ALBANY, NEW YORK

May 13, 1997

3:07 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. Would everyone please rise and join with me in the Pledge of Allegiance.

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

May we bow our heads in a moment of silence.

(A moment of silence was observed.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, May 12th. The Senate met pursuant to adjournment. The Journal of Friday, May 9th, was read and approved. On motion, the 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.

On behalf of Senator Maziarz, please place a sponsor's star on Calendar 843.

On behalf of Senator Trunzo, on page 17, I offer the following amendments to Calendar 337, Print Number 1947, and ask that bill retain its place.

On behalf of Senator Johnson, on page 60, I offer the following amendments to Calendar 925, Senate Print 3647, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Tully, on page 12, I offer the following amendments to Calendar Number 184, Senate Print 2567-A, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR COOK: Please place a sponsor's star on Calendar Number 820.

THE PRESIDENT: So ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time may we please adopt the Resolution Calendar.

THE PRESIDENT: The Secretary will read -- oh, we're just adopting it. All those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Leibell moves to discharge from the Committee on Rules Assembly Bill Number 6024-A and substitute it for the identical Senate bill Third Reading 501.

Senator Leibell moves to discharge from the Committee on Rules Assembly Bill 6023 and substitute it for the identical Senate bill Third Reading 511.

Senator DeFrancisco moves to discharge from the Committee on Tourism, Recreation and Sports Development Assembly bill 5452-A and substitute it for the identical Senate bill Third Reading 909.

THE PRESIDENT: The substitutions are ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 508, by Senator Leibell, Senate Print 3604, an act to amend the Executive Law, in relation to the Building Code Act.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 519, by Senator Lack, Senate Print 3608-A, an act to amend the Judiciary Law, in relation to disqualification from jury service.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 3. This act shall take effect August 1st.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 551, by Senator Levy, Senate Print 3727, an act to amend the Vehicle and Traffic Law, in relation to leaving the scene of injury to certain animals.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect in 120 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 558, by Senator Saland, Senate Print 3612, an act to amend the Executive Law and the Family Court Act, in relation to orders of protection.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 5. This act shall take effect in 90 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 559, by Senator Saland, Senate Print 3618, an act to amend the Social Services Law and the Family Court Act, in relation to severe and repeated child abuse.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 7. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 621, by Senator Stafford, Senate Print 3766, an act to amend the Executive Law, in relation to permitting the Secretary of State to receive records into custody.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 644, by Senator Present, Senate Print 3898, an act to amend the Economic Development Law, the Public Officers Law, the General Construction Law, in relation to video conferencing the meetings of the Economic Development Power

Allocation Board.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 645, by Senator Seward, Senate Print 4271, an act to amend the Public Service Law, the Public Officers Law and the General Construction Law, in relation to video conferencing the meetings of the Public Service Commission.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 650, by Senator Skelos, Senate Print 2211, an act to amend the Civil Practice Law and Rules, in relation to service of motions.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43, nays 1, Senator Kuhl recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 651, by Senator Skelos, Senate Print 2408-A, an act to amend the Penal Law, in relation to sexual abuse against a child by a person in a position of trust.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 652, by Senator Maziarz, Senate Print 2525, an act to amend the Criminal Procedure Law, in relation to period of limitation.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 654, by Senator Volker, Senate Print 3532, an act to amend the Penal Law, in relation to endangering the welfare of a child in the first and second degrees.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 659, by Senator Hannon, Senate Print 3660, an act to amend the Criminal Procedure Law, in relation to imposing plea bargaining limitations.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 662, by Senator Larkin, Senate Print 3869, an

act to amend the Civil Practice Law and Rules, in relation to authorizing a claiming authority to retain electronic equipment.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 666, by Senator Kuhl, Senate Print 901, an act to amend the Vehicle and Traffic Law, in relation to authorizing the operation of farm motor vehicles on public highways.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 681, by Senator Farley, Senate Print 2545-B, an act to amend the Correction Law and the Penal Law, in relation to establishing additional restrictions on parole.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 685, by Senator Wright, Senate Print 4065, an act to amend the Agriculture and Markets Law, in relation to exempting certain persons who slaughter not more than 1,000 rabbits from licensing.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: This bill is passed.

THE SECRETARY: Calendar Number 695, by Senator Libous, Senate Print 1984, an act to amend the Mental Hygiene Law, in relation to limiting the use of state funds for payment of compensation.

THE PRESIDENT: Read the last section, please.

SENATOR KUHL: Lay the bill aside for the day, please.

THE PRESIDENT: Lay it aside.

SENATOR WALDON: Madam President, my colleagues, yesterday I was called out of the chamber when we acted upon Calendar 616, Senate 1233. I would like the record to reflect that had I been here, I would have been voting in the negative.

THE PRESIDENT: Thank you.

SENATOR WALDON: Thank you very much, Madam President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 700, by member of the Assembly Weinstein, Assembly Print 4217, an act to amend Chapter 729 of the Laws of 1994, relating to effecting the health insurance benefits and contributions of retired employees.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

Senator?

SENATOR KUHL: Yes, Madam President. Would you have the Secretary read the controversial calendar, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 34, Calendar Number 666, by Senator Kuhl, Senate Print 901, an act to amend the Vehicle and Traffic Law, in relation to authorizing the operation of farm motor vehicles on public highways.

SENATOR DOLLINGER: Explanation.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, Madam President. I'm told that this is a demonic bill. That came from the Acting Minority Leader, just in case you were interested.

Senator Dollinger, this is a bill, a very, very simple bill. We have a provision currently in the state law that allows

for vehicles to be registered as what we call farm vehicles. This allows for them to have a separate standard of equipment that's mandated by the state to be in operating function - they're still safe but they don't necessarily - because these vehicles go in and out of the fields and are utilized for actually harvesting in very limited periods of time -- and they have a limit on the distance that they, in fact, can travel from their location. I think it's a 25-mile distance.

In our area of the state -- I don't know about your area in Rochester -- there are times when, to get to a repair shop to have something that is integral, as far as the operation of a vehicle goes, you have to go beyond that 25 miles an hour -- 25-mile distance.

This bill simply would allow them to go to a repair shop for those vehicles to be fixed and brought to code required by the state.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: One question, Madam President, if I could.

THE PRESIDENT: Do you yield, Senator Kuhl?

SENATOR KUHL: Absolutely.

SENATOR DOLLINGER: Do the current regulations require that those vehicles have liability insurance when they're on state highways?

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes.

SENATOR DOLLINGER: So the insured -

SENATOR KUHL: The registration of all farm vehicles currently requires liability insurance, yes.

SENATOR DOLLINGER: Okay. Thank you, Madam President.

I'm going to vote in favor of the bill. I was concerned about whether these vehicles would be on our highways without liability insurance, creating problems for other drivers if there were a collision. I'm satisfied that that's not the case.

I'll vote in the affirmative.

SENATOR KUHL: Read the last section, please.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 681, by Senator Farley, Senate Print 2545-B, an act to amend the Correction Law and the Penal Law, in relation to establishing additional restrictions on parole.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you very much.

This particular piece of legislation builds upon the drug-free school zone situation and it prevents -- or establishes restrictions on a convicted sex offender - child sex offender from living within 1000 feet of the boundary of a school yard.

This bill is a -- is a -- this legislation is being pursued around the United

States. There were several instances in Florida where a sex predator lived near a school yard and was endangering the children that were attending this school. It came about as a result in the city of Gloversville that the superintendent, and so forth, of the school system requested legislation because of an incident that happened within my district.

It's enthusiastically endorsed by the New York State United Teachers and, in my judgment, this is a reasonable bill. There was some concern that was raised by Senator Abate and others that maybe the distance was too large, particularly for the city of New York.

What we're talking about here is essentially 2000 feet because you're talking about the school boundary lines and that would be -- it would be less than about eight blocks in the city of New York from the school, and I think it does contain some mandatory penalty enhancements. These are convicted sexual predators of children and it ups the penalties, for instance, if they have -- if they commit this crime again and a few other things, but with that, I would be happy to answer any

questions.

The bill has been well received. It is being carried in the Assembly by Assemblyman Robach who, I believe is one of your Assemblymen.

ACTING PRESIDENT WRIGHT: Senator Paterson, why do you rise?

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Farley would yield for a couple of questions.

ACTING PRESIDENT WRIGHT: Senator Farley, would you yield to several questions?

SENATOR FARLEY: Several?

ACTING PRESIDENT WRIGHT: Senator Farley. The Senator yields.

SENATOR PATERSON: Senator Farley, you touched on the nature of the concern that I would raise. I don't have a problem with the merits of the legislation. I just have a geographic problem. Being from New York City, I live at 132nd Street and Lenox Avenue and just in my mind, I have now considered that there are six schools that fall within the 1000-foot

boundary when you count the 1000-foot boundary of the school and then add in the other 1000 yards distance, and I can't think of any place in the whole borough of Manhattan -- we drew a circle around 14th Street and Seventh Avenue- and I'm sure Senator Abate could elaborate on this more than that -- we found at least four or five schools in that particular area. The only way for any convicted sex offender to live in that area would be if they lived on a barge in the Hudson River. Therefore, don't you think that the upstate region would then be the only place that convicted sex offenders could live because New York City, based on the geographic limitations that you have put on this bill, couldn't contain them?

SENATOR FARLEY: Senator Paterson, I'm sorry. I would have to disagree with you. I don't think that 1000 feet is an unreasonable distance to live from a school even within the city of New York. I'm well aware of the city of New York. I came from there, and let me just say this, that if there's three schools within a 1000-foot radius, I don't think he should be living next to three schools within

that short of a distance. I'm sorry. He may have to move to some place else. That's his problem.

I think the children should be protected and we are well aware of the consequences that happened with child -- with pedophiles, and so forth, and their recidivism and a few other things. I don't think they should be living within 1000 feet of the school, particularly in the city of New York.

ACTING PRESIDENT WRIGHT: Senator Paterson.

SENATOR PATERSON: Thank you.

Mr. President, if Senator Farley would continue to yield.

SENATOR FARLEY: Sure.

ACTING PRESIDENT WRIGHT: Senator Farley continues to yield.

SENATOR PATERSON: Senator, we're not disagreeing on the merits of your bill. I don't think the convicted sex offenders who have brutalized children should live in areas where they would be exposed to more children either. I actually agree with your legislation.

All I'm saying is that based on

the limits you appear to have set, if the - when you were suggesting maybe the sex offender would have to move somewhere, I agree with you but the problem is if they all move upstate, I don't think anybody in those neighborhoods wants them there just because they have more distance between the school and running throughout the neighborhood, and so all I'm suggesting is that we take another look because the 1000-foot boundary of the property line of the school, plus the other 1000 feet in your bill can add up to 2000 feet and I'm just saying that there are so many areas in New York City where the individual would not be able to live, that we might be oversaturating other parts of the state, and I don't think they would appreciate having convicted sex offenders of minors in their neighborhoods either. I'm just going over with you what the correct number should be.

The issue -- the issue -- if I can just finish -- is well stated in your legislation and you well stated in your explanation and no one is quarreling with that and we all actually appreciate that you thought of it and are trying to codify it as law. What

we're just simply, to restate, asking you to do is to take another look at those numbers.

SENATOR FARLEY: Yes. If I may, Senator Paterson.

I appreciate that because I take the concerns of this state very seriously and of this issue very seriously.

As a matter of fact, Senator Abate, who is deep in conference right now, suggested that that was originally 3000 feet, and I changed that at her request to 1000.

ACTING PRESIDENT WRIGHT: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President.

SENATOR FARLEY: The bill was amended at the request of your conference.

SENATOR PATERSON: What did Senator Abate say when you changed it?

SENATOR FARLEY: She thought she wanted to be a sponsor of the bill.

SENATOR PATERSON: Well, if it's good enough for her, then, it's good enough for me.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

Senator Dollinger.

SENATOR DOLLINGER: Would the sponsor yield to one question?

SENATOR FARLEY: I would be delighted, Senator.

ACTING PRESIDENT WRIGHT: Senator Farley yields.

Senator Dollinger.

SENATOR DOLLINGER: I think Senator Paterson has properly pointed out that one of consequences of this is that this bill, if it some day becomes law, there won't be any sex offenders in urban areas because of the -

SENATOR FARLEY: I don't agree but go ahead.

SENATOR DOLLINGER: I can tell you that in my district every 2000 feet, there are at least one of the three institutions, but I have a question. If they all go -- if all the sex offenders are placed in largely rural areas, what are you going to do about their close proximity to places like Camp Massawepie?

SENATOR FARLEY: Camp who?

SENATOR DOLLINGER: Camp Massawepie the Boy Scout camp in the Adirondacks

that's probably more than 2000 feet from any school, child care institution or -- I guess it's just an educational institution or child care institution, but you would have -- a sex offender could reside within 2000 feet of a boys' camp that's used most of the time.

SENATOR FARLEY: I think that you -- I'm familiar with the Boy Scout camps, and so forth. Generally speaking, there's not a lot of housing in the close proximity of there -- of most Boy Scout camps, but these are things that we may have to address. I think the problem in society is that a convicted sexual predator of children should not have access, if you will, to playgrounds, to -- access to children, particularly school yards. Now, let's -- I haven't included Boy Scout camps and I don't see any great need to do this.

This particular legislation is becoming adopted all over the nation because of some serious consequences that they've had of people -- sexual predators not only living near a school ground but molesting children and - near a school ground.

We have had some terrible

incidents in your home county but certainly right up here in Central New York of children that have been murdered by sexual molesters, and I think it's a problem that we need to address, and I think this addresses it.

SENATOR DOLLINGER: Thank you, Mr. President. Thank you, Senator Farley.

I just have one comment on the bill. I'm not surprised that my colleague, Assemblyman Robach, is the co-sponsor in the other house because this bill, it seems to me, is a perfect solution for those of us who represent largely urban areas.

If this bill passes, I guarantee you that you can go from the northwest section of Greece to the southeast section of Brighton and there isn't a place in the community that's more than 2000 feet from either a school or a child care institution. That's pretty much four-tenths of a mile. I'll guarantee you that everything in my district is within four-tenths of a mile of one of these two institutions.

So this bill, if it became law, means that there are no pedophiles, no convicted sex offenders coming to my district. They will,

however, as Senator Farley suggested, they may be going to your district. They may be going to Senator Stafford's district. They may be going to Senator Kuhl's district and somehow taking this problem and dumping it into rural areas is not the real answer to the problem.

I'll vote for this bill. I'm sold on the concept because it's good for my district. Whether it solves the real problem, which is trying to figure out how do we deal with sex offenders who have served their time, paid their penalty to the state of New York, how do we deal with giving them rehabilitation and doing something that prevents them from taking this terrible, terrible problem and foisting it on other children. It's a terrible problem. I don't want it to happen, but somehow simply sending them off to rural areas doesn't seem to me to provide the whole solution.

SENATOR FARLEY: Senator Dollinger, let me just say, I don't care where they go, as long as they stay away from school yards.

ACTING PRESIDENT WRIGHT: Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, will Senator Farley yield to a question?

ACTING PRESIDENT WRIGHT: Senator Onorato, if I may, we have a list that we're maintaining.

SENATOR ONORATO: I want to ask the Senator a question.

ACTING PRESIDENT WRIGHT: As do the other members, Senator, and if you will, we'll maintain you on the list.

SENATOR ONORATO: Fine.

ACTING PRESIDENT WRIGHT: Thank you.

Senator Leichter.

SENATOR LEICHTER: You want to ask him now, George? I'm going to yield to Senator Onorato.

ACTING PRESIDENT WRIGHT: Senator Leichter yields to Senator Onorato.

Senator Onorato.

SENATOR ONORATO: Senator Farley, I'm wholeheartedly in favor of the concept. My concern is that regardless of whether they live 1000 feet or 2000 feet, is there anything in the bill that prevents them from loitering within

1000 feet, regardless of where they may live?

SENATOR FARLEY: No, there isn't.

SENATOR ONORATO: If they live five miles and they come visiting the City and they hang around the school yard, ten feet from it, this wouldn't prevent them from standing ten feet inside a school yard.

SENATOR FARLEY: The police department, in my judgment, can effectively deal with a loiterer that is hanging around a school yard.

What we're trying to address here is somebody that is hanging around a school yard because he lives there. That's what I'm trying to address and prevent. In other words, if he's living right next to a school yard and he's a convicted sexual offender of children, there's not much the police can do about loitering.

SENATOR ONORATO: Just thought it was some food for thought.

ACTING PRESIDENT WRIGHT: Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President.

Senator Farley, I wanted to ask

you about the other provision in your bill. Do I read it correctly that if somebody who had been convicted of one of these offenses against -- sexual offenses against a child, now he commits it a second time, that if that act is done within 2000 feet of a school, you double the penalty. Do I read that correctly?

SENATOR FARLEY: I think you read it correctly. That is correct.

SENATOR LEICHTER: Okay. Would you be so good -

SENATOR FARLEY: As you're being such an astute and capable lawyer, I commend you for that.

SENATOR LEICHTER: Thank you, Senator. You're always very gracious.

Now, Senator -

SENATOR FARLEY: As are you.

SENATOR LEICHTER: -- if he commits that act at a playground that's not connected to a school, then he's just subject to the penalties that are now provided in law, is that right?

SENATOR FARLEY: That's correct.

SENATOR LEICHTER: I mean -

SENATOR FARLEY: See the opportunities I give you for legislation? That's something that you could include, maybe Boy Scout camps, playgrounds. I'm just looking out for school yards.

SENATOR LEICHTER: Senator, you'll agree with me that most of the penalties for repeat offenders are, indeed, very severe. I mean, if it's -- I think in most instances they're Class B felonies and the penalty is already up to 25 years. You think that it's going to be a real deterrent to somebody who commits these acts, that he's going to say to himself, Gee, I better not commit that act within 2000 feet of a school because under Senator Farley's bill, instead of being sentenced to 25 years, I could be sentenced to 50 years. I'm going to commit the act beyond the 2000 feet limit. Is that the theory of your bill?

SENATOR FARLEY: No, that's not necessarily the theory of the bill. The theory of the bill is to be a deterrent to a convicted sexual offender of children to not live near a school yard.

SENATOR LEICHTER: Senator, if you would be so good as to yield. I'm not addressing -

SENATOR FARLEY: No, I think that that penalty can be a deterrent. I mean, I realize that some people don't feel that any penalty is a deterrent, but I think a doubling of the penalty for committing a crime near a school is -- can be a deterrent. Yes, I do.

SENATOR LEICHTER: Senator, these are horrible -- if you continue to yield, please. Senator, these are horrible crimes and, as I say, we already provide a very severe penalty of 25 years. Now, if you don't think that's sufficient, why wouldn't you want to protect children wherever they are, whether they're at a playground, whether they're walking home, whether they've come from church because they have been at a communion event? I mean, why is it that the idea that if you do this crime within 2000 feet of a school, you're going to double the penalty but if you do it anywhere else, the penalty presently is sufficient? I don't understand the reasoning.

SENATOR FARLEY: It's simply a

deterrent maybe to effect an offender to say that, Gee, I don't want to commit this act anywhere near a school. It's that simple.

Now, Senator Leichter, I know that maybe you would like the bill better if I doubled any penalties for any sex offender that committed it anywhere. I would be happy to do that, but I'm trying to address a specific problem that the teachers of this state, the school boards of this state and, in my judgment, the parents of this state want to see addressed.

SENATOR LEICHTER: Mr. President -

ACTING PRESIDENT WRIGHT: Senator Leichter.

SENATOR LEICHTER: -- on the bill.

ACTING PRESIDENT WRIGHT: On the bill.

SENATOR LEICHTER: Senator Farley, I don't find this bill written with the clear policy direction that I ordinarily see in your banking bills, but I must say, Senator, certainly all of us want to protect children. The reason that we get up and ask you questions

on this bill is because on examination, this bill lacks a certain logic. As has rightly been pointed out by Senator Onorato, you deal with living near a school but you don't deal with people going near a school.

As has been pointed out by Senator Dollinger, you don't include camps. You don't include -- I pointed out you don't include playgrounds that are not connected to a school. Then you add that -- I must say it's a bizarre provision -- that if you commit this terrible crime beyond 2000 feet of a school, the present penalties are going to stay, and I think those present penalties are very severe and they rightfully are severe, Class B felony, 25 years, that if you commit it within 2000 feet of a school, then that 25-year penalty becomes a 50-year penalty.

I mean, if you feel that we need greater protection for children, protect them everywhere, but the idea that we'll protect you or we'll give you this additional protection through deterrent effect only within 2000 feet of the school, it's difficult for me to understand the reasoning or the logic.

SENATOR FARLEY: It's the same reasoning, the same logic for a bill, I think you voted for. It was called a drug-free school zone. They doubled the penalties there also and I followed the same pattern because I knew you liked that and supported that. I thought you would like it here. If it's good enough to double it for a drug offender in a school - drug-free school zone, it's good enough to double the penalties for a sex predator in a school zone.

SENATOR LEICHTER: Senator Farley, I don't think that the parallel is there because on drugs, we feel that you have a particular deterrent effect and you want to move people away from the schools, but you're talking about a totally different type of crime. Here you're talking about rape, rape of maybe a five-year-old child. If you feel the penalties presently are not sufficiently severe, then you have to double it wherever the crime is committed. I just can't understand saying that crime within 2000 feet of a school, we're going to double the penalty and the idea that this is a deterrent, the difference also between the

drug-free zone is that there you could make a good argument -- and let me say, I think there's some good arguments against it, but I bought that bill because I think you could say there is going to be a deterrent effect having in mind the range of penalties that apply to selling drugs, but here where you're dealing with very severe penalties, as it is to say that you're going to have a greater deterrent effect if you make it 50 years instead of 25 years, I don't think makes any sense and it also doesn't make sense, Senator, because these people, if they're so driven -- and by and large, they're people of psychological infirmity. They have no control over themselves -- you're just in a sense driving them to commit the crime somewhere else.

I must say, well intentioned as this bill is, Senator, I think on examination, it doesn't really hold up. It doesn't provide meaningful protection.

ACTING PRESIDENT WRIGHT: Senator Abate.

SENATOR ABATE: Yes. On the bill.

ACTING PRESIDENT WRIGHT: Senator

Abate, on the bill.

SENATOR ABATE: Yes. I have spoken to Senator Farley. I support the concept of the bill. I will vote for the bill. I'm still concerned about the practicality of it.

In New York City it would mean that no sex offender could live within seven and a half city blocks from a playground and -- or a school. So I do not know in essence, does that, in fact, ban all sex offenders from New York City, but my hope is when this bill does get negotiated, we will look at the practical impact of whether there will be any city that could house sex offenders and really map it out and see where people can live.

Let me just put on my former hat as a probation commissioner and one of the serious -- and, in fact, when I ran the department, we set up the first sex offender case loads, specialized case loads, because there was a recognition in law enforcement that not only did you have to deal with sex offenders differently, you need to supervise them more intensely in the community. You needed to be concerned about where they lived, where they

worked and made sure that they've had sufficient supervision and treatment.

My concern is that while we talk about doing this -- and this is an important step -- we need to also invest money in parole and probation to ensure that they can have specialized case loads, to ensure that they can actually do home visits. That is critical to know what's happening in the home when you're supervising a parolee and probationer, particularly one who is a sex offender. Maybe they need money for electronic monitoring. The case loads should be smaller so they can supervise the offenders more intensely in the community.

So I hope, Senator Farley, this will be one part of the solution that we will invest in community corrections to provide the public safety component to ensure appropriate supervision and treatment of these sex offenders.

ACTING PRESIDENT WRIGHT: Read the last section.

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

September.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Kuhl, that completes the controversial reading of the calendar.

SENATOR KUHL: Is there any housekeeping at the desk to be taken care of?

ACTING PRESIDENT WRIGHT: Senator Tully -- yes, we do have some housekeeping.

Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

On behalf of one of the more intelligent, handsome, diligent Senators, Senator Wright, on page number 27, I offer the following amendments to Calendar Number 571, Senate Print Number 3560, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT WRIGHT: Received.

Thank you, Senator.

SENATOR TULLY: Mr. President, on behalf of Senator Lack, on page 44, I offer the following amendments to Calendar Number 762, Senate Print Number 5162, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT WRIGHT: The amendments are received and adopted.

SENATOR TULLY: Mr. President, on behalf of Senator Kuhl, on page 36, I offer the following amendments to Calendar Number 683, Senate Print Number 2853, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT WRIGHT: The amendments are received and adopted.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. There being no further business to come before this chamber today, I would move that we stand adjourned until tomorrow -- make note of the time change, tomorrow, Wednesday, May 14th, at 10:00 -- 10:00 a.m.

ACTING PRESIDENT WRIGHT: On motion, the Senate stands adjourned until Wednesday, May 14th, at 10:00 a.m.

(Whereupon, at 3:45 p.m., the Senate adjourned.)