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ALBANY, NEW YORK

January 23, 1996

3:00 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

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P R O C E E D I N G S

THE PRESIDENT: The Senate will
come to order.

Would you please rise and repeat
with me the Pledge of Allegiance.

(Whereupon, the Senate and those
present joined in the Pledge of Allegiance to
the Flag.)

May we bow our heads in a moment
of silence.

(Whereupon, there was a moment of
silence.)

The reading of the Journal,
please.

THE SECRETARY: In Senate,
Monday, January 22. The Senate met pursuant to
adjournment. Senator Kuhl in the chair upon
designation of the Temporary President. The
Journal of Friday, January 19, was read and
approved. On motion, Senate adjourned.

THE PRESIDENT: Without
objection, the Journal stands approved as read.

Presentation of petitions.

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Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Sears
from the Committee on Consumer Protection
reports the following bills:

Senate Print

193B, by Senator Gold, an act to
amend the General Business Law, in relation to
requiring child safety devices;

1665A, by Senator Sears, an act
to amend the General Business Law, in relation
to the award of costs;

2674, by Senator Farley, an act
to amend the Personal Property Law and the
General Business Law, in relation to the taking
of a purchase money security interest;

3790, by Senator Sears, an act to
amend the General Business Law, in relation to
penalties for violation thereof;

3839A, by Senator Sears, an act
to amend the General Business Law, in relation

1 to false price comparisons;

2 5753, by Senator Velella, an act
3 to amend Chapter 694 of the Laws of 1995,
4 amending the General Business Law.

5 Senator Seward from Committee on
6 Energy and Telecommunications reports:

7 Senate Print

8 1626, by Senator Seward, an act
9 to amend the Public Service Law, in relation to
10 telephone blocking services;

11 2014, by Senator Seward, an act
12 to amend the Public Service Law, in relation to
13 restricting access;

14 3422, by Senator Seward, an act
15 to amend Public Service Law, in relation to
16 extending the period of time;

17 3432A, by Senator Seward, an act
18 to amend the Public Service Law, in relation to
19 increasing the statutory ceiling.

20 Senator Cook from the Committee
21 on Education reports:

22 Senate Print

23 568, by Senator Farley, an act to

1 amend the Education Law, in relation to
2 efficiency study grants;

3 1303, by Senator Cook, an act to
4 amend the Education Law, in relation to defining
5 nonresidents;

6 4864A, by Senator Cook, an act to
7 amend the Public Officers Law, in relation to
8 the defense and indemnification of members;

9 5435B, by Senator Cook, an act to
10 amend the Education Law and the Local Finance
11 Law;

12 5616, by Senator Saland, an act
13 in relation to providing additional state aid.

14 Senator Levy from the Committee
15 on Transportation reports:

16 Senate Print

17 1290, by Senator Farley, an act
18 to amend the Public Authorities Law, in relation
19 to annual commuter car pool permits;

20 3240, by Senator Maltese, an act
21 to amend the Vehicle and Traffic Law, in
22 relation to increasing the penalty for
23 obstructing access;

1 4337, by Senator Levy, an act to
2 amend the Transportation Law, in relation to the
3 creation of regional citizens advisory councils;

4 4435B, by Senator Maziarz, an act
5 to amend the Vehicle and Traffic Law, in
6 relation to fees received by county clerks;

7 5765, by Senator LaValle, an act
8 to amend the Highway Law, in relation to the
9 Long Island Suburban Highway Improvement
10 Program.

11 Senator Volker from the Committee
12 on Codes reports the following bills:

13 Senate Print

14 197, by Senator Volker, an act to
15 amend the Penal Law, in relation to resisting
16 arrest;

17 388, by Senator Levy, an act to
18 amend the Criminal Procedure Law, in relation to
19 providing that commission of the traffic
20 infraction "driving while ability impaired"
21 while under the influence of a probation or
22 conditional discharge;

23 503, by Senator Present, an act

1 to amend the Penal Law, in relation to unlawful
2 possession of weapons;

3 561, by Senator Cook, an act to
4 amend the Criminal Procedure Law, in relation to
5 denial of recognizance or bail;

6 587, by Senator Volker, an act to
7 amend the Penal Law, in relation to theft of
8 telecommunication services;

9 637A, by Senator DiCarlo, an act
10 to amend the Penal Law, in relation to unlawful
11 possession of a box cutter;

12 667, by Senator Padavan, an act
13 to amend the Penal Law, in relation to making
14 citizenship document fraud a Class E felony;

15 670, by Senator Padavan, an act
16 to amend the Penal Law, in relation to making
17 unlawful immigration a Class C felony;

18 692A, by Senator Saland, an act
19 to amend the Penal Law, in relation to minimum
20 period of imprisonment;

21 1088A, by Senator Spano, an act
22 to amend the Penal Law, in relation to the crime
23 of criminal employment;

1 1113, by Senator Volker, an act
2 to amend the Penal Law, in relation to the crime
3 of false impersonation;

4 1967, by Senator DeFrancisco, an
5 act to amend the Criminal Procedure Law, in
6 relation to the collection of court imposed
7 financial obligations;

8 2228A, by Senator Volker, an act
9 to amend the Civil Practice Law and Rules, in
10 relation to admissibility into evidence;

11 3769, by Senator Volker, an act
12 to amend the Criminal Procedure Law, in relation
13 to prohibiting a request;

14 3818, by Senator Volker, an act
15 to amend the Criminal Procedure Law and others,
16 in relation to the authorized destruction of
17 dangerous drugs;

18 4521A, by Senator Maltese, an act
19 to amend the Penal Law, in relation to
20 increasing the penalty for serious assaults;

21 5499, by Senator Volker, an act
22 to amend the Criminal Procedure Law -- an act to
23 enact the Criminal Procedure Law Reform Act of

1 1995.

2 Senator DiCarlo from the
3 Committee on Aging reports the following bills:

4 Senate Print

5 25B, by Senator Levy, an act to
6 amend the Real Property Tax Law, in relation to
7 granting a graduated real property school tax;

8 1847, by Senator Johnson, an act
9 to amend the Real Property Tax Law;

10 3314, by Senator Trunzo, an act
11 to amend the Real Property Tax Law, in relation
12 to exemption from real property taxation;

13 3871, by Senator Leibell, an act
14 to amend the Real Property Tax Law, in relation
15 to partial real property tax exemptions;

16 5134, by Senator Marcellino, an
17 act in relation to granting a retroactive senior
18 citizen tax.

19 All bills ordered directly for
20 third reading.

21 ACTING PRESIDENT RATH: Without
22 objection, all bills directly to third reading.

23 Reports of select committees.

1 Communications and reports from
2 state officers.

3 Motions and resolutions.

4 Senator Marcellino.

5 SENATOR MARCELLINO: Yes. Madam
6 President. On behalf of Senator Stafford,
7 please place a sponsor star on Calendar Number
8 79.

9 SENATOR RATH: The bill is
10 starred.

11 SENATOR MARCELLINO: And, Madam
12 President, on behalf of Senator Larkin, on page
13 number 10, I am offering the following
14 amendments to Calendar Number 84, Senate Print
15 Number 5803, and ask that said bill retain its
16 place on the Third Reading Calendar.

17 ACTING PRESIDENT RATH: Thank
18 you. Amendments are received.

19 Senator Bruno.

20 SENATOR BRUNO: Madam President.
21 May we, at this time, adopt the Resolution
22 Calendar.

23 ACTING PRESIDENT RATH: All in

1 favor of adopting the Resolution Calendar,
2 signify by saying aye.

3 (Response of "Aye.")

4 Opposed, nay.

5 (There was no response.)

6 The Resolution Calendar is
7 adopted.

8 Senator Bruno, are you ready for
9 the calendar?

10 SENATOR BRUNO: Madam President.
11 Can we at this time take up the noncontroversial
12 calendar.

13 ACTING PRESIDENT RATH: Secretary
14 will read.

15 THE SECRETARY: Calendar Number
16 4, by the Assembly Committee on Rules, Assembly
17 Print 8229C, an act to amend the Banking Law, in
18 relation to interstate branching.

19 SENATOR FARLEY: Lay it aside.

20 ACTING PRESIDENT RATH: Lay the
21 bill aside.

22 THE SECRETARY: Calendar Number
23 36, by the Assembly Committee on Rules, Assembly

1 Print 8422.

2 SENATOR PATERSON: Lay it aside.

3 ACTING PRESIDENT RATH: Lay the
4 bill aside.

5 THE SECRETARY: Calendar Number
6 37, by Senator Holland, Senate Print 34, an act
7 to relocate the Spring Valley Toll Plaza.

8 SENATOR PATERSON: Lay it aside.

9 ACTING PRESIDENT RATH: Lay the
10 bill aside.

11 THE SECRETARY: Calendar Number
12 52, by Senator Trunzo, Senate Print 5779.

13 SENATOR PATERSON: Lay it aside.

14 ACTING PRESIDENT RATH: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 54, by Senator Saland, Senate Print 2108, an act
18 to amend the Family Court Act, in relation to
19 judicial notification of child care agencies.

20 ACTING PRESIDENT RATH: Lay the
21 bill aside.

22 SENATOR PATERSON: No.

23 ACTING PRESIDENT RATH: No. Did

1 you say, "Lay the bill aside"? No.

2 All right. Fine. Read the last
3 section.

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

6 ACTING PRESIDENT RATH: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 42.

10 ACTING PRESIDENT RATH: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 55, by Senator Saland, Senate Print 2594, an act
14 to amend the Social Services Law, in relation to
15 child abuse and maltreatment hearings.

16 ACTING PRESIDENT RATH: Read the
17 last section.

18 THE SECRETARY: Section 2. This
19 act shall take effect on the first day of
20 January.

21 ACTING PRESIDENT RATH: Call the
22 roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 42.

2 ACTING PRESIDENT RATH: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 62, by Senator Velella, Senate Print 3459B, an
6 act to amend the Insurance Law, in relation to
7 the definition of surety insurance.

8 ACTING PRESIDENT RATH: Read the
9 last section.

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

12 ACTING PRESIDENT RATH: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 42.

16 ACTING PRESIDENT RATH: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 71, by Senator Stafford, Senate Print 623, an
20 act to amend the Highway Law, in relation to
21 abandonment of certain town highways.

22 ACTING PRESIDENT RATH: Lay the
23 bill aside.

1 THE SECRETARY: Calendar Number
2 72, by Senator Skelos, Senate Print 1075, an act
3 to amend the Vehicle and Traffic Law, in
4 relation to the enforcement of handicapped
5 parking regulations.

6 ACTING PRESIDENT RATH: Read the
7 last section.

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

10 ACTING PRESIDENT RATH: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 42.

14 ACTING PRESIDENT RATH: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 77, by Senator Marcellino, Senate Print 4952, an
18 act to amend the Vehicle and Traffic Law, in
19 relation to special number plates.

20 ACTING PRESIDENT RATH: Read the
21 last section.

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

1 ACTING PRESIDENT RATH: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 42.

5 ACTING PRESIDENT RATH: The bill
6 is passed.

7 Senator Bruno, that completes the
8 noncontroversial reading of the calendar.

9 SENATOR BRUNO: Madam President.
10 Can we at this time take up the controversial
11 calendar.

12 ACTING PRESIDENT RATH:
13 Certainly.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number
16 4, by the Assembly Committee on Rules, Assembly
17 Print 8229C, an act to amend the Banking Law, in
18 relation to interstate branching.

19 ACTING PRESIDENT RATH:
20 Explanation. Senator Farley.

21 SENATOR BRUNO: Is there a
22 message of necessity at the desk?

23 ACTING PRESIDENT RATH: Yes,

1 there is, Senator Bruno.

2 SENATOR BRUNO: Move that we
3 accept the message.

4 ACTING PRESIDENT RATH: It's been
5 moved that the message be adopted.

6 All in favor, signify by saying
7 aye.

8 (Response of "Aye.")

9 Opposed.

10 (There was no response.)

11 The message is adopted.

12 Explanation has been requested.

13 SENATOR FARLEY: Thank you, Madam
14 President. This is a very significant bill.
15 It's a Governor's program bill, one that passed
16 unanimously in the Assembly yesterday.

17 It's a bill that's been under
18 negotiation for close to a year. It involves
19 interstate branching and ATM safety or security,
20 which is automatic teller machines.

21 In 1992, New York enacted an
22 interstate branching law. This will amend that
23 law to enable us to opt in to the federal law

1 which will insure the state-chartered banks will
2 branch interstate. Within the past year, twenty
3 states have opted in. There's going to be about
4 forty, and probably all of them very shortly.

5 New York is still the financial
6 center of the world. We regulate more banks
7 than the rest of the nation, practically,
8 combined. Our banks are the finest.

9 This interstate branching
10 provision bill is unchanged from a bill that was
11 passed unanimously by this house last year on
12 June 29. Federal law will enable all national
13 banks to branch in June 1997.

14 Opting in will insure that the
15 state charter and the state system of bank
16 regulation remains attractive and viable. It
17 will also insure a level playing field and allow
18 state-chartered banks to compete with the
19 national banks. It will insure that all New
20 York banks, state and national are able to
21 compete with banks from other states.

22 Banks that are already beginning
23 to restructure themselves to take advantage of

1 the cost efficiencies and benefits of interstate
2 branching, they no longer have to wait to act;
3 otherwise, we will be placing our state
4 chartered banks at a competitive disadvantage.
5 In order to maintain New York's position as the
6 world's financial center, it is important that
7 New York be one of the states to act quickly and
8 decisively in updating its law to allow
9 interstate branching.

10 As with most banks, there's no
11 objection to this interstate branching except
12 there's things that have been attached to it.
13 The thing that has been attached to this
14 particular bill and making it a comprehensive
15 bill is the Attorney General's ATM safety bill.
16 Incidentally, Attorney General Vacco has worked
17 very hard and made this possible to come forth,
18 and this is the area that the general public is
19 interested in because interstate branching is
20 kind of arcane and difficult for them to
21 understand, but they do understand the ATM
22 security. Incidentally, the ATM security bill,
23 there is no known opposition to it that I know

1 of. It's been accepted by the banking community
2 statewide, and we've worked very hard to bring a
3 consensus together on this, and I'll talk about
4 this for a moment.

5 ATM security has been a major
6 problem in some of your urban areas,
7 particularly New York City. There is a
8 significant ATM security law in effect in New
9 York City. That bill will be grandfathered or
10 grandmothereed or grandparented, or whatever you
11 want to call that, and will remain in effect.
12 The only difference is some of the penalties
13 will be increased.

14 What this does is require,
15 throughout the state, surveillance cameras at
16 sites, adequate lighting, locking entry doors,
17 an exterior wall that provides an unobstructed
18 view of the facility's interior and requirement
19 for banks to provide written safety precautions
20 to consumers.

21 This bill is based on and very
22 similar to the ATM laws in effect in New York
23 City and Westchester, Nassau, and Suffolk. The

1 lighting standards are also the same as the
2 standards enacted by several other states. The
3 state law will be more strict than most other
4 state laws because it includes additional
5 measures such as surveillance cameras and so
6 forth.

7 Any objections to the bill that
8 were there last year have been removed. That
9 was in the area of limited liability and so
10 forth. As I said, 75 percent of all the money
11 that is dispensed in the United States is
12 dispensed through ATMs. Some day you are going
13 to see banking done very much electronically and
14 by computers.

15 With that, I offer the bill and
16 be happy to answer any questions if there are
17 any.

18 ACTING PRESIDENT RATH: Is there
19 any further discussion?

20 Senator Dollinger.

21 SENATOR DOLLINGER: Will the
22 sponsor yield to just a couple quick questions?

23 SENATOR FARLEY: Sure.

1 ACTING PRESIDENT RATH: Senator
2 Farley will yield.

3 SENATOR DOLLINGER: First of all,
4 since you finished on the point of the ATM
5 safety, just one question about that.

6 Is there anything in the bill
7 that requires a bank that maintains an ATM to
8 disclose to its customers whether there have
9 been crimes at a particular ATM?

10 I only raise that question
11 because I was involved in a lawsuit relating to
12 some crime at an ATM, and one of the questions
13 which was asked in the context of that lawsuit
14 was whether the bank had an obligation to its
15 customers who were visiting that branch of the
16 bank to put some kind of notice that says
17 there's been robberies at that ATM on prior
18 occasions.

19 Is there anything in this bill
20 that requires some notice to the consumer, to
21 the customer about criminal activity at the
22 ATM?

23 SENATOR FARLEY: No, there isn't,

1 Senator. There is no requirement on that point
2 of view. Most of the crimes that are committed
3 at ATMs, unfortunately, is somebody that is
4 robbed after they have gotten money, sometimes
5 away from the site.

6 Incidentally, a question was
7 asked -- I'm not going to anticipate your next
8 question -- kind of quietly by my neighbor here
9 to my left, as to whether this applies to
10 supermarkets, malls and indoor ATMs? It does
11 not. They are exempted from that because
12 there's adequate lighting and so forth.

13 But, no, there's nothing that
14 says that the ATMs have to provide consumers
15 with crimes that have been committed at a
16 particular ATM.

17 SENATOR DOLLINGER: I guess I'm
18 not prepared to offer an amendment or anything,
19 but I think that is something we should look at,
20 perhaps, as this whole concept of ATM safety
21 matures. I found out, in the case that I was
22 working on, the Appellate Division in the Fourth
23 Department held that there was no liability on

1 the part of the bank because they had no duty to
2 maintain the ATM facility in such a way as to
3 provide greater safety for the customer.

4 And I -- I think this bill moves
5 in that direction to establish standards that a
6 bank will have to operate under to provide
7 greater protection to consumers. So I think it
8 moves in the right direction. But we just may
9 want to keep track of the fact that the bank
10 would have to put out a mailing or in its usual
11 statements to customers to say, "You bank at
12 branch ABC. You should be aware that the ABC -
13 people taking money out of the ABC teller have
14 been robbed on a periodic basis," something like
15 that to, again, give consumers greater notice if
16 one of these ATMs becomes a hot spot for
17 criminal activity.

18 SENATOR FARLEY: Let me give you
19 something in this bill that might answer your
20 question. I think it's something that's changed
21 in this bill from the prior proposal. In the
22 prior proposal, there was some objection to this
23 by trial lawyers and a few others that limited

1 the liability of a bank that had serious
2 problems with an ATM. That has been removed.
3 So if there has been serious problems at an ATM,
4 a bank could be liable.

5 SENATOR DOLLINGER: Just one
6 other question, through you, Madam President.

7 ACTING PRESIDENT RATH: Will you
8 yield, Senator Farley?

9 SENATOR FARLEY: I will.

10 ACTING PRESIDENT RATH: Senator.

11 SENATOR DOLLINGER: I've had
12 conversations with the chairman of the Banking
13 Committee before about my concern about home
14 office protection, the notion in New York law
15 that we provide some special protections for
16 small town banks, small community-based banks
17 that provide that important deposit base that
18 local communities need.

19 I understand in the wave of
20 interstate banking and other changes that this
21 bill is perhaps necessary because of our federal
22 counterparts and the changes that they have
23 made. My question is, how does this bill affect

1 that notion of hometown or home office
2 protection if it's still part of New York law?

3 SENATOR FARLEY: I concur in all
4 of your feelings on that. I think hometown
5 protection is important. It does nothing to
6 diminish that or abate that. Let me just say
7 something about the concern the little small
8 bank will be eaten up. I don't see it as that,
9 as chairman of Banking. The merger mania, if
10 you will, that's going on in banking can make
11 the small or "the hometown bank," quote -
12 incidentally, I think Trustco has a copyright on
13 that phrase -- the hometown bank can move
14 better, closer to the community, and they have
15 done very, very well and will do well and they
16 have been doing well.

17 Generally speaking, interstate
18 branching might have been a slight concern to
19 the small -- to the independent bankers. That's
20 the ones we call the smaller ones Upstate and so
21 forth. But they are in support of this bill and
22 they don't have any quarrel with it -- I'm
23 speaking of the interstate branching -- and,

1 also, the ATM security, which is not a great
2 problem in Upstate New York and in the smaller
3 communities. Most of them are doing all of
4 these things right now voluntarily, and they are
5 happy to have a standard.

6 SENATOR DOLLINGER: Okay. Again,
7 Madam President, I concur with the chairman of
8 the Banking Committee; that my concern has been
9 since I have come to this chamber, because of my
10 own past experience as a lawyer, to preserve
11 small community banks, small community banks
12 that may exist Upstate in small towns or may
13 exist Downstate in small communities that make
14 the investment, that achieve the goal of small
15 town lending, lending from small banks. I
16 continue to believe that, at least Upstate, that
17 at the heart of our small town communities are
18 those small town banks, and I just wanted to be
19 assured that nothing in this bill would tamper
20 with that notion, and I continue to believe and
21 continue to be an advocate, while the bank
22 merger mania goes on and big banks change their
23 form and shape, that we make sure that small

1 town banks and small community banks have a
2 place in this state. I think they'll be an
3 important part of our future, and I'm pleased to
4 see that this bill will not affect their status.

5 I will be voting in the
6 affirmative.

7 SENATOR FARLEY: Thank you,
8 Senator Dollinger, and let me say that that is
9 something Senator Dollinger and I both agree
10 upon.

11 ACTING PRESIDENT RATH: Thank
12 you, Senator Farley, for that editorial comment.

13 Is there any further discussion?
14 Senator Leichter.

15 SENATOR LEICHTER: Yes, Madam
16 President, just on the issue that Senator
17 Dollinger raised and Senator Farley responded to
18 about the effect on the small banks.

19 This bill is not going to have a
20 good effect on small banks in this state. I'm
21 supporting the bill because, frankly, we don't
22 really have any choice. For all practical
23 purposes, we now have really just a national

1 banking system, and we're very limited in what
2 we can do here in New York State, but I think
3 all of us have to be very much concerned about
4 what is happening to the small bank or to the
5 branches in neighborhoods. Those branches are
6 closing. The small banks are closing.

7 These are really the banks that
8 built up their communities. They were run by
9 people from the community. The monies, the
10 deposits in those banks came from the community
11 and they lent in the community; and,
12 undoubtedly, we are losing that capacity. I
13 wish there was some way that we could control
14 it, but no more than King Kanute could stop the
15 tide could we stop that trend. We're dealing
16 here, after all -- we're acting under the sword
17 of federal legislation. If we don't do this,
18 the interstate banking is going to go into
19 effect anyhow, but I don't think that we should
20 have any illusion.

21 I don't think anybody ought to
22 get up and say this is a wonderful thing for the
23 people of the State of New York. We're doing

1 this under duress, if you will, and if you take
2 a look at what has occurred in banking, it's
3 been terrible for most banking consumers. I
4 don't blame Senator Farley for it, but I
5 don't -- I mean I don't -- I don't see any
6 benefit in saying when you are losing a football
7 game 63 to nothing to get up and cheer and say,
8 "Look how well we're doing."

9 You're doing terribly. We're all
10 doing terribly. I issued a report on what I
11 called "merger mania," which is a term that
12 Senator Farley appropriately used, which showed
13 that we've lost branches, we've lost jobs in New
14 York State. The recent merger of Chemical and
15 Chase is going to cost New York State 12,000
16 jobs. It's terrible. Nothing we can, frankly,
17 or very little we can do about it. Citibank
18 just announced they're closing more branches in
19 New York. Fleet is in a merger with
20 Westminster. They are going to close more
21 branches. Upstate banks are going to be
22 acquired. They're going to be run out of
23 offices in Columbus, Ohio, or San Francisco, or

1 at least their policies will be set there.

2 But we've lost control of the
3 banking system as we knew it, and which was, I
4 think, very supportive of New York State's
5 economy. People may say, "Well, look, we still
6 have some of the biggest banks and they are
7 located right in New York." But their vision,
8 their interest is now to a large extent
9 overseas, national, and so on.

10 I think one of the things that we
11 ought to really try to direct more of our
12 attention to, and I just met with the
13 Superintendent of Banking on it, is to try to go
14 back and develop the community banks, develop
15 credit unions, develop lending institutions that
16 will have some connections with their
17 communities. In that respect, there may be some
18 things that we can do, and I hope Senator Farley
19 and the Banking Committee will play some role in
20 that.

21 ACTING PRESIDENT RATH: Senator
22 Farley.

23 SENATOR FARLEY: I'm grateful for

1 your vote on this bill. I am concerned when
2 you're voting in favor of it because something
3 must be wrong with it.

4 But let me just say this, Senator
5 Leichter, you're wrong on this, for a very
6 bright fellow that you are.

7 Let me just say something about
8 the small independent banks that Senator
9 Dollinger and I both were promoting. They are
10 doing very well.

11 Just a few short years ago, while
12 you served in this house and I was also here,
13 you recall that New York City banks could not
14 come Upstate. They came Upstate, and guess
15 what? They didn't do well at all. They closed
16 most of their offices, and most of them that
17 live Upstate can remember. They did not do well
18 up here. Those small little banks cleaned their
19 clocks.

20 And, quite frankly, when you are
21 talking about merger mania, it does exist.
22 There's a lot of mergers going on. This is an
23 evolving system. This is an evolving -- you

1 can't stop that. You can't stand in the way of
2 it. Like with the credit card industry, we
3 tried to capture it. They all went to South
4 Dakota or Delaware. They are not a captive
5 audience any more.

6 It was interesting to hear
7 Chairman Farrell talk about what happened with
8 Citibank. They just packed it up and left.
9 They will do that.

10 Today, we are still the financial
11 center of the world. We've got to get with it.
12 We're leaders in this area. The debacle that
13 has happened in banking with the S&L scandal did
14 not happen in this state. We've got the finest
15 Banking Department, the best regulated banks and
16 the finest banks in the nation, and I think we
17 should keep them that way.

18 I think this is a good bill for
19 the consumer. It's a good bill for the banks.
20 It's something we have to do, and I think what
21 you are talking about is something of twenty
22 years ago. Times have changed.

23 I urge the support of this bill.

1 ACTING PRESIDENT RATH: Senator
2 Dollinger.

3 SENATOR DOLLINGER: Thank you,
4 Madam President. I have just one word to add to
5 Senator Farley's voice, and, again, perhaps we
6 may both find it unusual to be agreeing so
7 strongly on this, but my concern is not so much
8 with the infrastructure of the banking industry
9 in this state as the deposit base, because
10 that's where the loans for -- and I know Senator
11 Leichter has been a leader on the community
12 reinvestment portion, certainly in the Chase and
13 Chemical merger -- but I'm concerned about the
14 hometown deposit base.

15 I believe that the notion that a
16 deposit -- the money made by John Smith in
17 Canandaigua, New York, or Irondequoit in Monroe
18 County, that he has the notion that his
19 deposits, his hard-earned money that he has
20 saved, is going to be reinvested in his
21 community and that the decision about where to
22 invest that money is going to be made by
23 somebody who lives down the street or lives in

1 his neighborhood, and that may be Pollyannaish,
2 but I still believe that the critical ingredient
3 is in the system of hometown banking.

4 I have a bill that I have
5 carried -- I have talked to the chairman of the
6 Banking Committee about it -- that would lower
7 the capital requirements to creating new banks,
8 because I think we could use more small town
9 banks and not create such an enormous capital
10 hurdle for them to get in the business of
11 banking, and I think we would encourage more
12 people to develop community-based lending, the
13 kind of lending that helps our neighborhoods,
14 the kind of lending that's needed in the City of
15 New York, the kind of lending that's needed in
16 my community in the city of Rochester.

17 We would encourage that kind of
18 hometown lending by using hometown deposits to
19 make that local economy tick. I know I've
20 talked about it with the chairman of the Banking
21 Committee. I know he supports that idea. He is
22 absolutely right. Small town banks in New York
23 State have done much better than their

1 counterparts that have invested in other places
2 in the world and perhaps got stuck with huge
3 deficits as a consequence.

4 So I think that the banking
5 system as it goes through this final evolution,
6 my concern is that we keep New York as a
7 financial center with big banks. I think that
8 that is important for our economy. I also think
9 it's important to keep those small town banks
10 healthy and encourage their growth and
11 development so that the local deposits stay in
12 the local communities and help everybody in this
13 state get capital when they need it. That could
14 be the solution.

15 We talk about creating jobs. We
16 can have all the tax cuts in the world; but if
17 you take your tax cut and put it in savings in
18 your local bank, you want your local bank to use
19 that savings to leverage loans that will drive
20 the capital, the job growth and the next
21 century.

22 So we can debate forever the
23 changes that are going on at the federal level,

1 the international capital markets, the local
2 capital markets. I think this is a good bill,
3 and I think we've got to keep our eye on the
4 primary target which is providing a structure on
5 which our national banks can stay here and our
6 local banks will continue to thrive.

7 ACTING PRESIDENT RATH: Read the
8 last section.

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

11 ACTING PRESIDENT RATH: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 53.

15 ACTING PRESIDENT RATH: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 36, by the Assembly Committee on Rules, Assembly
19 Print 8422, an act to amend the Tax Law, in
20 relation to the imposition of sales and use
21 taxes by the County of Erie.

22 ACTING PRESIDENT RATH: Senator
23 Volker.

1 SENATOR VOLKER: Where is Senator
2 Stachowski? Can you wait just a minute, please.

3 ACTING PRESIDENT RATH: Senator
4 Volker.

5 SENATOR VOLKER: Madam President,
6 just briefly. Senator Stachowski wanted to have
7 a comment on this bill.

8 This is the extender of the Erie
9 County sales tax which both houses have passed
10 for a number of years. As I said before, this
11 bill does not enact the sales tax but merely at
12 the request of the Erie County Legislature gives
13 them the ability to make the decision, which
14 they have already made, actually, and put it in
15 their 1996 budget and allows them to put the
16 entire amount of the additional one percent in
17 the Erie County budget. Once this bill passes
18 and is signed into law, then the legislature can
19 formally pass a resolution incorporating the one
20 percent extender for the next year. So that's
21 what this is.

22 ACTING PRESIDENT RATH: Senator
23 Stachowski.

1 SENATOR STACHOWSKI: If you want
2 to call the roll, I just want to explain my vote
3 and that's -

4 ACTING PRESIDENT RATH: Read the
5 last section.

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

8 ACTING PRESIDENT RATH: Call the
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT RATH: Senator
12 Stachowski to explain his vote.

13 SENATOR STACHOWSKI: Madam
14 President, to explain my vote. I'd just like to
15 point out that, obviously, as Senator Volker
16 said, we don't pass the sales tax. But we're
17 all, from Western New York, aware of the
18 financial problems that the City of Buffalo had;
19 and when Rochester was faced with a similar
20 problem, the County of Monroe and the City of
21 Rochester worked out an agreement to help
22 Rochester through their financial woes.

23 So far, the City of Buffalo and

1 the County of Erie haven't been able to work out
2 a similar agreement. We would hope that before
3 we vote on this next year that the City of
4 Buffalo and Erie County would continue to sit
5 down together to continue to negotiate with each
6 other and try to find a way that this ever
7 growing one percent of the extra sales tax could
8 somehow be used to help alleviate some of City
9 of Buffalo's financial problems.

10 I would hope that the fact that
11 the new majority leader of the county
12 legislature is a city county legislator that he
13 would help to move that process along and that
14 the mayor and the county executive, if they
15 can't work out a way to share this, that they
16 could at least find a way to work out sharing
17 other programs or other facilities that would
18 take some of the burden off the City of Buffalo
19 and the problems they are currently facing.

20 I vote aye.

21 ACTING PRESIDENT RATH: May we
22 please have the vote announced.

23 THE SECRETARY: Ayes 55.

1 ACTING PRESIDENT RATH: The bill
2 is passed.

3 Continue with the calendar,
4 please.

5 THE SECRETARY: Calendar Number
6 37, by Senator Holland, Senate Print 34, an act
7 to relocate the Spring Valley Toll Plaza of the
8 New York State Thruway.

9 ACTING PRESIDENT RATH:
10 Explanation has been requested.

11 SENATOR BRUNO: Lay it aside for
12 the day.

13 ACTING PRESIDENT RATH: Lay this
14 aside for the day.

15 THE SECRETARY: Calendar Number
16 52, by Senator Trunzo, Senate Print 5779, an act
17 to amend the Civil Service Law, in relation to
18 providing jurisdiction to the Public Employment
19 Relations Board.

20 ACTING PRESIDENT RATH:
21 Explanation has been requested.

22 Senator Trunzo.

23 SENATOR TRUNZO: Madam

1 President. What this bill really does is this
2 legislation would give the Public Employee
3 Relations Board jurisdiction over disputes which
4 have reached impasse in the course of collective
5 bargaining between the City of New York and the
6 police and fire fighters, and, basically, that's
7 what it does. In other words, if the
8 negotiations in the City reach a point of
9 complete impasse, then they can go to PERB to
10 have a decision rendered by the people at PERB.

11 ACTING PRESIDENT RATH: Thank
12 you, Senator Trunzo.

13 Anyone else wishing -

14 Senator Paterson.

15 SENATOR PATERSON: Madam
16 President. New York City has issued a memo
17 opposing this legislation; and in the
18 memorandum, they contend that passage of this
19 bill would disrupt the relationship that New
20 York City has. It would disrupt the collective
21 bargaining agreement that the City has and would
22 diminish the City's control over its labor
23 relations disputes.

1 So the question lies in whether
2 or not, in 1977, when the language that formed
3 the Public Employees Relations Board was
4 actually written into law as to whether or not
5 there is a mandate that the Public Employees
6 Relations Board take into account the fiscal
7 ability of the City and the means to actually
8 pay the wage increases? If Senator Trunzo would
9 yield for a question, I would like to try to
10 establish whether or not it exists in law.

11 ACTING PRESIDENT RATH: Senator,
12 would you yield for a question?

13 Senator Trunzo.

14 SENATOR TRUNZO: Yes, I will
15 yield.

16 ACTING PRESIDENT RATH: Senator
17 yields.

18 SENATOR PATERSON: That's the
19 question.

20 SENATOR TRUNZO: What's the
21 question?

22 SENATOR PATERSON: The question
23 is, does it stand in the law as it was written

1 forming the language that created the Public
2 Employee Relations Board that there is attention
3 to the fiscal ability of the entity -- in this
4 case, New York City -- and its means to pay the
5 actual wage increases that are negotiated?

6 SENATOR TRUNZO: Section 209,
7 Senator, indicates that ability to pay is part
8 of the -- Section 209 of the Civil Service Law,
9 and it's in there, and the arbitrators have to
10 take that into consideration.

11 SENATOR PATERSON: Thank you very
12 much, Senator. If you will continue to yield?

13 SENATOR TRUNZO: Yes.

14 SENATOR PATERSON: The memorandum
15 that the City has offered also is maintaining
16 that because the collective bargaining
17 agreements that the City now seeks takes four
18 years and the Public Employees Relations Board
19 might negotiate two-year contracts that this
20 would create a bifurcated process; and in this
21 process, it would allow for higher wage
22 increases on the part of what would be the
23 police and fire fighters who would be the

1 beneficiaries of legislation as it stands now;
2 and that if that were to go into effect, you
3 would have a situation with the other unions
4 that would destabilize the dispute settlement
5 relationship, and the other unions would then
6 seek the same legislation.

7 Also, the City estimates -- I
8 don't know whether this is true or whether this
9 is hyperbole -- that it would cost the City over
10 \$200 million.

11 A voice in the wilderness told me
12 it is hyperbole, but I would like to know what
13 you feel the result of passing this legislation
14 would be on bargaining disputes?

15 SENATOR TRUNZO: Well, on your
16 point, first of all, Senator Paterson, are you
17 referring to the first memo that the City wrote
18 or the second memo that the City wrote? There
19 were two different memos, and one sort of
20 contradicts the other one.

21 But at any rate, the \$200 million
22 that you are talking about, from what we can
23 gather by the various figures that we have been

1 able to determine, that if a one percent
2 increase in negotiations were to happen, it
3 would cost \$11 million. To go up to \$200
4 million, you are talking about a 20 percent
5 increase which would not be probable of
6 happening at all.

7 So the figure seems to be very
8 well bloated by the mayor's people.

9 ACTING PRESIDENT RATH: Senator,
10 have you completed your questions? Do you want
11 Senator Trunzo to yield?

12 SENATOR PATERSON: If Senator
13 Trunzo will yield for just one last question?

14 SENATOR TRUNZO: Yes.

15 ACTING PRESIDENT RATH: Senator,
16 do you yield?

17 Senator Paterson.

18 SENATOR PATERSON: On the other
19 subject about its destabilizing the relationship
20 between the City and its other unions, do you
21 think passage of this legislation will produce
22 that effect?

23 SENATOR TRUNZO: I don't believe

1 so because this particular section of law has to
2 do with every police and fire department in the
3 State of New York; and every one, except the
4 fire and police of the City of New York, are
5 involved in Section 209 of the law; and,
6 therefore, it's not probable. In fact, you
7 might understand that up until the merger last
8 year of the police departments, the New York
9 City Transit Police were covered by Section 209,
10 and also the United Teachers. That's also
11 covered by PERB. Therefore, there's no reason
12 why the police and firemen should not be
13 included in this entire process.

14 ACTING PRESIDENT RATH: There
15 being no other questions, read the last section.

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

18 ACTING PRESIDENT RATH: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT RATH:
22 Negatives? Can you announce the vote, please.
23 There are a couple of others.

1 THE SECRETARY: Ayes 51. Nays

2 4. Senators DiCarlo, Goodman, Leichter and
3 Montgomery recorded in the negative.

4 ACTING PRESIDENT RATH: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 71, by Senator Stafford, Senate Print -

8 SENATOR OPPENHEIMER:
9 Explanation.

10 ACTING PRESIDENT RATH: An
11 explanation has been requested.

12 SENATOR BRUNO: Lay it aside for
13 the day.

14 ACTING PRESIDENT RATH: Lay the
15 bill aside for the day.

16 SENATOR BRUNO: Madam President.
17 Can we at this time have the committee report
18 from the EnCon Committee.

19 ACTING PRESIDENT RATH: The
20 Secretary will read.

21 THE SECRETARY: Senator
22 Marcellino from the Committee on Environmental
23 Conservation reports:

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Senate Print

418, by Senator Cook, an act to amend the Environmental Conservation Law, in relation to permitting certain directional signs;

614, by Senator Stafford, an act to amend the Environmental Conservation Law, in relation to nonhazardous municipal landfill closure;

620, by Senator Stafford, an act to amend the Environmental Conservation Law, in relation to permitting certain advertising in the Adirondack Park;

629A, by Senator Stafford, an act to amend the Environmental Conservation Law, in relation to nonhazardous municipal landfill closure projects; and

3501, by Senator Saland, an act to amend the Environmental Conservation Law, in relation to the definition of the term municipality.

All bills ordered directly for third reading.

1 ACTING PRESIDENT RATH: Without
2 objection, all bills directly to third reading.
3 Senator Bruno.

4 SENATOR BRUNO: Madam President.
5 Are there any other items at the desk that we
6 should take up at this time?

7 ACTING PRESIDENT RATH: There are
8 no other items, Senator Bruno.

9 SENATOR BRUNO: Then there being
10 no further business to come before the Senate, I
11 move that we stand adjourned until 11:00 a.m.
12 tomorrow morning.

13 ACTING PRESIDENT RATH: Without
14 objection, the Senate stands adjourned until
15 Wednesday, January 24, at 11:00 a.m.

16 (Whereupon, at 3:45 p.m., Senate
17 adjourned.)

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