ALBANY, NEW YORK

May 5, 1997

3:09 p.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. Please join me in the Pledge of Allegiance.

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

The invocation today will be given by Rabbi Sholom Stern, Temple Beth-El, Cedarhurst, New York. Rabbi.

(Applause)

RABBI STERN: I want to thank Senator Skelos for extending the invitation to join with you today. Friends, yesterday in the Hebrew calendar was Yom Ha Shoah, Holocaust Memorial Day. It's a day set aside to mourn 6 million Jews who were victims of the most devastating assault ever perpetrated against any single people. While my people were targeted for annihilation, 5 million other non-Jews were treated as social outcasts and a threat to the purity of the race as they met a similar tragic fate.

As I stand before you this afternoon, I contrast this legislative body with another legislative body that met 62 years ago

in the most cultivated of all European countries. There, laws were promulgated restricting citizenship to those of German or kindred blood. A few years later, inspired by these Nurenberg laws, these cultured people who cried when listening to Mozart, Haydn and Beethoven at the classical concerts at Auschwitz, proceeded unemotionally to shoot and gas to death millions of men, women and children.

The Holocaust is a grim reminder that culture and cold-blooded murder are not mutually exclusive. Given this reality it's good to pause for a moment and reaffirm the truth articulated in our Declaration of Independence that all of us are created equal, endowed by God with the same rights to life and liberty. May our pursuit for just laws for all Americans match our pursuit for happiness.

Azinu Shebat Shedayim, Heavenly Father, help us to realize that to think in terms of man being white, black or yellow is more than an error. It is an eye disease and a cancer of the soul. May we understand that the test of our humanity is the degree to which we

are sensitive to other people's suffering. May America remain America the beautiful, not only for its spacious skies or the majesty of its purple mountains, but primarily because we recognize that God's spirit rests upon all, Jew, Christian, Muslim, man or woman, in consonance with our beings. May we act in a way that we will be worthy of God's shedding His grace upon us and crowning His good with brotherhood from sea to shining sea. Amen.

THE PRESIDENT: Amen.

The reading of the Journal.

THE SECRETARY: In Senate, Friday, May 2nd. The Senate met pursuant to adjournment. The Journal of Thursday, May 1st, 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.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions. Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I wish to place a sponsor's star on Calendar Number 690, Senate Print 4245, and also Calendar Number 691, Senate Print S. 4246.

THE PRESIDENT: So ordered.

SENATOR FARLEY: Madam President.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: I'm going to withdraw the one -- I'm going to withdraw starring those bills because they are on the First Report, and I'll do it tomorrow.

THE PRESIDENT: Thank you.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, on page number 40, I offer the following amendments to Calendar Number 349, Senate Print Number 3358, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: And at the request of the sponsor, can we remove the

sponsor's star on that very same bill?

Madam President.

THE PRESIDENT: The star is removed.

Go ahead, Senator Marcellino.

SENATOR MARCELLINO: 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 Alesi, Bill Number 3570.

THE PRESIDENT: Enacting clause struck.

Senator Kuhl.

SENATOR KUHL: Madam President, I'd like to offer up the following amendments to the following Third Reading Calendar bills: On behalf of Senator Wright, page 17, Calendar Number 143, Senate Print 1659; behalf of Senator Saland, page 19, Calendar Number 227, Senate Print 1289; behalf of Senator Volker, on page 21, Calendar Number 284, Senate Print 365-A; on behalf of Senator Holland, page 23, Calendar Number 339, Senate Print 453-A; on behalf of Senator Nozzolio, on page 24, Calendar Number

377, Senate Print 177-A; on behalf of Senator Nozzolio, on page 24, Calendar Number 381, Senate Print 1783; on behalf of Senator Nozzolio, page 26, Calendar Number 381, Senate Print 475-A; behalf of Senator Lack, on page 32, Calendar Number 519, Senate Print 3608; also on behalf of Senator Lack, page 40, Calendar Number 516, Senate Print 3527, and I'd move that the bills retain their place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR KUHL: Also, Madam President, I wish to call up Calendar Number 466, on behalf of Senator Skelos, Assembly Print 357-A, and I now move -- read it.

THE PRESIDENT: Secretary. The Secretary will call the roll.

THE SECRETARY: Calendar Number 466, by member of the Assembly Weisenberg, Assembly Print 357-A, an act to amend the Insurance Law.

SENATOR KUHL: Madam President, I now move to reconsider the vote by which the Assembly bill was substituted for Senator

Skelos' bill, Senate Print 149-A, on April 2nd.

THE PRESIDENT: On the motion, the Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

SENATOR KUHL: Madam President, I now move that the Assembly Bill Number 357-A be recommitted to the Committee on Insurance and that the Senate bill by Senator Skelos be restored to the order of the Third Reading Calendar.

THE PRESIDENT: Assembly bill is recommitted, and the Senate bill is restored to the Third Reading Calendar.

SENATOR KUHL: Madam President, I now offer up the following amendments.

THE PRESIDENT: Amendments received.

Secretary will read two substitutions.

THE SECRETARY: Senator Farley moves to discharge from the Committee on Banks Assembly Bill Number 5470, and substitute it for the identical Calendar Number 688.

Senator Padavan moves to

discharge from the Committee on Mental Health and Developmental Disabilities, Assembly Bill 3383 and substitute it for the identical First Report 696.

THE PRESIDENT: Substitutions ordered.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe you have a resolution at the desk by Senator Seward. I would ask that at this time it be read in its entirety and that we move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Seward, Legislative Resolution congratulating Oneonta Senior High School Girls' Basketball Team and Coach Moriarty upon their outstanding season and overall team record and upon winning the 1997 New York State High School Athletic Association Class B Championship.

WHEREAS, excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and

strategic planning;

Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of team work, encouraging a standard of healthy living, imparting a desire for success and developing a sense of fair play and competition.

The Oneonta Senior High School Girls' Basketball Team are the 1997 New York State High School Athletic Association Class B Champions.

The athletic talent supplied by this team is due in great part to the coaching efforts of Coach Tom Moriarty, a skilled and inspirational tutor, respected for his ability to develop potential into excellence.

The team's overall record is outstanding and team members were loyally and enthusiastically supported by family, fans, friends and the community at large.

The hallmarks of the Senior High School Girls' Basketball Team, from the opening game of the season to participation in the championship, were a sisterhood of athletic

ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none.

Athletically and academically, the team members have proven themselves to be unbeatable, a combination of talent reflecting favorably on their school.

Coach Tom Moriarty has done a superb job in guiding, molding and inspiring the team members toward their goals.

Sports competition instills the values of teamwork, pride and accomplishment and Coach Tom Moriarty and 14 outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of their school;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to congratulate the Oneonta High School Girls' Basketball Team; its members: Kelly Sosa, Dana Wilkens, Krissy Zeh, Leigh Irwin, Kim McMullen, Erin Shackelton, Marcy Riddell, Laura Erbe, Kristen Forgiano, Karyn Pierce, Tiffany Hurley, Stacy Knapp, Kristen Constanty and Kim Palmeter; and Coach Tom

Moriarty, Assistant Coach Tim Smith, Manager Toni McDaniels and Oneonta High School Athletic Director Robert Zeh on their outstanding season and overall team record; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to the Oneonta High School Girls' Basketball Team and to Coach Tom Moriarty.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Yes, on the resolution.

It's a special honor today to have with us in the Senate Gallery the New York State Class B Women's Basketball Champions, the Oneonta High School Basketball Team, and I rise not only as the Senator from the 50th District which includes Oneonta, but also a graduate of Oneonta High School Class of 1969. The Lady Yellow Jackets ended the season with a record of excellence led by Coach Moriarty, Assistant Coach Tim Smith, Manager Toni McDaniels, as well as Athletic Director Robert Zeh.

These ladies have set a new standard of excellence in athletics. Their perfect 13-and-0 season within the Susquehanna

League made them champions, and they clinched the Section 4 Class B Championship and followed up as the state's Public High School Athletic Association Region 1 Champion, and then crowned their efforts with the state Class B Championship with 26 consecutive wins.

All of the team members are in the gallery today, as well as their coach, Tom Moriarty as well as Athletic Director Bob Zeh and Mrs. Zeh, as well as a teacher from Oneonta High School, Joe Hughes, and this team not only is noteworthy for their athletic ability but also for their academic abilities and their leadership skills, their teamwork and their "can do" winning spirit.

In my mind, they represent what's all the best in today's youth, and also all the best in the future of New York.

So, Madam President, I move for the adoption of this resolution, and once it's passed I would ask that you ask that the team members stand so that the members can recognize them.

THE PRESIDENT: Thank you, Senator Seward.

Is there anyone else who would like to speak on the resolution? On the resolution, all in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted. Congratulations to the team, and I hope that they will stand so that we can appropriately recognize them.

(Applause)

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the non-controversial calendar.

THE PRESIDENT: The Secretary will read.

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

Section 5. This act shall take effect on the 1st day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 347, by Senator Wright, Senate Print 3004, an act to amend the Vehicle and Traffic Law and the Mental Hygiene Law, in relation to an evaluation and treatment requirement for certain offenders.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 6. This act shall take effect on the 1st day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 495, by Senator Hannon, Senate Print 300-A.

THE PRESIDENT: Lay it aside, please.

SENATOR HANNON: Madam President, would you please star that at the request of the sponsor.

THE PRESIDENT: The bill is starred.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Transportation Committee in room -- in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Transportation Committee in the Majority Conference Room.

Secretary will read.

THE SECRETARY: Calendar Number 502, by Senator Seward, Senate Print Number 3092, an act to amend the Executive Law, in relation to requiring the State Fire Prevention and Building Code Council.

ACTING PRESIDENT KUHL: 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 55.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 506, by Senator Leibell, Senate Print 3577, an act to amend the Private Housing Finance Law in relation to the definition of manufactured home.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 509, by Senator Leibell, Senate Print 3610, an act to amend the Executive Law, in relation to providing for the Commissioner of the Division of Housing.

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 GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 513, by Senator Volker, Senate Print 2789, an act to amend the Real Property Actions and Proceedings Law, in relation to foreclosure of a mortgage.

ACTING PRESIDENT KUHL: There is a home rule message 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 515, by Senator Lack, Senate Print 3453, an act to amend the Judiciary Law, in relation to

payment of expenses.

VOICE: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 524, by member of the Assembly Magee, Assembly Print 5360, an act to amend the Town Law, in relation to publication of notice.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 529, by Senator Rath, Senate Print 3670, an act to amend the General Municipal Law, in relation to authorizing an increase in the charge that may be imposed for a returned check.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 534, by Senator Levy, Senate Print 100, an act to amend Chapter 312 of the Laws of 1994, amending the Vehicle and Traffic Law.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 538, by Senator Alesi, Senate Print 3989, an act to amend the Vehicle and Traffic Law, in relation to extending the time of license.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 547, by Senator Maltese, Senate Print 2043, an act to amend the Vehicle and Traffic Law, Criminal Procedure Law and the Tax Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 553, by Senator DeFrancisco, Senate Print 4038, an act to amend the Public Authorities Law, in relation to promotion opportunities for members of the Thruway Authority.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This acted shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 572, by Senator Marcellino, Senate Print 4130, an act to amend the Environmental Conservation Law, in relation to eliminating the requirement that transported or relayed shellfish are tagged.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

589, by Senator Skelos, Senate Print 3655-A, an act to amend the Insurance Law, in relation to authorizing a new kind of insurance.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the reading of the non-controversial calendar. What's your pleasure?

SENATOR SKELOS: Mr. President, if we could take up the controversial calendar at this time.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: On page 31, Calendar Number 509, by Senator Leibell, Senate Print 3610, an act to amend the Executive Law, in relation to providing for the Commissioner of

Division of Housing and Community Renewal to be eligible for appointment.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Leibell, an explanation of Calendar Number 509, Senate Print 3610, has been requested by Senator Gold.

SENATOR LEIBELL: This, Mr. President, will add the Commissioner of DHCR to the list of state agency officials from which the Governor may select members for the state Uniform Fire Prevention and Building Code Council.

ACTING PRESIDENT KUHL: Senator Gold, do you wish to be recognized?

SENATOR GOLD: Yield for a question?

Yes. Senator, would you tell us who's on the Council now?

SENATOR LEIBELL: Do you have a list? I don't have the list with me, Senator, of who else is on there. I can get it for you though.

SENATOR GOLD: All right. You want to lay it aside until tomorrow?

SENATOR LEIBELL: That's up to you.

SENATOR GOLD: Fine.

SENATOR LEIBELL: We'll bring it right back, Mr. President.

ACTING PRESIDENT KUHL: You want to lay the bill aside temporarily?

SENATOR LEIBELL: Just for a few minutes until we can -

ACTING PRESIDENT KUHL: Lay the bill aside temporarily. Senator Skelos, that O.K. with you?

The bill will be laid aside temporarily. The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 515, by Senator Lack, Senate Print 3453, an act to amend the Judiciary Law, in relation to payment of expenses.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 529, by Senator Rath, Senate Print 3670, an

act to amend the General Municipal Law, in relation to authorizing an increase in the charge that may be imposed for a returned check.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Rath, an explanation of Calendar Number 529, Senate Print 3670 has been requested by Senator Gold.

SENATOR RATH: Presently the amount for a returned check for a municipality that they can collect when a check bounces is $15. The proposal is that it be raised to $20, and presently merchants are allowed to charge $20, municipalities only 15; so it will bring equity to the situation and help alleviate some costs for local government.

ACTING PRESIDENT KUHL: Senator Gold?

SENATOR GOLD: Yeah. Will the Senator yield to a question?

ACTING PRESIDENT KUHL: Senator Rath, do you yield to a question from Senator Gold?

SENATOR RATH: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator, are we doing this because basically we've got banks that are charging the $20 on these checks and this gives them an opportunity to pass it along?

SENATOR RATH: Well, the charge is more than it was before, and I'm not exactly sure that the banks are not charging more than that, but certainly at least that much. That's why we did it three years ago for the -- I'm trying to say the merchants. Now, we want to do it for the municipalities.

SENATOR GOLD: Well, Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Gold, on the bill.

SENATOR GOLD: I understand the problem, and to tell you the truth, I would have rather seen a solution which stopped the banks from ripping off the public on what they're charging on returned checks rather than see us protecting the municipalities which need protection as the merchants need protection, Senator, and I appreciate the fact there's a

problem.

I wish, though, that the Legislature had the guts to take on the source of the problem, which is the banks. You know, I know we had the same argument with interest rates. The poor banks and the credit card companies, they can't do enough business and, therefore, they've got to be competitive and raise the interest rates.

I'm telling you, I'm not unusual. I bet there's not a person in this house that doesn't get an unasked for solicitation once or twice a week to get a new credit card because they want to give them away because they're making so much money on them, and I cannot believe that the banks lose money on returned checks. I think that, when they do their daily prayers, they pray for returned checks because the amount that they rip off the public has got to be a bonanza.

So, Senator, I'll support the bill because they're caught in a bind, but I'd love to see that Rath bill which cuts back the amounts the banks can charge and then we won't have to do this to the consumer.

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 2. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 572, by Senator Marcellino, Senate Print 4130, an act to amend the Environmental Conservation Law, in relation to eliminating the requirement that transported or relayed shellfish are tagged.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: If we could return to Calendar Number 509.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 509, by Senator Leibell.

THE SECRETARY: Calendar Number 509, by Senator Leibell, Senate Print 3610, an act to amend the Executive Law, in relation to providing for the Commissioner of the Division of Housing.

SENATOR LEIBELL: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold?

SENATOR LEIBELL: Senator, we're still waiting to get that, but I can send it over to you by the time if you like tomorrow. I don't have the information right here.

SENATOR GOLD: No, I appreciate that, and, as I said, do you mind laying it

aside until tomorrow?

SENATOR LEIBELL: Well, Senator, possibly we could do this. You could indicate to me what information would help you.

SENATOR GOLD: Well, Senator, I have a number of questions on the bill, and I enjoy your company.

SENATOR LEIBELL: Thank you.

SENATOR GOLD: And I would not mind spending some time asking those questions, but the point is if there are other questions that I have, I'll be glad to tell you or your counsel or you what they are but why don't we lay it over until tomorrow and get the questions answered.

SENATOR LEIBELL: Well -

SENATOR GOLD: I don't think this bill falls apart in 24 hours.

SENATOR LEIBELL: I doubt it, though possibly you could give me the other questions you'd like to have answered.

SENATOR GOLD: Yeah, but I don't think that our colleagues have to sit around for that, do they, unless you want to proceed with the bill.

ACTING PRESIDENT KUHL: Senator Leibell, it's your call. You wish to proceed with the bill, debate on the bill, or you wish to lay the bill aside for the day?

SENATOR LEIBELL: If we could, I'd rather complete activity on this today, Senator.

ACTING PRESIDENT KUHL: Senator Gold, do you wish the sponsor to yield to questions?

SENATOR GOLD: O.K. with me. Senator, why don't we start off then, if we want to discuss this issue, the bill as you explained it adds the Commissioner of the Division for Housing and Community Renewal to a statutory list. Now, does everybody on that list get appointed by the Governor to the Fire Prevention Council?

SENATOR LEIBELL: There's a - there is -- the Executive Law includes a list of nine state agency officials from which the Governor is authorized to select two as members of the Council.

SENATOR GOLD: And which two has he appointed so far?

SENATOR LEIBELL: I don't have that information with me.

SENATOR GOLD: Well, Senator, I don't ask you the questions to embarrass you.

SENATOR LEIBELL: Well, I'm not -- and I'm not -

SENATOR GOLD: You're very active -- you're active in legislation and you have a lot on your mind, but I don't see anything wrong with laying the bill aside for 24 hours and getting some of the answers. I don't know what the purpose is to forge forward on this huge bill and not extend courtesy. You and I have never had a problem with courtesies before, Senator.

SENATOR LEIBELL: Absolutely not, Senator. It's only a question of that there's a volume of bills coming up that's going to be very substantial and I'd rather be able to complete this.

SENATOR GOLD: It's only a question of what, Senator?

SENATOR LEIBELL: There's a volume of bills coming up on the calendar in the next few days that will be substantial.

SENATOR GOLD: And it may be, Senator, that when you and I have a talk about this, it turns out to be something we don't have to discuss, but I'd just as soon have the information before I have to make a judgment. I think the questions are legitimate questions.

ACTING PRESIDENT KUHL: Senator Leibell, it's up to you as to whether or not you wish to proceed.

SENATOR LEIBELL: As I said, I don't think it's relevant. I certainly would have been -- if the question had been asked before, I'd have been happy to get the information. Senator, I'd rather pursue this right now for completion.

ACTING PRESIDENT KUHL: Senator Gold, you have the floor.

SENATOR GOLD: I don't have any other questions. Slow roll call.

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.

SENATOR GOLD: Slow roll.

SENATOR SKELOS: Please ring the bell.

ACTING PRESIDENT KUHL: Ring the bell. If there are five Senators, would they stand? There are four, five standing Senators, so the Secretary will read the roll call slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: I'd like to explain my vote.

ACTING PRESIDENT KUHL: Senator Abate, to explain her vote in two minutes.

SENATOR ABATE: I also had some issues that need to be addressed and I'm looking forward to the answers posed by my colleague and since I do not understand the urgency either, it's hard for me to vote on the merits of this bill. So in the absence of getting that information. I will have to vote no on this bill.

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

Secretary will continue to call the roll.

THE SECRETARY: Senator Alesi.
SENATOR ALESI: Yes.
THE SECRETARY: Senator Breslin.
SENATOR BRESLIN: Yes.
THE SECRETARY: Senator Bruno.
(There was no response.)
THE SECRETARY: Senator Connor.
(There was no response.)
Senator Cook.
(There was no response.)
THE SECRETARY: Senator DeFrancisco.
(There was no audible response.)
Senator Dollinger.
SENATOR DOLLINGER: Explain my vote.
ACTING PRESIDENT KUHL: Senator Dollinger, to explain his vote in two minutes.
SENATOR DOLLINGER: I concur in the sentiments expressed by Senator Abate and I think will be expressed, have already been expressed by Senator Gold. This is a bill that a member has questions about. He's been told that the information will not be forthcoming today, that it will be here tomorrow.

With all due respect to the sponsor, the notion that there are some large number of very impressive bills that are coming down the pike that we're going to debate tomorrow, that will occupy the debate at least to my perception that hasn't been true a single day in this session that we couldn't wait one single day that a member with legitimate concerns could get information.

I think it's a horrible way to govern. Maybe some people's idea of democracy. It isn't my idea. I'm not commenting on the merits of the bill, Mr. President. I'm going to vote no, because I think this is a terrible process to follow.

You ought to listen to Senator Gold and just put the bill over for a day. No.

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

Secretary will continue to call the roll.

THE SECRETARY: Senator Farley.

ACTING PRESIDENT KUHL: Senator Farley, how do you vote?

SENATOR FARLEY: Aye.

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

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, to explain his vote.

SENATOR GOLD: Mr. President, we went into session today about 3:00 o'clock. We had some housekeeping, some resolutions. We congratulated some people, and I think that we started the calendar probably something around 3:30 and went through this whole calendar in about 12 minutes, with this side of the aisle extraordinarily cooperative, as we always are, and a bill comes along where there are some questions, and I find out on May 5th, a day which is some, I guess some 36 days after the budget, right? -- yeah, about 36 days after the budget, sitting as a member of a house that hasn't even passed a budget, hasn't even put a budget out on the floor, that these hallowed walls will fall apart if this bill was laid over for a day.

I think that's an insult to this chamber. I think that I'm particularly shocked that the sponsor, who I hold in the highest regard, and can't possibly understand his rationale on this one, but I have to say to myself that a bill which, under normal circumstances, I guess would fly through here, must have something wrong with it if it can't stand the light of day for 24 hours and, to tell you the truth, that makes me very nervous. I certainly don't want to wake up tomorrow and find out that there's a headline in the New York Post or some other paper that tells me I've done a terrible thing, and I should have asked some questions.

So based upon the -- I guess the reluctance of the sponsor, who I respect, to want to allow a look at this bill, I have to assume the bill can't stand on its own, and I would vote in the negative.

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

Continue to call the roll.

THE SECRETARY: Senator Gonzalez.

(There was no response.)
Senator Goodman.
SENATOR GOODMAN: No.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoffmann.
(There was no response.)
Senator Holland.
(There was no audible response.)
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Lack excused.
Senator Larkin.
(There was no response.)
Senator LaValle.
(There was no audible response.)
Senator Leibell.

(There was no audible response.)
Senator Leichter.
(There was no response.)
Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: Aye.
THE SECRETARY: Senator Marchi excused.
Senator Markowitz.
(There was no response.)
Senator Maziarz.
SENATOR MAZIARZ: Yes.
THE SECRETARY: Senator Meier.
SENATOR MEIER: Yes.
THE SECRETARY: Senator Mendez.
(There was no response.)
Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

(There was no response.)

Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

Senator Padavan.

(There was no response.)

Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson, to explain your vote?

SENATOR PATERSON: Thank you, Mr. President.

I think that the process is getting a little bit away from us in the chamber. This isn't the biggest issue we've ever debated, but nonetheless it is an issue and which is that on many occasions a member may seek information and be unable to obtain it and the consensus would be that it's not going to make a difference in the inevitable passage of the legislation. We pass legislation, we go

forward, but in this case today the member was feeling that he needed the information. I'm referring to Senator Gold, that he needed the information, in order to elicit what he needed to ask questions on the bill, and what he was simply asking for was the bill to be laid over for a day or two just so he could have the information and pose the questions, get the answers that he wanted, and I think he was a little disappointed that he couldn't get that information.

I don't find anything wrong with the actual bill, but I think that it's these little things when you look at them in aggregate which are the reason that we're standing here some -

ACTING PRESIDENT KUHL: Excuse me, Senator Paterson. Senator Paterson, you're about a minute and 30 seconds into your explana tion, you have about 30 seconds, but excuse me, it's awfully noisy in here. Can we take the conversations out at least so the desk can record the votes that are being cast and so that the stenographer can record what is being said.

Thank you. Thank you for

excusing the interruption, Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

In my last 30 seconds, I'd just like to say that I think Senator Gold's point was well taken and once in a while it isn't such a bad thing that we pause in our deliberations to go over these issues to make that point, which is that we come to these decisions through dialogue and through processing of information that wasn't provided.

The bill was fine with me. The process could be improved and, for that reason, I'd like to support what Senator Gold is saying and vote no.

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

Continue to call the roll.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: No.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.
THE SECRETARY: Senator Sampson.
(There was no response.)
Senator Santiago.
(There was no audible response.)
Senator Seabrook.
SENATOR SEABROOK: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: Aye.
THE SECRETARY: Senator Skelos.
(There was no audible response.)
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Spano.
(There was no response.)
Senator Stachowski.
SENATOR STACHOWSKI: Mr. President, to explain my vote.
ACTING PRESIDENT KUHL: Senator Stachowski, to explain his vote.
SENATOR STACHOWSKI: Mr. President, oftentimes we have bills much more controversial than this one that are laid aside for the day by the sponsor even in times that are going to be more bills on the calendar than

everybody is anticipating in the next couple of days; but it seems to me that it wasn't a real difficult request by Senator Gold to just get a day on this bill so that they could answer the few questions that he had or the problems that he had with this bill, and I'm just amazed that he didn't get that courtesy and in most instances that courtesy is regularly given by the sponsor and also sometimes by the leader on the other side, but unfortunately this time it wasn't, and since it isn't a major bill or the issue that isn't really that important I just couldn't understand it, and because of that lack of courtesy, I can't support this bill either.

I vote no.

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

Continue to call the roll.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Aye.
THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
(There was no response.)
Senator Volker.
(There was no response.)
Senator Waldon.
(There was no response.)
Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT KUHL: Secretary will call the absentees.
THE SECRETARY: Senator Connor.
(There was no response.)
Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Hoffmann.
(There was no response.)
Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator

Leichter.

(There was no response.)

Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Mendez.

(There was no response.)

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Spano.

(There was no response.)

Senator Velella.

(There was no response.)

Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 32, nays 20.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: There are five substitutions at the desk.

SENATOR SKELOS: Please make the substitutions.

ACTING PRESIDENT KUHL: Secretary will read the substitutions.

THE SECRETARY: Senator Holland moves to discharge from the Committee on Agriculture, Assembly Bill Number 2582-A and substitute it for the identical Senate Bill 1758-A.

Senator Skelos moves to discharge from the Committee on Veterans and Military Affairs Assembly Bill Number 5811 and substitute it for the identical Senate Bill 819-A.

Senator Trunzo moves to discharge from the Committee on Health Assembly Bill 2017 and substitute it for the identical Senate Bill 708.

And Senator Wright moves to discharge from the Committee on Alcoholism and

Drug Abuse Assembly Bill Number 5045 and substitute it for the identical Senate Bill 3817.

Senator LaValle moves to discharge from the Committee on Commerce, Economic Development and Small Business Assembly Bill Number 6449 and substitute it for the identical Senate Bill 3685.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Skelos? The Chair recognizes Senator Mendez.

SENATOR MENDEZ: Mr. President, I have to -- I was out of the chamber when the slow roll call was called. If I would have been here, I would have voted in the affirmative.

ACTING PRESIDENT KUHL: The record will reflect that, Senator Mendez, had you been here on the roll call which was previously called on Calendar Number 509 that you would have voted in the affirmative.

SENATOR MENDEZ: Thank you.

SENATOR SKELOS: Mr. President, there being no further business, I move that we adjourn until Tuesday, May 6th at 3:00 p.m.,

sharp.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Tuesday, at 3:00 p.m., tomorrow Tuesday, at 3:00 p.m.

(Whereupon 4:56 p.m., the Senate adjourned.)