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ALBANY, NEW YORK
December 17, 1996
2:13 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: All
3 right. The Senate will come to order. Ask all
4 the members and the people in the chamber to
5 rise and join me in saying the Pledge of
6 Allegiance to the Flag.

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

9 May we bow our heads in a moment
10 of silence.

11 (A moment of silence was
12 observed.)

13 Reading of the Journal.

14 THE SECRETARY: In Senate,
15 Monday, December 16th. The Senate met pursuant
16 to adjournment, Senator Hoblock in the Chair.
17 The Journal of Sunday, December 15th, was read
18 and approved. On motion, Senate adjourned.

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

22 Presentation of petitions.

23 Messages from the Assembly.

1 Messages from the Governor.
2 Reports of standing committees.
3 Reports of select committees.
4 Communications and reports from
5 state officers.

6 Motions and resolutions.
7 SENATOR SKELOS: Mr. President.
8 ACTING PRESIDENT KUHL: Senator
9 Skelos.

10 SENATOR SKELOS: There will be an
11 immediate meeting of the Rules Committee in Room
12 332 of the Capitol.

13 ACTING PRESIDENT KUHL: Immediate
14 meeting of the Rules Committee, immediate
15 meeting of the Rules Committee in the Senate
16 Conference Room.

17 SENATOR SKELOS: And the Senate
18 will stand at ease at this time.

19 SENATOR STAFFORD: Mr. President.

20 ACTING PRESIDENT KUHL: Chair
21 recognizes Senator Stafford.

22 SENATOR STAFFORD: Mr. President,
23 when the Rules Committee is over -- and I

1 suggest you watch carefully, you can do that,
2 ask somebody to go over to the meeting or stand
3 there, so when that ends the Finance Committee
4 is going to resume, and we'll resume in 124.
5 Let's go back to 124 where we were and then
6 everybody has got a seat there. So when the
7 Rules Committee is over.

8 ACTING PRESIDENT KUHL: At the
9 conclusion of the Rules Committee, the Senate
10 Finance Committee meeting will resume in Room
11 124 in the Capitol.

12 Senator Paterson, did you wish to
13 say something before we stand in recess?

14 SENATOR PATERSON: No, Mr.
15 President, nothing that I would add would help
16 the situation at all.

17 ACTING PRESIDENT KUHL: Thank
18 you, Senator Paterson. Then the Senate stands
19 in recess.

20 (The Senate recessed at 2:15 p.m.
21 until 2:23 p.m.)

22 SENATOR SKELOS: Mr. President,
23 if we could return to reports of standing

1 committees, I believe there's a report of the
2 Rules Committee at the desk. If we could have it
3 read, bills would then be distributed and
4 there'll be -- we'll then stand at ease while
5 the Finance Committee meets.

6 ACTING PRESIDENT SEWARD: The
7 Secretary will read the bills.

8 THE SECRETARY: Senator Bruno,
9 from the Committee on Rules, reports the
10 following bills directly to third reading:

11 Senate Print 7110-A, by Senator
12 Trunzo, an act to amend the Retirement and
13 Social Security Law;

14 7480, by Senator Leibell, an act
15 to permit the re-opening of the 20-year
16 retirement plan;

17 7975, by Senator Trunzo, an act
18 to amend the Retirement and Social Security Law;

19 7978, by Senator Seward, an act
20 to amend the Public Service Law and the Uniform
21 Commercial Code;

22 7979, by Senator Seward, an act
23 to amend the Public Service Law, the Public

1 Authorities Law, the Economic Development Law
2 and the Tax Law; and

3 7976, by the Senate Committee on
4 Rules, an act to amend Chapter 709 of the Laws
5 of 1996.

6 All bills ordered directly for
7 third reading.

8 ACTING PRESIDENT SEWARD: Senator
9 Skelos.

10 SENATOR SKELOS: Mr. President,
11 there will now be -- I move to accept the report
12 of the Rules Committee.

13 ACTING PRESIDENT SEWARD: All in
14 favor of accepting the report of the Rules
15 Committee signify by saying aye.

16 (Response of "Aye.")

17 Opposed nay.

18 (There was no response.)

19 The report is accepted.

20 SENATOR SKELOS: Now the Finance
21 Committee will meet in Room 124 of the Capitol
22 and the Senate will continue to stand at ease.

23 ACTING PRESIDENT SEWARD: The

1 Finance Committee will meet in Room 124 of the
2 Capitol, and the Senate will continue to stand
3 in recess.

4 (The Senate recessed from 2:25
5 until 3:26 p.m.)

6 THE PRESIDENT: Senator Skelos.

7 SENATOR SKELOS: Yes, Madam
8 President, with the consent of the Minority,
9 we're going to have a reading of the Finance
10 Committee report, and then at the same time have
11 a meeting of the Rules Committee in Room 332 of
12 the Capitol, so if we could have -- return to
13 reports of standing committees, please have the
14 report of the Finance Committee read.

15 THE PRESIDENT: The Secretary
16 will read.

17 THE SECRETARY: Senator Stafford,
18 from the Committee on Finance, offers the
19 following nomination: Commissioner of General
20 Services, Joseph J. Seymour of Glenmont.

21 THE PRESIDENT: Senator
22 Stafford.

23 SENATOR STAFFORD: Thank you,

1 Madam President.

2 Once again, it's a pleasure to
3 rise, and you've heard me say previously in the
4 last few months when I rise that this is an
5 excellent appointment. Once again, I'm very
6 pleased to say again without reservation that
7 Mr. Seymour is an excellent nomination for the
8 Commissioner of Office of General Services.

9 Mr. Seymour has a distinguished
10 career in local government. He's had extensive
11 experience in administration. I can share with
12 you that our committee was most impressed. He's
13 been the Executive Deputy Commissioner of the
14 Department of Motor Vehicles, did an excellent
15 job. He has been Acting Commissioner with the
16 Office of General Services or in the Office of
17 General Services, and he has done an excellent
18 job.

19 When I asked him a number of
20 questions when I first talked with him, he
21 stated to me that he's a professional in
22 government, he's very proud of that fact, and
23 that he would on any issue, on any matter,

1 assemble the facts and professionally advise the
2 Governor. I don't think that -- and he would
3 run his operation professionally. I don't think
4 any of us can ask any more than that. As a
5 matter of fact, now that right off the top of my
6 head, if someone would please go to the
7 telephone, I think Mr. Seymour -- no he's not -
8 he was to be here -

9 SENATOR FARLEY: He's right up
10 here.

11 SENATOR STAFFORD: I was thinking
12 that he was in an office, but again, speaking to
13 the nominee, as I said, I think that for the
14 Department or Office of General Services that we
15 do need the type of individual, the type of
16 professional, the type of dedicated public
17 servant that John Seymour is, and will be -
18 excuse me, Joseph J. Seymour is and will be.

19 With those words, Mr. President,
20 I move his confirmation, and I now yield to
21 Senator Leibell.

22 THE PRESIDENT: Senator Leibell.

23 SENATOR LEIBELL: Thank you,

1 Madam President.

2 I would like to join with my
3 colleague, Senator Stafford, in recommending
4 this nomination. I've had the good fortune to
5 know Joe Seymour for some considerable period of
6 time, and we are here today on this confirmation
7 for one of the most important positions that
8 exist in New York State government. We are most
9 fortunate that for a position of this nature and
10 its significance, that Governor Pataki has truly
11 submitted to us an individual with most
12 excellent qualifications. We are very fortunate
13 that Joe Seymour brings to us many, many years
14 of experience in a wide variety of areas.

15 He has had over 25 years of
16 experience in local government, now and most
17 recently as Acting Commissioner, Office of
18 General Services. He has previously served as
19 Executive Deputy Commissioner for the Department
20 of Motor Vehicles. He has served as city
21 manager for the great city of Peekskill which is
22 within our -- my Senate district, the 37th;
23 Commissioner of Development for Yonkers, New

1 York; served as assistant city manager
2 previously for development for Peekskill;
3 special assistant for downtown development for
4 Rochester, New York, Executive Director and
5 Assistant Director, East Rochester Urban Renewal
6 Agency, as well as having been involved as
7 members and affiliated with -- as a working
8 member of such organizations as the Peekskill
9 Industrial Development Agency, Peekskill Housing
10 Authority, Westchester County Health Insurance
11 Executive Board, American Planning Association,
12 National Council for Urban and Economic
13 Development.

14 As I noted in my comments
15 earlier, this is one of the most important
16 positions that we have in New York State
17 government. It is critical for all other
18 agencies as well as for this very legislative
19 body. I'm immensely pleased to have the
20 opportunity to also further the nomination of
21 Joseph Seymour and would ask this body's
22 support. I know that he will serve with great
23 distinction and will be an excellent

1 Commissioner.

2 Thank you, Madam President.

3 THE PRESIDENT: Thank you.

4 Senator Spano.

5 SENATOR SPANO: Thank you very
6 much, Madam President.

7 It's my pleasure to join with my
8 colleagues, Senator Stafford and Senator
9 Leibell, in seconding the nomination of Joe
10 Seymour as the Commissioner of the Office of
11 General Services.

12 I will not go through the litany
13 of the positions that Joe Seymour has continued
14 to hold in local government, except to say when
15 you take a look at his resume, you will see that
16 he has a thorough knowledge of how government
17 works and how an agency like the Office of
18 General Services impacts upon the daily delivery
19 of services and the impact upon our constituents
20 all across the state.

21 He has demonstrated his
22 willingness to make a commitment to the people
23 of this state. As a matter of fact, he's

1 currently -- upon our confirmation today, will
2 demonstrate that willingness by accepting a
3 \$9,000 pay cut from going as an executive deputy
4 to a commissioner and that alone should tell the
5 Senate, with the willingness and commitment that
6 he has to the people of this state and to our
7 Governor. The Governor has, in his wisdom,
8 appointed someone who has got the qualifica
9 tions, who has got the professional experience,
10 who has the skills and the strength to lead an
11 agency like the Office of General Services and
12 it's my pleasure to second his nomination.

13 THE PRESIDENT: Thank you.

14 Senator Farley.

15 SENATOR FARLEY: Yes. Thank you,
16 Madam President.

17 I rise also to second the
18 nomination of Joe Seymour. You know, the Office
19 of OGS impacts us here in the Capital District
20 rather significantly and it's also one of the
21 most difficult jobs in state government, and I
22 guess the most important thing that you could
23 say about Joe Seymour is that every job he's

1 done he's done well, and you can't ask any more
2 than that. I applaud the Governor for choosing
3 such an outstanding man to -- to head this
4 agency. It is certainly one that everyone in
5 this room is affected by and one that the
6 complaints, and so forth, are numerous but I'm
7 very, very confident that he will be an
8 outstanding commissioner, and I wish him well,
9 and welcome him to the Capital District.

10 SENATOR GOLD: Madam President.

11 THE PRESIDENT: Senator Gold.

12 SENATOR GOLD: Thank you, Madam
13 President.

14 Madam President, I made some
15 remarks in the Finance Committee today, and with
16 my apologies to those members of the committee,
17 I think they're remarks that should be made in a
18 general way on the floor.

19 When I first came to the Senate
20 in the early 1500s, the -- I pointed out that
21 the Constitution provides the same power to us
22 as we see exercised in Washington all of the
23 time by the U. S. Senate that sits on

1 confirmations, and I urged everybody to take it
2 seriously. The Governor at the time was Nelson
3 Rockefeller, followed by Malcolm Wilson, and the
4 Majority in this house was, to be fair about it,
5 underwhelmed with my arguments.

6 The people of the state then
7 decided, Hugh Carey should be the Governor, and
8 I don't know who it was, maybe it was Ralph
9 Marino or somebody on your side, came over to me
10 and said, You know, Manny, you know, your idea
11 about us really doing a job on gubernatorial
12 appointments, that's a great idea and all of a
13 sudden we had a Democratic governor, a
14 Republican Senate, and this Senate started to
15 take its confirmation obligations seriously.
16 And even though it was a Democratic governor, I
17 was delighted because I am elected to this body
18 and I have responsibility to this body.

19 At the present time with a
20 Republican governor, I do not believe that the
21 process that we are using is a proper process
22 and I don't mean in any way that these remarks
23 be taken personally by Senator Stafford. I

1 think Senator Stafford tries very hard in an
2 atmosphere that has grown up around us all and
3 we all have a responsibility to change.

4 Now, this particular nominee, I
5 believe that was sent up by the Governor
6 December 2nd, only about two weeks ago, and to
7 the credit of this nominee when we were in
8 Albany just a few weeks ago, he went out of his
9 way to meet with me and the meeting could have
10 been longer than I allowed, but I had time
11 problems, but I -- I give him credit. It was
12 important to him to try to meet members so that
13 we would know what we were doing and who we were
14 doing it with or to or whatever.

15 The purpose of the process is
16 public confidence. If we break down the process
17 and we don't have the proper time, the proper
18 research and the proper hearings, the public has
19 a right, as told by the press, if the press were
20 into it, to just say that the process is nothing
21 more than filling jobs with political hacks and
22 we go through a process.

23 Now, we don't just fill jobs with

1 political hacks and, luckily and God willing, we
2 put very competent people into important jobs,
3 but people look at the process, and why open the
4 door for irresponsible members of the press to
5 criticize and to be able to give them the
6 ammunition that we don't do our job.

7 In one situation which we'll get
8 to later today, the nominee came up yesterday,
9 name came up yesterday, and my staff went to
10 find out information and the answer given by the
11 Majority in this house is, Well, it's the
12 Governor's nominee. We just got it, go talk to
13 the Governor. And what do you think they did?
14 They said, That's an idea; we'll go talk to the
15 Governor. We don't want to be obstreperous, we
16 want to keep the process going. So they went
17 down to talk to the Governor. The report that I
18 have is that, after speaking to one of the
19 counsels on the other side at 4:45, they went
20 down to the second floor to see what paperwork
21 there was and the second floor was locked. He
22 was gone; they were gone for the day. They sent
23 the nomination up, and I don't know where they

1 were, I don't want to make any snide remarks,
2 but they were closed. I'm informed that, when
3 we all got pretty upset with it, that later on
4 in the evening the Governor's office came back
5 and somebody was able to transmit some
6 information.

7 Now, the nominee involved in that
8 particular charade is a very, very decent
9 qualified young man, and I voted for the nominee
10 in committee, and I will vote for the nominee on
11 the floor, but why should the nominee have to go
12 through a procedure where somebody from the
13 outside could say that it was suspect.

14 Now, to his credit, every time
15 I've raised this issue -- and unfortunately,
16 this issue has come up more and more in this
17 particular year and I've raised the issue during
18 the regular session, and Senator Stafford, has
19 said, you know we've got to do something about
20 it. And I believe that Senator Stafford would
21 like to do something about it, but the only way
22 we'll ever do anything about it is if we do it.
23 The only way to do it is to do it, and part of

1 that involves the Majority in this house,
2 together with the Minority, talking to the
3 Governor's office and demanding -- demanding
4 that there be a process. That process can have
5 emergency provisions in it. We have a process
6 where you have to have a bill on your desk for
7 three days, but we do permit emergency action,
8 but the process, the way it is handled right
9 now, I suggest to my friends in the Majority
10 respectfully, is out of hand.

11 Having said that, I -- I want to
12 repeat that I appreciate the fact that the
13 nominee, Mr. Seymour, did come to me, make
14 himself available. I didn't have a chance to
15 have a conversation with him at the length I
16 would have liked, but that was not his fault.
17 At the committee meeting today, I wasn't
18 thrilled with some of his responses dealing with
19 the issue of transferring jobs around this state
20 based upon geography and politics rather than
21 the real needs of the people, but I think that
22 all of us have responsibility to see that that
23 doesn't happen, and perhaps some of the noise

1 and some of the experience in the past and
2 particularly the election in Albany County in
3 November might change some people's minds as to
4 the way we ought to act.

5 At any rate, I voted for Mr.
6 Seymour in the committee, and I will vote for
7 Mr. Seymour on the floor, and I hope that he has
8 a good tenure and he lives up to our hopes while
9 he's in office.

10 THE PRESIDENT: Thank you.

11 Does anyone -- yes. Senator.

12 SENATOR SEWARD: Yes, Madam
13 President. I would like to rise in support of
14 the confirmation of Joseph Seymour to be
15 Commissioner of the Office of General Services.

16 As has been outlined by a number
17 of my colleagues, Joe Seymour has had a very
18 distinguished career in local government for a
19 number of years, and for the past two years has
20 served the people of this state in capacities
21 here in Albany with the administration.

22 When we think of the Office of
23 General Services, we often think of the more

1 mundane matters of bricks and mortars of
2 buildings, leases, those types of items. But in
3 Joe Seymour's case, he brings to this office
4 another dimension and that is Joe Seymour is a
5 people person, and he has demonstrated that
6 throughout his career. In every contact that I
7 have had with him in his service, I have had
8 that impression and Joe Seymour will be a great
9 advocate for the people who spend their days and
10 nights working in our state facilities.

11 So I rise to congratulate the
12 Governor for making this nomination of Joe
13 Seymour -- congratulate Joe Seymour for assuming
14 this important post and look forward to working
15 with him on behalf of the people of this state.

16 THE PRESIDENT: Thank you.

17 Is there anyone else who wishes
18 to speak on the nomination? No.

19 The question is on the
20 confirmation of Joseph J. Seymour as
21 Commissioner of General Services. All in favor
22 signify by saying aye.

23 (Response of "Aye.")

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Opposed nay.

(There was no response.)

Joseph J. Seymour is hereby
confirmed as Commissioner of General Services.
Congratulations.

(Applause)

The Secretary will read.

THE SECRETARY: Senator Stafford,
from the Committee on Finance, offers the
following nomination: Member of the Workers'
Compensation Board, Michael Berns, of New York
City.

SENATOR STAFFORD: Madam
President.

THE PRESIDENT: Senator
Stafford.

SENATOR STAFFORD: Once again,
it's a pleasure for me to rise and move the
confirmation of Michael Berns. There's no
question that this is a field where a good deal
of work has been done, a good deal of work will
continue to need -- we will have to continue
much more good work. That's the case, I might

1 add, in a number of areas of government.

2 I think we've moved in the right
3 direction with the law that the Governor
4 supported last year and that the Legislature
5 passed.

6 I think that we will see no
7 question as to the fruits of our work and that
8 goes for all who were involved, the Majority in
9 each house, the Minority in each house and the
10 Governor.

11 I would suggest that Mr. Berns
12 has a very impressive record in the private
13 sector. I think he brings a good mind to the
14 work. I think he will be able to do the job
15 well. I compliment the Governor on the
16 nomination. I think we will have and I know, in
17 my opinion, I would submit that we will -

18 THE PRESIDENT: I'm sorry,
19 Senator, I couldn't hear you.

20 SENATOR STAFFORD: Madam
21 President, I'm sure that those people can hear
22 me because I can hear them. I'm sure, Madam -
23 I would submit, Madam President, that Mr. Berns

1 will do an excellent job as a member of the
2 Workmen's Compensation Board, and I move his
3 confirmation, and I would yield to anyone and I
4 will move his confirmation. Thank you.

5 THE PRESIDENT: Thank you.
6 Senator Maltese.

7 SENATOR MALTESE: Madam
8 President, I'd like to say a few words on Mike
9 Berns. I've known Mike for over 20 years. I
10 think the important thing to remember when we
11 consider the Governor's nomination is for these
12 very important boards and commissions and other
13 agencies of government is that the Governor
14 sought and promised to bring a new efficiency in
15 government. It's people like Mike Berns, with
16 an excellent educational background, a degree
17 from Wharton, a past record of some 30 years of
18 expertise as a chief operating officer of many,
19 numerous companies, successful companies. I
20 think when we bring somebody in who has
21 expertise in knowing how a business operates,
22 meeting a payroll and dealing with the myriad of
23 problems facing businesses today, he comes well

1 equipped to handle new problems that may arise.
2 I think the Governor's appointment in this case
3 is an excellent one, and I join Senator Stafford
4 in moving his confirmation.

5 THE PRESIDENT: Thank you.
6 Senator Stachowski.

7 SENATOR STACHOWSKI: Madam
8 President, I rise in a different vein. I have a
9 little trouble with this confirmation. I had
10 trouble in committee. I think that Mr. Berns is
11 a very qualified man. His resume is excellent,
12 but not for this position. I think he'd be
13 great if we were putting him on the banking
14 board. He'd be great if we were putting him in
15 a financial or economic situation. He would be
16 terrific if we were doing something with data
17 processing or computers. But we're talking
18 about putting somebody on the Workers' Comp.
19 Board and even with that being said and that he
20 doesn't have a background in that, if he at
21 least would have answered some questions on
22 Workers' Compensation, if he had at least taken
23 the time to maybe even have read an executive

1 summary of even just last year's law, if he had
2 a vague idea that could have mentioned the fact
3 that there is no computerization in Workers'
4 Comp. and that the one thing he wanted to do is
5 to put it into a computerized era, we'd be very
6 hard-pressed to oppose him because I think the
7 Governor should be able to choose whoever he
8 wants but at the same time I think that, when
9 the Governor does choose somebody, the least
10 they could do is at least read a brief
11 background paper that would at least enable them
12 to say a few words about what Workers'
13 Compensation is, what he thought he could do
14 there and they would familiarize himself as a
15 board member and take that hard working ethic
16 that he has from all these businesses and work
17 in that area.

18 However, I didn't get that
19 message from this appointee, quite the
20 opposite. I got the message of, I'm a very
21 qualified businessman and even though I don't
22 know a thing about Workers' Compensation when
23 you people ask me about it, and I'm not going to

1 answer your questions if I happen to know them,
2 because if you're not telling me what you know
3 and you do know something then you're just not
4 bothering to answer, so my impression was that
5 he not only didn't know anything about Workers'
6 Comp., at least as somebody who was going to be
7 appointed to a very sensitive board, as you
8 know, there's been changes and we hope to make
9 more in this area because of the high cost to
10 the employers and the slow process for the
11 employees and the fact that we still want to
12 make sure in this lowering of cost for employers
13 and we want to make sure that the workers are
14 still safe, and that the workers that are
15 injured get what they should get as a means of
16 compensation, so with this being one of the more
17 sensitive areas in the state right now, I found
18 it hard to believe that we'd have somebody come
19 in that didn't -- didn't care to answer any
20 questions about it or didn't even bother to read
21 a brief position paper; so I suggest that we
22 vote no on this appointee.

23 THE PRESIDENT: Thank you.

1 Senator Spano.

2 SENATOR SPANO: Yes, Madam
3 President.

4 As the chairman of the Senate
5 Labor Committee, I have had ample opportunity to
6 review both the background and credentials of
7 Mike Berns. I have had the opportunity to know
8 Mike Berns and to speak to a number of people
9 who have known him for a long, long time, and
10 it's interesting and, of course, I have the
11 greatest respect for Senator Stachowski as the
12 ranking Minority member of the Labor Committee,
13 it's interesting to hear our colleagues on this
14 side of the aisle talk about the lack of
15 credentials of a potential nominee for members
16 of the Workers' Comp. Board, and I might just
17 remind you of the late night in the session in
18 the final hours of the Cuomo administration when
19 there were six or seven members -- nominees to
20 the Workers' Comp. Board that were brought into
21 it at a late night, it was about 11:30 at night
22 to the Labor Committee, and then quickly into
23 the Finance Committee meeting and we very

1 rapidly took a look at their backgrounds in a
2 matter of hours, and we in the waning months of
3 that Cuomo administration, we appointed those
4 members of the Workers' Comp. Board, and you can
5 say all you want about the background of Mike
6 Berns, but the people that we were offered, the
7 people that evening included a clinical
8 psychologist, included a doctor, included a
9 union lobbyist, a legal administrator, and why
10 not take someone who has 25 years of experience
11 in the public sector -- or in the private sector
12 who has run a number of different businesses,
13 who understands what it's like to put together a
14 financial plan for a business in this state,
15 that has to pay the Workers' Comp. rates in New
16 York State, who knows what the employees have to
17 go through, who has worked with representatives
18 of organized labor in his negotiations and
19 discussions with organized labor in the
20 positions that he's held previously. He's
21 graduated from the Wharton School of Business.
22 He understands the issues and the concerns of
23 the employers as well as the workers, has a very

1 sincere feeling for the injured worker, as has
2 been demonstrated to me personally with my
3 discussions with him, that we have had a number
4 of discussions prior to him coming to present
5 himself to the Senate Finance Committee today,
6 and as someone who's worked in both large and
7 small businesses has had the experience and
8 training in working with financial matters, has
9 worked in accounting matters and marketing.

10 He has the knowledge of the steps
11 that are needed to streamline an agency. He
12 spoke in Senate Finance Committee today and said
13 that he understands that the Workers' Comp.
14 Board, under the previous administration, was
15 not well run and that there is need for
16 improvement in that agency and under the
17 leadership of Bob Snashall, who is the chairman
18 of the Workers' Comp. Board we have seen already
19 a number of administrative changes that have
20 resulted in safety.

21 We had a long debate under the
22 leadership of our chairman last year, Senator
23 Spano, and our Governor and the most comprehens

1 ive Workers' Compensation reform that we've seen
2 in our state's history, reform that will result
3 in lowered premiums and rates and there's a lot
4 more that needs to be done and what we need is
5 not someone who has come to the Workers' Comp.
6 Board with some pre-ordained ideas but what we
7 do need is someone who has demonstrated his
8 interest in business and industry and in our
9 community, that he has a common sense approach
10 to the injured workers in this state.

11 Mike Berns has convinced me that
12 he is just that person who can show that
13 sensitivity, who can work with the other members
14 of the board, can continue to streamline an
15 agency, continue to make sure that the agency
16 starts to work for injured workers as well as
17 business across this state, and I commend the
18 Governor for presenting us with a person with
19 such outstanding background as Mike Berns, and
20 it's my pleasure to second his nomination today.

21 THE PRESIDENT: Senator
22 Dollinger.

23 SENATOR DOLLINGER: Thank you,

1 Madam President.

2 Senator Spano, with all due
3 respect, I'm not sure that I was at the same
4 meeting you were in front of the Finance
5 Committee, because I agree with you last year we
6 passed the most comprehensive reform of the
7 Workers' Compensation Law. You were a part of
8 that, your colleague Senator Lack before you had
9 pushed those changes, and yet as I recall, when
10 Senator Stachowski asked this nominee what do
11 you think about the changes in the law, this
12 nominee in essence said, "I don't know."

13 So it's -- it astounds me,
14 Senator, that you would call it the most
15 comprehensive set of reforms which they clearly
16 are, and for which the Majority Leader, the
17 Speaker and the Governor deserve credit, but
18 that this nominee hasn't looked at it, didn't
19 have, and I think you pointed out, shouldn't
20 have preconceived ideas about the Workers'
21 Compensation. I agree that we don't need them
22 to have preconceived ideas. We would, however,
23 prefer that they have passing familiarity.

1 Perhaps, as Senator Stachowski
2 said, get someone on the second floor to write a
3 three-page summary of what the Workers'
4 Compensation system is all about, hand it to the
5 nominee and say, It's a quiz, you're going to be
6 quizzed by the Senators, take this test, simple,
7 easy. This nominee did not appear to have that
8 level of even passing familiarity with what the
9 Workers' Compensation generally is all about or
10 about the comprehensive landmark changes that we
11 made and, in fact, if I heard correctly in
12 response to Senator Stachowski's questions, he
13 suggested that taxes were too high in the
14 Workers' Compensation system, in my judgment
15 professing an ignorance even of the way we fund
16 the system through insurance premiums.

17 Be that as it may, I asked the
18 nominee a series of what I thought were somewhat
19 pointed questions about his experience. One, he
20 didn't list on his application his most recent
21 experience which is governmental experience,
22 working for the Roosevelt Island Corporation.
23 Can't understand why. I mean it would be right

1 here on his resume, but it isn't even listed.
2 That leads me to think, why would he not list
3 it? My guess is that this application was
4 submitted to someone on the second floor some
5 time around November or December of 1994, maybe
6 January of 1995, at a time when the new
7 administration was filling positions on the
8 basis -- in some cases on the basis of their
9 qualifications. There were many qualified
10 appointees, but there were others that I voted
11 against because I didn't think they were
12 necessarily qualified, that their major
13 qualification was their political contribution
14 rather than their qualifications as an
15 individual.

16 But I also asked the nominee in
17 respect to his success which he touts on his
18 resume, his private sector success. He said, I
19 reduced the staff of both the finance/accounting
20 departments and marketing support staff by 50
21 percent while sales increased to 20 percent per
22 annum. I said, Which corporation did you do it
23 for? Great success! You're touting your

1 success. His answer was -- and correct me if
2 anybody heard it differently in the Finance
3 Committee -- was, "I don't remember," so he
4 didn't even seem to have a passing familiarity
5 with where his successes originated from.

6 When I asked him about the
7 corporations, he said most of those had either
8 been sold or closed. He did point out in
9 response to the question that he had been in
10 political consulting, that he'd owned an
11 electronics company and that both himself and
12 two of his other three partners got jobs in this
13 administration, all of which suggests to me at
14 least that Mr. Berns is being put before us
15 today for a seat on the Comp' Board not because
16 of anything he brings to the table to help the
17 comp' system, but because quite frankly he has
18 political friends who are advancing his name.

19 Senator Stachowski, I think, was
20 correct when he said that this may be a case, as
21 I heard it, Senator, that this is a round peg
22 being tried to fit in a square hole. Senator
23 Stachowski said maybe he belongs on the banking

1 board, maybe he belongs some place else. Unfor
2 tunately, based on what I heard in the Finance
3 Committee which was my only opportunity to ask
4 questions and get answers at this interview,
5 this is not the right round peg to put in a
6 square hole and, in my judgment, it's not the
7 right round peg to put into any hole in state
8 government until we get better answers about
9 this nominee.

10 I respect the Governor's right to
11 appoint people. I've supported people on this
12 floor for judicial positions, for this board or
13 other boards. I agree with Senator Spano, we
14 need to bring a broad range of experience to the
15 table. Unfortunately, I'm not convinced that
16 this candidate even meets that test.

17 I'll be voting in the negative.

18 THE PRESIDENT: Thank you,
19 Senator Dollinger.

20 Senator Goodman.

21 SENATOR GOODMAN: Madam
22 President, I think I may be able to bring a
23 little further perspective to this nominee's

1 background. I've known him for the better part
2 of a decade. He's a very near neighbor of mine
3 who lives within two blocks of my own apartment,
4 and he and I have had occasion to be together on
5 a number of matters that relate to the conduct
6 of his party and mine. He was the chairman of
7 his party; I'm the chairman of my party within
8 New York, New York County, and I'd like to say
9 that I can unhesitatingly commend Michael Berns
10 as being an individual, first of all, of
11 impeccable integrity and an individual also of
12 great sensitivity to human problems. He is a
13 very thoughtful person, in all of his aspects of
14 his addressing problems within our community as
15 a member of Community Planning Board Number 8,
16 which is one of the finest in the City, as well
17 as his extensive involvement in a series of
18 businesses which brought to bear on his skills
19 as a computer expert, as an inventory control
20 expert, as a small businessman of considerable
21 acumen and sophistication.

22 It seems to me that he can
23 properly be characterized as a relevant

1 generalist who would be able to make a great
2 common sense contribution to the work of this
3 particular government body, and so I would
4 simply like the house to know that I know him
5 and know him well and feel confident in standing
6 up for him and saying that he will be a truly
7 humane and effective administrator in this
8 important post.

9 THE PRESIDENT: Thank you.

10 Senator Gold.

11 SENATOR GOLD: Thank you, Madam
12 President.

13 Madam President, I spoke earlier
14 on process and, in this particular situation, my
15 understanding is that there was a meeting of the
16 Labor Committee which was called at the request
17 of, I believe, Senator Stachowski, for the
18 specific purpose of having the nominee come into
19 the meeting and clarify his positions with
20 regards to this position, and it -- and I want
21 to tell you, Senator Goodman, you know a little
22 bit about me. If it was -- if it was just
23 emotions, I could vote for him because he does

1 extra work for the Metropolitan Opera, and
2 anybody involved with the opera, Senator Marchi
3 and I are on board.

4 But it's not the question here.
5 It's the question of this job, the nominee doing
6 this job, and as Senator Stachowski -- I'm
7 sorry, Senator Dollinger pointed out, there are
8 things in his resume which he didn't answer were
9 put in by him. I didn't make his resume; you
10 didn't make his resume, but at the Finance
11 Committee meeting we found that Mr. Berns had
12 not gone to the Labor Committee meeting and we
13 were concerned about that because we have a
14 process here where the substantive committees
15 are given respect.

16 The reason they're given respect
17 is because we expect that the substantive
18 committees are going to deal with the substance,
19 the Labor Law, and in this case the particular
20 job that the nominee is being nominated for and
21 the Finance Committee, while it is the funnel
22 through which all of the nominees except for
23 those from Senator Lack's Judiciary Committee

1 come to the floor, we expect that the
2 substantive committees did a lot of work for the
3 Senate.

4 Many times when we have tried to
5 question nominees at the Finance Committee,
6 Senator Stafford has made a comment which is a
7 valid comment, that a lot of this had been gone
8 into by the substantive committee and we in the
9 Finance Committee look at it a little
10 differently and all of that was taken off the
11 table.

12 Now, some people, not as trusting
13 as I or others, had suggested they didn't want
14 him at the Labor Committee because of the lack
15 of background and a lack of ability to answer
16 questions in the area, and if that is the case,
17 then with all due respect to Mr. Berns who may
18 be a fine gentleman, he does not belong on this
19 board, and he doesn't deserve confirmation.

20 THE PRESIDENT: Thank you,
21 Senator Gold.

22 Senator Maziarz.

23 SENATOR MAZIARZ: Thank you very

1 much, Madam President. Madam President.

2 I'd like to join Senators Good
3 man and Spano and Stafford and Senator Maltese
4 in seconding the nomination of Mike Berns to be
5 a member of the Workers' Comp. Board.

6 I haven't had the vast knowledge
7 of Mike's background that Roy Goodman or Serph'
8 Maltese have had, but I have known Mike for a
9 couple of years now, and just reviewing the
10 credentials that he's presented here, his work
11 in private industry, I think he's the type of
12 nominee, somebody who's been out there on the
13 firing line, if you will, Madam President, in
14 private business, paying those Workers' Comp.
15 premiums that Senator Dollinger complained that
16 the nominee referred to as taxes. Whether
17 they're premiums or taxes, I can tell you that
18 from speaking to many small businessmen in my
19 district, they feel like taxes, Madam President,
20 so I rise, Mike, and wish you well in your new
21 position and know that you will do a find job
22 for the state of New York.

23 Thank you, Madam President.

1 THE PRESIDENT: Does anyone else
2 wish to speak on the nomination? Senator
3 Spano.

4 SENATOR SPANO: I -- no one else
5 going to speak on the nomination, I'd like to
6 just close it and to -- I think it's appropriate
7 that we answer a couple of things that were
8 said. I mean I'd hate to see the record go
9 uncorrected where any member might say that
10 there was an unwillingness to have Mike Berns
11 appear before the Senate Labor Committee because
12 of some inability to answer a question. In
13 fact, there's nothing further from the truth.
14 The fact remains that Mike Berns was not at the
15 Labor Committee because, as the chairman of the
16 Labor Committee, I did not ask him to be there.
17 The fact remains that we did have a request to
18 have a meeting from the Minority on this
19 nomination, and we did have it. Two members of
20 the Minority showed up at 10:15 which shows you
21 the lack of enthusiasm, I think, on their part.
22 We -- we had ample opportunity to hear the
23 background and I was at the Finance meeting

1 where I did hear the answers to the questions
2 that were raised, questions that were raised
3 about the some one hundred corporations that
4 Mike Berns worked for and when the individual
5 question was asked about some corporation he
6 didn't say out and out no; his answer was that
7 "I don't have the answer at my fingertips, that
8 I would need my records to take a look at it and
9 I'd be happy to go back and research and get an
10 answer."

11 So I think it's unfair that we -
12 that we take a look at a person who has really
13 shown that he's willing to put it on the line,
14 to dedicate himself to the issues of Workers'
15 Compensation, and I would submit to you that a
16 lot of times people might say that politics is
17 played when it comes to gubernatorial
18 appointments but at this point I'd submit to you
19 that if there's politics being played that we
20 look to this side of the aisle.

21 THE PRESIDENT: Senator
22 Stachowski.

23 SENATOR STACHOWSKI: Just for a

1 point of clarification, I'd like to point out I
2 was there at 10:00 o'clock. Senator Spano and I
3 were the only two that were waiting for another
4 body because they were at another meeting, and
5 if we're going to talk about that there was no
6 one but Senator Spano and I, but he had enough
7 signatures and if we're going to talk, I don't
8 want to get into that kind of thing, I know they
9 said he was stuck in traffic, and I didn't get
10 up and say that, and I didn't plan on saying
11 that, so to get up and say there were two
12 members of the Minority there, that's nice but I
13 don't think that was necessary, and I don't
14 think that was really fair.

15 I was, in fact, the one with the
16 counsels to ask for a meeting so that we could
17 ask a few questions of Mr. Berns because we
18 wanted to find out if, in fact, he knew anything
19 about Workers' Comp. because there was nothing
20 on his resume that indicated, although it's a
21 very impressive resume as I said earlier, but to
22 bring up the fact that two members were there
23 didn't make sense and if Senator Spano wasn't

1 going to invite him, I don't know why have the
2 meeting if you're not going to have the person
3 there to answer the questions. It's kind of a
4 crazy way to run the place, but that's his
5 prerogative. I'm only the ranking member; I'm
6 not the chairman, but if I want to brag about
7 the fact that I had the meeting, and I had
8 everybody but not the principal, get up and do
9 it. I don't know what the point is, but if you
10 want to do it, do it.

11 The only other thing is, Senator
12 Spano in his earlier remarks in seconding the
13 confirmation pointed out all the information he
14 gathered from this nominee with his vast
15 knowledge of Workers' Comp. and all his interest
16 in the poor injured worker and all the other
17 things he referred to that dealt with Workers'
18 Comp. that Senator Spano learned from the
19 appointee. My only regret is that the appointee
20 didn't choose to share all that knowledge with
21 the rest of us.

22 THE PRESIDENT: Senator
23 Stafford.

1 SENATOR STAFFORD: Madam
2 President, I -- as you know, I try not to get up
3 too much or too often. Frankly sometimes I don't
4 get up enough. You know, sometimes I've
5 complained that we rubber stamp and we don't do
6 our job. Boy, are we doing our job today!
7 Everyone has a right to speak in here, and I
8 certainly respect that. I don't want to make
9 light of anything that was said. I take
10 everything seriously that was said, but I would
11 just say to make sort of a broad stroke with the
12 conceptual brush, I would share with any of the
13 nominees this was not the day to come through -
14 through the Senate, that this was a day when
15 things were just going to be easy and we were
16 just maybe not going to do our job, because
17 we're doing it.

18 But again I do have to say and I
19 want to emphasize with all due respect that I
20 think the nominees today are qualified. I think
21 they will do the job. I think Mike Berns will
22 do the job. But I think also again, once again,
23 I think that I've been here long enough, I've

1 seen it when the Senate wasn't doing its job. It
2 was mentioned, the ones that we were talking
3 about, how many did we do that night, six?
4 Something, and as a matter of fact, it was not
5 in this quadrennial either, I believe. It was in
6 the previous quadrennial; that means every four
7 years, and so all I'm saying is let's keep
8 trying to do a good job. Let's not have anyone
9 suffer here when they shouldn't, but yet, as I
10 say, I think that this is a -- I think this has
11 been, I was going to say constructive, but I
12 won't go that far, but you know what I'm trying
13 to say, and I think that we have some good
14 nominees here.

15 THE PRESIDENT: Thank you.

16 Senator Gold? Is anyone else
17 waiting to speak on the nomination?

18 SENATOR STAFFORD: Move the
19 nomination, please.

20 THE PRESIDENT: Yes. The
21 question of is on the nomination of Michael
22 Berns as a member of the Workers' Compensation
23 Board. All in favor signify by saying aye.

1 (Response of "Aye.")

2 Opposed nay. We're recording
3 some negatives.

4 Michael Berns is hereby confirmed
5 as a member of the Workers' Comp. Board.

6 (Applause)

7 The Secretary will read.

8 THE SECRETARY: Senator Stafford,
9 from the Committee on Finance, offers the
10 following nomination: Member of the state Civil
11 Service Commission, Leo J. Kesselring, Esquire,
12 of Rochester.

13 THE PRESIDENT: Senator
14 Stafford.

15 SENATOR STAFFORD: Mr. President,
16 it's a pleasure for me to move confirmation of
17 Leo Kesselring. We go back a long, long way.
18 It's hard to believe, but as I think about it, I
19 think it was 1970 to 1976 that he served in the
20 federal -- the federal government, served well.
21 He has been involved since then, very involved.
22 As a matter of fact his spouse also has been
23 very involved in government. I know Leo will do

1 a -- do an excellent job as he always has done.

2 I have a -- we have to keep our
3 sense of humor. I might add he was very, very
4 effective in the political arena. He has
5 volunteered the information to me. I did not
6 ask him, but he decided both he and his wife,
7 that they'd had enough political activity and
8 have decided that he would rather than in a
9 profession, not a profession, he'd rather be
10 doing some work that didn't involve partisan
11 politics. I note, though, that we all stay in
12 it and enjoy it, although sometimes we criticize
13 those who are in it.

14 But on a serious note, Leo
15 Kesselring is well known to many of us. I see
16 Serph' will be standing, and many others, John.
17 He's done an excellent job. He will do an
18 excellent job. I compliment the Governor. I
19 compliment him. I move his confirmation, and I
20 yield to Senator Maltese.

21 SENATOR DOLLINGER: Madam
22 President.

23 THE PRESIDENT: Senator Maltese.

1 SENATOR ONORATO: Madam
2 President.

3 SENATOR MALTESE: Madam
4 President.

5 SENATOR DOLLINGER: Madam
6 President, a point of order.

7 THE PRESIDENT: I'm sorry, I
8 can't hear.

9 Senator Stafford -- excuse me,
10 Senator Dollinger.

11 SENATOR MALTESE: Madam
12 President.

13 SENATOR DOLLINGER: I simply have
14 a point of order, and I don't mean to interrupt.
15 Madam President, was the last vote on the last
16 nominee not recorded and, if so, would you
17 explain to me why?

18 THE PRESIDENT: We recorded the
19 negatives.

20 SENATOR GOLD: Madam President.

21 THE PRESIDENT: Senator Gold.

22 SENATOR GOLD: Yeah. I think
23 it's a good point, and we ought to clarify

1 that. There were some no votes.

2 THE PRESIDENT: Yes, I thought
3 they were recorded on the record, were they
4 not?

5 SENATOR GOLD: Well, with the
6 permission of the Majority, could we just
7 suspend this for just a moment while we correct
8 the roll call on the last nominee.

9 THE PRESIDENT: I'd like to do
10 that.

11 SENATOR GOLD: Thank you.

12 THE PRESIDENT: Just a moment,
13 please. Shall we record them in the negative? I
14 thought they had been recorded in the negative.
15 Would you raise your hands and we will make
16 sure.

17 SENATOR DOLLINGER: Madam
18 President, may I just repeat the point of order
19 so I understand? Is it the practice of the
20 Senate not to record votes on nominees?

21 SENATOR GOLD: Unless it's asked
22 for.

23 SENATOR DOLLINGER: Unless it's

1 asked for.

2 SENATOR GOLD: And you've asked
3 for it and you're in the negative.

4 SENATOR VELELLA: Those in the
5 negative, record them by the desk.

6 THE PRESIDENT: Would you make
7 sure we have them recorded, each vote. My
8 apologies. I thought your votes had been
9 recorded.

10 SENATOR DOLLINGER: Thank you,
11 Madam President. Thank the members of the
12 Majority as well for clarifying that.

13 THE SECRETARY: Those recorded in
14 the negative on the nomination of Michael Berns:
15 Senators Abate, Dollinger, Gold, Leichter,
16 Nanula, Onorato, Paterson, Stachowski and
17 Stavisky; also Senator Connor.

18 THE PRESIDENT: Senator Paterson,
19 why do you rise?

20 SENATOR PATERSON: Madam
21 President, I want to thank the Acting Majority
22 Leader for that courtesy, and also thank Senator
23 Dollinger for clearing that up. But I think we

1 should point out to members, under the rules of
2 the Senate is that the voice vote on a
3 nomination is not similar to what would be a no
4 vote on a regular bill. The no vote on a
5 nomination would be indicated by the member
6 standing and indicating that the member wants to
7 vote no, or by calling for a slow roll call, so
8 that actually there wasn't anything done in the
9 process that was incorrect. It's just that it's
10 so similar to another process that we use that
11 it probably bore some further amplification, so
12 I want to thank the Acting Majority Leader for
13 the assistance.

14 THE PRESIDENT: Thank you.

15 Senator Maltese.

16 SENATOR MALTESE: Madam

17 President, I'd like to precede my remarks by
18 alluding to the recent hiatus in the order of
19 business. Good things are worth waiting for,
20 and this particular nomination is one of those
21 good things that was well worth the wait.

22 One of the pleasures of electing
23 a new Governor is seeing the entry of new blood,

1 so to speak, into the governmental mixture into
2 a recognition of bringing in bipartisan persons
3 of worth, distinguished people in government,
4 further into government, into decision-making
5 positions. This nomination by Governor Pataki
6 for member of the state Civil Service Commission
7 is one of those happy events for me.

8 I've known Leo Kesselring for
9 possibly more years than I'd like to remember
10 but certainly more than 30 years. He is a
11 person that brought many -- a myriad of talents
12 into the political and legal mix both in Monroe
13 County and across the state. He ran for
14 political office when there was very little
15 likelihood of winning, running for principle.

16 He is a man of renowned
17 integrity, known across the state for that
18 integrity. He, as a matter of fact, one of his
19 many qualifications is working toward evolving
20 and instituting a code of ethics. He received
21 his Bachelor of Arts cum laude from St. John
22 Fisher College, received his law degree from St.
23 John's University, where he was on the Law

1 Review. He was a lecturer in business law and
2 real estate law in his career as a private
3 practitioner of law. He served on the Monroe
4 County Cultural Commission, involving himself in
5 all of the activities, cultural activities in
6 Monroe County.

7 Most of all, I allude back to the
8 matter of integrity and principle. Through
9 these many, many years of different administra
10 tions and changes of administration, he has
11 remained the rock of Gibraltar as to integrity
12 and principle. I salute the Governor for this
13 sterling nomination, and even more I salute Leo
14 Kesselring for principle and perseverance.

15 THE PRESIDENT: Thank you.
16 Senator Trunzo. Sorry, Senator Gold, you're
17 next.

18 SENATOR TRUNZO: Madam President,
19 I rise to second the nomination of Mr.
20 Kesselring. As chairman of the Civil Service and
21 Pension Committee, I met with Mr. Kesselring
22 this morning and we had a very interesting talk
23 in regards to his background and his knowledge

1 regarding the Civil Service Law. I was very
2 much impressed by his knowledge of -- you know,
3 his background didn't show that he had much to
4 do with civil service law but evidently he did
5 his home work and knows what it's all about and
6 we had a very interesting conversation in which
7 he was able to point out many of the items which
8 we in the Legislature have done in correcting
9 some of the civil service laws and also the
10 recommendations made by the chairman of the
11 commission, Commissioner George Sinnott, and as
12 a result of that, I really would like to second
13 the nomination. I think he's well qualified for
14 the position.

15 THE PRESIDENT: Thank you,
16 Senator.

17 Senator Gold.

18 SENATOR GOLD: Thank you, Madam
19 President.

20 Madam President, I did not stand
21 up to dispute the character of this nominee or
22 get involved in that issue at this point. The
23 issue that concerns me is an issue which ought

1 to concern every member of this chamber.

2 If you promise not to quote me,
3 Madam President, I will tell you that there are
4 probably at least three Republicans in this
5 state who would be qualified to sit as Civil
6 Service Commissioners. You can quote me, and I
7 will tell you that there are, in fact, at least
8 three Democrats that are qualified to sit as
9 members of the Civil Service Commission.

10 The law that sets up the Civil
11 Service Commission is in the Civil Service Law,
12 Section 5, and it says that there shall be three
13 commissioners appointed by the Governor with the
14 advice and consent of the Senate, but not -- no
15 more than two of whom should be adherents to the
16 same political party.

17 Now, there isn't one person in
18 this room or within the sound of my voice that
19 doesn't know that when that was enacted into law
20 it was to protect against the situation where we
21 would not have three Republicans or three
22 Democrats and that there would be either two
23 Republicans and a Democrat or a Democrat, two

1 Democrats, one Republican. In this situation
2 the nominee is a member of the Conservative
3 Party, and in all fairness to the nominee, he
4 did not become a Conservative an hour before his
5 nomination, and I'm not suggesting that he was a
6 Republican who fraudulently became a
7 Conservative. That is not the truth nor the
8 fact, and that is not in the character of this
9 nominee, and I don't suggest that it is; but the
10 fact is that in having two Republicans on the
11 commission and then appointing a Conservative,
12 the spirit of this law is being violated, if not
13 in fact the letter of the law, and it is a bad
14 precedent.

15 I don't recall anything like this
16 happening under Governor Rockefeller or Wilson
17 or Carey or Cuomo. Senator Stafford, at the
18 meeting, suggested that my memory was lacking
19 and he said that he thought that on an occasion
20 or two it has happened and at the committee
21 meeting, Senator Stafford said that things are
22 progressing, and I think that was his word along
23 certain lines, and that's what bothers me, the

1 word "progressing" and it's time to stop a
2 progression, because if we go with this nominee,
3 there is nothing to stop the Governor next week
4 or next January from appointing a Republican who
5 becomes an Independent the week before he or she
6 is nominated, or a Conservative or whatever,
7 people who change their nominations because it
8 doesn't say you have to be in any party for any
9 particular time, and as I pointed out in the
10 committee, the sword goes both ways. This -
11 this body would be horrified if, in two years, a
12 Democratic governor were to send down nominees
13 who are all Democrats, Independents, Liberals,
14 Conservatives and with no Republicans being
15 offered, all of whom we would say are wonderful
16 people but we have, in fact, violated if not the
17 letter of the law, the spirit of the law.

18 One of my colleagues on my side
19 of the aisle made the comment in the committee
20 meeting that the Senator involved was going to
21 vote for the nominee because the nominee -- when
22 the nominee applied for the job, the nominee
23 didn't get involved in how many other people

1 there were and you only got to look at the
2 nominee, and with love and affection I state to
3 that particular Senator that, if there was a
4 section in the law which required two males and
5 two females and if we put before the house four
6 males, she wouldn't be looking so quickly to see
7 about the qualities of each of the four males,
8 and that's the problem here.

9 The problem is that you're
10 talking about the Civil Service Commission and
11 the idea is to, as much as possible, not
12 politicize the Civil Service Commission and by
13 appointing this nominee, Mr. Kesselring, in this
14 way, you are absolutely politicizing the process
15 and in a very, very unhealthy way.

16 So I am going to vote against the
17 nominee. I want the nominee to understand that
18 I found his answers to questions at the
19 committee meeting frank. We had a discussion on
20 a point of law. He was right and I was wrong
21 and there is nothing personal, but the bottom
22 line here is a very important bottom line to
23 everybody in this house, and I would urge the

1 members on both sides of the aisle to reject the
2 nominee on the grounds that I have set forth.

3 This is a seat that ought to be a
4 Democratic seat. When we had a Republican -- a
5 Democratic governor, he made Republican
6 appointments where appropriate and we should not
7 do, as Senator Stafford suggested, have this
8 "progressing" in this what I think is a
9 dangerous direction.

10 THE PRESIDENT: Senator
11 Stafford.

12 SENATOR SKELOS: Will Senator
13 Stafford -

14 SENATOR STAFFORD: Mr. President,
15 I want to apologize for using the word
16 "progress" for I'm not sure where, one, we
17 progress, in government, business, or at any
18 time so I'll use another word; but let me,
19 before I use that word, let me again try to
20 bring a historical perspective.

21 It's like my son who is now 17,
22 when he was four he asked me why -- I said I was
23 going to a wake, and he asked me why I know so

1 many dead people, and I said, Because I'm
2 getting old, but I'm not quarreling with that
3 either. I like that. The alternative is not
4 good.

5 Now -- now, I remember very, very
6 clearly -- I wish and I'm going to try to find
7 it, I'm going to try to find it, it involved an
8 appointment when Governor Rockefeller was
9 governor and interestingly enough, he appointed
10 somebody of a -- not a Democrat or Republican
11 but it wasn't -- it wasn't -- it was a different
12 party. Well, anyway, it was a party that some
13 of us were arguing that maybe it should be
14 another party rather than the party that
15 Governor Rockefeller was in and, frankly, it was
16 a Liberal Party member who was being appointed,
17 and we -- we were -- we wondered about it. Then
18 I also remember before this quadrennial we're in
19 -- now, remember, a quadrennial is a four-year
20 period and I'm talking about when the Governor
21 served, and we're speaking about a previous
22 quadrennial within the last 20 years before the
23 one we're in now, and I remember that there was

1 an appointment of a person -- once again, it was
2 not a Democrat or Republican but it was a party
3 and again we were -- were complaining about it
4 and interestingly enough some of the other
5 people weren't complaining.

6 Now, again if I -- I -- you know,
7 Senator Gold and I have had positions or jobs or
8 whatever you want, I guess we've never had
9 positions. We've had jobs around here, sort of
10 what do you call it? No, no, each other, you had
11 the same jobs only on the opposite side, I guess
12 that's the way to say it, you know, same job on
13 opposite sides and we, rather than -- and other
14 than just this job in the finance field, and
15 we've always had -- we've enjoyed it and we've
16 differed, we've differed quite directly a number
17 of times and I was sort of halfway not agreeing
18 with Senator Gold today, but I realize the
19 points he was -- he was making were, I thought
20 maybe possibly well, or could be taken anyway.

21 Well, I disagree with him the
22 more I think about it completely, categorically,
23 disagree with him on this issue, and he

1 disagrees with me and he has every right to. I
2 think that, when it says he cannot be more than
3 one -- a certain number in one political party,
4 I think on any political party you have a right
5 to be appointed, if the party is on the -- what
6 do you call it -- on the ballot? And why not?
7 Why not? Those are individuals. They enroll and
8 they can be appointed, and I think we're not
9 only following the letter of the law, frankly, I
10 don't think the spirit of the law is being
11 really violated.

12 Do I think it's clever? Yes,
13 yes. But I might say, you people have done many
14 clever things and we do many clever things. I
15 don't mean clever in the wrong sense of the word
16 either. I think -- I think it's something
17 that's comparatively new and entirely proper,
18 and, frankly, as Senator Maltese has said and
19 many others will say and have said, we have an
20 excellent appointment here, excellent. He has
21 run statewide out of principle as Senator
22 Maltese said, and he is a gentleman who I am
23 sure and would submit will do an excellent job

1 on the Civil Service Commission.

2 So I'm not saying we're
3 progressing. What I will say, and Senator
4 Leichter helped me with it today, is it depends
5 on whose ox is gored. I think that's a better
6 way of putting it and, consequently, I shouldn't
7 be ending on a light note, so what I say is it's
8 an excellent nominee. It's following the law
9 and I think Mr. Kesselring should be -- should
10 be confirmed.

11 THE PRESIDENT: Thank you,
12 Senator Stafford.

13 Senator Skelos.

14 SENATOR SKELOS: I'd like to
15 follow up what Senator Stafford mentioned. I
16 believe at one time with the SIC an individual
17 by the name of Eric Seif, who was an Independent
18 and recommended by Governor Cuomo, was confirmed
19 by this house a number of years ago and I would
20 also wonder that if things had not happened as
21 they did in the year of Pierre Rinfret and Herb
22 London, if there had been a slight change in
23 votes that year, whether Senator Gold would then

1 believe that the Conservative Party or the
2 recommendations should all be members of the
3 Conservative Party as against the Republican
4 Party because you did comment on how the
5 appointments should be Republican or Democrat,
6 but we can comment on that at some other time,
7 if you wish.

8 THE PRESIDENT: Senator
9 Dollinger.

10 SENATOR DOLLINGER: Thank you,
11 Madam President.

12 It's always interesting to hear
13 the history of the Senate and I'm something of a
14 history buff, so I'm always amazed when Senator
15 Stafford talks about his 31 years here and what
16 happened under Governor Rockefeller, and then
17 Senator Marchi charms (probably should be
18 chimes) in with the comment that I hadn't heard
19 before about his life under Governor Harriman,
20 and I kept waiting for someone -- I kept waiting
21 for someone to chime in with what Governor
22 Clinton did, but that would be DeWitt rather
23 than Bill.

1 But I guess this issue, let me
2 say about Mr. Kesselring. I have not known Leo
3 Kesselring personally, but I've clearly known of
4 his reputation. He's a good lawyer and solid
5 member of the Rochester legal community. He's
6 been generous and philanthropic. He put the
7 Conservative Party on the map in Monroe County.
8 I think he deserves credit for that, although I
9 certainly probably don't agree with Mr.
10 Kesselring on many of the major issues of the
11 day. He has always been involved in public
12 service, always had a commitment. Senator
13 Maltese said it correctly, if there's anybody
14 more principled in Monroe County than Leo
15 Kesselring, I don't know who it is.

16 But I also, unfortunately, have
17 to agree with Senator Gold. This is not an
18 issue that involves Mr. Kesselring. It's an
19 issue that involves a portion of the statute
20 that was designed to create a major parity
21 between the major parties in this state. It
22 probably needs to be redrafted, probably should
23 be redrafted to take into account that there are

1 now probably five or six major parties under our
2 criteria, but I'm nonetheless -- I agree with
3 Senator Gold.

4 I think that the message here
5 that the Governor is trying to draw is that, in
6 his spirit of bipartisanship, the notion of
7 bipartisanship that is enshrouded in that portion
8 of the statute will now tend to exclude other
9 members of major parties. I think it's a very
10 discouraging trend. I don't think Mr. Kesselring
11 is in any way responsible. Were this issue not
12 on the table, I would stand here and speak in
13 favor of this because he's a competent lawyer
14 and I think he brings a lot to the Civil Service
15 Commission, but because I agree with Senator
16 Gold, it sets a dangerous precedent for the
17 interpretation of a bipartisan relationship
18 between the houses of this Legislature and the
19 Governor, I think that this would be a mistake
20 to appoint someone who is not a Democrat to this
21 position.

22 So again I don't want my vote to
23 be interpreted in any way as being opposed to

1 Leo Kesselring, but I believe the precedent is
2 important, and we're in this case voting against
3 the action of the second floor and the
4 interpretation of that portion of the statute in
5 such a fashion.

6 THE PRESIDENT: Thank you,
7 Senator.

8 Senator Marchi.

9 SENATOR MARCHI: Yes, Madam
10 President, just to correct the record. Not as a
11 member, but as counsel to the Senate, I remember
12 being in a party of five working with Governor
13 Dewey, but this has been a -- this has been a -
14 I think this has been a useful exchange. I mean
15 we revisited history and, in this case, of
16 course, we have the consolation of knowing that
17 we are confirming someone with very, very
18 adequate qualifications, so I take consolation
19 in that and rejoice in the fact that we are
20 ratifying a very qualified, highly qualified
21 member.

22 THE PRESIDENT: Thank you.

23 Does anyone else wish to speak on

1 the nomination? The question is on the
2 nomination of Leo J. Kesselring as a member of
3 the state Civil Service Commission. All in
4 favor, signify by saying aye.

5 (Response of "Aye.")

6 Opposed nay.

7 SENATOR DOLLINGER: Nay.

8 THE PRESIDENT: Will the votes be
9 recorded.

10 SENATOR DOLLINGER: Yes, Madam
11 President. I move the votes be recorded.

12 THE PRESIDENT: Senator
13 Dollinger, in the negative.

14 SENATOR DOLLINGER: Yes.

15 THE PRESIDENT: Leo J. Kesselring
16 is hereby confirmed as a member of the state
17 Civil Service Commission. Congratulations.

18 (Applause)

19 THE PRESIDENT: The Secretary
20 will read.

21 THE SECRETARY: Senator Stafford,
22 from the Committee on Finance, offers the
23 following nomination: Member of the state Board

1 of Parole, Walter William Smith, Jr., of
2 Pendleton.

3 ACTING PRESIDENT KUHL: Senator
4 Stafford.

5 SENATOR STAFFORD: Mr. President,
6 I'll be very brief, but I don't -- I'm not being
7 brief because we don't have a fine nominee
8 here. We do, but he has also a very fine
9 protagonist representing him in his Senate
10 district, Senator Maziarz. I will yield to him
11 in just one second, but once again, I would just
12 point out that this hasn't been the easiest day
13 and Mr. Smith has certainly been most gracious,
14 most understanding, and it shows that he has a
15 sensitivity in the ability to do an excellent
16 job, as I know will be pointed out by a number
17 of people here today, and I yield to the Senator
18 from Niagara.

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

21 SENATOR MAZIARZ: Thank you, Mr.
22 President, and thank you to the esteemed
23 chairman of the Senate Finance Committee.

1 Mr. President, it's with a great
2 deal of pleasure and a real honor for me that I
3 stand before the Senate to second the nomination
4 of not only a person who I know is going to be a
5 great member of the state Board of Parole, but a
6 good friend and a true professional in the field
7 of criminal justice, and Bill Smith is joined
8 here today by my colleague in the other house
9 from Niagara, Assemblyman David Seaman and Bill
10 has worked for a number of years with the Crime
11 Victims Board and is going to bring the
12 perspective of crime victims to the parole
13 hearings that are held throughout this state,
14 Mr. President.

15 I know that Bill is a true
16 professional. He's probably one of the hardest
17 working servants of the people that I've had the
18 pleasure of being associated with in my brief
19 time working for the state of New York and among
20 many of the highlights in Bill's background are
21 the fact that he received his first opportunity
22 to serve in the -- or on the Crime Victims Board
23 when he was appointed by the then chairman of

1 the Crime Victims Board, Senator Catherine
2 Abate, and Senator Abate made an excellent
3 choice a few years ago and Governor Pataki made
4 an excellent choice today.

5 Thank you, Mr. President.

6 ACTING PRESIDENT KUHL: Is there
7 any other Senator wishing to speak on the
8 nomination? Hearing none, the question is on
9 the nomination.

10 SENATOR GOLD: Mr. President.

11 ACTING PRESIDENT KUHL: I'm
12 sorry. Senator Abate.

13 SENATOR ABATE: Just briefly, I
14 also want to stand in support of this nominee.
15 As Senator Maziarz said, I exercised judgment,
16 good judgment, once in hiring Mr. Smith. I
17 want to exercise that good judgment again and I
18 ask my colleagues to join me in supporting this
19 nominee. He has a wonderful record, great
20 experience, commitment to fairness and justice
21 and I think he will serve well on the Board of
22 Parole.

23 ACTING PRESIDENT KUHL: Is there

1 any other Senator wishing to speak on the
2 nomination? Hearing none, the question is on the
3 nomination of Walter William Smith, of Pendleton
4 as a member of the state Board of Parole. All
5 those in favor of the nomination signify by
6 saying aye.

7 (Response of "Aye.")

8 Opposed nay.

9 (There was no response.)

10 The nominee is confirmed.

11 Congratulations, Mr. Smith. Good luck.

12 (Applause)

13 Secretary will read.

14 THE SECRETARY: Senator Stafford,
15 from the Committee on Finance, offers the
16 following nomination: Member of the Metropolitan
17 Transportation Authority, Denise F. Molia, of
18 Setauket.

19 ACTING PRESIDENT KUHL: Is there
20 any Senator wishing to speak on the nomination?
21 Hearing none, the question is on the nomination
22 of -- excuse me, Senator LaValle.

23 SENATOR LAVALLE: Yes. Mr.

1 President. I'd like to speak on the nomination.
2 Denise Molia is a resident of Senator Lack's
3 district, but Denise is someone that has been a
4 personal friend and someone who I've known for
5 many, many years. She has, in a very short
6 period of time, distinguished herself in a role
7 as town attorney in the town of Brookhaven,
8 assistant deputy county attorney, county of
9 Suffolk, and has worked on -- I've watched her
10 work on many, many sensitive matters and has
11 handled them with what I think we often refer to
12 as a person using a velvet glove.

13 She is one of the young
14 generation of Brookhaven individuals who has
15 gotten involved in public service who I think we
16 can call an individual of superstar quality and
17 so I think the Governor has made an excellent
18 choice in this -- in this nomination, Mr.
19 President.

20 ACTING PRESIDENT KUHL: Any other
21 Senator wishing to speak on the nomination?
22 Hearing none, the question is on the nomination
23 of Denise F. Molia, of Setauket, to become a

1 member of the Metropolitan Transportation
2 Authority. All those in favor of the nomination
3 signify by saying aye.

4 (Response of "Aye.")

5 Opposed, nay.

6 (There was no response.)

7 The nominee is confirmed.

8 Secretary will read.

9 THE SECRETARY: Senator Stafford,
10 from the Committee on Finance, offers the
11 following nomination: Member of the Board of
12 Trustees of the State University of New York,
13 Paul R. Perez, of Bronxville.

14 ACTING PRESIDENT KUHL: Is there
15 any Senator wishing to speak on the nomination?

16 SENATOR STAFFORD: Move
17 confirmation.

18 ACTING PRESIDENT KUHL: Hearing
19 none, the question is on the nomination of Paul
20 R. Perez, of Bronxville, to become a Trustee of
21 the State University of New York, and Senator
22 LaValle would like to speak on the nomination.

23 Senator LaValle.

1 SENATOR LAVALLE: Mr. President,
2 very, very briefly. Mr. Perez appeared before
3 the Higher Education Committee, and I think when
4 the committee members looked at his background
5 and answers to questions, I think they found him
6 to be very highly qualified and we looked
7 forward to his being a very dynamic member of
8 the -- of the SUNY board and again, let's say
9 that the Governor has made an excellent
10 recommendation in Mr. Perez and I think he will
11 serve the SUNY system, SUNY board, and the state
12 quite well.

13 ACTING PRESIDENT KUHL: Question
14 is on the nomination.

15 Senator Stavisky.

16 SENATOR STAVISKY: Mr. President,
17 at first blush, Mr. Perez does not appear to
18 have strong identification with public higher
19 education. However, in his appearance before
20 the Higher Education Committee, he differed to
21 some extent from the previous appointees
22 recommended by the Governor when he indicated
23 that there were times when additional funding

1 would be needed in support of the State
2 University of New York, and he indicated he
3 would have no hesitancy in asking for those
4 additional funds.

5 I consider that to be a welcome
6 change from the previous responses of new
7 appointees to the State University trustees and
8 on the basis of that assurance and the
9 understanding that he will be fulfilling that
10 commitment as an advocate for public higher
11 education, I rise in support of his
12 confirmation.

13 ACTING PRESIDENT KUHL: Is there
14 any other Senator wishing to speak on the
15 nomination? Hearing none, the question is on
16 the nomination of Paul R. Perez, of Bronxville,
17 to become a member of the Board of Trustees of
18 the State University of New York. All those in
19 favor of the nomination signify by saying aye.

20 (Response of "Aye.")

21 Opposed nay.

22 (There was no response.)

23 The nominee is confirmed.

1 Secretary will read.

2 THE SECRETARY: Senator Stafford,
3 from the Committee on Finance, offers the
4 following nomination: Banking member of the
5 State Banking Board, Spencer S. Crow, of
6 Arkport.

7 SENATOR STAFFORD: Move
8 confirmation.

9 ACTING PRESIDENT KUHL: Is there
10 any Senator wishing to speak on the nomination?
11 Hearing none, the question is on the nomination
12 of Spencer S. Crow, of Arkport, New York, to
13 become a banking member of the State Banking
14 Board. 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, offers the
23 following nomination: Public member of the State

1 Banking Board, Stewart Kahn, of New York City.

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 Stewart Kahn, of New York City, to become a
6 public member of the State Banking Board. All
7 those in favor of the nomination signify by
8 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, offers the
16 following nomination: Director of the New York
17 State Environmental Facilities Corporation,
18 Ambassador John L. Loeb, of Purchase.

19 ACTING PRESIDENT KUHL: Is there
20 any Senator wishing to speak on the nomination?
21 Hearing none, the question is on the nomination
22 of Ambassador John L. Loeb, Jr., of Purchase,
23 New York, to become a director of the New York

1 State Environmental Facilities Corporation.

2 SENATOR GOLD: Mr. President.

3 Just a minute.

4 ACTING PRESIDENT KUHL: Senator
5 Oppenheimer, on the nomination.

6 SENATOR OPPENHEIMER: I just
7 would like to take a moment to say that John
8 Loeb lives in my Senate district and he is a man
9 who is greatly respected, albeit the wrong
10 political faith, but a very bright man, a man
11 who has devoted himself to arts and culture and
12 the environment, and indeed we have worked
13 together on environmental issues, and I think
14 this is a really fine appointment and I'm very
15 proud to second his nomination.

16 ACTING PRESIDENT KUHL: Is there
17 any other Senator wishing to speak on the
18 nomination? Hearing none, the question is on the
19 nomination of Ambassador John L. Loeb, Jr., of
20 Purchase, New York, to become a director of the
21 New York State Environmental Facilities
22 Corporation. All those in favor of the
23 nomination, signify by saying aye.

1 (Response of "Aye.")

2 Opposed nay.

3 (There was no response.)

4 SENATOR STAFFORD: I was just
5 going to speak for a second, I'm sorry, on the
6 nomination. Let's let it go. He's a fine man.

7 ACTING PRESIDENT KUHL: The
8 nominee is confirmed.

9 SENATOR STAFFORD: Senator
10 Goodman, you know, if he had been here, he would
11 have spoken.

12 SENATOR LEICHTER: Mr.
13 President.

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

16 SENATOR LEICHTER: Yes, Mr.
17 President. Earlier today we did the
18 confirmation of Leo J. Kesselring, and I was out
19 of the chamber when a vote was held on that
20 confirmation and, for the reasons stated by
21 Senator Gold, I'd like the record to show that I
22 want to be recorded in the negative.

23 ACTING PRESIDENT KUHL: Senator

1 Leichter, there was a roll call taken on that
2 nomination. Your vote will be recorded in the
3 negative. Thank you.

4 Senator LaValle.

5 SENATOR LAVALLE: Mr. President,
6 can we return to reports of standing committees?
7 It's at the desk, a Rules report.

8 ACTING PRESIDENT KUHL: We'll
9 return to the order of standing committees, ask
10 the Secretary to read the report of the Rules
11 Committee.

12 THE SECRETARY: Senator Bruno,
13 from the Committee on Rules, reports the
14 following bills direct to third reading:

15 7980, by Senator Bruno, an act to
16 amend the Legislative Law and the State Finance
17 Law;

18 7981, by Senator Bruno,
19 concurrent resolution of the Senate and
20 Assembly, proposing amendments to Article III of
21 the Constitution.

22 All bills ordered directly for
23 third reading.

1 ACTING PRESIDENT KUHL: On motion
2 by Senator LaValle to accept the report of the
3 Rules Committee, all those in favor signify by
4 saying aye.

5 (Response of "Aye.")

6 Opposed nay.

7 (There was no response).

8 The Rules report is accepted.

9 All bills are reported direct to third reading.

10 Senator Skelos.

11 SENATOR SKELOS: Mr. President,
12 if we could just temporarily go back to motions
13 and resolutions. I believe there's a Resolution
14 Calendar at the desk. I move that we adopt it in
15 its entirety.

16 ACTING PRESIDENT KUHL: We'll
17 return to the order of motions and resolutions.
18 The Resolution Calendar is on the desk of the
19 members. The motion is to accept the Resolution
20 Calendar. All those in favor signify by saying
21 aye.

22 (Response of "Aye.")

23 Opposed nay.

1 (There was no response.)

2 The Resolution Calendar is
3 adopted.

4 Senator Skelos.

5 SENATOR SKELOS: Mr. President,
6 the Rules report third reading, beginning with
7 7701-A, by Senator Trunzo.

8 ACTING PRESIDENT KUHL: Secretary
9 will read.

10 THE SECRETARY: Senator Trunzo
11 moves to discharge from the Committee on Rules
12 Assembly Bill Number 10,628 and substitute it
13 for the identical Third Reading Calendar 1808.

14 ACTING PRESIDENT KUHL:
15 Substitution is ordered. Secretary will read.

16 THE SECRETARY: Calendar Number
17 1808, by the Assembly Committee on Rules,
18 Assembly Print 10,628, an act to amend the
19 Retirement and Social Security Law.

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

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT KUHL: Excuse
3 me. Senator Seabrook, would you like to speak
4 on the bill?

5 SENATOR SEABROOK: Just like to
6 ask the sponsor a couple quick questions if he
7 would yield to a few questions.

8 ACTING PRESIDENT KUHL: Senator
9 Trunzo, an explanation has been asked for by
10 Senator Seabrook.

11 SENATOR TRUNZO: Senator
12 Seabrook, this bill to amend the Retirement and
13 Social Security Law is in relation to providing
14 the Suffolk County correction officers with a
15 special 20-year optional retirement plan.

16 SENATOR SEABROOK: Senator yield
17 to a question?

18 ACTING PRESIDENT KUHL: Senator
19 Trunzo, do you yield to a question from Senator
20 Seabrook?

21 SENATOR TRUNZO: Yes.

22 ACTING PRESIDENT KUHL: The
23 Senator yields.

1 SENATOR SEABROOK: Senator, does
2 this differ from any other pension plans, say,
3 for correction officers certificates in New York
4 City or any other place?

5 SENATOR TRUNZO: No, it's just
6 for the Suffolk County correction officers.

7 SENATOR SEABROOK: What is the
8 difference?

9 SENATOR TRUNZO: Well, there is a
10 home rule message from Suffolk County asking us
11 to do this for their correction officers. This
12 is strictly the Suffolk County. Doesn't affect
13 any other correction officers in the state.

14 SENATOR SEABROOK: Right, but
15 this -

16 SENATOR TRUNZO: Or the nation.

17 SENATOR SEABROOK: But this bill
18 conforms to the regular bills for all correction
19 officers or is it -- is there a difference in
20 this bill?

21 SENATOR TRUNZO: At this point,
22 it only affects the Suffolk County correction
23 officers.

1 SENATOR SEABROOK: Yeah, I know
2 the effect, but I'm just trying to see the
3 provisions in this bill. Is it different than
4 that which is, say, for correctional officers in
5 New York City or -

6 SENATOR TRUNZO: Well, Senator,
7 some correction officers do have 20-year
8 retirement plan; some other counties they do
9 have that.

10 SENATOR SEABROOK: Some other
11 counties.

12 SENATOR TRUNZO: Yes, I'm not
13 sure about New York City; I couldn't tell you.

14 SENATOR SEABROOK: But what is
15 the provision now?

16 SENATOR TRUNZO: I believe it's
17 25 years.

18 SENATOR SEABROOK: 25 years, so
19 that would be somewhat similar to what is in New
20 York City?

21 SENATOR TRUNZO: Yeah, if New
22 York City wanted it, we would do that bill too
23 with a home rule message.

1 SENATOR SEABROOK: Thank you.

2 SENATOR TRUNZO: Last section.

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

5 THE SECRETARY: Section 3. 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 1809, by Senator Leibell, Senate Print 7408, an
15 act to permit the reopening of the optional
16 20-year retirement plan.

17 ACTING PRESIDENT KUHL: There is
18 a home rule message at the desk. The Secretary
19 will read the last section.

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

22 ACTING PRESIDENT KUHL: Call the
23 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 56.

3 ACTING PRESIDENT KUHL: The bill
4 is passed.

5 THE SECRETARY: Senator Trunzo
6 moves to discharge from the Committee on Rules
7 Assembly Bill Number 11375 and substitute it for
8 the identical Third Reading Calendar 1810.

9 ACTING PRESIDENT KUHL: The
10 substitution is ordered.

11 The Secretary will read the
12 title.

13 THE SECRETARY: Calendar Number
14 1810, by the Assembly Committee on Rules,
15 Assembly Print 11375, an act to amend the
16 Retirement and Social Security Law.

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

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

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 56.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1118, by Senator Seward, Senate Print 7978, an
6 act to amend the Public Service Law and the
7 Uniform Commercial Code.

8 SENATOR LEICHTER: Explanation.

9 ACTING PRESIDENT KUHL: Senator
10 Seward, an explanation of Calendar Number 1811
11 has been requested by Senator Dollinger.

12 SENATOR SEWARD: Certainly.

13 SENATOR GOLD: Excuse me. What
14 Calendar Number is this?

15 ACTING PRESIDENT KUHL: This is
16 Calendar Number 1118? 1811 we're on.

17 SENATOR SEWARD: That's Senate
18 7978? Okay.

19 ACTING PRESIDENT KUHL: Calendar
20 Number -- that's right, Senate 7978, Senator
21 Seward. Senator Dollinger requested an
22 explanation.

23 SENATOR SEWARD: Yes, Mr.

1 President.

2 This is a slightly differing
3 version of the legislation that this house
4 passed back in late June of this year. It deals
5 with the problem of high electric rates in this
6 state which, let's all face it, high electric
7 rates are causing many hardships for our
8 residences and -- residents and businesses alike
9 and this bill helps to address that problem by
10 establishing a financing mechanism through which
11 electric rates could be reduced as a result of
12 low cost financing of certain utility assets and
13 so-called intangible properties of the utility,
14 such things as the regulatory assets, such as
15 IPP contracts, stranded assets, the demand side
16 management costs that they have incurred,
17 environmental remediation, all of those types of
18 so-called intangible properties.

19 Now, to do this, the bill
20 authorizes utilities on a voluntary basis to
21 present a refinancing plan to the Public Service
22 Commission for approval, and this plan would
23 have to -- would propose raising from the level

1 of expectation to the level of a property right
2 these intangible properties that belong to the
3 utility and the Commission would be required to
4 review the plan, determine if the ratepayers
5 would, in fact, receive a savings in their
6 electric bill with the acceptance of the plan.
7 This is a precondition of the acceptance of the
8 plan and the PSC could approve the plan that's
9 been proposed to them either as a whole or in
10 part.

11 Now, also, the Commission, as
12 part of this process and under this bill, would
13 be authorized to obtain certain concessions from
14 the utility and while the concessions obviously
15 are not outlined specifically in the bill, they
16 could include such things as mandatory
17 multi-year rate reductions or a write-down of a
18 portion of the utility's stranded cost.

19 Now, this bill is meant to be a
20 bridge to the coming competition in the electric
21 utility industry. It expires December 31st of
22 1998 and in so doing, it is a bridge to the
23 coming competition and will help address the

1 problem of high electric rates in the state.

2 ACTING PRESIDENT KUHL: Senator
3 Dollinger, is that explanation okay? Did you
4 have an additional question?

5 SENATOR DOLLINGER: Yes, Mr.
6 President, just on the bill ever so briefly.

7 ACTING PRESIDENT KUHL: Senator
8 Dollinger, on the bill.

9 SENATOR DOLLINGER: I think, as
10 Senator Seward properly points out, we did this
11 bill before earlier in this session, isn't that
12 correct; this is the same bill or all but the
13 same bill, through you, Mr. President, if I
14 could just pose that question to Senator
15 Seward?

16 SENATOR SEWARD: Mr. President,
17 the change from the bill we passed in June to
18 this bill is the addition, which I think is a
19 very fine addition, we decided to include that a
20 public notice upon the issuance of one of these
21 qualified rate orders and opinions by the PSC as
22 a result of this bill, they would have to be -
23 it would have to be a written issuance of this

1 order and opinion and it would be -- outline all
2 the terms and conditions of the -- of the order
3 and also call for judicial review, have that
4 option available by -- any of the parties could
5 bring judicial review to the process.

6 SENATOR DOLLINGER: Through you,
7 Mr. President, if Senator Seward would yield to
8 just one other question.

9 ACTING PRESIDENT KUHL: Senator
10 Seward, do you yield to a question? The Senator
11 yields.

12 SENATOR DOLLINGER: Under the
13 terms of this bill, the Public Service
14 Commission would have to make a determination
15 that there was a substantial benefit -- or I'm
16 not sure that's the term of art used in the
17 bill, but a benefit to the ratepayers as a
18 precondition for the issuance of an order
19 pursuant to this section that we're going to
20 amend.

21 My question is does that order
22 require that the benefit be spread among all
23 ratepayers or could the Public Service Commis

1 sion make a determination that a substantial
2 reduction for one form of ratepayers?

3 I know that we're going to do a
4 bill. There's a bill on the calendar that deals
5 with using lower utility rates as a spur for
6 economic development. My question is does
7 anything in this bill also address that issue of
8 possibly using the benefits of reduced borrowing
9 costs as a spur for economic development direct
10 ed at a particular class of ratepayers, but I
11 know the utilities are competing very seriously
12 for -- that's major buyers, major purchasers of
13 electric power and gas.

14 SENATOR SEWARD: Well, Mr.
15 President, the bill is not specific in terms of
16 addressing your particular question. The bill,
17 on page 2 in line 37, 38, in that area of the
18 bill, talks about the -- that the action would
19 result in significant rate savings to the cus
20 tomers of the electric corporation. Obviously
21 lower electric rates would be a benefit econom
22 ically to this state, help with job creation and
23 it's something that we all can embrace, but also

1 with the coming competition, all classes of
2 utility customers, residential customers as well
3 as the business customers, will be able to pick
4 their electric supplier and -- in that era of
5 competition.

6 So it just strikes me that in
7 order for the utility to, shall we say hold onto
8 customers of all classes, they're going to have
9 to provide lower electric rates for all classes
10 of customers. That's my reaction to your
11 question, although that's not delineated in this
12 legislation.

13 SENATOR DOLLINGER: Through you,
14 Mr. President -- or Madam President, on the
15 bill.

16 I agree with Senator Seward's
17 description of this bill. I think the language
18 which you've highlighted points out that so long
19 as there are significant rate savings to
20 customers of the electrical corporation, that
21 could be broadly interpreted to give the PSC the
22 ability to perhaps shift a portion of the
23 benefits of rate reduction in this case or the

1 reduction in costs that would be attendant upon
2 the passage and utilization of this bill to
3 focus that perhaps on a particular brand of
4 customer.

5 I don't think that's a negative
6 in this bill that the PSC would have the ability
7 to perhaps focus a portion of the rate savings
8 here to economic development, which I think is
9 something that I wanted to see whether they had
10 the flexibility to do that. That may depend on
11 who's on the PSC. It may depend on political
12 factors. It may depend on a number of factors
13 in any given situation, but it does have the
14 ability to say if you found a significant rate
15 reduction for customers of an electric
16 corporation, then you would be able to approve
17 an order in this case, and I think that's an
18 option that should be there that the PSC in
19 trying to fine tune where electrical competition
20 is going to occur, at least based on the
21 discussions we've had in the Energy Committee,
22 my sense is that that competition would be most
23 vigorous among major customers and that it might

1 be beneficial to keep our utilities and preserve
2 some kind of transition for utilities as we go
3 to the new electrical market, that they be
4 allowed to perhaps focus a major portion of
5 these savings at their movable customers, their
6 customers who have the ability to get up and
7 walk away to the competition. As the chairman
8 knows, that would be more difficult for
9 residential customers as the market goes on.

10 Mr. President, on the bill. I
11 voted for this I think in the past. I'm going
12 to vote for it again. It seems to me it moves
13 us further down the road to a world in which
14 there will be competition for electrical rates.

15 I would simply point out to the
16 chairman, and I think he shares this view, that
17 when we're looking at the comprehensive picture
18 of where utility deregulation is going to go,
19 this is only a component of that, and I think
20 it's a good step, but there are many other steps
21 that we have to persevere in moving to and in
22 getting done if we're going to make the reality
23 of deregulation in competition a factor in our

1 electrical and gas industry in this state.

2 So I'll be voting in favor. I'll
3 be supporting this concept. I think it's the
4 right thing to do, but I think we should
5 recognize that we have to take other steps as
6 well.

7 SENATOR LEICHTER: Madam
8 President.

9 THE PRESIDENT: Senator Leichter.

10 SENATOR LEICHTER: If Senator
11 Seward would be so good as to yield.

12 THE PRESIDENT: Senator?

13 SENATOR SEWARD: Certainly.

14 SENATOR LEICHTER: Senator, I
15 have difficulty seeing how this moves utilities
16 to a more free market condition. It seems to be
17 just the opposite. It seems to me that what
18 you're trying to do is, one, protect the share
19 holders, secondly, that you're -- by providing
20 that the stranded costs could be passed along to
21 the shareholders, you're trying to give a
22 certain benefit to the utilities that the market
23 won't give them.

1 It seems to me, very frankly,
2 you're trying to control the market. You're
3 trying -- you're trying to direct the market
4 instead of letting the market decide how the
5 utility rates are going to go.

6 SENATOR SEWARD: Madam President,
7 Senator Leichter, I would beg to differ with
8 you. This legislation would assist and help
9 provide relief to the ratepayers of the
10 utility.

11 As it stands right now, absent of
12 this legislation and -- or a similar legisla
13 tion, the ratepayers are paying these costs now
14 under this bill and will in the future.

15 Under this legislation, this
16 provides a tool to be used by the PSC and the
17 utilities coming forward with their rate
18 reduction plans to refinance some of these
19 obligations that the ratepayer is obligated to
20 pay for right now, refinance those obligations
21 at lower cost financing with the understanding
22 -- more than understanding -- with the stated
23 requirement under this bill that the savings be

1 directed to the ratepayer in the form of lower
2 electric rates and also as we move toward the
3 era of competition, this legislation and this
4 refinancing will be a great help to the utili-
5 ties in dealing with their issue of such things
6 as the stranded costs that they've incurred with
7 the full partnership of the PSC over the years
8 being declared prudent expenditures by the PSC
9 in the past. These costs are going to be
10 incurred by the ratepayer unless we provide some
11 tools to the PSC and the utilities to refinance
12 and to free up some capital to perhaps buy out
13 some IPP contracts as an example.

14 And the bottom line here, Senator
15 Leichter, is lower electrical costs for the
16 ratepayer. This isn't any stockholder or
17 utility bail-out. If it's a bail-out for
18 anyone, it's a bail-out for our electric
19 ratepayers who today are paying too high a cost
20 for their electricity.

21 THE PRESIDENT: Senator Leichter.

22 SENATOR LEICHTER: If Senator
23 Seward will continue to yield, please.

1 THE PRESIDENT: Senator Seward.

2 SENATOR LEICHTER: Senator

3 Seward, but it's precisely because you are
4 defining certain costs, you're making available
5 the ability of utilities to go out and
6 refinance, that you're providing a special
7 situation for the utilities that, frankly, the
8 market doesn't give it. Why are we better off
9 just allowing -- utility rates are very high in
10 upstate New York. Niagara Mohawk is -- for
11 whatever reason, is a high cost utility. Maybe
12 the best thing is to allow more people to come
13 in and compete with Niagara Mohawk. Wouldn't
14 that be maybe the best thing to do?

15 THE PRESIDENT: Senator Seward.

16 SENATOR SEWARD: Well, Senator,
17 that type of competition is coming. The Public
18 Service Commission has competition on a very
19 short timetable in terms of having retail -
20 wholesale competition in 1997, retail competi
21 tion in 1998; that is their goal, but this bill
22 recognizes that because of the past monopoly
23 situation we've had with utilities, having to go

1 to the PSC, having a very highly regulated
2 environment in which they have operated and
3 incurred costs with the understanding they would
4 pass on those costs to the ratepayers, that's
5 why we're in the situation we're in today.
6 Something has to give as we move into a
7 competitive environment in the electric utility
8 industry and this legislation will provide a
9 mechanism for one aspect of getting the
10 utilities ready for competition through this
11 lower cost financing of some of these utility
12 intangible properties.

13 I don't see that as a -- giving
14 them any special protection or rights or
15 anything of that sort at all. I see that as
16 part of a transition from a highly regulated
17 environment in which they've operated and
18 conducted business in the past to the more free
19 and open competition that is just around the
20 corner and to give the ratepayers some relief.

21 THE PRESIDENT: Senator Leichter.

22 SENATOR LEICHTER: Again, Madam
23 President, if Senator Seward will yield. I

1 mean, with all due respect, I mean, it sounds
2 like one of the eastern former Communist regimes
3 gingerly moving towards a free market economy.
4 I don't mean to make light of it because I think
5 it's a very difficult step to go from -- from a
6 regulated industry as we've had which we felt
7 was beneficial to ratepayers and may no longer
8 be until free market, but I really suggest when
9 you say something has to give, that what you're
10 really ending up protecting is the shareholders
11 and the ones who may eventually -- eventually I
12 say -- have to give are the ratepayer.

13 I understand initially you're
14 helping the ratepayers, but in the long run,
15 these capital assets, all of these stranded
16 costs are still going to have to be paid for and
17 depending on market conditions, depending on how
18 the utilities use the money in refinancing, you
19 may find yourself in a situation where these
20 utilities are even weaker, have more financial
21 problems. You're going to force them at that
22 point to raise the rates to the ratepayers.
23 Isn't that a possible scenario, and I submit

1 even a likely scenario?

2 THE PRESIDENT: Senator?

3 SENATOR SEWARD: Madam President,
4 I could not subscribe to that as a scenario,
5 Senator Leichter. Basically, as you point out,
6 the stranded costs have been -- have been
7 incurred. As it stands now, the ratepayer is
8 going to have to pay. This legislation, as I've
9 said before, would provide some relief for that
10 ratepayer because of the fact that there will be
11 some lower cost financing involved and also in
12 addition to the lower cost financing which those
13 savings would be translated into lower electric
14 rates, also -- and this gets, I think to the
15 heart perhaps of your concern -- under this
16 bill, as part of adopting these plans, the PSC
17 is authorized to, shall we say extract certain
18 concessions from the utilities, perhaps the
19 write-down of a portion of these stranded
20 costs. That's where the utility and the
21 stockholders would be contributing to the -
22 shall we say to the ultimate rate relief that
23 would come about under this bill.

1 So it's not -- it's not, as I've
2 said, a stockholder bail-out. It's not a
3 utility bail-out. This is a ratepayer bail-out,
4 pure and simple.

5 SENATOR LEICHTER: Madam
6 President.

7 THE PRESIDENT: Senator Leichter.

8 SENATOR LEICHTER: If Senator
9 Seward would yield just to one more question.
10 It's partly been asked, but let me ask you
11 directly, and I really don't know the answer. I
12 don't know where I would stand on this question,
13 but might we not be better off just saying to
14 any other utilities, any producer of energy,
15 "You want to come in New York State, fine.
16 You're welcome." They come in. They may
17 undercut Niagara Mohawk. They'll undercut
18 LILCO. It may create enormous difficulties for
19 Niagara Mohawk, but you're going to have cheaper
20 rates. Maybe that's the way to really benefit
21 the ratepayers is to allow other utilities to
22 come in and force the Niagara Mohawks, force the
23 LILCOs to compete on those terms. They may go

1 under or they may learn how to compete. Why
2 wouldn't we be better off doing that?

3 SENATOR SEWARD: I would be -
4 Madam President, I'd be very happy to respond to
5 Senator Leichter's final question.

6 Seriously, Senator, the -- you're
7 absolutely right in suggesting that the ultimate
8 competition will also contribute to lower elec
9 tric rates. That's happened in other segments
10 of our -- of our economy and other industries
11 where there's been competition, rates and costs
12 have gone down to the consumer and we fully
13 expect that will occur in the electric rate
14 aspect of our economy as well.

15 The issue at hand, though, is
16 this. Over the years, the utilities, because of
17 Public Service Commission determinations in the
18 past, have incurred these very legitimate
19 expenses that they have in many cases been
20 required to incur and they're just not going to
21 go away. We have to devise a manner in which
22 these obligations are going to be met. My
23 suggestion -- and it's the whole thrust of this

1 legislation -- is let's have these obligations
2 met in a way that provides rate relief to the
3 ratepayers of our state as we go to this era of
4 competition. This will provide the rate relief
5 sooner than the scenario you suggest. You're
6 not wrong in suggesting that competition
7 ultimately will apply a great deal of pressure
8 on our utilities, the investor-owned utilities
9 of our state. There's no question about that.
10 This legislation will provide that rate relief
11 between now and December 31st, 1998.

12 THE PRESIDENT: Senator?

13 SENATOR LEICHTER: Madam

14 President, I want to thank Senator Seward. As
15 always, he answers in very reasoned tone and
16 manner and I understand the points that he's
17 making, but I think, Senator -- in part, I think
18 at the end you sort of let the cat out of the
19 bag or maybe in connection with this bill it's
20 more appropriate to say the rabbit because you
21 said, Well, you know, these utilities were
22 forced to incur these costs by the PSC. I'm not
23 certain that's so.

1 I mean, you take LILCO. It's
2 true, the PSC approved of Shoreham, but it was
3 LILCO that had the idea to come up with Shoreham
4 and many of the facilities, many of the stranded
5 costs that are burdening the utilities that you
6 and I are concerned about, they didn't come just
7 from the regulated system. They came from
8 utilities that made some pretty bad management
9 decisions, and to that extent, this bill
10 certainly seeks to bail them out.

11 I'm somewhat amused about these
12 debates that we have on energy because, you
13 know -

14 THE PRESIDENT: I'm sorry,
15 Senator. I just couldn't hear you.

16 SENATOR LEICHTER: Yes. Thank
17 you, Madam President, and I'm glad you're
18 interested. You may be the only one.

19 But I think it's a very important
20 issue. It's a crucial issue. It's crucial for
21 the people of New York State. It's crucial for
22 our industry and it's extremely complex. I'm
23 just amused because in certain respects, some of

1 my arguments are really the reverse of what my
2 party has stood for. We were the party of
3 public power. We had to fight the Republicans.
4 You people desperately fought against public
5 power in the governorship of Franklin Delano
6 Roosevelt. That was the most marked political
7 battle and now it's sort of shifting because now
8 I see the Governor comes out with a proposal for
9 LILCO, which is really sort of public power and
10 some of us here, while not necessarily arguing
11 for it, just opening up and de-regulating the
12 market and going to free market economy cold
13 turkey, at least are suggesting or raising the
14 question. So it's interesting how things change
15 and without question, there is something of an
16 industrial policy, if you will, or a utility
17 policy by government deciding -- you know, some
18 people say government can't pick winners or
19 losers or can't really regulate the market. I
20 happen to disagree with that statement, but
21 that's really what you essentially stand for,
22 your party stands for, Senator Seward, but
23 that's what you're trying to do in this

1 particular instance.

2 Let me just say, it's a complex
3 subject and it really needs to be treated on a
4 more comprehensive basis. I don't mean to imply
5 that you haven't given a lot of thought and work
6 on this, and I appreciate it, but I just want to
7 say that this is a one-house bill and there were
8 many of us on this side of the aisle that,
9 Senator Seward, when you brought up almost a
10 similar bill at the end of the session thought
11 that you just didn't have it quite right, and I
12 just want to remind my colleagues who voted
13 against it, Senators Abate, Connor, Gold,
14 Kruger, Leichter, Markowitz, Mendez, Montgomery,
15 Nanula, Onorato, Oppenheimer, Paterson,
16 Stachowski and Waldon.

17 Thank you.

18 THE PRESIDENT: Thank you.

19 Senator Abate.

20 SENATOR ABATE: Yes. Would

21 Senator Seward yield to a question?

22 THE PRESIDENT: Senator Seward.

23 SENATOR SEWARD: Certainly.

1 SENATOR ABATE: Yes. It is my
2 understanding that this bill provides financial
3 relief to the stockholders and the bondholders,
4 and that the ultimate intent is to see some of
5 those savings passed along to the consumer. Am
6 I correct in my assessment in those
7 conclusions? I'm just repeating what I thought
8 I heard you say that the intent of this bill is
9 to provide some financial relief.

10 SENATOR SEWARD: The financial
11 relief is to the ratepayers.

12 SENATOR ABATE: The ultimate or
13 the interim relief? I guess what I'm trying to
14 say is where in this bill does it actually say
15 that the savings would be passed along to the
16 ratepayers?

17 SENATOR SEWARD: On page 2, it
18 starts on line 33 under "General requirements.
19 Rate savings to the customers of the electric
20 corporation."

21 SENATOR ABATE: That -- this is
22 hypothetically. My concern is -- and while I
23 think basically there's some -- I understand the

1 argument if we provide this relief to the
2 utility corporation, they can then -- PSC can
3 get involved and some of those savings can be
4 passed along to the consumer, but where does it
5 say specifically that that will occur? I know
6 that there has to be a demonstration by the
7 utility company that it will result in
8 significant rate savings, but where does it say
9 that as a matter of fact, that dollar for dollar
10 those savings will be passed along in terms of
11 rate reduction for the consumer?

12 THE PRESIDENT: Senator?

13 SENATOR SEWARD: Well, Senator,
14 as I read that portion of the bill, it says
15 "each qualified rate order" which would be the
16 final result that the PSC would issue, "shall
17 include a finding by the Commission that the
18 rates allowed in actions authorized --" it goes
19 on to talk about there should be significant
20 rate relief. I'm not sure how much more clear
21 we can be.

22 SENATOR ABATE: Well -- but if I
23 heard Senator Leichter say that there was a

1 concern that this doesn't take a comprehensive
2 view, on the one hand, the intent is to provide
3 rate relief but it does not specifically call
4 for it, and yet you point to the language in
5 line 33 as saying specifically that once this
6 relief is given in terms of the financing of
7 these utilities, that will translate in direct
8 savings to the ratepayer, and I guess I don't
9 see dollar for dollar how that translates, and
10 you're saying the intent of the bill is to
11 accomplish that dollar for dollar?

12 SENATOR SEWARD: The intent of
13 the bill is to provide significant rate relief
14 to the ratepayers of our state.

15 SENATOR ABATE: I know ultimately
16 that might be accomplished by that as the
17 utility companies become more solvent, more
18 efficient as they invest and have more money to
19 invest in infrastructure, hopefully that will
20 mean better service and rate reductions. It
21 does not necessarily mean that. The money could
22 be spent elsewhere. Where in this bill does it
23 say that the ratepayer will benefit from these

1 transactions?

2 SENATOR SEWARD: It's in that
3 section, Senator.

4 SENATOR ABATE: And you interpret
5 it as such.

6 SENATOR SEWARD: That -
7 significant rate reductions. Let me point out,
8 there's -- this has been said by others. This
9 is a highly complex area. There is a lot
10 happening in this area of ushering an era of
11 competition in the electric utility industries
12 of our state. The Public Service Commission has
13 a full-blown proceeding underway. This
14 legislation is not intended to be the cure-all
15 or end-all or that comprehensive approach that
16 has been called for. This legislation is
17 intended to provide the PSC with the voluntary
18 cooperation of the utilities in coming forth
19 with a plan. It's a tool. This bill provides
20 one tool that will help provide rate relief for
21 our electric consumers of our state. It's that
22 pure and simple.

23 SENATOR ABATE: Will you -- since

1 this is a one-house bill today and you'll -- we
2 may have an opportunity next year, I hope you
3 will entertain some further discussions at how
4 we can better clarify so what you perceive as
5 the intent of the bill will actually be the
6 reality and will become implemented in the
7 future because if, in fact, what you say is the
8 intent in the bill, I can support this bill. I
9 have some concern that the language does not, in
10 fact, represent what you say it does.

11 SENATOR SEWARD: Well, Madam
12 President, it's early in the legislative day and
13 even though there is not a companion bill in the
14 Assembly, we certainly hope that before the day
15 ends that the Assembly will, in fact, take up
16 this bill.

17 SENATOR ABATE: But if not, I
18 hope you will entertain further discussions in
19 clarifying the bill next session.

20 SENATOR SEWARD: My door is
21 always open.

22 THE PRESIDENT: Thank you.

23 SENATOR ONORATO: Mr. President.

1 THE PRESIDENT: Yes, Senator
2 Onorato.

3 SENATOR ONORATO: Senator Seward,
4 will you yield to a question, Senator Seward?

5 SENATOR SEWARD: Certainly.

6 SENATOR ONORATO: Regarding the
7 savings, it says the item in the bill, that it
8 is significant. Now, is there any definition of
9 what you mean by a "significant" rate savings
10 will be passed on if the rate -- if the utility
11 company saves 25 percent of its costs, how much
12 of the 25 percent will be considered significant
13 to the ratepayer; one percent, two percent,
14 three percent? Just how much is significant?
15 You know, how do you differentiate between
16 significant and insignificant?

17 THE PRESIDENT: Senator?

18 SENATOR SEWARD: Well, Madam
19 President, the -- this legislation is -- does
20 not specify or define the "significant" rate
21 reduction, but let me say this. When you take a
22 look at the various investor-owned utilities of
23 our state, every utility is different. Every

1 contract that they may have with an independent
2 power producer is different. There are
3 different terms. There's no way, Senator, that
4 we could do this legislation and cross every "T"
5 and dot every "I" that would cover every
6 situation.

7 This bill provides some broad
8 guidelines to the Public Service Commission,
9 authorizes these rate reduction plans to be
10 submitted by the utilities using this
11 securitization of these -- of these utility
12 assets and intangible properties and, believe
13 me, under this bill, with the judicial review
14 that is allowed under this bill, if the PSC -
15 I'm just speculating here -- if the PSC approved
16 a plan that did not provide significant enough,
17 shall we say, rate relief for customers in a
18 particular service territory, I'm sure there are
19 those parties that would bring the matter before
20 judicial review. It would be an entirely open
21 process and it would be reviewed.

22 SENATOR ONORATO: Read the last
23 section.

1 ACTING PRESIDENT HOLLAND: Read
2 the last section, please.

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

5 ACTING PRESIDENT HOLLAND: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Those recorded in
9 the negative on Calendar Number 1811 are
10 Senators Abate, Connor, Kruger, Leichter,
11 Montgomery, Onorato, Seabrook, Smith and
12 Stavisky. Ayes 47, nays 9.

13 ACTING PRESIDENT HOLLAND: The
14 bill is passed.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 1812, by Senator Seward, Senate Print 7979, an
18 act to amend the Public Service Law, the Public
19 Authorities Law, the Economic Development Law
20 and the Tax Law.

21 ACTING PRESIDENT HOLLAND: Read
22 the last section, please.

23 SENATOR LEICHTER: Explanation.

1 ACTING PRESIDENT HOLLAND: An
2 explanation has been requested.

3 Senator Seward.

4 SENATOR SEWARD: Certainly, Mr.
5 President. This second bill also deals with the
6 issue of trying to drive lower costs of
7 electricity to help our economy in the state of
8 New York.

9 The bill establishes the
10 Partnership in Economic Development Program,
11 wherein the state Power Authority and the major
12 utilities would combine to provide 400 megawatts
13 of economic development power, low cost power to
14 businesses of our state which are likely to
15 close, curtail operations in this state, to
16 relocate out of state or otherwise leave the
17 grid entirely. Now, this is a temporary
18 program. It's aimed at assisting businesses to
19 retain jobs once again as we transition to
20 competition.

21 Under the bill, an application
22 for the power would have to be made within three
23 years and the contracts for this power could not

1 exceed three years. So it's a temporary measure
2 as we move toward competition. The Power
3 Authority would contribute 200 megawatts of
4 power, the utilities a like amount and combined,
5 they -- it would provide the 400 megawatts of
6 power.

7 To offset the loss of revenues to
8 the utility and to avoid shifting any costs over
9 to other classes of customers of the utility,
10 the utilities would receive an offset against
11 their gross receipts tax that they have
12 collected.

13 ACTING PRESIDENT HOLLAND:

14 Senator Leichter.

15 SENATOR LEICHTER: Would you
16 answer a question, Senator Seward?

17 SENATOR SEWARD: Certainly.

18 SENATOR LEICHTER: Senator,
19 actually this is just about the same as the bill
20 that we did in June. I'm not sure what we
21 gained by doing the bills again twice in one
22 session, but let me ask you this question. As I
23 understand it, a four-member board will decide

1 on the allocation of this inexpensive power, is
2 that correct?

3 SENATOR SEWARD: That is correct,
4 Senator. It's called the Power Allocation Board
5 which has been in existence for a number of
6 years and it has been used to allocate the low
7 costs to the Power Authority under previous
8 programs.

9 SENATOR LEICHTER: Now, the
10 members of this board, as I understand it, are
11 Charles Gargano. Clarence Rappleyea is the New
12 York State Power Authority chairman and then
13 there's one appointee by each of the Majority
14 legislative leaders; is that correct?

15 SENATOR SEWARD: That is
16 correct. In fact, that -- the makeup of the
17 board and the members that serve on this board,
18 this has been -- this board has been in
19 existence for some time. This was set up under
20 previous administrations.

21 SENATOR LEICHTER: Okay. And by
22 -- does the board have to act unanimously or is
23 it a majority or -- which would, I guess have to

1 be three out of four members?

2 SENATOR SEWARD: I am -- let me
3 secure an answer to that question. Senator, I'm
4 advised by counsel it would require a majority
5 of that board.

6 SENATOR LEICHTER: So that for
7 all practical purposes, you know, the -- as it's
8 set up, the decisions are made by Charles
9 Gargano and Clarence Rappleyea and the
10 Governor's appointee.

11 On the bill, I'm always concerned
12 about any time government gets involved in sub
13 sidies to business, not because I'm against it.
14 As we said in relation to the previous bill, I'm
15 the one who believes industrial policy, you're
16 the people, the other side of the aisle that's
17 against it, but you always come out with bills
18 providing for government getting involved here,
19 there, and so on. I think it's perfectly
20 appropriate at some times, but if we're going to
21 have it, I think that you need standards in the
22 bill under the conditions under which it's going
23 to be done. I think you have to have a much

1 less political system for deciding how that
2 power is to be allocated.

3 I think if you take a look at the
4 past history of allocation of power -- and I
5 know just about what happened in New York City
6 -- it's been pretty much a failure. It's been
7 squandered by and large on financial firms
8 rather than industrial firms, rather than firms
9 that create jobs. So I'm very loathe to vote
10 for any of the subsidy programs unless I know
11 their criteria, standards, unless I know it's
12 going to be administered in such a way that it's
13 really going to be a benefit to the people of
14 the state of New York.

15 This does carry a fairly big
16 bill. I don't know whether I mentioned-- 63- or
17 \$65 million, I believe is the expected cost at
18 least according to the memo that I have. I'm
19 not going to spend that money that readily or
20 that easily without knowing it's going to create
21 some real benefits to the people of the state of
22 New York, and for that reason and maybe others,
23 Senator Markowitz, Senator Paterson joined me in

1 voting in the negative and maybe some others
2 will want to join me this time.

3 ACTING PRESIDENT HOLLAND: Read
4 the last section.

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

7 ACTING PRESIDENT HOLLAND: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 55, nays 1,
11 Senator Leichter recorded in the negative.

12 ACTING PRESIDENT HOLLAND: The
13 bill is passed.

14 The Secretary will read, please.
15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 1813, by Senator Bruno, Senate Print 7980, an
18 act to amend the Legislative Law and the State
19 Finance Law.

20 SENATOR STACHOWSKI: Explanation.

21 ACTING PRESIDENT HOLLAND:
22 Senator Bruno, an explanation has been
23 requested.

1 SENATOR BRUNO: Mr. President,
2 this issue relates to reforming the budget
3 process in New York State.

4 The bills that we have before us
5 are bills that we have passed before in this
6 chamber. We have debated them at some length.
7 There are some changes that were made that
8 relates more to the consensus forecasting time
9 tables than anything else in this bill.

10 By and large, we are attempting
11 through this legislation to fix a budget process
12 in this state that has not worked in the last 12
13 out of 13 years. So we feel in this chamber
14 that it is time for us to recognize that the
15 budget process has to be repaired and this bill
16 will get us there.

17 We've talked to the Speaker about
18 it. The Speaker indicates his support for
19 budget reform. He tells me that he has a bill
20 that he has prepared on budget reform. We want
21 to see that bill. The Governor has supported
22 this concept that we have on the floor now and
23 is still supportive of doing a budget bill that

1 helps us get a budget in place by April 1st.

2 Here's what it does very quickly
3 because we have, I think for more than a couple
4 of hours, debated this previously. It recom
5 mends that the Governor on December 1st submits
6 his budget instead of the middle of January. It
7 gives him 45 days instead of 30 to amend that
8 budget. The budget process goes forward. We
9 would be doing our consensus forecasting and on
10 March 10th we would agree on what the revenues
11 of this state would be.

12 By March 15th, if we have not had
13 an agreement on a budget, we would pass our
14 budgets in respective houses and we would form
15 Conference Committees by March 15th. Those
16 Conference Committees would report out on March
17 29th, hopefully in time to get a budget in place
18 by April 1st.

19 Now, that's the essence. Failing
20 all of that, we would have an austerity budget
21 that would go into place on April 1st, so that
22 the people of this state would have a budget and
23 not have to worry and wonder on what is going to

1 happen and when in terms of school aid, bills
2 being paid, welfare checks going out, Medicaid
3 checks being paid, health care benefits, you
4 name it. That budget would have a ten percent
5 cut in it and the cut would be there because we
6 would know what the revenues would be in the
7 coming year and it would primarily be there to
8 give us all an incentive to get a new budget in
9 place going into '97.

10 Now, that's an overview of what
11 we have before us. As I say, we've talked about
12 it before. It's not a new concept, and if
13 there's anyone here that thinks the way we
14 manage this budget is the way they would like to
15 continue in this state in the future, then we
16 should share your thoughts now.

17 Thank you, Mr. President.

18 SENATOR GOLD: Mr. President.

19 ACTING PRESIDENT HOLLAND:

20 Senator Gold.

21 SENATOR GOLD: Thank you, Mr.

22 President.

23 Mr. President, I have an

1 amendment at the desk. I'd offer the amendment,
2 waive its reading and ask the opportunity to
3 explain it.

4 Senator Bruno, I don't want to
5 carry on with this any more than is necessary.
6 I understand while I was out of the room for a
7 moment by my counsel that you were good enough
8 to explain to the chamber that you, in fact,
9 offered this bill earlier this year. I think we
10 passed it as a one-house bill earlier this year
11 and all you've done is take out a section.

12 Everybody understands that the
13 Assembly, if they wanted to do this bill, could
14 do the bill with a chapter -- not a chapter -
15 they could just have an Assembly reprint that
16 takes out the one section and send it over
17 here. You say that it's important that you just
18 keep this issue in front of the people.

19 Senator, my amendment, as I
20 offered that amendment earlier this year, makes
21 it clear that if your concept is important, it's
22 also important when it comes to local property
23 tax because the Democrats are very, very

1 concerned about the actions we take in Albany
2 and how it reflects on local property taxes.

3 So, Senator Bruno, let's make a
4 deal. I think you ought to inform the press as
5 to the day that we handled this earlier this
6 year -- I owe the press something. I'm always
7 knocking the press. Let's tell them the dates
8 so they can go to their press release stories of
9 that day and reprint them. They don't have to
10 work so hard today. Then, Senator, each week
11 you introduce this bill again. We'll pass it
12 again. I'll introduce my amendment again and we
13 can, in the very inefficient way that you as a
14 businessman apparently decide we ought to run
15 this place, pass it every week and we'll make
16 the point every week that the Democrats are
17 concerned about property taxes and that you want
18 to spend our time rehashing bills that have
19 already passed.

20 Now, Senator, we have gone
21 through an election a couple weeks ago. Your
22 party has determined that they ought to be
23 throwing jobs around the state politically and

1 the people in Albany County, understanding what
2 you did, they spoke. The people in Brooklyn
3 spoke about a different issue and we're now
4 going in the right direction, Senator, and I
5 know some of your people resent that, but we're
6 now going in the right direction in this house,
7 but the way you change that, Senator Bruno, I
8 guarantee you, is not to repass bills that we've
9 already passed.

10 Now, if this was the first week
11 in January, I would say to you, Senator Bruno,
12 it's a newly elected Legislature. The bill that
13 we passed earlier this year is not live in the
14 other house and we ought to pass a bill, make it
15 live. I understand your commitment to an issue,
16 but this is folly. It's really folly, and we
17 came to Albany today in special session. The
18 Governor wants us to do some things, and I guess
19 at some point during the day we'll do that.

20 We also handled some nominations,
21 some in a very orderly way, some in a way that
22 you ought to be ashamed of, along with your
23 Governor. You ought to be proud of Senator

1 Stafford because he was able to deal with his
2 committee in trying to accommodate some of these
3 absurdities but, Senator Bruno, if you want to
4 rehash it, let's rehash it totally and from our
5 side of the aisle, I would imagine everyone on
6 your side of the aisle will support this
7 amendment because certainly if we have concerns
8 about raising taxes, we ought to get down to the
9 nitty-gritty -- and I see my distinguished
10 colleagues over there from Nassau and Suffolk
11 and I know they're going to support this
12 amendment because as a Queens County resident
13 for some 59 years -- yes, I lived in Brooklyn
14 for two -- I know how property taxes are handled
15 out at Nassau and Suffolk and their great
16 concern for it and this amendment of mine is
17 going to help you, and when it comes to Randy
18 Kuhl, who I know is concerned about local
19 property taxes and its effect upon golf courses
20 upstate, you're going to support my amendment.

21 SENATOR LACK: That's the lowest
22 blow of the year.

23 SENATOR GOLD: Lowest blow of the

1 year? What are you talking about? I wanted to
2 be invited to some of those golf courses. I
3 admit it, Senator Lack, but let's put this thing
4 where it's at.

5 We are in December. We have just
6 finished Hanukkah. You are looking forward,
7 some of you, to Christmas. Let's not waste our
8 time. You've made this point earlier in the
9 year. Go argue it out with the Assembly. If
10 they really thought that this bill was the
11 answer, they would pass it, but if we're going
12 to go through this, let's go through it the
13 right way, Senator Bruno. If we're going to do
14 it the right way, the only right way to do it is
15 with the Gold amendment which is going to
16 protect, as the Democrats in this house have
17 said time and time again, as Senator Nanula has
18 fought for, as Senator Onorato has fought for,
19 et cetera, et cetera, et cetera, and that is to
20 take care of the homeowners and the property
21 owners by giving them the same advantage.

22 I move the amendment.

23 ACTING PRESIDENT HOLLAND: The

1 question is on the amendment. All in favor say
2 aye.

3 SENATOR STACHOWSKI: Party vote
4 in the affirmative.

5 SENATOR BRUNO: Party vote in the
6 negative.

7 ACTING PRESIDENT HOLLAND: The
8 clerk will call the roll and record the party
9 votes.

10 SENATOR BRUNO: Mr. President,
11 are we going to now vote on the bill?

12 SENATOR GOLD: Let's see the
13 results.

14 SENATOR BRUNO: No. I wanted to
15 speak to the bill. I'm sorry, Senator. I got
16 so carried away with your debate here.

17 ACTING PRESIDENT HOLLAND:
18 Announce the results, please.

19 THE SECRETARY: Ayes 22, nays 34,
20 party vote.

21 SENATOR GOLD: Excuse me. I'm
22 sorry. I didn't hear that.

23 ACTING PRESIDENT HOLLAND:

1 Senator Gold.

2 SENATOR GOLD: I didn't hear the
3 results.

4 ACTING PRESIDENT HOLLAND: 22,
5 34.

6 SENATOR GOLD: 34 against
7 property owners in the state? Oh, okay.

8 ACTING PRESIDENT HOLLAND: The
9 amendment is not agreed to.

10 Senator Bruno.

11 SENATOR BRUNO: Mr. President, on
12 the bill.

13 ACTING PRESIDENT HOLLAND:
14 Senator Bruno.

15 SENATOR BRUNO: I want to thank
16 my esteemed colleague for his observations, his
17 comments and his amendment, as well intentioned
18 as it is. His comments, though, were well
19 intentioned but misdirected and misguided and
20 for this reason, Senator, we have debated this
21 issue before and if we were back next week,
22 which we won't be, we would debate it again. If
23 we were back the following week, we would debate

1 it again and in January, we will debate it again
2 until your side of the aisle and the Assembly
3 recognizes that this is an issue that the people
4 of this state want us to address in a serious
5 way and resolve our differences.

6 Now, I have invited the Speaker
7 to pass a bill. To my knowledge, Mr. President,
8 the Assembly did not pass a budget reform bill
9 all this year. So we are here tonight as a
10 reminder that the people have not forgotten that
11 we set a world's record for a late budget this
12 year. We were within two hours of a world's
13 record last year. I, my colleagues in this
14 chamber today, want to avoid going forward into
15 '97 without fixing a process that is flawed.
16 The Speaker knows it's flawed or he wouldn't be
17 getting a bill together. The Governor knows
18 it's flawed and that's why he supports where we
19 are. So this is not fun and games. I don't
20 take this lightly. I think this is serious
21 business.

22 Now, one thing, Mr. President,
23 then I'll conclude my remarks, in my review of

1 this bill, is that we have in this
2 constitutional amendment and requirements in
3 that if we make a judgment to raise taxes over
4 50 million, it would take a super majority,
5 two-thirds vote. Why? Because we have learned,
6 when you cut spending in this state, you cut
7 taxes in this state, you create jobs, you create
8 economic development, revenues go up, everybody
9 prosper. So that's the intent of what we're
10 doing here tonight.

11 Mr. President, I very much
12 appreciate your attention, your indulgence and
13 the orderly way we are functioning here this
14 evening.

15 Mr. Gold, Senator Gold, thank you
16 very much for your comments.

17 SENATOR GOLD: You're welcome.

18 ACTING PRESIDENT HOLLAND:
19 Senator Gold.

20 SENATOR GOLD: Yeah. Mr.
21 President, with all due respect, I don't know
22 whether Senator Bruno is serious or whether he
23 wants a circus. When you talk about this week,

1 next week, Senator, we can go through this. You
2 run this house and the people have decreed that
3 even though you passed the bill this year and
4 the Assembly didn't, they gained a seat and you
5 lost two, but it's okay, Senator. If you want
6 to have this every week of the session, have my
7 amendment every week of the session, we'll do
8 it. You're running the house.

9 Senator, it's not me. I think in
10 the last two years you have politicized an awful
11 lot about this house more than any other person
12 has done that, and that's your judgment and I
13 respect that. That's your right to do it as
14 long as you have your majority.

15 Senator, by passing this bill
16 again today, you do nothing for the budget
17 process, and if you want to talk about the
18 budget process, it's simple. In the first year
19 of the Pataki administration, this house decided
20 that it was going to pass the Governor's budget
21 and then we went on from that. This year the
22 Governor's budget was so terrible the first time
23 and so terrible the second time that you

1 wouldn't even pass it. So don't talk to me
2 about why the budget was late and point fingers
3 around. At least the first year you tried to
4 give the Governor a little encouragement and
5 hope that he would learn from the process but,
6 Senator, look at this year what you did as the
7 Majority Leader of this house.

8 You would not put the Governor's
9 budget before us before March 31st. You didn't
10 even put it before us at all, and when you
11 finally put a budget before us, Senator, if my
12 numbers are accurate, you were about a billion
13 one over the Governor and when we finally
14 settled, we were 700 million over the Governor.
15 So don't stand here and tell me the way we're
16 going to save this state is by your bill which,
17 if, God forbid, it had been in existence this
18 year, you couldn't have even lived with. I
19 couldn't have lived with it.

20 If this bill had been the law of
21 this state this year, you wouldn't have lived
22 with it because the final budget that you put
23 out unilaterally on your own with your members

1 was over \$1 billion more than would be allowable
2 under your own bill.

3 So for God's sakes, we're here in
4 December. Who do you think you're kidding? I
5 mean, I have my opinion of the press. You have
6 your opinion of the press, but you, Senator
7 Bruno, have to have a very, very low opinion of
8 the press to think that they are not going to
9 understand what this is about in view of the
10 fact of your own actions in 1996.

11 SENATOR LEICHTER: Mr. President.

12 ACTING PRESIDENT HOLLAND:

13 Senator Leichter.

14 SENATOR LEICHTER: Yeah. Senator
15 Bruno, if you would yield just to one question.

16 ACTING PRESIDENT HOLLAND:

17 Senator Bruno, do you yield?

18 SENATOR BRUNO: Yes, Mr.

19 President.

20 SENATOR LEICHTER: Senator, I
21 accept and I applaud your desire to reform the
22 budget process. I think we all share your
23 characterization. The budget process in this

1 state is awful. It hasn't served the people of
2 this state well, and I think that your desire to
3 change it is one that we all share, and some of
4 your suggestions are good suggestions, and I'm
5 talking now just about the budget process,
6 insofar as requiring a super majority or
7 two-thirds vote for taxes.

8 I happen to be -- I happen to be
9 a real believer in democracy and majority rule.
10 So I'm satisfied with that system, but I want to
11 ask you one question -- two questions, okay?

12 The first one, if you had it in
13 your power now to do some of the changes that
14 need to be done absent legislation, would you do
15 it?

16 SENATOR BRUNO: Yes, I would.

17 SENATOR LEICHTER: All right.

18 Well, may I make a suggestion to you and get
19 your response to it? One of the worst features,
20 I think everybody agrees in the budget process
21 is you end up getting three people sitting
22 behind closed doors negotiating and they
23 negotiate and they negotiate. I don't know what

1 they do because it's behind closed doors. Maybe
2 you're playing gin rummy, but it goes on and it
3 goes on and it goes on and, frankly, it wasn't
4 any better or any worse -- or let me say, it was
5 just as bad when you had, let's say Mario Cuomo,
6 Ralph Marino and Mel Miller as when you had Joe
7 Bruno, Sheldon Silver and George Pataki.

8 Why don't you state right here
9 and now as a means of achieving reform that you
10 will no longer participate in these closed door
11 negotiations; you're going to do it out in the
12 open. You're going to involve the whole Senate
13 and in this way move towards openness, democracy
14 and getting away from the worst feature of the
15 budget process in this state. Would you do
16 that?

17 SENATOR BRUNO: I kind of lost
18 track of the question as you were going on, but
19 let me just share with you, Senator, that I have
20 advocated open meetings. You know that, I
21 think, and that I have encouraged that whenever
22 we meet, that it be open to the public and to
23 the press, and I welcome that and encourage that

1 and do so tonight and will continue to do so,
2 but it takes more than one individual to allow
3 and organize and participate in open meetings.

4 I welcome open meetings because
5 this house and we with the Governor are on the
6 right side of most of the issues that hold up a
7 budget getting in place by April 1st. So I
8 would welcome public exposure and participation.
9 I will commit that I will do everything I can to
10 continue to encourage that. We will continue to
11 encourage that because that's important, and if
12 we have more open meetings, I do believe it will
13 help move the process forward and by way of our
14 conference participating, we have participated.
15 We have opened up the process legislatively in
16 this chamber over the last two years beyond
17 anyone's expectation.

18 So when Senator Gold talks about
19 my shortcomings, you have been here and I accept
20 whatever your opinion is. You have your opinion
21 and you're welcome to it, but I am proud of what
22 we've done in this chamber to open up the
23 process of expenditure review, the legislative

1 reforms that we've put in place, Conference
2 Committees that no one dreamed would be part of
3 our process, we put those in place. We
4 initiated all of that, and we will continue -
5 we will continue to ask for openness in
6 everything that we do.

7 So we'll join and we'll go
8 forward and, by the way, Governor Pataki has
9 supported participating and opening up the
10 process and he has demonstrated that time and
11 time again.

12 Thank you, Mr. President.

13 ACTING PRESIDENT HOLLAND:

14 Senator Farley.

15 SENATOR FARLEY: Yes. I rise to
16 support this. You know, Senator Bruno, coming
17 from this area, I don't think there's an issue
18 that tears at us more than the late budget.
19 It's giving everybody in the Legislature and
20 everybody in elected office a bad name, a bad
21 reputation. These late budgets are a disgrace
22 and we have to do something to change it.

23 I don't know if you've noticed -

1 I have been around here, Senator Gold -- this
2 house is running a lot better under Senator
3 Bruno. We don't have any all night sessions.
4 Things start on time and I'll tell you, if it
5 was for passing a budget and Senator Bruno had
6 his way, that budget would be passed on time.

7 As I recall, we passed a complete
8 budget in this Senate and one that was very
9 close to what was the final budget, but
10 basically, this is an issue that I think we have
11 to keep pushing on. It is an issue that needs
12 to be done because it is embarrassing. It is
13 embarrassing to everybody in the Legislature.
14 It is embarrassing to the state of New York and
15 it's something that we can correct and this
16 piece of legislation is a way to correct it.

17 I support it. Everybody says
18 they're for it, but you know what? It just
19 doesn't happen. I think the major fault here
20 lies in the two houses getting together. This
21 makes us get together. It makes us do a budget
22 on time, and I think that we have to -- we
23 should pass this legislation again and again and

1 until we have some budget reform, we all should
2 be ashamed of ourselves, but I don't really
3 believe it's the fault of this house and when
4 you're talking about real property -- did you
5 want to interrupt me, Senator Gold?

6 SENATOR GOLD: No, I'm going to
7 wait. I want to ask you a question, but I'm
8 sorry. I'll give you the courtesy to finish it.

9 ACTING PRESIDENT HOLLAND: We
10 have a list.

11 SENATOR FARLEY: You have a list,
12 I guess, but anyway -

13 SENATOR GOLD: People who want to
14 ask you questions?

15 SENATOR FARLEY: I don't know
16 what the list is about, but let me just say,
17 there's a tremendous issue out there. It's
18 called real property taxes, particularly to
19 upstate Senators and I don't think that there's
20 an issue that is perhaps more poignant to all of
21 my constituents and, you know, I don't think
22 that the Republican party or the Governor or
23 this house can take a second place in trying to

1 address real property tax reform, but I
2 certainly think this is a good piece of
3 legislation and I support it.

4 SENATOR GOLD: Mr. President,
5 will the Senator yield to a question?

6 ACTING PRESIDENT HOLLAND:
7 Senator Farley, would you yield?

8 SENATOR FARLEY: Yes, I'll yield.

9 ACTING PRESIDENT HOLLAND: The
10 Senator yields.

11 SENATOR GOLD: All right.
12 Senator, first of all, I don't want to get in
13 debate about it, but I had an amendment a minute
14 ago which would secure local property taxes and
15 you voted against it. So to say you're for it
16 and to vote against it, I don't know how that
17 works but -

18 SENATOR FARLEY: I didn't say I
19 was for your amendment.

20 SENATOR GOLD: Yeah. I know you
21 weren't. You voted against it, even though that
22 would have secured local property taxes but,
23 Senator, this is my question. You're against

1 late budgets and I understand that. It's
2 devastating. The Governor is going to introduce
3 his budget some time in January. He's got a
4 30-day amendment period in February. Are you
5 prepared, Senator, to take the Governor's budget
6 in February and vote yes for it and put it
7 before us?

8 SENATOR FARLEY: No. I don't
9 think we have to do that. That's what the role
10 of the Legislature is to work on that budget
11 that is presented. Even the Governor has
12 changes that he has to make within that 30-day
13 amendment period.

14 SENATOR GOLD: Well, Senator,
15 would you yield to another question?

16 SENATOR FARLEY: Yes.

17 SENATOR GOLD: Well, Senator,
18 this year, 1996, the Governor introduced his
19 budget. The Governor did his amendments and
20 that was way before March 31st. Senator, why -
21 maybe you can explain to me why the Republican
22 Majority in this house didn't vote on either the
23 Governor's budget or its own budget by March

1 31st of 1996.

2 SENATOR FARLEY: I would be very
3 happy to refresh your memory on that. We passed
4 a complete budget, and I recall the Majority
5 Leader saying that this is a budget that the
6 Governor could support.

7 SENATOR GOLD: What was the date
8 of that?

9 SENATOR FARLEY: It was before
10 March 31st.

11 SENATOR GOLD: And, Senator -

12 SENATOR FARLEY: I don't have it
13 at my fingertips, but I'll tell you it was
14 before March 31st. It wasn't March 31st.

15 SENATOR GOLD: I'm talking about
16 1996, Senator. You want to check your numbers
17 on that? 1995, your party put forth the
18 Governor's budget. Senator -

19 SENATOR FARLEY: We also put
20 forth a budget in 1996.

21 SENATOR GOLD: And what was the
22 date that it passed?

23 SENATOR FARLEY: I don't know,

1 the latter part of March.

2 SENATOR GOLD: Senator -

3 SENATOR FARLEY: I'll check with
4 learned counsel.

5 SENATOR GOLD: Well, why don't
6 you do that. I'm patient.

7 Senator, will you yield to
8 another question? Senator, will you yield to
9 another question?

10 SENATOR FARLEY: I got learned
11 counsel's answer. Go ahead.

12 SENATOR GOLD: Will you yield to
13 another question? I'll make it easy for you,
14 Senator. I'll make it easy for you. When the
15 Republican budget first came to the floor of the
16 Senate in 1996, Senator, did you vote in favor
17 of it?

18 SENATOR FARLEY: When it first
19 came to the floor?

20 SENATOR GOLD: Yeah. When the
21 Republican Majority of this house in 1996 first
22 passed its budget in 1996, whether it was before
23 or after March 31st, did you vote for the

1 budget?

2 SENATOR FARLEY: I believe I did.

3 SENATOR GOLD: Well, Senator,
4 isn't it a fact that that budget that you voted
5 for was \$1.1 billion more richer than the
6 Governor's budget as submitted to the
7 Legislature?

8 SENATOR FARLEY: I think it was.

9 SENATOR GOLD: Well, Senator -
10 if you'll yield to one more question.

11 SENATOR FARLEY: I think so.

12 SENATOR GOLD: Assuming, Senator,
13 that you are concerned about the dollars in the
14 pockets of your constituents as you say all the
15 time -- and I believe you to be an honorable
16 man, Senator Farley.

17 SENATOR FARLEY: Thank you.

18 SENATOR GOLD: That has never
19 been an issue -- if you're so concerned about
20 the dollars, I have to assume, Senator, that you
21 would not have voted for a budget that was \$1.1
22 billion richer than the Governor's budget unless
23 you, Hugh Farley, believed that every dollar you

1 were voting for to be spent was absolutely
2 necessary to run this state, to take care of the
3 problems of the people of this state, that was a
4 bare bones budget that did the right things
5 efficiently and, Senator, if that is so -

6 SENATOR FARLEY: That's not so.
7 Go ahead.

8 SENATOR GOLD: It isn't so?

9 SENATOR FARLEY: No, it's not.

10 SENATOR GOLD: Well, how much
11 waste did you vote for?

12 SENATOR FARLEY: In every budget
13 that's ever been passed here, it's not perfect,
14 but you know there comes a time for closure and
15 we have to vote and we had to have a budget.
16 That budget is not perfect. You've never voted
17 for a perfect budget and neither have I in all
18 the years that you have been here.

19 SENATOR GOLD: Only because I
20 haven't been in the Majority, but you've been in
21 the Majority.

22 SENATOR FARLEY: Well, you have
23 voted for budgets that weren't perfect.

1 SENATOR GOLD: Yeah, but,
2 Senator, you're avoiding the issue.

3 SENATOR FARLEY: I'm not avoiding
4 the issue.

5 SENATOR GOLD: The bottom line,
6 if I can ask the question, Senator -- and maybe
7 I just didn't ask it articulately. I'll try
8 better -- Senator, you voted for a budget that
9 spent 1.1 billion more than the Governor and I
10 have to assume that Hugh Farley, who cares about
11 his people and their pocketbooks, would have not
12 voted for a billion more than the Governor if it
13 wasn't necessary.

14 Senator, if this bill that we're
15 talking about today, if this resolution that
16 we're talking about today had been the law, you
17 in effect would have shortchanged your people
18 and the people of the state of New York by over
19 \$1 billion of necessary, necessary funding.
20 Isn't that true?

21 SENATOR FARLEY: No, it's not.

22 SENATOR STAFFORD: Mr. President.

23 ACTING PRESIDENT HOLLAND:

1 Senator Stafford.

2 SENATOR STAFFORD: At the
3 direction and request of the Majority Leader, I
4 have been working in this field and there are
5 many others that have also, and I would suggest
6 that we have neighboring nabobs of negativism
7 here today.

8 SENATOR GOLD: Can I get a
9 transcript? I want to quote that some day.

10 SENATOR STAFFORD: Neighboring
11 nabobs of negativism. Now, as I said earlier
12 today at the Finance meeting, we're talking
13 about both issues here today right now, both the
14 -- what do you call it when you change the
15 Constitution -- the proposition and the bill. I
16 mentioned at the meeting, as did Senator Bruno
17 today, that we should bring this up every day
18 and pass it and debate it until we get people
19 understanding that some of us go to our
20 districts and people have many things on their
21 mind but one is "When are you going to revise
22 the budget process" and to the Leader's credit
23 and to the credit of many others, this is on the

1 front burner where it should stay, and let me
2 suggest this.

3 We all have our own ideas here.
4 I would suggest this. One point we have to make
5 here and we have to get into law is we've got to
6 get a fail-safe. We can talk and talk about it
7 as long as we want, but there has to be a
8 budget. If we don't sit down and get one
9 timely, this does it.

10 I hope that the media is
11 listening to this point. This does it. Is it
12 perfect? No. We could debate on what this
13 fail-safe should be. This puts the budget in
14 place of the last year less ten percent.
15 Therefore, there isn't necessarily an advantage
16 for stalling but there's something there in
17 place. I hope the media will pick that up and
18 point that out and that is something and I'll
19 conclude with this.

20 Sometimes we say this and we
21 emphasize it too much, that perception is 85 to
22 90 to 95 percent to 99 percent of all of it.
23 Well, that isn't quite true, but with our

1 constituents, perception is important and if
2 there's one point, one hangup, one criticism,
3 it's that we can't sit down and get the system
4 whereby we'll have a timely budget. This does
5 it. The leader has said it. Anything I would
6 say would deserve little more than a footnote.
7 Anything anyone else will say, I'm sure will
8 deserve more than a footnote and with that, this
9 certainly is a bill that should prevail.

10 ACTING PRESIDENT HOLLAND:

11 Senator Goodman.

12 SENATOR GOODMAN: Mr. President,
13 I must confess that during this benign holiday
14 season, I was more than a little shocked,
15 Senator Gold, with what I have to call a -
16 knowing you to be a good-natured fellow -
17 knowing you -- maybe if we can get the
18 hirsuteness out of the way between you and me,
19 we can do this.

20 SENATOR GOLD: Excuse me. Is his
21 microphone on?

22 SENATOR GOODMAN: Senator Gold, I
23 was duly shocked by your vitriol directed at the

1 Majority Leader in your accusations concerning
2 the assertion that he has politicized this house
3 more than any other leader. The fact of the
4 matter is that that is completely in contraven
5 tion of the facts. You know that your side has
6 been fulsome in its praise of the Majority
7 Leader for his reform of this house, for the
8 fact that we now run the railroads on time
9 here. We do not have all night sessions. We
10 have procedures which are far more open than at
11 any time in the history of this body and you and
12 I have both been here for at least a quarter of
13 a century, I think.

14 You also know that there have
15 been reforms which have made it available to the
16 public in minute detail, the expenditures of
17 every Senator and his office and his payroll.
18 In short, there's been a good revolution in this
19 house which has enlightened the public and has
20 made us a far better body.

21 So I really must take respectful
22 exception and assume that something you ate for
23 lunch might have disagreed with you because it's

1 not in your nature to speak with such
2 extraordinary political persiflage.

3 Let me just say, though, that in
4 regard to the serious matter before us, that the
5 budget is a very complicated process in which
6 mighty forces come into conflict. There are
7 different philosophies of life and of government
8 and they're all reflected in the fact that a
9 budget sees these through different lenses and
10 brings about different proposed solutions to the
11 suffering of our fellow New Yorkers and to the
12 needs that they have and hope they will solve.

13 So, Senator, I would just like to
14 say to you that in the bills before us, as the
15 Majority Leader and the chairman of Finance have
16 properly pointed out, we have a series of
17 specifics which are designed to come to grips
18 with making this process work better. It's not
19 easy to compose the differences that we all have
20 and that's why budgets often run late, but the
21 question that the Majority Leader and our
22 conference is trying to solve is, can we find a
23 way to lubricate the levers of government to

1 make them work better and quicker and we are not
2 dealing in abstractions here. This is a series
3 of specific measures which we've debated
4 internally and have honed to a fine, I think
5 point of efficiency and I'll just touch on a
6 couple of them.

7 SENATOR GOLD: Mr. President.

8 ACTING PRESIDENT HOLLAND:

9 Senator Gold.

10 SENATOR GOLD: Yes. Will the
11 distinguished gentleman continue to yield?

12 SENATOR GOODMAN: As soon as I'm
13 through, I'll be glad to.

14 SENATOR GOLD: Thank you.

15 SENATOR GOODMAN: I want to point
16 out to you that we institute a process of early
17 agreement among all parties on the level of
18 available revenues. We consolidate the
19 executive budget submission in no more than 18
20 substantive bills. We rationalize the raising
21 of revenues by instituting a two-thirds majority
22 requirement with substantial increases in
23 revenue sources, that we have a procedure called

1 the austerity budget which Senator Stafford has
2 just appropriately outlined to you which seeks
3 to prevent the government from grinding to a
4 halt as it unfortunately has been forced to do
5 from time to time in the past as we've tried to
6 compose our differences.

7 Senator Gold, this is serious
8 stuff. We do not want to be in a position where
9 the public looks to us and says -- and I quote
10 directly from one of my constituents -- "Why
11 can't you jokers come up with a budget on time
12 for a change?" This reflects badly on each and
13 every member of this house and it certainly is
14 something which does not serve the public
15 interest.

16 So this is a genuine effort
17 thoughtfully generated by a whole group of
18 Senators of which I'm a member to try to come up
19 with a means of accomplishing a specific
20 purpose, and I think you do yourself and us
21 little justice by characterizing this as a
22 political ploy. It's nothing of the sort. It's
23 rich in substance and its objective is an

1 admirable one and it would help all of us if we
2 could pass these measures in both houses and
3 institute them into law.

4 SENATOR GOLD: Mr. President,
5 would the Senator now yield?

6 ACTING PRESIDENT HOLLAND:
7 Senator Goodman, do you yield to a question?

8 SENATOR GOODMAN: Yes, I will.

9 ACTING PRESIDENT HOLLAND: The
10 Senator yields.

11 SENATOR GOLD: Senator, you
12 recall our budget fiascoes this year and,
13 Senator, in 1996 when we finally did pass a
14 one-house budget in this house, whether it was
15 in March, whether it was waiting for the
16 Governor in May, whatever it was, did you vote
17 for that, the budget?

18 SENATOR GOODMAN: Senator, I
19 realize your effort is to cross-examine each and
20 every member with respect to that budget and if
21 you don't mind, I'll answer you in this
22 fashion. There are differing opinions as to the
23 levels of expenditure which were appropriate for

1 the people of this state. We had our opinions
2 here in the Senate as reflected in the action we
3 took and the Governor had his opinions and the
4 Assembly had their opinions. These were not all
5 identical, obviously and it took time in the
6 crucible of discussion to work them out.

7 The fact of the matter is that
8 that is precisely the reason the budget is
9 late. We have serious disagreements as to how
10 much money can be saved in welfare, as to how
11 much taxes can be cut in this state, as to how
12 much government can be down-sized in this state,
13 as to the extent to which we can generate the
14 job economy of this state. These are not
15 trifling matters and it takes time to debate
16 them and to work them out and, unfortunately, as
17 our problems have expanded exponentially, the
18 time in which to solve them has remained the
19 same and we have invariably run late because of
20 serious debate.

21 So that I would point out to you
22 most respectfully that you minimize and
23 trivialize the process by suggesting that one

1 house or the other house disagreed with the
2 Governor's budget. Of course, we disagree with
3 his budget and you too disagreed with it. If
4 you had your druthers, I suspect based on past
5 performance, you would have greatly overexpended
6 the amounts that we thought were appropriate.

7 So let it be said simply that the
8 process again is a serious one designed to solve
9 a serious problem which cannot easily be
10 solved. It's not easy to do this budget on
11 time. It's a \$63 billion document. Of course,
12 there's disagreement and, of course, it's tough
13 to bring it in on schedule and this says if we
14 can't do that, don't penalize the people. Have
15 an austerity budget which will at least keep the
16 engine of government going while we try to
17 resolve our differences.

18 SENATOR GOLD: So is that yes or
19 no, Senator? I just asked you a simple
20 question.

21 SENATOR GOODMAN: I'll let you
22 infer it any way you choose.

23 SENATOR GOLD: Senator, I don't

1 want to infer anything. I want you to be able
2 to speak for yourself. You are one of the most
3 articulate people who has ever served here, the
4 statesman of the state Senate.

5 Senator, I'm just asking you when
6 we passed our budget, our one-house budget in
7 1996 the first time, did you or did you not vote
8 for that budget?

9 SENATOR GOODMAN: I'll answer
10 your question with a question. What is the
11 relevance of that to this debate?

12 SENATOR GOLD: Very simple,
13 Senator. I didn't plant that question, all
14 right? Senator, very simple. You voted for, I
15 understand and, Senator, you voted for the
16 budget which was a billion one more because
17 coming from your area of New York City, I think
18 maybe you were a little more sensitive to some
19 of the social issues than some of your
20 colleagues but, Senator, you voted for a budget
21 that was \$1.1 billion more than the Governor.
22 Under this bill -

23 SENATOR GOODMAN: Is this a

1 question or may I be seated?

2 SENATOR GOLD: Yes. It's a
3 question, but you asked me one. It's a
4 question. Senator, under this bill, if it were
5 the law this year, the budget would have been
6 cut, the austerity budget, by approximately \$3.3
7 billion because -- I'll wait -- it would have
8 been cut by about, Senator, \$3.3 billion at
9 least because that's not -- that's ten percent
10 off which means, Senator, that the people of
11 this state would have been stuck with a budget
12 that was \$4.3 billion less, Senator, than the
13 budget you voted for. Now, are you prepared to
14 say to the people of the state of New York that
15 you voted for a budget that wasted 4.3 billion,
16 that threw away 4.3 billion, that didn't need
17 that 4.3 billion?

18 SENATOR GOODMAN: Unfortunately,
19 Senator, you reveal in the question a complete
20 lack of understanding of the mechanism we
21 propose. The mechanism we propose says that if
22 we can't agree on a budget by a date certain, we
23 will at least provide an austerity amount which

1 is ten percent less than the prior level. It
2 does not permanentize that amount for the
3 balance of the fiscal year. It gives us time to
4 let the state continue to operate so we don't
5 have people on the state payrolls not able to
6 support their children and their baby-sitters
7 and pay their tuition and the like. It gives us
8 the chance to have breathing room in which to
9 negotiate further so that we don't paralyze the
10 state.

11 I'm shocked that you don't
12 understand that, Manny. That's something -
13 Senator -- that's something which we discussed
14 at great length and I think all parties agree we
15 must not penalize the state while we try to
16 compose these major differences.

17 SENATOR GOLD: Will the Senator
18 continue to yield to one question?

19 SENATOR GOODMAN: Yes, I will.

20 SENATOR GOLD: Senator, I don't
21 understand why you with your intelligence and
22 your financial background don't understand that
23 if this were the law of this state the way it is

1 right here, Senator, that there's no inclination
2 or necessity for some of the people on your side
3 of the aisle who haven't shown the slightest
4 inclination to care about the poor -

5 SENATOR GOODMAN: Oh, please,
6 Senator.

7 SENATOR GOLD: -- or people who
8 are in need in this state to be able to get a
9 budget because they've got a budget that takes
10 care of the rich.

11 The expression was used earlier,
12 Senator, that this was a fail-safe. It's a
13 fail-safe for the rich because the bottom line
14 is if you're cutting the budget ten percent
15 every year, those people will take care of
16 themselves, but the people who are in need, the
17 people who need us in their disaster or in their
18 hope to get a job or get education, those are
19 the people who are not being helped in a
20 fail-safe. Those are the people who are
21 disasterified under this bill and I'm shocked,
22 Senator -

23 SENATOR GOODMAN: Senator, what's

1 the question?

2 SENATOR GOLD: -- because I know
3 you have a heart in there. I know you, and this
4 proposal has no heart.

5 SENATOR GOODMAN: Senator, I must
6 say with all due respect, your effort to inject
7 a note of class warfare in this debate, it comes
8 with unseemly ill grace. The simple fact is
9 there's not a responsible member in this house
10 who would press down upon the poor conditions
11 which were not supportable by them.

12 You know full well that even in
13 our welfare reform package there's been carved
14 out a series of measures which are designed to
15 try to protect the poor and to give a safety
16 net. You may disagree on how that should be
17 done, but we're dealing with entire cultures and
18 methods of attack on how best to serve society,
19 and certainly I would ask you to credit each and
20 every one of the members of this house with pure
21 motives in trying to solve problems in the best
22 way. You may not agree with it but don't tell
23 us that it's a rich versus poor scenario.

1 That's preposterous. You know it and everyone
2 within the sound of my voice knows it.

3 ACTING PRESIDENT HOLLAND:
4 Senator Marchi.

5 SENATOR MARCHI: Mr. President, I
6 recall when we passed the budget on March 31st,
7 I believe it was, and it was 1.1 billion over.
8 I'm not ashamed of having voted for it.
9 Probably I felt it didn't go far enough, but in
10 any event, we were -- the difficulty that we
11 were operating under I called attention to it on
12 this floor.

13 The problem is that we don't have
14 anything happening over there. During those
15 first three months, no public discussion was
16 held in the Assembly on the budget for or
17 against anything constructive. We cannot
18 operate. We have to resort to heroic measures
19 to bring about some impact, something that will
20 provoke them from making the statement. What
21 does it prevent them from passing a bill and
22 sending it to us? What does it prevent them
23 from sending us a statement, a consensus of

1 where they are? Nothing, except they are
2 incapable, and I guess out of sympathy Shelly
3 probably figures, Well, maybe if I say no long
4 enough something will happen that I'm satisfied
5 with, but they are incapable of making an
6 affirmative presentation of where they stand.

7 So actually we have unicameral
8 legislation and when you have unicameral
9 legislation that still has to travel down there,
10 we have to have some expression. This is an
11 attempt -- this is an attempt to deal with a
12 second chamber that's an echo chamber at best
13 but does not function. It's not your fault
14 because they are the same party. I don't know
15 whether the other side would be any different,
16 but that is the problem we face. All of us,
17 Republicans, Democrats, the entire membership of
18 this Senate are dealing with a problem that
19 exists down there where they are not reflecting
20 as you are. At least you're telling us
21 something. You're being critical. That's okay
22 too. That's part of the dialogue that should be
23 going on, but it's not going on down there, not

1 going on down there. Can anybody show me even a
2 scintilla of evidence, and I'm not talking about
3 -- there are very fine legislators who get
4 bills passed and get signed into law and they're
5 good, but I'm saying on the matter of the budget
6 where you need a consensus of an institution,
7 there is an institutional absence that doesn't
8 do you any credit, you on the same party as the
9 Majority. It doesn't do you any discredit
10 because I know that if you were there, you would
11 have a response. You have a response here. Why
12 can't they give us a response? That is the
13 problem we are contesting and faced with, an
14 institutional failure to exercise the
15 responsibility that is every bit as much as
16 theirs as ours.

17 Now, I don't look at any of you
18 critically on the other side of the aisle.
19 You're advancing arguments that they ought to be
20 doing and forcefully, but we are -- we are
21 behaving positively because if we don't, it
22 stops in midstream.

23 Do I have any apologies to make

1 for the vote I cast on that ballot? Absolutely
2 not, absolutely not, but let them do something
3 like that. Let them express themselves. It
4 certainly would benefit the whole process here
5 and lead to speedier solutions, and I submit
6 what Senator Bruno offered hopefully will have
7 that impact that will be productive and
8 conducive to firm statements and to firm
9 positions that we can negotiate with and act out
10 in our deliberations in passing a budget for
11 this year.

12 ACTING PRESIDENT HOLLAND: Read
13 the last section.

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

16 ACTING PRESIDENT HOLLAND: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Those recorded in
20 the negative on Calendar Number 1813 are
21 Senators Abate, Connor, Gold, Kruger, Leichter,
22 Markowitz, Onorato, Paterson, Santiago, Smith
23 and Senator Stachowski, also Senator Nanula.

1 Ayes 44, nays 12.

2 ACTING PRESIDENT HOLLAND: The
3 bill is passed.

4 The Secretary will read, please.

5 THE SECRETARY: Calendar Number
6 1814, by Senator Bruno, Senate Print 7981,
7 concurrent resolution of the Senate and Assembly
8 proposing amendments to Article III of the
9 Constitution.

10 ACTING PRESIDENT HOLLAND: Call
11 the amendment -- the Secretary will call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 56 -- in
15 relation to Calendar Number 1814, those recorded
16 in the negative are Senators Abate, Connor,
17 Kruger, Leichter, Markowitz, Montgomery, Nanula,
18 Paterson, Santiago, Smith and Stachowski. Ayes
19 45, nays 11.

20 ACTING PRESIDENT HOLLAND: The
21 resolution is adopted.

22 Senator Dollinger.

23 SENATOR DOLLINGER: Mr.

1 President, I wasn't present in the chamber. May
2 be I recorded in the negative on Calendar Number
3 1813, which is the one before us?

4 ACTING PRESIDENT HOLLAND:
5 Without objection.

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

8 ACTING PRESIDENT HOLLAND:
9 Senator Montgomery.

10 SENATOR MONTGOMERY: Yes, Mr.
11 President. I would like to be recorded in the
12 negative on Calendar Number 1813.

13 ACTING PRESIDENT HOLLAND:
14 Without objection.

15 SENATOR MONTGOMERY: Thank you.

16 ACTING PRESIDENT HOLLAND: The
17 Secretary will read.

18 THE SECRETARY: Calendar Number
19 1815, by the Senate Committee on Rules, Senate
20 Print 7976, an act to amend Chapter 709 of the
21 Laws of 1996.

22 ACTING PRESIDENT HOLLAND: Read
23 the last section.

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

3 ACTING PRESIDENT HOLLAND: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 56.

7 ACTING PRESIDENT HOLLAND: The
8 bill is passed.

9 Senator Skelos.

10 SENATOR SKELOS: There will be an
11 immediate meeting of the Majority in Room 332 of
12 the Capitol and the Senate will stand at ease.

13 ACTING PRESIDENT HOLLAND: There
14 will be an immediate meeting of the Majority in
15 Room 332 of the Capitol and the Senate will
16 stand at ease.

17 Senator Paterson.

18 SENATOR PATERSON: Mr. President,
19 there will be an immediate meeting of the
20 Minority in Room 314.

21 ACTING PRESIDENT HOLLAND: There
22 will be an immediate meeting of the Minority in
23 Room 314. The Senate will stand at ease.

1 (Whereupon, at 6:32 p.m., the
2 Regular Session of the Senate stood at ease
3 until 11:33 p.m.)

4 ACTING PRESIDENT KUHL: Senator
5 Johnson.

6 SENATOR JOHNSON: We'll now call
7 an immediate meeting of the Rules Committee and
8 stand aside for that report.

9 ACTING PRESIDENT KUHL: There
10 will be an immediate meeting of the Rules
11 Committee, an immediate meeting of the Rules
12 Committee in the Majority Conference Room, Room
13 332, immediate meeting of the Rules Committee in
14 the Majority Conference Room, Room 332. The
15 Regular Session will stand at ease pending the
16 report of the Rules Committee.

17 (Whereupon, the Senate stood at
18 ease from 11:34 p.m. until 11:50 p.m.)

19 ACTING PRESIDENT KUHL: The
20 Regular Session will come to order.

21 Senator Johnson.

22 SENATOR JOHNSON: Mr. President,
23 now I would like to have -- there's a report of

1 a standing committee.

2 ACTING PRESIDENT KUHL: Return to
3 the order of reports of standing committees.
4 There's a report of the Rules Committee at the
5 desk.

6 The Secretary will read.

7 THE SECRETARY: Senator Bruno,
8 from the Committee on Rules, reports the
9 following bills direct to third reading:

10 Senate Print 6559-B, by Senator
11 Nozzolio, an act to amend the Retirement and
12 Social Security Law;

13 7973, by Senator Seward, an act
14 to amend the Public Health Law, in relation to
15 continuation;

16 7982-A, by the Senate Committee
17 on Rules, an act in relation to authorizing the
18 city of Yonkers;

19 7811-A, by Senator Hannon, an act
20 to amend the Public Authorities Law, in relation
21 to the creation of the Nassau Health Care
22 System;

23 And 5993-B, by Senator Spano, an

1 act to amend the Public Authorities Law.

2 All bills ordered directly for
3 third reading.

4 ACTING PRESIDENT KUHL: Senator
5 Johnson.

6 SENATOR JOHNSON: I move that we
7 accept the report.

8 ACTING PRESIDENT KUHL: The
9 motion is to accept the report of the Rules
10 Committee. All those in favor signify by saying
11 aye.

12 (Response of "Aye".)

13 Opposed, nay.

14 (There was no response.)

15 The Rules report is accepted.

16 Senator Johnson.

17 SENATOR JOHNSON: Please call up
18 Senate 6559-B.

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

21 THE SECRETARY: Senator Nozzolio
22 moves to discharge from the Committee on Rules
23 Assembly Bill Number 11205-B and substitute it

1 for the identical Third Reading Calendar 1821.

2 ACTING PRESIDENT KUHL: The
3 substitution is ordered.

4 The Secretary will read the
5 title.

6 THE SECRETARY: Calendar Number
7 1821, by the Assembly Committee on Rules,
8 Assembly Print 11205-B, an act to amend the
9 Retirement and Social Security Law.

10 ACTING PRESIDENT KUHL: The Chair
11 recognizes Senator Nozzolio on the bill.

12 SENATOR NOZZOLIO: Thank you, Mr.
13 President.

14 Mr. President, my colleagues, I'm
15 sure we all agree New York State's correction
16 officers are in the front lines of defense from
17 society's most dangerous criminals. It's
18 dangerous work but it's work that must be done
19 to provide safe streets in our city -- in our
20 cities across the state. Correction officers
21 put their lives on the line to protect the
22 people of New York State. We owe them and their
23 families a tremendous debt of gratitude.

1 What this bill does before us
2 today is correct an inequity in the current law
3 for correction officers who are injured in the
4 line of duty. Currently both Tier I and Tier
5 II, those employed under those systems receive
6 three-quarters accidental disability when
7 they're injured on the job. Meanwhile, Tier III
8 and IV correction officers only receive
9 one-third accidental disability benefits while
10 they're injured performing the same job. So
11 picture two correction officers responding to
12 the same incident, both injured in the line of
13 duty, one a Tier II member, another a Tier III
14 member, same injury, same incident. One would
15 receive 33 percent disability, the other 75
16 percent disability for the same injury in the
17 line of duty.

18 What this bill does, Mr.
19 President, my colleagues, is correct this
20 inequity by providing three-quarters performance
21 of duty disability retirement for all correction
22 officers injured in the line of duty while
23 working to protect us and keeping those behind

1 our prison walls who are dangerous to society.

2 It's with great appreciation to
3 Governor Pataki, Senator Bruno, Senator
4 Stafford, Senator Volker and others who worked
5 very hard to -- along with members of Council
6 82, the correction officers' union, to bring
7 this bill before us today.

8 Our governor, Governor Pataki,
9 deserves particular credit for his tremendous
10 leadership in supporting this measure, in
11 fighting for this measure, in building the
12 momentum necessary for its passage.

13 Governor Pataki's support on this
14 issue underscores his understanding of the
15 tremendous difficulties a correction officer
16 faces on a daily basis in his commitment to work
17 for us and his commitment to improve working
18 conditions for them.

19 I'd also like to thank Council 82
20 Vice-president Mike Graney, President Rich
21 Abrahamson and special issue task force member
22 Lou Delmonte for their efforts in bringing this
23 bill before us. All the correction officers of

1 this state owe them a tremendous debt of
2 gratitude as well.

3 Mr. President, my colleagues, it
4 is a measure that is long overdue. It's before
5 us today. I believe it should be passed, and I
6 urge you to support the measure.

7 Thank you very much.

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

10 The Chair recognizes Senator
11 Stafford.

12 SENATOR STAFFORD: Mr. President,
13 in complementing Senator Nozzolio, there's an
14 excellent release, I suggest anybody just cross
15 his name off and put their own in and it reads
16 very well, but on a serious note and I mean a
17 serious note, I do compliment Senator Michael
18 Nozzolio, as he mentioned, the Governor, Senator
19 Bruno, everyone who worked very hard. He has
20 stated very, very eloquently why this should
21 prevail and I would say, for his reasons and
22 many others, there are specific reasons why this
23 should be passed into law and I certainly,

1 together with Senator Nozzolio and others, urge
2 its adoption.

3 ACTING PRESIDENT KUHL: Senator
4 Farley, on the bill.

5 SENATOR FARLEY: Yes. I just
6 rise to support this bill, and I'd like to thank
7 Senator Nozzolio for the tremendous effort that
8 you put in at this eleventh hour. These are
9 tough nights and this bill would not have
10 happened without the effort of a number of
11 members in this chamber, particularly led by
12 Senator Nozzolio. This is an inequity that
13 needed to be corrected. It will be corrected
14 and it's long overdue, and I'm very pleased to
15 support it, and I would hope that everybody in
16 this chamber would support it.

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

19 (There was no response.)

20 Hearing none, the Secretary will
21 read the last section.

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

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: Calendar Number
8 1818, by Senator Seward, Senate Print 7973, an
9 act to amend the Public Health Law.

10 SENATOR PATERSON: Explanation.

11 ACTING PRESIDENT KUHL: Senator
12 Seward, an explanation of Calendar Number 1818,
13 Senate Print 7973, has been requested by the
14 Acting Minority Leader, Senator Paterson.

15 SENATOR SEWARD: Certainly, Mr.
16 President. This legislation simply extends the
17 deadline for filing an application for advanced
18 life support first response services to allow
19 those operations who have been in continuous
20 practice to comply with Chapter 445 of the Laws
21 of 1993.

22 Back in 1993 under Chapter 445,
23 this Legislature substantially revised the -

1 Article 30 of the Public Health Law which
2 governs the prehospital emergency medical
3 services.

4 These amendments include a
5 grandfather provision for the advanced life
6 support first response services, those of which
7 were in bona fide operation prior to January 1,
8 1993.

9 Under the grandfathering language
10 of that 1993 law, the Legislature's intent was
11 to exempt the existing ALS first response ser
12 vices from having to go through the very lengthy
13 and complex certificate of need provisions and
14 that whole process, and the statute set a dead
15 line for the existing ALS first response teams
16 to provide documentation of their operation to
17 the Department of Health.

18 This bill extends that deadline
19 to January 1st, 1998 so that the remaining ALS,
20 the first response services units, can get their
21 documentation in to the Department of Health.

22 ACTING PRESIDENT KUHL: Senator
23 Paterson.

1 SENATOR PATERSON: Thank you, Mr.
2 President.

3 If Senator Seward would yield for
4 a question.

5 ACTING PRESIDENT KUHL: Senator
6 Seward, do you yield to a question from Senator
7 Paterson?

8 SENATOR SEWARD: Certainly.

9 ACTING PRESIDENT KUHL: The
10 Senator yields.

11 SENATOR PATERSON: Senator, I
12 really don't have any problem with the contents
13 of the bill. I'm just wondering at this point
14 three years after we passed it, was there any
15 particular reason why you're acting to extend
16 the coverage or why would we not just try to
17 pass a law that would make it permanent?

18 SENATOR SEWARD: Well, basically
19 there are some 90 of these ALS first response
20 units around the state and thus far because of
21 what I would describe as poor communications and
22 inattentiveness, there are only five units that
23 have actually been grandfathered, and so it's

1 apparent that more time is needed and this bill
2 would give it more time for them to complete the
3 process of submitting the documentation.

4 SENATOR PATERSON: Thank you, Mr.
5 President.

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

8 (There was no response.)

9 Hearing none, the Secretary will
10 read the last section.

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

13 ACTING PRESIDENT KUHL: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 56.

17 ACTING PRESIDENT KUHL: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 1819, by the Senate Committee on Rules, Senate
21 Print 7982-A, an act in relation to authorizing
22 the city of Yonkers.

23 ACTING PRESIDENT KUHL: Senator

1 Johnson.

2 SENATOR JOHNSON: Is there a home
3 rule message at the desk?

4 ACTING PRESIDENT KUHL: There's a
5 message of necessity at the desk, Senator
6 Johnson.

7 SENATOR JOHNSON: I move we adopt
8 the message of necessity.

9 ACTING PRESIDENT KUHL: The
10 motion is to adopt and accept the message of
11 necessity at the desk on Calendar Number 1819.
12 All those in favor signify by saying aye.

13 (Response of "Aye".)

14 Opposed, nay.

15 (There was no response.)

16 The message is accepted.

17 There is a home rule message at
18 the desk.

19 SENATOR PATERSON: Explanation.

20 ACTING PRESIDENT KUHL: Senator
21 Spano, an explanation has been requested by
22 Senator Paterson.

23 SENATOR SPANO: Mr. President,

1 this -- the city of Yonkers has for a long time
2 been going through court-ordered integration.
3 The mayor and the City Council have been in
4 negotiations with the federal court and with the
5 NAACP in the City to try to get control of their
6 own destiny once again.

7 As a part of the negotiations
8 with the federal court, there has been an
9 agreement reached to build housing in the city
10 of Yonkers. The agreement has been reached with
11 the federal court, with the NAACP and the City
12 Council and the mayor have designated a five
13 acre parcel of land on East Grassy Spring Road
14 as an area where they want to build 17 duplex
15 housing -- affordable housing. That land is
16 currently designated parkland. What -- so that
17 the City Council met tonight, gave us a home
18 rule message asking us to dededicate that
19 parkland to allow them to have control over the
20 parkland so that they can utilize that to comply
21 with the order of the United States District
22 Court and they have designated an equal amount
23 of parkland in another section of the City.

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

3 (There was no response.)

4 Hearing none, the Secretary will
5 read the last section.

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

8 ACTING PRESIDENT KUHL: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 56.

12 ACTING PRESIDENT KUHL: The bill
13 is passed.

14 THE SECRETARY: Senator Spano
15 moves to discharge from the Committee on Rules
16 Assembly Bill Number 10682-B and substitute it
17 for the identical Third Reading Calendar 1816.

18 ACTING PRESIDENT KUHL: The
19 substitution is ordered.

20 The Secretary will read the
21 title.

22 THE SECRETARY: Calendar Number
23 1816, by the Assembly Committee on Rules,

1 Assembly Print Number 10682-B, an act to amend
2 the Public Authorities Law.

3 SENATOR PATERSON: Explanation.

4 SENATOR SPANO: Mr. President.

5 ACTING PRESIDENT KUHL: Senator
6 Spano, did you hear an explanation has been
7 requested by Senator Paterson.

8 SENATOR SPANO: This bill would
9 authorize the county of Westchester to transfer
10 control of the management of the Westchester
11 County Medical Center to a new Westchester
12 Health Care Corporation which would be a public
13 benefit corporation that would be established
14 for the purpose of running the medical center.

15 The purpose of this would be to
16 give the medical center the type of flexibility
17 that they need to be a lot more competitive, to
18 provide a good quality of services to the people
19 of Westchester, to reduce the taxpayer support.

20 This bill has been negotiated
21 with the county legislature. It's been agreed
22 upon by the bargaining unit, CSEA, who repre
23 sents the employees and protects the employees

1 of the medical center, and there have been
2 safeguards written into it to make sure that we
3 maintain public accountability and provide the
4 continuing quality of services to the people of
5 Westchester.

6 SENATOR LEICHTER: Mr. President,
7 would Senator Spano yield, please?

8 SENATOR SPANO: Yes.

9 ACTING PRESIDENT KUHL: Senator
10 Paterson, is that explanation satisfactory? You
11 did have the -- you did have the floor. Do you
12 wish to continue or do you yield to Senator
13 Leichter?

14 SENATOR PATERSON: Actually, if
15 Senator Leichter would yield just for a moment.

16 SENATOR LEICHTER: Certainly.

17 SENATOR PATERSON: Mr. President,
18 if Senator Spano would yield for a moment.

19 ACTING PRESIDENT KUHL: Senator
20 Spano, do you yield to Senator Paterson?

21 SENATOR SPANO: Yes.

22 ACTING PRESIDENT KUHL: The
23 Senator yields.

1 SENATOR PATERSON: If I could
2 just get everybody to yield, we might get out of
3 here.

4 Senator Spano, this same method
5 of operation that you're proposing is also done
6 in Nassau County. What is the distinction in
7 which the public benefit corporations are set up
8 in similar fashion to Nassau County? We talked
9 about this on July the 3rd, and I remember that
10 part, but I don't remember what the distinction
11 was.

12 SENATOR SPANO: Currently there
13 is no public benefit corporation for hospitals
14 in Nassau County. Are you talking about
15 legislation that's been presented to create
16 that, Senator?

17 SENATOR PATERSON: Yes, that's
18 right, Senator.

19 SENATOR SPANO: I'm not totally
20 familiar with all the contents of the Nassau
21 County bill, but these two bills are very, very
22 similar in nature except for the section that
23 comes -- that describes the governance and the

1 appointment of the members of the board.

2 The corporation -- the governing
3 corporation, the language that is in this bill
4 is different than the language that is in the
5 Nassau County bill, inasmuch as these -- in this
6 corporation, there are 15 voting directors that
7 are appointed by the Governor with some certain
8 criteria. Others are appointed by the county
9 legislature with the concurrence of the county
10 executive. The Nassau County bill, I believe,
11 has appointments by the Governor and
12 appointments by the county executive with the
13 concurrence of the county legislature.

14 ACTING PRESIDENT KUHL: Senator
15 Leichter.

16 SENATOR LEICHTER: If Senator
17 Spano would yield. Actually, Senator
18 Paterson -

19 ACTING PRESIDENT KUHL: Senator
20 Spano, do you yield to Senator Leichter?

21 SENATOR LEICHTER: -- with his
22 usual prescience asked actually the question
23 that I was going to ask, but -- because I was

1 intrigued at the fact that in the Westchester
2 bill -- we have two bills before us. We're now
3 dealing with the Westchester bill. One sets up
4 a hospital corporation in Westchester. One sets
5 it up for Nassau. You would think they would be
6 the same, but for the Westchester bill, the
7 appointment of the directors is essentially by
8 the Governor, which is difficult to understand.
9 In Nassau, the appointment is by the county
10 executive, which seems to make sense. Why the
11 difference, Senator?

12 SENATOR SPANO: This bill,
13 Senator, was negotiated with the Assembly -
14 between the Assembly and the county. The
15 Assembly indicated, in fact, that they would
16 prefer to have this method of appointment. This
17 came -- this language came to us by the Assembly
18 Majority where they would prefer to have the
19 members appointed in the fashion that's
20 described in the statute. I'm not sure -
21 frankly, I'm not sure why there's a difference
22 with the Nassau piece -- legislation and I'm not
23 sure the -- what negotiations are taking place

1 between my colleagues from Nassau and the Nassau
2 Assembly colleagues as well.

3 SENATOR LEICHTER: Senator Spano,
4 if you would continue to yield. It does disturb
5 me because it seems to me that, first of all,
6 the county health corporation or authority as
7 this is, that the appointment should be by the
8 county executive, but for some political reason
9 guiding the Majority in the Assembly, it was
10 their desire to have the appointments go through
11 the Governor. An appointment, of course, is
12 being made by the Speaker. An appointment is
13 made by the Majority Leader of this house. I
14 don't think it's appropriate. I think the
15 Nassau model is the one that makes sense.
16 Similarly in New York where we have a Health and
17 Hospitals Corporation, the appointments are made
18 by the mayor. I fail to understand except for
19 some arcane political reason which maybe
20 somebody once whispered in your ear and you
21 might remember.

22 SENATOR SPANO: That's not
23 entirely accurate to say that, Senator

1 Leichter. The eight directors that would be
2 appointed by the Governor are solely the
3 Governor's appointments. If you look at lines
4 15 through, you'll see that they are, in fact,
5 appointments that are made from the
6 recommendation of the county executive, the
7 recommendation of the Legislature and the
8 Speaker of the Assembly and the Majority Leader
9 of the Senate.

10 So technically it's the Governor
11 who does make those appointments there but
12 they're upon the recommendation of the -- of
13 those individuals as I described, but I think
14 you can make an argument that this will supply
15 some additional degree of independence from the
16 local politics to do it in this fashion.

17 SENATOR LEICHTER: To have the
18 Majority Leader who comes from Rensselaer County
19 and the Speaker who comes from Manhattan make
20 these appointments. Well, that's one way to
21 look at it.

22 Senator Spano, if I could ask you
23 a question that also concerns me and it would

1 seem to me ought to concern the people of
2 Westchester. As I see the powers of the
3 corporation, among the powers that they may
4 exercise is the power of condemnation which, of
5 course, is a very ultimate power. Why is it
6 necessary to give that authority the power to
7 condemn land in Westchester County?

8 SENATOR SPANO: In this
9 legislation, what we are doing is giving the
10 county -- we're trying to protect the county of
11 Westchester by providing for a lease arrangement
12 between -- for the land between the county of
13 Westchester and the new public benefit
14 corporation and the powers of condemnation are
15 allowed in the statute but will be a part of an
16 agreement that will be reached between the
17 county of Westchester and the public benefit
18 corporation, and part of what I'm told is just
19 to protect and to allow the public benefit
20 corporation and the issuance of their bonds to
21 get a much more competitive type of rating if
22 they can maintain that type of control.

23 SENATOR LEICHTER: Senator Spano,

1 if you would be good enough to continue to
2 yield.

3 SENATOR SPANO: Yes.

4 SENATOR LEICHTER: Isn't it true
5 that giving it the power of condemnation has
6 absolutely nothing to do with the issuance of
7 bonds? It has nothing to do with the
8 marketability of the bonds or the rates at which
9 these bonds are going to pay interest. It just
10 seemed -- and I don't see anything in here -
11 and that was really -- my other question is
12 where does it say that before exercising the
13 power of condemnation that it has to enter into
14 some agreement with the county of Westchester?

15 SENATOR SPANO: I didn't say
16 prior to condemnation, but prior to the
17 establishment of this agreement. After this
18 public benefit corporation is created, there
19 will have to be an agreement that will be
20 reached between the county of Westchester and
21 the public benefit corporation that will
22 describe the type of services that would
23 continue to be provided.

1 SENATOR LEICHTER: Am I not
2 correct, Senator Spano, that the power of
3 condemnation under this bill can be authorized
4 by the authority without the prior consent of
5 the county of Westchester either through its
6 county executive or through its legislative
7 body?

8 SENATOR SPANO: That is correct,
9 yes, and that will be given to the discretion of
10 the members of the governing board of the public
11 benefit corporation.

12 SENATOR LEICHTER: Senator, if
13 you would -- if I can ask you another question.

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

16 SENATOR SPANO: Yes.

17 ACTING PRESIDENT KUHL: The
18 Senator continues to yield.

19 SENATOR LEICHTER: You finally
20 answered my question whether in Nassau County a
21 similar power was given the authority, and I see
22 that it is -- well, I'm not sure that it is. I
23 just want to compare the two for a moment.

1 Yes. I see that same power exists.

2 Senator, finally, let me ask you,
3 have there been hearings by the county
4 legislature in Westchester County or any other
5 hearings relating to the establishment of this
6 authority?

7 SENATOR SPANO: There have been
8 -- this study has taken some two years from the
9 county legislature. There have been a number of
10 public hearings in Westchester County. The
11 board of legislators as well have a consultant
12 that they brought on board to take a look at
13 public benefit corporations, for instance in
14 Dade County, to take a look at how that public
15 health corporation did perform its function
16 there and there's been ample opportunity,
17 Senator Leichter, in Westchester for people's
18 voices to be heard. As a matter of fact, what
19 we tried to do is to make this as fair and open
20 a process as possible. There were a number of
21 concerns that were raised relative to the
22 employees, and as I noted in the beginning that
23 the CSEA who represent most of the employees at

1 the medical center are very enthusiastic about
2 the passage of this measure.

3 SENATOR LEICHTER: Senator, is
4 there any obligation that the state of New York
5 is assuming in relation either to the bonds that
6 are issued or any of the debts or activities of
7 the corporation?

8 SENATOR SPANO: No.

9 SENATOR LEICHTER: I see that in
10 the Nassau County bill there's a specific
11 provision that the state shall not be liable on
12 the corporation's bond. Is there a similar
13 provision in the Westchester bill?

14 SENATOR SPANO: Yes, there is.
15 I'd have to find it, but I know it's in here
16 somewhere.

17 SENATOR LEICHTER: I found it,
18 Senator. It's on page 20, line 18.

19 Thank you.

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

22 (There was no response.)

23 Hearing none, the Secretary will

1 read the last section.

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

4 ACTING PRESIDENT KUHL: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 55, nays 1,
8 Senator Leichter recorded in the negative.

9 ACTING PRESIDENT KUHL: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1817, by Senator Hannon, Senate Print 7811-A, an
13 act to amend the Public Authorities Law.

14 ACTING PRESIDENT KUHL: There's a
15 home rule message at the desk. The 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 56.

23 ACTING PRESIDENT KUHL: The bill

1 is passed. Can we have a little order in the
2 house, please. Members take their seats.

3 SENATOR BRUNO: Mr. President,
4 there being no further business to come before
5 this session -- Regular Session, I move that we
6 adjourn subject to the call of the Majority
7 Leader with intervening days being legislative
8 days.

9 ACTING PRESIDENT KUHL: Without
10 objection, the Senate Regular Session stands
11 adjourned subject to the call of the Majority
12 Leader, all intervening days to be legislative
13 days.

14 (Whereupon, at 12:24 a.m.,
15 December 18, 1996, the Regular Session of the
16 Senate adjourned.)

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