ALBANY, NEW YORK

February 12, 1997

10:03 a.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MARCELLINO: The Senate will come to order. I ask everyone present to please rise and repeat the Pledge of Allegiance.

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

There being -- in the absence of clergy, may we all bow our heads for a moment of silence.

(A moment of silence was observed.)

Can we have the reading of the Journal.

THE SECRETARY: In Senate, Tuesday, February 11th. The Senate met pursuant to adjournment. The Journal of Monday, February 10th, was read and approved. Upon motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

We'll go to motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Rath, Legislative Resolution, commemorating March 1997 as Women's History Month.

ACTING PRESIDENT MARCELLINO: Senator Rath.

SENATOR RATH: Yes, Mr. President. I would like to encourage all of the members of the Senate to join me in recognizing March as Women's History Month through the vehicle of the resolution that we are presenting here today.

I don't think we need to spend any time talking about the importance of this particular recognition. I think what's important is that we move forward asking all the women of New York State to join us in this recognition and, again, through the vehicle of this resolution we can do it. I urge its adoption.

ACTING PRESIDENT MARCELLINO:

Senator Rath, are you urging all Senators to be on the resolution?

SENATOR RATH: Yes. I'm urging everyone to join me.

ACTING PRESIDENT MARCELLINO: Okay. Then without objection, we'll place everyone's name on the resolution unless the desk is otherwise notified.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

I believe we have another resolution by Senator Rath.

SENATOR RATH: Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: The Secretary will read the title, please.

THE SECRETARY: By Senator Rath, Legislative Resolution, congratulating the Girl Scouts of the United States of America upon the occasion of its 85th Anniversary.

ACTING PRESIDENT MARCELLINO: Senator Rath.

SENATOR RATH: Yes, Mr. President. Like the previous resolution, the Girl Scouts don't need someone like me to talk about how wonderful they are and how important an organization they are. I think it's important that, as a governmental body, we note the anniversary -- the 85th Anniversary, and again, I would like all my colleagues to join me on this resolution.

ACTING PRESIDENT MARCELLINO: All right. Unless -- we'll use the same procedure as before. Unless the desk is notified otherwise, everyone will be placed on the resolution.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President,

at this time if we could have the reading of the non-controversial calendar.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 95, by Senator Johnson, Senate Print 244, an act to amend the Penal Law, in relation to establishing a presumption that a child has been permanently removed.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 96, by Senator Skelos, Senate Print 333, an act to amend the Penal Law, in relation to increasing the penalties for custodial interference.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 15th day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 97, by Senator Maziarz, Senate Print 402, an act to amend the Criminal Procedure Law, in relation to plea bargains and felony sex offenses.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 98, by Senator DeFrancisco, Senate Print 488, an act to amend the Criminal Procedure Law, in relation to the collection of court-imposed financial obligations.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 103, by Senator Saland, Senate Print 816, an act to amend the Penal Law, in relation to authorizing restitution for expenses.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 104, by Senator Spano, Senate Print 882, an act to amend the Penal Law, in relation to the crime of criminal employment.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 107, by Senator Volker, Senate Print 889, an act to amend the Criminal Procedure Law, the Public Health Law and the Family Court Act, in relation to the authorized destruction of dangerous

drugs.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 112, by Senator Present, Senate Print 535, an act authorizing the Commissioner of General Services.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 135, by Senator Rath, Senate Print 2180, an act to amend Chapter 708 of the Laws of 1992.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Ayes 36.

ACTING PRESIDENT MARCELLINO: The bill is still passed.

THE SECRETARY: Calendar Number 149, by Senator Saland, Senate Print 2379, an act to amend the Criminal Procedure Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

Senator Skelos, that completes the non-controversial calendar.

Senator Skelos, may we return to standing committees. We have a report at the desk.

The Secretary will read.

THE SECRETARY: Senator Maltese, from the Committee on Elections, offers up the following bills:

Senate Print 156, by Senator

Maltese, an act to amend the Election Law, in relation to time of opening of polls;

158, by Senator Maltese, an act to amend the Election Law, in relation to extending filing deadlines;

560, by Senator Goodman, an act to amend the Election Law, in relation to candidate biographies;

912, by Senator Larkin, an act to amend the Election Law, in relation to the hours for voting;

1219, by Senator Maltese, an act to amend the Election Law, in relation to party recommendations;

1354, by Senator Maltese, an act to amend the Election Law, in relation to making certain technical corrections;

1443, by Senator Maltese, an act to amend the Election Law, in relation to the form of ballot; and

1468, by Senator Maltese, an act to amend the Election Law, in relation to the use of new voting systems.

All bills directly for third reading.

ACTING PRESIDENT MARCELLINO: All bills are direct to third reading.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Senator Present's bill, Calendar Number 112, would you lay it aside for the day.

ACTING PRESIDENT MARCELLINO: The bill is laid aside for the day at the request of the Acting Majority Leader.

SENATOR SKELOS: And at this time would you take up Calendar Number 149, by Senator Saland.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 149, by Senator Saland, Senate Print 2379, an act to amend the Criminal Procedure Law, the Executive Law, the Family Court Act and the Penal Law, in relation to enacting the Juvenile Justice Act of 1997.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Saland, an explanation has been

requested by Senator Paterson.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, my colleagues, the bill before us currently is a Governor's program bill, the Juvenile Justice Accountability and Procedural Reform Act of 1997.

This bill reflects the coming together of the Senate Majority and the Governor, an issue of great importance to people throughout New York State.

What it does, ladies and gentlemen, is to attempt to take a system, a juvenile justice system that substantially represents a system that was created probably somewhere in the area of 35 or so years ago, a system that was created at the time of Ozzie and Harriet's children, a system that perhaps reflected the types of crimes that Ozzie and Harriet's children might have been engaged in, such as perhaps car theft, joyriding, petty theft, truancy, a system that was not designed to deal with the types of violent crime with which our juvenile justice system currently finds itself, a system in which not only is the

nature of the crime severely heinous but at times gratuitous, defying logic of any of our criminal justice authorities.

What this bill does on the one hand is to create a mechanism that's going to say if you're going to engage in violent criminal conduct, there are going to be consequences and, to that effect, what this bill does is to dramatically increase penalties for those who engage in violent crime. It does it both on the criminal justice side of the equation and the Family Court side of the equation.

It says that if, in fact, you engage in violent crime, you're going to find that the law enforcement mechanism in this state is going to be far better armed than it has been previously to deal with that crime because, among other things, it says that in Family Court procedures there will be search warrants available. There will similarly be the ability to provide a look back in Criminal Court, for instance, where there's been a Y.O. felony. If you commit a second within five years, there will be the ability to look back and look at the

prior, in effect, as a predicate.

There will be arrest warrant procedures for juvenile delinquencies, juvenile delinquency in addition to search warrant procedures. There are elements of restitution and community service that are added to the juvenile justice portion, to the Family Court procedure. There are a number of new designated felonies that are added.

This is but a small component of what happens on the Criminal Court and the Family Court side, but this bill is certainly not blind to the fact that these very same youths are, if for no other reason than their age, going to be back into the community.

It also recognizes the reality that New York's juvenile justice system has been inadequate, witnessed by the fact that New York's juvenile crime rate is twice the national average, that New York's juvenile homicide rate is 40 percent above the national average. It recognizes that it's time to leap from the 1960s, not merely to the 1990s but to the 21st Century.

It recognizes that there are a

host of young people who engage in criminal conduct, much of which is non-violent. It recognizes that we have to emphasize, in addition to a more stern deterrent approach to those who engage in violent crime, the reality that there has to be alternatives available to try and direct these youths away from a life of crime, keeping in mind that the recidivism rate of those who go through our juvenile justice system is probably somewhere in the area of 70 to 75 percent.

It also recognizes the inordinate expense associated with placing juveniles in secure facilities, sometimes at a cost in excess of $80,000, and in using alternatives we not only have a much more cost-effective means of diverting young people but also affording them the opportunity to take charge and control of their lives and to venture out into a world in which there will be opportunity for them.

It creates an alternatives commission with appointments to be made by both the Governor and the Legislature. What it does is it, in effect, says we want to make sure that those alternatives that this commission will

devise will be alternatives that, in effect, do the job because it provides for an analysis and review of those alternatives to ensure that they are, in fact, effective.

It involves families in Family Court proceedings. It enables families to be part of the alternatives programs. It creates a dispositional services plan. Far too often what occurs, particularly in the Family Court side of the equation, is that a youth who has committed a violent act gets placed in a secure facility and in a matter of months, that youth disappears. The court has no idea where he or she is. They are back on the street only to again recidivate, engage in further criminal activity and get back in that revolving door that seems far too often to be the hallmark of our juvenile justice system.

It's interesting to note that under the existing law, that a young person who finds himself or herself in the Family Court can only be sentenced to a restrictive placement where they have caused serious physical injury and the person to whom they have caused that injury is over the age of 62 years.

Now, it seems to me that the logic of saying that, in effect, you get a bite of the apple, to virtually come close to killing somebody, in some instances, and as long as that person is not over the age of 62 years, you can't put them into a secure placement. What this bill says is anybody who engages in that kind of conduct, any youth who engages in that kind of conduct will, in fact, wind up with a secure placement, will find themselves not only in a secure placement but one in which the sentencing structure has been altered to ensure that you'll serve a minimum sentence in a secure facility before you have the ability to be transferred into a residential facility.

This bill is an integrated one, one which I think addresses the issue on the criminal justice side very well. It addresses the issue on the Family Court side. It recognizes the importance and the reality of alternatives as being a measure of the success of any endeavor to reform the system and what it basically says is we have lagged woefully beyond the majority of states in this country, most of whom have reformed their systems over the course

of the past six to eight years. This presents us with the opportunity not only to join our colleagues in other states but to make our streets safer, to afford opportunity to young people through a mechanism that's been sorely lacking through this alternatives commission that we will create and it says, in effect, 1997, after any number of years of flirting with the issue, is the year in which we can finally accomplish success.

The Speaker, Speaker Silver, as recently as December of this past year, has indicated his desire to deal with the issue of juvenile justice. He has spoken in terms of many of the things that I think you'll find in this bill, and I'm hopeful that passage of this bill today will be the catalyst that will ensure quick and successful action and bring agreement and results, the results of which, I think will better the constituencies of each and every one of the 61 members of this house and improve the lives and lot not only of those in their respective districts, not only of those who are concerned about the safety of their streets but again afford greater opportunity for young

people, those who this system can be devised to ensure just that very opportunity.

Thank you, Mr. President.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT MARCELLINO: The Chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, I rise to support this legislation. As Chairman of the Crime Victims, Crime and Corrections Committee, I personally wish to thank Senator Saland as Chairman of the Children and Families Committee for his attention to this important matter, and especially I wish to thank Governor Pataki for taking another step in our efforts to establish zero tolerance for violence in this state, first with ending work release for violent criminals, secondly for establishing a new era of zero tolerance for violence in domestic situations, in domestic matters. This is another step in establishing zero tolerance, no acceptance of violence in our society.

It's a disturbing reality that young teenagers in our state are committing an

alarming number of serious adult crimes. Just two weeks ago a 16-year-old in Rochester was violently attacked in a robbery attempt by two 14-year- olds. That individual lay near death, fought back and is fortunately recovering but nonetheless it is indicative of the type of violence we're seeing in our society where young people are preying on other young people in a very violent way.

By increasing sentences for juvenile offenders, establishing additional victims rights procedures, encouraging parental accountability in opening up our courts, we are going to see with the passage of this legislation landmark steps in trying to eliminate youth violence.

Juvenile rates for violence in our state and in our nation have tripled during this last decade. Even though crime generally is seeing a decrease, the incidence of murder, robbery and rape by those who are under the age of 18 has increased dramatically.

Mr. President, it's clear that our current approach to dealing with serious crime committed by youth is not working.

Children are representing the fastest growing segment of the criminal population.

We need to check that growth. We need to establish very reasonable laws as presented here today to check that growth, and that's why I think Governor Pataki's Juvenile Justice Accountability and Procedural Reform Act of 1997 is just the right prescription to present to solve this growing problem.

Mr. President, thank you very much for the opportunity to comment on this issue.

ACTING PRESIDENT MARCELLINO: Thank you.

The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, I'm going to show my age a little bit because I well remember Ozzie and Harriet, and I remember how it would start out in the morning with David and Ricky coming down and Ozzie would be sitting there and Harriet would put out a nice breakfast for Ricky and David. They were nicely dressed, sent off

to a good public school. When Ozzie and Harriet had to go out, their neighbor Thornie would come over and watch the boys. When they came home from school, Harriet was there to ask them how school went and provide them with a snack. They lived in a comfortable, supportive, warm environment not free of government because I said they went to a quality public school where the teachers cared. They lived in a neighborhood where the neighbors cared about each other and they weren't teenage criminals.

Senator Nozzolio just said the fastest growing crime -- criminal population is among youth, but we have a bigger problem than that, Mr. President. The fastest growing portion of the New York population over the next ten years, fifteen years, are youth.

It's estimated that while New York State's population will grow overall in the next 15 years by 2 percent, that portion of the population that falls in the 15- to 19-year-old category will increase by 21 percent. So to the extent that some of the decrease we've seen in crime is due to better policing, tougher laws, we also all know it has something to do with

demographics, but the demographics, Mr. President, is going to come back and bite us over the next 15 years and overall in the United States while crime is down, crime among youth is up, albeit today's Times Union shows the latest statistics -- and it's a happy statistic - shows that we've actually had recently a dip in youth crime as well. That's good, but I don't think anyone thinks that it's a trend.

I pointed out the other aspect of the Ozzie and Harriet life because one of my colleagues gave me a statistic yesterday that was rather startling. It seems that 80 percent -- now, we all know, Mr. President, some of my colleagues who served there, there are 150 Assembly Districts in New York State, 150. My colleague told me that -- and you'll probably hear more about this, but I just want you to think about this -- that 80 percent of the prison population in New York State -- and we know that prison population has grown exponentially in past years as we've been confronted -- and even through the Cuomo years of building new prisons, we're under pressure to agree to more prisons now -- 80 percent of that

population comes from seven Assembly Districts. Rather startling! Rather startling, but doesn't it suggest a solution?

Now, I agree we should get tough but taking a page from Governor Pataki, I think we should get tough and smart, tough and smart because with this population increase we're facing in that age category in the next 15 years, we can't afford to put all them in jail, nor can our citizens afford to be the victims, but think about that statistic. Doesn't it tell you where we ought to focus?

What stops us from focusing on that? Politics, politics. In one house of the Legislature, I dare say probably no one in the Majority represents any of those seven Assembly Districts. So I understand it's tough to go home to wherever in the state and say, We want to send some extra funds to these seven Assembly Districts that I don't represent, that you've never visited. I understand you get re-elected bringing home the pork to your district, but we have a responsibility, it seems to me, to transcend those kind of political concerns when there's such a glaring statistic that begs the

solution. Doesn't it beg the solution? If we could only do something about education, health care, opportunity, intensive work with youth and children -- not youth. You know, by the time you got the 12-year-old killer or the 13-year-old killer -- and it's why we have to get tough because we do have to protect the public -- but those 14-year-old killers are lost causes already. A child that's so brutalized that they have no empathy for a victim and can commit these crimes by that age, I think any psychologist would say they're probably a lost cause. They're hopeless and that's why, of course, we need to get tough. We have to protect people, but how do we prevent this enormous population of three- and four- and five-year-olds and a few not yet born who will be there in 10 or 15 years at 14 and 15 years old, how do we stop them from going down that road, because when they get there, they're lost.

Now, when I say get smart, I think we have to look at prevention. I know - I know we hear about midnight basketball and all that stuff that was a big hullabaloo a couple years ago in the federal crime package. I'm not

talking about that. I'm talking about following suggestions that we get from Bill Bennett. You know Bill Bennett, hardly a liberal crusader, in Body Count, he talks about the need to really focus on prevention.

The Rand Institute did some amazing studies. They did some comparisons. They did a two-year Rand Corporation study, compared the impact of "three strikes and you're out" laws, the goal being lengthy imprisonment, and prevention development efforts that encourage young people to stay in school that teach parenting skills to high-risk families and that provide preschool programs. Yes, preschool. It's the three- and four- and five-year-olds that you have to get these kids, that you have to get control of the situation, that you have to recognize some don't have families. It's not that they're missing Ozzie and Harriet. They don't even have one of them that are effective parents. They have no effective adult role model. That's the age you have to catch them, if you're going to be smart.

Rand found that California's

"three strike" laws averted 62 serious crimes for every $1 million spent on carrying out the program, building, operating prisons, and so on. In comparison, the study demonstrated that for every $1 million spent on programs, these parenting programs and educational preschool programs, 250 serious crimes were averted per year through graduation incentive programs, 160 prevented through parent training initiatives and 70 were headed off by special delinquency supervision programs.

Even as our Division for Youth director testified last week pointing to these findings, the most successful programs were found to prevent five times as many crimes per every dollar spent in incarceration. This study reinforces the growing body of research showing that a human development approach works to reduce youth, family and community problems.

Where's the prevention? Where's the Majority and the Governor following good conservative thinking, good conservative, cutting edge thinking like you get from Bill Bennett about focusing on prevention?

Now we're in a budget process and

it will be the usual fight and whatever, and those programs that could do things like this somehow or other will seem soft or get mushy, liberal stuff. Oh, it's going to focus on some inner city districts. What's that do for my folks upstate, people will say. Well, I say wake up. Wake up because while we have to get tough, we just can't get tough enough, not tough enough to deal with that bulge in the population we're going to experience -- in that youth population in the next ten or fifteen years, and I would hope we would look at this as not an issue that, Well, it doesn't affect my district, what's my concern? It affects our entire state, my colleagues, the entire state, and that's obvious because we have this bill, this rush to get tough. Fine. Get tough, but get smart. Get smart, because you'll never be tough enough and you'll never be able to afford fiscally being tough enough to deal with this blooming problem, but if we get smart now -- if we get smart now, we can save a whole lot of money and a whole lot of innocent victims of these crimes and after all, when we get tough, yes, we prevent future victims, but it's of little

consolation. It may be justice but it's of little consolation to those who have already been victims. Getting tough is always closing the barn door after the livestock has escaped and what your hope is, you won't have any future incidents in that barn in terms of recidivism, and so on, but at 15 or 16 or 17, a hardened killer is a hopeless cause and we can't afford to keep playing catch-up.

Now, you know, get tough, but if we were serious about this, we wouldn't be trying to do it by press release, rush the Governor, Majority Republican proposal out here even though the Assembly wants to get tough too and they have their proposals. What we'd really do if we were serious is we would legislate getting tough. We would negotiate it.

I look at this bill -- and I intend to vote for this. I intend to vote for this. As I've said on other issues a year or two ago, I'll vote for your press releases, but let's get serious. Let's legislate, negotiate.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Connor. Can we -- it's getting a little hard to hear in the chamber, a

little bit of noise. Can we take the conversations outside if you have to.

SENATOR CONNOR: Thank you, Mr. President.

But let's get serious. Let's look at these statistics. I recommend Body Count by William Bennett to all the members of this house. Let's be serious about getting smart because I remember in 1978 when we got tough on juvenile justice, I remember voting for that. I surprised myself as well as some of my colleagues voting for it. It had nothing to do with the fact that I had a primary about a month later and juvenile crime was in the headlines. People were concerned and we got tough. We provided for five years to life for youth for crimes like murder. We got tough, but nobody thinks secure facilities for hardened youth is going to do anything more than be a prep school for future crimes and nobody -- and I don't think the sponsors do -- I understand we got to get tough but think about it. No one can stand up here and say this will solve the youth crime problem for the next 15 years. Let's get smart.

Those seven Assembly Districts, we can't manage that small a piece of New York? It's like three percent of the turf in New York is producing 80 percent of the prisoners and we can't figure out how to replow that turf and reseed it and grow children there to have hope, to have a future, that don't turn to crime, that aren't so brutalized?

I remember years ago there were twins in the Bronx who were both before the justice system at age 16 or 17, murders, muggings and the estimates were that, you know, they pinned a dozen or two serious robberies and a couple of murders on each of them. They estimated they had been a two-person crime wave and been responsible for thousands and thousands of muggings, and one of the newspapers went around the neighborhood, couldn't find any parents at all and they came up with the startling thing. At age three and a half, these kids were just put out on the street and never had a home. They lived on the streets in doorways and alleyways of the Bronx from age three and a half to four until they were finally captured and incarcerated at age 16. They stole

food. They ate out of garbage cans until they got big enough to steal food and then they stole food until they got big enough to steal money from people to buy food.

Now, who doubts that if you put a child of three or four years old totally on its own, that it will end up a feral being? Why not? Survival. How else does a four- or five or six-year-old -- can't get a job. You steal and you hate the world and you have no empathy for anybody else, and an old woman with a pocketbook, you have no empathy for that. You want the pocketbook. Why wouldn't you if that was your only life experience? You never knew love. You never knew anybody caring for you. You never had any hope or opportunity. They had never gone to school either, but since they had never gone to school, nobody in the City, government or anywhere knew they were truants. I mean, why would they think of going to school? So let's get smart. All I see here is the tough part. When are we going to get smart and prevent what's to come?

I don't want -- I don't expect to be here in ten or fifteen years. I don't want

whoever is here to be standing up and talking about the explosion of juvenile crime and how we have to have even tougher laws, and that's where we'll be unless we get real smart now.

Mr. President, I'm going to vote for this. I think it's flawed in some respects. I look forward to voting on the real bill when people get down to legislating instead of rushing to grab the headlines on who's tougher and we have a real bill, but I really look forward to working with whoever wants to develop some very, very needed, smart, innovative programs to cut this problem off at the root.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I listened intently to my colleague, the Minority Leader's comments, and I heard him make reference to being tough and smart. I heard him make reference to the fact that he thought politics was standing in the way, and I would suggest to the Minority Leader

that if this is a mere political statement - and I must remind him that this quest to reform the juvenile justice system began back in 1995 when I introduced a bill and began working closely with Governor Pataki and have worked continuously with he and his staff through much of last year, and you may remember that this house passed a bill last year, a juvenile justice reform bill. So this is not a rush, as you put it, to come up with a quick fix. If politics is what stands in the way, I would suggest to you then you vote your conscience and make a statement here and now and vote against this.

I would suggest to you that this is anything but a political statement. I would suggest to you that this is a well reasoned statement that is not merely tough but it is smart.

We've created a dispositional services plan. You may have read the bill, but let me remind you of some of the things that happens. Every Family Court in this state loses track of violent juveniles. They walk out the door. They get placed and in a vast majority of

incidents within six to eight months thereafter they're back in the street. The court doesn't know they're there. Nobody knows they're there, and they do it again and again and again.

Alternatives, much needed. I thought I drawled at them in some length, and this Governor has put his money where his mouth is because this Governor, Governor George Pataki, has put $2.5 million in new money for alternatives and, let me add, we're not talking merely about paying lip service. We want these alternatives, in effect, to be the best alternatives. We don't want to commit to mentoring. We don't want to commit to juvenile juries. We don't want to commit to day detention programs. We don't want to make those commitments to any of those programs unless they know -- unless we know they work, and this bill endeavors -- and I'm not quite sure many other states have endeavored to do this -- to make sure they work. We want them evaluated. We want them weighed.

Your advocacy of the cause of Bill Bennett I find really much enlightening to me, and I welcome it. My recollection -- I

didn't read his book. You may have read it, but I have seen him on the talk circuit, and I do know that his emphasis was on the decay of our society and on the integral role that the family has played in our society, the importance of parenting and the importance of family and development. I don't think he was necessarily committing to government intervention in each and every avenue of American life.

It's a reality, whether you look at numbers of single-family households, whether you look at the enormous number of out-of wedlock births ever increasing. It's a frightening reality.

This bill endeavors to take the 15-, 16-year-old that you referred to as a lost cause -- and I'm not prepared to admit that the livestock is out of the barn and it's too late to close the door because I think, whether it's based on demographics or whether it's based on the reality of what goes on out in the street every single day, that we can and will and must do better and this is the vehicle that's going to provide it, and I think that it's not too late to close the door.

Yes, there are a number of souls who have been lost. There were souls who were lost this decade, last decade, the prior decade. This is contemporary. This endeavors to provide for the bad guys and gals who are saying -- that 15- and 16-year-old that you described -- you're going to get treated in a fashion that's more criminal in nature, more corrections in nature. There are consequences of your acts. You will pay for them, but for each and every one of them, there are many more who we have to reach out to, and the alternatives mechanism is the way we do it.

I don't want them placed either in a prison or in a secure facility. I want to use alternatives whenever and however we can because not only are they cost-effective, which is great for the taxpayer, but they keep them out of a system that to date has been a system that is basically a license to recidivate.

So this, yes, is tough, and I'm happy that it's tough, and I'm glad that the Governor and my Majority Leader have helped to work to bring this out here today but it's also smart. It's a lot smarter than anything that's

been on the books of this state at any time dealing with juvenile justice and it's -- I welcome the opportunity to become even smarter, and if the Speaker who has spoken again admirably about the need for tougher juvenile justice laws has more to add to this mix, I'm prepared to sit down with he and his representatives, as I'm sure the Governor is, and craft an even better bill.

This is the only game in town. This is nothing new. This is the third year we've endeavored to bring this out and to forge agreement, and I'm pleased, couldn't be happier that we're here on the floor with this today.

ACTING PRESIDENT MARCELLINO: Senator Abate.

SENATOR WALDON: I thought I was next. I asked earlier when I came to the chamber.

SENATOR ABATE: I would yield to my colleague.

ACTING PRESIDENT MARCELLINO: I'm sorry, Senator Waldon. We did not have your name up here.

Senator Waldon.

SENATOR WALDON: Thank you. I appreciate that, Senator Abate.

The bible says something like this. "When I was a child, I spate as a child" -- and I respectfully ask when I finish reading this that Senator Saland yield to a question or two. "When I was a child, I spake as a child, I understood as a child, I thought as a child; when I became a man, I put away childish things. For now we see through a glass, darkly; but then face to face. Now I know in part" -

SENATOR SALAND: Mr. President.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Waldon.

Senator Saland.

SENATOR SALAND: I can't completely hear Senator Waldon because he's down. If you -

SENATOR WALDON: I apologize for that. Sometimes you fool yourself. You think because you're a certain size that your voice just resonates throughout this chamber.

SENATOR SALAND: It's my hearing, I'm sure, Senator.

SENATOR WALDON: We'll correct

that, Senator. In the Bible it reads, "When I was a child, I spake as a child, I understood as a child, I thought as a child; but when I became a man, I put away childish things. For now we see through a glass, darkly; but then face to face; now I know in part; but then shall I know even as also I am known. And now abideth faith, hope, charity, these three; but the greatest of these is charity."

I would like to now share another thought before I ask you some questions, my dear colleague.

SENATOR SALAND: Excuse me, Senator Waldon. If that's in Hebrews, ask Senator Lachman.

SENATOR WALDON: I beg your pardon?

SENATOR SALAND: I said if that's in Hebrews, ask Senator Lachman.

SENATOR WALDON: This is in St. Luke 18:16, "But Jesus called unto Him, and said, 'Suffer little children to come unto me and forbid them not, for of such is the kingdom of God'".

Now -- could you just take this,

please -- if the gentleman will yield to a question or two. I want to set a tone.

SENATOR SALAND: Yes, Mr. President.

SENATOR WALDON: I heard you speaking earlier in response to what our Minority Leader had said that you had not read William J. Bennett's book Body Count but you are familiar with him because you've seen him on television, on talk shows and certainly you are familiar with the Secretary, as a political operative of long standing in this state, is that correct?

SENATOR SALAND: You referred to him as a political operative?

SENATOR WALDON: You.

SENATOR SALAND: I'm sorry?

SENATOR WALDON: That you, a person in politics of long standing in this state, are certainly aware of Secretary Bennett.

SENATOR SALAND: Oh, certainly.

SENATOR WALDON: As a result of your awareness of him and his stature in the Republican Party, do you put any credibility in what he says?

SENATOR SALAND: I'm not quite sure what the relevance of debating the comments that may have been contained either in the Secretary's -- former Secretary's book or on his talk show circuit. I certainly believe he's a bright and eloquent spokesman for many of the things that he advocates. Some of them certainly are integral parts of what many conservatives feel are the social issues of the day.

SENATOR WALDON: If the gentleman would continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, sir.

SENATOR WALDON: Would it surprise you, Senator Saland, if in his book at first blush the Secretary appears to say that harsh treatment is necessary because crime of a violent nature is really up amongst young people and he projects in his book that not only is it up now but it is really moving very rapidly up

towards the year 2000.

SENATOR SALAND: At this stage of my life, Senator Waldon, there's very little that surprises me. I will take it as a given if you're, in fact, telling me that. It's certainly consistent with what I've heard from others as well.

SENATOR WALDON: If the gentleman would continue to yield, Mr. President.

ACTING PRESIDENT MARCELLINO: Do you yield, sir?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR WALDON: Would it also be intriguing for you and maybe even somewhat surprising if later in his work he stated that harsh treatment -- harsh treatment, long sentences, taking a punitive attitude in posture only is counterproductive; it is not cost-effective?

SENATOR SALAND: Again, if you're telling me that, I will accept it as it is, but I full well understand, and I assume you

understand, that one of the cornerstones of his very essence is personal responsibility. Personal responsibility is, in effect, what drives, as best as I understand it, the essence of Bill Bennett and, if we're going to debate Bill Bennett, perhaps we should do it in the members' lounge and get on with the substance of this bill.

If you're telling me, does this bill that's currently before you emphasize the reality of personal responsibility, I will use personal responsibility as being synonymous with what I said before when I said, if there are acts, there are consequences. If there are acts, there are consequences. I believe that is something that Secretary Bennett would probably embrace.

SENATOR WALDON: Would the gentleman continue to yield, Mr. President?

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, sir.

SENATOR WALDON: I assure you, Senator Saland -- and you've known me for a long time from our days in the Assembly, my days here, my days in the Commission of Investigation for the state -- that this is not an exercise in futility, and though I may go around Robin Hood's barn to get to where I'm going, eventually I get there.

Are you familiar with the recent Rand report?

SENATOR SALAND: Which of the Rand reports?

SENATOR WALDON: Let me see if I can quote it for you. This is a Rand Corpora tion study which was conducted for two years, was released this past year and speaks to the issues of juvenile delinquency and punishment and whether or not it is cost-effective to be very punitive in that approach versus using models which actually turn people around. In that report, it stated, in effect, that $5.5 billion a year in a "three strikes" program was estimated to produce an annual 21 percent reduction in crime. However, by spending just under one billion more on youth prevention

programs, the study found that the potential reduction in crime could rise to twice that rate. You're not familiar with that study, sir?

SENATOR SALAND: I am aware of the study. I believe the Minority Leader made reference to it in his comments as well. Again, this bill deals with a juvenile justice system and it is not a bill which at this current phase is endeavoring to augment whatever may be the types of programs which I'm sure you are ultimately working your way to. We're dealing with the commission of crime. We're dealing with how we shall treat those who commit those crimes and in the case where they're juvenile delinquents, how we shall treat them in a system which has been, by everybody's admission, I would hope, woefully inadequate and how we shall craft a system that will hopefully prevent these young people once they have committed some misdeed from finding themselves being propelled down a path of more and far more serious crime.

You know, the reality is that this is a universal. This is not an upstate problem. It's not a downstate problem. It's not a Western New York problem. It's not a Long

Island problem. This affects each and every one of us to one degree or another in our respective districts. Certainly nobody, regardless of where you come down in this bill, can ignore the extent of the violence, nor its gratuitousness, nor the frequency with which far too many are repeating it.

If you're saying we should continue down this same path and just blindly ignore and rely on a system that was substan tially created back in the 1960s to address what's going on, then I would say you're divorcing yourself from reality. If you want to stick your head in the sand and let it all pass you by and swing and take shots for whatever reason, then I would say you serve neither this house nor your own constituency by doing that.

I think you've got to recognize the enormity of the problem. I think you can do whatever you would like with your statistics, but is there anybody in your district - certainly there's nobody in mine -- who thinks the current situation, and I think, however begrudging you might want to make it, I think you would have to admit that this is a far

better way of dealing with the problem than is what -- the means by which we currently endeavor as woefully as we do to deal with juvenile crime.

SENATOR WALDON: Would the gentleman continue to yield, Mr. President?

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR WALDON: Have you ever read my report on Unhealthy Choice: Prisons over Schools in New York State?

SENATOR SALAND: No, I have not.

SENATOR WALDON: Would you please give the gentleman a copy of my report. I'm so glad, Senator, that you said what you just said, that I should not want to keep my head in the sand and that if I had an answer to this problem, I should listen to that answer, no matter from whence it cometh. Being that you made that statement and being that you're carrying the Governor's program bill, I would

hope that you would look at this report and look at the statistics and data contained therein, which I guarantee you if the state of New York, in its wisdom, were to adopt some of the things I propose, would eradicate the need, not only for these youthful prison situations and treatment modalities as you are prescribing, but even for our adults.

In the report it says that 34.5 percent -- and you know this as well as I - state school aid goes to New York City even though we have 37 percent of the student population, but what is so frightening about all of this is that 46 percent of the total number of persons arrested in New York City live in the neighborhood served by the City's 16 poorest performing schools, that over half of the state's prison inmate population comes from a geographic area which contains 11 of these schools. That's 75 percent of state prison inmates have no high school diploma and that 40 percent of them cannot read.

I submit to you, Senator -- and now I will ask you a question -- I submit that, one, if we correct the ills of the school system

in these SURR schools -- Schools Under Registra tion Review -- we can correct the need to build prisons and to intensify punitive measures regarding the youth of the state and even to some extent the adults of the state.

Do you see -- the question is do you see a correlation between criminal behavior and the absence of good school systems in the city of New York? You said earlier -- before you answer that, by the way -- that it is not a downstate or upstate problem. I totally disagree because 50 percent of the jails' populations, the prisons', I should say, populations in the state of New York come from downstate in these areas. Do you see a correlation between the absence of good schools and the prison population and what you're trying to do with this proposal?

SENATOR SALAND: I think what you're attempting to do, Senator, is to expand the parameters of the debate surrounding this bill. Certainly I would assume that you're absolutely elated by the Governor's proposal in his STAR program in which he proposes to increase the amount of aid to the city of New

York to where it reflects its 37 percent student population overall versus the balance of the state.

Crime, the causation of crime, certainly is something that is not readily explainable. Do some of the things that occur, occur because of factors that can be measured? Perhaps. Do some of them occur simply because somebody at a given place and a given time feels that they can take advantage of a situation? Perhaps. Will providing universally similar and identical education to every young person in the state of New York eradicate crime? You may feel that perhaps it will. Can we say that the failure of some of the supporting social structures is what's responsible for the cause or causation of crime? I think if we go that far, we basically say that taken to its ultimate conclusion, poverty gives license to crime. Failure to create a mechanism that somehow or other is totally embracing and totally encompassing in providing a uniform or substantial form of benefits is what's required and it may well be that there are people who believe that. Do I think that there are

disadvantaged people? Certainly there are. Do I think that we can do more for disadvantaged people? Certainly I do. Do I think that that is the explanation that explains what's going on in our criminal justice system and in our juvenile system? For me that's a terrible stretch. I can't go that far.

I certainly will take a look at your report. I'm not quite sure that I will necessarily concur in whatever your conclusions may be, but having presented it to me, I certainly will take a look at it.

SENATOR WALDON: I thank you very much for that, Senator.

Would the gentleman continue to yield?

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He does.

SENATOR WALDON: Senator Saland, since 1981, New York State has seen its investment in correctional services increase

four-fold, from 435.7 million in fiscal years 1981-82 -- fiscal year 1981-82 to almost 1.9 billion last year. During that same period, school aid has only slightly more than doubled from 4.27 billion to 9.99 billion, a two and one-third-fold increase.

Getting back to what I asked earlier in regard to the SURR schools, in regard to the overwhelming number of people who populate our prisons coming from just 11 schools in the districts that I mentioned, does it not make some sense to you that if the emphasis were on education so that these people who are in our prisons who cannot read, many of them cannot read, those who read, read below a fifth grade level understanding of English, many of these people have no possibility of coming back to society and working in decent jobs because there's no rehabilitation going on in our prisons. The programs which work like the DETAP program that D.A. Brown has in Queens County where all of those in that treatment program stay out of prisons in the future except ten percent, whereas the recidivism rate in the general population in all kinds of treatment

modalities is 43 percent.

Does it not make some sense to you that there should be a greater emphasis on education and on shoring up young people before they reach the third grade or the fifth grade or whatever age it is that will cause them to turn around and not have a life of crime so that we can save the massive expenses that are required to build prison cells and to incarcerate people on the back end?

ACTING PRESIDENT MARCELLINO: Before you answer that question, Senator, ladies and gentlemen, please, the level of noise is coming back up. If we could -- so we can hear the debate.

Senator.

SENATOR SALAND: Thank you, Mr. President.

Senator Waldon, again, let me come back to the context of this bill and this bill also has an aftercare component because that -- that commission is also required to provide for reintegration, but let me suggest to you that notwithstanding what you're saying, I cannot take that last leap and get to the point

where I say that the inability of somebody to read, the inability of somebody perhaps to -- to be computer-literate, those inabilities explain maiming, killing, violating other people. There is no justification for that, and regardless of -- from whence you come or what your background may be, I can't give license to that conduct.

Now, if you feel that we could be doing better in the kinds of programs we're providing educationally to our young people, particularly in some of our more hard-pressed areas, I would be blind if I told you that I didn't -- I was not aware of that or didn't agree with that, and that's part of a process that -- which is not part of what we're doing with this bill. That's a budget function that gets negotiated separately and independently of what we're doing here today.

SENATOR WALDON: Would the gentleman yield just to another question or two, Mr. President?

ACTING PRESIDENT MARCELLINO: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR WALDON: Senator Saland, you are very informed about the costs of incarcerating people in this state, even our juveniles.

SENATOR SALAND: Even? I'm sorry. I didn't hear what you said. You said even-something. I didn't hear what you said.

SENATOR WALDON: Even juveniles.

SENATOR SALAND: Thank you.

SENATOR WALDON: So I don't have to walk you through the miasma that is, you know, per cell to incarcerate, whether it's a secure facility or not a secure facility, how much to construct, the debt service on each prisoner. We don't have to go through that megillah, but what I would like to address momentarily is that when we have programs, alternatives to incarceration, which work and which are parallel or in sync' at least with what the Rand Corporation study says and which a very learned personality, William J. Bennett, has said in his book that treatment and prevention measures are much more cost-effective

than imprisonment and incarceration and very severe punitive approaches, could we not begin to focus more as a state on the alternative to incarceration phase to a greater extent than has been proposed, not in this legislation but as a policy and a philosophy for the state of New York?

SENATOR SALAND: I certainly would welcome that discourse. I certainly am well aware of the importance of alternatives and they're important for more than one reason. They're important not merely for, as I explained earlier, providing greater opportunity for people to, in effect, find the right path, a more appropriate and socially acceptable path, but they're also important for a very sound fiscal reason. They are a heck of a lot less costly than putting somebody in a secure DFY placement or putting someone into a DOCS facility, but we're talking to some extent apples and oranges.

Yes, there is opportunity by way of educational opportunity is important, but one of the prime functions of any society is public safety and you really don't have to compromise

one in order to accomplish the other. I don't believe you have to compromise public safety in order to make commitments to education.

SENATOR WALDON: On the bill, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Waldon, on the bill.

SENATOR WALDON: Thank you very much, sir.

First, let me thank Senator Saland for his patience in responding to my queries, and I appreciate the patience of my colleagues in listening to this portion of the debate.

I absolutely disagree with Senator Saland. He alluded to the fact that perhaps my head is in the sand and that I'm not being realistic in my perception of what's going on. I sincerely believe, Senator, and my colleagues, that if we do not change our direction, change the rhythm of what we're doing in regard to incarceration, that we're going to have a burden that will overwhelm us in a very few years, that if we don't begin to recognize that the SURR schools hold the answer, if we

decide to put massive resources and support systems and mechanisms around those kids who are in those schools, we're going to have a problem that will strangle New York State shortly after the turn of the century.

I believe that unless we as a body recognize that punishment doesn't do it, punishment just doesn't do it alone -- and, by the way, that doesn't mean that people who are violent felony offenders shouldn't be in jail. Some should never come out of jail, but it does mean that the approaches we're using now are going to be counterproductive, not only from a social and a moral aspect but from a financial bottom line aspect.

Recognizing what happens in the SURR schools and in those Assembly Districts downstate where the overwhelming majority of the prison population comes from and addressing the needs demanded by those areas is the answer. It is the key that will allow us to have more money for other services needed and desired by the people of the state of New York.

I think that what you're attempting to do, Senator Saland, is certainly

understandable. I think I understand what the Governor wants to do in the short term and in the long term. I sincerely believe that you believe in what you're doing and that the Governor believes in what he's doing, but I think someone ought to stop for a moment and look at the Rand Corporation study report, read William J. Bennett's book, read my report and listen to those of us who advocate for alternatives to incarceration, but more importantly, for saving the young people. Suffer the little children to come unto us.

I leave you with this thought from my favorite poet/philosopher. "He who wears his morality but as his best garment were better naked."

Thank you very much, Mr. President, my colleagues.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Waldon.

The Chair recognizes, with the permission of Senator Abate, Senator Marchi for a brief interruption.

SENATOR MARCHI: If the Senator would yield just for the very briefest moment.

We're honored by the presence of people who are -- hold major responsibilities in the United States of Brazil because it is the United States -- there is the United States of Brazil as well as the United States of America -- and they're here to observe and to interact with those coordinating efforts that are made and if there are agencies involved and the people that are involved in presidential or executive and legislative branches. So that they are here for a period of four days and then they're going to Washington and repeat that experience with major exponents in the federal government, and I just want to introduce them briefly because they are -- they do carry important responsibilities and I'm sure that all of us here on both sides of the aisle are delighted that they've come and visited with us, and I just wanted to introduce them.

We have Mr. Eduardo Graeff, who's currently chief congressional advisor to the President of Brazil, and Ms. Rosinethe Monteiro Soares, who is presently chief advisor of the Liberal Party -- Liberal Front Party of Brazil, and Ms. Beatriz Mendes Lacerda, who is the chief

of staff of Senator Jose Serra, an advisor to the Federal Senate of Brazil, and Dr. Celio Franca, who is advisor to the legislative affairs in the ministry of the Environment of Brazil.

I might point out that they're accompanied by Walid Khayrallah, program manager for the Center of Legislative Development, and Peg Clement, who also holds that position as a program manager at the Center for Legislative Development at the University of Albany.

So we do appreciate your presence here and we look forward to those opportunities for further exchanges, and I will have one shortly, and I would be very pleased, Mr. President, if you would extend the greetings of this Senate, all of us, to our distinguished visitors and wish them a happy stay.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Marchi.

We congratulate our guests from Brazil. We hope you enjoy your visit and hope that you bring back our best regards to your colleagues in your country.

Thank you very much and welcome.

(Applause)

Senator Markowitz.

SENATOR MARKOWITZ: Thank you very much.

ACTING PRESIDENT MARCELLINO: Read the last section -- Senator Markowitz wishes to record his vote early.

Senator Skelos.

SENATOR SKELOS: Can I have the last section read.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 91. This act shall take effect in 120 days.

ACTING PRESIDENT MARCELLINO: Senator Markowitz.

SENATOR MARKOWITZ: No.

ACTING PRESIDENT MARCELLINO: Senator Markowitz, you're recorded -- call the roll. Please. I'm sorry.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Markowitz, your vote is?

SENATOR MARKOWITZ: No. Thank you very much.

ACTING PRESIDENT MARCELLINO: His vote is in the negative. We'll withdraw the roll call now, please, and continue on.

Senator Abate.

SENATOR ABATE: Thank you, Mr. President.

On the bill.

ACTING PRESIDENT MARCELLINO: Senator Abate, on the bill.

SENATOR ABATE: I think one of the hardest policies that we have to grapple with is developing criminal justice policy. It's an area that concerns just about all of us, all our communities. We're talking about people's quality of life, their fear, their ability to live in their communities and work in their communities and raise their children in a manner where they can live and work safely, and much of our criminal justice policy is developed out of our concern for our constituents. We hear their outrage. We hear their fear. We hear their frustration, but our criminal justice policy should not just respond to outrage. We should not just do things that make us feel better. We also must do things that make us

safer, and there's a distinction.

I agree with Senator Saland that there are certain parts of this bill that make a lot of sense. Violent youth need to be punished. Many of them need to be separated. I believe that crime victims need to have a role, not just in our adult system but in Family Court. They need to have an opportunity to be heard, restitution. There are lots of things in the bill that make sense. Some don't make so much sense, but my problem is it goes half the way. It presents half the solution.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Can the conversations - please.

Thank you.

SENATOR ABATE: It presents half the solution to an enormous problem, and I agree with Senator Connor that our hope is that this bill gets amended and that it deals with the entire picture because it's not about just dealing with the violent kids that have already gotten into trouble, but we have a huge problem facing us within the next ten years. While the national population increases 12 percent, the

population of kids 15 to 19 will increase by 21 percent. That's an enormous number of kids of crime-prone age, and so, yes, we can deal with the kids today that have committed violent crimes. What are we doing for the kids in our communities that are growing up to ensure they don't enter into Family Court, don't graduate on to the adult criminal justice system and end up spending their lives in DFY facilities and jail and prison?

So while there's one half of the equation dealt with, let me deal with the other half that I hope will be resolved and addressed over time, and that we can do it in a collaborative fashion.

This bill talks about one-tenth of one percent of the monies invested in prevention and treatment. Now, everyone says, you know, the Governor is talking about treatment and prevention, but where is the real investment, and what I still contend, whether we talk about alternatives to incarceration or drug treatment, probation, everyone says they agree that these are important entities. We agree that Family Court should be resourced. To this

point, I've only heard rhetoric. I've never seen that rhetoric accompanied by real dollars and real investment.

So if we really want to go away from making us feel better and dealing with outrage, we have to do more than what this bill says. We need -- and let me give some examples -- commissions. You talk to probation. You talk to the chief judge. You talk to commissioners around this state, ATI, pretrial services, for the last 15 and 20 years, model programs have been designed around what needs to be done in terms of aftercare, alternatives to incarceration, development of intermediate sanctions.

In my prior life I developed intermediate sanctions. I've evaluated them. There's tons of information about what works and what doesn't work. What we don't need is another commission. What we need is real dollars investing in those programs and models that are out there. They need to be replicated. There shouldn't be a handful of them in a few communities. Every county of the state should have access to this money to

develop these intermediate sanctions. So no commission. Let's talk about a program bill that puts real dollars invested in these programs.

What this bill needs to add to it, and I hope Senator Saland will develop a bill and I hope you'll take some notes and maybe these will be part of the next bill, is that it's silent on the role of DFY to look at what programs are there in building skills and helping these kids stay out of trouble in the future. What are we doing to make DFY more productive and investing those programs that work? Is there enough drug treatment? Is there enough violence reduction programs? Are there enough strong education programs? Are there enough mental health programs in DFY? We need to look at that.

If we're saying if someone gets placed in DFY let's give up on them because they made a mistake, we're making a mistake because most of these kids will get to the street and return to our communities. We need to help them and in helping them, we help ourselves.

Also, one of my pet peeves -- and

this bill is silent -- we put all our resources in the back end. I'm not going to talk about what we should be doing in communities because everyone knows we need quality health care. We have to build stronger communities and churches en masse and synagogues and hope children live in communities where they can get decent employment. I'm not even going back that far, and prenatal care, et cetera.

Let's just look at the juvenile criminal justice system where we're failing. What happens to that young person when they make their first mistake and they go to Family Court? Family Court has no resources to deal with that kid. That's when we should be tough. That's where we should put the resources. Hold kids accountable. Have programs there that involve parents, involve schools, restitution, community service programs. We do nothing when a kid gets involved in Family Court because we take all our money and put it in the back end of the system and we say to that kid, you can get five, six, seven bites of the apple. We're going to wait 'til you commit the most heinous crime and we're going to be forced to put you

away for a long period of time. We need to look at early intervention programs when that kid gets in trouble, when they're at risk in the first instance. That's what we need to add to this bill.

There are 12 counties now that have a JISP program. Many judges -- and a JISP program is the Juvenile Intensive Supervision Program. If you ask the alternative to incarceration community, if you ask the probation commissioners around this state, they're saying, why can't we have a JISP program. The Family Court judges around the state are saying, we want JISP. That's a program that says they're going to supervise juveniles, juvenile delinquents and case loads of 15 to 1. We're going to do what we can because Family Court wants this intervention but there's no money in the localities to replicate this program. So a lot of kids are going to DFY for short stays, not getting the interventions they need. We're spending $80,000 a year. JISP makes sense because it teaches kids, gives them some skills, gives them self-esteem, holds their parents accountable, involves the schools, yet

we're not putting money into JISP. JISP costs about $4,000 a year in New York City. Case loads are 15 to 1. The judges love it. They have 100 people a year. Where's the money to invest in these programs? 12 counties have it. Shame on us. Why don't all 62 counties of this state have the opportunity for a Juvenile Intensive Supervision Program? This bill is silent on that.

Aftercare. If you ask John Johnson what he needs the most, he needs money for aftercare. Studies have shown, you send a kid -- it's like sending someone out of Corrections. If they're placed and they do some time and they get back on the street, they go back to the same dysfunctional life unless there are supports in that community and aftercare provides those supports. Study after study shows that kids that have aftercare services are less likely to recidivate and if they do recidivate, recidivate for less serious crimes. What are we doing with an aftercare component? This bill is silent.

Again, we talk about finding money for the back end of the system. Again,

probation reimbursement this year is cut from 32 percent to 25 percent.

I remember talking to probationers, young people on probation and asking them, why are you now staying out of trouble? Why are you willing to become productive citizens, stay in school, get off drugs, learn that you can do something with your lives, and they said because there was someone in that community, whether it was a parent, a teacher, a religious advisor, a probation officer, someone who taught them to believe in themselves and taught them how to do better for themselves. We need to build that system early on in Family Court, providing help and resources to probation, not at case loads of 200 to 1 or 100 to 1 or 150 to 1.

Do you know that there are 190 - maybe it's 180,000 people on probation out in our communities? We talk about the 70,000 people incarcerated, but if we want to talk about public safety and helping kids do better so we are, therefore, safer, why aren't we investing in probation statewide? That's why I say it's pure rhetoric until we begin to invest

in probation.

Every budget year I see more money going to prisons and I see less money going into probation, and we have to fight every year to restore those crumbs to probation. That's the difference between public safety, is when you invest not just in police but you need to invest in probation.

Drug treatment. Every budget year we cut drug treatment. Maybe we, after a long fight, restore it. Again this year $4 million is cut from drug treatment.

So we need to strengthen our response at the back end and a lot -- this bill covers that, but we need to talk about the front end, strengthening communities, strengthening Family Court, strengthening community corrections.

Police chiefs around the country, similar to the Rand study, have been surveyed and they said if we're going to deal with reducing crime in the future, we must talk about punishment but we must also talk about treatment and prevention. So the people who know crime the most who are on our front lines day in and

day out say we're not doing enough for treatment and prevention. This state and this Legislature cannot take a halfhearted approach to an issue that affects so many people and so many lives and it's one of the issues that really taints everyone's existence. We need to take a wholehearted comprehensive approach.

Senator Saland, I'm looking to you and others in this chamber for leadership so we can put a second bill that addresses some of the issues we've all talked about so we can take a comprehensive approach to crime fighting, and the last thing that I would like to say, yes, we can place and incarcerate every child at risk, but if we don't do the things around treatment and prevention, for every child that gets placed, there's two or three other in our community ready, willing and able to take another bed, ready, willing and able not to graduate on to higher levels of education but to graduate on to higher levels of detention and incarceration.

Let's be smart. Let's be tough and let's take a full view to crime fighting.

ACTING PRESIDENT MARCELLINO:

Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, some things work, I believe, and some things are rhetoric, and I support the concepts of my Minority Leader and I'm not going to go into that too much, but one of the items that is in this bill which I think works is addressing youthful offender treatment, and I want to congratulate Senator Saland over his colleagues because, while some of you are still not on board, it only took Senator Saland 19 years to catch up with me, and this is my press release from January 1977, urging that we change the way youthful offender treatment is given because I believe that if we do change that, if word gets around the street that you do not get youthful offender treatment and then that's wiped out but that those people who deserve it can get it but those people who have made their minds up they're going to live a life of crime will not get that advantage and we will start treating the second crime like a real second crime. I think that has deterrent effect when I think that kind of word gets around.

So, Senator Saland, I'm delighted that that's included since the likelihood of your colleagues putting out my bill will not come out too much.

Now, having made that point which is very significant, the next point I would like to make is that I'll stop for a minute while Senator Trunzo votes. Is that okay?

SENATOR SKELOS: Thank you, Senator Gold.

Mr. President, could you have the last section read for the purposes of Senator Trunzo voting.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Section 91. This act shall take effect in 120 days.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Trunzo, how do you vote?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MARCELLINO: Senator Trunzo should be recorded aye. We'll

record the vote.

SENATOR GOLD: Thank you.

Senator Saland, I only spoke a minute or so. I got your vote right away. Doing good. Doing good. I just want to make a point, though, about -- Senator Connor made what I thought was an astonishing point when he said that 80 percent of this problem is in seven Assembly Districts, and so I started to think to myself if I were from upstate New York, would I want to go and tell my constituents that they ought to spend a large amount of money - because, Senator, this bill is going to cost a large amount of money in prison space and in care. How do I say to them that they should spend a lot of money to make sure that people, for example, in Harlem don't get victimized by some other people who live in Harlem because, as I understand it, most crime is local and people commit crimes in the areas that they live, and here you would go around the state in upstate New York and say your pocketbook has to be emptied out in order for us to protect these poor minority people in areas of Brooklyn, in areas of New York; but you start to understand

what this bill is.

This bill is a jobs bill. That's what it is. This bill is going to cost money, but the theory of this bill is that the money will be spent in upstate New York where we can build jails and have jobs rather than spend that money in the city of New York or other places where we could be doing prevention, and the proof of the pudding is the testimony of the head of Division for Youth at our budget hearings, and Senator Stafford was there and many of the members of this house were at the hearing, and we were told that it's costing $80,000 a year -- that's not my number - $80,000 a year for the Division for Youth to take care of and house someone who has gone astray and someone who is in their charge, and I assume that $80,000 is being spent where the facility is and a lot of this is in upstate New York.

I'm suggesting to you that the proposals that were made by Senator Connor, the suggestion, the overall philosophy does not cost money more than this bill, and I know there's a cry out there. It's a popular political cry.

Take a problem, give it to a liberal, they'll throw money at it.

Well, our proposals are not throwing new money. What we're suggesting is instead of spending your money on the jails where you're spending, according to your Division for Youth head, $80,000 per person per year, that you spend that money to see that it never gets there because, as I've indicated - if you make a motion in the courts, a clerk touches the paper, another clerk touches the paper. If a crime is committed, it is expensive not only to the victim; it's expensive to the entire system and the constituencies throughout the state, through their tax dollars, are supporting that system even though you may not be the direct victim that day.

So, Senator Saland, as one of your admirers, I'm glad the bill is out. I'm glad it has the youthful offender piece. If it doesn't pass, I'll give you the bill number I've got in. There are a lot of other things in this bill which really open up a good debate on an issue that we should be discussing and with that in mind, let's just put it where it's at.

This bill is really a budget bill, in my opinion, that suggests a method of spending money to take care of a huge problem. As long as you're going to talk about spending that money, I think the proposals by Senator Connor and Senator Abate and others deserve similar consideration.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 91. This act shall take effect in 120 days.

SENATOR PATERSON: Slow roll call.

ACTING PRESIDENT MARCELLINO: Slow roll call. Do we have five Senators standing?

The Secretary will call the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: Yes.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator Bruno.

(There was no response.)

Senator Connor.

(There was no response.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: To explain my vote, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Mr. President, I'll be brief. I'm going to vote yes on this bill, but I'm exceptionally cognizant of the comments of my colleagues who have said that juveniles in this state can rightfully look at us with some skepticism when all they hear us say is we're going to punish you, punish you, punish you, but we're not going to give them the support necessary to make the transition from a child to an adult, and it seems to me -- I hope that the debate will now shift if this passes

and some day becomes law to look to a point where we'll actually take our children, recognize them as our investment in the future and make the investment to stabilize their lives so that the temptation of crime will not exist.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: He voted aye.

THE SECRETARY: Senator Farley.

(There was no response.)

Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Yes.

THE SECRETARY: Senator Gonzalez, excused.

Senator Goodman.

(There was no response.)

Senator Hannon, excused.

Senator Hoffmann.

SENATOR HOFFMANN: Aye.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.
SENATOR KRUGER: Yes.
THE SECRETARY: Senator Kuhl.
(There was no response.)
Senator Lachman.
SENATOR LACHMAN: Yes.
THE SECRETARY: Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
(There was no response.)
Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Aye.
THE SECRETARY: Senator Marchi.

(There was no response.)

Senator Markowitz voting in the negative earlier today.

Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Aye.

THE SECRETARY: Senator Mendez, excused.

Senator Montgomery.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to explain my vote. I have an article from the New York Times, Mr. President, from Monday, February 4, and it talks about police -- former police officers who retire and then decide that they're going to become teachers in the public education system in New York City, and there's a couple of paragraphs that I would like to read that describes an experience of a particular police officer, which I think is quite revealing.

It says "A couple of months ago Mr. Giles" -- and I'm probably mispronouncing

his name -- "said an 18-year-old student who had recently missed a lot of school began screaming at another teenager and then started fighting with a dean. The teacher started talking to him steadily but softly. His years of scrutinizing witnesses and suspects told him there was a way to get behind the boy's anger. I said, 'Where have you been', Mr. Giles said. 'I kept asking questions and suddenly I heard the crack in his voice. He broke down and started to cry. He had been thrown out of his house'", end of quote, from the article.

I think that -- I am very, very pleased with the eloquence of the way that my colleague, Senator Abate, has explained the issue, particularly as it relates to the implications of changes in the system that we do need to make.

I want to point out to my colleagues that in the last -- this last week - or I believe it was perhaps on Monday we had before us three bills which I call weapons proliferation bills. I believe they all passed this Legislature and hopefully they won't pass the Assembly, but they did pass in this house.

We know that we have a 50 percent reduction in spending for the Board of Education for at-risk youth funding. We do not have in our high schools funding that allows the school to offer crisis intervention for young people who are in trouble. We do not have in our communities facilities such as community justice centers and community courts which I have had teenagers ask me for because they have a need to have some immediate attention paid to certain issues that they run into as young people.

I have in certain parts of my district an over 70 percent youth unemployment rate. We do not have early intervention programs that are in place as a permanent part of our system to address the issues related to what young people -- the problems that young people get into.

About 20 years ago there was a study of California youth which showed a direct correlation between young people in foster care and people who end up incarcerated in their state prisons.

I have in front of me from our Commissioner of Corrections where most of the

prisoners, the inmates come from in the state of New York and 68 percent of them come from New York City, and we know that this state has not invested 68 percent of funding as it relates to the criminal justice system to address those districts where these people are coming from.

So I am voting against this legislation. I think that it sends a message that we are very much ready to punish young people, to increase the number of years that we will incarcerate them for whatever they do, including assaulting a police officer, and that's a charge that every young African American male that I have ever spoken to who's ever been arrested has on their record, and we're willing to incarcerate them longer and longer periods of time for lesser and lesser crimes and we're not willing to invest $2 million.

I need $5 million to upgrade a YWCA in my district, Senator Saland, that I would be happy to work with you to get money to do that because it serves young people in my district and there are a number of other facilities, and I also need more than $2

million, for sure, in my own district to develop a facility for young people so that they can remain out of trouble.

So as long as we have that kind of commitment that we will put millions and millions -- we're talking about in 2002 -- 2002 -- it's right here from Mr. Shechtman himself -- Commissioner Goord, in 2002 we will be spending $2 billion a year on a system that incarcerates people and we will -- and the Governor is boasting about $2 million that he is willing to put into facilities for young people.

So I cannot vote for this bill. I think it is an abomination and certainly I believe you are waiting for the young people from my district to fill up those prisons, and I vote no.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Mr. President, to explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Nanula, to explain his vote.

SENATOR NANULA: I'm going to be

voting for this measure today because, quite frankly, I feel unfortunately in many of these instances it's too late. It's too late to save a young person who has turned to violent crime or other types of crime of the nature that this bill is addressing, but I think it's important as a body. I think it's important as a government, as a Legislature that we look at the reasons why and that we don't just dismiss this as a solution.

This is not the solution. Things that have been discussed today, my colleague, Senator Abate and others, the types of things that were brought up during this debate, in my opinion, are incumbent upon us to spend more time and more energy, and if we can develop the kind of sensitivity to searching for the reasons why young people are turning to this kind of violent crime, as much as we have been sensitive to this bill and looking at ways in which we can further incarcerate them, hopefully together we can find some solutions so that these tougher penalties won't have to be implemented moving forward into the future.

Thank you.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I agree with some of my colleagues here. I'm going to be voting for the bill but, as I have often said, if we could intervene in the lives of these children when they are young, very young, with programs like Pre-K where we can take advantage of their youth, see that they get in a better track than they are starting off on, if we could offer more in prevention, in education, I think we could see a turn-about in the statistics that we are now looking at, but in recognition that the problem is there and these children are now in their teens and late teens,

I feel I have to support the bill, but I think there is so much more that can be done and should be done in society that has the wealth to do the right job.

I'll be voting yes.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Sampson, to explain his vote.

SENATOR SAMPSON: I believe, my

colleagues, that we should be tough on juveniles, but I think this is a bad bill. I think it just concentrates on the issue of punishing, not about early intervention or not about prevention.

As my colleague, Senator Gold, said, this is basically a budget bill. It talks about -- it's telling our children that we are investing in prison systems, but we are not willing to invest in their education.

I also believe that, as Senator Saland said, the Governor's willing to put his money where his mouth is, approaching 2.5 million -- $2.5 million in alternatives. However, he's willing to build -- he's calling for an additional $200 million increase to build state-of-the-art prison facilities. What about state-of-the- art education facilities? What about helping our children to get wired to the Internet? This is something that we're going in the wrong direction on this and, don't worry, come the year 2000 we will be spending a lot more money than what we are willing to spend today, especially for early intervention and education.

Thank you. I vote no.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: Yes.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: To explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Seabrook, to explain his vote.

SENATOR SEABROOK: I think that it is very interesting here that we're now looking at the adults just losing their minds, and I say that because in this bill it is interesting that there was a purpose and a reason why we had different rules for children and while we call them children and why we call people adults.

I think that this bill is unfair and the kids are really going to see just how insane we are because this bill refers to children. Read the bill. It constantly talks about the child and children, and all the kids are asking for is to be fair.

If you want them tried as adults,

then be fair. Let them have a jury trial as you have adults have jury trials. Be fair. Let them be able to maneuver the system as adults.

The one thing we as adults have done in this state is never treated them as children. So we have allowed them to just be adults because we've never provided them with anything that would allow them to be children. We've decided to spend more money on the back end of the problem than the front end of the problem and we spent more monies on incarcerating children than we do adults.

If we're going to talk about providing a sense of punishment equally across the board, then we should treat everybody fairly, but we're asking the kids to do more than we allow ourselves as adults. We're supposed to be the responsible ones and we're saying, I want you now to be a grown-up at the age of 12. I don't even want you to even think about being a kid because we spend $82,000 to incarcerate you and we spend less than $8200 to educate you. Don't be a child.

So we should say it in the bill. In the bill, it specifically constantly talks

about the child and we have yet to treat them as the child. Obviously there was a reason to create a court that deals with children and a court that deals with adults.

Now, it might be a good, sound publicity hit to say that we're going to be tough on these kids, but if we made it equal and kids messed up and they went to jail, fine, but be fair to them. Give them a shot at the criminal justice system like we give every adult, but we haven't been fair. Treat them as children. Provide them with day care. Then when they screw up, provide them an early childhood education. Just let them be a kid. Let them grow up and if they screw up, there's a reason why we said they are children and we keep referring to it in the bill, "the child", "the child", but now we want to treat them as adults. We should say to those young adults, stop calling them children in the bill. Stop calling them "the child" in the bill, and I think that that would be the issue.

So let's go across the board. Everything that you provide an adult when he goes to jail, provide it to the children and

then we will truly believe in that, and one thing we must learn and understand is that we will never, ever build out of this problem. We thought we could do that in 1984 when there was less than 30,000 people incarcerated in the state of New York. You'll never build out of this problem until we decide to tackle it in on the basis that we believe in an educational system that will produce productive individuals in our society, that we will truly talk about solving the problems of crime and juvenile justice, but we have yet to do that when we sit back and see that we give more monies to programs that does nothing for children that solve the problem for adults.

Adults can't get no tax breaks - I mean, children can't get tax breaks in this state but adults can get tax breaks. Businesses get tax breaks. The kids don't get any break.

So I am saying that we have to be fair and treat them as children. Every child should be treated as a child first and we will have juvenile delinquents on the back end. There was a reason when people who had the wisdom to say that there's a difference between

a child and an adult and it still stands, if there is such a thing as a mother and a father.

So on this legislation, until we begin to be fair and treat children as children and adults should be more responsible and stop acting like children, then I think that I would be in support of this bill.

Unfortunately, this bill is unfair to children, and I vote no.

ACTING PRESIDENT MARCELLINO: Continue the roll call.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Aye.

THE SECRETARY: Senator Stafford.

(There was no response. )

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Mr. President, there is a lack of consistency between what the bill says and what the memo says. The bill was introduced on February 6th, 1997 at the request of the Governor. It's only a few days later and the bill makes no recognition of what is con tained in the memo.

I believe in having the substantive committee make the first decision, but the memo very clearly states that the extended placement provisions may impose additional costs on the Division for Youth and the need for the dispositional service plan will add to the case loads of local probation departments.

So this is a budget implication, but there is no budget implication from the Senate Finance Committee. The Senate Finance Committee should have had this bill after it came out of the substantive committee and we should see what the full fiscal implications of the measure amount to.

Why wasn't that done? Why weren't the members of the Finance Committee of this chamber given the opportunity to fill in the

missing information as to what the implications are? So you read the bill, no reference. You read the memo, and there is an acknowledgement that there is a major fiscal implication.

We are not leaving Albany forever. We're going to be here for a sufficient number of weeks, and I think that on something which implies in the memo that there are fiscal implications for the state and localities, we should have the courtesy of referring a measure such as this to the Senate Finance Committee. I know the Governor has made a request, but it doesn't mean that we have to jump every time the Governor makes a request. We should be prepared to know what we're voting on, to know what the cost of what we're voting on really is.

Nevertheless, with that omission which is a serious one, I'm going to vote for the bill, but I'm going to suggest that, in the future, legislation having a price tag of this sort and acknowledged as a price tag in the memo, should go to the Senate Finance Committee after the substantive committee has rendered its verdict.

I vote aye.

ACTING PRESIDENT MARCELLINO: Continue the roll call.

THE SECRETARY: Senator Trunzo voting in the affirmative earlier today.

Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

ACTING PRESIDENT MARCELLINO: Thumbs up.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Aye.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: To explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Waldon, to explain his vote.

SENATOR WALDON: Thank you, Mr. President, and my colleagues.

Earlier, and I will paraphrase, when I read from the Bible I read something like, when I was a child I spake as a child, I acted like a child, but now that I'm an adult I have put away childish things, which means that I will act as a responsible adult even though in

this chamber, in this great legislative chamber imbued with the history and the challenges and the accomplishments of the Senators who have preceded us, who I hope thought better about issues of such substantive importance than we are today regarding this particular issue.

I see that this bill will be passed in this house and so my voice is but a lonely voice, but I am not intimidated by the fact that I may be only one of a few voices because I believe totally, absolutely and unequivocally that I am right on this issue and one day, if I live long enough or one day that my son or my grandson lives long enough, they will see that we did the righteous thing in this place.

I would think that, if you have a child, you must give that child not three strikes and you're in or three strikes and you're out. You must give that child a second chance, but more importantly than the second chance is the first chance, and so you address the needs of the SURR schools, you address the needs of the Assembly Districts which are falling down on the heads of the children,

clutching them and suffocating them with too much disparity and too much despair.

If you're going to be right and righteous in this house, you will say to the children, you have a God-given right to an education, a meaningful education, and though you are from a dysfunctional family, a single parent head of household family, we the people of the state will embrace you and love you and ensure that you can one day be a productive citizen because as the alternative, my colleagues, my friends, is that if we don't do that, then this child will come back and create havoc for our lives, will ruin our neighborhoods, will kill our parents, will kill our children.

So what we do here with these words that we throw around and bandy around so easily because we're bright and intelligent and sometimes do things sub rosa and subversively in terms of addressing the issue which is to help the children, help themselves to help us to have a better society.

Let me leave you with the words of someone far brighter than myself, far more

intelligent and incisive than myself, but I think as the jargon of the street says, "on the money". Her name was Hanna Arendt and she said, and I close and I vote no, Mr. President: No punishment has ever possessed enough power of deterrence to prevent the commission of crimes. On the contrary, whatever the punishment, once a specific crime has appeared for the first time, its recurrence is more likely than its initial emergence could have been.

Thank you.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MARCELLINO: May we call the roll of absentees on the first round?

THE SECRETARY: Senator Farley.

(There was no response. )

Senator Goodman.

(There was no response. )

Senator Kuhl.

(There was no response. )

Senator Leichter.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Leichter, do you wish to explain your vote?

SENATOR LEICHTER: To explain my vote. I think this bill gets an A+ on political appeal. I think it gets an F for dealing with the problem of juvenile violence and juvenile crimes. I reject the thesis of this bill which is to apply the lash. This is a punitive bill and it's a bill by which this chamber, in a sense, washes its hands of the problem.

I don't think it's the children who have failed. I think it's the Legislature, it's the Governor, it's the government which has failed. We have families, unfortunately a large number of them, that are dysfunctional. We have neighborhoods that don't work. Much of that problem is due to the failure on our part to provide the programs, the support, the services.

The idea that you're going to take a child who comes from one of these dysfunctional families in a neighborhood that

doesn't work and, just by the threat of greater punishment, you're going to materially change his or her behavior is, I think, just fool hardy.

We may be able to go out with this bill and brag that we've done something about juvenile violence. We've done nothing about juvenile violence. We've perpetrated the continued threat to our society by a growing number of violent people, many of them juveniles.

Mr. President, I'm -- I'm very sorry to see this sort of approach, and I'm very sorry to see that we can in this respect avoid our responsibility of really providing the sort of services and programs that will keep young people from becoming a threat to society, from becoming asocial people.

I vote in the negative.

ACTING PRESIDENT MARCELLINO: Continue the roll call.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

ACTING PRESIDENT MARCELLINO: Announce the results, please.

THE SECRETARY: Ayes 47, nays 8.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, that concludes the reading of the controversial calendar.

SENATOR SKELOS: Mr. President, I believe there's a privileged resolution at the desk by Senator Bruno. I ask that the title be read and that it would be adopted.

ACTING PRESIDENT MARCELLINO: Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution, commending the New York Chiropractic Council upon the occasion of its sponsorship of the Sixth Annual H.O.P.E. Day, Help Other People Eat, February 14th, 1997.

ACTING PRESIDENT MARCELLINO: Question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: May we return to the reports of standing committees, Senator Skelos. We have a report of the Agriculture Committee. Secretary will read.

THE SECRETARY: Senator Kuhl, from the Committee on Agriculture, offers up the following bills:

Senate Print 545, by Senator Kuhl, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law;

546, by Senator Kuhl, an act to amend the Agriculture and Markets Law, in relation to the producer referendum;

719, by Senator Cook, an act to amend the Agriculture and Markets Law, in relation to examination of horses.

All bills directly for third reading.

ACTING PRESIDENT MARCELLINO: Without objection, all bills are to be directed to third reading.

Earlier in the statement we

neglected to call for reports of select committees and communications and reports from state officers.

Senator Skelos.

SENATOR SKELOS: In behalf of Senator Bruno, there being no further business, I move we adjourn until Monday, February 24th, at 3:00 p.m., intervening days being legislative days, and may those intervening days be enjoyable days.

ACTING PRESIDENT MARCELLINO: Thank you.

On motion, the Senate stands adjourned until Monday, February 24th at 3:00 p.m., intervening days to be very enjoyable legislative days. Senate is adjourned.

(Whereupon at 12:11 p.m., the Senate adjourned. )