Seward in the affirmative.

Continue to call the roll.

THE SECRETARY: Senator Skelos recorded in the affirmative earlier today.

Senator Smith.

ACTING PRESIDENT KUHL: Senator Smith to explain her vote.

SENATOR SMITH: Mr. President, I come from a different perspective, someone who has worked closely with young women who are the product of dysfunctional families. I have worked closely in counseling and in trying to - attempting to make them understand the realities of life and attempting to get them back into the mainstream.

They have also spoken to me of how they feel about the family courts and the court system and how they could not possibly go into a court to attempt to have an abortion or whatever else may be necessary for their own sanity in many cases.

And many of you do not realize that in dysfunctional families it may be the male in that household or the male that was once in the household who may be the father of that child, and that bothers me even more, and for those dysfunctional families and those young ladies who come from dysfunctional families, I must vote in the negative.

ACTING PRESIDENT KUHL: Senator Smith in the negative.

Continue to call the roll.

THE SECRETARY: Senator Solomon.

ACTING PRESIDENT KUHL: Senator Solomon to explain his vote.

SENATOR SOLOMON: Thank you, Mr. President.

Though I don't profess to have

the wisdom of Solomon that was alluded to by Senator Connor, I've listened to this debate with interest.

Senator Saland pointed out the many flaws in this legislation. Indeed, if this legislation passed in both houses and were signed by the Governor, it would probably be in litigation for many years in terms of some of the definitions we have, and some of the other problems that we have to deal with.

The people talk about Family Court. How many people have looked at the lines outside of Family Court in Kings County before court's supposed to open? Well, there may be a hundred people on line and you expect a young woman or fragile person 14 years old to be on that line.

I think Senator Cook said it best. We're either going to tell the parents to make the decision one way or the other. The 14-year-old is either mature enough or not to make that decision, and it has to go both ways.

I think this piece of legislation

has so many problems with it from both a statu tory point of view and a philosophical point of view that it leaves a lot of us with no alternative but to vote in the negative.

Thank you.

ACTING PRESIDENT KUHL: Senator Solomon in the negative.

Continue to call the roll.

THE SECRETARY: Senator Spano.

(Negative indication.)

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
(There was to response.)
THE SECRETARY: Senator Wright.
SENATOR WRIGHT: No.
ACTING PRESIDENT KUHL: Secretary will call the absentees.
THE SECRETARY: Senator Espada.
(There was no response.)
Senator Gold.
(There was no response.)
Senator Hoffmann.
(There was no response.)
Senator Kruger.
(There was no response.)
Senator Waldon.
(There was no response.)
ACTING PRESIDENT KUHL: Announce the results.
THE SECRETARY: Ayes 32, nays

20.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Goodman.

SENATOR GOODMAN: Mr. President, there will be an immediate meeting of the Committee on Investigations, Taxation and Government Operations in the Republican Conference Room, 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Committee on Investigations, Taxation and Governmental Operations in the Majority Conference Room, Room 332. Immediate meeting of the Committee on Investigations, Taxation and Governmental Operations in the Majority Conference Room, Room 332.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar number 1457, substituted earlier today, by member of the Assembly Eve, Assembly Print 5950A, an act to amend the General Business Law, in relation

to delinquent accounts.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside.

Chair recognizes Senator Nozzolio for an announcement.

SENATOR NOZZOLIO: Thank you, Mr. President. There will be a meeting of the Crime Victims, Crime and Corrections Committee in the Senate Majority Leader's Conference Room following Senator Goodman's committee, should be in about ten minutes.

ACTING PRESIDENT KUHL: Meeting of the Crime Victims and Crime and Correction Committee immediately following the Investiga tion, Taxation and Governmental Operations Committee in the Majority Conference Room, Room 332, approximately ten minutes.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I asked for an explanation on Calendar Number 1457.

ACTING PRESIDENT KUHL: The bill was laid aside, Senator Paterson.

SENATOR PATERSON: I -- what I would like to report is that I don't need an explanation on it.

ACTING PRESIDENT KUHL: The bill is laid aside anyway. Thank you for your help, Senator Paterson.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1501, by Senator Seward, Senate Print 3377A, an act to amend the General Municipal Law, in relation to conflict of interest.

SENATOR PATERSON: Explanation.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Seward, an explanation has been asked for jointly by Senator Paterson and Senator Stachowski.

SENATOR SEWARD: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the

bill aside temporarily.

THE SECRETARY: Calendar Number 1504, by Senator Larkin, Senate Print 3789A, an act to amend the Real Property Tax Law, in relation to making technical and clarifying amendments.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 1504 has been asked for by the Deputy Minority Leader, Senator Paterson.

SENATOR LARKIN: Senator Paterson, this bill makes some technical and clarifying changes in the real property tax administration. It clarifies that city and county charters, tax acts, administrative codes may authorize a meeting of the boards of assessment review to be on a date other than the fourth Tuesday of May.

It specifies that state lands shall be assessed at the same uniform percentage of value as other property in the assessing unit following a reval' or an update. It provides

for the Board of Real Property Services which used to be known as E and A to establish the residential assessment ratios at least 60 days prior to the date for filing of the roll.

This is a program bill from Office of Real Property Services and we have had no memos in opposition.

SENATOR PATERSON: O.K.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 52, nays 1, Senator Gold recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1505, substituted earlier today, by member of the Assembly Kaufman, Assembly Print 5954C, an act to amend the General Business Law, the Public Health Law and the Vehicle and Traffic Law, in relation to safety requirements.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar 1505 has been asked for by Senator Stachowski.

SENATOR VELELLA: Yes, Mr. President.

This bill requires that in-line skaters or rollerblade skaters under the age of 14 are required to wear helmets, requires that a notice be attached to in-line skates indicating that protective gear is required to be worn when skating, requires such notice in stores where in-line skates are sold, prohibits the use of in-line skates not equipped with stoppers and authorizes the Commissioner to adopt an in-line skating helmet safety program and conforms the requirements of the in-line skating to the bicycle law in this state, and also requires

that the in-line skaters in this state wear the protective gear.

ACTING PRESIDENT KUHL: Senator Velella, excuse the interruption.

Senator Saland, Senator Leibell, can we take the conversation out of the chamber, Senator Holland. The Sergeant-at-Arms please make sure the conversations are taking place outside of the chamber.

Senator Stachowski?

SENATOR STACHOWSKI: Mr. President, if Senator Velella would yield to a couple of questions?

ACTING PRESIDENT KUHL: Senator Velella, would you yield?

SENATOR VELELLA: Yes.

SENATOR STACHOWSKI: Senator, you said it's only the wearing of helmets for people under 14 and merely a warning on the skates or on the skate box that they should be -- that the users of the skates should be wearing all the other equipment, i.e., wrist guards, that sort of thing, and knee guards.

SENATOR VELELLA: Yes, yes.

SENATOR STACHOWSKI: Now, if the Senator would yield to one other question.

ACTING PRESIDENT KUHL: Continue to yield, Senator Velella?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR STACHOWSKI: It's a two part question. One would be what would be the penalties to people who didn't wear this equipment, and who would enforce it and make sure like, would it be the police that would be picking up these kids, and what would be the penalty to them if they didn't wear it?

SENATOR VELELLA: Well, like they do with the bicycle law, there can be tickets issued and summonses issued but it's more of a policeman's enforcing of the laws and telling young people that they should be wearing helmets. I don't know of any catastrophes or unjust decisions that have been made or harsh penalties that have been imposed on young people

who ride bicycles without helmets other than the policeman telling them, You got to get a helmet and warning them, and I don't know how many tickets have been issued in the state, but it's a matter of making the parents aware of the fact that their children can suffer major injuries if they don't wear protective gear and devices.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 17. This act shall take effect January 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 53, nays 1, Senator Johnson recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1510, by Senator Spano, Senate Print 4379A, an act to amend the Criminal Procedure Law, in

relation to the powers of certain special patrolmen.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1522, by Senator Lack, Senate Print 5378, an act to amend the State Finance Law, in relation to court facilities.

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

THE SECRETARY: Senator Lack moves to discharge from the Committee on Rules Assembly Bill Number 8161A, and substitute it for the identical Calendar Number 1523.

ACTING PRESIDENT KUHL:

Substitution is ordered. Secretary will read the title.

THE SECRETARY: Calendar Number 1523, by the Assembly Committee on Rules, Assembly Print Number 8161A, an act to amend the Alcoholic Beverage Control Law, in relation to storage of alcoholic beverages.

ACTING PRESIDENT KUHL: Bill is before the house. Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1524, by Senator Velella, Senate Print 5431, an act to amend the Insurance Law, in relation to clarifying and revising liability insurance requirements.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 1524 has been asked for by Senator Paterson.

SENATOR VELELLA: In our existing law, there are directors and officers liability policies for different types of corporations, the business corporation, the not-for-profit corporation and a variety of different types of corporations.

This conforms all the various - and religious corporations are another one. This conforms all the various types of corpor ations so that insurance companies can write a directors' and officers' policy that will be - that will fit each one of those separate types of corporations rather than having a separate designating statute and different type of policy for each and every type of corporation. It gives no further authority than to do that, than to allow them to write those types of policies for all different various corporations.

ACTING PRESIDENT KUHL: Senator

Solomon.

SENATOR SOLOMON: Yes, will Senator Velella yield, please?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SOLOMON: Senator, under this legislation which I'm just looking at right now, has there been any -- has there been any study done or any information given to you regarding the change in rates this might have for not-for-profit corporations?

SENATOR VELELLA: I'm sorry.

SENATOR SOLOMON: Any change in rates on not-for-profit corporations on directors' and officers' insurance as compared to private corporations?

SENATOR VELELLA: No, it was my understanding that rates would be set and determined by the Department based on filings that would be made there. This would just be a means of addressing the language within the policies so that directors and officers would be

treated alike for the various corporations.

SENATOR SOLOMON: Will the Senator -

SENATOR VELELLA: To answer your question, Senator, there has not been an independent study done on that.

SENATOR SOLOMON: Senator Velella yield, please, for another question?

ACTING PRESIDENT KUHL: Senator continue to yield? Senator continues to yield.

SENATOR SOLOMON: Senator, I'm looking at page 3, paragraph (k) -

SENATOR VELELLA: Yes.

SENATOR SOLOMON: -- where the duty to defend, where liability insurance policies or contracts in regard to certain classes of corporations have the duty to defend, and from the allocation of costs for legal costs attendant to such defense, so he may exempt the policies from the liability for legal costs to defend.

My question is this: Will this provision subsequently allow another company to

sell insurance to that same board of directors to cover legal costs if they are sued?

SENATOR VELELLA: I don't know that this either allows or prevents it. It would be a possibility that someone seeing the hole in coverage or lack of coverage might decide to offer a product in the marketplace to provide a policy that would be a gap kind of insurance for directors and officers. I don't know honestly if that would be allowed under the existing law.

This bill doesn't create anything to do it, but I would assume that somebody that wanted to sell that product would go and file with the Department and get a rate approval or denial.

SENATOR SOLOMON: Yeah, Mr. President, if Senator Velella will yield.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR VELELLA: Yes.

SENATOR SOLOMON: My concern, Senator, is that in this case, that we might be

opening up a situation where, in fact, there may not be coverage available because all the insurance companies offering this policy may end up offering the same type of policy where they don't offer this legal defense coverage. The Superintendent may O.K. it, and then the companies may not offer it, and my concern is that there may not, in fact, be a product on the marketplace, or the Superintendent may have to O.K. a market, and the marketplace, we may have a window there where there's no coverage avail able for legal defenses which can be substantial in this type of lawsuit, and that's what I'm concerned about especially with this type of legislation. If you believe, in fact, that that would be available or that they can purchase this type of insurance in view of the fact of the intent of this legislation, and that was stated on the floor, that might be more helpful, I think. I'm concerned about that.

SENATOR VELELLA: Well, I couldn't in good faith represent to you, of my own personal knowledge at this time, that this

insurance coverage is available, but I can say that we are not creating any gap that a company could not do at the present time. They could choose to withdraw from the market and choose to withdraw offering those types of policies. I don't think we're doing anything to encourage that. If anything, we would maybe be creating a market for an insurer to come in and provide that, as I said before, gap insurance. Is it available now? I couldn't tell you in good faith.

SENATOR SOLOMON: O.K. Thank you. Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Solomon, on the bill.

SENATOR SOLOMON: I have no problem with the intent of this legislation, but in terms of my questions and the answers from Senator Velella, my concerns are obvious that hopefully there is a product that would cover this loophole that could be created and again this loophole can only be created if the Superintendent implements this action through

regulation which would, in fact, take away the coverage of legal costs, but I dare say -- hope that we would have companies that would offer that type of policy, and I would hope that they would be allowed to offer that policy under the laws and, as explained by Senator Velella, I hope that we don't have anything that prohibits it at this present time because that could be the one danger in this particular case especially for not-for-profit corporations which are, in many instances, strapped for cash and would not have funds readily available to pay for their own legal costs, and it would be a very important product to offer those corporations.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1525, by Senator Lack, Senate Print 5433.

SENATOR NOZZOLIO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1527, by Senator Volker, Senate Print 5479, an act to in enact the Persistent Child Predator Act.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Volker, an explanation of Calendar Number 1527 has been asked for by the Deputy Minority Leader, Senator Paterson.

SENATOR VOLKER: Mr. President, this bill, which is entitled part of -- which is termed the Persistent Child Sexual Predator Act is a continuation of a series of bills that we have passed during this session that toughens up

sentencing rules in a number of areas of the law in New York, and I don't think many of us have completely recognized the enormity of what has already occurred at this session and which this bill represents another step in moving New York's penal laws toward a policy that takes people who have been persistent in, and what we call multiple felons, and subjects them to some severe sentencing.

What this bill does is to change the law or the statutes which presently would allow someone who is guilty of molestation of a child under 14 years old in a previous case and now is charged on a second time or in some cases possibly a third time, depending on clearly the situation when this -- when this crime occurs, instead of being subject to as little as two years in jail or a minimum of two to seven years, I believe it is, that person would be subject to a minimum of 15 to 25 years and could be subject to a life term which, in our jargon, would mean a maximum of 25 years to life.

This is a tough bill. It is a

recognition of the fact that sexual predators today have become such a problem in our society that it is believed that we should dramatically boost up the sentencing process and that's what is done here.

This is a Governor's program bill and it is a bill, I think, that we should look at very thoroughly as something that tries to deal with a severe problem and that is attacks on children in our society.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Excuse me. Senator Leichter.

SENATOR LEICHTER: Yes. If Senator Volker would yield?

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

SENATOR LEICHTER: Senator certainly -

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Certainly

crimes against young people, particularly sexual crimes, are very serious, must be treated seriously by our society, and people who are guilty of that must be severely punished. There's no argument on that. I'm not so sure that there's an epidemic, as you have almost portrayed it, of sexual molestation. I haven't seen figures that show that to be the case, although we've had one or two well-publicized tragic incidents.

But let me -- I just wanted to make clear exactly which sexual crimes become the basis for what could be a -- an A-1 felony indictment or a conviction.

SENATOR VOLKER: First of all, these are crimes against children, understand, who are under 14 years of age. That is the critical category, and these are the first offense which would be what today we would term a VFO means those crimes that would be considered in this state or in another state where a child is subjected to, for instance, a sexual assault, a molestation or whatever, and

that's under sections -- Article 70, I believe it is of the Penal Law, and the person -- I'm sorry, yeah, Article 78, but under Section 130. 30, and those are various subdivisions that relate to attacks on children, these are not minor offenses. They are all what can be considered as serious offenses against children under 14 years of age.

SENATOR LEICHTER: Mr. President, if Senator Volker -

ACTING PRESIDENT KUHL: Senator Volker, you continue to yield? Senator continues to yield.

SENATOR LEICHTER: I appreciate your courtesy in always answering and answering candidly, but you're being very general today. What I want is specific, so these are serious crimes; these are serious offenses.

SENATOR VOLKER: All right. You want -

SENATOR LEICHTER: What exactly, when you say an assault against a child?

SENATOR VOLKER: All right. Let

me give you an example, a for instance.

SENATOR LEICHTER: Would it be rape, for example?

SENATOR VOLKER: That's an example.

SENATOR LEICHTER: O.K.

SENATOR VOLKER: You could have sodomy; there would be a whole lot of offenses against a child.

SENATOR LEICHTER: Could it be a crime of exposing oneself to a child?

SENATOR VOLKER: No, no.

SENATOR LEICHTER: Could there be another child involved?

SENATOR VOLKER: Not -- crimes against the body of the child itself. I think obviously molestation -- I shouldn't say obviously. What we're talking about is a crime against the body of the child itself, himself or herself.

SENATOR LEICHTER: Are all of them felonies?

SENATOR VOLKER: Yes, absolutely,

no question they're felonies. You must be convicted of a previous child molestation felony in order to be subject to this, and this is another felony now, and we are not changing the rules, that is the felony itself. In other words, the felonies are already established. What we're changing here is the sentence.

SENATOR LEICHTER: O.K. Could it -- could it include, for instance, just sort of groping at a child, if you -- if you touch a child in -- under the age of 14 or touch the child's backside?

SENATOR VOLKER: Absolutely not. You have to have much more serious -- my counsel here outlined the rape second, rape first, where the victim -- these are victims are less than 11, sodomy second, sodomy first, again with a victim who is less than 11; sexual abuse, and again you understand, the person is less than 11.

I mean you have to have more than just a groping, as you know. Sexual abuse in the first degree is an abuse that deals directly

with the body of that child. Section 1 (c) of 130.70 is aggravated abuse first and that is on a child who is less than 11 years of age again, so you're talking not about minor violations here. You're not talking about misdemeanors; you're talking about serious violations.

SENATOR LEICHTER: Mr. President, if Senator Volker will continue to yield, please?

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LEICHTER: Senator, I've been handed a chart here. I don't have the section to which it relates, but it shows that sexual abuse in the second degree is a misdemeanor.

SENATOR VOLKER: Right.

SENATOR LEICHTER: Now, I asked you whether misdemeanors are included, and you said absolutely not.

SENATOR VOLKER: Right.

SENATOR LEICHTER: Based on what

I now have in my hands, does it appear that we are -- you are including a misdemeanor?

SENATOR VOLKER: No. Sexual abuse in the first degree is in the misde meanor. Sexual abuse in the first degree is a felony.

SENATOR LEICHTER: A felony.

SENATOR VOLKER: Right.

SENATOR LEICHTER: But you sure this does not include sexual abuse in the second degree?

SENATOR VOLKER: Absolutely not.

SENATOR LEICHTER: Could you wait just one second, Senator, while maybe our counsels could just check on this?

SENATOR VOLKER: Senator, I just pointed out to my counsel in that one instance you're right that in that one instance -- sexual abuse in the second degree, I'm sorry, but I was under the impression in that one case, sexual abuse in the second degree, which is a Class A misdemeanor and this is on a person under 11 years of age, right?

VOICE OF COUNSEL: Less than 14.

SENATOR VOLKER: Less than 14 years of age. In that one case this could subject that person to the -- to the provision of this statute.

SENATOR LEICHTER: Senator Volker, doesn't that seem to you quite extreme? I mean, if I read your bill that if you commit that particular sexual abuse in the second degree, which is a misdemeanor, you do it the second time -

SENATOR VOLKER: Right.

SENATOR LEICHTER: -- you're going to send that person to a sentence of 15 to 25 years to life?

SENATOR VOLKER: Possible it could be, that's correct, and it is -- first of all, there are comparatively few people that are convicted of that kind of crime and, if they are, remember we're talking about a second or third or multiple offense here. Many of the people involved in these kinds of crimes are involved in multiple offenses over a period of

years.

If this bill passes now, what will happen is the next one could subject them to a severe penalty. Nobody says that they have to be necessarily subjected to severe penalty, but if they are convicted of these kinds of offenses, then they would have to be sentenced in effect to a minimum of 15 years in jail, and you're correct.

SENATOR LEICHTER: Senator, would you consider amending the bill and taking out the misdemeanor? I mean I just think that's extreme. I have no problem somebody commits rape a second time or commits sodomy a second time, commits a serious aggravated sexual abuse, but somebody who commits a misdemeanor -- and it's bad; nobody is saying, Oh, well, this is insignificant. It is significant -- that person should be punished if he does it the second time. It ought to be a felony, ought to go to jail, but 15 years to 25, minimum of 15 years for having committed a misdemeanor the second time? I -- I think that's unreasonable.

SENATOR VOLKER: Yeah, Senator, I certainly would be willing to talk to the Governor if you could talk to the Assembly about maybe this bill would go if we amend it, that would be fine. My answer is, though, despite the fact that it's a misdemeanor, it's a Class A misdemeanor, a serious crime against the person of a young child.

It may seem severe, but I think these are -- these are tough and serious problems, and I guess my response is certainly we would look at that, but I think still these are all serious crimes, and I think we have to take serious and strong measures under the circumstances that we're in.

SENATOR LEICHTER: Mr. President, on the -- on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: I hadn't seen this bill before, but one of the things I wanted to check into is whether we're casting such a wide net that people who are really not a major

threat to society are being sent to -- to jail for extremely long sentences.

One of the reasons I voted against this house version of the "Megan Law" which now may become law because I understand the Assembly is going to go with it, is that we included misdemeanors, we included acts that really were not serious. Here, if this bill related to rape one, rape two, sodomy one, sodomy two, that would be fine, but you are now including a situation where a 17-year-old who fondles a -- a child under the age of 14 commits a misdemeanor.

That's certainly -- it's a wrong act; it's a violation. It should be punished, and so on. Does it a second time. You going to send him to jail for a minimum of 15 years, 15 to 25 years? I think it's just unreasonable. I mean I know it looks good, we're going to be tough and we're going to be harsh and we're going -- we're -- we're going to take care of the miscreants in our society, but there's got to be some element of justice, some element of

fairness, some element of reason, some element of sense.

I mean if we're just doing this politically and beating our chests and, Look how much we're doing, well, then maybe throw any act in and say we're going to send people to jail 15, 25 years. I -- I assume there'll be support among the public for doing this, but I think, well, we're becoming a pretty harsh and a pretty oppressive society, and I just want to say this -- this house which is so concerned about, you know, abuse to children when it's reflected in "Megan's Law" or reflected in this bill, that you didn't seem to have much compunction about cutting $90 million out of the budget for protective and preventive services trying to keep children from being abused whether in their home or in the foster home or in some other setting. That's going to create much more danger, much more harm, much more abuse to children.

I know it's tough to vote against these bills, and somebody can have a field day

with me saying, Oh, he voted against a bill which was meant to protect children under the age of 14, but it's just wrong. It is wrong to say that a second time you commit a misdemeanor which is still considered a relatively minor offense, we're going to send somebody to jail 15 to 25 years. I can't vote for that.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: Just one quick comment.

Senator Leichter, I guess sometimes I agree with your assessment on a number of things. I would have to correct one thing though. I don't think I would consider sexual abuse in the second degree to be a comparatively minor offense. This is on a child of 14 years of age and under, and you're probably talking about somebody who -- and depending on a situation that would certainly I think come out, who is involved in a number of offenses, and even a Class A misdemeanor is

certainly a serious offense.

That's something we will certainly look at, and I guess I would ask you the question -- let me finish, Senator.

SENATOR LEICHTER: Sure.

SENATOR VOLKER: I think before you cast "Megan's Law" and all these other things into perspective -- and I'm one of those people that was one of the counters that you were, and I was involved in the largest rape investigation in upstate New York's history many years ago, as I've told you.

One thing we've learned over the years about sexual predators and, as we learned in the Rochester murders, that the profile of sexual predators is -- first of all, when you said is it epidemic, Senator, it is. Let me tell you, it is epidemic. The numbers of everything I've seen that indicates that what we thought of years ago was nothing compared to what's happening today; but what the case in Rochester showed to us, here we had a child molester who was involved in cases up in the

North Country and, because of that was one of the reasons why he wasn't looked at in terms of the killing of a group of women. Unfortunately, we find that the sort of people who are involved in this tend to be people who can transfer over to other forms of victim exploitation.

I guess my answer to you is, that since we don't have the answer at this point by any means how to handle these people from the - the counseling point of view, and so forth, although we're trying to deal with that as best we can, in many cases when we're dealing with children, the best answer at this point, no question, is to set up such a severe penalty that we send a message way beyond something that we would normally do, and I think that's what this bill does.

I think it attempts to deal with a problem that I guess I would say to you, I guess I would say to you is of epidemic proportions, and I think it's serious enough to take what would amount to draconian measures.

SENATOR LEICHTER: Mr. President,

if Senator Volker would yield, please.

ACTING PRESIDENT KUHL: Senator Volker, do you yield, please?

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: Senator Volker will yield.

SENATOR LEICHTER: Senator, am I correct, and I'm not expert in this area and I concede your knowledge in this area and that's partly the reason I'm asking you, sexual abuse in the second degree misdemeanor, if a 17-year sold gropes at a female under the age of 14, touches her in her private parts, is that not sexual abuse in the second degree?

SENATOR VOLKER: It could be, Senator. It could be, in rare circumstances, that's true, but normally speaking, it is a more serious offense than that, but you're right, it could be.

SENATOR LEICHTER: Right. So unfortunately, these are things that have been happening in schools among young people for certainly many years. They're at street corners

or in the school or somebody like that and somebody misbehaves, nobody is justifying or sanctioning this behavior, but he reaches for somebody under the age of 14 and touches her in an offensive manner but doesn't do any other harm and then he's convicted of a Class A misdemeanor, as he should be. Then he does it again. Now, you're saying you're going to send him to jail for 15 years? I -- I can't -- I can't understand that.

But let me also ask you this question, Senator: Where's the epidemic? Where is the -- where -- where are your facts and figures? I mean you and I have discussed this before, the tendency in this house to rely on anecdotal evidence. Where is -- where is your -- where is your statistics as to that we've had an enormous increase in crimes, sexual crimes against young women?

SENATOR VOLKER: Senator, I realize that myself, my colleagues, Senator, where have we been? Have you been noticing the pictures of people over in the Capitol who have

been grabbed and killed and taken away? Senator, I -- I can't -- what is the Adam Walsh -- the institute that's been set up, the numbers of young people who have been kidnapped right off the streets in this state alone, incredibly have multiplied over the years.

Now, we used to think that that sort of thing only happened in the big cities of this country. All you have to do is look out there to see that it's just not happening in the big cities. Senator, no one that I know of that's involved in criminal justice believes that the situation, as far as sexual predators is concerned, has not changed over the last ten to 15 years.

SENATOR LEICHTER: You are taking the -

SENATOR VOLKER: The feeling very strongly is, and the evidence, Senator, is there in the fact that the general public is organizing itself saying that society can't protect them from what is going on and that is why the institutes have been set up. That's why

the Missing Children Alliance has been set up. That's why we have all these people around here lobbying in behalf of young people, lobbying in behalf of people who -- who have been attacked; and, by the way, Senator, you and I participated in hearings across the state here a few years ago on the issue of -- of child sex attacks, one of the most chilling hearings I've ever held since I've been in the Legislature, much less chairman of Codes, that pointed out that the number of offenses against children in families alone was absolutely astronomical.

So I -- I can only tell you, Senator, all the figures I have ever seen and all the information that I have ever gotten is -- indicates to me that this issue, that this issue of child sex offenses has become an enormous problem and, if we don't deal with it, it will become an even bigger problem in the future.

SENATOR LEICHTER: Senator, I take it your answer to my question, though, is you do not have any statistics, you have no

data, but you do have some anecdotal evidence?

SENATOR VOLKER: The answer is no, I have -- we have -- if you want, we will get you thousands of pages if you really want to that show the numbers of offenses that are involved, but, Senator, all you have to do, I suggest when you go home tonight it will be doubtful that we'll watch a television broadcast without some sort of indication of something that happened some place in this country or this state involving sexual attacks on children.

SENATOR LEICHTER: Senator, let me say to you, if you read Freud, you'll read about all the instances of sexual abuse that occurred within the family, and that was at the turn of the Century. I'm not aware that we've had any radical great increase. I -- we have cases. There may even have been some increase, but whether there has been a statistical - statistical evidence showing that there has been a significant increase per capita, I've never seen those figures and, if you have it, I'd be delighted to see it.

Let me just ask you one other question if you'd be good enough to yield.

ACTING PRESIDENT KUHL: Senator Volker, you continue to yield? Senator Volker continues to yield.

SENATOR LEICHTER: Has this bill been submitted to the District Attorneys Association; has it been submitted to the Supreme Court Justices; do we have any comments by bar associations on this bill?

SENATOR VOLKER: Senator, as far as I know we have -- not me. This is not - this is a Governor's program bill; it was not a bill that we had developed, but let me suggest to you that I think you're aware that my committee has been looking into this issue, in fact, introduced a bill before the committee that we were talking about, in fact have continued to, and I think we will have hearings on the issue of sexual predators.

We have submitted a number of bills to the various DAs, and so forth, and to my knowledge, I don't know whether the

Governor's office has submitted -- my guess is they have, because on this agenda and this calendar is a bill that the DAs are very, very interested in. It's part of a whole package of bills.

As far as whether we have received comments or not, that I'm not aware of. I don't know if the Governor's office is or not, but as to whether we have received anything from DAs and judges, no, we haven't.

SENATOR LEICHTER: All right. Just finally again, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter again, on the bill.

SENATOR LEICHTER: I have difficulty understanding the rationale and the sense of a bill that says that when you commit a rape for the second time, you get sentenced to 15 to 25 years which doesn't bother me at all, but if you grope at a woman under the age of 14 and you do that twice, a misdemeanor, you get sentenced for exactly the same term as you would if you had committed rape twice.

Does that make sense? I'm just sorry that we just seem to be playing to the gallery instead of having serious workable criminal legislation. I just find that, in this respect, I think that this bill just goes far off base, and I think it's unfortunate.

I think you ought to amend it, Senator Volker, whether it's a Governor's bill or not. You know it's not going to pass the Assembly, but maybe that's what the Governor wants, and he'll have another 30-second sound bite, but amend it, take out the sexual abuse for a misdemeanor. Sexual abuse one which is a "D" felony, maybe shorten the period on that and I think you've got a bill that I think people would say makes some sense, but I think this bill does not.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

SENATOR GOLD: Senator would like to explain her vote.

SENATOR ABATE: I'd like to explain my vote.

ACTING PRESIDENT KUHL: Senator Abate, to explain your vote?

SENATOR ABATE: Yes, I'd like to explain my vote.

ACTING PRESIDENT KUHL: Senator Abate, to explain her vote.

SENATOR ABATE: I would very much have liked to support this piece of legislation but because sexual abuse in the second degree as an "A" misdemeanor is included, I will not be able to, and I hope that Senator Volker would, in the future, consider eliminating the "A" misdemeanor. I mean all of us know that certain sex offenders, recidivists, are very dangerous to society, but we have to look very carefully

when we remove the discretion from the judge and say to that judge, when someone is convicted twice of a crime, that they have no discretion but to sentence that individual to 15 to 25 years to life, and I see many cases in court where the sexual abuse of the second degree which is an "A" misdemeanor, kids upon kids, situations on the subway where someone is accused of touching someone's buttocks or breast, that could happen twice on a subway, again the sexual abuse in the second degree could be more serious, but there are occasions when people are convicted of what I call, I mean intolerant, terrible behavior, but I'm not saying, suggesting that someone should be given a life sentence for that behavior.

I could support this bill if it were amended and eliminated the "A" misdemeanor charges. Again, what we need to do is produce longer sentences for recidivists and what we're doing is to take away the discretion from the judge. It should be done carefully for the most violent offenders, the most heinous offenders

and the most dangerous offenders.

This bill is too broad and, for this reason, I can not support it.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1527 are Senators Abate, Leichter and Paterson. Ayes 51, nays 3.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, we have some housekeeping. You want to return to motions and resolutions?

Chair recognizes Senator Gold.

SENATOR GOLD: Thank you very much.

On behalf of Senator Stachowski involved in other work right now, I wish to call up his Print 1671A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary

will read the title.

THE SECRETARY: Calendar Number 737, by Senator Stachowski, Senate Print 1671A, an act to amend the General Municipal Law.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Mr. President, I now move to reconsider the vote by which this bill has passed -- was passed, period.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Now, Mr. President, in order to keep the chamber moving at a proper pace and in order not to disturb Senator Stachowski who is involved in other very serious work at the present time, I offer the

following amendments and move their adoption and ask the bill retain its place on the calendar.

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

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President, would you first recognize Senator Maziarz.

ACTING PRESIDENT KUHL: Chair recognizes Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I'd ask unanimous consent to be recorded negative on Calendar Number 1505, please.

ACTING PRESIDENT KUHL: Without objection and hearing no objection, Senator Maziarz will be recorded in the negative on Calendar Number 1505 -- 1-5-0-5.

SENATOR SKELOS: And, Mr. President, prior to recognizing Senator Present for some housekeeping, there will be an immediate meeting of the Finance Committee in Room 332 of the Capitol.

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

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Bruno, I wish to call up his Print 5416, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1460, by the Senate Committee on Rules, Senate Print Number 5416, an act to amend the Tax Law and Chapter 272 of the Laws of 1991.

SENATOR PRESENT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 55.

SENATOR PRESENT: Mr. President, it's restored to third place reading. I offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted, Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Padavan, I wish to call up Print Number 4753, recalled from the Assembly which is now at the desk.

THE SECRETARY: Calendar Number 1516, by Senator Padavan, Senate Print 4753, an act to amend the General Municipal Law, in relation to providing coverage for injuries.

SENATOR PRESENT: Mr. President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 55.

SENATOR PRESENT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Tully, on page 7, Supplemental Calendar, I offer the following amendments to Calendar 1528, Senate Print 5480, and ask that it retain its place on the Third Reading Calendar.

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

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Goodman, I wish to call up his bill, Print 3419, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number

739, by Senator Goodman, Senate Print 3419, an act to amend the General City Law and others, in relation to authorizing the establishment of the New York City Tribunal.

SENATOR PRESENT: Mr. President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll on reconsideration.)

SENATOR PRESENT: Mr. President, I offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted. Senator Skelos, we have one substitution at the desk.

SENATOR SKELOS: Please make the substitution.

ACTING PRESIDENT KUHL: Ask the Secretary to read.

THE SECRETARY: On page 4, Senator Holland moves to discharge from the Committee on Rules Assembly 3037A and substitute

it for the identical Calendar Number 515.

ACTING PRESIDENT KUHL:

Substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Paterson.

SENATOR PATERSON: Mr. President, on behalf of Senator Connor who has handed up a memorandum, and there is a memorandum to alter the -- to provide notice of Senator Connor's intention to alter the rules, the intention will be to change the rules of the Senate on July 29, 1995 which would require one day's notice under Rule XI, and the -

SENATOR SKELOS: July 29th, I won't be here.

SENATOR PATERSON: Sorry, Mr. President. It's July 29th. I'm just thinking ahead.

SENATOR SKELOS: June 29th.

SENATOR PATERSON: I know. It's June 29th, Mr. Senator, Mr. President. Now, the rules would be altered so that the fourth

Thursday in June rather than the second Tuesday in April would be the last day for motions to discharge, motions for discharge, and under Rule XI Senator Connor intends to move to discharge Senate Bill 5519 from the Committee on Rules. This bill relates to increasing the minimum wage here in the state of New York.

Mr. President, I'd like to note that tomorrow, June 29th, will be the fifth Thursday in the month of June.

ACTING PRESIDENT KUHL: The record will reflect, Senator Paterson, that you're filing a notice of intention to bring a motion to change the rules tomorrow.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could continue regular order.

ACTING PRESIDENT KUHL: Secretary will continue to call the controversial calendar, Supplemental Calendar 1.

THE SECRETARY: Calendar Number 1529, by Senator Volker, Senate Print 5491, an act to amend Chapter 737 of the Laws of 1994.

SENATOR VOLKER: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1530, by the Senate Committee on Rules, an act to amend the Criminal Procedure Law and the Public Authorities Law, in relation to peace officer status.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1532, by Senator Volker, Senate Print 5499, an act to amend the Criminal Procedure Law Reform Act of 1995.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 1536, by Senator DiCarlo, Senate Print 5517, an act to amend the Tax Law and Chapter 190 of the Laws of 1990, amending the Business Corporation Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date as such chapter of 1995.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Could we have

an explanation?

ACTING PRESIDENT KUHL: Withdraw the roll call.

Senator DiCarlo, an explanation of Calendar Number 1536 has been asked for by the Deputy Majority Leader, Senator Paterson.

SENATOR DiCARLO: Thank you, Mr. President.

This is a technical chap... amendment to the chapter to a bill which previously passed both houses, to repeal the New York City sales tax on interior design services.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

SENATOR SKELOS: Mr. President.

THE SECRETARY: -- on the same date as such chapter.

SENATOR SKELOS: Mr. President, if we could just lay that aside temporarily. Senator Leichter is at the Finance Committee

meeting.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

Secretary continue to call the controversial calendar, Supplemental Calendar Number 1.

THE SECRETARY: Senator Goodman moves to discharge from the Committee on Rules Assembly Bill Number 8286 and substitute it for the identical Calendar Number 1538.

ACTING PRESIDENT KUHL: Substitution is ordered. The bill is high. Lay the bill aside.

THE SECRETARY: Senator Goodman moves to discharge from the Committee on Rules Assembly Bill Number 8285, and substitute it for the identical Calendar Number 1539.

ACTING PRESIDENT KUHL: Substitution is ordered. The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1540, by Senator Skelos, Senate Print 5525, an act to amend Chapter 704 of the Laws of 1991

amending the Arts and Cultural Affairs Law.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Could we have -- we have a couple of bills, this one and the one we just discussed, and also Calendar Number 1532 that we just passed, Senator Leichter had asked to debate those bills and what's complicating the issues is that Senator Leichter is in the Finance Committee right now, so I'm wondering if we can just put these bills over for just a few minutes until the Finance Committee has completed its business.

ACTING PRESIDENT KUHL: Senator Paterson, we have a problem with 1532. That bill is out of the house and don't have any control of it at this point, but we certainly can honor your request relative to Senator Skelos' bill.

SENATOR SKELOS: 1540 is my bill. I'll lay that aside temporarily pending the return of Senator Leichter from the Finance

Committee.

ACTING PRESIDENT KUHL: O.K. 1540 will be laid aside temporarily.

Senator Skelos, that completes the controversial calendar excepting the two bills that have been laid aside temporarily.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, are we sure that Calendar 1532 is out of the house, because it just passed a second ago.

ACTING PRESIDENT KUHL: It's gone. The box is empty, Senator Paterson. They're gone.

SENATOR SKELOS: Could we stand at ease.

ACTING PRESIDENT KUHL: The Senate will stand at ease for a few moments.

(The Senate stood at ease from 4:37 to 4:56 p.m.)

ACTING PRESIDENT NOZZOLIO: Senator Skelos.

SENATOR SKELOS: Mr. President,

on two of Senator Leichter's lay asides, we've had a discussion with him and he has no objection at this time to the bills being called up and certainly, if anybody else wants to ask a question or debate the bill, they certainly can. So will you please call up Calendar Number 1536 by Senator DiCarlo.

SENATOR NOZZOLIO: Secretary will read.

THE SECRETARY: Calendar Number 1536, by Senator DiCarlo, Senate Print 5517, an act to amend the Tax Law and Chapter 190 of the Laws of 1990.

ACTING PRESIDENT NOZZOLIO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date as such chapter.

ACTING PRESIDENT NOZZOLIO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT NOZZOLIO: Bill is passed.

Senator -

SENATOR SKELOS: 1540.

ACTING PRESIDENT NOZZOLIO: Secretary will read.

THE SECRETARY: Calendar Number 1540, by Senator Skelos, Senate Print 5525, an act to amend Chapter 704 of the Laws of 1991.

ACTING PRESIDENT NOZZOLIO: Last section.

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

ACTING PRESIDENT NOZZOLIO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT NOZZOLIO: The bill is passed.

SENATOR SKELOS: Would you recognize Senator Paterson, please.

ACTING PRESIDENT NOZZOLIO: Senator Paterson.

SENATOR PATERSON: Mr. President, again on behalf of Senator Connor who wants to

provide notice of his intention to alter the rules of June 29th in order to, under Rule XI, specifically to amend the rules to allow for a day's notice and the change of the last day to offer motions to discharge from the second Tuesday to the last Thursday in June which is the fifth Thursday, and at that time he will move to discharge from the Rules Committee Senate Bill 5519 which relates to raising the minimum wage in the state of New York.

SENATOR SKELOS: Senate will continue to stand at ease.

Is there any housekeeping at the desk?

ACTING PRESIDENT NOZZOLIO: Senate will stand at ease.

SENATOR PATERSON: Mr. President, I thought I would announce now when we adjourn today, there will be an immediate conference of the Minority in the Minority Conference Room, Room 315 in the Capitol.

(The Senate stood at ease from 4:59 to 5:15 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The Senate will come to order.

Chair recognizes Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Maltese.

ACTING PRESIDENT KUHL: Senator Maltese.

SENATOR MALTESE: Mr. President, with reference to the Senate Resolution Calendar, Resolution Number JL1770 it's a resolution welcoming his Holiness Pope John Paul. I've been requested, and I'm pleased to open that resolution to any members who may not be on, if you agree, Mr. President.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Will you please, on the regular calendar, Calendar Number 515 by Senator Holland, it's indicated that it's high. I believe there's an Assembly substitution that would make the bill live if we could bring it up

at this time.

ACTING PRESIDENT KUHL: Senator Skelos, Calendar Number 515, you're correct, was -- there's a substitution at the desk. That was previously substituted, so the bill is live. I'll ask the Secretary to read the title of the bill at this time.

THE SECRETARY: Calendar Number 515, substituted earlier today, by member of the Assembly Colman, Assembly Print 3037A, an act to amend the Criminal Procedure Law, in relation to designating security officers.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: Announce -- or excuse me, the bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I -- I believe we have messages on five bills, for the information of the Minority, if we can now bring them up. First one is Calendar Number 537.

ACTING PRESIDENT KUHL: You're correct, Senator Skelos. There is, or there are five messages of necessity on Calendars Number 537, 554, 784, 1019 and 1051 at the desk.

Senator Skelos.

SENATOR SKELOS: Would you call up Calendar Number 537, Senate Bill Number 1098A.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 537.

THE SECRETARY: Calendar Number 537, by Senator LaValle, Senate Print Number 1098A, an act to amend the General Municipal Law, in relation to service award programs for firefighters.

ACTING PRESIDENT KUHL: Senator?

SENATOR SKELOS: Move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, call up Calendar Number 554, Senate 2767B.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 554.

THE SECRETARY: Calendar Number

554, by Senator Volker, Senate Print 2767B, an act to amend Chapter 207 of the Laws of 1994, relating to incorporating the Twin District Volunteer Firefighters' Benevolent Association.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: There is a message at the desk.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar 554. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

There was no response.)

The message is accepted.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: May I have unanimous consent to be recorded negatively - in the negative on 515, please.

ACTING PRESIDENT KUHL: Soon as

we finish this one, Senator Leichter.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 515.

Senator Skelos.

SENATOR SKELOS: Mr. President, call up Calendar 784, Senate Bill Number 2744B.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 784, by Senator Leibell, Senate Print 2744B, an act to amend the Town Law, in relation to refuse and garbage districts.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar 784. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Which number, 784?

ACTING PRESIDENT KUHL: We're on a roll call on 784, correct.

SENATOR DOLLINGER: Explain my

vote.

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Very, very briefly, this is a local bill which we're doing now with messages from the Governor which I have nothing against. These look like local bills that ought to pass this house and ought to move. I do understand, however, there are still some local bills that are still awaiting passage by this house that happen to be members who happen to sit on this side of the aisle, with the exclusion of Senator Leibell, who joins us on this side but his party is not on this side, so to speak.

But I'm not going to vote against these bills. I think it's the right thing to do, get them out, get them passed, do the things for our local communities. I just hope we get all the local bills passed this time around. I just think we ought -

ACTING PRESIDENT KUHL: Senator

Dollinger will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: Bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, call up Calendar Number 1019, Senate Bill Number 1177A.

ACTING PRESIDENT KUHL: Secretary will read the title of the Calendar Number 1019.

THE SECRETARY: Calendar Number 1019, by Senator Sears, Senate Print 1177A, an act to amend the Criminal Procedure Law and the Education law, in relation to the appointment of security officers.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Move we accept the -

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1019. All those in favor signify by

saying aye.

(Response of "Aye.")

Opposed nay.

The message is accepted.

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 56.

ACTING PRESIDENT KUHL: The bill is -- Senator Leichter, you wish to be recorded in the negative on that? Announce the results.

THE SECRETARY: On Calendar Number 1019, ayes 54, nays 2, Senators Leichter and Stavisky recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, please call up Calendar Number 1051, Senate Bill

Number 917B.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1051, by Senator Goodman, Senate Print Number 917B, an act to amend the Civil Rights Law, in relation to prohibiting the non-consensual use of a person's voice.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar 1051. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

THE SECRETARY: Section 6. This

act shall take effect on the first day of November.

SENATOR DOLLINGER: I have a couple questions for Senator Goodman. Can we do this now?

ACTING PRESIDENT KUHL: Senator Goodman yields.

SENATOR DOLLINGER: First of all, Senator, could you tell me what's the definition of "person" in this portion of the law? Does it include the estate of someone, number one, and number two, does it include a corpse, for example, one of the voices that -

SENATOR GOODMAN: Includes neither. It does not include corpses; in other words, those tend to be inaudible.

SENATOR DOLLINGER: My question is this, Senator: What about the immutable voice of Humphrey Bogart?

SENATOR GOODMAN: This does not apply.

SENATOR DOLLINGER: Just the people who are currently living?

SENATOR GOODMAN: That is correct.

ACTING PRESIDENT KUHL: Through you, Mr. President. I've got one more.

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

SENATOR DOLLINGER: I happened to have my voice used without my approval during the political campaign season when someone took one of my ads and happened to transform the ad, so that instead of talking as I'm talking right now, I talk as my children once refer to it by saying, "Blah! Blah! Blah! Blah!" Would that be a violation of this and then I could bring a claim for a civil rights action violation because the Republican Senate Campaign Committee had used my voice without my approval and manipulated it?

SENATOR GOODMAN: The "Blah, blah" question is replete with complexity, Senator, and my answer is, "Blah! Blah! Blah!" (Laughter) Ouday ouyay eakspay igpay atinlay.

SENATOR DOLLINGER: Yes.

SENATOR GOODMAN: That's pig Latin, Senator. It's okay.

SENATOR DOLLINGER: My question is, Senator, obviously -

SENATOR GOODMAN: I think if this relates to the use of a voice for commercial purposes and unless you regard an attempt to unseat you as a commercial purpose, I do not believe it would apply.

SENATOR DOLLINGER: Well, let me ask another question then if Senator Goodman would continue to yield.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Obviously, I'm buying -- or my colleagues across the aisle bought that time to advertise some other political candidate and they used commercial time and commercial airways and paid commercial rates to use my voice. So my question is isn't that a violation of the Civil Rights Law if this bill passes because you can't use my voice without my approval, isn't that correct?

SENATOR GOODMAN: Let me see if I can help by taking you to the language of the bill itself. On line 3, if you'll pick up halfway across the line. "Any person whose name, picture or voice is used within this state for advertising purposes or for the purposes of trade without the written consent first obtained as provided may obtain inequitable action in the Supreme Court, et cetera." So as you can see the bill specifically relates to advertising and to commercial purpose.

SENATOR DOLLINGER: Well -- but -- again through you, Mr. President, if Senator Goodman would continue to yield.

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

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: In fact, the ad used against me was a commercial. It was bought and paid for on commercial television. It was used to advertise a candidate in a race

against me. Wouldn't that violate this bill and I would have a right to enjoin the use of my picture or my voice by the Senate Republican Campaign Committee if it used it against me?

SENATOR GOODMAN: I'm sure you would not have it as anyone -- as your intention to stifle anyone's First Amendment rights, but my judgment is that this bill appears to have a commercial purpose which probably might enable you to bring suit and then the courts would be willing to advise you as to whether it was appropriate or not.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Goodman would yield to one more question.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GOODMAN: I'll do my best -- I'm exhausting my humble capacity to be responsive on this very simple bill but I'll do my best.

SENATOR DOLLINGER: My question isn't curbing someone's First Amendment rights

because you're obviously curbing someone's First Amendment rights. You're curbing their right to use my voice or my picture in an ad for some other candidate.

I'd simply point out that as much as my voice was manipulated, there were also television commercials shown in the Rochester community which featured two or three sentences from the opposing candidate, one candidate who happened to say taxes are too high and that was repeated for about a month and a half, that little inflection of the voice to great humorous effect in a political campaign, and it seems to me that this bill does not create any specific exemption for the political process, and what you have here is, I believe, you are creating a right on the part of a political candidate to prevent the distribution of their picture or their voice in a commercial used against them because those commercials are just as commercial as they are for Harts Mountain or for dog food, we happen to sell political candidates, and I would simply suggest that if this bill is going

to become law and if this Legislature decides that we want to retain some political opportun ity to use each other's voices, altered or not, that this bill will -- needs to be amended and, believe me, having been parodied, perhaps it's a difficult experience to go through, but the next time it happens, I may be in Supreme Court asking all of you to cough up damages because you've used my voice and my picture without my authority, and I'm not so sure that's what you would intend, not that I wouldn't love to rush off to the courts perhaps to see if I could enjoin the use of that, but it seems to me that there has to be some kind of exception for this if that's what you want to do.

SENATOR GOODMAN: My answer to your question is yes, Senator.

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

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the

roll:

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 55, nays 1, Senator Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the supplemental calendar, would you please call up Calendar Number 1519, Senate Bill Number 5105-A.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1519 which is located on Supplemental Calendar Number 1.

THE SECRETARY: Calendar Number 1519, by Senator Saland, Senate Print 5105-A, an act to amend the Uniform City Court Act, in relation to the City Court of the city of Poughkeepsie.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: I move we accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1519. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is adopted.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

ACTING PRESIDENT KUHL: Ask the Secretary to read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Lloyd H. Demboski of Queensbury, member of the New York State Employment Relations Board.

SENATOR SKELOS: Mr. President, if we could perhaps just wait a minute. I think Senator Bruno wants to come in.

ACTING PRESIDENT KUHL: The Chair recognizes the Majority Leader, Senator Bruno, on the nomination of Lloyd H. Demboski as a member of the New York State Employment Relations Board.

Senator Bruno.

SENATOR BRUNO: Mr. President, I'm very happy to be here and speak in favor of

a great public servant, good friend, Lloyd Demboski.

I have known Lloyd for a lot of years. We started our earlier lives together, town of Queensbury. I have watched him serve in county government for I can't remember how many years; chair of the Legislature, chair of the Finance Committee in Warren County, past county leader for a lot of years, very active in the community, president of many of the charitable organizations, spent a lot of his time and energy working on behalf of people while he supported a family as a counselor at Smith Barney, so he knows what the real world is all about, in terms of dealing in the business community, dealing with management, deal with labor, dealing with a family, neighbors, colleagues, and the public.

So I think that the Governor, in his wisdom, has made a great judgment and while he presently resides in Senator Stafford's Senatorial District that I moved out of, Mr. President, some years ago, I am proud to speak

in his support.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stafford on the nomination.

SENATOR STAFFORD: Thirty years ago before I often visited the southern part of my district and usually after any meetings I would be with Senator Bruno and Lloyd Demboski, I stopped going quite so often because I usually was in the intensive care unit for four to six days afterward. There aren't two people who worked harder or work harder in their district and, Lloyd, I never pointed this out on the floor before, but our Senate District is very fortunate because it has two Senators, Senator Bruno, and I work with him and we're very proud of that.

I want to say just as Senator Bruno has said, what a dedicated, yes, public servant Lloyd Demboski has been, and he's been extremely active in local government and he's been extremely active in other areas of political and governmental affairs.

We're very fortunate when the Governor appoints someone the caliber of Lloyd, and I would say this, that very often when we're in government or we're in the political fray, so to speak, sometimes some of us get a bit active and sometimes even a little aggressive. That includes me. Lloyd never does. He's a gentleman, always a gentleman, and Joe and I have left meetings with him and said, how could you sit there, you know, and just be so composed, but he always is, and this will serve him well in this responsibility and he has many, many attributes, and I certainly commend him, his family and also the Governor and the Majority Leader for this appointment.

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

(There was no response.)

Hearing none, the question is on the nomination of Lloyd H. Demboski.

Excuse me, Senator Goodman.

SENATOR GOODMAN: Just to add a

geographic balance to these accolades, I would simply like to say that I have known Lloyd Demboski for the better part of 30 years and, in my judgment, there could be no finer individual to fill this post. He is a gentleman. He is a scholar. He's a business executive of substantial experience and is an individual of impeccable integrity, and I support his nomination most warmly.

ACTING PRESIDENT KUHL: The question is on the nomination of Lloyd H. Demboski, of Queensbury, to become a member of the New York State Employment Relations Board. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed. We're very pleased to have Mr. Demboski who's in the gallery to your left with us. Congratulations.

(Applause.)

The Secretary will continue to read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Terence L. Morris of Burnt Hills, Commissioner of the State Insurance Fund.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Bruno.

SENATOR FARLEY: Mr. President.

SENATOR BRUNO: I defer to Senator Farley, in case you're looking around, Mr. President. We just had a discussion and the conclusion was that the good Mr. Terry Morris does reside in Senator Farley's district.

SENATOR FARLEY: I just want this chamber to know that Senator Bruno never gives up any place that he's represented or any place he's lived.

Terry Morris was his constituent. The last reapportionment he became mine and Joe Bruno is constantly claiming him.

ACTING PRESIDENT KUHL: At the

request of the Majority Leader, the Chair recognizes Senator Farley on the nomination.

SENATOR FARLEY: That's very nice of you. Thank you, Mr. President.

It's with a great deal of pleasure that I nominate Terry Morris as a -- as an outstanding individual, a family man, a businessman par excellence to the State Insurance Fund.

Let me just say something about Terry Morris who is very well known in this area, but particularly his daughter is because his daughter does all those Terry Morris commercials that you hear on the -- over the media.

Terry Morris has been one of the most active people in our community that anyone could imagine. He's been a bank director. He's Vice-president of the New York State Auto Dealers. He's on the Schenectady County Alcoholism Council. He's a director of Hospice, a director of the Chamber of Commerce, on the board of directors of the Workmen's Compensation

Board for 430 New York State auto dealers. He's past president of his Rotary Club, past president of the Mohawk Club. He has served in political office. He's a deputy supervisor, councilman, and he's received numerous awards. I could go on and on and on, but let me just say this. Terry Morris is a person who's always there for his community. He's respected and loved by everyone, not only in Saratoga County where he comes from, but the entire Capital District.

I know that he's a very, very dear friend of our Majority Leader's also and he's going to be rising to support this nomination, I'm confident, but let me say I'm pleased to move the nomination of Terry Morris to the State Insurance Fund.

ACTING PRESIDENT KUHL: Senator Gold on the nomination.

SENATOR GOLD: Thank you, Mr. President.

Having listened to Senator Farley, I guess I'm getting in the middle of a

sandwich and I'll take the pressure from my Majority Leader in a minute.

I voted affirmatively a few moments ago on Mr. Demboski who, for quite a number of years, was the chairman of the Warren County Republican Committee. It doesn't bother me at all. I'm delighted that people are involved in politics and I'm delighted to vote to confirm people who are qualified to serve in public offices as opposed to party office.

Senator Farley gave you a pretty good resume of Mr. Morris, and I want to confirm some things that Senator Farley said. I'm sure he's a good man and I'm sure he's a nice man and he's a man who, from his involvements in various things, is obviously a very worthy man, but I haven't heard one thing which qualifies him for the job that he's being appointed to, and that's the part that I think we all should be very concerned about.

If the Constitution did not require us to advise and to consent and to look into nominations, that's fine. We elect a

Governor and if the Constitution says the Governor shall then appoint, fine, but we will put into the process, I believe, for some kind of a purpose.

Mr. Morris, among other things, as Senator Farley -- and I don't know whether you mentioned this or not, but I'll throw it out, from the little that I saw today, I think you left out a word. He's also honest, so when I said to him, you know, what's your experience and have you been there and do you know any of the laws and do you know the job? He doesn't, and he said, in an honest way that, well, when he's there for two or three meetings or whatever, he'll see what it's about. He's got a businessman sense and he'll dive into the pool.

Senator Farley, I don't have any problem with people having business mentalities and diving into the pool. I think the Majority Leader of this house, when he ran for Majority Leader, took the position that we ought to be doing some things in a more businesslike way and some of those things I certainly approve of.

I mean, I don't know how many days Senator Present and I sat here at an opening hour waiting for people to finally get into the chamber. I think you call a session, you come to session, that's great. That's businesslike, but your side of the aisle didn't elect Senator Bruno to be the Majority Leader just because he has a business background. I kind of think from the little things I hear in the coffee klatches, that he was a businessman who also knew the Senate, had experience, knew what he wanted to bring as a businessman to the Senate.

I think the problem with this nominee is not whether he's a nice man or a good man or an honest man, because from the little I've seen, I believe he's all of those things. I just don't believe that he is qualified at this point in time to be a member of the -- a commissioner, excuse me, of the State Insurance Fund.

So if you search my remarks after I vote no, I can look the man in the eye because

I have nothing bad to say about him as a man and, as a matter of fact, he's probably the kind of person if I lived in the area, might even want to be friends with, if he wanted to be friends with me. It's still America. He has a choice, but my job today is not to decide whether he is a nice man or a good man, whether he's a good businessman. The only question I have is, is he qualified?

It isn't even a question of whether Manny Gold would have appointed him if Manny Gold was the Governor because I'm not that, thank God, and I know you agree with that, but the point is that the Governor is entitled to anybody he wants if the individual has the qualifications, not even if the person - doesn't have to be the hundred percent person, the best person in the state, doesn't have to be, but I really think that we make a farce of the nomination process if we do not require any qualifications, if we are going to take what the Governor sends us and just say yes to everything.

Now, I don't want to get up again, so I'll make my comments on that last subject as to a whole bunch of other nominations.

We are being asked to confirm people today who are involved with policy in some very delicate areas and we don't even meet them. We don't even see them and, of course, we've heard that, well, it could be inconvenient for people, whatever. Are they getting any money? They're not getting money. I don't think that's an answer. I think it's terrific that there are people who are willing to serve the state of New York for no money and it's to their credit, but I think that's not the issue before the Senate. As long as the law provides that we must confirm, let's take it seriously.

Now, I've heard it said that this is the first term of the Governor and, yes, the budget was overwhelming so we didn't get the program bills in and look at the nominees, if Senator Bruno had not gone back on his commitment to end June 15th, and I say in all

fairness, he went back on his commitment because he felt there was a governmental purpose -- I respect that, Senator Bruno -- but if we did not do that, we wouldn't even have all of these nominees.

So if the Governor is not on the right time schedule -- and there's a lot of parts to being Governor and I know he's interested in many of these parts but other governors have had to live with time schedules and so will George Pataki, but we should not have to be put in the position of going to meetings and finding that there are new people added to the committee agendas, finding out that they may or may not be there, and while there is a great criticism to predecessors of Senator Bruno because we worked all night and bills came flying out in the middle of the morning, Senator, it's not the middle of the morning and we have sunlight outside, but when you call the Finance Committee meeting and you see nominees are added for the first time, they don't appear, there are really questionable qualifications, I

don't know whether it's really that much better.

I still think, Senator, that the result that we do is important, and I said that to you as a matter of fact a week or so ago when we were debating the Dollinger resolution and I said to you, the result has to be as important as the process, and I agree with you, Senator Bruno, that an orderly process is important, but an orderly process as you define it, Senator Bruno, I don't think is having members go to a committee meeting where they're supposed to be determining qualifications without notice as to who the people are, without the people appearing and just fitting it in, shoving it in because we had to come back here for three days.

So, again, with my regrets to the candidate who will not have to worry because he's still got enough votes in this house, I'm sure, I'm going to have to vote no and I want to say, Senator Bruno, that while I don't agree with you philosophically in many, many areas, I do agree with your concept of bringing the Senate to some orderly method of doing business,

but if you want to analyze that logically, Senator Bruno, the way we're handling nominations is not orderly. It's not business like. If this was a private business, we would never do it that way and I think we ought to change that.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

I want to thank Senator Gold for his comments. I know that they are well intended, and I think everyone in this chamber understands that, but for the record, Mr. President, I would just like to refresh all of our memories in that last year, last night of session, early hours of the morning, almost hundreds of confirmations were coming in this chamber for action while we were bleary-eyed, sleepy, not even in the chamber. Why? To get people in place before the election, and I guess that was good judgment for some people but not for the majority of the people in this state.

So we did change the ways of the past and thank you for recognizing that, Senator. We have changed the mistakes of the past, and now I'm asking your indulgence here in recognizing that the commission and this Insurance Fund as it has functioned under the Cuomo administration sees us with Workmen's Comp' rates among the highest in the country, driving jobs and businesses out of business or out of this state, helping us lead the country in job losses.

So, Mr. President, I would recommend strongly that we have tried the ways of the past putting experts in place who have not been very expert in the way that fund has worked in driving jobs out of this state. So now the people spoke November 8th, so let's try the Pataki way by getting common sense, successful business people in place, successful citizens of this state, family people who have one thing, Mr. President, good judgment, common sense, an ability to recognize what is right and what is wrong.

I know Mr. Terry Morris, Senator Farley is right. He reluctantly gave up his residence as part of my district in reapportion ment. My good friend, Senator Skelos, did that to me, but I forgave him a long time ago, but he is the right person. He is the kind of person that we need in this state now to fix some of the problems that have been created by the mistakes of the past.

So, Senator Gold, I welcome you in joining us as we move forward from many of the mistakes that we made in the past to the new era of trying to do what's right for the great majority of the people in this state.

Mr. President, I urge my colleagues to support Mr. Morris.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Gold. Why do you rise?

SENATOR GOLD: Would our distinguished leader yield to one question?

SENATOR BRUNO: One question, Mr. President, because I'm not anxious to prolong

the process. All the nice things that should be said are being said, but I'm happy to yield to Senator Gold.

SENATOR GOLD: Senator, when I was in college, I had twin fraternity brothers whose philosophy was that the night before an exam, you never studied, you went out and drank because if they studied, their mind would be cluttered with information and this way they had open minds and they could think better. I don't know whether that's what I'm hearing from you.

You suggested that during the Cuomo days we tried to get appointments of qualified people and look what happened. Therefore, we should try it the Pataki way. In other words, is the Pataki way to put in unqualified people who don't know the agencies and maybe that's a better answer than finding some qualified Republicans who might know about the subject matter?

SENATOR BRUNO: I'm being reminded that I don't think I said qualified people were put in place. I was talking about

the process and how they got there with their backgrounds.

SENATOR GOLD: Well, Senator, I think you said exactly that. You said that we have the highest rates of insurance and this was done when there was supposedly experts there and now we're going to do it the Pataki way, and what I want to know is does the Pataki way mean we're looking for people who are unqualified but have no experience and maybe they'll take a fresh look at it?

SENATOR BRUNO: Yes -- no, Senator Gold. What I'm talking about in the Pataki way is to bring new insights, new thinking, common sense, successful business people to a process that needs redefining so that the people in this state can benefit from their wisdom and their knowledge and their experience.

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: Senator Gold, let me say that Terry Morris is eminently

qualified for this post. One look at his resume which I hope you've read could tell you that he has worked in -- successfully in business, has served on boards of directors, has done so many things that are needed to be -- to be represented on this State Insurance Fund. That is a -- that board, that State Insurance Fund is a board that provides insurance theoretically for persons and people in businesses that are not able to get insurance. Certainly, a person that has been in business for the number of years that he's been is eminently qualified to serve on that board.

This is an unpaid position. It's a new appointment and I'll tell you, I compliment the Governor on securing and thank Terry Morris for being willing to serve on this -- on this board. He's an outstanding nominee and I urge his appointment.

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

(There was no response.)

Hearing none, the question is on the nomination of Terence L. Morris of Burnt Hills to the position of Commissioner of the State Insurance Fund. All those in favor of the confirmation signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The nominee is confirmed. We're very happy to have Mr. Morris in the chamber with us in the gallery up above. Congratulations and good luck.

(Applause.)

The Secretary will continue to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: John F. Carpenter of Elmira, Commissioner of the State Insurance Fund.

ACTING PRESIDENT KUHL: The question is on the nomination of John F. Carpenter of Elmira to the position of

Commissioner of the State Insurance Fund. All those in favor signify by saying aye.

Senator Stachowski.

SENATOR STACHOWSKI: I don't know Mr. Carpenter. I don't know very much about Mr. Carpenter. However, I pointed out and unfortunately it wasn't him specifically, but there were three separate nominees of which in looking at their background information, there were questions that possibly could have been answered quite simply and then there would be no question that the person would be more than presentable for the position to which he's nominated for.

Mr. Carpenter has a construction company and it said in his background that he had some issues in front of insurance, and we didn't know if it was in front of this insurance fund that he will now be a member of or some other insurance coverage or whatever, and the problem I had was -- and granted it's an unpaid position and normally it wouldn't matter, but I would point out that I know that the question -

the answer I'm going to get at some point is going to be that in previous years we did hundreds of these kinds of people and we never worried about things like this, but I would point out that the fact that we're the Minority and we don't run the committee calendar, when we have a question like this, we hope to get the answer at the committee. When you are the Majority and you have that sort of question of a nominee of the Governor -- and I would point out that at least during my time here, the only other governors that have been here have been Democrats and I'm quite sure that any questions that the Majority would have had of those individuals of a similar nature of the quite simple questions that we had of a few nominees today, particularly on this calendar that we're about to take up that Mr. Morris came off of and that these other gentlemen would come off of, would have been answered for the Majority before that name ever got on any committee calendar.

So I don't know yet -- I think I'm going to vote no. I hate to do it to Mr.

Carpenter, but the fact is that the problem I have is that these gentlemen weren't available to answer simple questions and I don't know what the reason is, but that's the reason, and I know that in some cases unpaid positions, that's one thing, but I know on the next calendar we're going to have at least two positions and there's one that's a reappointment with a paid position. I don't have a problem with that, but there's two people that are going to come up on the next Supplemental 1 Calendar that are getting positions that are paid $68,300 and two of those people weren't even required to come down here to answer any kind of questions, and it's difficult for me to vote for those kind of people and not that they're not qualified. I don't know that they are or they're not, and I don't know if the questions that I had could have easily been answered. I believe they probably could have been but the fact is they weren't here to answer.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Stafford.

SENATOR STAFFORD: I had an opportunity to have a -- an in-depth discussion with Mr. Carpenter from the county of Chemung, I believe the city of Elmira. I think, Mr. President, you're familiar with that area, and I think you're very familiar with Mr. Carpenter.

He is a very successful business person and many of us have said -- and it was said earlier here by the previous two speakers that if there's something that's needed in the commissioner -- in the Insurance Fund is -- I hate to interrupt those people -- it's - something that we really need in the Insurance Fund is common sense and good business.

I believe I was talking to you the other day and you can shake your head either way, I believe -- I think you said to me that he's top of the line and I think that indicates that he's a fine gentleman to be serving in this unpaid position and I would point out that it is unpaid.

ACTING PRESIDENT KUHL: Any other

Senator wishing to speak on the nomination?

(There was no response.)

Hearing none, the question is on the nomination of John F. Carpenter of Elmira to the position of Commissioner of the State Insurance Fund. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Anthony J. Casale of Mohawk, member of the State Liquor Authority.

ACTING PRESIDENT KUHL: Senator Stafford on the nomination.

SENATOR STAFFORD: Can we have one more day on this? No, no. (Laughter.) I wouldn't want to do that.

Assemblyman Casale has the good

fortune to live in Senator Seward's district and I know Senator Seward will be much more articulate and he'll have so many good things to say.

Now, some of you have heard me get up here on the floor and say these are the best nominations that the Governor has made or a governor has made since I have been here. That is true today, I have to point that out, with all of the nominations we've considered and Tony Casale, I have to share with you, I'm sure this may not be an advantage to him, but out of high school he started working with me, and let me tell you, Tony was ready to be an Assemblyman the next year. He's hands on and he's a quick study, but on a serious note, there isn't anyone who deals with people, works with people, understands people any better than Tony.

It's a great appointment. Government is his interest. It's great that he's staying in government, and I can only emphasize here today again when Tony was at the State University, came to work for me in his

Freshman year, I learned more from Tony than Tony learned from me, and that was true every year, but we congratulate him, his family, Theresa and the whole family and we know -- we know that he will continue to be a credit to his family, his government and himself and with that, I'm sure Senator Seward will rise in a positive manner.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Seward on the nomination.

SENATOR SEWARD: Thank you, Mr. President, my colleagues.

I too rise today to laud the nomination of Assemblyman Tony Casale to be a member of the State Liquor Authority and the designated chairman of that authority.

Tony Casale, of course, is very well known to every member of this body. We all know Tony as a colleague of great wit, of great intellect, of great integrity, a hard worker and very determined when a task is at hand.

Tony Casale and I have known each other for some 25 years. It's hard to imagine a

couple of young guys like us, but we've known each other for some 25 years and we have been through a lot together. When he was first elected in 1978 to the state Assembly, he was my Assemblyman, and he was very pleased with the reapportionment in 1992 to return the favor and become Tony Casale's Senator at that time.

Over the years, we have worked very, very closely on behalf of our mutual constituents in areas, and I can say without question that I have never had a more loyal, able, supportive and stronger ally to work with during those years. His advice and support on so many matters have been absolutely invaluable.

I think it's a testimony to Tony's quality of public service and his bipartisan approach to issues that he has not faced an opponent since his first election in 1978. He's been a very effective advocate for his district working to meet the needs for the people in his district. Tony Casale epitomizes the very best in what it means to be a public servant, and I'm very proud to call him a

colleague, I'm proud to call him a constituent, but more than those two, very, very proud to call him a good friend and we know that Tony's wife, Theresa, who is in the gallery today shares all of the credit as well for -- that accrues to Tony on this day and her strength has been an inspiration to us all.

In joining Tony and his wife, Theresa, in the gallery are their three sons, Vinny, Peter and AJ, as well as Tony's mother, Mrs. Amy Casale, also a constituent of mine from Mohawk.

So, Tony, the Governor is to be commended and congratulated for selecting you for this new responsibility. My congratulations to the Governor and to you and we wish you every success. The people of this state have been richly blessed with your service in the past and will be even more so in the future with this new assignment.

Congratulations, Tony.

ACTING PRESIDENT KUHL: Senator Goodman on the nomination.

SENATOR GOODMAN: Mr. President, I'm pleased to join my colleagues with an enthusiastic, indeed a ringing endorsement of this outstanding candidate. May I just say as chairman of the Investigations Committee which as the house knows has the obligation to oversee the operations of the State Liquor Authority, I'm particularly heartened by the Governor's selection for this very significant and sensitive post.

This is an agency which has been much troubled in the past, has been the object of an investigation by our committee which revealed a great number of problems, some of which have been resolved and others which have not. It is for that reason that I'm particularly grateful that we have Tony Casale assuming this post, because he and I have had extensive opportunities to discuss the agency and its problems. He has evinced a very significant understanding of the need for strong administration. He is a man of great skill and if I may comment, particularly adept and

diplomatic people person who will be able to both forcefully, and I think in a cooperative fashion, to overhaul an agency much in need of this.

As a result of the budget that we adopted earlier in this session, we have a new streamlined agency, and I would say its most salient feature is that it has given to the chairman the chief executive officer's absolute responsibility for the oversight of the agency and it could not be placed in better hands.

I salute Tony and his family, wish him well in his important job and I know we all look forward to working with him because he's pledged to keep in close touch with the Legislature so that the needs of the people will be reflected in any comments we may transmit to him.

Good luck and Godspeed to you, Mr. Chairman, and we're very proud of you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Cook on the nomination.

SENATOR COOK: Mr. President,

it's a rare occasion that I have the privilege of endorsing the appointment of someone who has been such a good, warm and personal friend for so long. Even though I haven't represented Mohawk for a little while, Theresa, I remember stopping at the house and the pleasant time that we always had when we were working together or when we were together socially, and I guess you would say that while being a personal friend doesn't necessarily qualify you for an office, but I think that the quality of the person, indeed, does make a difference, and Tony Casale is somebody that everybody recognizes, everybody and -- certainly in Herkimer and Otsego County recognizes as someone of unquestionable integrity.

Tony is a guy that always, whenever he says something, you can go to the bank with it. He means it. He follows through on it. He's done that whether in an official capacity or in a personal capacity, and I am just so happy that, Tony, if this is what you want to do, that you're getting a chance to do

it. I'm going to tell you, we're going to miss you tremendously in the Legislature, but don't be a stranger. We hope to continue to see you around down here and I'm just so delighted that the Governor has seen fit to make this outstanding nomination.

ACTING PRESIDENT KUHL: Senator Larkin on the nomination.

SENATOR LARKIN: I'm proud to rise and second the nomination of Tony Casale.

I came to the Legislature in January 1979 with Tony and over all these years, the one thing that always stood out in my mind about Tony Casale is he extended himself to everyone. Somebody needed his help on a project on Long Island, western New York and Hudson Valley, Tony never worried because he knew Theresa would always be there when he got home. He was always willing to come and help.

Individual members -- I remember when some members in the Majority were having problems on issues that they didn't really understand. They went to Tony and Tony helped

them. Years ago when they were first starting to talk about letting the New York City people learn about the upstate farmers, Tony volunteered. I don't know if Theresa remembers. He said, "We'll have the first dinner at our house," but he let people have an opportunity to work things out and try to let them understand our problems from upstate, but he's been a team player, working with us in the Assembly and also working in the Senate. Late Jim Donovan told me one time when you talk about a dedicated public servant, you're talking about Tony Casale.

Tony, I look forward to working with you, and I want you to know that I'm as proud as a member of your family because you deserve it, you earn it and you're the damn best qualified man for the job.

ACTING PRESIDENT KUHL: Senator Wright on the nomination.

SENATOR WRIGHT: Thank you, Mr. President.

I, too, have the pleasure this

evening of rising to second the nomination of Tony Casale. As Senator Gold indicated earlier, I think we all take our confirmation responsibilities very serious and when it came time for this confirmation, I took it seriously and decided that I would do some homework and checking into Mr. Casale's background and, of course, those of you who know us from the North Country work very closely as a team, so I made a point of going to my member of that team, Assemblyman Bob Nortz, who happens to have had the occasion to room with Assemblyman Casale for the last 15 years and that is testimony alone to Tony's commitment to 15 years with somebody from the North Country, but in my conversations with Assemblyman Nortz, I asked him to use three adjectives to describe Assemblyman Casale and he thought long and hard and gave me the same three that he shared with the BCI, and since that's a report that I won't relate to this afternoon, I will share the second set that he gave us and that is based on their relationship as roommates, he's very prompt. He's very neat.

He's very fastidious.

Those are attributes that I think we can use as we are reorganizing the SLA. Tony will have and be faced with that unique respon sibility of serving as the chairman and the chief executive officer of the SLA, and I think the breadth of his background and experience that he brings to that job speaks to the credentials and the experience that Tony has.

Tony also indicated very clearly in his confirmation hearing today before the committees, his understanding of the job, his understanding of the relationship with the Legislature and the SLA, his understanding of the business community and their relationship with the SLA.

Tony not only is well credentialed and well prepared, but Tony also has the dedication that's essential to carry through on this mission. It's been my pleasure for the past three years to call Tony not only a colleague but a true friend, and I'm very pleased to be here to second the nomination and

to vote for the confirmation.

Tony, best of lock.

ACTING PRESIDENT KUHL: Senator Nozzolio on the nomination.

SENATOR NOZZOLIO: Thank you, Mr. President, my colleagues.

Certainly, I wish to echo those good things said about the nominee, Anthony Casale, who is before us now, but I rise with some mixed emotion; mixed emotion first of knowing that the Liquor Authority's gain will be the Legislature's loss, that Tony has served with great distinction as a member of the New York State Assembly for, it seems like eons, and it does seem like a long time ago that -- 13 years to be exact, Mr. President -- that Tony took me under his wing when I was first elected to the Assembly. One of his -- I didn't notice on his resume, but I know I was his little brother upon that occasion and that certainly I was blessed to have the guidance and tutelage of Tony Casale during my early days in the New York State Assembly, and together working with Tony,

as Senator Larkin had mentioned, those of us who served in the state Assembly, served in the Republican Conference, in that body knew very clearly that Tony had always been a leader in the conference, worked hard traveling across the state to get our message through and in that experience, I know will say -- will serve the people of this state very well because Tony has been through his various chairmanships and various conference responsibilities, has been in virtually every corner of the state working on behalf of the conference, and I believe that certainly is a great attribute.

I also wanted to mention Assemblyman Nortz. Tony had two good teachers in Ron Stafford and Bob Nortz through his tenure here in the Legislature and we're certainly very, very blessed to have that experience.

Tony Casale, his responsibilities will be great, but the reason why I rise is because he has meant so much to those of us in the state Legislature and, Tony, it is with great feelings of mixed emotion to have you

leave the state Assembly, but it is with great pride that I stand because this certainly is a job that we know you're up to the task for; we know you will be terrific in.

I also want to say something about Theresa Casale. Theresa is always at Tony's side. To his benefit, Theresa, your friendship through the years has meant a great deal to all of us and congratulations to the entire Casale family for this nomination.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Leibell on the nomination.

SENATOR LEIBELL: Thank you, Mr. President.

Briefly, so many other members have spoken, but I couldn't let the opportunity go by without adding my comments to those who have gone before. I, like my friend Mike Nozzolio, came in the Assembly in the same class in 1983 and I, like Michael, benefited greatly from the friendship and the wisdom of Tony Casale.

I would be hard-pressed to think of anybody who brings more energy, dedication or integrity to the Legislature than Tony does. I guess I feel like the little twinge of getting older. It's sort of like they're breaking up that old gang of ours when we see our friends leaving the Legislature and I will certainly miss Tony as a colleague and as a friend, but I know he's going forward to lend his substantial talents and energies to a very important department of this state government.

So, Mr. President, I rise to second, to lend support and to congratulate my dear friend Tony Casale.

ACTING PRESIDENT KUHL: Senator Farley on the nomination.

SENATOR FARLEY: Thank you, Mr. President.

Not having served in the Assembly with Tony but he being one of my assemblymen sharing Fulton county with me, he's already starting off with a major plus when I hear that Roy Goodman is supporting you in the SLA. Roy

has been after that SLA for years. You've really had a remarkable accomplishment before you've even been appointed.

Let me just say this. Tony Casale is a hard-working, gifted, capable person and, you know, it's unfortunate that the Legislature is losing him and -- because let me say that there's been few people in that Assembly that has made such a remarkable career that you have over there, Tony.

As I have served with him, I have seldom seen anybody who had been better prepared, that has represented his people, was always there willing to go that extra mile and knowing his district, he had a district once that didn't have roads that you could traverse it and he still covered it and was -- and always will.

Let me just say this, Tony. I wish you well. I certainly know that you're going to be missed here. You're going to be missed by me and, you know, the state of New York is really blessed to have people that are

willing to give so much to serve the public.

Tony and I graduated from the same school together, Albany State, the State University. He's a member of their foundation, president of -- former president of the alumni association and somebody that has been respected and been a leader in his university. I know that I'm going to miss you in the Legislature, Tony, but look forward to working with you in the future. The best of luck to you and your family.

ACTING PRESIDENT KUHL: Senator Stachowski on the nomination.

SENATOR STACHOWSKI: Mr. President, I also rise to second the nomination of Tony Casale. I figure it's about time once somebody from our side did.

Tony's been a hard-working assemblyman. I have got to know him over the years. I have been in the gym when he's leaving or when he's coming but, unfortunately, I've never seen him do the whole workout, so I'm not sure what he does on the other part of it, but

he's in there a lot. He's in there a lot, and I know at least he's an active member of that facility.

I know Tony's always been a good representative of his community. I know he'll take that same diligence and that same openness and take it to that State Liquor Authority and hopefully be a lot easier for all of us to then work with that authority.

I see also in his -- in his resume and as I heard through speeches that he overcame the first job that he ever had to continue to move upward and do better with his life. He obviously was a great Assemblyman and on behalf of all the Democrats from western New York, I have to say that without Tony, none of us would have known about Rudy's. We wouldn't have had all of the good deals on clothes on the way home or coming back to Albany and we also wouldn't have that break to stop and get the good sandwiches and Italian meals at Jimmy's, the little shop right across the street from Rudy's, so for that, we thank you, Tony. We're

glad to have been your friend and we wish you luck in your new endeavor.

ACTING PRESIDENT KUHL: Senator Solomon, on the nomination.

SENATOR SOLOMON: Thank you, Mr. President.

Unlike Senator Stachowski, I did see Tony Casale work out at the gym, but it seemed that about a year and a half ago he must have found a better endeavor, either that or he started coming a little earlier or a little later, but he's always been a good friend.

I believe he's also a SUNY graduate from SUNY-Albany from which I'm a graduate, and he's an individual we know that, as a legislator, no matter what party, we'll be able to talk to him regarding our problems and maybe he'll give us some good advice and counsel in resolving those problems in the future, but most important, he's just an ordinary guy with no pretensions about ego or anything else, who attempted to work out in that gym like we all did and tried to figure out whether it was worth

it every morning to be on that bicycle or that treadmill and whether the results would eventually -- whether there would eventually be some positive results for it, and I would like to wish him the best of luck in his new endeavor and hopefully he'll be very successful and he'll deal with the problems that I have in my particular part of my Senate District too.

Thank you.

ACTING PRESIDENT KUHL: Senator Sears, on the nomination.

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

All of the good things have been said, and I don't think there's too much left.

Tony, let me just tell you how proud I am of you as I know you must be today as you look down and see so many of your former colleagues in the Assembly who are now in the Senate and on this great day for you, the ones that are here in the back who are your present colleagues and we're just proud as punch for you and awful proud that you're going to take on one

of the great jobs at the State Liquor Authority as the chairman, but I do have to say a few more things about Tony when he came down here and first worked for Ron Stafford. I knew him when he worked for Don Mitchell up in Utica. Also knew him as one of my strongest supporters when I was after the nomination to run for the Senate the first time. Tony, we've got a private story there that I'll never forget. He was very instrumental in getting me that nomination, not only that, but also in campaigning for me every single time that I have run.

Now, I have to tell you one thing about Tony. If any of you are fight fans in here that like boxing matches, if Tony ever invites you to his apartment when he's down here to witness a fight that you can only get on cable or by "Pay Per View" and if he tells you to be there at 10:00 o'clock, don't bother going because he will already have locked the door and closed the place. Now, that's an inside story because that happened to me one time and -- but it didn't -- it certainly was by accident. I

have to kid Tony about it, but I am really so happy that I have the opportunity and even being the last one here to second this nomination of a great guy who's been very good to me and to you and your family, Tony, the best of luck and I'm happy to second your nomination.

ACTING PRESIDENT KUHL: Senator Saland, on the nomination.

SENATOR SALAND: Thank you, Mr. President.

As our colleague, Senator Velella, has said on more than one occasion, we served in the big house, served in the big house with Assemblyman Casale, and I want you to know, Tony, that these folks in the back, your colleagues, I don't think they're here necessarily to fete you. I think they're here just in case you were foolish enough to change your mind and decided to stay. They're here to urge you to continue down your new career path.

Having served for some ten years in the Assembly with Tony Casale, I can tell you that Tony was not merely a valued colleague, a

man who, during my years of service was in leadership in the Assembly, a man who was highly regarded by each and every one of his colleagues.

In speaking a bit earlier with Chris Ortloff, he assured me it wasn't, Tony, your bipartisan nature and your ability to win friends on both sides of the aisle that assured you no opponents. What he said -- I'm only referring to Chris now, Tony -- he said -- I thought it had something to do with the size of the district, recalling that it went from Canada down to Pennsylvania. He said the district was so large they couldn't find anybody else to run and they were glad to have you, Tony.

Very seriously, you were truly an example, a fellow who -- and a colleague who certainly was there for each and every one of us on whatever the occasion was. I would like to join all of my colleagues who have spoken in commending you for the appointment. The Governor could not have done better. Wish you well and assure you that to the extent that we

still have the ability to provide assistance to you in your new capacity, we would like to think that you could call on us the way we have always called on you.

Good luck, God bless.

ACTING PRESIDENT KUHL: Senator Hoffmann on the nomination.

SENATOR HOFFMANN: I was all set to support Tony Casale for this nomination and then I found out that he's a protege of Senator Sears and did all of his early learning under Senator Sears' tutelage and Senator Stafford's tutelage and I'm beginning to worry now if we've made the right choice here, if the Governor has found somebody who, in fact, knows the state the way I thought Tony Casale knew it, because I know that Tony puts more miles on than virtually any other member of the Legislature with a district that size. He was, I think, one of the first Assembly members outside of leadership who had to have a car in order to get around and wore out a couple of them along the way.

It's clearly an indication of

great respect to Assembly member Casale, soon to be Commissioner Casale, that so many members of his colleagues in the Assembly have come here to see him today, and I don't think there's really any question in our minds that they're here out of respect for you, Tony. I don't think it's just to be absolutely certain that you'll leave the Assembly. I think that there is a matter of singular pride when one of our colleagues moves on to assume this type of responsibility.

I do have my suspicions that, if there was a Senate seat open right now, that you might have an interest in joining us here in the little house as it's been stated, but until such time, I'm sure that your talents are going to be very well received and greatly needed by the State Liquor Authority, and I too want to compliment you and I'm happy to rise to second the nomination.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the nomination?

(There was no response.)

Hearing none, the question is on the nomination of Anthony J. Casale of Mohawk, New York, to become a member and acting chairman of the State Liquor Authority. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

Tony Casale, congratulations to you, your family. We appreciate your coming and joining with us.

(Applause.)

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Lawrence J. Gedda of Lynbrook, Member of the State Liquor Authority.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: I'll be very

quick. Tony Casale is going to be an excellent chairman and I know that Larry Gedda who has served on the State Liquor Authority with great distinction will be a great partner for him. So I'm delighted to move the nomination of Lawrence J. Gedda, reappointment as a member of the State Liquor Authority.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the nomination?

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: During its most troubled period when we were looking at the State Liquor Authority, Larry Gedda was literally a lighthouse of good management and common sense and I'm delighted that he's seen fit to continue in his service in this agency. He'll be an invaluable right-hand man to Chairman Casale, and I know of his ability and I'm confident that he will continue to make a significant contribution.

ACTING PRESIDENT KUHL: Any other member wishing to speak on the nomination?

(There was no response.)

Hearing none, the question is on the nomination of Lawrence J. Gedda of Lynbrook to the position of member of the State Liquor Authority. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Edward F. Kelly of Holmes, member of the State Liquor Authority.

ACTING PRESIDENT KUHL: The question is on the nomination of Edward F. - excuse me.

Senator Stachowski.

SENATOR STACHOWSKI: Just very briefly. I would just like to point out again

that -- and I mentioned this earlier, that in the case of Mr. Kelly, he's getting a new appointment to a position paying $68,330 with the State Liquor Authority and though his resume looks fine, we have no idea if he has any idea what the job entails, if he has any experience with the position or if there were any other questions that members from our side of the aisle might have had for Mr. Kelly in the committee because he wasn't here. So I'm not blaming Mr. Kelly. Quite possibly, it could have been some kind of lack of being informed that he was coming up today or whatever, but the fact is that he wasn't here and we're sorry that he wasn't.

ACTING PRESIDENT KUHL: Senator Stavisky on the nomination.

SENATOR STAVISKY: Mr. President, I rise for the same purpose. As a member of a committee that has reported this nomination, I commented on the fact that this is a new appointment which runs until the year 2000. Of all of the recommendations or appointments for

confirmation today, this is the one with the longest tenure and I'm at a loss to understand why someone whose credentials may be fine for other activities but has apparently no experience in the field to which he has been appointed apart from operating and owning a family grocery store -- and I certainly do not wish to denigrate that; that is a fine noble activity, but that's the only thing that is even slightly related to the responsibilities of the office.

It is a mistake for this body in exercising its powers to confirm gubernatorial nominations, to consider any individual who is so important or so ill concerned -- what's a responsibility of this chamber? -- that that individual on the very first day of considered appointment and confirmation would fail to appear before a committee of the Senate of the state of New York.

I think it's insulting to this body. I think it is a practice that should be stopped dead in its tracks. If they don't have

the time or the ability to show up when they are about to be considered for an appointment of five years, then for God's sakes, what assurance do we have that they will appear when the committee meetings are under way when the State Liquor Authority is in operation? We need assurances that they understand the issues, that they are equipped to handle the problems and that they're willing to give a commitment of sufficient time and attention to their official duties. I have not seen that in this case.

I do not wish to prejudge Mr. Kelly's suitability for the office. I simply question his attitude, and I surely question the procedure that has brought him here without any appearance before any committee of the New York State Senate, not the Committee on Investiga tions, Taxation and Government Operations headed by Senator Goodman, and not before the Finance Committee headed by Senator Stafford.

This is a disservice and a discourteous treatment of every Senator who is being asked to vote today, and I object to this

procedure and hope that it will not be replicated in the future.

ACTING PRESIDENT KUHL: Senator Leibell on the nomination.

SENATOR LEIBELL: Thank you, Mr. President.

With respect to assurances, I would like to give you some. Mr. Kelly is someone that I have had the good fortune to know for probably in excess of 15 years. He is, in addition to that, a constituent and, in fact, my office received a phone call from Ed Kelly only recently within the last, I believe half hour, indicating that it was his impression that they were going to be considering him tomorrow but he certainly would have had no objection to being here.

That being the case, let me continue with my assurances in my personal knowledge of Ed Kelly. Ed is someone who's had an extensive career in the private sector, serving for a long, long time with IBM, which is a -- certainly a prominent corporation in New

York State, and particularly in the Mid-Hudson region. He's also been a small businessman. He's also had extensive government experience serving in various local town positions in the town of Pawling in Dutchess County and most significantly, he's also been very involved civically in our area, in our community and our county.

He's raised a family, five sons, one of whom I'm pleased to say serves as my counsel, in addition to which he has been married for in excess of 42 years and has nine grandchildren.

That's his business background, his government background, civic background, personal background and I can personally assure you he's a man of the greatest integrity and will do this state well by his service.

I'm pleased to second the nomination, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland, on the nomination.

SENATOR SALAND: Thank you, Mr.

President.

I rise to second this nomination as well. Like Senator Leibell, I have known Ed Kelly for a good number of years, and Senator Leibell shared with me a bit earlier the fact that for reasons of no more than what was clearly inadvertence on whose part at this point we can't determine, Mr. Kelly was under the impression that he was to appear tomorrow, intending no slight to either this body or any member of this body.

I have known Ed, as I said, for a number of years, probably at least ten years. He certainly, as in every endeavor that he has been involved in, whether it's involvements with community service, whether it's involved -- his involvement with local government or whether it's the number of years he has spent both on behalf of IBM, a major corporation, and his own family enterprise, he has been keenly connected to his community and to the business world.

I would think, given his history of commitment, given his personal qualities, his

integrity, the conscientious approach which he takes to each and every issue that he -- that he gets involved in, the degree of intellect that he possesses that has distinguished him in his other endeavors, that he would be an excellent appointment, and I commend the Governor for sending this nomination to us and it's my pleasure again to second his nomination.

ACTING PRESIDENT KUHL: Senator Goodman, on the nomination.

SENATOR GOODMAN: May I say that I have received some information which I think will put to rest some of the concerns properly expressed on the other side of the aisle, namely, that Mr. Kelly has indicated that he will come to Albany tomorrow. He very much regrets that he was not adequately notified of his presence being required today. He is due to arrive here at 11:00 a.m. and I will be pleased to have any member of the Committee on Investigations join me in a meeting off the floor so that we'll have an opportunity to see Mr. Kelly and to verify what I'm sure will be

very appropriate recommendations made by his colleagues who know him well.

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

SENATOR STAVISKY: Will Senator Goodman yield for a question?

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAVISKY: Senator Goodman, will you, therefore, request that we lay over this confirmation until tomorrow?

SENATOR GOODMAN: No, Senator. I feel the committee has acted and the house has acted, and it would be inappropriate to make that request, but I'm sure that you will graciously understand that Mr. Kelly was most anxious to be cooperative and should we reach some conclusion that requires us to take further action, we can certainly do that, but at this moment, I think it would be inappropriate to make such a request.

SENATOR STAVISKY: Senator

Goodman, if it were -- with your permission, Mr. President -

SENATOR GOODMAN: I hope you'll understand, Mr. -- Senator, that this is being done as a matter of accommodation to not only your wishes but those of the chairman of the committee and that we should welcome this token of cooperation in a gracious manner and not create any undue parliamentary complications. You could, I'm sure, raise many other questions, but I appeal to you as a colleague and friend not to do so at this moment.

SENATOR STAVISKY: Senator Goodman, I do not question his willingness to serve. I do not question his integrity, but I believe that we have here without full consideration a nominee whom we have not met except for the individuals who have spoken positively in his behalf, and I think it's a sad reflection on our committee that we will not consider laying over this for one day, and that's what I'm asking you to do.

SENATOR GOODMAN: That is not

within my power to do, as I think you understand. The house has acted, but I did receive this information and I really forward it to you with the best of intent and I recognize that in mentioning this on the floor it could give rise to the very suggestion you've made, but I appeal to you, please, not to embarrass me as chairman in my effort to make him fully available to you for your opportunity to meet him so that we are not going to create a further embarrassment to the nominee who is a completely innocent bystander in this matter.

SENATOR STAVISKY: Senator Goodman, did your office reach out to the nominee to inform him that the committee was meeting today?

SENATOR GOODMAN: My office was only informed that we would have the papers as of this afternoon shortly before we met, Senator, so I was not in a position to do that.

SENATOR STAVISKY: So are you saying that the omission was on the part of your office rather than the nominee? I will accept

that if that's what you are saying.

SENATOR GOODMAN: Senator, I would gladly say that if I could assume full blame for it, but as I have indicated, we were not advised that the papers had been sent up from the second floor until shortly before our meeting and since this is the second to the last day of the session, we are endeavoring to cooperate with the second floor so that there could be a full complement on the commission. I'm sure you realize the hazards that would exist if there were not a full complement of commissioners and we were attempting to satisfy that need.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT KUHL: Senator Stavisky.

SENATOR STAVISKY: Would it be in order -- I'm not saying I'm asking this to be done. Would it be in order to table this nomination?

SENATOR GOODMAN: Senator, I would not yield to any further questions. I

have tried my best to respond to you as cooperatively as I can.

SENATOR STAVISKY: I'm asking the Chair.

ACTING PRESIDENT KUHL: What was your question again, Senator Stavisky?

SENATOR STAVISKY: Would it be in order to request a motion to table this nomination for today?

ACTING PRESIDENT KUHL: You can request the motion to table.

SENATOR STAVISKY: I understand.

ACTING PRESIDENT KUHL: Certainly, the sponsor of the bill, certainly - of the nomination would be Senator Stafford who is the -- I believe the chairman of the Finance Committee, that the bill was last reported out. You can make a motion at any time. A motion is non-debatable, as you know.

SENATOR STAVISKY: I know that.

ACTING PRESIDENT KUHL: But if somebody else -- I mean, you can make that request but it doesn't appear to me that anybody

is taking you up on the request.

Senator Skelos, you want to be heard on that?

SENATOR STAVISKY: Mr. President.

SENATOR SKELOS: Senator Stavisky, are you making the motion?

SENATOR STAVISKY: No, I'm not. In order to avoid any negative feedback with regard to this institution, I indicate that it is appropriate within the rules of this house to move to table a motion. I will not do so. I wish simply now to be recorded as not voting for the confirmation and will not move to table the nomination which perhaps should be done if this process is repeated in the future.

ACTING PRESIDENT KUHL: The question is on the nomination of Edward F. Kelly of Holmes to the position of member of the State Liquor Authority. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The record will reflect that Senator Stavisky abstained from voting on the nomination.

The Secretary will continue to read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Joan A. Cusack of Brooklyn, Member of the Crime Victims Board.

ACTING PRESIDENT KUHL: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I will be very brief. Earlier I pointed out again that, as with Mr. Kelly, Joan Cusack also was unavailable for questioning at the committee meeting. It's rather difficult to tell, even though she has an extensive background piece here, some of which I won't mention, if there were questions about her ability to serve on this board, what kind of background she brings to it, her understanding of the Crime Victims Board and its duties, the members on our side of the aisle were unable to

ask those questions.

It's understandable with reappointments because you're aware that the person is familiar with it. It's -- with unpaids, in many instances, it's not a problem but when certain questions do arise, we would hope that in the future that people particularly that are going to get paid positions would be available for any kind of questions that might come up by members of the Senate.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the nomination?

(There was no response.)

If not, the question is on the nomination of Joan A. Cusack of Brooklyn, New York, to become a member of the Crime Victims Board. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations: John P. Cahill, Esq. of Yonkers, James P. Ciliberti of Yonkers, Joseph F. Sayegh, Ph.D. of Yonkers, Members of the New York State Emergency Financial Control Board for the city of Yonkers.

ACTING PRESIDENT KUHL: Is there any member wishing to speak on the nomination?

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, in particular, on one of these three individuals, Mr. Cahill, we had some questions concerning the fact that he's a partner in a law firm that says it represents public and private clients on a variety of municipal issues, including municipal financing.

The problem we have is that this is an unpaid position. We don't question that the man is of integrity and good character, but we don't want to see a person put themselves in

the position of a conflict of interest, and since the gentleman wasn't here to answer any questions, we have a problem with the fact that he could be putting himself in a position of conflict of interest. It's much different once you're in public positions rather than private positions, and we don't want to see anybody do that to themselves, and we wish that Mr. Cahill or however he pronounces it -- I have to say Cahill because that's how my friends that spell it that way pronounce it. If he would have been here to answer these questions, they might have very easily been cleared up, but it does present some difficult problems for some members on our side.

ACTING PRESIDENT KUHL: The question is on the nominations of John P. Cahill, James P. Ciliberti and Joseph Sayegh to become Members of the New York State Emergency Financial Control Board for the city of Yonkers. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

SENATOR STACHOWSKI: No.

The nominees are confirmed.

Senator Dollinger.

SENATOR DOLLINGER: Just for a point of order, Mr. President. Is it possible to vote against one of those nominees? I think the point Senator Stachowski raises with respect to Mr. Cahill concerned me as well. I would like to be recorded in the negative on Mr. Cahill and affirmative on the rest.

ACTING PRESIDENT KUHL: The record will reflect that Senator Dollinger, Senator Stavisky -

SENATOR STAVISKY: Not voting.

ACTING PRESIDENT KUHL: -- Senator Stachowski -- excuse me. The record will reflect that Senator Dollinger and Senator Stachowski voted no on the nomination on John P. Cahill alone. Senator Stavisky is excused from voting on the nominations.

The Secretary will read.

THE SECRETARY: Senator Stafford,

from the Committee on Finance, reports the following nominations: Charles E. Dorkey III of New York City, Anthony Gioia of Buffalo, James Simpson of Staten Island, members of the New York Job Development Authority.

ACTING PRESIDENT KUHL: The question is on the nominations of Charles Dorkey, Anthony Gioia, James Simpson to become members of the New York Job Development Authority. All those in favor of the nominations signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominees are confirmed.

Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Edward V. Regan of New York City, Director of the Municipal Assistance Corporation for the city of New York.

ACTING PRESIDENT KUHL: The question is on the nomination of Edward V. Regan

to become Director of the Municipal Assistance Corporation for the city of New York. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations: Leslie Chen, Esq. of New York City, Thomas H. O'Neill, Jr. of Hamburg, public member of the State Banking Board.

ACTING PRESIDENT KUHL: The question is on the nomination of Leslie -

SENATOR LEICHTER: Mr. President, on the nomination of Mr. O'Neill.

ACTING PRESIDENT KUHL: Senator Leichter, on the nomination.

SENATOR LEICHTER: Unfortunately, this was another instance where the committees that have jurisdiction over this nomination, neither the Banking Committee nor the Finance

Committee had an opportunity to interview the nominee, and I know that Senator Farley has always been very conscientious about seeing that the committee does review personally the background of the nominees and have an opportunity to question the nominee.

This is an important position. It's a position that we ought to be sure that the nominee who's being appointed as a public member of the Banking Board, has the requisite background, outlook, experience and it's also important that these nominees know that there is a Legislature, that there is a Senate, that there are committees, that we have concerns, so I very much regret that we did not have an opportunity to see Mr. O'Neill.

I have heard some good things about him and, I'm sorry, I see Senator Rath is up and I should have first given her the opportunity to make the nomination. I apologize, but I did want to express these concerns that I have, and I would hope very much voicing the sentiments that were expressed by

Senator Stavisky that we don't rush through these nominations in the future as we have these past couple of days.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Rath, on the nomination.

SENATOR RATH: Yes, Mr. President.

I stand to support the nomination of Thomas O'Neill. I have known Tom for several years and I've listened with a good deal of interest and in many cases today, a good deal of agreement when I saw that various ones had not come in for various of their nominations, and I happen to agree on -- I said the same to Senator Stavisky earlier in the Finance Committee meeting, but as I looked through and I saw Tom O'Neill's resume, I thought now here's a man who has not had to circulate his resume, and what happened to me earlier this year with another nomination, I looked at the person's resume. I was speaking about him and across the floor Senator Stachowski and Senator Velella and several others said to me, "She's talking about

someone entirely different than the resume that's in front of you", and what happens sometimes is very busy people who are moving along very quickly and don't have a lot of reasons to circulate their resumes don't have much of a resume and thankfully someone knows something about them, and I did that other time and I do now.

I can speak of Tom O'Neill and his dedication to the community in western New York, to his long service on community boards and activities and to his high regard that he's held in by the business community in western New York.

Through the few things that are there on his resume, I don't think you have any doubt that this is an active, successful businessman who will be serving in this position that he's nominated for on the State Banking Board.

There would be no hesitation in my mind to say that, if there was someone that I wanted to depend on to look to them for their

experience and their knowledge as to how to get things done and through a very complicated and very demanding kind of a board to work on, Tom O'Neill would be just the kind of person that will be one of my first choices and, as I said, unfortunately, this man has never had to circulate his resume anywhere. He's always been very gainfully employed, so consequently he's not here, but hopefully he will be here, and I will make a point, Senator Leichter and Senator Stavisky, to make sure that you meet Tom and have a chance to talk with him firsthand.

ACTING PRESIDENT KUHL: Senator Farley, on the nomination.

SENATOR FARLEY: Yes. It's with enthusiasm that I support the nomination of Tom O'Neill.

Let me say this, Senator Leichter -- and I share your concern. It was physically impossible for him to be here this week. He's not a reappointment, but he has gone through this process before. He was appointed by Governor Cuomo with the oil and gas board and

has been investigated prior to this and approved by this Legislature. He's an outstanding person that comes with a terrific reputation, and I pledge to you that I will bring him before the committee so that every member of the Banking Committee will personally meet him, and I think they will be pleased.

I have checked on him with other members from the Buffalo area. Even Senator Stachowski says he's confident that he knows him and I -- I'm sure that you will be very pleased with this appointment. It's something that we do need to have this board in place and I urge his approval and I think he will be an outstanding member of the Banking Board.

ACTING PRESIDENT KUHL: Senator Volker on the nomination.

SENATOR VOLKER: Mr. President, very quickly, I want to clean up something here. I think it wasn't Senator Stachowski that knew him, it was me. It was Senator Volker. He's a constituent of mine, although he's a former constituent of Senator Stachowski.

Let me just say that I also know Tom O'Neill, and I think probably outside of bankers themselves, he probably knows more about banking than just about anyone because he's a major oil dealer, and so forth, in the area, and I can assure you that he's had a lot of experience in dealing with banks. So I think as a public member -- and, of course, as you realize, a public member as I understand it is not supposed to be a banker, is not supposed to be somebody connected directly with the banking industry. I think he certainly would fit the - would fit the bill for being a public member and I'm sure that the reason Tom wasn't here as we've talked about before, that given the nature of these things that he wasn't able to be here, but I can vouch for Tom also, and I think he'll make an excellent public member on the Banking Board.

ACTING PRESIDENT KUHL: The question is on the nomination of Leslie Chen of New York City and Thomas H. O'Neill, Jr. of Hamburg to the positions of public members of

the State Banking Board. All those in favor of the nominations signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominees are confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations: Margaret Marino-Castaldo of Lindenhurst, Gerard H. Toner of West Babylon, members of the Republic Airport Commission.

ACTING PRESIDENT KUHL: Is there any member wishing to speak on the nominations?

(There was no response.)

Hearing none, the question is on the nomination of Margaret Marino-Castaldo and Gerard H. Toner to the positions of members of the Republican -- Republic Airport Commission. I tried. (Laughter.) All those in favor of the nominations signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominees are confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Barry Bruce Perlman, M.D. of New York City, member of the Mental Health Services Council.

ACTING PRESIDENT KUHL: The question is on the nomination of Barry Bruce Perlman to the position of member of the Mental Health Services Council. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Edward F. Cox of New York City, member of the State Park, Recreation and Historic Preservation Commission for the city of

New York.

ACTING PRESIDENT KUHL: The question is on the nomination of Edward F. Cox of New York City to become a member of the State Park, Recreation and Historic Preservation Commission for the city of New York. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

SENATOR DOLLINGER: Mr. President.

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

SENATOR DOLLINGER: Just one question, perhaps. Didn't we appoint Mr. Cox to something yesterday, SUNY? So he's going to wear multiple hats.

Mr. President, I won't vote against it, but it seems to me there are lots of good people out there that could fill these jobs and we're reappointing someone to another position.

I'll vote in favor, Mr.

President.

ACTING PRESIDENT KUHL: The question is on the nomination of Edward F. Cox to become a member of the State Park, Recreation and Historic Preservation Commission for the city of New York. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

Senator Skelos.

SENATOR SKELOS: Mr. President, with the consent of the Minority, would you call up Calendar Number 665, Senate Bill Number 4384-A.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 665, the title thereof which is on the first calendar of the day, Calendar Number 68.

THE SECRETARY: Calendar Number 665, by Senator Cook, Senate Print 4384-A, an act relating to the apportionment of building

aid and reorganization incentive building aid.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is a message of necessity at the desk.

SENATOR SKELOS: I move we accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 665 at the desk. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: There is.

The Chair recognizes Senator Farley for some housekeeping.

SENATOR FARLEY: I feel like the housekeeper here. I wish to call up Senator Skelos' bill, 5525, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: Calendar Number 1540, by Senator Skelos, Senate Print 5525, an act to amend Chapter 704 of the Laws of 1991.

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which this

bill was passed, and I ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is restored to third reading.

Senator Farley.

SENATOR FARLEY: I now move to discharge from the Committee on Rules, Assembly Print 3604-A and substitute it for Senator Skelos' identical bill.

ACTING PRESIDENT KUHL: The substitution is ordered.

SENATOR FARLEY: The first bill was voted on unanimously. I now move that the substituted Assembly bill have its third reading at this time.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR FARLEY: On behalf of Senator Goodman, Mr. President, I wish to call up his bill, Senate Print 5222, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: Calendar Number 1407, by Senator Goodman, Senate Print 5222, an act to amend the Tax Law, in relation to an amendment of a lease by a cooperative housing corporation.

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

ACTING PRESIDENT KUHL: The Secretary will call the roll on

reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Farley.

SENATOR FARLEY: This is on behalf of Senator Maltese. I wish to call up Calendar 833, AR 3006 -- 30006 -- I don't know what that means, Assembly Rules -- is that - Assembly Rules.

ACTING PRESIDENT KUHL: The Secretary will read the title to the bill.

THE SECRETARY: Calendar Number 833, by Senator Maltese, Senate Bill 4524, Assembly Reprint 30006, an act to amend the Election Law, in relation to the names of independent bodies.

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: That's Assembly reprint. Okay.

Mr. President, I now will move to reconsider the vote on the concurrence with the Assembly amendments to Senate Print 4524.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

SENATOR FARLEY: I now move to not concur in the said amendments to my Senate bill 45... Senator Maltese's Senate bill 4524. They are not concurred in.

ACTING PRESIDENT KUHL: The amendments to the Senate Bill are not concurred in.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which this said bill passed and ask that the bill be

restored to the order of third reading.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is restored to the Third Reading Calendar.

Senator Smith, why do you rise?

SENATOR SMITH: Thank you, Mr. President.

On behalf of the Senate Minority Leader, I would like to announce an immediate conference of the Senate Minority in the Senate Minority Conference Room.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Minority Conference in the Senate Minority Conference Room, Room 315. Immediate meeting of the Senate Minority Conference in the Minority Conference Room, Room 315.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Tomorrow there will be a meeting of the Rules Committee at 9:30 a.m. in Room 332 of the Capitol. That's Wednesday, June 27th, and without objection, there being no -- tomorrow is Thursday. I stand corrected. Thank you very much. The Rules Committee meeting will be on Thursday at 9:30 a.m. in Room 332, and there being no further business, the Senate stands adjourned until Thursday at 10:00 a.m. sharp.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Rules Committee Thursday, June 29th at 9:30 in the Majority Conference Room, Room 332, and without objection, the Senate stands adjourned until tomorrow, Thursday, June 29th, the last day of session, at 10:00 a.m.

(Whereupon, at 7:05 p.m., the Senate adjourned.)