ALBANY, NEW YORK

February 26, 1997

11:04 a.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would everyone please rise and join me in the Pledge of Allegiance.

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

The invocation today will be given by Reverend Finley Schaef. He is the Pastor of the Park Slop United Methodist Church in Brooklyn. Reverend Schaef.

REVEREND FINLEY SCHAEF: Thank you. The ethical and moral part of Christianity and Judaism can be found in the few sentences in the book of Luke, the 4th Chapter, where Jesus said, The Spirit of the Lord is upon me and has anointed me. I am sent to bring good news to the poor, to set at liberty the oppressed, to release the prisoners and to proclaim the acceptable year of the Lord.

He spoke these words in the Synagogue in his home town of Nazareth, and he was quoting the Hebrew Prophet Isaiah. So it is the vision of both Judaism and Christianity.

Let us pray.

We thank You, dear God, that we

are brought together, that we have responsibilities for the welfare of all. We pray that we may have the wisdom to take these words of Jesus and Isaiah, translate them into a compassionate politics, so that we may bring good news to the poor, to those on welfare; to set at liberty the oppressed and to release prisoners rather than to build more prisons, and to proclaim the acceptable year of the Lord which is to re-distribute wealth. We ask in the name of both Jesus and Isaiah. Amen.

THE PRESIDENT: Amen.

The reading of the Journal, please.

THE SECRETARY: In Senate, Tuesday, February 25th. The Senate met pursuant to adjournment. The Journal of Monday, February 24th, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: 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.

THE SECRETARY: Senator Marchi, from the Committee on Corporations, Authorities and Commissions, reports the following bills:

Senate Print 476, by Senator Skelos, an act to amend the General Business Corporation Law;

785, by Senator Cook, an act to amend the New York State Urban Development Corporation Act and the Omnibus Economic Development Act of 1987;

Senate Print 786, by Senator Cook, an act to amend the Facilities Development Corporation Act;

Senate Print 2592, by Senator Marchi, an act to amend the Public Authorities Law, the Tax Law, the New York State Financial Emergency Act for the city of New York and the Administrative Code of the city of New York.

All bills ordered direct for third reading.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Specifically on behalf of Senator Johnson, Senate Number 1480.

ACTING PRESIDENT KUHL: So ordered.

Senator Skelos, we have one substitution we'd like to take up at this time.

SENATOR SKELOS: Make the substitution.

ACTING PRESIDENT KUHL: Secretary will read the substitution.

THE SECRETARY: Senator Hoffmann moves to discharge from the Committee on Education Assembly Bill Number 2462 and substitute it for the identical Third Reading Calendar 207.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Skelos, that brings us to the calendar.

SENATOR SKELOS: Mr. President, at this time may we please take up Senate 2592, Calendar 226, which has been reported from the Corporations Committee.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 226, by Senator Marchi, Senate Print 2592, an act to amend the Public Authorities Law, the Tax Law, the New York State Financial Emergency Act for the city of New York and the Administrative Code of the city of New York.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could have a reading of the non-controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the non-controversial calendar.

THE SECRETARY: Calendar Number 1, by Senator Levy, Senate Print 68, an act to amend the Executive Law and the Estates, Powers and Trusts Law.

SENATOR SKELOS: Will you lay that aside for the day at the request of the sponsor.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 51, by Senator Stafford, Senate Print 126, an act to amend the Highway Law, in relation to prohibiting abandonment.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 77, by Senator Marchi, Senate Print 506, an act

to amend the Education Law, in relation to establishing a Staten Island borough.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 100, by Senator Present, Senate Print 539, an act to amend the Criminal Procedure Law, in relation to eligibility for youthful offender status.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 157, by Senator Levy, Senate Print 916, an act to amend the Vehicle and Traffic Law, in relation to establishing an advisory committee

on truck weights.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 158, by Senator Velella, Senate Print 1387, an act to amend the Vehicle and Traffic Law, in relation to partitions and shields in taxicabs.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Chapter 550.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 162, by Senator Marcellino, Senate Print 1388, an act to amend the Environmental Conservation Law, in relation to exemptions for hazardous packaging.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 166, by Senator Larkin, Senate Print 463, an act to amend the Education Law, in relation to expanding student aid programs for Vietnam and Persian Gulf veterans.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR STACHOWSKI: Mr. President.

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

SENATOR STACHOWSKI: Is Calendar 158 still in the house?

ACTING PRESIDENT KUHL: 158 still in the house? Yes, it is, Senator.

SENATOR STACHOWSKI: Would you - how do you do it? Motion to reconsider the vote.

ACTING PRESIDENT KUHL: A motion to reconsider the vote by which Calendar Number 158, Senate Print 1997, I believe -- excuse me, 1387 passed the house. Secretary will call the roll on -- or, excuse me, read the title.

THE SECRETARY: Calendar Number 158, by Senator Velella, Senate Print 1387, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT KUHL: Secretary will continue to read the non-controversial calendar.

THE SECRETARY: Calendar Number 168, by Senator Kuhl, Senate Print 546, an act to amend the Agriculture and Markets Law, in relation to producer referendum under the Rogers-Allen law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 169, by Senator Cook, Senate Print 719, an act to amend the Agriculture and Markets Law, in relation to examination of horses for equine infectious anemia.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 173, by Senator Larkin.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 207, substituted earlier today, by member of the Assembly Magee, Assembly Print 2462.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Skelos, that completes the reading of the non-controversial calendar.

SENATOR SKELOS: If we could take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar beginning with Calendar Number 51, Senate Print 126, by Senator Stafford.

THE SECRETARY: Calendar Number 51, by Senator Stafford, Senate Print 126, an act to amend the Highway Law.

SENATOR SKELOS: Lay aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 77, by Senator Marchi, Senate Print 506, an act to amend the Education Law, in relation to establishment of a Staten Island Borough School District.

ACTING PRESIDENT KUHL: Senator Stavisky.

SENATOR STAVISKY: May we have an explanation of the bill?

ACTING PRESIDENT KUHL: Senator

Marchi, an explanation of Calendar Number 77, Senate Print 506, has been requested by Senator Stavisky.

SENATOR MARCHI: Mr. President, this is -- this bill is virtually identical with one that we passed last year.

SENATOR GOLD: A clone?

SENATOR MARCHI: Pardon?

SENATOR GOLD: Is it a clone?

SENATOR MARCHI: It's a clone, despite my protestations.

And this would establish a quasi independent board in the county of Richmond. The county of Richmond is totally -- the school district is co-terminous with the county. All of Staten Island is District 31. The school population is something between 30- and 40,000, and it is not that dissimilar from virtually any other district throughout the state in terms of size, and perhaps it's a little larger than many.

We have had fairly good even ten ored performance in Staten Island of this board and so it is only natural, I think, that they - they are looking forward to continuing that

system, not with any disparagement for what's going on in the rest of the city.

The chancellor is making and exercising a Herculean effort to address some very serious problems, and he certainly has our full support and good will on that.

We are singularly blessed, I think, in the county of Richmond in the fact that even though it might have been a little more profitable if we had split up into two districts, the feeling there was to keep it under one district. It provides among other - this board would elect its membership in the November election, and it would do it on the basis -- my plan had been to have it on a cumulative vote basis, but that is not possible because of the limitations that our present machines have. As a matter of fact, I had correspondence with Lani Guinier on that very subject, because that is -- that is the objective that we were looking for, but it is not available to us by reason of the limitation on the machines.

The superintendent of that district would come by criteria developed by the

Commissioner of Education of this state, and he would be elected by the board, but he would have to have the approval and consent of the -- of the Commissioner of Education of the state of New York; and also those who exercise supervisory capacity would have that same limitation affecting it.

The four-year -- we have four-year terms for the board members. As I say, we have not had the usual run of problems that -- that have beset other communities, and the operation of a board that would be responsible given the ideal circumstances, I think, establishes a kind of yardstick which can be used for comparison purposes by other districts, and at least to -- where there is a board of education, popularly elected, that's formulating policy, the employer would continue to be the city of New York. All contractual labor agreements would be -- would apply, and we would function under that same auspices, and the -- the four-year term, we would have that election on the same day in November in which the New York City Mayor and City Council are elected. Each voter would be eligible to vote

for three candidates.

So Staten Island has a good record, notwithstanding the demographics. We have had consistently, without interruption under the old system, a good representation of minority elected members in the Staten Island board, and this singularly salutory performance on the part of Staten Island ensures that it will -- it will certainly be observed in future elections.

I strongly suggest to my members who might be a little troubled that we're a little different in desiring the continuation of what the rest of the state -- the rest of the state has this, virtually -- virtually every, outside the city of New York, it -- except that we would continue to be fiscally dependent and the fiscal dependency would be a process of appropriation. It would change nothing with respect to that.

So I -- we have a yardstick here that I think would be salutory and it would be observed in the way they perform and -- and as the situation improves and normalizes throughout the rest of the city they may be attracted to do

it the same way. The city take emergency measures and, as I say, I acknowledge the fact that Herculean task of what's being assumed by the chancellor. I certainly wish him well, but this, I think, is a complementary accompaniment of school governance in the city of New York where it is utterly and totally feasible given the percentage of people that could participate even under the present system of election -

SENATOR GOODMAN: Mr. President.

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

SENATOR GOODMAN: It's impossible to hear the speaker.

ACTING PRESIDENT KUHL: I was just noticing the same thing. Can we have a little order in the house, please. Members please take their seats, staff please take their seats. We hate to have to remove the staff this early in the session.

SENATOR MARCHI: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Thank you, Senator Marchi. Sorry for the interruption.

SENATOR MARCHI: We would establish a financial officer. The qualifications would be set up by the Commissioner of Education, and it would have to be supported by the board and the nominee and the consent again of the Commissioner of Education, so that I -- we have addressed in a very careful manner, I think, all of the aspects that would characterize a separate district.

So I believe that this board which is earnestly desired in Staten Island, very -- there's scarcely a dissenting voice anywhere in the county -- I haven't heard any dissenting voice. I've only heard full -- full support and approval of this proposal, that it be given a fair trial, and I -- I think that the entire City would benefit by having this yardstick and the people of Staten Island, I think, given the prologue that is represented by its present performance ensures that it will expand and enhance the school board system of education which is that which, in fact, most of you have experienced throughout the state, an opportunity to operate on Staten Island.

ACTING PRESIDENT KUHL: Senator

Stavisky, did you wish to continue to be recognized?

SENATOR STAVISKY: Yes.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stavisky.

SENATOR STAVISKY: Mr. President, I say this with profound respect for the sponsor of this legislation who has labored for many years in the field of education and has always been constructive in the way in which he approaches such issues.

Nevertheless, unlike the original borough board plan which was to apply to all of the districts and all of the counties in New York City, this does not have a parallel situation with regard to any other county. You have here a borough board in Staten Island but in no other county. You have powers that are given to this borough board at the same time that powers are retained by the Central Board of Education, and I believe that the objective is a separate Staten Island school district and perhaps a separate Staten Island, which may be the ultimate objective.

We cannot have a situation where

in individuals are subject to differences in the standards by which they are elected or served from county to county, borough to borough. If you want secession for Staten Island, then that's a different situation, but I don't believe secession was a great idea in 1860 and it has not improved with age.

Under the circumstances, because there is a commingling of functions that, in the rest of the city and the rest of the school districts, would be reserved by the Central Board of Education but here would be given to the borough board, and the inconsistency between the election here, the powers that are granted here to the Staten Island borough board and the powers that are not granted to school districts anywhere else in the state, I think under these circumstances, this limited bill poses a problem and does not merit the support of all the members of the chamber.

I would like very much, Senator Marchi, to be able to support a program that you would wish to see, but this does not necessarily fall within that category. It's a special bill with special provisions for Staten Island that

would exist nowhere else in the city of New York, in the Bronx, in Manhattan, in Queens, in Brooklyn. They do not have under your bill anything comparable, and I believe that you may wish to reconsider the implications of having a semi-secession by one borough and one borough's school board in comparison with what is needed to reform the system as a whole.

You have purchases that are being made by this borough board that are not necessarily the same as the purchases that are made by the Central Board of Education. You may have personnel decisions that are made by this borough board that are not commensurate with the personnel decisions that exist anywhere else in the New York City School District. You may have agreements that are worked out by this borough board that put them at variance with regard to the opportunities that are available to teachers and others elsewhere in the City.

If you want to do a five-borough board situation, that's a different approach, but that does not exist in your legislation. Because of the separatism, I believe that not all the members of this session -- of this

Legislature, as supportive as we are of your goal, should automatically vote for your bill.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gentile.

SENATOR GENTILE: Mr. President, on the bill. I rise in support of the bill put forth by my colleague, my friend and my partner on Staten Island, Senator Marchi.

What better place to try this experiment than in the smallest borough of New York City, Staten Island? In the other boroughs, there are multiple school board districts. Staten Island, as Senator Marchi has pointed out, has only one school district. So what better place to try this experiment than on the -- on Staten Island?

You know, it is -- we've had this new law reforming the school boards that had just passed the end of last year, but you know, that law is not responsive to the needs of the Staten Island School District. Indeed, that new law corrected some of the improprieties that we found in the other school districts around the city. Staten Island did not have those problems so, in effect, Staten Island has been penalized

by much of what's gone on in the new legislation. In fact, it's not responsive to some of the things that Staten Island most needs.

For example, only yesterday - only yesterday I had faculty members from P.S. 41 on Staten Island in my office pleading with me over the growth in the student population and the need for new schools on Staten Island that is not being addressed by the central board of education.

They have asked for our leadership in creating some kind of proposal so that we can address those specific issues in Staten Island. That is what this legislation can do if we pass it.

Now, for those of you who might say this is only a precursor to a secession bill on Staten Island, well, in fact this may be a precursor to a secession bill for Staten Island if we do not recognize the special needs of Staten Island.

You know, Staten Island has for too long been overlooked by New York City in trying -- in their governance structure.

They've been overburdened in New York City with the dump -- and I don't ascribe to the euphemism that some of my colleagues use and call it a landfill. I call it a dump. And so I say, if we don't recognize the special needs of Staten Islanders, then indeed this may be a precursor to a secession bill.

But -- so I support Senator Marchi's bill and ask my colleagues on both sides of the aisle to let us show -- let us show that we care about Staten Islanders. Let us show that we care and have the competence - that Staten Islanders have the ability to run their own school district. Let us pass this bill.

Thank you.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes, Mr. President. As I've often said on this floor, I have a unique perspective on Staten Island bills having once upon a time been privileged for ten years to represent part of Staten Island. Since I have not represented Staten Island, I must

confess my attention has strayed elsewhere despite the eloquent advocacies over these past couple years by Senator Marchi, and I did change my mind about certainly some Staten Island issues like one-way tolls that I once supported, and today I'm here to announce another change of mind, frankly.

Two years ago, I voted against this bill. I'll have to admit I guess I wasn't paying close attention to what Senator Marchi said at the time, certainly not out of any lack of respect for his views, but I guess my attention was elsewhere.

Well, something happened, Mr. President, this year. Someone got my attention. One of the newer members of this chamber, Senator Gentile, came to me and reminded me of that unique situation Staten Islanders find themselves in, the smallest borough, the island borough, the borough that can brag of a green belt, the borough that can in fact, if they got their way I suppose, be the second largest city in the state, and the fact that Staten Island is a community school district all in and of itself and has been, and

after the discussion with Senator Gentile, I have to say, Mr. President, I've changed my mind once again. Call me fickle, if you will, but I think the people of Staten Island make a good case for this bill, and I intend to support it.

Thank you, Mr. President.

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

SENATOR MARCHI: An embarrassment of riches here. Senator, that was a masterful presentation, Senator, and the accretion to our forces here is certainly impressive. I have unbounded respect for Senator Stavisky. We did offer, however -

ACTING PRESIDENT KUHL: Senator Marchi, Senator Marchi. Excuse me just a minute. Senator Marchi. Excuse me just a minute. It's getting noisy again. Could the Senators please take their seats. If they have conversations, take them out of the chamber. Serious debate going on, would like to hear it. Thank you for the interruption.

Senator Marchi.

SENATOR MARCHI: Thank you again,

Mr. President.

I certainly yield to nobody -- to no one in my respect for Senator Stavisky and what he has meant back many, many years in the field of education as well as other matters.

We did offer, of course, and force majeure in the other areas of policy developed, that this was the only solution that ought to be brought into play given the present circumstances. I respect it, I yield to it but, on the other hand, this is an opportunity to - to have side by side at least an exemplar of the traditional mode of doing it.

And so I have no quarrel with you, sir, as I say I had originally offered this, but this was not -- not to be. So I again am delighted at the turn of events, and it would appear that perhaps in this house at least we will have support for this bill, and I hope that since in the field of education -- secession is something else; that is still a cherished dream, but there are circumstances that have impeded its consideration.

There are no similar reservations on -- in the field of education where the

Legislature obviously has the final say on -- in these matters, so I would hope that as many members convey the feeling that we can reflect back to Staten Island that there is considerable support in this house for the proposal that has been advanced here this morning.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the bill? Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 77 are Senators Abate, Goodman, Kruger, Lachman, Leichter, Nanula, Oppenheimer, Santiago and Stavisky. Ayes -- also Senator Seabrook. Ayes 48, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time would you call up Calendar Number 51, Senate 126, by Senator Stafford.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 51, by Senator Stafford, Senate Print 126, an act to amend the Highway Law, in relation to prohibiting abandonment of Crane Pond Road.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of Calendar Number 51 has been requested.

SENATOR STAFFORD: Mr. President, this will be the first time we've discussed Crane Pond since Senator Oppenheimer has the seat that she has chosen for this legislative two years, but we always have a visit, and this will make it easier because I had trouble hearing when she was in her previous seat.

I will not -- try not to be light about this, because a number of us feel very strongly about it. On the other hand, all you'd have to do is take out and read the debate from 5-15-91, 3-27-92, 5-11-94, 1-30-95, 2-12-96, and

you would hear what we are talking about.

Without being light but trying to keep our sense of humor, let me explain something here. This is a road that's been maintained by the town. It goes through the Pharaoh Mountain area. The powers that be in the Department, a number of years ago, called this a wilderness area.

My friends, I have stood there and you hear the cars on the Northway. If that's a wilderness area, then I'm missing something. It isn't, my friend. We passed a bill. The argument is going to be made, let's look at the overall plan. This is serious enough for the people who want to use this area, such as the physically challenged, elderly and the very young will be not able to enjoy this area as they do now.

The town maintains it. It's a beautiful area; it's a public area. I respectfully submit that a mistake was made calling this a wilderness area and, therefore, I rise again to support this legislation.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: It wouldn't be a session if we weren't discussing Crane Pond, and I understand what Senator Stafford says, and I appreciate it, but there's another side to this which I would like to present, and that is that the state land master plan was created to preserve wilderness areas.

There is within that plan a revision process which includes public hearings, and it occurs every five years. In the 1970s, there were 12 to 15 wilderness areas that were designated in the Adirondacks, and Pharaoh Lake wilderness area, in which this Crane Pond Road is, is one of those areas.

In that area we have seen considerable degradation and litter due to the influence of people coming into an area that is supposed to be a wilderness area, and so in 1987 the Crane Pond Road -- and that's not so long ago -- was designated specifically, officially for closure, and barriers were put up and within a brief period of time barriers were taken down by the local people.

We know many instances where localities have not been pleased with things

that have been placed within their environs but the fact is we have law here, and the town of Schroon, they did pursue legal efforts and they were effectively halted when the state Court of Appeals upheld the state land master plan. So they have gone to court, they have tried to pursue this through the normal process which is this five-year review, and they have not been successful. So obviously there is a state plan that says that there are areas where local citizens may not agree, but it is in the interest of the state.

A wilderness area is for individuals who are seeking a wilderness experience which will be free of the motor vehicles, and this bill simply flouts the law, and it's a dangerous precedent. The state master plan would simply lose all of its vision, its impact, its integrity if we were to pass this bill.

There is a review process which allows amendments, and the locality simply has not been able to make its best case, so to circumvent the law this way, I think, threatens not only this wilderness area but it threatens

all wilderness areas, and I might add that approximately half of the public forest preserve lands in the Adirondacks are classified as wild forest and in those areas there is motor vehicle usage.

So I think this bill would be a very bad precedent. It would say that our state land master plan really doesn't mean anything, and I think we must stand behind that and protect our wilderness areas.

So I will be voting no. In the past many of my colleagues have joined me on this including, Senators Abate, Connor, Dollinger, Leichter, Gold, Markowitz, Montgomery, Nanula, Onorato, Paterson, Smith, Stachowski, also on the other side of the aisle Senators Goodman, Leibell, Levy, Marcellino and Maziarz. So I would hope that we would have the same kind of support this year that we have had in the past.

Thank you.

SENATOR STAFFORD: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: Mr. President, Senator Oppenheimer and I worked on the bond issue together. There are things we agree upon. This is something we disagree upon. My friends, first we're not circumventing. We pass the laws here, and the bureaucrats don't tell us what to do. We tell them what to do and, if we don't, we're not doing our job. So I would respectfully submit that we're circumventing nothing.

Secondly, I can't emphasize this enough. You stand there and you can hear the cars on the Northway. This is not a wilderness area. I'm not a professional in the DEC, but I've lived there all my life, and I'm even mellowing on some of these issues, but on this one, please, I assure you that this is not a wilderness area and this will allow -- this will allow physically challenged, elderly and you can bring in young families and they can enjoy one of the most great areas -- a great area of the state part of the Adirondacks.

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

Senator Leichter.

SENATOR LEICHTER: Mr. President, just very briefly, on this bill.

There's just one thing that I think Senator Stafford said that I think needs a little clarification and let me say I appreciate how assiduously he represents his area, because I happen to have a home in his district and I know how highly he's considered by the people in his district, and rightly so.

But, Senator, if you make the test of whether you can hear cars on the Northway as to whether it's a wilderness area or not, then many parts that you would agree are wilderness would no longer meet that -- meat that classification.

SENATOR STAFFORD: I -- I very seldom -- I do interrupt, I seldom but I do. I apologize, but would you please answer a question?

SENATOR LEICHTER: Yes, sir.

SENATOR STAFFORD: Name me one other place that's a wilderness area that you can hear cars from the Northway.

SENATOR LEICHTER: Yes, I was just going to do it. I climbed a couple years

ago McCoo, which is a trailless peak; it's a 4,000-foot peak.

SENATOR STAFFORD: There's a trail there, but you can't see it very well.

SENATOR LEICHTER: Well, all right. In any event, you're 4,000 feet up, it happens to overlook the Northway; you look down and you can hear the cars.

SENATOR STAFFORD: If you can hear the cars there, I'll buy you a dinner in any place in the United States of America.

SENATOR LEICHTER: Would you make the reservation at Lutece, please.

SENATOR STAFFORD: Where is that?

ACTING PRESIDENT KUHL: Gentlemen! Gentlemen! The Chair would like to know whether that offer stands for the Chair also.

Senator Stafford.

SENATOR STAFFORD: I apologize.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.).

SENATOR STACHOWSKI: Slow roll call.

ACTING PRESIDENT KUHL: Are there five members in the chamber standing who would request a slow roll call? There are.

Secretary will call the roll slowly.

Senator Stafford, did you wish to be recognized?

SENATOR STAFFORD: The first shot has been fired across the bow.

Withdraw the roll call. Lay the bill aside.

ACTING PRESIDENT KUHL: The bill is laid aside.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 158, by Senator Velella, Senate Print 1387, an act to amend the Vehicle and Traffic Law, in relation to partitions and shields.

SENATOR LACHMAN: Explanation on

the bill.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 158 has been requested by Senator Lachman.

SENATOR VELELLA: This bill would give local governments an option to opt out of a bill that we passed last year requiring safety shields in taxicabs. It would give the local governments the opportunity to address a state mandate and address it in a way that was more adaptable to their local government. If they choose to change some of the provisions, they would have the opportunity to do that. Right now, we have just a blanket requirement for any municipality that has over 75,000 people to put these barriers up.

A lot of local governments have contacted us that they have their own safety provisions in place including the city of New York, and that the state mandate poses an unfair burden to some of the taxicab operators in local governance.

ACTING PRESIDENT KUHL: Senator Lachman.

SENATOR LACHMAN: Will the

distinguished Senator yield for a couple of questions?

ACTING PRESIDENT KUHL: Senator Velella, do you yield?

SENATOR VELELLA: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LACHMAN: Does the Senator know what percentage of non-medallion for-hire vehicles currently have safety partitions in New York City?

Now, the reason why I ask this question is there has been only one killing of a cab driver in a medallion cab in the three years since partitions were required, but there have been 27 livery drivers, non-medallion, who have been killed. So do you have any idea at this point what percentage of non-medallion for-hire vehicles currently have partitions in New York City?

SENATOR VELELLA: No, I don't.

SENATOR LACHMAN: I have another question or two if the Senator will continue to yield.

ACTING PRESIDENT KUHL: Senator

Velella, do you continue to yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LACHMAN: In light of the number of non-medallion deaths last year in New York City, couldn't these drivers have benefited from better safety equipment?

SENATOR VELELLA: Senator, I wouldn't have enough knowledge to answer that question. I don't know the particular case of each shooting or each fatality, and I couldn't tell you if certain types of safety equipment would have prevented that crime or not prevented it.

SENATOR LACHMAN: I understand. I understand.

SENATOR VELELLA: The purpose of this bill is to allow the local government to make that decision.

SENATOR LACHMAN: I understand.

SENATOR VELELLA: We ought not to be dictating from Albany what a local government should be doing.

SENATOR LACHMAN: I understand

what you're trying to do. One more question.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LACHMAN: On a personal basis, Senator, wouldn't it be better to require these safety devices in cities over 75,000 throughout the state of New York as originally drafted and simply exempt the class of taxis which today clearly do not need these safety devices?

SENATOR VELELLA: Well, Senator, I believe that we ought to let the local governments make that decision. We in Albany cannot decide what is beneficial to each community that has 75,000 or more. We have a law in place that says everybody must have these shields. If, in fact, that presents a problem to a particular locality, this will give them the opportunity to address that problem. If they don't address it, then they need to have the shield.

SENATOR LACHMAN: Thank you,

Senator.

SENATOR VELELLA: You're welcome.

SENATOR LACHMAN: You've been honest and candid with the questions. On the bill, I'd like to make a statement.

ACTING PRESIDENT KUHL: Senator Lachman, on the bill.

SENATOR LACHMAN: This bill that is sponsored by Senator Velella does address a problem that was created when partitions were required in all taxicabs that was passed by law last year.

Now, black cars, cars used by corporations, that are billed on account, do not currently accept cash and, therefore, do not accept street hails when somebody wants to hail such a car on the street, and they are not necessarily in need of partitions and safety latch.

If an exemption was not created it would cost the industry a great deal of money and make these cars less luxurious for many of their corporate clients. Since New York City already regulates their taxi industry through the Taxi and Limousine Commission and requires

the safety devices on many cabs, their exemptions from these requirements will hope fully have little negative impact on driver safety which should be our major goal, and I'm sure is the Senator's major goal.

I do believe that we need to go further than this bill does, but I do appreciate, Senator, the need to quickly correct most of the problem in New York City for the black car industry. Furthermore, I have been assured by the New York City Taxi and Limousine Commission that they will be expanding their partition requirements for many more for-hire vehicles in the future.

Now, how do I vote? I would have preferred a bill which simply carves out an exemption or an exception to the vehicles where the safety devices are clearly not needed, but in its absence, this bill will have to do. I, therefore, will vote in the affirmative on this legislation.

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

Senator Dollinger.

SENATOR DOLLINGER: Mr.

President, I sometimes find myself in unusual positions. I'm in the unusual position of agreeing with my colleague from the Bronx.

SENATOR VELELLA: Mr. President, would you star the bill.

SENATOR DOLLINGER: I want you to know, Mr. President -

SENATOR GOLD: He's serious.

SENATOR DOLLINGER: -- when he was referred to as "the distinguished Senator" I was going to object as a point of order, but I did not, so -- but nonetheless, I do agree with my colleague from the Bronx.

When we pass this legislation it's like many pieces of legislation, beneficial, intended to protect people but one of the things that we forgot was that there are local communities that have already established criteria for protection of cab drivers. They already have well established regulations. They have better ability to respond to the kinds of problems that occurred in Albany and that have occurred in New York with the occasional shooting of cab drivers -- enormously regrettable incidents, something that we should

be aware of, but currently the local communities have all the protection that they need.

One of those communities that I believe contacted the Senate, and I know we proposed a bill was to exempt the city of Rochester from these requirements because in the judgment of the cab operators in Rochester, it's not needed and in the judgment of the City Council it's not needed and, therefore, I think this bill is a good idea. It reverses a mandate that was nonetheless beneficial in its intent but turned out to be oppressive and changed the marketplace inadvertently. So I think we're making a good move today by stepping back, letting local communities size up the extent of this problem. Let them solve it. It's the right way to do it.

I'll be voting in the affirmative.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on this bill? Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Chapter 550.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 173, by Senator Larkin, Senate Print 912, an act to amend the Election Law, in relation to the hours for voting.

SENATOR LACHMAN: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 173 has been requested by a couple of Senators.

SENATOR LARKIN: Mr. President, this bill is a very simple bill. It's been a refined bill from the one we had last year which included multiple counties.

This bill pertains to a single county, Ulster County, which wants to have the certain privilege that other counties have in this state of having primary election day held from noon until 9:00 p.m.

This legislation has been forwarded to us as a resolution from the county of Ulster. It has the support of the Election Commissioners' Association of the state of New York, and the objection that we had last year was that it had two counties, Orange and Ulster, and my colleagues on the other side of the aisle complained about the people in Orange County commuting to New York City, didn't have ample time to vote. We've done that part of it and have taken Orange County out. We've made town meetings across Ulster County, and we find that the residents are in support of this. The county treasurer claims that this will save $19,200 of the county's taxpayers' money, and we believe that this is in the best interest.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Will Senator Larkin yield to one question?

ACTING PRESIDENT KUHL: Senator Larkin, do you yield to Senator Gold?

SENATOR LARKIN: I will yield to one question.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator, I think one of the questions we asked last year, I think it was on this bill, was whether there was any study that was done as to how many people were actually voting between the hours that you're cutting out of this bill, how many people were affected, and I don't think you had numbers last year. Perhaps you do have that this year and it would give us perhaps a better picture.

SENATOR LARKIN: Well, I don't have a study, an official study, but last year there was a Conservative primary in Ulster County and between the hours of 6:00 in the morning and noon, there were three people voted.

I think to keep all of the booths open for three people to vote is a waste and when you start to think that every county in this state, with the exception of the city of New York, Nassau, Suffolk and Westchester, Erie and Orange, have noon to 9:00 p.m. voting, I think it's only right that we give the voters the opportunity.

ACTING PRESIDENT KUHL: Senator Gold, was the explanation to your question sufficient?

SENATOR GOLD: Yeah, I believe Senator Paterson -

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Larkin would yield for a question or two.

SENATOR LARKIN: Yes, Mr. President.

SENATOR PATERSON: Mr. President, my question to Senator Larkin is, I'm not sure at first, in response to Senator Gold's question as to whether or not there was a study, my question is, what we're talking about here is cutting out 40 percent of the elapsed voting time that we permit in the primaries, and that's a significant amount of time even if it is from 6:00 a.m. to noon. Now, if only three people are voting in that particular time, I don't know how many people are voting for the whole day, so it does seem to me, I agree with

you that three people voting over a six-hour period of time for $19,200, maybe that's a wise decision, I don't know but how many people are voting for the whole day, and I think all Senator Gold was asking was, can we establish that there really is a basis to make this decision rather than speculation or what the point of view is of individuals, even if they're in a significant position?

What we're saying is that the value of voting is something that we generally only exercise a few times a year, and it's the basis for us being here in this chamber. We don't want to, in any way, obfuscate or inhibit the opportunity for individuals to exercise that right and, if it is a close call, we would rather err on the side of the voter because that's what sets this country apart from so many places globally, and what we're just saying is how much more foresighted would it be to just simply bring to us the number of people who are voting on that day in Ulster County and the number who voted between 6:00 a.m. and noon and if it's so significantly less, if it's five or ten percent, I guess we should close the polls

and open them at noon, but if it's something close to the amount of time that is the percentage of the whole time that is voted that day, I wouldn't want to change it.

So my question is, do you actually have those statistics and, if you do, what are they?

SENATOR LARKIN: Well, Senator Paterson, I think we ought to go back to the basics on this. All Ulster County is asking for is the same privileges that all of the rest of the upstate counties have. Every other upstate county north of Ulster County has voting from noon to 9:00 p.m. Why should they be excluded?

We have a resolution from the county legislature. It has been discussed, it has been supported by the Association of Election Commissioners, as an upstate issue and I believe that we have -- we should be responding. We come in here and we get requests from counties with legislators to increase the sales tax. We don't ask what do the people think about the sales tax? We have a resolution; we have a home rule resolution. We have a home rule resolution on this bill.

The county has evaluated this situation. It's been discussed by their own county legislators. I can only speak for myself and I'm sure Senator Cook could probably tell you, at our town meetings we've asked people, do you have a problem with this, and we've never seen them have a problem. Am I correct, Senator? So here is a county that says, We're sending you a resolution just like we do on sales tax and other things. It's been adopted by our county legislature. We've taken it up, it's an upstate county asking for the same privilege that the rest of the upstate counties have, and I think we have a moral and an ethical obligation.

Do you think that the county legislature would try to deny their people an opportunity to vote? I don't.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Was that a question, Senator?

Mr. President, the issue of elections and the issue of the electoral process, I think, has to be favored over the

value of any other issue, because it really is the basis for our government, and I don't know, I've seen a number of things that were influenced in terms of what boards of elections did, and I'm not talking about Ulster County - I don't know of any there -- but all over the state where there was certainly a feeling, I mean when do we have primary day, Senator? We have primary day in September. People are still coming back from summer vacation. That's not the right time to have primaries. Primary day should probably be in June when the candidates will at least get some momentum up. I feel sorry for candidates who are in primaries in July and August and they're going around to events and there's no one around. Nobody really cares about the process at that time. And who probably in both parties is most interested in having primary day in September? Incumbents, because it makes it more difficult to beat incumbents.

So this is a human system, and it often succumbs to the frailties of human conduct and all I'm saying is, if there was an estab lishment of the criteria that would just simply

answer the question Senator Gold asked, I would have no problem voting for this bill. I didn't really hear an answer to that question, but you did raise an important issue, and I -- if the Senator would yield, I would ask this question.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR PATERSON: Why, when the upstate counties were granted this in the first place, were the counties of Ulster and Orange left out? In other words, if this were a broad situation that the upstate counties should have been afforded, then why were they left out in the first place? Perhaps if you could tell me that it would bring me more insight on why I should vote for the bill.

SENATOR LARKIN: Well, first of all, Senator, they weren't. They had the same privileges as the other counties, but back in the late '70s a former colleagues of ours, the late Senator Dick Schermerhorn, and Assemblyman Maurice Hinchey decided to open it up from 6:00 in the morning. I believe it lasted about four or five years, and then they asked to remove it because they found out that there were not a

significant number of people voting between 6:00 and noon, but they were previous to that time excluded, Senator.

SENATOR PATERSON: Well, thank you very much, Senator.

Then, in other words, just to follow up on Senator Gold's question one last time -- this is the last time I'll ask it -- so that means that for the last 15 years they have not been able to feel comfort from the polls opening at 6:00 a.m., the feeling is that it would be better to move it back to noon because it doesn't really solve much by just having a couple of people vote.

So my question simply is in all that time, why didn't they simply just write down the number of people who are voting over the whole day and divide it by the number of people voting between 6:00 o'clock and noon. There would have been an answer that's so obvious that even myself and Senator Gold would have had to admit that the bill should be passed and the time should be relaxed back to noon.

ACTING PRESIDENT KUHL: Senator Larkin, I believe Senator Paterson is asking you

to yield. Senator Paterson, I don't think Senator Larkin heard the question.

SENATOR LARKIN: I really didn't get the question.

SENATOR PATERSON: The question is three words: Where's the study?

SENATOR LARKIN: The question goes back, Senator, I think if you're looking for a study, I think that's one thing but then I have to go back and ask you the same thing. Why did we vote to allow people to raise the sales tax? Did we see a study that said, before you had the home rule message you should have had a study to find out if the people needed to comply with it.

Here we have two things: A bill that was passed many years ago because somebody said the population in the counties is increasing, maybe we need an opportunity to get it. We've now seen that year after year we've had resolutions from the county saying that this is not productive, the number of people coming out to vote, the hours of voting does not produce the voters that we think it should and we should go back to the original concept.

Now, we talk about mandates on a local government. Here's a mandate that's costing them $20,000 a year and it hasn't produced any new voters.

Thank you.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Excuse me, Senator Gold.

Senator Lachman had indicated a prior desire to speak. I'll recognize -- the Chair recognizes Senator Lachman.

SENATOR GOLD: May I, Senator? He's deferring.

SENATOR LACHMAN: Certainly.

ACTING PRESIDENT KUHL: Senator Lachman yield?

Senator Gold.

SENATOR GOLD: Let me just say one thing to you. I think that in today's debate you said things which are much more - reacting much more sympathetically than I've heard in the past. For example, I think it's important for me to understand that you were in a different ballgame until local legislators asked, because of apparently local need, to be

included in this exception.

Now local legislators are seeing the change and, as I say, I'm very sympathetic to that, because it looks to me like someone is studying the situation. It's only a suggestion and saying that, I know how suggestions from this side of the aisle are taken in the past but maybe you'll react differently. I think that if you laid this over for a couple days you could probably get some members.

You're talking about one county. In fact, for example, that Conservative primary, if let's say a hundred people voted that day just to pick a number, Senator Larkin, let's say a hundred, and three out of a hundred voted in that time frame, that would have a great influence on me, to tell you the truth, and I think that Senator Paterson and I and others are not trying to be difficult in this situation, but it would make it more comfortable for everybody to just see some of those numbers and I'm not telling you if you give me numbers I'm going to ask you to lay it aside because I'm going to send a private investigator to check the numbers, but it seems to me that the numbers

are there, and we would like to be helpful and this is not a bill that ought to have to pass with large numbers of negatives if, in fact, it's the right thing to do for this locality and I just am making that suggestion.

I'd like to be supportive, Senator, and today you gave us some better insight, I believe. You are dealing with only the one county this year and I think you can get some members that will make this thing fly a lot easier and not only in this house but maybe in the other house.

ACTING PRESIDENT KUHL: Senator Lachman.

SENATOR LACHMAN: Senator Larkin (talking over)

ACTING PRESIDENT KUHL: You asking Senator Larkin to yield, Senator Lachman?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT KUHL: Senator Larkin, do you yield to a question?

SENATOR LACHMAN: Senator Larkin, I have just one or two questions at the most.

ACTING PRESIDENT KUHL: (Talking over) Senator Lachman.

SENATOR LACHMAN: One or two questions at the most, Senator Larkin. Can you give me in a straightforward simple answer what is the major goal of this legislation?

SENATOR LARKIN: Simple, to give -- one, to give the county the same authority that all the rest of the upstate counties have; number two, to acknowledge the fact that we have a resolution from a county, a home rule message, asking us to give them the authority that is vested in them as a county just as we do in anything else that they send up here to us and conform voting patterns consistent with upstate. That's all -- and saving money when it has been proven that they -- it's not necessary.

SENATOR LACHMAN: Would it make a difference -- may I continue? Senator continue to yield?

Would it make a difference if, forget the word "study", if you discover, Senator Larkin, that not in the Conservative primary where there are fewer voters voting but in the Democratic or Republican Party primary in Ulster County that there is a much larger vote

between the hours of 9:00 a.m. and 12:00 noon?

SENATOR LARKIN: The county has looked at it very carefully. When we restructured the bill this year, we took out Orange County because we're going to look at how many -- the polls are talkin' about people going into New York City. We don't have that problem in Ulster County. I haven't seen anything that has discouraged anybody or increased anybody in those hours in the primaries. We haven't had that many primaries.

SENATOR LACHMAN: On the bill.

ACTING PRESIDENT KUHL: Senator Lachman, on the bill.

SENATOR LACHMAN: I think there is another issue relating to this legislation that has impact beyond Ulster County, and now I don't want to put on the shoulders of Ulster County the responsibility of being a bellwether for the state of New York, but I'm very, very concerned as are my colleagues in this chamber on the voter turn-out in general. I think it is shocking and outrageous that in the 1994 Congressional elections only 38 percent of Americans voted, and I think it is equally

outrageous that -- and shocking that in the 1996 presidential election, less than half of the American people who are eligible to vote, 49 percent went to the polls.

Now, my problem with the legislation is that rather than cutting down the hours, we should perhaps increase the hours or induce more voters to vote. Of the 15 largest industrialized nations in the world, the United States of America ranks last in voter turn-out.

Now, the Benelux nations have devised another way, Senator, of raising funds or decreasing monies needed for this. Either way, they have taxed people who don't go to the polls. Now, I'm not ready to support that measure, but I am opposed to any legislation that would limit the number of hours that American citizens have to vote.

So I regret, Senator, that I will have to oppose this legislation.

ACTING PRESIDENT KUHL: Is there any other Senator -- Senator Cook.

SENATOR COOK: Mr. President, Senator Larkin is absolutely correct. Ulster County, if you look at a map, is totally

surrounded by counties where the 12:00 to 9:00 hours apply, except for Orange County. It's the only adjoining county where the hours are different and, as he indicated, that was because of some legislation that Senator Schermerhorn had sponsored a number of years ago.

I think Senator Schermerhorn did that with all good intention thinking that indeed many of the concerns that people have had, it would expand the hours and that by expanding the hours you expand the turn-out. It really isn't possible to document whether that's true or not, because numbers of voters are different. We don't have that many primaries, so the consistency from one year to another is not document... you can't document and, frankly, they don't make a list as to what time people show up at the polls. We don't know what time they showed up. But the people who sit at the polling places tell us that the number of voters has not changed dramatically or appreciably because we've changed the hours, and the reason is that 12:00 to 9:00 really spans virtually any combination of working hours that you could think of. People work shifts from 9:00 to 5:00,

3:00 to 12:00, they work -- you can almost figure on looking at those hours from 12:00 to 9:00 and saying that everybody really has an opportunity to vote some time in that period of time.

Now, if there were a situation where indeed we were going to perhaps close the hours back to 7:00 and someone were working in the City and they weren't able to get back in time to vote, the kind of thing that might happen, then I would say perhaps that's a consequence.

But the point is that we're talking about having four people sit at every single polling place in that -- in that county for an entire day, 6:00 o'clock in the morning now until noon, and often nobody shows up - literally nobody shows up to vote the entire day and even more often nobody shows up between 6:00 o'clock and noon, and even in a Republican primary as one who has participated in a few of those myself, I can tell you that the voter par ticipation is meager at best and, Senator, I agree, I wish the voter participation were more, but the fact is that the longer hours haven't

seemed to make that happen, that there's no indication that the percentage of people who are voting in primaries is any greater now with the longer hours than it was at the time when we had the statewide hours of 12:00 to 9:00, and I think that that is the logical reason why the localities are saying first, the cost of having to pay the extra time for people to sit at the polling places is a financial burden upon the towns because every single polling place has to be open and, secondly, frankly, it's getting difficult in some cases to find people to sit at polling places because they don't want to sit there from 6:00 o'clock in the morning until 9:00 o'clock at night, and it would be much easier to man or woman the polling places if we had more reasonable hours.

So this bill is not a punitive measure. It's a measure saying, Look, we tried a good idea. The good idea didn't seem to turn out. We'd like to go back and be like everybody else in the state.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill? Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

Senator Gold, to explain his vote.

SENATOR GOLD: Yeah, Mr. President. I guess the more we think things change, the more they stay the same, and I think that Senator Larkin may have wanted to follow my suggestion, and I saw a lot of nodding on that side and obviously if a Democrat's suggestion might be able to do something to make things easier it's going to be ignored.

Having said that, I read something interesting the last few days, that the so-called Republican landslide in '94 was 38,000 votes nationally, and if 19,000 people had had a little more sense, we wouldn't have to put up with the Newt Gingriches of the world. So you never know what's going to happen with small amounts of votes.

Senator Larkin, as far as I'm concerned, there is a burden of proof here. This legislation is caused by the fact that a local Senator came to us and asked us to change it and now -- and at that point in time we could understand it. We can understand anybody who says, Open up the polls and let my people have more access. We find it a little more difficult when you say close the polls, and that creates a certain burden.

You have a right, Senator, to handle your legislation the way you want. On a personal basis, you know that I respect you.

I'm going to vote no.

ACTING PRESIDENT KUHL: Senator Gold will be recorded in the negative.

Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: I'm going to be voting yes.

I guess as an ex-mayor I appreciate the point that spending $20,000 for three votes just doesn't make financial sense. Also considering that almost every county has the hours that you're referring to and it has

worked well in those counties, I think we have to apply -- I'm normally one who speaks very much for voter participation being an ex-League of Women Voters president, but you have to balance things.

You have to look at both sides and, in this case, and it's a primary, not the general, it just seems it make great sense. I am as concerned as Senator Lachman about the lack of voter participation in our nation. It is horrendous; it's embarrassing and I would like to see us address that issue.

There are techniques, different strategies, such as opening polls on week ends. There are a variety of things that we can look at, and I think we ought to be looking at them, but on this issue, I will be voting yes.

ACTING PRESIDENT KUHL: Senator Oppenheimer will be recorded in the affirmative.

Senator Paterson, to explain his vote.

SENATOR PATERSON: Mr. President, I'd like to explain my vote and to further explain Senator Gold's vote.

Senator Larkin said that there were three people who voted in a Conservative Party primary last year and I wasn't quite sure if that was in the whole Ulster County, perhaps it was, between noon and 6:00 a.m.

Senator Cook said that you can't document that information, and I think that it's unfortunate that we would come to this conclusion when we actually can. We're not necessarily interested in how many people are voting from year to year. We're interested in what is the percentage of the vote for the entire day. The reason it's so important is because this is a very significant right in this country, one that our ancestors fought for, and one that makes this country such -- the democracy that it is.

In areas where voting is concerned, because it has a national interest, because people are so upset that we don't have greater participation, we really to have hold the issue to a higher standard and, as Senator Gold said, if someone wanted to expand the time that the polls are open, we'd be a lot more agreeable than if they prevent it.

Now, on an issue such as sales tax or things that different counties do, we always want to follow the lead of the local government, but on issues that involve elections which is really something that's constitutional, a right that extends all over the land, we would like to just have a little bit of information such that we understand that we're actually allowing this to take place for a good reason.

Many times the Justice Department has had to come into New York State and to hold up and disqualify elections because certain procedures were not followed. If a few people are voting between the hours of noon -- of 6:00 a.m. and noon and it's just not a convenient time for voters, we certainly being sacrifice that to save money, but if it's just put in a way that we can understand it, it makes it that much easier.

ACTING PRESIDENT KUHL: How are you are voting, Senator Paterson?

SENATOR PATERSON: I thought while I was talking I would come to a conclusion.

I'll vote no, Mr. President.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 173 are Senators Connor, Gold, Lachman, Leichter, Markowitz, Onorato, Paterson, Sampson, Seabrook and Stachowski; also Senator Gentile. Ayes 47, nays 11. Also Senator Mendez. Ayes 46, nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 207, substituted earlier today, by member of the Assembly Magee, Assembly Print 2462, an act in relation to legalizing and validating certain acts and proceedings.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: We have one standing committee report, Senator, we'd like to read at this time if it's O.K.

SENATOR SKELOS: We could do it.

ACTING PRESIDENT KUHL: Return to the reports of standing committees, ask the Secretary to read the report of the Higher Education Committee.

THE SECRETARY: Senator LaValle, from the Committee on Higher Education, reports the following bills:

Senate Print 1289, by Senator Saland, an act to amend the Education Law;

1358, by Senator LaValle, an act to amend the Education Law;

2014, by Senator Rath, an act to amend the Education Law;

2597, by Senator LaValle, an act

to amend the Education Law; and

2598, by Senator LaValle, an act to amend the Education Law.

All bills ordered direct for third reading.

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

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. There will be an immediate meeting of the Majority -- conference of the Majority in the Majority Conference Room, and there being no further business, I move we adjourn until Monday, March 3rd, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT KUHL: Be an immediate meeting of the Majority Conference, immediate meeting of the Majority Conference in the Majority Conference Room, Room 332.

Without objection, the Senate stands adjourned until Monday, March 3rd, 3:00 p.m.

(Whereupon at 12:30 p.m., the Senate adjourned.)