

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ALBANY, NEW YORK

July 11, 1996

1:11 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

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

2 ACTING PRESIDENT KUHL: The
3 Senate will come to order. Ask the members to
4 find their places, staff to find their places.
5 Ask everyone in the chamber, including the
6 visitors in the gallery, to rise and join with
7 me in the Pledge of Allegiance to the Flag.

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

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

12 (A moment of silence was
13 observed.)

14 Reading of the Journal.

15 THE SECRETARY: In Senate,
16 Wednesday, July 10th. The Senate met pursuant to
17 adjournment, Senator DiCarlo in the Chair upon
18 designation of the Temporary President. The
19 Journal of Tuesday, July 9, was read and
20 approved. On motion, Senate adjourned.

21 ACTING PRESIDENT KUHL: Hearing
22 no objection, the Journal stands approved as
23 read.

1 Presentation of petitions.

2 Any messages from the Assembly?

3 Secretary will read.

4 THE SECRETARY: The Assembly
5 returned Senator Padavan's bill, Senate Print
6 4216-B, with an Assembly Reprint Number 30017
7 with minor amendments.

8 ACTING PRESIDENT KUHL: The bill
9 is restored to the order of third reading.

10 Any other messages from the
11 Assembly?

12 Hearing none, any messages from
13 the Governor?

14 Reports of standing committees.

15 Reports of select committees.

16 Communications and reports from
17 state officers.

18 Motions and resolutions.

19 Senator Skelos, we do have a
20 report of a standing committee, Finance
21 Committee, is now at the desk if you'd like to
22 return to that order.

23 SENATOR SKELOS: Yes, Mr.

1 President.

2 ACTING PRESIDENT KUHL: We'll
3 return to the order of standing committees,
4 reports of standing committees and I'll ask the
5 Secretary to read the report of the Senate
6 Finance Committee.

7 THE SECRETARY: Senator Stafford,
8 from the Committee on Finance, reports the
9 following nomination:

10 Vanessa A. Clarke, Esq., of
11 Menands, member of the State Board of Parole.

12 SENATOR GOLD: Yeah, Mr.
13 President. Nobody standing?

14 ACTING PRESIDENT KUHL: The Chair
15 recognizes Senator Nozzolio, on the nomination.

16 SENATOR NOZZOLIO: Senator, Mr.
17 President, thank you.

18 Senator Gold, thank you for your
19 assistance in that recognition.

20 My colleagues, it is indeed an
21 honor for me to rise as chairman of the Senate
22 Committee on Crime, Crime Victims and
23 Corrections, to endorse the nomination of

1 Vanessa Clarke to the New York State Parole
2 Board.

3 Miss Clarke, in every aspect,
4 represents the best ideals of the American
5 dream. Her career so far has been a series of
6 firsts. As a young girl, she immigrated with
7 her parents, her brother and three sisters, from
8 Jamaica to New York, and she immediately became
9 the first member of her family to become a
10 naturalized citizen of the United States. She
11 became the first member of her family to
12 graduate from college receiving her Bachelor's
13 Degree from SUNY at Albany. She then took
14 another step in her academic career and became a
15 graduate of the Albany Law School, receiving her
16 Juris Doctor Degree, all that at a very young
17 age, continuing her accomplishments.

18 She has served as chief counsel
19 to the New York State Assembly Banks Committee,
20 as a counsel to the Assembly Ways and Means
21 Committee, also has administrative experience
22 working in the counsel's office of the New York
23 State Department of Corrections which will suit

1 her exceedingly well as a member of the New York
2 State Parole Board.

3 As a footnote, it is my belief
4 that Vanessa Clarke will be the youngest
5 commissioner of the New York State Parole Board
6 in the history of this state. She brings a
7 unique perspective, a perspective with a law
8 background, legislative experience and
9 experience working within the Department of
10 Corrections. I think this experience, coupled
11 with the other perspective, will help our Parole
12 Board under the direction of our chairman, Brian
13 Travis, who has done wonders in making this
14 board, I believe, an exemplary board, one second
15 to none of all the 50 states, and I am very
16 proud, Mr. President, to put Vanessa Clarke
17 before this body for recommendation as a member
18 of the New York State Parole Board.

19 ACTING PRESIDENT KUHL: Senator
20 Gold, on the nomination.

21 SENATOR GOLD: Thank you very
22 much.

23 Mr. President, I want to make

1 some general comments and this goes for the -
2 Miss Clarke and also for the next nominee.

3 First of all, I think that the
4 two young women that we're dealing with today
5 are very qualified, and I don't see any problem
6 there. But I think that something ought to be
7 out on the table and that is that we are living
8 in a state which, whether we like it or not, and
9 we should not like it and we should try to do
10 more about it, has some of its sentencing
11 structures which are very unrealistic when
12 coupled with our capacity to house people in a
13 prison setting.

14 We have had bond issues that are
15 unsuccessful. We have had governors who thought
16 very tough about crime and putting people behind
17 bars, and yet the fact is that under existing
18 law we can only put so many people there. We
19 had a situation just a few months ago where the
20 Brooklyn District Attorney, in making an arrest,
21 was very critical of the Parole Board in putting
22 out an individual on the streets who had two
23 sheets of arrests over a period of time, and I

1 think that whether it is admitted or it is not
2 admitted, there is pressure put on the Parole
3 Board to put people out who otherwise might not
4 be put out because there is a whole line-up
5 coming through the court that's going to have to
6 go into that space, and I want to say to the two
7 nominees today that this is not, in my opinion,
8 a liberal or a conservative issue. I consider
9 myself more liberal than any other descriptive
10 adverb or adjective if we have to use it, but I
11 believe that once somebody gets their rights and
12 goes through the system, if they are to be
13 punished and put in jail, then the system has to
14 take that part also, and I would encourage these
15 two women to stand up for the people, as you
16 said you would, and not be pressured into
17 reacting politically at the Parole Board because
18 of the failures perhaps of the Legislature or
19 the Administration in not having our sentencing
20 structure and our jail space in conformity with
21 one another.

22 Having said that, I want to
23 congratulate both of them. I know that this is

1 a loss to Assemblyman Farrell, and I hope he's
2 able to make that replacement of equal quality,
3 and I would second the nomination.

4 ACTING PRESIDENT KUHL: Is there
5 any other Senator wishing to speak on the
6 nomination?

7 Senator Hoblock, on the
8 nomination.

9 SENATOR HOBLOCK: Thank you.
10 Thank you, Mr. President.

11 It gives me great pleasure to
12 rise and second the nomination of Vanessa Clarke
13 as a member of the New York State Board of
14 Parole. You've heard of her qualifications from
15 Senator Nozzolio which are truly outstanding and
16 I think places her in a position to assume what
17 is an awesome responsibility, as stated by
18 Senator Gold.

19 So I take great pride in joining
20 Senator Nozzolio in this nomination and in
21 seconding that nomination of Miss Clarke to this
22 very, very important position in this day and
23 age when we are dealing with many of the issues

1 that we have talked about and debated in this
2 house as well as the other house on parole,
3 crime and what do we do with individuals, and in
4 working closely with those in the law
5 enforcement community, I trust that Miss Clarke
6 would do the responsible thing and one that we
7 will all be very proud of. So it gives me great
8 pleasure again to join in this nomination and
9 seconding it.

10 ACTING PRESIDENT KUHL: Senator
11 Stafford, on the nomination.

12 SENATOR STAFFORD: Very briefly,
13 on the nomination, and I apologies for coming in
14 a trifle late for the meeting, but I too want to
15 support what Senator Nozzolio and Senator
16 Hoblock have said, and compliment the Governor
17 on two real professionals for the Parole Board
18 and I would note that they, of course, were
19 unanimously approved by the Senate Finance
20 Committee today.

21 ACTING PRESIDENT KUHL: Any other
22 Senator wishing to speak on the nomination?

23 Hearing none, the question is on

1 the nomination of Vanessa A. Clarke, of Menands,
2 New York, to become a member of the State Board
3 of Parole. All those in favor of the nomination
4 signify by saying aye.

5 (Response of "Aye.")

6 Opposed nay.

7 (There was no response.)

8 The nominee is unanimously
9 confirmed.

10 We're very, very pleased to have
11 Vanessa Clarke with us in the chamber. She's
12 seated in the gallery to your left.
13 Congratulations and good luck.

14 (Applause)

15 The Secretary will read.

16 THE SECRETARY: Senator Stafford,
17 from the Committee on Finance, reports the
18 following nomination:

19 Member of the State Board of
20 Parole, Marietta S. Gailor, of Gansevoort.

21 ACTING PRESIDENT KUHL: Is there
22 any Senator wishing to speak on the nomination?

23 Senator Stafford, on the

1 nomination.

2 SENATOR STAFFORD: Senators Bruno
3 and Farley -- on behalf of Senator Bruno, I
4 certainly, as has been mentioned earlier but on
5 a very serious note again, emphasize the caliber
6 of these two nominees that the Governor has sent
7 up to us. True professionals in the field and
8 I'm sure that they will make this state a better
9 place in which to live.

10 ACTING PRESIDENT KUHL: Any other
11 Senator wishing to speak on the nomination?
12 Hearing none, the question of is on the
13 nomination of Marietta S. Gailor, of Gansevoort,
14 New York, to become a member of the State Board
15 of Parole. All those in favor of the nomination
16 signify by saying aye.

17 (Response of "Aye.")

18 Opposed nay.

19 (There was no response.)

20 The nominee is unanimously
21 confirmed.

22 We're very, very pleased to have
23 Marietta Gailor in the gallery above to your

1 left with us today. Congratulations and good
2 luck.

3 (Applause)

4 The Secretary will continue to
5 read.

6 THE SECRETARY: Senator Stafford,
7 from the Committee on Finance, reports the
8 following nomination:

9 Member of the Ogdensburg Bridge
10 and Port Authority George B. Looney, of
11 Ogdensburg.

12 ACTING PRESIDENT KUHL: Is there
13 any Senator wishing to speak on the nomination?
14 Hearing none, the question is on the nomination
15 of George B. Looney, of Ogdensburg, to become a
16 member of the Ogdensburg Bridge and Port
17 Authority. All those in favor of the nominee,
18 signify by saying aye.

19 (Response of "Aye.")

20 Opposed nay.

21 (There was no response.)

22 The nominee is confirmed.

23 Secretary will continue to read.

1 THE SECRETARY: Senator Stafford,
2 from the Committee on Finance, reports the
3 following nomination:

4 Member of the Stewart Airport
5 Commission, Paul M. Quartararo, Esq., of
6 Millbrook.

7 ACTING PRESIDENT KUHL: Any
8 Senator wishing to speak on the nomination?
9 Hearing none, the question is on the nomination
10 of Paul Quartararo, of Millbrook, New York, to
11 become a member of the Stewart Airport
12 Commission. All those in favor signify by
13 saying aye.

14 (Response of "Aye.")

15 Opposed nay.

16 (There was no response.)

17 The nominee is confirmed. The
18 Secretary will continue to read.

19 THE SECRETARY: Senator Stafford,
20 from the Committee on Finance, reports the
21 following nomination:

22 Member of the Genesee State Park,
23 Recreation and Historic Preservation Commission,

1 Terry Lowell of Dalton.

2 ACTING PRESIDENT KUHL: Is there
3 any Senator wishing to speak on the nomination?
4 Hearing none, the question is on the nomination
5 of Terry Lowell, of Dalton, New York, to become
6 a member of the Genesee State Park, Recreation
7 and Historic Preservation Commission. All those
8 in favor of the nomination signify by saying
9 aye.

10 (Response of "Aye.")

11 Opposed nay.

12 (There was no response.)

13 The nominee is confirmed.

14 Secretary will continue to read.

15 THE SECRETARY: Senator Stafford,
16 from the Committee on Finance, reports the
17 following nomination:

18 Member of the Saratoga-Capital
19 District State Park, Recreation and Historic
20 Preservation Commission, Heather Ann Mabee, of
21 Saratoga Springs.

22 ACTING PRESIDENT KUHL: Is there
23 any Senator wishing to speak on the nomination?

1 Hearing none, the question is on the nomination
2 of Heather A. Mabee, of Saratoga Springs, to
3 become a member of the Saratoga-Capital District
4 State Park, Recreation and Historic Preservation
5 Commission. All those in favor of the
6 nomination signify by saying aye.

7 (Response of "Aye.")

8 Opposed nay.

9 (There was no response.)

10 The nominee is confirmed.

11 Secretary will continue to read.

12 THE SECRETARY: Senator Stafford,
13 from the Committee on Finance, reports the
14 following nomination:

15 Member of the Citizens' Policy
16 and Complaint Review Council, E. Robert
17 Czaplicki, of Syracuse.

18 ACTING PRESIDENT KUHL: Is there
19 any Senator wishing to speak on the nomination?
20 Hearing none, the question is on the nomination
21 of E. Robert Czaplicki, of Syracuse, New York,
22 to become a member of the Citizens' Policy and
23 Complaint Review Council. All those in favor of

1 the nomination, signify by saying aye.

2 (Response of "Aye.")

3 Opposed nay.

4 (There was no response.)

5 The nominee is confirmed. The
6 Secretary will continue to read.

7 THE SECRETARY: Senator Stafford,
8 from the Committee on Finance, reports the
9 following nominations:

10 Member of the Port of Oswego
11 Authority, Pamela Caraccioli, of Oswego and
12 William F. Shannon, Jr., of Oswego.

13 ACTING PRESIDENT KUHL: Is there
14 any Senator wishing to speak on the nominations?
15 Hearing none, the question is on the nominations
16 of the members -- to become members of the port
17 of Oswego Authority. All those in favor signify
18 by saying aye.

19 (Response of "Aye.")

20 Opposed nay.

21 (There was no response.)

22 The nominees are confirmed.
23 Secretary will continue to read.

1 THE SECRETARY: Senator Stafford,
2 from the Committee on Finance, reports the
3 following nomination:

4 Member of the State Council on
5 the Arts, Mary Sharp Cronson, of New York City.

6 ACTING PRESIDENT KUHL: Is there
7 any Senator wishing to speak on the nomination?
8 Hearing none, the question is on the nomination
9 of Mary Sharp Cronson, of New York City, to
10 become a member of the State Council on the
11 Arts. All those in favor signify by saying aye.

12 (Response of "Aye.")

13 Opposed nay.

14 (There was no response.)

15 The nominee is confirmed.

16 Secretary will continue to read.

17 THE SECRETARY: Senator Stafford,
18 from the Committee on Finance, reports the
19 following nomination:

20 Member of the Empire Plaza Art
21 Commission:

22 Judith A. Barnes, of Troy.

23 ACTING PRESIDENT KUHL: Any

1 Senator wishing to speak on the nomination? The
2 question is on the nomination of Judith A.
3 Barnes, of Troy, New York, to become a member of
4 the Empire Plaza Art Commission. All those in
5 favor of the nomination, signify by saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The nominee is confirmed.

10 Secretary will continue to read.

11 THE SECRETARY: Senator Stafford,
12 from the Committee on Finance, reports the
13 following nomination:

14 Member of the Board of Trustees
15 of the City University of New York, Reverend
16 Michael C. Crimmins, of New York City.

17 ACTING PRESIDENT KUHL: Is there
18 any Senator wishing to speak on the nomination?

19 SENATOR GOLD: Yes.

20 ACTING PRESIDENT KUHL: Chair
21 recognizes Senator Gold.

22 SENATOR GOLD: Thank you, Mr.
23 President.

1 Mr. President, as I pointed out
2 at the Finance Committee, certainly the Governor
3 and the Mayor, but I believe this is a
4 Governor's appointment, have the right to select
5 people of their own choosing providing that they
6 are qualified, and in all fairness to Reverend
7 Crimmins, looking at his resume, I would be less
8 than candid if I did not suggest that he is, in
9 fact, qualified.

10 But I would like to point out
11 that he is going to now take the place of former
12 Speaker Stanley Fink and, to that extent, it is
13 a shame. I think that Speaker Fink has done
14 great service to this state in many capacities
15 and certainly in serving as a trustee of City
16 University he has benefited the young people of
17 this state. He has certainly made a major
18 contribution to higher education in New York
19 City, and the lack of his presence will be
20 felt.

21 Having said that, I wish Reverend
22 Crimmins good luck, and I would support the
23 nominee.

1 ACTING PRESIDENT KUHL: Is there
2 any other Senator wishing to speak on the
3 nomination? Senator Goodman, do you rise to
4 speak on the nomination?

5 SENATOR GOODMAN: No.

6 ACTING PRESIDENT KUHL: Hearing
7 none, the question is on the nomination of
8 Reverend Michael C. Crimmins, of New York City,
9 to become a member of the Board of Trustees of
10 the City University of New York. All those in
11 favor of the nomination signify by saying aye.

12 (Response of "Aye.")

13 Opposed nay.

14 (There was no response.)

15 The nominee is confirmed.

16 Senator Skelos.

17 SENATOR SKELOS: Would you kindly
18 recognize Senator Goodman.

19 ACTING PRESIDENT KUHL: The Chair
20 recognizes Senator Goodman.

21 SENATOR GOODMAN: Mr. President,
22 I was out of the chamber a moment ago when the
23 name of Mary Sharp Cronson came before the

1 house, and I would appreciate the opportunity to
2 say a word respecting this nominee.

3 ACTING PRESIDENT KUHL: Without
4 objection. Hearing none, the Chair recognizes
5 Senator Goodman for a comment.

6 SENATOR GOODMAN: Mr. President,
7 Mary Sharp Cronson has made an extraordinary
8 contribution to the arts of the city and state
9 of New York. This is a reappointment to the
10 Council on the Arts and we should note that
11 during the period of her incumbency, she has
12 been a leader in a number of the most important
13 artistic causes in the city.

14 Very briefly she is a leading
15 force in a program under the aegis of the
16 Guggenheim Museum, in which she brings forth
17 artists who are both performing artists and
18 others, with an extraordinary variety and
19 richness, who are presented to the public in a
20 manner that would not otherwise be possible.

21 Mary Sharp Cronson is a member of
22 the New York City Cultural Affairs Advisory
23 Committee, the David Parsons Dance Company Board

1 of Trustees, the Boards of the New York City
2 Opera and the Juilliard School and Meet the
3 Composers, as well as the Simon R. Guggenheim
4 Foundation.

5 She is an extraordinary New
6 Yorker and one whose special involvement for the
7 public good deserves its great recognition by
8 this house, and it's with great pleasure that I
9 add my enthusiastic support to her renomination
10 and approval for the Council on the Arts.

11 ACTING PRESIDENT KUHL: Thank
12 you, Senator Gold.

13 Secretary will continue to read
14 the Finance Committee report.

15 THE SECRETARY: Senator Stafford,
16 from the Committee on Finance, reports the
17 following nomination:

18 Member of the Battery Park City
19 Authority, James F. Gill, of Rockville Centre.

20 ACTING PRESIDENT KUHL: Is there
21 any Senator wishing to speak on the nomination?
22 Hearing none, the question is on the nomination
23 of James F. Gill, of Rockville Centre, to become

1 a member of the Battery Park City Authority.
2 All those in favor of the nomination signify by
3 saying aye.

4 (Response of "Aye.")

5 Opposed nay.

6 (There was no response.)

7 The nominee is confirmed.

8 Secretary will continue to read.

9 THE SECRETARY: Senator Stafford,
10 from the Committee on Finance, reports the
11 following nominations: Members of the Board of
12 Visitors of the New York State Home for Veterans
13 and their Dependents at St. Albans, Maxwell H.
14 Phillips, of Lynbrook, and Estelle A.
15 Rosenzweig, of Flushing.

16 ACTING PRESIDENT KUHL: Question
17 is on the nominations of the people to become
18 members of the Board of Visitors of the New York
19 State Home for Veterans and their Dependents at
20 St. Albans. All those in favor of the
21 nominations signify by saying aye.

22 (Response of "Aye.")

23 Opposed nay.

1 (There was no response.)

2 The nominees are confirmed.

3 Secretary will continue to read.

4 THE SECRETARY: Senator Stafford,
5 from the Committee on Finance, reports the
6 following nomination:

7 Member of the Board of Visitors
8 of the Brooklyn Developmental Center, Era
9 Fischetti, of Brooklyn.

10 ACTING PRESIDENT KUHL: Question
11 is on the nomination of Era Fischetti, of
12 Brooklyn, New York, to become a member of the
13 Board of Visitors of the Brooklyn Developmental
14 Center. All those in favor of the nomination
15 signify by saying aye.

16 (Response of "Aye.")

17 Opposed nay.

18 (There was no response.)

19 The nominee is confirmed.

20 Secretary will continue to read.

21 THE SECRETARY: Senator Stafford,
22 from the Committee on Finance, reports the
23 following nomination:

1 Member of the Board of Visitors
2 of the Syracuse Developmental Center, Marian
3 Budnar, of Cazenovia.

4 ACTING PRESIDENT KUHL: Is there
5 any Senator wishing to speak on the nomination?
6 Hearing none, the question is on the nomination
7 of Marian Budnar, of Cazenovia, to become a
8 member of the Board of Visitors of the Syracuse
9 Developmental Center. All those in favor of the
10 nomination signify by saying aye.

11 (Response of "Aye.")

12 Opposed nay.

13 (There was no response.)

14 The nominee is confirmed.

15 Senator Skelos, that completes
16 the report of the Finance Committee which is at
17 the desk.

18 SENATOR SKELOS: Mr. President,
19 can we have the Senate stand at ease.

20 ACTING PRESIDENT KUHL: The
21 Senate will stand at ease.

22 (The Senate stood at ease
23 briefly.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ACTING PRESIDENT KUHL: Senator
Skelos.

SENATOR SKELOS: Mr. President,
on behalf of Senator Bruno, I'd like to announce
that at 7:15 this evening there will be a
meeting of the Finance Committee in the Majority
Conference Room and that the Senate will stand
in recess until 8:00 p.m., this evening.

ACTING PRESIDENT KUHL: For the
benefit of the members, there will be a Senate
Finance Committee meeting this evening at 7:15.
Senate Finance Committee meeting this evening at
7:15, and the Senate will stand in recess until
this evening at 8:00 p.m.

(Whereupon at 1:37 p.m., the
Senate recessed.)

1 (The Senate reconvened at 8:10
2 p.m.)

3 ACTING PRESIDENT KUHL: The
4 Senate will come to order, please. Ask the
5 members to find their places, staff to find
6 their places. Have a little order in the
7 chamber.

8 Senator Skelos.

9 SENATOR SKELOS: Mr. President,
10 if we could return to reports of standing
11 committees, I believe there's a report of the
12 Finance Committee at the desk. I ask that it be
13 read.

14 ACTING PRESIDENT KUHL: We'll
15 return to the order of standing committees. The
16 Secretary will read the report of the Finance
17 Committee.

18 THE SECRETARY: Senator Stafford,
19 from the Committee on Finance, reports the
20 following nominations:

21 Executive Director of the
22 Consumer Protection Board, Timothy Carey, of
23 Montrose.

1 SENATOR STAFFORD: Move
2 confirmation, please, Mr. President.

3 ACTING PRESIDENT KUHL: The
4 question is on the nomination of Timothy Carey
5 to become the Executive Director of the Consumer
6 Protection Finance Board -- excuse me, Consumer
7 Protection Board. All those in favor of the
8 nomination signify by saying aye.

9 (Response of "Aye.")

10 Opposed nay.

11 (There was no response.)

12 The nominee is confirmed. The
13 Secretary will continue to read.

14 THE SECRETARY: Senator Stafford,
15 from the Committee on Finance, reports the
16 following nomination: Member of the Industrial
17 Board of Appeals, Evelyn C. Heady, of
18 Poughquag.

19 ACTING PRESIDENT KUHL: Senator
20 Stafford, on the nomination.

21 SENATOR STAFFORD: Thank you, Mr.
22 President. Move confirmation, please.

23 I again would say, Mr. President,

1 it's a pleasure that the two nominees who
2 appeared before the Finance Committee were
3 unanimously approved. Again, we compliment the
4 Governor upon excellent appointments, and we're
5 sure that, as we said earlier today, for the
6 nominees, that they also are going to make this
7 state a better place in which to live.

8 ACTING PRESIDENT KUHL: Question
9 is on the nomination of Evelyn Heady, of
10 Poughquag, to become a member of the Industrial
11 Board of Appeals. All those in favor of the
12 nomination signify by saying aye.

13 (Response of "Aye.")

14 Opposed nay.

15 (There was no response.)

16 The nominee is confirmed.

17 THE SECRETARY: Senator Stafford,
18 from the Committee on Finance, reports the
19 following nomination:

20 Member of the State Racing
21 Commission, Harry D. Snyder, of Saratoga
22 Springs.

23 ACTING PRESIDENT KUHL: Question

1 is on the nomination of Harry D. Snyder, of
2 Saratoga Springs, to become a member of the
3 State Racing Commission. All those in favor of
4 the nomination signify by saying aye.

5 (Response of "Aye.")

6 Opposed nay.

7 (There was no response.)

8 The nominee is confirmed.

9 Secretary will continue to read.

10 THE SECRETARY: Senator Stafford,
11 from the Committee on Finance, reports the
12 following nomination:

13 Member of the Buffalo and Fort
14 Erie Public Bridge Authority, Gary E. Blum, of
15 Williamsville.

16 SENATOR NANULA: Mr. President.

17 ACTING PRESIDENT KUHL: Senator
18 Nanula, on the nomination.

19 SENATOR NANULA: Very briefly.
20 Thank you, Mr. President. I just wanted to rise
21 in support of this nomination. Mr. Blum has been
22 a personal friend and associate of mine for
23 several years. He works for a company, Buffalo

1 Crushed Stone, that, in addition to being a
2 major employer in western New York, is also a
3 very community-minded company, significant
4 investor in our region, and I'm certain that Mr.
5 Blum is going to do an excellent job helping us
6 in western New York to direct the future of the
7 Peace Bridge, which is critical and vital to our
8 future, our economic future and the potential we
9 have for embracing trade and really developing
10 that trade potential in western New York.

11 I again look forward to the
12 support of my colleagues on this nomination and
13 congratulate the Governor on this appointment.

14 Thank you.

15 ACTING PRESIDENT KUHL: Is there
16 any other Senator wishing to speak on the
17 nomination? Hearing none, the question is on
18 the nomination of Gary E. Blum, of
19 Williamsville, New York, to become a member of
20 the Buffalo and Fort Erie Public Bridge
21 Authority, commonly known as the Peace Bridge
22 Authority. All those in favor of the nomination
23 signify by saying aye.

1 (Response of "Aye.")

2 Opposed nay.

3 (There was no response.)

4 The nominee is confirmed.

5 Secretary will continue to read.

6 THE SECRETARY: Senator Stafford,
7 from the Committee on Finance, reports the
8 following nomination:

9 Member of the State Board of
10 Historic Preservation, Elise Johnson-Schmidt, of
11 Painted Post.

12 ACTING PRESIDENT KUHL: Any
13 Senator wishing to speak on the nomination?
14 Hearing none, the question is on the nomination
15 of Elise Johnson-Schmidt, of Painted Post, New
16 York, to become a member of the State Board of
17 Historic Preservation. All those in favor of
18 the nomination signify by saying aye.

19 (Response of "Aye.")

20 Opposed nay.

21 (There was no response.)

22 The nominee is confirmed.

23 Secretary will continue to read.

1 THE SECRETARY: Senator Stafford,
2 from the Committee on Finance, reports the
3 following nomination:

4 Member of the Citizen's Policy
5 and Complaint Review Council, Nicholas D.
6 LaBella, of Utica.

7 ACTING PRESIDENT KUHL: Any
8 Senator wishing to speak on the nomination?
9 Hearing none, the question is on the nomination
10 of Nicholas D. LaBella, of Utica, New York, to
11 become a member of the Citizen's Policy and
12 Complaint Review Council. All those in favor of
13 the nomination signify by saying aye.

14 (Response of "Aye.")

15 Opposed nay.

16 (There was no response.)

17 The nominee is confirmed.

18 Secretary will continue to read.

19 THE SECRETARY: Senator Stafford,
20 from the Committee on Finance, reports the
21 following nomination:

22 Member of the State Board of Real
23 Property Services, Ifigenia T. Brown, Esq., of

1 Ballston Spa.

2 ACTING PRESIDENT KUHL: Is there
3 any Senator wishing to speak on the nomination?
4 Hearing none, the question is on the nomination
5 of Ifigenia T. Brown, of Ballston Spa, to become
6 a member of the State Board of Real Property
7 Services. All those in favor of the nomination
8 signify by saying aye.

9 (Response of "Aye.")

10 Opposed nay.

11 (There was no response.)

12 The nominee is confirmed.

13 Secretary will continue to read.

14 THE SECRETARY: Senator Stafford,
15 from the Committee on Finance, reports the
16 following nomination:

17 Member of the State Fire
18 Prevention and Building Code Council, Robert
19 Hankin, of Poughkeepsie.

20 ACTING PRESIDENT KUHL: Is there
21 any Senator wishing to speak on the nomination?
22 Hearing none, the question is on the nomination
23 of Robert Hankin, of Poughkeepsie, New York, to

1 become a member of the State Fire Prevention and
2 Building Code Council.

3 SENATOR SALAND: Mr. President,
4 on Mr. Hankin, please.

5 ACTING PRESIDENT KUHL: The Chair
6 recognizes Senator Saland, on the nomination.

7 SENATOR SALAND: Thank you, Mr.
8 President.

9 Mr. President, it's with great
10 pleasure that I rise in support of the
11 nomination of Mr. Hankin, a man whom I have
12 known for a number of years, a man who is well
13 known in building and building circles, having
14 been very active, a president, in fact, of the
15 New York State Builders Association and active
16 on the national level.

17 He certainly will bring a degree
18 of expertise to his employment. He certainly is
19 one who I believe will be another one of the
20 fine examples of Governor Pataki's appointments
21 and a gentleman who I know will serve with
22 distinction, and I greatly appreciate the
23 opportunity to have risen here this evening and

1 to be able to speak on his behalf.

2 ACTING PRESIDENT KUHL: Thank
3 you, Senator Saland.

4 Is there any other Senator
5 wishing to speak on the nomination? Hearing
6 none, the question is on the nomination of
7 Robert Hankin to become a member of the State
8 Fire Prevention and Building Code Council. All
9 those in favor of the nomination signify by
10 saying aye.

11 (Response of "Aye.")

12 Opposed nay.

13 (There was no response.)

14 The nominee is confirmed.

15 Senator Farley.

16 SENATOR FARLEY: Thank you, Mr.
17 President.

18 Just want to rise because
19 Commissioner Carey has joined us in the gallery,
20 and he's already been confirmed but I did want
21 to say a couple words on his behalf so that he'd
22 know I spoke on his behalf.

23 I have had the pleasure of

1 working with Tim Carey when he was Director of
2 Intergovernmental Relations.

3 ACTING PRESIDENT KUHL: Senator
4 Farley. Senator Farley. Excuse the
5 interruption. Awful noisy in the house. Ask we
6 have some order in the house.

7 SENATOR FARLEY: I've had the
8 pleasure of working with Tim Carey when he was
9 Executive Director of Intergovernmental
10 Relations with the state. He's been a good
11 public servant, and I think it was evident
12 during his confirmation before the Senate
13 Finance Committee on how well prepared he was,
14 and also the fact that this is somebody that has
15 been elected to local office and knows how to
16 deal with politicians, and I know -- I want to
17 compliment the Governor on this outstanding
18 appointment.

19 I know he's going to be a great
20 Commissioner. He's a great guy and, Tim, we
21 wish you well, and congratulations.

22 ACTING PRESIDENT KUHL: Thank
23 you, Senator Farley, for bringing to our

1 attention that the Executive Director or
2 Commissioner, excuse me, of the Consumer
3 Protection Board, who has been previously
4 confirmed by this body this evening, has joined
5 us together with his wife Lolita. They're in
6 the gallery to your left.

7 Commissioner -- Executive
8 Director Carey, congratulations and good luck.

9 (Applause)

10 Secretary will continue to read.

11 THE SECRETARY: Senator Stafford,
12 from the Committee on Finance, reports the
13 following nomination:

14 Member of the Advisory Council on
15 Agriculture, Phil Herrington, of Troy.

16 ACTING PRESIDENT KUHL: Is there
17 any Senator wishing to speak on the nomination?
18 Hearing none, the question is on the nomination
19 of Phil Herrington, of Troy, New York, to become
20 a member of the Advisory Council on Agricul
21 ture. All those in favor of the nomination
22 signify by saying aye.

23 (Response of "Aye.")

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

THE SECRETARY: Senator Stafford,
from the Committee on Finance, reports the
following nomination:

Member of the New York State
Energy Research and Development Authority,
Thomas J. Marusak, of Loudonville.

ACTING PRESIDENT KUHL: Any
Senator wishing to speak on the nomination?
Hearing none, the question is on the nomination
of Thomas J. Marusak, of Loudonville, to become
a member of the New York State Energy Research
and Development Authority.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT KUHL: Senator
Stafford, on the nomination.

SENATOR STAFFORD: Again, if I
could please interrupt, due to our efficiency I
was late getting here and we are fortunate, as
Senator Farley has stated, so very well to have

1 Commissioner Carey with us and we're also very
2 fortunate to have Evelyn Heady with us at the
3 present time.

4 I believe a -- some Senators
5 would like to speak on her behalf. I would only
6 say, as I said when they were out of the room,
7 that they did appear before the Finance
8 Committee. They were unanimously approved. As
9 has been said earlier by Senator Farley and
10 others, we compliment the Governor on excellent
11 appointments, and we're confident that, as I
12 said earlier, that this state will be a better
13 place in which to live, with their appointments.
14 They have already been confirmed, and I believe
15 we would yield to Senator Leibell.

16 SENATOR LEIBELL: Thank you very
17 much. Thank you, Senator Stafford.

18 ACTING PRESIDENT KUHL: Senator
19 Stafford, we're on the nomination right now of
20 Thomas J. Marusak. Senator Leibell, when we
21 complete that, we'll come back.

22 The question is on the nomination
23 of Thomas J. Marusak, of Loudonville, to become

1 a member of the New York State Energy Research
2 and Development Authority. All those in favor
3 of the nomination signify by saying aye.

4 (Response of "Aye.")

5 Opposed nay.

6 (There was no response.)

7 The nominee is confirmed.

8 Then, without objection, the
9 Chair would recognize Senator Leibell.

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

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

14 We are running on an unusual
15 schedule today, this evening, and I with some of
16 my other colleagues have been detained outside
17 of the chamber, but I have two long-time friends
18 who are here this evening and who have been
19 confirmed, and I would like to rise to offer my
20 congratulations to both Tim Carey and to Evelyn
21 Heady.

22 I go way back with Evelyn Heady,
23 back to my very earliest years in the state

1 Assembly, and looked upon Evelyn not only as a
2 good friend but as someone who has been a great
3 source of advice and counsel throughout the
4 years. I'm particularly pleased that Evelyn's
5 big talents and skills and energies are being
6 recognized by the administration through this
7 appointment.

8 Similarly, I have a district that
9 covers Dutchess, Putnam and Westchester County.
10 I've had the good fortune to work for many years
11 with someone who has been a dedicated public
12 servant, Tim Carey, and Tim, I think many of us
13 know. We know of his great service to
14 Westchester County and now to the state of New
15 York. We know of his many talents and his
16 energy and, similarly, I can say with Tim Carey,
17 frequently on more occasions than I care to
18 admit, I have gone to Tim seeking out his advice
19 and counsel and hopefully will be able to do so
20 in the future.

21 So, Mr. President, somewhat
22 belatedly and with our unusual schedule this
23 evening, I wish to congratulate both of these

1 very fine nominees.

2 Thank you.

3 ACTING PRESIDENT KUHL: Thank
4 you, Senator Leibell.

5 Chair recognizes Senator
6 LaValle.

7 SENATOR LAVALLE: Mr. President,
8 there will be an immediate meeting of the Rules
9 Committee in Room 332.

10 ACTING PRESIDENT KUHL: There
11 will be an immediate meeting of the Senate Rules
12 Committee in the Majority Conference Room,
13 immediate meeting of the Senate Rules Committee
14 in the Majority Conference Room, Room 332.

15 Senator Saland, do you wish to be
16 recognized?

17 SENATOR SALAND: Mr. President,
18 like Senator Leibell, if I would be permitted
19 somewhat belatedly.

20 ACTING PRESIDENT KUHL: Without
21 objection. Hearing no objection, Senator Saland
22 for a statement.

23 SENATOR SALAND: Thank you.

1 Thank you, Mr. President.

2 ACTING PRESIDENT KUHL: Excuse
3 me, Senator Saland. Just a minute. I know that
4 there is a group of people, members leaving.
5 Hopefully Senator Gold will leave too, and go to
6 the Rules Committee. Thank you.

7 Senator Saland.

8 SENATOR SALAND: Thank you again,
9 Mr. President.

10 Senator Leibell, with his usual
11 spellbinding oratory, has sort of left very
12 little to be said, but I would like to rise on
13 behalf of both of the Governor's appointees,
14 both Tim Carey and Evelyn Heady, both of whom
15 have served long and distinguished careers both
16 in local and state government.

17 Tim Carey is a county legislator
18 in Westchester County, has been one of the
19 principal advisers and counselors, in quotes, of
20 our Governor.

21 Evelyn Heady is someone who I've
22 known for a number of years, someone who has
23 served in an exemplary fashion in local

1 government in Dutchess County, and much like Tim
2 Carey, has served in admirable fashion for our
3 Governor, George Pataki.

4 I'd like to congratulate them on
5 their appointments, wish them continued success
6 in their endeavors, and say once again that the
7 Governor has continued, I think, a record of
8 sending us distinguished appointees to serve the
9 people of this state and could find no two more
10 distinguished than Evelyn Heady and Tim Carey.

11 Thank you, Mr. President.

12 ACTING PRESIDENT KUHL: Thank
13 you, Senator Saland.

14 Evelyn Heady, on behalf of all of
15 the members -- we're a little quicker this
16 evening than we normally are. We confirmed you
17 earlier this evening before you were able to get
18 to the chamber and before many of the members
19 were, but we congratulate you and wish you
20 well.

21 Thank you for being with us this
22 evening.

23 (Applause)

1 Secretary will continue to read.

2 THE SECRETARY: Senator Stafford,
3 from the Committee on Finance, reports the
4 following nomination:

5 Member of the Small Business
6 Advisory Board, Lionel Hector, of Carthage.

7 ACTING PRESIDENT KUHL: Is there
8 any Senator wishing to speak on the nomination?
9 Hearing none, the question is on the nomination
10 of Lionel Hector, of Carthage, New York, to
11 become a member of the Small Business Advisory
12 Board. All those in favor of the nomination
13 signify by saying aye.

14 (Response of "Aye.")

15 Opposed nay.

16 (There was no response.)

17 The nominee is confirmed.

18 Secretary will continue to read.

19 THE SECRETARY: Senator Stafford,
20 from the Committee on Finance, reports the
21 following nomination:

22 Member of the Board of Visitors
23 of the New York State Home for Veterans and

1 Their Dependents at Oxford, Louisa Platt, of
2 Westford.

3 ACTING PRESIDENT KUHL: Is there
4 any Senator wishing to speak on the nomination?
5 Hearing none, the question is on the nomination
6 of Louisa Platt, of Westford, New York, to
7 become a member of the Board of Visitors of the
8 New York State Home for Veterans and Their
9 Dependents at Oxford. All those in favor of the
10 nomination signify by saying aye.

11 (Response of "Aye.")

12 Opposed nay.

13 (There was no response.)

14 The nominee is unanimously
15 confirmed. Secretary will continue to read.

16 THE SECRETARY: Senator Stafford,
17 from the Committee on Finance, reports the
18 following nomination:

19 Member of the Board of Visitors
20 of the Finger Lakes Development Center, David
21 Cohan, of Rochester.

22 ACTING PRESIDENT KUHL: Any
23 Senator wishing to speak on the nomination?

1 SENATOR DOLLINGER: Mr.
2 President.

3 ACTING PRESIDENT KUHL: Senator
4 Dollinger, on the nomination.

5 SENATOR DOLLINGER: Mr.
6 President, I rise to speak in favor of David
7 Cohan for the Board of Visitors of the Finger
8 Lakes Developmental Center.

9 David has been a part of the
10 Brighton community for the last 20 years, I
11 believe, has been a contributor in that
12 community, has been an advocate for the disabled
13 and for many, many causes in the Brighton
14 community and in the Rochester community.

15 I also have to commend David for
16 his politics. I believe David is a registered
17 Republican, but he has provided yeoman service
18 to my family in its political endeavors. He was
19 one of those who worked for my grandmother when
20 she ran for a seat on the board of supervisors
21 as a Republican in Monroe County in 1960, so my
22 family has known David for a long time.

23 I think he'll be a strong

1 advocate in this position and a good addition to
2 the Board of Visitors of the Finger Lakes
3 Developmental Center.

4 ACTING PRESIDENT KUHL: Is there
5 any other Senator wishing to speak on the
6 nomination? Hearing none, the question is on the
7 nomination of David Cohan, of Rochester, New
8 York, to become a member of the Board of
9 Visitors of the Finger Lakes Developmental
10 Center. All those in favorite of the nomination
11 signify by saying aye.

12 (Response of "Aye.")

13 Opposed nay.

14 (There was no response.)

15 The nominee is confirmed. The
16 Secretary will continue to read.

17 THE SECRETARY: Senator Stafford,
18 from the Committee on Finance, reports the
19 following nominations:

20 Members of the Board of Visitors
21 of the Mohawk Valley Psychiatric Center, Joseph
22 D. Harder, of Marcy, New York, and Maneck J.
23 Kotwal, M. D., of New Hartford.

1 ACTING PRESIDENT KUHL: Anyone
2 wishing to speak on the nomination? The
3 question is on the nomination of a member -- two
4 members to become members of the Board of
5 Visitors of the Mohawk Valley Psychiatric
6 Center. All those in favor signify by saying
7 aye.

8 (Response of "Aye.")

9 Opposed nay.

10 (There was no response.)

11 The nominees are confirmed.

12 Senator LaValle.

13 SENATOR LAVALLE: Mr. President,
14 at this time, may we please take up the calendar
15 starting with Calendar 151, please.

16 ACTING PRESIDENT KUHL: Secretary
17 will read the non-controversial reading of
18 Calendar Number 68, which is at your desk
19 beginning with Calendar Number 151 on page 3.

20 THE SECRETARY: Calendar Number
21 151, by Senator Rath, Senate Print 1280-A, an
22 act to amend the Executive Law and the State
23 Administrative Procedure Act.

1 SENATOR ONORATO: Read the last
2 section.

3 ACTING PRESIDENT KUHL: Secretary
4 will read the last section.

5 THE SECRETARY: Section 5. This
6 act shall take effect September 1st.

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 54.

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 THE SECRETARY: Calendar
14 Number -

15 SENATOR LAVALLE: Mr. President,
16 next bill is Calendar Number 435.

17 ACTING PRESIDENT KUHL: Senator
18 LaValle. Secretary will read Calendar Number
19 435.

20 THE SECRETARY: Calendar Number
21 435, by Senator Skelos, Senate Print 3450-B, an
22 act to amend the Civil Practice Law and Rules,
23 in relation to the method of commencing.

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

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 54.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 Senator LaValle.

13 SENATOR LAVALLE: Mr. President,
14 next Calendar Number is 636, please.

15 ACTING PRESIDENT KUHL: Secretary
16 will read Calendar Number 636.

17 THE SECRETARY: Calendar Number
18 636, by Senator Hoblock, Senate Print 6736-B, an
19 act to amend the Transportation Law, in relation
20 to the regulation of the hours of service.

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

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT KUHL: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 54.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 Senator LaValle.

9 SENATOR LAVALLE: Mr. President,
10 calendar -- would you call up Calendar Number
11 1458, please.

12 ACTING PRESIDENT KUHL: On page
13 4, Secretary will read Calendar Number 1458, by
14 Senator Maziarz.

15 THE SECRETARY: Calendar Number
16 1458, by Senator Maziarz, Senate Print 7277-B,
17 an act to amend the State Administrative
18 Procedure Act.

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

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 54.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 Senator LaValle.

7 SENATOR LAVALLE: Mr. President,
8 would you call up Calendar Number 1546, please.

9 ACTING PRESIDENT KUHL: Secretary
10 will read Calendar Number 1546.

11 THE SECRETARY: Calendar Number
12 1546, by the Senate Committee on Rules, Senate
13 Print 7755-A, an act to authorize the conveyance
14 of a permanent and a temporary easement.

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

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

19 ACTING PRESIDENT KUHL: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 54.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 SENATOR LAVALLE: Mr. President,
3 would you call up Calendar Number 1623. Is
4 there a message at the desk?

5 ACTING PRESIDENT KUHL: There is
6 no message. It's a high print, Senator
7 LaValle.

8 SENATOR LAVALLE: Lay it aside.

9 ACTING PRESIDENT KUHL: Lay
10 Calendar Number 1623 aside.

11 Senator LaValle.

12 SENATOR LAVALLE: Would you call
13 up Calendar Number 1704, please.

14 ACTING PRESIDENT KUHL: Secretary
15 will read Calendar Number 1704.

16 THE SECRETARY: Calendar Number
17 1704, by the Senate Committee on Rules, Senate
18 Print 7894-A, an act authorizing the city of
19 Canandaigua.

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

23 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT KUHL: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 54.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 Senator LaValle.

9 SENATOR LAVALLE: Mr. President,
10 do we have any housekeeping measures?

11 ACTING PRESIDENT KUHL: We do.
12 We'll return to motions and resolutions.

13 The Chair recognizes Senator
14 Tully.

15 SENATOR TULLY: Thank you, Mr.
16 President.

17 On behalf of Senator Volker, I
18 wish to call up his bill, Print Number 7243-A,
19 recalled from the Assembly which is now at the
20 desk.

21 ACTING PRESIDENT KUHL: Secretary
22 will read.

23 THE SECRETARY: Calendar Number

1 1393, by Senator Volker, Senate Print Number
2 7243-A, an act relating to permitting non
3 bargaining unit salaried employees.

4 ACTING PRESIDENT KUHL: Senator
5 Tully.

6 SENATOR TULLY: Mr. President, I
7 now move to reconsider the vote by which this
8 bill was passed.

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

11 (The Secretary called the roll on
12 reconsideration.)

13 THE SECRETARY: Ayes 54.

14 ACTING PRESIDENT KUHL: Senator
15 Tully.

16 SENATOR TULLY: Mr. President, I
17 now offer the following amendments.

18 ACTING PRESIDENT KUHL:
19 Amendments are received and adopted.

20 Senator Tully.

21 SENATOR TULLY: Mr. President, on
22 behalf of Senator Libous, I wish to call up his
23 bill, Senate Print 6990-A recalled from the

1 Assembly which is now at the desk.

2 ACTING PRESIDENT KUHL: Secretary
3 will read the title.

4 THE SECRETARY: Calendar Number
5 1171, by Senator Libous, Senate Print Number
6 6990-A, an act to amend the Social Services Law.

7 ACTING PRESIDENT KUHL: Senator
8 Tully.

9 SENATOR TULLY: Mr. President, I
10 now move to reconsider the vote by which this
11 bill was passed.

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

14 (The Secretary called the roll on
15 reconsideration.)

16 THE SECRETARY: Ayes 54.

17 ACTING PRESIDENT KUHL: Senator
18 Tully.

19 SENATOR TULLY: Mr. President, I
20 now offer the following amendments.

21 ACTING PRESIDENT KUHL:
22 Amendments are received and adopted.

23 Senator Tully.

1 SENATOR TULLY: Mr. President, on
2 behalf of Senator Levy, I wish to call up his
3 bill, Senate Print Number 6593, recalled from
4 the Assembly which is now at the desk.

5 ACTING PRESIDENT KUHL: Secretary
6 will read the title.

7 THE SECRETARY: Calendar Number
8 632, by Senator Levy, Senate Print 6593, an act
9 to amend the Railroad Law.

10 ACTING PRESIDENT KUHL: Senator
11 Tully.

12 SENATOR TULLY: Mr. President, I
13 now move to reconsider the vote by which this
14 bill was passed and ask that the bill be
15 restored to the order of third reading.

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

18 (The Secretary called the roll on
19 reconsideration.)

20 THE SECRETARY: Ayes 54.

21 ACTING PRESIDENT KUHL: The bill
22 is restored to the order of third reading.

23 Senator Tully.

1 SENATOR TULLY: I now offer the
2 following amendments.

3 ACTING PRESIDENT KUHL:
4 Amendments are received and adopted.

5 Senator Tully.

6 SENATOR TULLY: Mr. President, I
7 now move to discharge the Committee on Rules -
8 from the Committee on Rules Assembly Print
9 Number 10352-A and substitute it for Senator
10 Levy's identical bill.

11 ACTING PRESIDENT KUHL:
12 Substitution is ordered.

13 Senator Tully.

14 SENATOR TULLY: Yes, Mr.
15 President.

16 On behalf of Senator Volker, I
17 move that the following bills be discharged from
18 their respective committees and be recommitted
19 to strike the enacting clause: Senate 7600-A.

20 ACTING PRESIDENT KUHL: Without
21 objection, substitution -- or excuse me, the
22 enacting clauses are stricken and the bills are
23 recommitted.

1 The Chair recognizes Senator
2 Wright.

3 SENATOR WRIGHT: Mr. President,
4 on behalf of Senator Larkin, I wish to call up
5 bill Print Number 7376-B, recalled from the
6 Assembly which is now at the desk.

7 ACTING PRESIDENT KUHL: Secretary
8 will read the title.

9 THE SECRETARY: Calendar Number
10 1392, by Senator Larkin, Senate Print 7376-B, an
11 act to amend the General Municipal Law.

12 ACTING PRESIDENT KUHL: Senator
13 Wright.

14 SENATOR WRIGHT: Mr. President, I
15 now move to reconsider the vote by which this
16 bill was passed.

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

19 (The Secretary called the roll on
20 reconsideration.)

21 THE SECRETARY: Ayes 54.

22 ACTING PRESIDENT KUHL: Senator
23 Wright.

1 SENATOR WRIGHT: Mr. President, I
2 now offer the following amendments.

3 ACTING PRESIDENT KUHL:
4 Amendments are received and adopted.

5 Senate will come to order. Take
6 your places. Staff find their places.

7 Senator LaValle.

8 SENATOR LAVALLE: Mr. President,
9 may we please return to the reports of the
10 standing committees. I believe there is a
11 report of the Rules Committee at the desk.

12 ACTING PRESIDENT KUHL: There is,
13 Senator LaValle. Return to the order of reports
14 of standing committees. Secretary will read the
15 report of the Rules Committee.

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

19 Senate Print 3371-C, by Senator
20 Velella, an act to amend the General Business
21 Law;

22 1307-A, by Senator Lack, an act
23 to amend the Public Health Law;

1 3600-A, by Senator Volker, an act
2 providing for the construction of a memorial;

3 5235, by the Senate Committee on
4 Rules, an act to amend the Social Services Law;

5 6322-A, by Senator Farley, an act
6 to amend the Education Law;

7 7265-A, by Senator Abate, an act
8 to authorize the city of New York to discontinue
9 the use as park lands;

10 7378, by Senator Larkin, an act
11 to amend the Administrative Code of the city of
12 New York;

13 7434, by Senator Nozzolio, an act
14 to authorize the New York State Urban
15 Development Corporation;

16 7445-C, by Senator Leibell, an
17 act to amend the General Municipal Law and the
18 Local Finance Law;

19 7806, by Senator Sears, an act to
20 amend the General Business Law;

21 7850, by Senator Farley, an act
22 to amend the Workers' Compensation Law;

23 7874, by Senator Trunzo, an act

1 authorizing the sole assessor;

2 7875, by Senator Alesi, an act to
3 amend the General Business Law;

4 7878, by Senator Bruno, an act to
5 amend the Vehicle and Traffic Law;

6 7919, by Senator Present, an act
7 to amend the Tax Law;

8 7920, by Senator DeFrancisco, an
9 act authorizing the extension of the Geddes Fire
10 Protection District;

11 7922, by Senator Hannon, an act
12 to amend the Public Health Law and the Education
13 Law;

14 7925, by Senator Hoblock, an act
15 to amend the Education Law; and

16 7928, by Senator Velella, an act
17 to amend the Insurance Law.

18 All bills ordered directly for
19 third reading.

20 ACTING PRESIDENT KUHL: Senator
21 LaValle.

22 SENATOR LAVALLE: Mr. President,
23 I move to accept the report of the Rules

1 Committee.

2 ACTING PRESIDENT KUHL: Motion to
3 accept the report of the Rules Committee. All
4 those in favor signify by saying aye.

5 (Response of "Aye.")

6 Opposed nay.

7 (There was no response.)

8 The Rules report is accepted.

9 Bills are ordered directly to third reading.

10 Chair recognizes Senator
11 LaValle.

12 SENATOR LAVALLE: Mr. President,
13 at this time, may we please take up the calendar
14 and may we begin with Calendar Number 1713.

15 ACTING PRESIDENT KUHL: Senator
16 LaValle.

17 SENATOR LAVALLE: Mr. President,
18 can we go to, or do we have any housekeeping at
19 the desk?

20 ACTING PRESIDENT KUHL: We do,
21 Senator LaValle.

22 SENATOR LAVALLE: Motions and
23 resolutions.

1 ACTING PRESIDENT KUHL: There are
2 a couple crosses coming from the Assembly we
3 really ought to take care of.

4 SENATOR LAVALLE: Take that up.

5 ACTING PRESIDENT KUHL: Return to
6 the order of motions and resolutions and ask the
7 Secretary to read.

8 THE SECRETARY: Calendar Number
9 636, by Senator Hoblock, Senate Print 6736-B, an
10 act to amend the Transportation Law.

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

15 (The Secretary called the roll on
16 reconsideration.)

17 THE SECRETARY: Ayes 54.

18 ACTING PRESIDENT KUHL:
19 Substitution.

20 THE SECRETARY: Senator Hoblock
21 moves to discharge from the Committee on Rules
22 Assembly Bill Number 1768-B and substitute it
23 for the identical Third Reading Calendar Number

1 636.

2 ACTING PRESIDENT KUHL:

3 Substitution is ordered.

4 Secretary will read the last
5 section.

6 THE SECRETARY: Calendar Number
7 636, by member of the Assembly Bragman, Assembly
8 Print 1768-B, an act to amend the Transportation
9 Law.

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: We didn't read...

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

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

18 ACTING PRESIDENT KUHL: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 54.

22 ACTING PRESIDENT KUHL: The bill
23 is passed.

1 Secretary will read a
2 substitution.

3 THE SECRETARY: Calendar Number
4 1546, by Senator Bruno, Senate Print 7755-A, an
5 act to authorize the conveyance of a permanent
6 and temporary easement.

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

9 (The Secretary called the roll on
10 reconsideration.)

11 THE SECRETARY: Ayes 54.

12 ACTING PRESIDENT KUHL: The bill
13 is before the house.

14 Secretary will read the
15 substitution.

16 THE SECRETARY: Senator Bruno
17 moves to discharge from the Committee on Rules
18 Assembly Bill Number 11068-A and substitute it
19 for the identical Third Reading Calendar 1546.

20 ACTING PRESIDENT KUHL:
21 Substitution is ordered.

22 Secretary will read the last
23 section.

1 THE SECRETARY: Calendar Number
2 1546, by the Assembly Committee on Rules,
3 Assembly Bill Number 11068-A, an act to
4 authorize the conveyance of a permanent and
5 temporary easement.

6 SENATOR LEICHTER: Mr. President.

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

9 SENATOR LEICHTER: Mr. President,
10 it is unclear to me what bills we're doing. I
11 understand they're bills that crossed.
12 Nevertheless we'd like to know what the bills
13 are. We don't have the bills before us. At
14 least if we could have our -- some description
15 of the bills.

16 ACTING PRESIDENT KUHL: Senator
17 Leichter, for your information, there were three
18 bills on the regular calendar which is on your
19 desk, that's the yellow calendar, Calendar
20 Number 68, which were previously passed which
21 we're now recognizing that the bills were passed
22 by the Assembly; they've come across to us, so
23 we're taking up the crosses, substituting the

1 Assembly bills and then re-passing them.

2 The first bill that we took up
3 which passed was Senator Hoblock's bill,
4 Calendar Number 636, and now we are on 1546 and
5 we have just substituted the Assembly bill.
6 We've read the last section. If you'd like to
7 debate the bill, the bill is before the house
8 for debate. If not, we'll -- we'll call the
9 roll.

10 SENATOR GOLD: Which bill?

11 ACTING PRESIDENT KUHL: Calendar
12 Number 1546.

13 SENATOR ONORATO: Read the last
14 section.

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

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

19 ACTING PRESIDENT KUHL: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 54.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 Secretary will read the title now
3 to Calendar Number 1458.

4 THE SECRETARY: Calendar Number
5 1458, by Senator Maziarz, Senate Print 7277-B,
6 an act to amend the State Administrative
7 Procedure Act.

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

10 (The Secretary called the roll on
11 reconsideration.)

12 THE SECRETARY: Ayes 54.

13 ACTING PRESIDENT KUHL: The bill
14 is restored to the Senate calendar.

15 Senator LaValle.

16 SENATOR LAVALLE: Mr. President,
17 if we can now go back to the Supplemental
18 Calendar Number 1 and if we can begin with
19 Calendar Number 1713.

20 ACTING PRESIDENT KUHL: Want to
21 do this on controversial, Senator LaValle?

22 SENATOR LAVALLE: Yes,
23 controversial, please.

1 ACTING PRESIDENT KUHL: On the
2 controversial reading of Supplemental Calendar
3 Number 1, page number 1, Secretary will read the
4 title to Calendar Number 1713.

5 THE SECRETARY: Calendar Number
6 1713, by the Senate Committee on Rules, Senate
7 Print 5235, an act to amend the Social Services
8 Law, in relation to medical assistance
9 exclusion.

10 SENATOR PATERSON: Explanation.

11 SENATOR OPPENHEIMER:
12 Explanation.

13 ACTING PRESIDENT KUHL: Senator
14 LaValle.

15 SENATOR LAVALLE: Mr. President,
16 before we begin the debate, I would ask since
17 this is an important bill, important debate, if
18 we can have order in the house, so that courtesy
19 to the members discussing the bill will be
20 afforded to them.

21 ACTING PRESIDENT KUHL: The point
22 is very well taken, Senator LaValle, and
23 Senators please take their seats, staff take

1 their seats. If you have any conversations take
2 them out of the chamber. Thank you.

3 Senator Farley, an explanation of
4 Calendar Number 1713 has been asked for by the
5 acting Minority Leader, Senator Paterson.

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

8 Actually, this is a Rules bill,
9 but I'll be happy to try to explain it. It's
10 the Donovan bill, one that has passed this house
11 for a number of years. In years past, we used
12 to have to do or we did an amendment to the
13 budget, which was rather unfortunate to hold up
14 the budget because a number of people that feel
15 very strongly on -- as far as Medicaid funding
16 of abortion would not feel it was appropriate to
17 hold up the budget and consequently used to have
18 to change and switch and that sort of thing, and
19 this is a bill that I know, that Senate bill,
20 the late Senator Donovan always wanted to do,
21 and basically it's a federal conformity bill.

22 It's not -- it does not outlaw
23 abortion. So often during the debate when this

1 is being brought up, they say, you know, takes
2 away a woman's right to choose. Basically, for
3 many of us, we feel that abortion -- an abortion
4 represents a mistake. It's a tragedy. It's a
5 personal, and it's a private decision for many
6 of us. We feel it should be paid with personal
7 and private funds, but the Supreme Court has
8 spoken and they -- and the federal government
9 has said that the states must provide for
10 abortions, cost of paying for abortions for poor
11 women when the life of the mother is threatened,
12 for rape and incest, it is reported, and so
13 forth, and 40-some-odd states have taken -- have
14 adopted this legislation and have this. We're
15 one of the few states in the nation that pays
16 for elective -- elective abortions in any case,
17 and I think it's inappropriate.

18 I think that this is a piece of
19 legislation, unfortunately, that does not even
20 come out on the floor of the Assembly, which I
21 think is a tragedy in and of itself. I think
22 it's important that everybody at least express
23 their opinion on this. For all the 20-some

1 years that I've been here, some of the debate
2 has been vitriolic, and everything, but I don't
3 think that's the appropriate way to approach
4 this.

5 The Governor of this state,
6 Governor Pataki, has supported this legislation.
7 There's a number of pro-choice people that
8 support this legislation, not because of their
9 feeling on abortion. They just feel that the
10 government should not be paying for elective
11 abortions in all cases.

12 Now, this is reasonable. It's
13 moderate. It's something that we need to do.
14 New York State is trying to get its fiscal house
15 in order. Here's an example of something that
16 we can do to cut our Medicaid costs which are
17 outrageously out of line with the rest of the
18 nation. The state of New York is spending more
19 on Medicaid than California and Texas combined,
20 and they're both bigger than we are, but I urge
21 the support of this bill.

22 I know that there's a number of
23 people that will want to speak on it, and we'll

1 keep it brief but, Mr. President, I -- I offer
2 this legislation to my colleagues with the hope
3 that it will pass.

4 ACTING PRESIDENT KUHL: Senator
5 Goodman.

6 SENATOR GOODMAN: Mr. President,
7 once again we're asked to go through the annual
8 ritual which involves this house passing this
9 bill and the other house not introducing it and
10 so it should be evident to all within the sound
11 of my voice that this is a one-house bill which
12 does not have any possibility of becoming law.
13 Therefore, I think the need for attenuated
14 debate is quite unnecessary and I shall be
15 brief.

16 I ask the house simply to
17 visualize for a moment the condition of two
18 women. One woman is pregnant, healthy, and is
19 able to carry her baby to full term, but she
20 lost her job a year ago and she is economically
21 incapable of paying for the cost of the delivery
22 of her baby. Society assumes the cost of that
23 delivery through the process of Medicaid.

1 The second woman has lost her job
2 a year ago and she too finds herself
3 impoverished but, after consultation with her
4 physician who advises her that this baby has a
5 serious abnormality which will cause its death
6 immediately upon birth if not before, she speaks
7 with her clergyman, she speaks with her husband
8 and she determines that it is clearly in her
9 best interest and that of her unborn child who
10 has no chance to life, to have an abortion; but
11 society says to her, No, you may not have that
12 abortion because you have to pay for it yourself
13 and she can not afford to pay for it herself.

14 I put to you the proposition that
15 this juxtaposition of the healthy woman who has
16 a normal pregnancy for which society is prepared
17 to pay her even in her impoverished condition,
18 poses a remarkable inequality between the poor
19 woman who has the necessity for an abortion and
20 the woman who does not.

21 Now, this is not a matter of law
22 because the Supreme Court of the United States,
23 and this very house 24 years ago, made a

1 decision which said that abortions may be
2 performed legally within the first trimester of
3 pregnancy, and we're not here to debate whether
4 we believe abortions should be performed beyond
5 that point because there are many of us who
6 believe in the freedom of choice proposition who
7 feel that advanced term abortions are
8 inappropriate.

9 But, Mr. President, I urge upon
10 the house the notion that it is extremely
11 important that society not create a dichotomy
12 between the women of means and the women who are
13 impoverished because to do so would be cruelly
14 inappropriate, undemocratic and against all of
15 the traditions of the way our society has always
16 functioned.

17 So, Mr. President, I ask that the
18 house consider very carefully its options in
19 this matter and, when viewed through the lens
20 which I suggest that we look at this, that we
21 try to defeat this bill once and for all and
22 stop the annual procedure of passing one-house
23 bills which have no possibility of proceeding

1 beyond this point.

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

4 SENATOR OPPENHEIMER: Thank you.

5 I've been spending a fair amount
6 of time in the past year looking at the problem
7 of teen pregnancy prevention and what we might
8 do in this state to -- to advance the knowledge
9 and all of the necessary medical information
10 that could be provided to teens so that they
11 might know how to prevent pregnancies and how,
12 therefore, to go on and live what would be a
13 fuller life than they would be able to were they
14 to have small children at early ages.

15 I think we are witnessing today a
16 uniquely American tragedy of having children
17 having children, and we have few means of
18 combatting this -- this terrible tragic trend
19 and the Health Department statistics show that
20 nearly one-quarter of New York State's children
21 are being born to single parent families.

22 Improved pregnancy prevention
23 programs and increased family planning services

1 and continued availability of abortion to all
2 sectors of our population are, as I see it, the
3 essential elements of prevention, and continued
4 Medicaid funding of abortion is essential if we
5 are to reach the most vulnerable young, in
6 variably poor women. Medicaid-funded abortions
7 have enabled many, many of our poor teens to
8 have these medical procedures done in a timely
9 and safe fashion, and it has helped our most
10 vulnerable young women.

11 Access to these funds has stemmed
12 the tide of welfare dependency and has curbed
13 the trend of children having children, though a
14 great deal more still has to be done.

15 Without Medicaid-funded abor
16 tions, increasing numbers of our state's poor
17 youth will have their futures foreclosed. They
18 will be swallowed up by the web of welfare
19 dependency and their children will face a world
20 of much hardship and despair. Medicaid-funded
21 abortions have been in the central part of our
22 arsenal in our fight against poverty. It has
23 helped stop babies from being born into poverty

1 and has aided many a young woman in getting a
2 new lease on her life.

3 I believe it is a fair and just
4 policy that all women should have an equal
5 choice irrespective of what their personal
6 income is. I think New York State has never
7 turned its back on our pregnant poor. True, we
8 may be one of a dozen states that has not, but I
9 take that as a badge of honor for our state. We
10 know that the poor would suffer much higher
11 maternal deaths and infant deaths as they did in
12 the days when abortion was not legal, but our
13 well-to-do families could always travel abroad
14 or go elsewhere, but the poor women had many,
15 many instances of maternal deaths and infant
16 deaths.

17 So I think it's been very
18 excellent public policy that we have always
19 supported funding for all women. It's a major
20 component of a woman's health care, and many of
21 us know that an unwanted child, if forced to be
22 born, more often than not, unfortunately,
23 becomes an abused child, a neglected child, an

1 unloved child, and I think we all would choose
2 that our youngsters be brought up in an
3 environment of caring, love and support.

4 I, for one, do not believe it is
5 a function of government to control a citizen's
6 reproductive choice, and were this money not
7 available to poor women, that is what we would
8 be doing.

9 A while back, there was a
10 one-house bill in this Senate chamber,
11 Republican budget bill, and in that bill which
12 was supported by, I believe everybody on the
13 Republican side of the aisle, there was in that
14 bill a spending cap which said there would be no
15 additional monies for children born to a welfare
16 mother.

17 Well, you can't have it both
18 ways. You can't say that it's not possible to
19 have an abortion and then say, if you have the
20 child and you are on welfare, we will not
21 support this child. Simply can't restrict
22 funding for a child once the child is born if
23 you have not offered abortion to that Medicaid

1 mother who wants it.

2 The Catholic Conference says also
3 that you can't have it both ways and since you
4 can't have it both ways, the proper way to go is
5 to take away that family life. I think what we
6 all seek is to have basically teen pregnancy
7 eradicated if it is not a wanted child and a
8 responsible parent and, therefore, it would be
9 necessary, I think, for us to move in a much
10 broader fashion with much more funding behind it
11 -- behind it, and the emphasizing of teen
12 pregnancy prevention, family life evident in the
13 schools and other options.

14 I think what we all seek is we
15 seek what has become sort of a mantra, which is
16 abortion should be safe, it should be legal, it
17 should be accessible, and it should be rare but
18 in the meantime to not offer it to poor women is
19 simply, I believe, contrary to the philosophy
20 and the governmental principles of New York
21 State as has been enunciated through all these
22 years by supporting Medicaid funding for poor
23 women.

1 ACTING PRESIDENT KUHL: The Chair
2 recognizes Senator Abate.

3 SENATOR ABATE: I rise in strong
4 opposition to this legislation. The sponsor
5 said in the opening remarks that this
6 legislation does not outlaw abortion and that if
7 one is pro choice, that they can support this
8 legislation. I don't think that's the case.
9 One cannot be pro-choice and be pro-choice for
10 some women and not other women.

11 What this bill in essence does is
12 punishes poor women. It establishes two classes
13 of citizens, one class of citizens that have
14 access to health care, another set of citizens
15 that do not have access to health care. What we
16 are saying to poor women is that they don't have
17 all the rights, all the choices that people who
18 can afford to pay for an abortion can have.

19 What this legislation says, if
20 you are wealthy, for just about any reason you
21 can have an abortion. If you are a poor woman,
22 however, only if it's necessary to save your
23 life can you have an abortion. So that means if

1 that woman is facing a serious health
2 impairment, she cannot get an abortion. If that
3 woman is told by her doctor if she gets an
4 abortion that she could be crippled for the rest
5 of her life, she will not have an abortion, and
6 we're also saying by this legislation that if
7 she is raped or as a result of incest she
8 becomes pregnant and she cannot afford an
9 abortion and because she did not report the case
10 to law enforcement, she also cannot get Medicaid
11 funding for an abortion.

12 What are we doing here? We're
13 again creating two classes of citizens. Do we
14 want such a restrictive bill that a poor woman
15 is sexually abused, is raped and just because
16 she doesn't report it to the police she has to
17 bear that child and suffer the rest of her
18 life? Let's think about it. It just does not
19 make sense.

20 I believe we're a land, a great
21 state that believes in equal protection under
22 the law. If we believe that abortion is the law
23 of the land -- and it is and maybe some people

1 disagree with it, but until it is overturned, we
2 cannot say to a poor woman she is a second class
3 citizen and thereby not have access to health
4 care, and eventually what we're saying to women
5 -- because many women will say, I don't want to
6 take the risk of being crippled. I don't want
7 to live with a child because I was raped or
8 subject to incest -- they will seek abortions,
9 but they will seek the most unsafe abortions.
10 They will go underground, and what we're saying
11 to these poor women, we don't really care what
12 happens to you. We'll let you figure out a way
13 how you can get this unsafe abortion and you
14 will have to deal with the consequences of that
15 decision.

16 So this is bad public policy. It
17 is bad health policy. I think it's inhumane.
18 It's not compassionate to poor women and
19 ultimately we will be jeopardizing the health
20 and safety of poor women throughout the state.

21 So I urge legislators, even if
22 you don't support abortion, understanding that
23 this is the law of the land and that we have to

1 provide equal access to health care no matter
2 who the woman is, what group she belongs to or
3 what economic status she holds, I urge you all
4 again to oppose this legislation, and I think it
5 would be wise policy to reject it another year
6 and to not make it more than a one-house bill,
7 hopefully, ever in this state.

8 ACTING PRESIDENT KUHL: Senator
9 Dollinger.

10 SENATOR DOLLINGER: Am I next?

11 Mr. President, I've been through
12 this debate before and I think I'll take the
13 advice of Senator Goodman and be short.

14 I understand the conviction that
15 brings Senator Farley to the table today with
16 this proposal. I hope he'll understand the
17 conviction that those of us who oppose this
18 stand here to voice this opposition.

19 Senator Farley, I came to this
20 chamber with one firm, firm conviction, and that
21 is that we should do nothing in this Legislature
22 to drive women back to a time when they went
23 into back alleys and suffered the danger to

1 their life and their health to elect to have an
2 abortion.

3 I think many of us in this
4 chamber who are opposed to this legislation may
5 not like abortion but it is the constitutional
6 right of a woman in this country. It is a
7 constitutional right of a woman if her health is
8 at risk and if her life is at risk, and it seems
9 to me the one thing we should not do is drive
10 women back into the back alleys for the type of
11 mutilation and danger to their health that
12 existed before Roe against Wade.

13 This bill will do that. This
14 bill will take poor, desperate women and give
15 them no other choice, give them no other
16 alternative but to quietly whisper for a place
17 that they can find an abortion on the absolute
18 cheap. That we cannot tolerate. If we believe
19 in women's health and if we believe that women
20 should have the right to choose their health
21 care, you must not vote for this bill. Leave
22 the choice up to a woman. Let the government
23 fund it so that if an abortion does have to

1 occur, if a woman has to make that exceedingly
2 difficult choice, she will have health care
3 dollars provided by this state to pay for it.
4 To do anything else is to drive us back to a
5 dark and sinister time that ought to be buried
6 deep in America's past.

7 ACTING PRESIDENT KUHL: Senator
8 Marchi.

9 SENATOR MARCHI: Mr. President,
10 we're discussing a bill here which does not
11 represent to me the ideal formulation for the
12 subject matter that we're treating, but it's the
13 one we have and the one that's been used most
14 usually and because it is a one-house bill,
15 there is an opportunity to indicate -- to
16 indicate that public mores have not come to rest
17 the way the situation is today.

18 The Hippocratic oath was
19 administered 2400 years ago and they are very -
20 well, there are younger members, but there are
21 very few members here who were not delivered by
22 a doctor who took the Hippocratic oath, a few of
23 them -- a few of us, Franz, who were not

1 delivered by a doctor who took the Hippocratic
2 oath. They swore at that time. It was our
3 mores.

4 I went to law school. If I was
5 asked in an examination or in a test the subject
6 of abortion, at that time it was a crime. This
7 was the public mores until a few years ago -- a
8 few years ago. So at that time we had some
9 sensitivity and respect for the unborn. The -
10 the unborn has no respect because we have said
11 now that arbitrarily, regardless of the
12 circumstances, a woman has the absolute right to
13 untrammled access to an abortion for any reason
14 at all, a capricious reason. We wanted a boy.
15 We're getting a girl. We wanted a girl. We're
16 getting a boy or it interferes with my life
17 style. I don't have to give any reason, none.

18 Now, is that even according a
19 smidgen of respect to the unborn? Where is the
20 respect for the unborn? We have almost as many
21 abortions in this state -- we heard some very
22 compelling cases mentioned, and I respect you
23 for it and your sentiments you expressed because

1 they are compelling and they are gripping and
2 they make you wrestle with your conscience and
3 these women, some of them have real extenuating
4 circumstances, but how can we say that in the
5 state of New York we have as many abortions
6 almost as we have natural births? In the city
7 of New York -- I think it's just a smidgen ahead
8 in the city of New York with abortions out
9 numbering the number of natural births. There
10 is no respect for the unborn. It's -- it's the
11 equivalent of the fecal matter. No more, no
12 less. If you want it out, you get it out.

13 Now, has our -- you know, consent
14 bills, I don't care what it is. Has our -- have
15 we become so impervious for the feeling of the
16 unborn at this point that -- well, I just don't
17 think -- I cannot accept the fact that this
18 issue has come to rest with the American
19 people. I don't think so. Even people who go
20 through that procedure sometimes do it with a
21 very, very -- it must be a very difficult
22 situation, especially in the circumstances that
23 have been described here that are -- that are -

1 weigh very heavily, but this is -- this is a -
2 the issue of the unborn not having even the
3 slightest -- I was watching a television program
4 recently where -- I don't know whether you've
5 ever heard of Bill Press, but he was debating
6 with Novak, I believe, on this very issue, and
7 somebody asked the question to Press about why
8 it should be so accessible and so available, and
9 they were discussing the partial birth
10 circumstances, and he said, "Look. If I have a
11 problem with my hemorrhoids, I get rid of them,
12 and that's the same answer I give you. I
13 believe that if a woman wants to get rid of the
14 fetus, they have a right to."

15 So, I mean, Bill Press on
16 national television tells us and equates this to
17 his hemorrhoids. This is the -- this is where
18 some of the reasoning has reached. We're
19 speaking of a constitutional right. Isn't any
20 moral or ethical consideration that has -- even
21 a tiny bit of consideration for that unborn?
22 Perhaps we're not -- it doesn't come to rest
23 most comfortably under these circumstances

1 because we -- our own medical insurance for
2 which taxpayers' money are -- is paid while part
3 of that expense goes for our medical plans
4 ourselves. I find that difficult, but it's the
5 only way which we can indicate that we are not
6 happy with this system. We are not satisfied
7 with the formulation that the unborn have
8 absolutely no right at all.

9 Is that the way we feel? I
10 really don't believe it. I don't believe
11 there's a member in this house that really
12 believes that.

13 As you get away from other
14 personal circumstances, it becomes more
15 difficult in its application, but we've come a
16 long way. We've come a long way. When the
17 unborn is so deprived of any consideration -
18 any consideration, it's no more than an appendix
19 or fecal matter. Is that -- is that where
20 American morality is? Is that our sense of
21 values? I don't believe there's a member in
22 this house that shares it, and some of you may
23 have your own reasons, you know, and that's

1 between yourselves and God. I mean, you have to
2 vote your own conscience, but I cannot accept
3 this as a general premise to be applied to the
4 American people. Otherwise, we're in a pretty
5 bad state.

6 Do I like this bill? I could
7 probably argue against it as much as for it, but
8 it's the only way in which I can indicate in a
9 one-house bill because over there they wouldn't
10 even discuss it publicly. At least we're having
11 a discussion here.

12 I -- I support this bill for the
13 reason that it is a one-house bill because the
14 proper formulation would -- is probably yet to
15 be found, but it's not under present policy,
16 under present concepts. So to say that an
17 unborn child is nothing -- nothing that can be
18 treated like that for personal convenience, no
19 matter how flimsy the reason is -- the examples
20 that were cited at least raise a moral tension,
21 but this is not the way things have happened
22 over the last 20 years since Roe v. Wade.

23 I vote -- I urge a positive vote

1 on this bill at least -- at least for that poor
2 unborn that at least there is some voice and
3 perhaps we may be able to evolve a policy that
4 recognizes something that -- well, I think the
5 present situation is indescribable if we reflect
6 on it very seriously, and I hope this bill
7 passes.

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

10 SENATOR WALDON: Thank you very
11 much, Mr. President, my colleagues.

12 This is a very delicate issue and
13 emotions are intense on both sides. I won't
14 burden you with repeating the arguments pro or
15 con.

16 The area I represent is not an
17 area of poor people. In fact, St. Albans,
18 Laurelton, Springfield Gardens is noted for
19 having a higher level income per capita than the
20 balance of Queens County. So this is not an
21 issue that I am intensely involved with because
22 it truly reflects the people I represent, but
23 the reason that I support women having a choice

1 and the right to do with their bodies what they
2 wish is not only is it constitutionally mandated
3 but because we are being hypocritical if we deny
4 poor women, many of them young girls who have
5 been impregnated by young boys who really don't
6 know what the future is all about and have no
7 sense of responsibility, to carry those children
8 to full term. What we're really creating is an
9 ongoing wave of humanity that will get itself
10 into trouble and which will cause our criminal
11 justice system to be overflowing.

12 I don't want you to say, Well,
13 gee whiz, Al. That's kind of a cold way to put
14 it, abortion versus whether or not the prison
15 system has too many people, but that's exactly
16 what we do to an extent when we deny women the
17 right to say, I cannot take care for this
18 child. I have three children born out of
19 wedlock already. What am I to do? I'm on
20 welfare. A whole host of issues rain down upon
21 these confused young people, and I encourage us
22 to recognize that we cannot force people or
23 should not, I should say, force people to create

1 a wave of humanity to satisfy the needs of our
2 criminal justice system.

3 And so based on that premise, I
4 would encourage us to be against this proposal.
5 I think some people will have a sense of hope if
6 they can get their lives together at last,
7 unfortunately, making the painful decision to
8 have an abortion. I don't think anyone is happy
9 when they have to make that decision, but I
10 think under certain circumstances, the decision
11 to abort rather than to carry to full term is
12 the most humane, is the wisest and is the best
13 in terms of our having a stable society. As
14 cold as that argument may seem, I really believe
15 that it is true.

16 I encourage you to vote no on
17 this proposal.

18 ACTING PRESIDENT KUHL: Senator
19 Gold.

20 SENATOR GOLD: Thank you, Mr.
21 President.

22 Mr. President, there's a
23 decorator who was hired by one of our colleagues

1 -- and I saw the result of the job. The man is
2 brilliant, this decorator and selected 20
3 magnificent -- magnificent pieces of art,
4 decorative items except when it was all put
5 together, and I saw the house. It was the
6 biggest mishmash you've ever seen because it
7 didn't fit, and that's unfortunately the way we
8 sometimes look at legislation. We do not look
9 at the result of everything that we put
10 together.

11 There have been suggestions this
12 year that we substantially limit welfare
13 benefits which would impact upon children who
14 are born to poor people. We have programs being
15 cut, Pre-K, all kinds of programs to the poor
16 that are being cut. If any of you have any
17 experience in the field of adoption in the state
18 of New York, you would know how difficult it is
19 for two ordinary, likeable, decent, caring
20 people to become adoptive parents in New York
21 and, as I pointed out years ago, it's
22 interesting. We are going to bar abortion.
23 Children must be born, but if they starve to

1 death after that, if there's nothing for them,
2 no future, if their parents can't maintain them,
3 if they can't be adopted, that's not our fault.

4 I said that years ago and a
5 wonderful man who is beloved by many of us,
6 James Donovan, jumped to his feet and said to
7 me, "Senator, you vote for this bill and I will
8 support every educational program. I'll support
9 funding for these children. I'll support
10 medical attention for these children. I'll do
11 everything I can."

12 That is why, while I have voted
13 contrary to James Donovan all of these years, I
14 loved him and I respected him and believed him
15 to be as sincere as a John Marchi, someone who
16 you really believed understood the entire
17 issue. Didn't look to pick a piece of
18 legislation here and there but understood as
19 that architect I spoke of did not understand,
20 how important that the whole mosaic fit
21 together.

22 I have said before, I do not
23 personally believe in abortion as a method of

1 birth control. I think it's a serious
2 situation, and in the same breath, I've always
3 said to you that I believe there are some issues
4 which belong between a woman and her doctor and
5 her conscience and the Legislature doesn't
6 belong there, but I tell you that in a political
7 atmosphere where we do not look behind the
8 consequences of any particular piece of
9 legislation, this kind of legislation I cannot
10 support. I cannot support it because I know the
11 rest of the story as a certain columnist is
12 famous for saying.

13 If you look at the rest of the
14 story, the failures of this Legislature in this
15 budget negotiation and the budget as originally
16 proposed, to understand what is in store, then I
17 cannot take a bill like this with some
18 sincerity.

19 Do I believe that Senator Hugh
20 Farley is sincere in his beliefs and in offering
21 this legislation? Absolutely. I wouldn't
22 question the man's sincerity ever, but the
23 problem is that there is a reality to the

1 overall plan that we send out to society in
2 terms of our whole legislative package.

3 This bill is a life and death
4 bill, but it is not merely an issue that affects
5 the fetus. It is not merely an issue that
6 affects one person or family. It is a bill that
7 has far-reaching effects, and my position is
8 that until the Legislature is willing to look at
9 the total package and see that far-reaching
10 effect and fund adequately the lives involved, I
11 can't support the bill.

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

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

16 ACTING PRESIDENT KUHL: Senator
17 Paterson, why do you rise?

18 SENATOR PATERSON: There will be
19 a slow roll call.

20 ACTING PRESIDENT KUHL: Are there
21 five members in the house requesting a slow roll
22 call?

23 The Secretary will read the roll

1 slowly.

2 THE SECRETARY: Senator Abate.

3 SENATOR ABATE: No.

4 THE SECRETARY: Senator Alesi.

5 (There was no response.)

6 Senator Babbush.

7 (There was no response.)

8 Senator Bruno, aye.

9 Senator Connor.

10 (Negative indication)

11 THE SECRETARY: No.

12 Senator Cook.

13 ACTING PRESIDENT KUHL: Senator
14 Cook, to explain his vote.

15 SENATOR COOK: Mr. President, I
16 guess every once in a while we have to stand up
17 and reaffirm that we're good and holy or
18 something. I don't know quite why these bills
19 keep appearing.

20 What bothers me most about this
21 bill, quite frankly, is the underlying
22 assumption that anyone who has an abortion is
23 evil and, therefore, it's the responsibility of

1 the state to punish them.

2 I think clearly if we were to put
3 ourselves in the shoes of those people who in
4 their own good conscience have to make a
5 decision as to whether to have an abortion, we
6 would be seriously troubled at the -- weighing
7 the options that we have before us and we would
8 understand that there are times when people have
9 little choice except to have an abortion due to
10 whatever circumstances may exist.

11 For us to indicate that those who
12 are wealthy enough to make that choice should
13 have it and those who are poor should not have
14 it is to indicate that we have, indeed, two
15 societies in our state. I don't think we can
16 stand before the people of the state and say
17 that we are two states. I think we have to be
18 one state, and for that reason, I vote in the
19 negative.

20 ACTING PRESIDENT KUHL: Senator
21 Cook will be recorded in the negative.

22 Continue to call the roll.

23 THE SECRETARY: Senator

1 DeFrancisco.

2 (There was no response.)

3 Senator DiCarlo.

4 ACTING PRESIDENT KUHL: Senator
5 DiCarlo, to explain his vote.

6 SENATOR DiCARLO: Mr. President,
7 I wasn't going to speak on this bill. It's a
8 very difficult issue, abortion, but things have
9 been said here this evening that I feel
10 compelled to stand up and just comment on.

11 I spoke about a month ago, two
12 months ago on the partial birth abortion, and I
13 spoke about how when I was 13 years old I was
14 visiting the Assembly chamber and they voted on
15 the abortion bill, and I spoke about how far
16 we've come when the emotions were so strong
17 about first trimester abortions and now we were
18 debating -- and I was debating as a member of
19 the Senate partial birth abortions and how far
20 down the slope we've come, and then this evening
21 I hear people speak about, Well, you know, it's
22 -- maybe it's cheaper to abort than risk the
23 costs to society and prison, and then I remember

1 an Assembly race in my district about 15 years
2 ago -- and I wasn't a candidate, but one of the
3 candidates stood up and the debate was in a
4 church, and I'll never forget how appalled I was
5 when one of the candidates switched his position
6 on abortion and the reason this candidate gave
7 in the middle of a church was that, you know,
8 it's a lot cheaper to pay for an abortion than
9 it is to pay for that kid for welfare for the
10 rest of its life, and now in this chamber those
11 who argue against this bill use that as an
12 example, and I think it's time for a morality
13 and a reality check, and I vote no -- I vote
14 yes.

15 ACTING PRESIDENT KUHL: Senator
16 DiCarlo will be recorded in the affirmative.

17 Continue to call the roll.

18 THE SECRETARY: Senator
19 Dollinger.

20 SENATOR DOLLINGER: Explain my
21 vote, Mr. President.

22 ACTING PRESIDENT KUHL: Senator
23 Dollinger, to explain his vote.

1 SENATOR DOLLINGER: This is a
2 moral issue. This is a moral issue of whether
3 we will divide this state into those who can
4 afford to exercise their constitutional right to
5 an abortion and those that can't afford it and,
6 therefore, can't exercise it.

7 It seems to me that we can talk
8 about morals all we want, but I'm willing to
9 leave the individual morality to the woman that
10 has to make the choice and the moral value
11 judgment that we make in this chamber is that we
12 are willing to create an equal playing field for
13 all of the women of this state in exercising
14 that constitutional right.

15 There's a morality involved in
16 this vote, and it seems to me if you believe in
17 equal choice for all women, your morality
18 compels you to vote in the negative.

19 I'll be voting in the negative,
20 Mr. President.

21 ACTING PRESIDENT KUHL: Senator
22 Dollinger will be recorded in the negative.

23 Continue to call the roll.

1 THE SECRETARY: Senator Espada.

2 (There was no response.)

3 Senator Farley.

4 ACTING PRESIDENT KUHL: Senator
5 Farley, to explain his vote.

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

8 Senator Cook, nobody called
9 anybody evil. I respect your judgment on
10 abortion. I happen to feel it's morally wrong.
11 I feel deeply on that, but I also respect any
12 feeling of my colleagues in here, but let me say
13 why this bill comes forward: Because the
14 Majority of this house for the whole 20 years
15 that I have served here feels that this issue
16 should be addressed, feels that this issue
17 should be spoken to.

18 The reason, Senator Marchi, that
19 this bill is in this present form is because it
20 can get 33 votes. It's a bill that is a
21 compromise. It doesn't answer. It doesn't
22 outlaw abortion. I'm wondering if I'm hearing
23 things right here. We're not denying anybody

1 the right to have an abortion. The Supreme
2 Court has spoken on that subject. What we're
3 saying is that the taxpayers of the state of New
4 York are going to pay for an abortion for poor
5 women when their life is threatened, when
6 there's rape that is reported and incest, as do
7 44 other states. They're not evil. The rest of
8 the nation isn't evil.

9 I think that this is a reasonable
10 piece of legislation and I urge my colleagues to
11 support it.

12 ACTING PRESIDENT KUHL: Senator
13 Farley will be recorded in the affirmative.

14 Continue to call the roll.

15 THE SECRETARY: Senator Gold.

16 SENATOR GOLD: No.

17 ACTING PRESIDENT KUHL: Senator
18 Gonzalez.

19 SENATOR GONZALEZ: No.

20 THE SECRETARY: Senator Goodman.

21 SENATOR GOODMAN: No.

22 THE SECRETARY: Senator Hannon.

23 SENATOR HANNON: Yes.

1 THE SECRETARY: Senator Hoblock.

2 SENATOR HOBLOCK: No.

3 THE SECRETARY: Senator Hoffmann.

4 SENATOR HOFFMANN: No.

5 THE SECRETARY: Senator Holland.

6 SENATOR HOLLAND: Yes.

7 THE SECRETARY: Senator Johnson.

8 SENATOR JOHNSON: Mr. President.

9 ACTING PRESIDENT KUHL: Senator
10 Johnson.

11 SENATOR JOHNSON: Mr. President,
12 I would like to follow up on the recent response
13 of Senator Farley in explaining his vote and to
14 make clear what may be a misperception that this
15 does not prohibit abortions. Some may vote for
16 it because they think it does or maybe they
17 would desire that to be the case but it isn't,
18 but what this bill does say is a lot of
19 taxpayers that don't believe in abortions resent
20 having their money spent for voluntary abortions
21 not made necessary by any -- the reasons set
22 forth in this bill and, you know, I would remind
23 someone who has voted and spoken against this

1 that, first of all, it takes two people to
2 create a life, necessitating in their mind an
3 abortion. Those people are that of siblings,
4 parents, grandparents, uncles, aunts, whatever.
5 Certainly if the family gets together and they
6 understand the situation, they could get
7 together the couple of hundred dollars of their
8 own money which it costs to have an abortion.

9 I think it would be a very
10 salutary lesson for the persons involved that if
11 they do this, they're going to have to pay with
12 their own money. They're going to have to
13 forego some simple pleasures in life in order to
14 pay -- be responsible for the act they created
15 and they want to get rid of. The burden would
16 not be borne by the taxpayers. It's a right
17 thing. It's a proper bill, a very instructive
18 bill for the citizenry-at-large, and I certainly
19 support it wholeheartedly.

20 ACTING PRESIDENT KUHL: Senator
21 Johnson will be recorded in the affirmative.

22 Continue to call the roll.

23 THE SECRETARY: Senator Kruger.

1 (There was no response.)
2 Senator Kuhl.
3 SENATOR KUHL: Aye.
4 THE SECRETARY: Senator Lachman.
5 SENATOR LACHMAN: No.
6 THE SECRETARY: Senator Lack.
7 SENATOR LACK: Aye.
8 THE SECRETARY: Senator Larkin.
9 (There was no response.)
10 Senator LaValle.
11 SENATOR LAVALLE: Aye.
12 THE SECRETARY: Senator Leibell.
13 (There was no response.)
14 Senator Leichter.
15 SENATOR LEICHTER: Mr. President.
16 ACTING PRESIDENT KUHL: Senator
17 Leichter, to explain his vote.
18 SENATOR LEICHTER: Senator
19 Marchi, you spoke as eloquently and passionately
20 on this particular issue as you always do, and I
21 think all of us appreciate and understand the
22 deep moral view that leads you to your position,
23 but I'm troubled when you say that this is a way

1 to express your personal outrage at abortions
2 because you do it really at the expense of poor
3 women, and being such an incredibly honest
4 person, a person of integrity, you said at one
5 point, "I could make arguments against this
6 bill," and certainly those of you who feel
7 strongly on this issue -- and we differ, those
8 of us who support a woman's right of a choice -
9 understand your wishing to express your views,
10 but I think to do it at the expense of poor
11 women, to say that poor women will not be able
12 to get an abortion, something that everyone else
13 in society, those who are not poor can get and
14 it's guaranteed by the Constitution, frankly, it
15 seems to me that that puts you on -- on a shaky
16 moral ground.

17 Maybe I don't want, you know, to
18 put it all -- everybody's throwing morality
19 around and obviously we have different views on
20 it, but I just plead that we don't do this at
21 the expense of poor women. I think that's just
22 wrong, and let me say to my good friend Senator
23 DiCarlo, you talk about how offended you are

1 that somebody said that, Well, it's cheaper to
2 have an abortion than to pay somebody welfare
3 assistance for a whole life. Yet the fact is
4 that you in your view, your attempts to limit
5 welfare, you're unwilling to assume the
6 responsibility of human beings and the support
7 that I think that society owes them.

8 Finally, I just want to say to my
9 friend Senator Farley who brings this bill up
10 always every year, but why July 11th at 10:00
11 o'clock at night?

12 Mr. President, I vote in the
13 negative.

14 ACTING PRESIDENT KUHL: Senator
15 Leichter will be recorded in the negative.

16 Continue to call the roll.

17 THE SECRETARY: Senator Levy.

18 SENATOR LEVY: Aye.

19 THE SECRETARY: Senator Libous.

20 SENATOR LIBOUS: Aye.

21 THE SECRETARY: Senator Maltese.

22 SENATOR MALTESE: Mr. President,
23 to explain my vote.

1 ACTING PRESIDENT KUHL: Senator
2 Maltese, to explain his vote.

3 SENATOR MALTESE: My rising is
4 precipitated in part by my good colleague,
5 Senator Leichter's last inquiry, I suppose,
6 rhetorical as to why Senator Farley brings this
7 up at the 11th hour, so to speak, and one of the
8 reasons it is a budget bill and through the
9 years has been linked with the budget and thus
10 is brought up at the time when the budget is
11 under consideration.

12 I would like to too -- in all the
13 discussions of morality and this deprivation of
14 the poor women and this generosity on the part
15 of so many people, so many colleagues that in
16 good conscience are opposing this bill, the fact
17 that their generosity is generosity with money
18 that is not their own, money that is the
19 taxpayers' so to speak and money that ultimately
20 comes from the taxpayer, the amounts that are
21 involved in the Medicaid funding vary, but it is
22 estimated they are approximately somewhere
23 between 15- and \$20 million per year. Certainly

1 there can be better use put for this funding for
2 poor women or other persons or children.

3 One of the -- one of the areas
4 that is backed by many in the Republican
5 Majority is maternity and early childhood
6 funding that is provided for each year in
7 cooperation with my good colleague, Assemblyman
8 Denis Butler, and other like-minded members of
9 the Assembly, but I think in the final analysis,
10 if we speak of morals in this situation, then we
11 get to the heart of the matter, and the heart of
12 the matter is a beating heart, the beating heart
13 of an unborn child is that put to death by this
14 act of abortion and whether it's funded by
15 Medicaid funding or funded in any other way,
16 it's still an act that is wrong, an act that
17 should not be permitted by the state and,
18 therefore, Mr. President, I vote in the
19 affirmative on the bill.

20 ACTING PRESIDENT KUHL: Senator
21 Maltese will be recorded in the affirmative.

22 Continue to call the roll.

23 THE SECRETARY: Senator

1 Marcellino.
2 SENATOR MARCELLINO: Aye.
3 THE SECRETARY: Senator Marchi.
4 SENATOR MARCHI: Aye.
5 THE SECRETARY: Senator
6 Markowitz, excused.
7 Senator Maziarz.
8 SENATOR MAZIARZ: Aye.
9 THE SECRETARY: Senator Mendez.
10 (Negative indication)
11 Senator Montgomery.
12 SENATOR MONTGOMERY: No.
13 THE SECRETARY: Senator Nanula.
14 SENATOR NANULA: No.
15 THE SECRETARY: Senator Nozzolio.
16 SENATOR NOZZOLIO: Aye.
17 THE SECRETARY: Senator Onorato.
18 SENATOR ONORATO: Aye.
19 THE SECRETARY: Senator
20 Oppenheimer.
21 SENATOR OPPENHEIMER: No.
22 THE SECRETARY: Senator Padavan.
23 SENATOR PADAVAN: Aye.

1 THE SECRETARY: Senator Paterson.

2 ACTING PRESIDENT KUHL: Senator
3 Paterson, to explain his vote.

4 SENATOR PATERSON: Mr. President,
5 this is a debate that many members do not look
6 forward to because it does involve a lot of
7 moral and spiritual issues that we discuss on
8 this particular floor.

9 However, I have found this
10 particular discussion to be in many ways
11 enlightening, and I think that those who
12 presented what would be catastrophically
13 differing points of view have done it in a very
14 clear and very respectful manner.

15 For the record, I did not hear
16 anyone who was opposing this legislation even
17 suggest that economics should be the primary
18 mover in the decision as to whether or not a
19 woman should have an abortion. I never heard
20 that raised by any member, but the issue of the
21 construction of the legislation that Senator
22 Marchi pointed out, I think is quite important,
23 and the reason I think it's important is because

1 since we are really dealing with an element of
2 legislation that will only affect certain
3 individuals, while the construction of the
4 legislation may not have been designed
5 specifically to hurt individuals who cannot
6 afford an abortion, that is the result of the
7 legislation. Though their point of view may
8 really be, as Senator Marchi described, a result
9 of an outrage about the abortion process itself,
10 the result is that we have a bifurcated process
11 and we actually have a dualistic system that is
12 established. I think that's wrong and I think
13 that's very unfortunate.

14 Taxpayer dollars are spent on a
15 variety of life and death and moral issues, and
16 we as members of the state and members of this
17 country have to understand that we've elected a
18 government. We have a Supreme Court. We have
19 laws. We have rules. We may resent them, but
20 our tax dollars provide the broad revenue basis
21 from which this democracy and this government
22 survives, and so there have been wars. There
23 have been companies going out of business.

1 There have been children going hungry. There
2 have been tens of millions of people thrown out
3 of work because of government decisions and none
4 of us withdraw our taxpayer dollars because we
5 disagree with it.

6 So we have to draw the
7 distinction between our own personal morality
8 and our respect for the morality of others, and
9 that is where I feel that all of my colleagues
10 have been exemplary because on this issue, I
11 have never heard a colleague really question the
12 moral judgment of another colleague to vote on
13 the issue of choice or the issue of Medicaid
14 funding for abortions. What we now have to do
15 as a body and as people is to respect the right
16 of women to make that decision for themselves.

17 Mr. President, I vote no.

18 ACTING PRESIDENT KUHL: Senator
19 Paterson will be recorded in the negative.

20 Continue to call the roll.

21 THE SECRETARY: Senator Present.

22 SENATOR PRESENT: No.

23 THE SECRETARY: Senator Rath.

1 SENATOR RATH: Aye.
2 THE SECRETARY: Senator Saland.
3 SENATOR SALAND: Aye.
4 THE SECRETARY: Senator Santiago,
5 excused.
6 Senator Seabrook.
7 SENATOR SEABROOK: No.
8 THE SECRETARY: Senator Sears,
9 excused.
10 Senator Seward.
11 SENATOR SEWARD: No.
12 THE SECRETARY: Senator Skelos.
13 SENATOR SKELOS: Yes.
14 THE SECRETARY: Senator Smith.
15 SENATOR SMITH: No.
16 THE SECRETARY: Senator Spano.
17 SENATOR SPANO: No.
18 THE SECRETARY: Senator
19 Stachowski.
20 (There was no response.)
21 THE SECRETARY: Senator Stafford.
22 SENATOR STAFFORD: Aye.
23 THE SECRETARY: Senator Stavisky,

1 excused.

2 Senator Trunzo.

3 SENATOR TRUNZO: Yes.

4 THE SECRETARY: Senator Tully.

5 SENATOR TULLY: Aye.

6 THE SECRETARY: Senator Velella.

7 SENATOR VELELLA: Yes.

8 THE SECRETARY: Senator Volker.

9 SENATOR VOLKER: Yes.

10 THE SECRETARY: Senator Waldon.

11 (Negative indication)

12 Senator Wright.

13 SENATOR WRIGHT: Aye.

14 ACTING PRESIDENT KUHL: The

15 Secretary will call the absentees.

16 THE SECRETARY: Senator Alesi.

17 SENATOR ALESI: Yes.

18 THE SECRETARY: Senator Babbush.

19 (There was no response.)

20 Senator DeFrancisco.

21 SENATOR DeFRANCISCO: Yes.

22 THE SECRETARY: Senator Espada.

23 (There was no response.)

1 Senator Kruger.

2 SENATOR KRUGER: No.

3 THE SECRETARY: Senator Larkin.

4 SENATOR LARKIN: Aye.

5 THE SECRETARY: Senator Leibell.

6 SENATOR LEIBELL: Aye.

7 ACTING PRESIDENT KUHL: Announce

8 the results.

9 THE SECRETARY: Ayes 32, nays 23.

10 ACTING PRESIDENT KUHL: The bill

11 is passed.

12 Senator Skelos.

13 SENATOR SKELOS: Mr. President,
14 if we could take up Supplemental Calendar Number
15 1, non-controversial.

16 ACTING PRESIDENT KUHL: The
17 Secretary will call the non-controversial
18 reading of Senate Supplemental Calendar Number
19 1, commencing with Calendar Number 993.

20 THE SECRETARY: Senator Velella
21 moves to discharge from the Committee on Rules
22 Assembly Bill Number 1044-C and substitute it
23 for the identical Third Reading Calendar 993.

1 ACTING PRESIDENT KUHL: The
2 substitution is ordered.

3 The Secretary will read.

4 THE SECRETARY: Calendar Number
5 993, by Member of the Assembly Lafayette,
6 Assembly Print 1044-C, an act to amend the
7 General Business Law.

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

10 THE SECRETARY: Section 6. This
11 act shall take effect on the 30th day.

12 ACTING PRESIDENT KUHL: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 56.

16 ACTING PRESIDENT KUHL: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1711, by Senator Lack, Senate Print 1307-A.

20 SENATOR PATERSON: Lay it aside.

21 ACTING PRESIDENT KUHL: Lay the
22 bill aside.

23 THE SECRETARY: Senator Volker

1 moves to discharge from the Committee on Finance
2 Assembly Bill Number 10800 and substitute it for
3 the identical Third Reading Calendar 1712.

4 ACTING PRESIDENT KUHL: The
5 substitution is ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 1712, by the Assembly Committee on Rules,
9 Assembly Print 10800, an act providing for the
10 construction of a memorial.

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

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 56.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Senator Farley
22 moves to discharge from the Committee on
23 Education Assembly Bill Number 9168-A and

1 substitute it for the identical Third Reading
2 Calendar 1714.

3 ACTING PRESIDENT KUHL: The
4 substitution is ordered.

5 The Secretary will read the
6 title.

7 THE SECRETARY: Calendar Number
8 1714, by Member of the Assembly Luster, Assembly
9 Print 9168-A, an act to amend the Education Law,
10 in relation to the funding of public libraries.

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

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 56.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Senator Abate
22 moves to discharge from the Committee on Cities
23 Assembly Bill Number 10963 and substitute it for

1 the identical Third Reading Calendar 1715.

2 ACTING PRESIDENT KUHL: The
3 substitution is ordered.

4 The Secretary will read the
5 title.

6 THE SECRETARY: Calendar Number
7 1715, by the Assembly Committee on Rules.

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

11 THE SECRETARY: Assembly Bill
12 Number 10963, an act to authorize the city of
13 New York to discontinue the use as parklands.

14 ACTING PRESIDENT KUHL: Call the
15 roll.

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

18 ACTING PRESIDENT KUHL: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 56.

22 ACTING PRESIDENT KUHL: The bill
23 is passed.

1 THE SECRETARY: Senator Larkin
2 moves to discharge from the Committee on Rules
3 Assembly Bill Number 10520 and substitute it for
4 the identical Third Reading Calendar 1716.

5 ACTING PRESIDENT KUHL: The
6 substitution is ordered.

7 The Secretary will read the
8 title.

9 THE SECRETARY: Calendar Number
10 1716, by the Assembly Committee on Rules,
11 Assembly Print 10520, an act to amend the
12 Administrative Code of the city of New York and
13 the Retirement and Social Security Law.

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

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

18 ACTING PRESIDENT KUHL: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 56.

22 ACTING PRESIDENT KUHL: The bill
23 is passed.

1 THE SECRETARY: Calendar Number
2 1717, by Senator Nozzolio, Senate Print 7434, an
3 act to authorize the New York State Urban
4 Development Corporation.

5 SENATOR LEICHTER: Lay it aside.

6 ACTING PRESIDENT KUHL: Lay the
7 bill aside.

8 THE SECRETARY: Senator Leibell
9 moves to discharge from the Committee on Local
10 Government Assembly Bill Number 11024-B and
11 substitute it for the identical Third Reading
12 Calendar 1718.

13 ACTING PRESIDENT KUHL: The
14 substitution is ordered.

15 The Secretary will read the
16 title.

17 THE SECRETARY: Calendar Number
18 1718, by the Assembly Committee on Rules,
19 Assembly Print 11024-B, an act to amend the
20 General Municipal Law and the Local Finance Law.

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

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT KUHL: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 56.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 THE SECRETARY: Senator Sears
9 moves to discharge from the Committee on Rules
10 Assembly Bill Number 347-B and substitute it for
11 the identical Third Reading Calendar 1719.

12 ACTING PRESIDENT KUHL: The
13 substitution is ordered.

14 The Secretary will read the
15 title.

16 THE SECRETARY: Calendar Number
17 1719, by Member of the Assembly Feldman,
18 Assembly Print 347-B, an act to amend the
19 General Business Law.

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

22 THE SECRETARY: Section 7. This
23 act shall take effect in 180 days.

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 56.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 THE SECRETARY: Senator Farley
8 moves to discharge from the Committee on Rules
9 Assembly Bill Number 4651 and substitute it for
10 the identical Third Reading Calendar 1720.

11 ACTING PRESIDENT KUHL: The
12 substitution is ordered.

13 The Secretary will read the
14 title.

15 THE SECRETARY: Calendar Number
16 1720, by Member of the Assembly Schimminger,
17 Assembly Print 4651, an act to amend the
18 Workers' Compensation Law.

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

21 THE SECRETARY: Section 2. This
22 act shall take effect on the 30th day.

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 56.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1721, by Senator Trunzo, Senate Print 7874, an
8 act authorizing the sole assessor of the village
9 of Patchogue.

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

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

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 56.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Senator Alesi
21 moves to discharge from the Committee on Rules
22 Assembly Bill Number 8425-A and substitute it
23 for the identical Third Reading Calendar 1722.

1 ACTING PRESIDENT KUHL: The
2 substitution is ordered.

3 The Secretary will read the
4 title.

5 THE SECRETARY: Calendar Number
6 1722, by Member of the Assembly John, Assembly
7 Print 8425-A, an act to amend the General
8 Business Law.

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

11 THE SECRETARY: Section 2. This
12 act shall take effect on the first day of
13 January.

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 56.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1723, by Senator Bruno, Senate Print 7878, an
22 act to amend the Vehicle and Traffic Law, in
23 relation to the disqualification of a bus

1 driver.

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

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 56.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1726, by Senator Hannon, Senate Print 7922, an
14 act to amend the Public Health Law and the
15 Education Law.

16 ACTING PRESIDENT KUHL: Senator
17 DeFrancisco, there is a message of necessity at
18 the desk on Calendar Number 1726. The previous
19 two bills were high. They're laid aside. The
20 motion is to accept the message of necessity at
21 the desk on Calendar Number 1726. All those in
22 favor signify by saying aye.

23 (Response of "Aye".)

1 Opposed, nay.

2 (There was no response.)

3 The message is accepted.

4 The Secretary will read the last
5 section.

6 THE SECRETARY: Section 8. This
7 act shall take effect on the same date as such
8 chapter.

9 ACTING PRESIDENT KUHL: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 56.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1727, by Senator Hoblock, Senate Print 7925, an
17 act to amend the Education Law, in relation to
18 the amount of mandatory continuing education.

19 ACTING PRESIDENT KUHL: Senator
20 DeFrancisco.

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

23 ACTING PRESIDENT KUHL: There is.

1 SENATOR DeFRANCISCO: Move to
2 accept the message.

3 ACTING PRESIDENT KUHL: The
4 motion is to accept the message of necessity on
5 Calendar Number 1727. All those in favor
6 signify by saying aye.

7 (Response of "Aye".)

8 Opposed, nay.

9 (There was no response.)

10 The message is accepted.

11 The Secretary will read the last
12 section.

13 THE SECRETARY: Section 2. This
14 act shall take effect on the same date.

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 56.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1728, by Senator Velella, Senate Print 7928, an
23 act to amend the Insurance Law, in relation to

1 prohibiting certain limitations.

2 ACTING PRESIDENT KUHL: Senator
3 DeFrancisco.

4 SENATOR DeFRANCISCO: Is there a
5 message of necessity at the desk?

6 ACTING PRESIDENT KUHL: There is.

7 SENATOR DeFRANCISCO: I move to
8 accept the message.

9 ACTING PRESIDENT KUHL: The
10 motion is to accept the message of necessity on
11 Calendar Number 728. All in favor signify by
12 saying aye.

13 (Response of "Aye".)

14 Opposed, nay.

15 (There was no response.)

16 The message is accepted.

17 The Secretary will read the last
18 section.

19 SENATOR STACHOWSKI: Lay it
20 aside.

21 ACTING PRESIDENT KUHL: Lay the
22 bill aside.

23 Senator DeFrancisco, that

1 completes the reading of the non-controversial
2 calendar of Supplemental Calendar Number 1.

3 What's your pleasure?

4 SENATOR DeFRANCISCO: May we have
5 a reading of the Supplemental Calendar Number 1,
6 the controversial reading.

7 ACTING PRESIDENT KUHL: The
8 Secretary will read the controversial reading on
9 Supplemental Calendar Number 1 beginning with
10 Calendar Number 1711 by Senator Lack.

11 The Secretary will read.

12 THE SECRETARY: Calendar Number
13 1711, by Senator Lack, Senate Print 1307-A, an
14 act to amend the Public Health Law.

15 SENATOR STACHOWSKI: Explanation.

16 ACTING PRESIDENT KUHL: Senator
17 Lack.

18 SENATOR DeFRANCISCO: Please lay
19 the bill aside temporarily.

20 SENATOR LACK: Thank you, Mr.
21 President.

22 This is a bill that would allow
23 business corporations in New York State to own

1 health care facilities.

2 New York is the only state in the
3 Union that does not allow the ownership of such
4 facilities by shareholding corporations. I
5 should point out that we never passed a law in
6 New York that prohibits that. If you look at
7 the historical continuity of our statutes in
8 this state with respect to ownership of
9 hospitals and health care facilities, because of
10 the control, the change of ownership, we always
11 required a natural person or natural persons in
12 the line of ownership to qualify. By
13 definition, that then excluded corporations.

14 It wasn't until 1969 -- excuse
15 me. Can we have this door closed, please?

16 Thank you. It wasn't until 1969
17 that the first shareholder corporation for
18 hospitals was even created in Tennessee. At the
19 time of its creation, New York law did not
20 permit the existence of such facilities in New
21 York and there's been no change since then,
22 although such facilities operate in 49 other
23 states.

1 What has that meant for New
2 York? Well, it's very simple. Just look at the
3 recent series of merger movements that have
4 taken place in the city of New York primarily as
5 a result of the repositioning of how health care
6 financing and health care rate making takes
7 place in the United States, the merger of big,
8 not-for-profit entities to create even bigger
9 not-for-profit entities so that those facilities
10 can deal with the national competition movement
11 which has grown up particularly among health
12 maintenance organizations.

13 Now, there are those who say that
14 medicine and the practice of conducting
15 hospitals should not be for-profit. My only
16 answer back to that is, excuse me. The practice
17 of medicine and the conduct of hospital
18 facilities in 49 other states, including
19 Minnesota with the famous Mayo Clinic, and Johns
20 Hopkins, et cetera, has always augured well for
21 those types of profit-making facilities.

22 Now, I am not at all suggesting
23 that facilities such as Columbia Presbyterian or

1 Sloan Kettering or others are suddenly going to
2 become profit-making facilities any more than
3 the Mayo Clinic and other famous facilities have
4 across the country.

5 What I am suggesting is that the
6 method of financing hospitals and health care
7 related facilities around the country has
8 changed in the past few decades. Most
9 importantly with the advent of the technological
10 expertise and the cost of medical machinery such
11 as MRI equipment that now cost over \$1 million a
12 machine, a suburban or rural hospital that is
13 not a Sloan Kettering cannot afford to make
14 those types of capital outlays unless it is
15 affiliated with and part of a network that has
16 the capital infusion to put into such local
17 hospital facilities to bring it up to date.

18 Not every place in the state of
19 New York is a Sloan Kettering. I've had -- and
20 that's why I first introduced this piece of
21 legislation ten years ago. The example of a
22 suburban hospital, a small suburban hospital in
23 Suffolk County faced with the reality of trying

1 to make capital improvements that they could
2 not. They could go into contract with one of
3 the large hospital corporations to manage their
4 facility, but all that hospital corporation
5 could do is get a fee for managing the
6 facility. Because all they could do is get a
7 fee, they had no intention whatsoever of making
8 any capital infusion into the hospital to buy
9 Martin/Dey equipment. That hospital is now out
10 of business because it couldn't compete and
11 exist in a Martin world of hospital technology.

12 This bill, Mr. President, would
13 for the first time allow New York to equate its
14 ownership of health care facilities on the same
15 basis that exists and allow them to compete on
16 the same basis that exists in the 49 other
17 states of the country.

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

20 SENATOR DOLLINGER: Mr.
21 President, I believe Senator Leichter may want
22 to talk before me. I just have one question for
23 the sponsor if he'd yield.

1 ACTING PRESIDENT KUHL: Senator
2 Lack, do you yield to a question -

3 SENATOR LACK: Of course.

4 ACTING PRESIDENT KUHL: -- from
5 Senator Dollinger? The Senator yields.

6 SENATOR DOLLINGER: I understand,
7 Mr. Chairman, that this bill only applies to
8 nursing homes and does not apply to hospitals
9 such as -

10 SENATOR LACK: This particular
11 bill.

12 SENATOR DOLLINGER: Okay.

13 SENATOR LACK: And we're talking
14 about -- the hospitals and nursing homes are in
15 the same category. At one point we split up the
16 bill. For this particular one, it only applies
17 to nursing homes, but the same rules and the
18 same comments apply, whether it's nursing homes
19 or hospitals.

20 SENATOR DOLLINGER: Okay. I just
21 wanted to clarify. This bill only deals with
22 the nursing home component.

23 SENATOR LACK: Correct.

1 SENATOR DOLLINGER: I understand
2 the chairman's concern about the private sector
3 and the hospital. I'll address that later.

4 I'll yield to Senator Leichter.

5 ACTING PRESIDENT KUHL: Senator
6 Leichter.

7 SENATOR LEICHTER: Yeah, Mr.
8 President. Just very briefly on the bill.

9 I think the -

10 ACTING PRESIDENT KUHL: Senator
11 Leichter, on the bill.

12 SENATOR LEICHTER: I think the
13 issue has fairly been stated. I think the
14 question is whether we want to bring not-for
15 profit entities, not-for-profit mentality,
16 not-for-profit practices, and the consequences
17 of -- I'm sorry. I said not-for-profit. It's
18 obviously profit -- whether we want to make our
19 medical institutions profit-motivated/oriented
20 institutions.

21 Senator Lack points out that this
22 bill applies to nursing homes. We know the
23 problems that we've had in this state in the

1 past with nursing homes.

2 I do not buy into the notion that
3 if you bring in the for-profit, that these small
4 hospitals that Senator Lack talks about -- and
5 again, this is an example of the whole principle
6 of whether we want to have for-profit because,
7 again, this bill deals with nursing homes, but
8 that somehow you will save these institutions if
9 for-profit mentality and for-profit capital
10 comes in.

11 Obviously a profit has to be made
12 and the profit is going to affect health care.
13 It's going to affect the length of stay of
14 patients. It's going to affect in the long run
15 the extent to which other providers can
16 negotiate with the health care, the for-profit
17 instit... facility. I think it raises a lot of
18 questions that I feel very uncomfortable in
19 saying that we're going to depart from the
20 practices that have existed in this state.

21 Senator Lack says, Well, 49 other
22 states do it. Well, that doesn't make it
23 right. There are a number of things that we in

1 this state because of our traditions, our
2 practice and I would say because of our
3 commitment to health care that we're not willing
4 to do. Let the other states do it.

5 You know, there was a time when
6 people looked at the Empire State and in many
7 areas, we were ahead. We took better care of
8 people. We were also -- as far as economic
9 benefits go and as far as economic activity, we
10 were ahead of other states.

11 So I don't think that we could
12 base it just on the grounds, Well, other states
13 do it. I think you've got to consider whether
14 you're going to get better care for people in
15 nursing homes if you bring in for-profits. I
16 think if you looked at it logically, I don't see
17 how we're going to better that care because the
18 necessity, the profit has to come from somewhere
19 and it's going to come from the care that the
20 patients receive.

21 ACTING PRESIDENT KUHL: Senator
22 Dollinger.

23 SENATOR DOLLINGER: Mr.

1 President, I'll just address the bill as well.

2 I share Senator Leichter's
3 concerns. I think that the fundamental question
4 you ask here is what's wrong with our
5 not-for-profit ownership of nursing homes?
6 Well, it seems to me what's happened is we've
7 over-regulated them and underfunded them and
8 they're in distress.

9 I agree with Senator Lack. They
10 lack capital. They don't have the ability to go
11 out in the capital markets. One of the reasons
12 why they don't have any capital and why they
13 find it very difficult to borrow is because our
14 Medicaid reimbursement rate has been so low for
15 many of these facilities.

16 It seems to me when you over
17 regulate and underfund a whole series of
18 institutions, there's no small wonder that
19 they're in financial distress. Small wonder
20 that they're in a position where they can't be
21 able to make the capital investments necessary
22 to move to the next generation.

23 The other factor that I'm

1 concerned about is the profit-making removing
2 funds from communities. It seems to me that our
3 not-for-profit system has created an environment
4 in which we have been able to regulate. We
5 haven't overfunded but at the same time what
6 we've done is we've allowed money to stay in the
7 communities. We've created organizations that
8 have community ties, that have linkages to other
9 not-for-profit groups, whether they be home care
10 agencies or assistance in the home or adult day
11 care. All of these linkages are possible in the
12 not-for-profit system in a very highly efficient
13 manner, and I'm concerned that the profits will
14 go to shareholders who live in Omaha, Nebraska
15 or Louisville or wherever else they end up going
16 to and that what we will end up with is having a
17 health care system that's just on a par with
18 Mississippi.

19 My advice is, if you want
20 Mississippi health care, go to Mississippi and
21 get it. If you want quality health care at a
22 reasonable price in a not-for-profit setting
23 where the dollars stay in a community, come here

1 to New York. It's been reasonably high
2 quality. It's been reasonably consistent, and I
3 think it's a health care system, even though
4 we're making changes in it -- and I think
5 necessary changes in it -- nonetheless, it's one
6 I think we can be proud of, and I think to go
7 about changing it in this manner makes no sense.

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

10 SENATOR LACK: Mr. President.

11 ACTING PRESIDENT KUHL: Senator
12 Lack -- Senator Waldon, you wish to speak on the
13 bill?

14 SENATOR LACK: I'll go after
15 Senator Waldon, if you'd like.

16 ACTING PRESIDENT KUHL: I thought
17 Senator Lack would probably like to close.

18 Senator Waldon, on the bill.

19 SENATOR WALDON: I won't speak on
20 the bill, Mr. President. I'd like to ask the
21 learned Senator a couple of questions, if he
22 would yield.

23 ACTING PRESIDENT KUHL: Which one

1 of the 60 other members here would you like to
2 ask that?

3 SENATOR WALDON: The learned
4 sponsor.

5 ACTING PRESIDENT KUHL: Oh, the
6 sponsor.

7 Senator Lack, do you yield to a
8 question from Senator Waldon?

9 SENATOR LACK: I will if Senator
10 Waldon will speak up a little bit.

11 SENATOR WALDON: Sure enough.
12 Mr. President, my colleagues, Senator Lack, is
13 there any proviso in your proposal that would
14 prevent something like Beverly Enterprises from
15 happening in New York State?

16 SENATOR LACK: I can't hear you.
17 I'm sorry.

18 SENATOR WALDON: Is there
19 anything in your proposal which would preclude
20 the possibility of a Beverly Enterprises in New
21 York State?

22 SENATOR LACK: Of a what?

23 SENATOR WALDON: Beverly

1 Enterprises.

2 SENATOR LACK: No. What I would
3 also -- none that I know of, and what I was
4 going to add also, Senator Waldon, is both
5 Senator Leichter and Senator Dollinger bespoke
6 of not-for-profit organizations. There is
7 nothing in our current law that prohibits for
8 profit health care facilities or nursing homes.
9 They just have to be owned by individuals.

10 So, in effect, what they're
11 saying is that as long as it's owned by an
12 individual who lives in Omaha, Nebraska and
13 pockets all the money in his or her pocket in
14 Omaha, Nebraska, that's all right under New York
15 law, but if you're a public shareholder
16 corporation which has to have a place of
17 business in New York, is controlled by whatever
18 stock exchange that such shares are publicly
19 traded on, as well as regulated by not only the
20 New York State Department of Health but by the
21 Attorney General for Blue Sky with respect to
22 offering of said shares to the public, that's
23 not okay, but you can live in Omaha and own a

1 facility in Rochester and pocket all the money
2 you'd like as long as you're cleared in New York
3 and you're one of the owners. Congratulations.

4 SENATOR WALDON: Would the
5 gentleman yield again, Mr. President?

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

8 SENATOR LACK: Sure.

9 ACTING PRESIDENT KUHL: The
10 Senator continues to yield.

11 SENATOR WALDON: Senator, I'm not
12 saying either scenario is for the benefit of the
13 people of the state of New York if someone is
14 raping the system.

15 I'm just concerned about whether
16 or not it's in our best interests as a state to
17 allow people living out of state, not
18 necessarily having as their driving interest the
19 health care of the people who have to rely upon
20 nursing homes, and so I'm wondering, is there
21 any assurance you can give to me to help me with
22 my vote that we don't have a repetition of
23 something like Beverly Enterprises in New York

1 State?

2 SENATOR LACK: The assurance,
3 Senator, is that they have to have a -- an
4 office here. They have to be reachable here.
5 They're regulated here in the same fashion that
6 anybody else does and as a -- we're talking
7 about only the difference between a private
8 individual and a publicly traded corporate
9 entity, and again my comment back to you is that
10 there are many more regulatory aspects
11 controlling a publicly owned entity than the
12 same facility owned by a series of individuals
13 who now live without this state, who only come
14 under the control of the Department of Health
15 and under none of the security or investigatory
16 regulations with respect to the offering of
17 securities in the state.

18 So, in effect, you are adding
19 another whole level of regulation through the
20 securities law by allowing such corporate owner
21 ship. For-profit versus not-for-profit doesn't
22 exist since these facilities can already be
23 owned on a for-profit basis just by individuals

1 as opposed to corporations. In effect, by
2 allowing a publicly traded corporation in, you
3 are bringing in more regulation on a different
4 level than currently exists.

5 SENATOR WALDON: Thank you,
6 Senator.

7 Mr. President, on the bill.

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

10 SENATOR WALDON: I appreciate
11 Senator Lack giving me assurance in terms of his
12 comments, but I'm troubled because I look at
13 organizations which oppose this, and they are
14 all organizations I have great respect for -
15 HANYS, the New York State Catholic Conference,
16 Greater New York Hospital Association, D. C. 37,
17 AFL-CIO, CSEA, AFSCME, the Nursing Home
18 Community Coalition, the New York Association of
19 Homes and Services for the Aging and the UJA
20 Federation of New York -- and so I'm not going
21 to be able to support Senator Lack on this
22 issue.

23 Perhaps through further

1 introspection, I may be able to do so at a later
2 day, but I encourage my colleagues to join with
3 me in opposition.

4 ACTING PRESIDENT KUHL: Senator
5 Lack, to close on the bill -- the Secretary will
6 read the last section.

7 THE SECRETARY: Section 6. This
8 act shall take effect on the first day of
9 January.

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT KUHL: Senator
14 Tully, to explain his vote.

15 SENATOR TULLY: Thank you, Mr.
16 President.

17 This bill was considered most
18 recently in this house in 1994 and again in
19 1995. It's a very comprehensive review of a
20 very difficult situation, and I've wrestled with
21 it, and I intend to vote affirmatively at this
22 time on this bill primarily to advance the dis
23 cussion and to provide for review and analysis

1 regarding employment, access to capital, quality
2 of care and the impact on religious and
3 not-for-profit institutions.

4 I vote aye.

5 ACTING PRESIDENT KUHL: Senator
6 Tully will be recorded in the affirmative.
7 Announce the results.

8 THE SECRETARY: Those recorded in
9 the negative on Calendar Number 1711 are
10 Senators Abate, Connor, Dollinger, Gold,
11 LaValle, Leichter, Maziarz, Mendez, Montgomery,
12 Padavan, Paterson, Stachowski, Trunzo and
13 Waldon. Ayes 42, nays -- also, Senators
14 Onorato, Kruger and Smith. Ayes 39, nays 17.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1717, by Senator Nozzolio, Senate Print 7434, an
19 act to authorize the New York State Urban
20 Development Corporation.

21 SENATOR LEICHTER: Mr. President.

22 ACTING PRESIDENT KUHL: Senator
23 Leichter.

1 SENATOR LEICHTER: Yeah, if
2 Senator Nozzolio would yield.

3 ACTING PRESIDENT KUHL: Senator
4 Leichter, let me see if I can get a little order
5 in the house first, please.

6 May we have the members take
7 their chairs, please, staff take their places.
8 If you have conversations take them out of the
9 chamber. It's getting late.

10 Sergeant-at-Arms, want to keep
11 the traffic down, please.

12 Senator Nozzolio, do you yield to
13 a question from Senator Leichter?

14 SENATOR NOZZOLIO: Yes, Mr.
15 President.

16 ACTING PRESIDENT KUHL: The
17 Senator yields.

18 SENATOR LEICHTER: Senator
19 Nozzolio, this bill forgives 1500 -- I'm sorry,
20 1,500,000 that was lent by the Urban Development
21 Corporation to the Rochester Community Baseball,
22 Inc. Why should we forgive that money?

23 SENATOR NOZZOLIO: I guess that's

1 a question for you and your conscience, Senator.

2 This measure is a request of the
3 county executive of the county of Monroe and the
4 county legislature of the county of Monroe. It
5 is presented to this body by Senators Maziarz,
6 Alesi and myself, in that it basically is part
7 of the stadium construction plans that this body
8 approved, I believe it was last year.

9 This loan was a loan for
10 renovation to -- part of a grant or a loan from
11 the former Urban Development Corporation -- it
12 no longer exists, as you know, Senator -- to
13 Rochester Community Baseball for renovations of
14 the former stadium; that it would do no good.
15 In effect, the loan was not to be called; that
16 it was unlikely -- it was when granted in 1986
17 to not be repaid, and that it is part of the
18 focus of the New Frontier Construction which
19 coincidentally the Rochester delegation was to
20 be in attendance tonight as the new stadium was
21 opened up, and as we speak now the Beach Boys
22 have just finished playing in commemoration of
23 opening day at the New Frontier Field.

1 SENATOR LEICHTER: Senator

2 Nozzolio, if you'd -

3 ACTING PRESIDENT KUHL: Continue
4 to yield, Senator Nozzolio?

5 SENATOR LEICHTER: -- continue to
6 yield.

7 SENATOR NOZZOLIO: Yes, Mr.
8 President.

9 SENATOR LEICHTER: Is Rochester
10 Community Baseball, Inc., is that a for-profit
11 organization?

12 SENATOR NOZZOLIO: No, Senator.
13 No, Mr. President, it is not.

14 SENATOR LEICHTER: What -- could
15 you tell us what it is?

16 SENATOR NOZZOLIO: It is an
17 organization that has the ownership rights of a
18 Triple A franchise, Triple A baseball franchise
19 that is basically a -- run as a community
20 organization that has maintained the presence of
21 professional baseball in Rochester for many,
22 many years.

23 SENATOR LEICHTER: Senator, does

1 Rochester Community Baseball, Inc. -- does it
2 have shares of stock?

3 SENATOR NOZZOLIO: I'm sorry,
4 Senator?

5 SENATOR LEICHTER: Does it issue
6 shares of stock?

7 SENATOR NOZZOLIO: I'm not
8 certain how the structure is established
9 precisely, but I would assume that shares of
10 stock have been issued.

11 SENATOR LEICHTER: All right. Is
12 it fair to say, Senator Nozzolio, that it is a
13 private corporation?

14 SENATOR NOZZOLIO: Senator, I
15 believe it is a not-for-profit corporation.

16 SENATOR LEICHTER: Well -
17 Mr. President, on the bill.

18 ACTING PRESIDENT KUHL: Senator
19 Leichter, on the bill.

20 SENATOR LEICHTER: I'm troubled
21 at the idea that we would say that in one
22 particular instance we will forgive a loan that
23 was made by the Urban Development Corporation.

1 Now, we've set up the Urban Development
2 Corporation. We fund the Urban Development
3 Corporation. We ask it to get involved in
4 various projects, but we certainly expect that
5 the loans that it makes will be repaid like any
6 other loans.

7 SENATOR NOZZOLIO: Mr. President,
8 will Senator Leichter yield?

9 ACTING PRESIDENT KUHL: Senator
10 Nozzolio.

11 SENATOR NOZZOLIO: Senator, I do
12 not want to mislead. I am not certain that this
13 is a not-for-profit organization, that the
14 organization is a community organization. It
15 may very well be a for-profit organization, and
16 I didn't want to mislead you to thinking that my
17 declaration was a not-for-profit corporation.
18 I'm not sure.

19 The only thing I can add to it is
20 that this is an organization that is basically
21 concerned with keeping the franchise. There are
22 only so many franchises available nationwide,
23 nationally, and that the concern of this

1 enterprise is to keep the franchise in
2 Rochester. That is its first and last goal, and
3 it's reflected by the type of people who serve
4 on this board, which are basically community
5 activists not necessarily anybody with a
6 pecuniary interest in this enterprise.

7 SENATOR LEICHTER: Good. Thank
8 you for that clarification, Senator Nozzolio.

9 I assume, and that was my under
10 standing, that it was a group of individuals who
11 had gotten a franchise. I assume they hope to
12 make a profit, but I'm sure that they are
13 motivated by community concerns and want to have
14 baseball in Rochester.

15 Now, baseball exists in
16 Rochester, but the question is to what extent
17 are we in New York State going to pay for it.
18 You know, we're going to struggle in a little
19 while with a budget that with all the changes
20 that have been made is still a tough budget, and
21 a lot of things that we would like to see funded
22 from education to medical care, to transporta
23 tion, you name it, are not going to be funded to

1 the extent that we would like to see.

2 The question we have to ask
3 ourselves, do we have a million and a half
4 dollars to give to what is a private group that
5 borrowed money and that we now say to them,
6 "Well, you don't have to repay that money." I
7 think once you set that sort of precedent I
8 think you're going to really step on a very
9 slippery slope because there's other communities
10 where UDC has loaned money not only for baseball
11 stadiums -- and I want to say, I think with all
12 the investments that UDC can make, baseball
13 stadiums -- and studies have shown that -- are
14 not good economic investments.

15 But be that as it may, UDC has
16 made a lot of other investments. Are we going
17 to have one bill after another saying that we
18 are going to excuse that loan? I think it's bad
19 policy. I think it's wrong. Now, one of the
20 explanations that's actually stated in the bill
21 is that by the terms of the loan agreement it's
22 unlikely that Rochester Baseball, Inc., is ever
23 going to have to repay any of this money

1 because, apparently, the loan was written in
2 such a way -- I've never heard of a loan written
3 this way, but I'll believe anything when it
4 comes to UDC -- that you only have to repay it
5 if you have a profit.

6 Fine. If those are the terms of
7 the agreement and if Senator Nozzolio in setting
8 forth this bill and in the memorandum in support
9 of it says, "Well, they're never going to have a
10 profit anyhow, so the loan is never going to
11 have to be repaid," well, if that's the case,
12 the loan won't be repaid by its terms but not by
13 legislation, and I suspect that if they ask for
14 legislation they must have some concern that
15 some day or other that loan, in fact, is going
16 to have to be repaid at least partially.

17 The argument is also made, "Well,
18 this is going to help economic development in
19 Rochester." I don't question it. I guess if
20 you give a million and a half dollars, that in
21 itself is an economic development. But that is
22 the sort of ad hoc afterthought that I don't
23 think ought to govern the economic policy in the

1 State of New York.

2 I have the greatest respect for
3 Rochester. It is a wonderful city in this
4 state. But I think that in Rochester, as in
5 other places, loans ought to be paid; and let me
6 just say that if we want to help cities, there's
7 an awful lot of distressed cities. There is one
8 right across the Hudson, Troy, which is
9 bankrupt. Yonkers is a very sad situation.
10 Utica has a problem. Newburgh has a problem.
11 They all have a problem that's far greater than
12 Rochester, and to give to a private group in
13 Rochester a forgiveness of this loan I just
14 think is bad public policy.

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

17 SENATOR GOLD: On the bill?

18 ACTING PRESIDENT KUHL: Senator
19 Gold, on the bill.

20 SENATOR GOLD: Yeah, I -- at
21 first I was going to be critical of Senator
22 Leichter and say he was uneducable because I was
23 listening to Senator Nozzolio and I'm trying to

1 learn, and he said to you that -- when you asked
2 him why we should forgive the loan, he said
3 because they asked to forgive them, and if you
4 don't want to forgive it, it's between you and
5 your conscience.

6 So I called up my bank. I don't
7 owe them a million and a half, but I owe 1500 on
8 a credit card and I said, "I want you to
9 forgive it." They said, "Why?" I said, "Well,
10 because I'm asking, and if you don't it's
11 between you and your conscience," and they hung
12 up. So, I don't know, I guess it doesn't work.

13 But there must be a better
14 explanation and perhaps if Senator Dollinger
15 would yield, please.

16 Senator, I know you're from
17 Rochester, and I know you care about this. Can
18 you explain to me why maybe I ought to vote for
19 this?

20 SENATOR DOLLINGER: Well, I -

21 ACTING PRESIDENT KUHL: Senator
22 Gold, I don't believe Senator Dollinger has
23 spoken on the bill.

1 SENATOR GOLD: Is he raising a
2 point of order?

3 ACTING PRESIDENT KUHL: I don't
4 remember that. At least I didn't recognize him,
5 Senator Gold. Is there somebody else you would
6 like to ask to explain the -

7 SENATOR DOLLINGER: I'd be glad
8 to.

9 SENATOR GOLD: I figure this way
10 I could get a straight answer. If he's not
11 raising a point of order and wants to answer -

12 ACTING PRESIDENT KUHL: I knew he
13 wasn't, Senator Gold.

14 SENATOR GOLD: Okay. Thanks.

15 ACTING PRESIDENT KUHL: Does that
16 conclude your comments on the bill?

17 SENATOR GOLD: Yes, thank you.

18 ACTING PRESIDENT KUHL: Any other
19 Senator wishing to speak on the bill?

20 SENATOR DOLLINGER: Mr.
21 President, on the bill.

22 ACTING PRESIDENT KUHL: Senator
23 Dollinger, on the bill.

1 SENATOR DOLLINGER: Mr.
2 President. I rise to speak in favor of this
3 bill. I understand Senator Leichter's position,
4 but I concur with Senator Nozzolio.

5 When the discussion came up about
6 funding a stadium in Rochester, the agreement
7 was made between the Executive in this state and
8 the state Legislature that two parts of the
9 funding would occur.

10 One is that there would be an
11 outright grant given to the county of Monroe for
12 the construction of a stadium, about \$15.5
13 million. That was wrapped in a package that I
14 would remind all my colleagues included money
15 for a new stadium in Buffalo, included money for
16 stadiums throughout upstate New York.

17 Although there can be a legiti
18 mate debate about the economic consequences of
19 building stadiums, nonetheless, this Legislature
20 expressly said that we're going to make that
21 investment. Part of the investment in Rochester
22 was the forgiveness of this loan. That was the
23 package.

1 And so it seems to me while we
2 could isolate the forgiveness of the loan as one
3 part of this transaction and say, "UDC shouldn't
4 be in the business of forgiving loans," and to
5 that extent, Senator Leichter, I see some
6 philosophical agreement with you; nonetheless,
7 in this specific instance, the forgiveness of
8 this loan was a part of the total package.

9 I just raise one issue that I
10 would actually give to the prime sponsor of
11 this. According to my understanding, the
12 Rochester Red Wings are a for-profit
13 corporation. They certainly have a strong
14 community base. They function in many ways like
15 a not-for-profit corporation. The question that
16 I ask, and I'm not sure it needs to be answered,
17 is that my understanding is, as part of the
18 original financing back in 1987 for the
19 construction of a stadium, the actual loan was
20 made to a not-for-profit corporation which is
21 now actually owned by the Chamber of Commerce
22 that has the title to the Silver Stadium
23 property, and I don't know whether this bill has

1 been reviewed by counsel for the county or the
2 city of Rochester, but the question is, is this
3 bill -- because this bill relates to the
4 discharge of the debt to Rochester Community
5 Baseball which actually didn't own the title to
6 the property, my question is whether we can lift
7 a mortgage from a piece of property that is
8 actually owned by a not-for-profit group without
9 specifying that not-for-profit group in here? I
10 leave that to the prime sponsor. If there is an
11 answer to it, I don't know, but this refers to
12 lifting the loan from Rochester Community
13 Baseball.

14 ACTING PRESIDENT KUHL: Senator
15 Nozzolio.

16 SENATOR NOZZOLIO: Will Senator
17 Dollinger yield?

18 ACTING PRESIDENT KUHL: Senator
19 Dollinger, do you yield to Senator Nozzolio?

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

22 ACTING PRESIDENT KUHL: The
23 Senator yields.

1 SENATOR NOZZOLIO: Thank you,
2 Senator, for walking through those steps. You
3 are correct that the not-for-profit corporation
4 was melded in.

5 You are also correct that this
6 was part of a historical agreement that has -
7 no longer served its usefulness; that it's also
8 the relevant -- relevance to forgiveness as you,
9 I think, were alluding to; and I just ask you,
10 Senator, to emphasize the point that it is
11 forgiveness in large part to establish an urban
12 renewal project within the city of Rochester.
13 In order to lift the cloud of debt from that -
14 the title on that parcel, it's necessary prior
15 to any urban renewal activity there.

16 Is that your understanding?

17 ACTING PRESIDENT KUHL:

18 Gentlemen, excuse me just a bit. If you'll beg
19 an interruption.

20 The Chair would recognize Senator
21 Skelos.

22 SENATOR SKELOS: Mr. President,
23 there will be an immediate meeting of the Rules

1 Committee in the Majority Conference Room, Room
2 332.

3 ACTING PRESIDENT KUHL: There
4 will be an immediate meeting of the Rules
5 Committee. Immediate meeting of the Rules
6 Committee in the Majority Conference Room, Room
7 332. Immediate meeting of the Rules Committee,
8 Majority Conference Room, Room 332.

9 Thank you, gentlemen, for the
10 interruption.

11 Senator Dollinger.

12 SENATOR DOLLINGER: In response
13 to Senator Nozzolio's question, that is my
14 understanding that the lifting of this mortgage
15 will open economic development opportunities at
16 the Silver Stadium site at the corner of Norton
17 and Clinton Avenue.

18 I think this is the right thing
19 to do. I think this is the completion of the
20 promise that we made to the people of the city
21 of Rochester and to Rochester Community
22 Baseball. I was concerned about whether we were
23 actually lifting it from the title, and it looks

1 like that question has been answered.

2 I'll just close with one other
3 thought, Mr. President. We're opening our
4 stadium tonight. The Beach Boys are probably
5 finishing. The fireworks are going off. My
6 only regret is that, as I look at the sponsor of
7 this ship -- sponsorship of this bill, it's got
8 everybody from Monroe County except the Senator
9 whose district it happens to be located in, and
10 I wish I could have joined my three colleagues
11 in that little booth somewhere down on the
12 floor, and we could have sat there and perhaps
13 toasted one back while watching the fireworks,
14 and maybe I would have been on the bill at that
15 point, too.

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

18 SENATOR LEICHTER: If Senator
19 Dollinger will yield to a question, please.

20 ACTING PRESIDENT KUHL: Senator
21 Dollinger, do you yield to Senator Leichter?

22 SENATOR DOLLINGER: Yes.

23 ACTING PRESIDENT KUHL: The

1 Senator yields.

2 SENATOR LEICHTER: Senator
3 Dollinger, you may not be on the bill, but
4 certainly you are a good son of Rochester and
5 Monroe County, and you've certainly clarified
6 some of the issues relating to the bill, but I'm
7 a little troubled when you say this was part of
8 the promise that the state of New York made when
9 it said that it would finance a stadium in
10 Rochester, and I was here at that time. I don't
11 remember being part of any such promise, and I
12 don't remember anything in the construct of our
13 financing of that Rochester stadium which
14 provided for the discharge of this debt.

15 SENATOR DOLLINGER: Through you,
16 Mr. President. A man who happened to be the
17 Governor of this state, who happened to be a
18 Democrat, came to Rochester on a number of
19 occasions and told the people in my community
20 that he would sponsor a bill that would do two
21 things. One is, it would appropriate \$15.5
22 million for the construction of the stadium and,
23 two, he would propose a bill that would lift the

1 \$1.5 million mortgage on the Silver Stadium site
2 so that the city of Rochester could market it
3 for economic development in the future and it
4 wouldn't be encumbered by the \$1.5 million in
5 debt. I'm not so sure that that promise was
6 written by this Legislature, but certainly the
7 Governor of this state in 1994 walked into town
8 and gave us that assurance.

9 ACTING PRESIDENT KUHL: Senator
10 Leichter.

11 SENATOR LEICHTER: Well, it
12 certainly is gratifying to know that Senator
13 Nozzolio wants to make sure that Mario Cuomo's
14 promises are kept. But it was Mario Cuomo's
15 promises. It certainly wasn't this Legislature,
16 and I am troubled about the fact -- and you were
17 nice enough to concede -- that there is a
18 philosophical issue of once we make a loan by
19 UDC, particularly to a private organization,
20 that we should then come along and say, "Eh,
21 don't repay the loan; forget it."

22 SENATOR DOLLINGER: Through you,
23 Mr. President, if I can just respond to that.

1 It seems to me that that has to be decided on a
2 case-by-case basis. If there are overriding
3 public interests in the forgiveness of that loan
4 that would accelerate the reconstruction of the
5 property where Silver Stadium is now located, it
6 seems to me under those circumstances it makes
7 good sense. That's why I agree with you as a
8 philosophical notion the wholesale forgiveness
9 of loans simply because the parties can't repay
10 is a bad public policy. But the individual
11 examination of each instance to determine
12 whether the forgiveness to the loan would
13 promote economic development seems to be
14 warranted, and in this case, I agree with
15 Senator Nozzolio, Senator Maziarz, Senator Alesi
16 and my colleagues in the Assembly that this is
17 the right thing to do for the Silver Stadium
18 site, and it does fulfill a promise made by the
19 chief executive of this state.

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

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 Record the negative votes.

5 Announce the results when tabulated.

6 THE SECRETARY: Recorded in the
7 negative on Calendar 1717 are Senators Cook,
8 DiCarlo, Holland, Leichter and Onorato. Ayes
9 51, nays 5.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 SENATOR OPPENHEIMER: Mr.
13 President.

14 ACTING PRESIDENT KUHL: Senator
15 Oppenheimer, why do you rise?

16 SENATOR OPPENHEIMER: I would
17 like, with unanimous consent, to be recorded in
18 the negative on Calendar 1711, Senate Print
19 1307A.

20 ACTING PRESIDENT KUHL: Without
21 objection, and hearing no objection, Senator
22 Oppenheimer will be recorded in the negative on
23 Calendar Number 1711.

1 Secretary will continue to call
2 the controversial calendar.

3 THE SECRETARY: Calendar Number
4 1728, by Senator Velella, Senate Print 7928, an
5 act to amend the Insurance Law.

6 ACTING PRESIDENT KUHL: Message
7 of necessity was previously adopted on the
8 bill.

9 Is there any Senator wishing to
10 speak on the bill?

11 (There was no response.)

12 Hearing none, Secretary will read
13 the last section.

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

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 56.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 Senator Maziarz, we have a
23 substitution at the desk if you would like to

1 take that up at this time.

2 SENATOR MAZIARZ: Make the
3 substitutions, Mr. President.

4 ACTING PRESIDENT KUHL: We will
5 return to the order of motions and resolutions.
6 I'll ask the Secretary to read the substitution
7 at the desk.

8 THE SECRETARY: On page number 3,
9 Senator LaValle moves to discharge from the
10 Committee on Higher Education Assembly Bill
11 Number 5648C and substitute it for the identical
12 Third Reading Calendar 22.

13 ACTING PRESIDENT KUHL: A
14 substitution is ordered.

15 Senator Maziarz, what's your
16 pleasure?

17 SENATOR MAZIARZ: Mr. President,
18 can we stand at ease for a few minutes waiting
19 the report of the Rules Committee.

20 ACTING PRESIDENT KUHL: Senate
21 will stand at ease waiting the report of the
22 Rules Committee.

23 (Whereupon, at 11:01 p.m., the

1 Senate was at ease until 11:07 p.m.)

2 ACTING PRESIDENT KUHL: Senate
3 will come to order. Senators please find their
4 spots.

5 Senator Skelos.

6 SENATOR SKELOS: Mr. President,
7 if we could return to messages from the
8 Assembly.

9 ACTING PRESIDENT KUHL: We'll
10 return to the order of messages from the
11 Assembly.

12 Secretary will read.

13 THE SECRETARY: The Assembly
14 returned Senate Bill 5591A, Budget Bill, with an
15 Assembly Reprint 30012.

16 ACTING PRESIDENT KUHL: Senator
17 Tully.

18 SENATOR TULLY: Mr. President, on
19 behalf of Senator Stafford, I move that the
20 Senate not concur in said amendments and move to
21 reconsider the vote by which this bill was
22 passed.

23 ACTING PRESIDENT KUHL: The

1 Secretary will call the roll on reconsideration.

2 (The Secretary called the roll on
3 reconsideration.)

4 THE SECRETARY: Ayes 56.

5 ACTING PRESIDENT KUHL: The bill
6 is before the house.

7 Senator Tully.

8 SENATOR TULLY: Mr. President, I
9 now offer the following amendments.

10 ACTING PRESIDENT KUHL:

11 Amendments are received and adopted.

12 Senator Skelos, the Rules report
13 is at the desk if you would care to return to
14 the order of Rules -- or reports of standing
15 committees.

16 SENATOR SKELOS: Mr. President,
17 if we could have a reading of the Rules report
18 at this time.

19 ACTING PRESIDENT KUHL: Return to
20 the order of reports of standing committees.

21 I'll ask the Secretary to read the report of the
22 Rules Committee.

23 THE SECRETARY: Senator Bruno

1 from the Committee on Rules reports the
2 following bills:

3 Senate Print 7929, by Senator
4 Lack, an act to amend the Criminal Procedure
5 Law;

6 7930, by Senator Hoblock, an act
7 to amend the Penal Law;

8 7931, by Senator DiCarlo, an act
9 to amend the Penal Law;

10 7932, by Senator Alesi, an act to
11 amend the Penal Law;

12 7933, by Senator Leibell, an act
13 to amend the Criminal Procedure Law;

14 7934, by Senator Marcellino, an
15 act to amend the Executive Law;

16 7935, by Senator DiCarlo, an act
17 to amend the Penal Law;

18 7936, by Senator Volker, an act
19 to amend the Penal Law;

20 7937, by Senator Saland, an act
21 to amend the Family Court Act and the Executive
22 Law.

23 All bills ordered directly for

1 third reading.

2 ACTING PRESIDENT KUHL: Senator
3 Skelos.

4 SENATOR SKELOS: Move we accept
5 the report of the Rules Committee.

6 ACTING PRESIDENT KUHL: The
7 motion is to accept the report of the Rules
8 Committee.

9 All those in favor, signify by
10 saying aye.

11 (Response of "Aye.")

12 Opposed, nay.

13 (There was no response.)

14 The Rules report is accepted.

15 All bills are ordered directly to third reading.

16 A little order in the house,
17 please.

18 Chair recognizes Senator Bruno.

19 SENATOR BRUNO: Mr. President,
20 can we at this time take up Supplemental
21 Calendar No. 2, noncontroversial.

22 ACTING PRESIDENT KUHL: Secretary
23 will do the noncontroversial reading of

1 Supplemental Calendar No. 2, which is on all of
2 the members' desks. You will note that all of
3 the bills are high. There are messages or
4 Assembly substitutes on all of the bills so they
5 will be live and taken up.

6 Secretary will call the
7 noncontroversial calendar.

8 THE SECRETARY: Calendar Number
9 1729, by Senator Lack, Senate Print 7929, an act
10 to amend the Criminal Procedure Law, in relation
11 to discharge of sworn jurors.

12 ACTING PRESIDENT KUHL: There is
13 a message of necessity at the desk.

14 SENATOR BRUNO: Is there a
15 message at the desk?

16 ACTING PRESIDENT KUHL: There is,
17 Senator Bruno.

18 SENATOR BRUNO: Move the message.

19 ACTING PRESIDENT KUHL: The
20 motion is to accept the message of necessity on
21 Calendar Number 1729.

22 All in favor, signify by saying
23 aye.

1 (Response of "Aye.")

2 Opposed, nay.

3 (There was no response.)

4 The message is accepted.

5 Secretary will read the last

6 section.

7 THE SECRETARY: Section 3. This

8 act shall take effect in 30 days.

9 ACTING PRESIDENT KUHL: Call the

10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 56.

13 ACTING PRESIDENT KUHL: The bill

14 is passed.

15 THE SECRETARY: Calendar Number

16 1730, by Senator Hoblock, Senate Print 7930, an

17 act to amend the Penal Law, in relation to

18 enhancing penalties for violations.

19 ACTING PRESIDENT KUHL: Senator

20 Bruno.

21 SENATOR BRUNO: Is there a

22 message at the desk, Mr. President?

23 ACTING PRESIDENT KUHL: There is

1 a message of necessity at the desk.

2 SENATOR BRUNO: Move we accept
3 the message.

4 ACTING PRESIDENT KUHL: The
5 motion is to accept the message of necessity on
6 Calendar Number 1730.

7 All in favor, signify by saying
8 aye.

9 (Response of "Aye.")

10 Opposed, nay.

11 (There was no response.)

12 The message is accepted.

13 The Secretary will read the last
14 section.

15 THE SECRETARY: Section 3. This
16 act shall take effect on September 1.

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 56.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 THE SECRETARY: Senator DiCarlo

1 moves to discharge from the Committee on Rules
2 Assembly Bill Number 8817 and substitute it for
3 the identical Third Reading Calendar 1731.

4 ACTING PRESIDENT KUHL:
5 Substitution is ordered.

6 Secretary will read the title.

7 THE SECRETARY: Calendar Number
8 1731, by Member of the Assembly Keane, Assembly
9 Print 8817, an act to amend the Penal Law, in
10 relation to gang assault.

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

13 THE SECRETARY: Section 3. This
14 act shall take effect on the first day of
15 November.

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 56.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Senator Alesi
23 moves to discharge from the Committee on Rules

1 Assembly Bill Number 8471 and substitute it for
2 the identical Third Reading Calendar 1732.

3 ACTING PRESIDENT KUHL: The
4 Assembly bill is substituted.

5 Secretary will read the title.

6 THE SECRETARY: Calendar Number
7 1732, by Member of the Assembly John, Assembly
8 Print 8471, an act to amend the Penal Law, in
9 relation to increasing the penalty for serious
10 assaults.

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

13 THE SECRETARY: Section 3. This
14 act shall take effect on the first day of
15 November.

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 56.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1733, by Senator Leibell, Senate Print 7933, an

1 act to amend the Criminal Procedure Law, in
2 relation to the period of time.

3 ACTING PRESIDENT KUHL: Senator
4 Bruno.

5 SENATOR BRUNO: Is there a
6 message at the desk, Mr. President?

7 ACTING PRESIDENT KUHL: There is.

8 SENATOR BRUNO: I move we accept
9 the message.

10 ACTING PRESIDENT KUHL: The
11 motion is to accept the message of necessity on
12 Calendar Number 1733.

13 All those in favor, signify by
14 saying aye.

15 (Response of "Aye.")

16 Opposed, nay.

17 (There was no response.)

18 The message is accepted.

19 The Secretary will read the last
20 section.

21 THE SECRETARY: Section 2. This
22 act shall take effect in 30 days.

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 56.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1734, by Senator Marcellino, Senate Print 7934,
8 an act to amend the Executive Law, in relation
9 to awarding crime victim compensation.

10 ACTING PRESIDENT KUHL: Senator
11 Bruno.

12 SENATOR BRUNO: Is there a
13 message at the desk, Mr. President?

14 ACTING PRESIDENT KUHL: There is.

15 SENATOR BRUNO: Move we accept
16 the message.

17 ACTING PRESIDENT KUHL: The
18 motion is to accept the message of necessity on
19 Calendar Number 1734.

20 All those in favor, signify by
21 saying aye.

22 (Response of "Aye.")

23 Opposed, nay.

1 (There was no response.)

2 The message is accepted.

3 The Secretary will read the last
4 section.

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

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 56.

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1735, by Senator DiCarlo, Senate Print 7935, an
15 act to amend the Penal Law, in relation to
16 assault on a peace officer.

17 ACTING PRESIDENT KUHL: Senator
18 Bruno.

19 SENATOR BRUNO: Is there a
20 message at the desk, Mr. President?

21 ACTING PRESIDENT KUHL: There is.

22 SENATOR BRUNO: Move we accept
23 the message.

1 ACTING PRESIDENT KUHL: The
2 motion is to accept the message of necessity on
3 Calendar Number 1735.

4 All those in favor, signify by
5 saying aye.

6 (Response of "Aye.")

7 Opposed, nay.

8 (There was no response.)

9 The message is accepted.

10 The Secretary will read the last
11 section.

12 THE SECRETARY: Section 3. This
13 act shall take effect on the first day of
14 November.

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 56.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Senator Volker
22 moves to discharge from the Committee on Rules
23 Assembly Bill Number 10473A and substitute it

1 for the identical Third Reading Calendar 1736.

2 ACTING PRESIDENT KUHL: The
3 substitution is ordered.

4 The Secretary will read the
5 title.

6 THE SECRETARY: Calendar Number
7 1736, by the Assembly Committee on Rules,
8 Assembly Print 10473A, an act to amend the Penal
9 Law, in relation to the use of electronic
10 surveillance.

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

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 56.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1737, by Senator Saland, Senate Print 7937, an
23 act to amend the Family Court Act and the

1 Executive Law.

2 ACTING PRESIDENT KUHL: Senator
3 Bruno.

4 SENATOR BRUNO: Is there a
5 message at the desk, Mr. President?

6 ACTING PRESIDENT KUHL: There is.

7 SENATOR BRUNO: I move we accept
8 the message.

9 ACTING PRESIDENT KUHL: The
10 motion is to accept the message of necessity on
11 Calendar Number 1737.

12 All those in favor, signify by
13 saying aye.

14 (Response of "Aye.")

15 Opposed, nay.

16 (There was no response.)

17 The message is accepted.

18 Secretary will read the last
19 section.

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

22 SENATOR LEICHTER: Lay it aside.

23 ACTING PRESIDENT KUHL: Senator

1 Saland, it's on noncontroversial, so the bill is
2 laid aside.

3 Senator Bruno, that completes the
4 reading of the noncontroversial calendar.

5 SENATOR BRUNO: Mr. President,
6 can we at this time recognize Senator Tully for
7 an amendment.

8 ACTING PRESIDENT KUHL: Return to
9 the order of motions and resolution.

10 Senator Tully.

11 SENATOR TULLY: Thank you, Mr.
12 President. On behalf of Senator Stafford, I
13 offer the following amendments to Calendar
14 Number 1352, Senate Print Number 5595B, and ask
15 that said bill retain its place on the Third
16 Reading Calendar.

17 ACTING PRESIDENT KUHL:
18 Amendments are received and adopted and the bill
19 will retain its spot on the Third Reading
20 Calendar.

21 Senator Bruno, that brings us to
22 the controversial calendar.

23 SENATOR BRUNO: Calendar No. 2,

1 Mr. President, can we now take up the
2 controversial calendar.

3 ACTING PRESIDENT KUHL: Secretary
4 will read the controversial reading of
5 Supplemental Calendar No. 2, Calendar Number
6 1737, by Senator Saland.

7 THE SECRETARY: Calendar 1737, by
8 Senator Saland, Senate Print 7937, an act to
9 amend the Family Court Act and the Executive
10 Law.

11 ACTING PRESIDENT KUHL: The bill
12 was high, but a message was accepted previously.

13 Senator Saland, an explanation of
14 the bill has been asked for.

15 SENATOR SALAND: Mr. President,
16 what this bill does primarily is to expand the
17 categories of juveniles for whom fingerprints
18 can be taken and retained.

19 Currently, depending upon their
20 age, juveniles who commit an A, B or C felony
21 can have their fingerprints taken. What this
22 will do, in the cases of D and E felonies,
23 expands that fingerprinting to 13-, 14- and

1 15-year-olds. It certainly is a piece that law
2 enforcement has been clamoring for for a long
3 time. It is something which I'm pleased the
4 Governor has sent to us, and we certainly hope
5 that it passes with speed through at this late
6 hour.

7 ACTING PRESIDENT KUHL: Any other
8 Senator wishing to speak on the bill?

9 Hearing none, the Secretary -
10 Oh, I'm sorry. Senator
11 Montgomery.

12 There's so many people standing
13 it's difficult to pick somebody who wishes to be
14 recognized.

15 Chair recognizes Senator
16 Montgomery.

17 SENATOR MONTGOMERY: Thank you.
18 Mr. President. I would like to
19 know if the sponsor will yield for a question?

20 ACTING PRESIDENT KUHL: Senator
21 Saland, do you yield?

22 SENATOR SALAND: Yes, Mr.
23 President.

1 ACTING PRESIDENT KUHL: Senator
2 yields.

3 SENATOR MONTGOMERY: Yes, Senator
4 Saland. The bill authorizes fingerprinting of
5 juveniles ages 13 to 15 who are charged with a
6 Class D or E felony offense. Could you give me
7 some examples of what that would be?

8 SENATOR SALAND: Well, I don't
9 have my Penal Law with me. But there are
10 assaults that would be covered, possession of a
11 loaded firearm would be covered. I'm sure there
12 are a number of others, larceny offenses as
13 well.

14 Currently, those in that age
15 group if they commit a C felony can have their
16 prints retained.

17 SENATOR MONTGOMERY: Right, but
18 this -

19 SENATOR SALAND: Expands it to
20 Ds and Es.

21 SENATOR MONTGOMERY: That they
22 now can be fingerprinted for D and E. I was
23 trying to determine just exactly what we're

1 trying to do here in terms of matching the
2 fingerprinting requirements with that particular
3 crime.

4 SENATOR SALAND: Correct. The
5 examples that I gave you are primarily violent
6 felonies, felonies where I think wisdom would
7 dictate as would wise criminal justice policy be
8 that there be some records to determine whether
9 these young people, in fact, should they be
10 engaged in this kind of misconduct shortly
11 thereafter were, in fact, being followed or
12 recognized for their prior criminal acts.

13 SENATOR MONTGOMERY: One last
14 question if you would continue to yield,
15 Senator.

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

18 SENATOR SALAND: Yes, Mr.
19 President.

20 ACTING PRESIDENT KUHL: The
21 Senator yields.

22 SENATOR MONTGOMERY: The
23 fingerprinting that is associated with the

1 offenses that you talk about here with the C and
2 D felony offenses, do those ultimately become a
3 part of the record where the Court's decision,
4 the judge's decision is going to take into
5 consideration that a young person at the age of
6 13 was arrested for possession of a loaded
7 weapon, had a loaded weapon, and he or she was
8 in the sixth grade and now is 25 and has another
9 incident with law enforcement, and that is now
10 going to be his second offense?

11 SENATOR SALAND: I'm looking in
12 the bill to see if there is an expungement
13 provision and, if it's there, I don't see it.

14 There is a provision for
15 destruction in Family Court proceedings. That's
16 in there, and what it does is, it permits the
17 destruction of records by way of application
18 directly to the clerk instead of having to
19 obtain a court order.

20 SENATOR MONTGOMERY: In Family
21 Court.

22 SENATOR SALAND: In Family Court,
23 correct.

1 SENATOR MONTGOMERY: But not in a
2 Criminal Court proceeding.

3 SENATOR SALAND: The section that
4 we're dealing with amends the Family Court Act,
5 not -- the section that you're referring to,
6 which is Subsection b, which is found at lines
7 11 and 13 on the front page, is an amendment to
8 the Family Court Act. So, effectively there is
9 a mechanism in here to expunge those records
10 where you are dealing with juveniles who are
11 charged with crimes which would constitute a C,
12 D or E felony and that procedure is laid out
13 starting at line 16 in the amended language.

14 If your concern is whether or not
15 this is stepping up penalties in some fashion in
16 criminal proceedings, I don't believe there's
17 anything in this bill that deals with either the
18 Penal Law or the CPL. Every section that I see
19 here amends a section of the Family Court Act.

20 SENATOR MONTGOMERY: I guess my
21 question, Mr. President, is to what extent this
22 law adds to the status of a predicate felon.

23 SENATOR SALAND: It doesn't.

1 SENATOR MONTGOMERY: It does
2 not. So you are not considered a predicate
3 felon based on an arrest that is made under this
4 law?

5 SENATOR SALAND: Correct, you are
6 not.

7 SENATOR MONTGOMERY: At any point
8 in time?

9 SENATOR SALAND: There's nothing
10 in here that alters the existing law with regard
11 to establishing whether somebody is a predicate
12 felon.

13 SENATOR MONTGOMERY: Thank you.

14 ACTING PRESIDENT KUHL: Any other
15 Senator wishing to speak on the bill?

16 Senator Waldon.

17 SENATOR WALDON: Will the
18 gentleman yield to a question or two?

19 ACTING PRESIDENT KUHL: Senator
20 Saland, do you yield to a question from Senator
21 Waldon?

22 SENATOR SALAND: Yes, Mr.
23 President.

1 ACTING PRESIDENT KUHL: Senator
2 yields.

3 SENATOR WALDON: Thank you, Mr.
4 President.

5 Senator Saland, I'm trying to
6 conjure up in my mind's eye the purpose of
7 changing the Family Court Act so that we can
8 fingerprint at that age. Is it going to make
9 for better record keeping? Will it give us an
10 ability to follow these people, these young
11 people better? Will it allow those who are
12 investigating to punch up the whorls, et cetera,
13 and make matches? The Family Court Act has very
14 good control of people that age now. What is
15 the purpose of what you're doing?

16 SENATOR SALAND: Basically, there
17 is a whole host of violent crimes that are D and
18 E felonies for which there really is no ability
19 to track these young people and even to attempt
20 by reason of their acts to intervene, to
21 intervene with regard to whatever the needs of
22 that youth may be.

23 I mean the records would

1 currently be sealed; and if that person had
2 assaulted somebody or if they had committed some
3 type of a crime with a weapon, under the
4 existing law there would be no ability to
5 determine that in Family Court because the
6 record -- that record would not -- would not
7 come up in a DCJS -

8 SENATOR WALDON: There would be
9 no yellow sheet.

10 SENATOR SALAND: Correct.

11 SENATOR WALDON: Thank you. But
12 one more question, if I may.

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

15 Senator Saland, do you continue
16 to yield?

17 SENATOR SALAND: Yes, Mr.
18 President.

19 ACTING PRESIDENT KUHL: Senator
20 continues to yield.

21 SENATOR WALDON: Senator, I'm
22 really trying to get an understanding, what you
23 are saying, and clear me up if I'm wrong in

1 hearing, is that this creates an ability to
2 reflect back on those who may have committed
3 violent crime even though they are at a very
4 young age because now you are taking them out of
5 the system that before had no ability to kick
6 out evidence about their previous behavior.

7 You are now creating an ability
8 to put in someone's information, and it comes up
9 if they've had two previouses or whatever the
10 situation is with this new mechanism; is that
11 correct?

12 SENATOR SALAND: What this would
13 do would be to enable the Court, a Family Court,
14 in a situation where this 13- or 14- or
15 15-year-old person had previously committed what
16 would otherwise be a D and E -- D or E felony to
17 know that, to determine if, in fact, he or she
18 is repeatedly committing these types of acts.

19 SENATOR WALDON: And no matter
20 the jurisdiction.

21 SENATOR SALAND: I'm sorry?

22 SENATOR WALDON: No matter the
23 jurisdiction.

1 SENATOR SALAND: No matter?

2 SENATOR WALDON: No matter the
3 jurisdiction, out of state, only instate New
4 York State?

5 SENATOR SALAND: I'm assuming
6 it's instate unless for some reason or another
7 there's some type of impact with DCJS that would
8 pick up out-of-state comparably-charged crimes.

9 SENATOR WALDON: Last question,
10 if I may, Mr. President?

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

13 SENATOR SALAND: Yes, Mr.
14 President.

15 ACTING PRESIDENT KUHL: The
16 Senator continues to yield.

17 SENATOR WALDON: Senator, is
18 there a repository of information that you are
19 privileged to that I'm not which shows that this
20 is such a problem for the criminal justice
21 system not being able to identify these young
22 people that it gave rise to this proposal?

23 SENATOR SALAND: I'm sure that

1 there is plenty of anecdotal information. It's
2 something that prosecutors and law enforcement
3 have been endeavoring to secure. I might even
4 have used the term "clamoring for" a bit
5 earlier.

6 It certainly seems to me to make
7 sense. Who benefits? Who benefits? Society?
8 Nobody benefits if we continue to shield these
9 really violent law breakers. I mean D and E
10 felonies are nothing to be sneered at. They
11 can't even access information for purposes of
12 trying to provide some type of advocacy or
13 alternatives or programs of any nature like that
14 to help them try and steer away from a
15 continuing course of conduct.

16 I view this as a win-win for both
17 those who would engage in this criminal activity
18 and for society because at least, instead of
19 going through this tortuous DFY system with
20 little or no ability to provide appropriate
21 information, you now have the information and
22 it's possible that somebody may benefit.
23 Somebody may find some intervention that might

1 not otherwise have been available to them, by
2 reason of being able to sort of take this
3 information and use the information as a
4 resource.

5 SENATOR WALDON: Thank you very
6 much, Senator.

7 Thank you, Mr. President.

8 ACTING PRESIDENT KUHL: Senator
9 Marchi, did you wish to speak on the bill?

10 SENATOR DOLLINGER: Mr. President.

11 SENATOR MARCHI: Yes, just
12 tangentially. I support the measure. I think
13 it's wise and well taken, but I merely get up to
14 point to a -- a variation of that thinking that
15 I had started to work on, and I've been
16 negligent.

17 My feeling is that the question
18 of personal identity should be universal. We
19 wouldn't be getting some of these arguments. A
20 person is perhaps taken advantage of on a
21 highway and left for dead without documents, may
22 be impossible to find out who they are. Simply
23 this is a lack of information that might be

1 developed if we had a finger or imaging
2 procedure by which a person could be identified,
3 and I don't see why out of 250 million
4 Americans, all 250 million are a matter of
5 record and identity, and then we'd get away from
6 the notion because it's always been associated
7 with crime and there are a lot of other
8 considerations that were valid and raised, but I
9 would -- I would hope that, if I persevere in my
10 intention to have something suitable submitted
11 providing for universal imaging, we can only
12 speak for this state, but it -- I think it would
13 be an encouraging start and with uniform state
14 laws perhaps it might be of general interest
15 around the country.

16 If we have that information, it's
17 so useful beyond the criminal -- fact of
18 criminal enforcement. Of course, right now we
19 have tens of millions of people who, for one
20 reason or another, I guess almost everybody in
21 this chamber has been fingerprinted, have been
22 fingerprinted for some reason. There's no
23 reason why it shouldn't be universal, and then

1 perhaps some of these discussions might be a
2 little easier.

3 I support the bill.

4 SENATOR DOLLINGER: Mr. President.
5 Mr. President.

6 ACTING PRESIDENT KUHL: Senator
7 Dollinger, I'll recognize you soon as we get a
8 little quiet. I don't think anybody in the
9 chamber could hear you. Will the members please
10 take their seats or take their conversations out
11 of the room.

12 I think we can hear you now,
13 Senator Dollinger. Thank you.

14 SENATOR DOLLINGER: Mr. President.

15 ACTING PRESIDENT KUHL: Senator
16 Dollinger.

17 SENATOR DOLLINGER: Mr.
18 President, just two brief comments on this
19 package of bills. First of all, currently
20 looking at these nine bills, Senator Pataki
21 watched the agenda of the Codes Committee; two
22 years he sat on the committee and I will really
23 commend its chairman. Most of these bills are

1 bills that Senator Volker has watched, talked
2 about, debated in his Codes Committee for at
3 least the last two or three years. Then Senator
4 Pataki was sitting in here and cast a yes vote.
5 I'm pleased to see he's picked up the agenda of
6 the Codes Committee.

7 I just want to make one other
8 comment, Mr. President, and that is the impor
9 tance of recognizing what this bill does. Al
10 though this bill does not correct a decision in
11 the Court of Appeals, other bills in this pack
12 age did, and I simply want to emphasize that we
13 are fulfilling our congressional responsibility
14 of checks and balances.

15 We gave an assignment to a
16 court. We left several parts of these statutes
17 where we didn't specifically suggest what needed
18 to be done when a defendant didn't appear, what
19 was to be done when convicted, what needed to be
20 done when a juror created a problem, we didn't
21 tell them what remedies to apply. In the absence
22 of direction or comment from this Legislature,
23 courts were faced with the difficult decision of

1 deciding what to do when the statute wasn't
2 technically followed.

3 Under those circumstances, they
4 gave the defendant the benefit of the doubt.
5 They gave the defendant before they took away
6 their liberty interest, they said the criminal
7 statute must be strictly construed to protect
8 the liberty of the individual.

9 I want to emphasize that I
10 continue to advise our common law courts to do
11 that, but we are now giving express instructions
12 as to what the will of the people is on these
13 specific Penal Law issues. We are fulfilling,
14 completing the circle of checks and balances
15 which is vital to the maintenance of our Penal
16 Law system and the notion that we only interfere
17 with individual liberty through the deliberate
18 express construction of the penal laws, and I
19 think these are good bills.

20 I think they check decisions
21 which are contrary to the legislative intent,
22 the bigger picture, but I think it's important
23 to remind us how the work of criminal law,

1 frankly, continues to affect the people of this
2 state, and again I continue to commend the
3 chairman of the Codes Committee for his work.

4 ACTING PRESIDENT KUHL: Is there
5 any other Senator wishing to speak on the bill?
6 Hearing none, the Secretary will read the last
7 section.

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

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT KUHL: Senator
14 Montgomery, to explain her vote.

15 SENATOR MONTGOMERY: Yes, Mr.
16 President. I'm voting no on this bill. I find
17 it still difficult, despite the explanation
18 Senator Saland has given, to accept the notion
19 that, for an offense such as an assault or even
20 possibly I'm told by one of my colleagues who is
21 a lawyer that something like shoplifting when
22 you are 13 can, in fact, become part of your
23 permanent criminal record or can become a part

1 -- a criminal record for you and go with you
2 forever, and Senator Saland has not convinced me
3 that, in fact, that record cannot be accessed by
4 the courts.

5 He says that he wants to finger
6 print these young people because he wants it to
7 be for the court to be able to look back and see
8 what they have been -- what kind of activities
9 they've been engaged in so that that can be part
10 of the consideration for a decision in that
11 young person's sentencing, and so obviously the
12 fingerprinting is meant as a -- to be a part of
13 the criminal record and is -- there is no
14 indication in my mind, nor is there any
15 indication based on the kinds of legislation
16 that has been passed in this -- in this house
17 and in the Legislature and signed by the
18 Governor that we are doing anything besides
19 preparing young people to go into the criminal
20 justice system at a faster rate and for lesser
21 and lesser kinds of offenses.

22 So I must vote no on this, and I
23 would urge my colleagues to also vote no because

1 I think we are going absolutely in the wrong
2 direction. It is the direction that every
3 single expert in law enforcement and criminal
4 justice says is wrong. We must not continue to
5 criminalize younger and younger children and at
6 the same time remove all supports from them and
7 their families in their communities which would
8 hopefully prevent them from being classified as
9 criminals at such an early age.

10 So, Mr. President, I'm voting no
11 on this legislation.

12 ACTING PRESIDENT KUHL: Senator
13 Montgomery will be recorded in the negative.

14 Announce the results.

15 THE SECRETARY: Those recorded in
16 the negative on Calendar Number 1737 are
17 Senators Montgomery, Paterson, Seabrook, Smith
18 and Waldon. Ayes 51, nays 5.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 Senator Bruno, that completes the
22 controversial reading of Supplemental Calendar
23 Number 2.

1 SENATOR BRUNO: Mr. President,
2 it's my understanding that the Minority would
3 like to conference on our first budget bill,
4 public safety, that we hope to take up this
5 evening. I would, at this time, suggest that we
6 stand at ease for about 20 minutes to a half
7 hour, and that I will ask the Majority to
8 conference with me in Room 332.

9 Thank you, Mr. President.

10 ACTING PRESIDENT KUHL: There
11 will be an immediate meeting of the Majority
12 Conference in the Majority Conference Room, Room
13 332. Immediate meeting of the Majority
14 Conference in the Majority Conference Room, Room
15 332. Also be an immediate meeting of the
16 Minority Conference in the Minority Conference
17 Room, Room 314. Immediate meeting of the
18 Minority Conference in the Minority Conference
19 Room, Room 314.

20 The Senate will stand at ease for
21 approximately 20 minutes.

22 (Whereupon at 11:45 p.m., the
23 Senate stood at ease until 12:28 a.m.)

1 ACTING PRESIDENT KUHL: The
2 Senate will come to order. Members please find
3 their places, staff please take their seats.

4 SENATOR BRUNO: Can we return to
5 messages from the Assembly.

6 ACTING PRESIDENT KUHL: We'll
7 return to the order of messages, order of -
8 yes, order of messages from the Assembly.

9 Secretary will read.

10 THE SECRETARY: The Assembly
11 returned Senate Bill 5593-A, a budget bill, with
12 an Assembly Reprint 30,013.

13 ACTING PRESIDENT KUHL: Senator
14 Tully.

15 SENATOR TULLY: Mr. President, on
16 behalf of Senator Stafford, I move that the
17 Senate not concur in said amendments and move to
18 reconsider the vote by which this bill was
19 passed.

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

22 (The Secretary called the roll on
23 reconsideration.)

1 THE SECRETARY: Ayes 56.

2 SENATOR TULLY: Mr. President, I
3 now offer the following amendments.

4 ACTING PRESIDENT KUHL:
5 Amendments are received and adopted.

6 Go to motions and resolutions.
7 Chair recognizes Senator Libous.

8 SENATOR LIBOUS: Thank you, Mr.
9 President. On behalf of Senator Stafford, I
10 wish to call up his bill 5592-A, recalled from
11 the Assembly which is now at the desk.

12 ACTING PRESIDENT KUHL: Secretary
13 will read.

14 THE SECRETARY: Calendar number
15 1353, Budget Bill, Senate Bill 5592-A, an act
16 making appropriations for the support of
17 government.

18 ACTING PRESIDENT KUHL: Senator
19 Libous.

20 SENATOR LIBOUS: Thank you, Mr.
21 President. I now move to reconsider the bill -
22 the vote by which this bill was passed.

23 ACTING PRESIDENT KUHL: Secretary

1 will call the roll on reconsideration.

2 (The Secretary called the roll on
3 reconsideration.)

4 THE SECRETARY: Ayes 56.

5 SENATOR LIBOUS: I offer up the
6 following amendments.

7 ACTING PRESIDENT KUHL:

8 Amendments are received and adopted.

9 Senator Bruno.

10 SENATOR BRUNO: Is there any
11 other housekeeping at the desk?

12 ACTING PRESIDENT KUHL: Nothing
13 right now, Senator.

14 SENATOR BRUNO: Nothing now.

15 Mr. President, there being no
16 further business to come before the Senate, I
17 would move that we stand adjourned until
18 tomorrow.

19 ACTING PRESIDENT KUHL: Without
20 objection, Senate stands adjourned until
21 tomorrow.

22 (Whereupon at 12:30 a.m., July
23 12, 1996, the Senate adjourned.)