ALBANY, NEW YORK

March 9, 1998

3:06 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

(Microphones inoperative)

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

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

The invocation today will be given by Reverend Alonzo C. Pruitt, Rector of St. Philip's Episcopal Church in Brooklyn.

REVEREND PRUITT: Almighty God, our heavenly Father, beloved father of our Lord Jesus Christ, Thou who art known as the Son, as the God of Abraham, Isaac and Jacob and known to others as Allah and to still others as the divine (inaudible). We give You thanks and praise for the privilege we have of being a part of the world You have created and as we pray for all people in every place, we especially pray for the people of the United States and particularly for the more than 18,100,000 residents of our great Empire State. As we ask Your blessing upon the Executive, Judicial and Legislative branches of our government, we especially pray for our

distinguished Governor. We ask, O Lord, that mindful of our motto, we might be all things to whomever, that all of us might bring all people together and might accomplish the will and purpose of God. In Jesus' name we pray. Amen.

THE PRESIDENT: Amen. Reading of the Journal, please.

THE SECRETARY: In Senate, Friday, March 6th. The Journal of Thursday, March 5th, 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.

SENATOR PATERSON: Madam President, I'm aware that we have a message from the Assembly delivered to this chamber on March 4th of last week.

THE PRESIDENT: Secretary will

read.

SENATOR PATERSON: If so, I'd like to have it read and introduced at this time.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Without going into a dialogue with members of the desk, seeing them shake their heads, I believe there's no message, so perhaps if we could move along and they could see if it could be located.

SENATOR GOLD: Madam President.

THE PRESIDENT: Senator Paterson, it is not yet at the desk.

SENATOR GOLD: Madam President, one second.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Madam President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Yeah, just if I can make an inquiry. I have something in front of me which I understand was passed in the Assembly. It basically -- and I wondered whether it had reached the desk and should be

read in, but just in case there's a mis understanding, I -- let me, it's very short. I want to read this, and then we can know whether we're talking about the exact same document.

This says: WHEREAS the term of the Regents of the University of the State of New York -

SENATOR SKELOS: Madam President, is there a message from the Assembly at the desk?

THE PRESIDENT: No.

SENATOR SKELOS: May we then proceed.

SENATOR GOLD: Well, Madam President -

THE PRESIDENT: Senator Gold.

SENATOR GOLD: I wanted to find out if this would be -

SENATOR SKELOS: Just a moment.

THE PRESIDENT: Senator Gold, I'm not going to interrupt you. I'm just going to look into this for a moment, please.

Senator Gold, would you finish your comment, please.

SENATOR GOLD: Thank you, Madam President.

I don't think I can be out of order before I raise my question.

SENATOR SKELOS: May I ask -

THE PRESIDENT: He's just posing a question about the order.

SENATOR SKELOS: Has the Chair ruled that there is no message at the desk?

THE PRESIDENT: That is correct.

SENATOR SKELOS: Then I think it would be appropriate if we continue through the agenda and if, at some point, if find the message, we can return to reports of the Assembly.

SENATOR PATERSON: A point of order, Madam President.

SENATOR GOLD: Madam President.

SENATOR SKELOS: I think the point of order has been raised already.

THE PRESIDENT: Yes, Senator Paterson.

SENATOR PATERSON: I understand

the Majority Leader's point of order. However, what I was addressing is exactly his point of order. He inquired whether or not this message has been received at the desk, and I have been informed by the Assembly that this message was delivered on March 4th, a Wednesday, Wednesday of last week and again, on March 6th, on Friday, and so I would ask that the desk take a good look, because I -- I think the message is there.

SENATOR GOLD: Madam President. Madam President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Yeah, Madam President. I rose to make an inquiry of the Chair and was interrupted by someone on the other side, and -

SENATOR SKELOS: Is a point of order now an interruption in your mind?

THE PRESIDENT: Senator Skelos, please let Senator Gold just continue his question.

Go ahead.

SENATOR GOLD: Madam President, as I understood the point of order, I don't

understand it. I'm making it through the Chair. Is it out of order for a member to make an inquiry of the Chair?

THE PRESIDENT: No.

SENATOR GOLD: Well. Then, I would like to make my inquiry of the Chair.

SENATOR SKELOS: Could I have a ruling on my point of order in that you've already said the message is not at the desk.

THE PRESIDENT: I have ruled that there is no message at the desk, but Senator Gold is raising a question about that issue.

SENATOR GOLD: Well, Madam President, I'm not questioning his point of order. I have nothing to do with it. I mean the man doesn't listen. I'm asking the question of the Chair. If he has a point of order that says I'm not allowed to make an inquiry of the Chair, we can discuss that point of order but I just rose to make an inquiry of the Chair which, under the rules, I'm allowed to do.

THE PRESIDENT: Yes, please continue.

SENATOR GOLD: This is my inquiry of the Chair. Madam President, I have a piece of paper -

SENATOR SKELOS: Can I have a ruling on my point of order first?

SENATOR GOLD: May I have the point of order stated.

THE PRESIDENT: Right now, Senator Gold is raising a question of the Chair.

SENATOR SKELOS: The point of order is basically, Senator Gold, that you're out of order at this point, that the Chair has ruled that the message from the Assembly is not at the desk.

SENATOR SKELOS: You asked if there is a message. They said there is no message at the desk and that we should then proceed with the calendar.

SENATOR GOLD: I agree with his point of order.

Point of inquiry, Madam President.

SENATOR SKELOS: What's important now is a ruling on the point of

order.

THE PRESIDENT: Would you please let Senator Gold continue with his point of order.

SENATOR GOLD: Madam President, I'd like to continue.

THE PRESIDENT: Yes.

SENATOR GOLD: Assuming there was a piece of paper that said, WHEREAS, the term of the Regents of the University of the State of New York for the 11th and 12th Judicial District expires April 1, 1998; and.

WHEREAS, such position -

SENATOR SKELOS: Madam President, as part of my point of order, could I ask Senator Gold what's his inquiry since you've already ruled that there's no message from the Assembly at the desk.

THE PRESIDENT: We will know what his inquiry is when he continues.

SENATOR SKELOS: Now, if he would like to speak at the end of session where it's appropriate and speak at that time, he could.

THE PRESIDENT: Senator Skelos,

please let Senator Gold continue his inquiry. Thank you. Go ahead.

SENATOR GOLD: WHEREAS, said positions have not been filed by -- or filled by concurrent resolution of the Senate and Assembly by March 3, 1998; and

WHEREAS, pursuant to Section 202 of the Education Law, when a concurrent resolution is not passed, the Senate and Assembly shall meet in joint session at noon on the second Tuesday of March and proceed to elect Regents by joint ballot; and

WHEREAS, such joint ballot is to be cast by members of the Legislature meeting in a unicameral body;

NOW, THEREFORE BE IT RESOLVED that the honorable members of the Senate are advised that pursuant to Section 202 of the Education Law, the time and place of such meeting has been established to be noon on Tuesday, March 10, 1998 in the Assembly Chamber; and

IT IS FURTHER RESOLVED that upon adoption of this resolution, a copy of the same shall be transmitted to the Senate.

Now, Madam President, assuming there was a piece of paper with that language in it, may I ask if a piece of paper with that language in it was delivered to this house by the Assembly?

THE PRESIDENT: According to the desk, no.

SENATOR GOLD: All right, Madam President. I have another inquiry of the Chair.

Madam President, it's my understanding that, under Section 202, of the Education Law, if the houses of the Legislature have not agreed by joint resolution that there be someone elected to fulfill a post of Regent, that as a matter of operation by law, there will be a meeting of both houses on the -- the Tuesday involved which, in this particular case would be March 10th, 1998, in the Assembly Chamber; and my question so that I may know my own conduct tomorrow, Madam President, is, is it not a fact that in the operation of law, if we were to, as elected members of the Legislature, follow the law, which would be interesting,

that we are all due in the Assembly Chamber at 12 noon tomorrow?

THE PRESIDENT: That would be correct.

SENATOR GOLD: Thank you, Madam President.

SENATOR SKELOS: Ms. President, could we now move to messages from the Governor.

THE PRESIDENT: Yes. Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Trunzo, from the Committee on Civil Service and Pensions, reports the following bills:

Senate Print 3052-A, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

3275-A, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

4806-D, by Senator Spano, an act to amend the Retirement and Social

Security Law; and

6179, by Senator Trunzo, an act to amend the Retirement and Social Security Law.

All bills ordered direct for third reading.

THE PRESIDENT: Without objection, all bills direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Meier.

SENATOR MEIER: Madam President, on behalf of Senator Skelos, on page 18, I offer the following amendments to Calendar Number 317, Print Number 310, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR MEIER: Madam President, on behalf of Senator Wright, on page number 15, I offer the following amendments to Calendar Number 272, Print Number 2167, and ask that said bill retain its

place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: Senator Skelos, there is a substitution at the desk.

SENATOR SKELOS: Make the substitution.

THE PRESIDENT: Secretary will read.

THE SECRETARY: On page 10, Senator Johnson moves to discharge from the Committee on Agriculture Assembly Bill Number 6754-C, and substitute it for the identical Third Reading Calendar 187.

THE PRESIDENT: Substitution ordered.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I believe there's a privileged resolution at the desk, sponsored by Senator Johnson. I ask that the title be read and move for its immediate

adoption.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Johnson, Legislative Resolution commending Alice Gordon upon the occasion of her designation as Employee of the Year by the New York State Developmental Planning Council.

THE PRESIDENT: The question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, could we take up the non-controversial calendar.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 62, by Senator LaValle, Senate Print 35-A, an act to amend the Education Law and the Public Officers Law, in relation to the Board of

Regents of the University of the State of New York.

SENATOR PATERSON: Lay aside, please.

THE PRESIDENT: Laid aside.

THE SECRETARY: Calendar Number 63, by Senator LaValle, Senate Print Number 303-A, an act to amend the Education Law, in relation to the Board of Regents of the University of the State of New York.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Laid aside.

THE SECRETARY: Calendar Number 97, by Senator Padavan, Senate Print 3069, an act to amend the Criminal Procedure Law, in relation to the defense of guilty but mentally ill.

SENATOR SKELOS: Lay it aside for the day.

THE PRESIDENT: Lay it aside for the day, please.

THE SECRETARY: Calendar Number 143, by Senator Volker, Senate Print Number 1467-B, an act to amend the Criminal Procedure

Law, the Family Court Act and the Penal Law, in relation to crimes involving firearms.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 13. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 170, 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 MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 203, by Senator Stafford, Senate Print 6011-A, an act to amend the Highway Law, in relation to the designation of the Mayor Frank Ratigan Memorial Bridge.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 218, by Senator Seward, Senate Print 3267-A, an act to amend the Town Law, in relation to non-resident volunteer firefighters.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the last day of January.

ACTING PRESIDENT MEIER: Call the roll.

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 225, by Senator Holland, Senate Print 454.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 226, by Senator Johnson.

SENATOR PATERSON: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 244, by member of the Assembly Lopez, Assembly Print 8870, an act to amend Chapter 84 of the Laws of 1993, amending the Private Housing

Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 245, by member of the Assembly Lopez, Assembly Print 8869, an act to amend Chapter 449 of the Laws of 1986, amending the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar number 246, by member of the Assembly Lopez, Assembly Print 8871, an act to amend Chapter 777 of the Laws of 1986, amending the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 250, by Senator Skelos, Senate Print 5150, an act to amend the Domestic Relations Law, in relation to disinterested persons eligible to conduct investigations.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 251, by Senator Saland, Senate Print 5176, an act to amend the Social Services Law, in relation to capacity of foster family boarding homes.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 252, by Senator Saland, Senate Print 5223, an act to amend the Family Court Act, in relation to court reviews of extension of out-of-state foster care placements.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 280, by Senator Skelos, Senate Print 306, an act to amend the Criminal Procedure Law, in relation to limiting plea bargaining for sexual offenders.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT MEIER: 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, please.

ACTING PRESIDENT MEIER: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 62 -

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Yeah. Is Calendar Number 317 on our calendar?

ACTING PRESIDENT MEIER: That was amended earlier today, Senator Gold.

Secretary will continue the reading of the controversial calendar.

THE SECRETARY: Calendar Number 62, by Senator LaValle, Senate Print 35-A, an act to amend the Education Law, and the Public Officers Law, in relation to the Board of Regents of the University of the State of New York.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER:

Senator Gold.

SENATOR GOLD: A few questions. I don't know whether the Senator would prefer to explain the bill.

SENATOR LAVALLE: Senator, I'd like to speak about the bill for a few minutes and then I'd certainly love to answer any questions, if I could.

SENATOR GOLD: No problem.

ACTING PRESIDENT MEIER:

Senator LaValle.

SENATOR LAVALLE: For purposes of the debate, discussion, I'd like to talk about both Calendar Number 62 and Calendar Number 63.

These bills have been discussed and debated on this floor before and they have been put in to reform a process that is in need of repair. It is a process that we are talking about the election and selection of members of the Board of Regents at a time when we are doing the budget, and so Senate Bill 303-A moves the process for the selection of Regents to make it consistent with when we

talk about education matters and vote on school budgets throughout the state, the third Tuesday in May, and we make the terms of the members of the Board of Regents consistent with those of school board members that have a term from July 1st to June the 30th. We go beyond that in Calendar Number 62, which is really the -- the main bill that goes to the heart of the reform.

As many of you know, we vote on members of the Board of Regents, and many of the members are -- scratch their heads and say, How did these people come before us? Where did they come from? That, of course, has always been a good question. The process in the last number of years has been refined somewhat by the Legislature to at least provide members who have been selected by whatever bizarre methodology, but at least they come before the Education Committees; but there is no rhyme or reason on how the members who the committee and ultimately the members of the Legislature will be voting on, how they got into the process or even what kind of credentials the individuals should have; and

so in this legislation we replicate a process that seems to work that is non-partisan - non-partisan -- and that process is the way we select members who come before us for the Court of Appeals.

We set up a commission. The Speaker has four appointments, President Pro Tem has four appointments. The Minority Leaders in each of the houses have two appointments. So we have a body of 12 people that would draw up what qualifications we would be looking for and actually go through a screening process and recommend to the Legislature, to the committees three names for each position. The committees then hold public hearings -- public hearings -- on the credentials, and select one member to come before the Legislature for a vote.

We do other things. We -- many of you may not realize, but the Board of Regents, their meetings, you cannot find a transcript for meetings of the Board of Regents. Here we are in an era when we have open meetings and people looking for transcripts. You will not find transcripts.

We have the Governor recommending both the chancellor and the vice-chancellor, with the advice and consent of the Senate. We ask that members of the Board of Regents hold local public hearings in each of the judicial districts. We ask that they create advisory committees to advise them, made up of all the stakeholders that make up the educational community to give them input, and lastly, we ask that the chancellor and the Commissioner of Education come before the legislative committees to answer questions that the Legislature may have on the education plan that is merely filed before the Legislature; and so what we want is a public discussion of the Regents education plan.

We believe that these reforms bring us into the modern time. It honors the integrity of the Legislature and the bicameral nature of the Legislature. It honors the integrity of each member's participation and their vote in the process, and also what we've talked about over and over on this floor, it opens up the process to have public hearings, public meetings, and an opportunity for

participation at a time when the members are not preoccupied with the budget process.

Senator Gold, I'll answer any questions you might have.

SENATOR GOLD: Thank you very much.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: But to begin with, just to clarify the record, it's my understanding that Phil Simms, who works for our desk people, did in fact sign on March 4th for the Assembly resolution, and I think that there might be some clarification, Mr. President, if we could now check with the desk people as to whether or not the Assembly resolution actually did reach the Senate.

Would you do that for me, sir?

ACTING PRESIDENT MEIER: Well, Senator, I believe there's a bill before the house right now.

SENATOR GOLD: I'm not in a hurry.

Yeah, would the Senator yield to a question?

ACTING PRESIDENT MEIER: Senator yields.

SENATOR GOLD: Senator, at page 1 and 2 of your bill, I believe you are amending -

SENATOR LAVALLE: Is that Senate Bill 35-A, Senator?

SENATOR GOLD: Yes, sir. Yes, sir.

SENATOR LAVALLE: Yes.

SENATOR GOLD: I believe that on pages 1 and 2 you start off by amending Section 202 of the Education Law, isn't that correct?

SENATOR LAVALLE: That's correct.

SENATOR GOLD: If you will yield to another question, please.

SENATOR LAVALLE: Yes, sir.

SENATOR GOLD: On page 2, lines 11 through 24, I believe is new language and that language would go right after the word "Legislature" on line 5 where you take out language on lines 5 through lines 10, is that correct?

SENATOR LAVALLE: It begins on line 5, with the terms "by concurrent resolution".

SENATOR GOLD: Yeah.

SENATOR LAVALLE: And ends on line 10 with the words "by joint ballot".

SENATOR GOLD: And those words would be eliminated if this becomes a law.

SENATOR LAVALLE: That is correct.

SENATOR GOLD: And it goes without saying that we can't eliminate it if it were in the law today, those words were the law today, is that correct?

SENATOR LAVALLE: That is correct, Senator.

SENATOR GOLD: All right. Senator, reading from page 2 of your bill, line 5, it says, "Each Regent shall be elected by the Legislature by concurrent resolution in the preceding March on or before the first Tuesday of that month." Senator, that has not happened this year, has it?

SENATOR LAVALLE: That is correct.

SENATOR GOLD: Yeah. Then it says -

SENATOR LAVALLE: By the way, Senator, I might add that that has not happened. The last time I believe was 1993, when we had -- is that correct? 1993 when we had elected a Regent by concurrent resolution. As a matter of fact, I believe 11 of the 16 Regents have been elected in joint session, Senator.

SENATOR GOLD: Yeah, Mr. Presi dent,if the Senator would yield to a question.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Senator, then on line 7 it continues, "If, however, the Legislature fails to agree on such concurrent resolution, then the two houses shall meet in joint session at noon on the second Tuesday of such month and then proceed to elect such Regent by joint ballot."

Now, Senator, in the sentence I just read which is existing law, and I refer you to line 9, it doesn't say, does it, that the two houses may meet or might meet, says

that they shall meet, isn't that true?

SENATOR LAVALLE: That -- that is, Senator, I think you've read those words correctly in what is the existing law.

SENATOR GOLD: Yeah. And, Senator, that -- that line doesn't say that it's even necessary or for there to be a joint resolution of each house calling for that session. It says that that session happens by operation of law, doesn't it?

SENATOR LAVALLE: Senator, you might -- you might argue that. That is, that certainly is an argument. On the other hand, it has long been, by custom and tradition, that -- and particularly if you look at the last number of years, that the Assembly has sent a resolution to this house indicating that there was no agreement by concurrent resolution on the preceding Tuesday, and that we would be meeting in unicameral joint session, and the time of 12:00 noon was mentioned on the date of the follow -- of the following Tuesday. So that that has been - that has been what the custom and tradition has been in executing the language of this

law.

SENATOR GOLD: Well, if the Senator will yield to a question.

SENATOR LAVALLE: Yes, sir.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR GOLD: Senator, I hope it's not your position that, if the law of the state of New York created by this Legislature and signed by a Governor states that if we do not do an act by the first Tuesday of -- of March, and states very clearly that we shall -- doesn't say may, it doesn't say, if you like it, if you didn't like it, it says "shall", and it even says where it's going to be. It says we shall be in joint session in joint ballot at 12:00 noon.

Senator, are you suggesting that we have, by tradition or by custom, have the right to change the wording of that statute?

SENATOR LAVALLE: Senator, I think the -- I don't think we are changing it, but that has been what has happened over the -- over the years, and I might not make the

argument that because we didn't have a resolution that we had necessarily a failed process. I mean I just have a problem that the process is failed to begin with, when members of this house are not even needed to participate to have a quorum for such a joint session, because the Assembly on their own can provide the 106 votes that are needed for a quorum.

So the Senate is immaterial to the process. You, Senator, are; I am, inconsequential to the process, and the people that sent you here to cast a vote on behalf of the Regents, so the process itself is failed and you're arguing about whether the resolution would be violative to your reading of the statute.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Yeah, on the bill.

Senator LaValle, your last comments were extraordinarily, extraordinarily important and interesting. You are a member

of the Majority in a house, and let's forget the joint session. According to the leadership of your party, we're not even relevant in this house. You can have a quorum without us. You pass bills, whether we like it or not, without us. You ignore bills which we put in which could benefit the people of the state, and that doesn't seem to bother you.

Day after day after day, motions to discharge are made on bills which have great merit. Suggestions are made by this Minority that have great merit and, Senator LaValle, as someone who truly, without any sarcasm, respects you very, very much as a person and as a legislator, but you on a day-to-day basis don't complain that this Minority is shut off.

I think it's interesting that you complain that the Senate you believe is shut out in the process of electing a Regent, and the only reason you really complain about that is because you know, being as intelligent as you are, that when you add Republican to Republican and Democrat to Democrat in each of

the houses, this Majority in this house of Republicans has not as much power as you would like to have in that session; but that's what the real complaint is.

SENATOR LAVALLE: Senator Gold.

SENATOR GOLD: Yes, sir.

SENATOR LAVALLE: Did you ask me to yield for a question?

ACTING PRESIDENT MEIER: Senator LaValle, are you asking Senator Gold to yield to a question?

SENATOR LAVALLE: Mr. President.

ACTING PRESIDENT MEIER: Senator LaValle, are you asking Senator Gold to yield.

SENATOR LAVALLE: I yielded the floor, and I was going to continue on with an answer.

ACTING PRESIDENT MEIER: Senator LaValle, just to be clear, Senator Gold is on the bill. Senator Gold, do you yield to Senator LaValle?

SENATOR GOLD: Not really, but maybe.

ACTING PRESIDENT MEIER:

Senator Gold, the Chair needs to know whether or not you yield.

SENATOR GOLD: I believe I yielded the floor to Senator LaValle to explain the bill and then to ask some questions, but I believe I did have the floor. I'll be finished in just a minute.

Thank you, Senator LaValle.

Senator LaValle, the bottom line here is a simple one and that is that, although like everything that's passed by this house day in and day out, I got elected to be here and to participate in the process, and I do it, and it would seem to me that the Majority in this house which comes here every day when it can throw out its chest and bully everybody because you're in the Majority, ought to understand that the law is the law and, Senator, I think the desk, which is always honorable, and which acts in the best interest of the Senate all the time, will be glad to tell you that on March 4th, Phil Simms did, in fact, sign for Assembly Resolution 1660, wherein the Assembly passed the

resolution to set up the joint session in conformity with the statute, and I would say to the leadership of this house that I for one intend to obey the law and be in the Assembly Chamber tomorrow for a joint session, and I would hope that after all we hear today and all we've heard in the past from the Majority about the obligations we have to the law of the state of New York, that all members will obey the law and be in the Assembly Chamber tomorrow.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

I really want to just briefly comment on something that Senator Gold talked about that I think is very, very important. The remarks that I made, Senator, you may have some differences of opinion on what happens within this house and question a rule but, Senator, what I am questioning is the fact that in our Constitution it establishes a bicameral legislature, and the selection of the Board of Regents and the methodology flies

in the face of the bicameral legislature created by our Constitution; so it's something far bigger and far broader and the importance is that each of our votes, each of our participation counts.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Will the gentleman yield to one question?

ACTING PRESIDENT MEIER: Senator -- Senator LaValle, will you yield?

SENATOR LAVALLE: Sure.

ACTING PRESIDENT MEIER: Senator LaValle yields, Senator Gold.

SENATOR GOLD: Senator, you stated very eloquently that we have a bicameral legislature, and the selection of Regents, you say, flies in the face of that but if you read the language of the existing law, on page 2 of your bill it specifically says that the Regent will be elected only by joint resolution of the Legislature, which means both houses, bicameral, both houses, or it says that if they have can't do that, then

the two houses will meet as one, and even there the two houses must meet.

Now, Senator, you know as well as I do, that if the Assembly Democrats wanted to select somebody named Jones and the Republicans in the Senate wanted Smith, and we thought Smith was good, and if the Assembly Republicans thought Smith was good, you know very well that the Republicans in this house and the Republicans in the Assembly together with our Conference here would elect the Regent, and I think if that happened, you wouldn't complain at all about the quorum requirements or the fact that we were meeting in single unicameral fashion.

So, Senator, you know, you and I have been friends and I hope we have a mutual respect, we both know what we're talking about, all right? The Republican Majority in this house is used to having its way and, unfortunately for them, when you put the two houses together, you lose that Majority and you get the feeling of what it is to have things not exactly go your way.

I don't think it's any more

than that.

ACTING PRESIDENT MEIER:

Senator LaValle.

SENATOR LAVALLE: If that was a question, all I say, Senator, is that if you want to defend that in light of our Constitution that provides for a bicameral legislature and a bicameral process, then that's fine with me. I'm trying to change that, and we historically should be looking beyond a point in time and who controls the Assembly or who controls the Senate, because what is required under our Constitution is the full participation of all its members, and it is, you know, my feeling that it flies in the face of the constitutional mandate that there be a bicameral process.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER:

Senator Gold.

SENATOR GOLD: Would the Senator yield to one question on his new language?

ACTING PRESIDENT MEIER:

Senator LaValle.

SENATOR LAVALLE: Yeah.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR GOLD: Senator, on your new language on the 3rd Tuesday in May, it says, "***provided, however, such election shall be held on the second Tuesday in May if the Majority Leader of the Senate and the Speaker so certify."

My question is, what if they don't? What if one or the other doesn't; what happens?

SENATOR LAVALLE: What we have done deliberately here, as you know, we took out all the language dealing with the joint and concurrent resolution. We are establishing, Senator, a new process that has the commission making recommendations, and so forth, and what we have done basically is for good or bad and you might -- is for the leaders, both the Speaker and the Majority Leader, to work through that process so that we can reach agreement on a -- on a candidate that would be coming from the commission, and would have undergone legislative hearings.

And I say, you know, the question that comes in here, there's some language on -- if you look, it talks about the first -- the first Tuesday, if that conflicts with a religious observance, so that's where the conflict comes in. It's not the same process of what it is today. If we don't reach agreement by concurrent resolution on the first Tuesday, then we go to the second, the second Tuesday in March, by joint resolution.

We've taken that language out, but we wanted to provide in case there was a religious observance problem.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Mr. President, on the issue.

ACTING PRESIDENT MEIER: Senator Lachman, on the bill.

SENATOR LACHMAN: First, I would like to share my colleagues' opinion of the distinguished chairman of the Higher Education Committee. I've worked with him now for the last two and a half years, and he's a

very thoughtful committed person, for the betterment of education in New York State.

But I'd like to, if I may, take the discussion out of this context and put it into another context, and that is what is the best possible method and selection of Regents and commissioners of education that could best serve all the school children of the state of New York?

Now, there are two or three possibilities for context. One is the national context, and that's a little bit confusing, I admit. There are five different patterns in the United States within the 50 states. There's model one, which is adopted by 13 states, where the governor appoints the Regents and the Regents then appoint the commissioner of education.

Then there is a model, another model, model two, where there is the direct election of a state commissioner of education, for example, as in the largest state in the union, in the state of California, and the governor appoints the members of the Regents. Then there's model three with eight states

where the Regents are elected, and they, in turn, appoint the state commissioner of education without it -- without any input from the governor, and there's a fourth pattern, where the governor appoints both the Regents and the state commissioner of education, and then there are ten states where there is no pattern, and New York State fits into that pattern where we in the state Legislature appoint the Regents and the Regents appoint the state Commissioner of Education.

Now, for many years I have been thinking in a theoretical sense whether this results in the best possible education for the school children of the state of New York. Can we improve upon the selection process so that all children receive a better education?

Now, I would first, before even considering such a bill, Senator, especially the day before the selection of the members of the state Board of Regents, of two new members, consider another bill that you are in favor of, and I am in favor of, and that is the creation of an independent management study of the organization of the Board of

Regents and the entire state Education Department.

I think that what we're doing today would be in a sense putting the cart before the horse. I would be in favor of the bill that would have an independent management study of the entire state Education Department, including the selection of the state Board of Regents, and the selection of the state Commissioner of Education.

I can not at this point support your bill, Senator LaValle, though I know its good intentions. I hope that in the future, we will be able to have a good independent management study of education in the state of New York, through the structure that brings about this education, the state Education Department and the Board of Regents, and then perhaps consider a variant version of the bill under discussion.

So I will have to vote against the current bill.

Thank you.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I rise -- I voted for this bill in the past, but I think I may change my mind, and the reason why I think I may change my mind is that the discussion today about the injection of politics into the election of the Board of Regents, it seems to me, if we do what Senator LaValle wants, won't we be just in exactly the same position that we're now in with respect to the budget, that we need agreement of all the houses and the Governor before we can appoint anyone? Won't the deadline in early March become as illusory as the deadline in April? Won't the budget - won't who sits on the Board of Regents become subject to the exact same political pressures as to how much money goes in the budget?

I'm astounded to some extent to hear Senator LaValle say you can't get minutes of the Board of Regents. The only thing they do in this state is determine educational policy. We can't get minutes of the Majority Conference and you're going to whack up $72 billion of the people's money. We don't get

minutes of that. We are the members of the Minority; we don't get the minutes. We don't know what that debate is. We don't see what goes on. We're not privy to it. You exclude us from that.

You're not, Senator -- with all due respect when you stand here and say we have to empower every single Senator, I wasn't empowered enough to get my name on a bill that I wrote, that I drafted, that I did all the work on, that I got all the support memos for, that I got the city of Rochester to support, that I got the County of Monroe to support. I couldn't get on the bill. That's how much power I have in this chamber.

So when you have that members of the Republican Majority need to be empowered in the selection of the Board of Regents, and the reason why they aren't is because someone had the foresight in creating this statute, they had the foresight to say there will be a day when the Senate will be controlled by one party, the Assembly will be controlled by another and they said, we can not allow the political dispute between the

two houses to imperil the independent thinking of the Board of Regents. So there's only one way to resolve it. We create a unicameral legislature, bring them all together, and whichever party has the majority of the 211 members of the combined houses will then be politically accountable to the Board of Regents.

It is the only vote every year, Senator, in which I am held accountable, and this Board of Regents, quite frankly, has appointed a stupendous education commissioner who's driving home the debate about improving the standards, who is talking about improving the quality of urban education, vitally important to me that represents three-quarters of the city of Rochester, I'm enormously proud that the people that I've elected had the wisdom to pick an independent, far thinking, visionary Commissioner of Education to lead educational reform in this state. I'm willing to be politically accountable for that. From my point of view, it is all that I am politically accountable for. It's the one time my vote matters; but to take the vision

of fashioning this statute years ago which anticipated that there would be a deadlock and realize that the only way to make a timely decision and preserve the independence of the board was to create a unicameral legislature for one moment and allow the political process to run its course, allow one political party to be entirely responsible for the Board of Regents, instead of having this fractured accountability that we had even on the budget, Senator LaValle, who knows in this state who's at fault for late budgets in the last ten years.

I'll give any political pundit in this state a guess as to who's responsible, and the answer is Democrats say it's Republicans. Republicans say it's Democrats. If you're in the Legislature, it's the Governor, if you're in the Executive, it's the Legislature. We have divided accountability. We don't know who's calling the shots and instead we have this one little absolute accountability built into our state Board of Regents in which the party that happens to have a majority of the 211 members in both

houses is completely politically accountable for the decisions by the Board of Regents, for who sits on it and for even who they appoint as the commissioner.

With all due respect to Senator LaValle, I understand why this bill flows, but the suggestion that somehow we should take the politics out, that what we would, in essence, do if we adopted this bill, we would make the politics of the Board of Regents no more than trading off a prison in upstate New York, no more than trading off pork barrel spending in some other part of the state. It would become wrapped up in the massive politics of spending our $72 billion each year.

The Board of Regents, the future of education, the independence of education demands, I believe, that we keep what we've got. It's the one true accountable part of our system that seems to be working, and I would just suggest I've voted for it in the past, but I -- I can't continue to. I see this system as working and it does have political accountability attached to it, and I think we ought to keep it.

There will come a day, Senator LaValle, as I'm sure there has been in the past in this state in which the majority of the 211 members of this Legislature will have "Republican" next to their name instead of "Democrat". Then you will be empowered to be a majority in this one little tiny bit of state government in which you are not currently in a majority and in which your sentiments, well expressed on this floor, have been echoed by many members of this side of the aisle for years and years and years and as recently as last week when all the work that I did was taken away from me for one simple fact: I wasn't a Republican.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: May I have my name called for purposes of explaining my vote. I'd like to explain my vote.

ACTING PRESIDENT MEIER:

Senator LaValle, to explain his vote.

SENATOR LAVALLE: Just very briefly, if those members who were talking about a unicameral system, have a liking for a unicameral system, then they must amend the state Constitution.

I vote in the affirmative.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter, to explain his vote.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter, to explain his vote.

SENATOR LEICHTER: I also voted for this bill last year because I think, frankly, there are provisions in there that I think are excellent, but I must say, Senator LaValle, I don't know whether the timing last year was the same as now, and while I know you have worked on this issue and are deeply committed and concerned about improving the Regents, the timing and the provisions in here really came from politics. Really the thing

that you say you're trying to avoid is politicizing the Regents. It's obvious that that's what you're doing, and this bill is tainted because you put in this one provision where you require both the approval of the Speaker and the Majority Leader before the two houses can convene, and Senator Dollinger is absolutely correct. You want to paralyze the selection of the Regents as we've paralyzed the budget, and all of it is really ill grace on the part of the Majority. They can't walk in a room where they don't call the shots.

You should be there. You're the chairman of Higher Education, and I think you've got an obligation to be there, to be part of that process even though, Senator, you're not in the majority, and that's why I can't really support the bill this year. Put in a bill at another time, in June, when this issue isn't before us. Do it in an honest, non-political way and we'll support those good provisions that are in there; but right now this bill is badly tainted.

I vote no.

ACTING PRESIDENT MEIER:

Senator Leichter will be recorded in the negative, and the Chair failed to note Senator LaValle will be recorded in the affirmative.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those -

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those reported in the negative on Calendar Number 62 are Senators Abate, Breslin, Connor, Dollinger, Gentile, Lachman, Leichter, Markowitz, Montgomery, Nanula, Onorato, Rosado, Sampson, Santiago, Seabrook, Smith, Stachowski, Stavisky, also Senators Gold, Kruger and Oppenheimer. Ayes 34, nays 21.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Gold, why do you rise?

SENATOR GOLD: I want to make an inquiry of the Chair, Mr. President.

Mr. President, it's my understanding that on March 4th, Phil Simms of the Senate desk, signed for Assembly

Resolution 1660, and that earlier today there might have been a miscommunication between the desk and the Lieutenant Governor, perhaps I have added to the confusion, and I take responsibility but I just wanted to verify at this point whether or not that resolution is in the house.

SENATOR SKELOS: Mr. President, I believe we're on the controversial calendar.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could continue, and then there is a more appropriate time for Senator Gold to get up and make his request.

SENATOR GOLD: Mr. President, I've made an inquiry of the Chair.

ACTING PRESIDENT MEIER: The Secretary will read.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Yes, on an inquiry of the Chair. I think it's

appropriate to make an inquiry of the Chair. Are you ruling that I'm out of order?

ACTING PRESIDENT MEIER: Yes.

SENATOR GOLD: Appeal the ruling of the Chair. Slow roll call.

ACTING PRESIDENT MEIER: The question is -- the question before the house is, shall the ruling of the Chair be overruled? An affirmative vote is to overrule the ruling of the Chair. A negative vote is to uphold the ruling of the Chair.

The Secretary will call the roll.

THE SECRETARY: Senator Abate.

SENATOR ABATE: Yes.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: No.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator Bruno.

(There was no audible

response.)

THE SECRETARY: Senator Connor.

(There was no audible response.)

Senator Cook.

SENATOR COOK: No.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator Dollinger.

(There was no response.)

Senator Farley.

SENATOR FARLEY: Nay.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gold.

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

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

SENATOR GOLD: And with my apologies to the members on this side and to

most of the members on the other side, but it just shows you. We can have our differences, and certainly Senator LaValle and I have differences on philosophical issues, but I certainly have a great respect for that gentleman. We can have our differences, but when one of the parts of this bicameral legislature passes a resolution, sends it over here, has it signed for by the clerk's office, and then I gather out of fear of the fact that the Majority Leader might not want to have it 'fessed up that the document is here, that we go through this charade of ignoring that it's in existence. That's what causes this.

Now, I was informed that earlier today when I made the inquiry, perhaps the wrong answer was given. So I figured let's at least straighten it out. That would have taken probably eight seconds. Reminds me of an incident a week or so ago when something could have been done in a right way and we would have been out of there in about 30 seconds, but someone on your side insists all the time on wasting your time and that's O.K. with me as long as each and every one of you

understands who causes the waste of time, and I appreciate, by the way, the comments made to me by many of you a week or so ago when that incident happened, understanding very much who causes the problems in this house. I appreciated the comments that my Republican colleagues made.

So, Mr. President, I'm sorry you're put in the situation because we all understand the politics of this house. It's a shame that we couldn't get a simple answer as to whether or not the resolution was here, and I vote yes to overrule the Chair.

ACTING PRESIDENT MEIER: Senator Gold will be recorded in the affirmative.

The Secretary will continue to read the roll.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator

Hannon.

SENATOR HANNON: No.

THE SECRETARY: Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: No.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Nay.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Nay.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Yes.

THE SECRETARY: Senator Lack.

SENATOR LACK: No.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: No.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: No.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: No.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: Yes.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: No.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: No.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: No.
THE SECRETARY: Senator Markowitz.
(There was no response.)
Senator Maziarz.
SENATOR MAZIARZ: No.
THE SECRETARY: Senator Meier.
SENATOR MEIER: No.

THE SECRETARY: Senator Mendez.

(There was no response.)

THE SECRETARY: Senator Mendez excused.

Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Yes.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: No.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Yes.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Padavan excused.

Senator Paterson.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER:

Senator Paterson.

SENATOR PATERSON: Mr. President, I hope the record will reflect that on March -

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

SENATOR PATERSON: Yes.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on March the 7th of 1995, I inquired of the Chair as to whether or not they had received a message from the Assembly almost exactly similar to the message that was transferred today. The message that year was delivered on March the 6th, and after some long discussion, it was acknowledged by the temporary or Acting Temporary President, Senator Kuhl, that the message was received. That took an hour.

In 1996, and 1997 we had similar inquiries by myself and Senator Gold about this same one message which somehow managed to elude the Chair for three years.

Now, on the fourth year, which

is just now, I again made this inquiry today, and again Senator Gold asked, and I think quite admirably, as to whether or not we could locate this particular message. So I think just the transcripts from this session would demonstrate that in four years now, it seems very difficult to get the acknowledgement of a message from the Assembly which, in the present case, we've even brought forth the actual document signed by someone in the Journal Clerk's office receiving acknowledgement, and all I think Senator Gold was trying to get was a receipt of the -- of the actual message from the Assembly, an acknowledgement that it was actually received.

Now, in spite of whatever other disagreements we might have, this was something that was delivered. It was delivered by our colleagues, and even if there are members of this chamber who, for their own reasons which I will accept, choose not to respond to the message, still we are obligated as colleagues and as professionals to acknowledge the actions of our colleagues in the Assembly.

We could have truncated this entire process simply by acknowledging it even if we don't agree with it and, for that reason, I'm going to have to support Senator Gold's motion to appeal the the ruling of the Chair with an affirmative vote.

ACTING PRESIDENT MEIER: Senator Paterson will be recorded in the affirmative.

Continue the reading of the roll.

THE SECRETARY: Senator Present.

SENATOR PRESENT: No.

THE SECRETARY: Senator Rath.

SENATOR RATH: No.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: Yes.

THE SECRETARY: Senator Saland.

SENATOR SALAND: No.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Yes.

THE SECRETARY: Senator

Santiago.

SENATOR SANTIAGO: Yes.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: Yes.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: No.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: No.

THE SECRETARY: Senator Smith.

SENATOR SMITH: Yes.

THE SECRETARY: Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, explain my vote.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: I wasn't planning on saying anything, but David in speaking of the history of some of these resolutions reminds me of the fact that, in

one of these processes I fell on the wrath of Mary Carey, because she happened to be the person who signed for it, and I'm just glad that Mary Carey isn't the one who signed for it this year.

I vote yes.

ACTING PRESIDENT MEIER: Senator Stachowski will be recorded in the affirmative.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: No.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Yes.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: No.

THE SECRETARY: Senator Velella.

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

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr.

President, I've been here 12 years, and in the time that I've been here, I believe that everybody has had the opportunity to access the floor and have their questions answered.

Senator Gold's answer will be forthcoming in due time. The issue here is who wastes the time. Bringing up an issue, Senator Gold, at roll call of the calendar and asking for special treatment is out of order. You will be treated in due course like every other Senator, and your question will be answered at the appropriate time. We're not going to give you any special treatment.

I think the Chair was right in ruling him out of order. I vote against the motion.

ACTING PRESIDENT MEIER: Senator Velella will be recorded in the negative.

Resume the reading of the roll.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: No.

THE SECRETARY: Senator Waldon

excused.

Senator Wright.

SENATOR WRIGHT: No.

ACTING PRESIDENT MEIER: Call the absentees.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Hoffmann.

(There was no response.)

Senator Maltese.

(There was no response.)

Ayes 22, nays 32.

ACTING PRESIDENT MEIER: The motion to overrule the Chair is defeated. The ruling of the Chair is upheld.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 63, by Senator LaValle, Senate Print 303-A, an act to amend the Education Law, in relation to the Board of Regents of the University of the

State of New York.

SENATOR DOLLINGER:

Explanation.

ACTING PRESIDENT MEIER:

Senator LaValle, an explanation has been asked by Senator Dollinger.

SENATOR PATERSON: Mr. President.

SENATOR LAVALLE: In my explanation on the first bill, maybe Senator Dollinger was out of the room.

This bill really moves -

SENATOR DOLLINGER: I apologize.

SENATOR LAVALLE: -- moves the election process to the third Tuesday in May. That's basically what it does, Senator.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

Sorry, Senator Paterson.

SENATOR PATERSON: Mr. President. If Senator LaValle would yield for a question.

ACTING PRESIDENT MEIER:

Senator LaValle, do you yield for a question from Senator Paterson?

SENATOR LAVALLE: Yes.

SENATOR PATERSON: Thank you, Senator.

In attempting to comprehend what this section would do, it occurs to me that, if I could paraphrase what I believe you were trying to accomplish in the bill, you're saying that where we are with two houses of the Legislature unable to agree in this situation on candidates to accede to the Board of Regents, that you would rather force the two houses to work this situation out, rather than to have a joint session of the two houses in order to resolve the issue by voting as one overall body.

SENATOR LAVALLE: That -- that is correct, Senator, and it's consistent with the first bill that we debated, for what this bill really does and the reason we moved it as a separate bill is it really gets to the question of when the selection process should be and, as I had indicated, to do it, you know, in March when we're trying to

contemplate and resolve budget issues, the issues of selection of Regents are too important to be doing in March, so it should be done in May.

SENATOR PATERSON: Actually, I agree with that, Senator, and I would say that a greater amount of this bill reflects a tremendous amount of research and a lot of common sense on the subject, and I commend you for putting together this work. I'm just curious as to why in the current bill, the one we're discussing, there is absolutely no mention in the previous bill, the one Calendar 62, which we prev... just discussed, it does at least outline the procedure, but here it just says that the Regents will be elected. It doesn't really say that it would occur by a unicameral legislative -- legislature or even by a bicameral, doesn't say anything on the subject, and with the amount of work that you've put into it, there had to be a reason. There couldn't be an omission. I wanted to know what the reason was.

SENATOR LAVALLE: Senator, I think the intent is the same which is that

what we're saying here is that the leaders really are going to work out that process.

Now, that was the same discussion that we had on the previous bill. Maybe, you know, as I had indicated again and again, the bicameral nature that is in our Constitution, how we should resolve disputes between the -- between the houses in a bicameral nature, not a unicameral nature.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator LaValle would continue to yield.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: Senator yield? Senator continues to yield.

SENATOR PATERSON: Senator, I hope you'll understand how I'm actually phrasing this. We may actually disagree on some of the merit of this, but here I'm just talking about some of the technical construction of the bill.

It would seem to me that if you were trying to alleviate a process, if you

were trying to change something that already existed, that you have would have listed specifically in both pieces of legislation what you were trying to do. This was an issue that I took up last week with another colleague on a similar bill that, in order to make something clear, we are pretty much compelled to put our true interest in writing so in this current bill, where you say that the Legislature will elect the Board of Regents, you don't indicate which legislature it is. You've indicated it in the previous bill, but I would suggest that if somebody didn't like the process that you now have passed two laws, one almost seems to affirm the law that's previously existing, the other in your previous bill demonstrates that you have a new idea as to how to resolve this problem.

I just don't think that this bill should go into law having any ambiguity even if we disagree on what the final intent of your legislation is.

SENATOR LAVALLE: Senator, I think it's consistent with the Constitution,

constitutional provisions on the selection of the Board of Regents, that you know, allows the Legislature, which is what we're doing here. I chose not to spell out as the existing 202 of the Education Law does, by establishing a specific procedure that talks about a concurrent resolution being passed on the first Tuesday in March. If no such agreement is reached, then it is done by joint -- by a joint session.

I have removed that because I said it is violative of constitutional provisions calling for a bicameral legislature, and yes, I have not spelled it out in detail. I have said that is for the Legislature to work out.

Now, some may feel that by having the Legislature work out a methodology between the Speaker and the Majority Leader, that that could move us in a direction of deadlock, but at least it is providing a system that is consistent with our constitutional underpinnings.

SENATOR PATERSON: Thank you. Mr. President, I just have one last question

for Senator LaValle, if he is willing to yield.

ACTING PRESIDENT MEIER: Senator LaValle, do you yield for another question?

SENATOR LAVALLE: Yes, sir.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR PATERSON: Senator, I'm almost slightly confused by the discrepancy in the two bills. I guess my question to you is conceivably if a Speaker and a Majority Leader down the road decided that they liked the unicameral voting system for the Board of Regents, would they be able to conduct one after this bill passed? In other words, is this bill of sufficient strength to actually overrule the process that you are loathe to accept at this time by the passage of this - of this law?

You can say that you -- that it's consistent with what has been constitutional, but tradition and practice for a number of years have created the situation and also part of Section 202 of the Education

Law have created the scenario where we have had this method of choosing Regents.

So my -- my question simply to you is, does this particular bill that you pass cure this condition, other than the fact that you have an interpretation of how the Constitution should be read at this time? Have you put anything in this bill because when you say the Legislature, I don't see how that's inconsistent with how it's being done right now, and I'm not talking about constitution ality. I'm talking about the law as it will be passed when we leave this chamber today.

SENATOR LAVALLE: I would just continue, Senator, giving you the same answer I've given you before, that leaders would have under this legislation time to work out what is a legal and constitutional system to select Regents and, you know, my own feeling and from the philosophical standpoint and the legal standpoint, is that we have a flawed system and because it has continued, as you have indicated, by custom and tradition doesn't necessarily make it legally right.

I mean they'll -- those are

questions for courts to resolve, certainly not your aye on this floor. We might have our own opinions, but it is for the court to resolve the legal appropriateness or the constitution ality of these issues.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: I want to thank Senator LaValle for his gracious responses to my questions. I'd now like to address the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I don't know that I totally agree with everything that Senator LaValle said relating to the process that we've used now, but I understand. I understand that perhaps some time a long time ago, somebody wrote into the law that where there would not be an agreement between the two houses of the Legislature, that perhaps the best way to resolve it was to put everybody in the same room, give everybody one vote and let them choose who the Regents would be, and I cannot rule out a possibility that

whoever wrote that law knew at the time that they wrote the law that they had the votes to pass on whichever Regent they would presume should accede to the board.

What I am -- what I'm questioning with the passage of this legislation is its clarity because even if there is custom and tradition that Senator LaValle was talking about, if I were trying to remove it, I would make it crystal clear since this has obviously been an ambiguous point with the Legislature, regardless of party affiliation and that it has continued for a number of years.

So, therefore, if Senator LaValle was seeking equity, I think that perhaps there is some fairness to the argument that both houses really stand pretty much on their own under the Constitution as it stands now.

What is very troubling about this legislation, both bills really, is that the Board of Regents as it would be constructed, would start with an appointment of its chair and its vice-chair coming from

the Governor's office, which I think probably diminishes from the perception that fairnesses are trying to be established through the passage of this bill.

This clearly would give preference to a party regardless of who the governor is, in effecting that actual choice and in boards of similar nature it has always been far more constitutional to let the members of the board elect their chair rather than to have a preset order established from the outset of the -- of the process.

And so, for that reason, I would encourage a negative vote on this bill, and it's really unfortunate, because the greater information that it provides and the changes that it produces, I think will enure to the benefit of the selection process, particularly delaying the vote two months until after our constitutionally mandated budgetary period has elapsed.

But unfortunately, it -- the lack of clarity on some of the issues and then, in my opinion, a clear preference to whichever party would control the Executive

Mansion at the time of any Regents vote, causes me to have to vote against the bill.

ACTING PRESIDENT MEIER: Senator Cook.

SENATOR COOK: Mr. President, I think just a word of comment on one of the issues that's been raised which is the bicameral nature of the Legislature, and the language that's currently in the statute.

I think we should remember that that language predates a certain court decision. That court decision was the one that made the Senate really a less than an equal partner in the process of selection of the Regent, and that is in the one man-one vote decisions relating to the apportionment of the Legislature in 1964, the courts clearly held that legislative districts in both houses had to be according to the population of the districts in the voting of political committees for the endorsements of candidates.

The courts have held that you don't vote in each committee person but rather that each committee person casts a number of

votes that are equal to the number of persons who voted in that particular election district in the previous election, and yet when they came to the decision about the Senate voting for Regent, they made the determination that, in fact, we should have the same number of votes as other people who represent 125,000 people, even though we only represent 300,000 people in this house.

So I think that the -- the point that Senator LaValle is making, that this is an attempt to restore the bicameral nature of the Regent selection process is right on the point and that it was not, in fact, the previous legislation that created the problem but rather the court interpretation some years ago, I think about 20 years ago now, of how the voting was to take place that really created the problem.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Mr. President, a number of years ago -- and you'll see how many years ago in a minute -- one of our very

distinguished colleagues by the name of John D. Calandra, who I loved very much, offered a bill that would redo the way Civil Court districts were to be done in the city of New York and, as I looked at the bill, I could predict who was going to vote which way and my distinguished predecessor of blessed memory in this particular seat, Senator Galiber, I knew would vote for the bill and I knew that there was another member, for example, in the Bronx who was going to vote against it, and somebody said, Well, how do you know? Well, you didn't have to be a mind reader. Senator Galiber's district gained some judges and some other district lost some judges. It wasn't difficult to figure out how people were going to vote.

We have a new member in this house, Assemblyman Balboni, and I'm sure if you want to spend some nice time with a very fine young gentleman, have a cup of coffee with him and ask him questions to which you are going to know the answers, whether he enjoys being in the majority here more than he enjoys being in the minority in the other house, and, Senator Cook, that's what this is

really all about and everybody knows it.

So why do we try to dignify it? Why do we try to dignify it? The fact of the matter is that ever since the court decision you're talking about and before that court decision, the members of the majority in this house hated -- they hated -- as a matter of fact, I don't want to ruin anybody's day but one of the reasons I'm going to enjoy tomorrow is because I know that there are people on your side of the aisle who hate it. It adds to my joy, and not only I enjoy it for the positive, I enjoy it for the negative, suddenly something that's giving me a delight in doing the things that the statute says I should do, electing a good Regent, but the fact that you guys hate it makes it that much more wonderful for me.

Matter of fact, if you acknowledged that there was an Assembly resolution that passed, if you acknowledged that this is the process and what the heck, it's one for the Gipper, I think that would take away some of my enjoyment, so I don't want anybody in the Majority to think that

these exercises that you're going through today are causing us pain. They're not. It's just -- it just amplifies the joy we will have tomorrow.

Now, this bill, I'm going to vote against because it really does nothing more than create chaos. Now, if I was going to lose a vote, I guess I'd rather have chaos than a straight-out law. That's more fun.

Senator LaValle, you are absolutely right that it ought to be May. Nobody is arguing with you there. It really ought to be May, and it -- you may even be right in terms of narrowing the process and it's a shame, unfortunately, as Senator Leichter said in a very, very distinguished manner earlier, that it comes up in the vein of the politics of today and tomorrow, but I would tell you that in voting no today, and in seeing how the Majority in this house have spent the whole day squirming and arguing to get out of what is the inevitability of tomorrow, I can tell you on behalf of myself and probably Senator Leichter and many others, you've done nothing more than amplify our joy

tomorrow.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I understand Senator LaValle's attempt to give new meaning to bicameralism, to restore bicameralism in this state, with respect to the Board of Regents. I agree with Senator Gold's comments about why it's being done, but let me offer a slightly different perspective.

What I would suggest here that the anachronism is not the way we elect the Board of Regents. The anachronism is that we're still wedded to the issue of bicameralism. In the wake, as Senator Cook pointed out -- in the wake of one man-one vote as Senator Cook pointed out, we now have two people in favor of it. We have a bicameral head -- bicameral had no meaning, none -- and if bicameralism was designed to protect the integrity of states and protect small states

from big states, the Senate in the state of New York represents no one with any different interest than the members of the Assembly, and I would suggest to you that what we're really doing by preserving, as you point out, in this bill the concept of bicameralism, we're giving continued life to a political dinosaur that causes political confusion and is a recipe for political deadlock.

If we really wanted to do the radical thing, we wouldn't change the way we elect the Board of Regents. We'd give these people one person one vote per representative and we'd abolish the true anachronism bicameralism.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Read the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 63 are Senators Abate, Breslin, Connor, Dollinger, Leichter, Montgomery, Nanula, Onorato, Paterson, Sampson, Santiago, Seabrook, Smith, Stachowski and Stavisky. Ayes 41, nays 15. Also Senator Gold. Ayes 40, nays 16.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Paterson.

SENATOR PATERSON: Mr. President, with unanimous consent, I'd like to be recorded in the negative on Calendar Number 62, the bill that immediately preceded this one.

ACTING PRESIDENT MEIER: Without objection, Senator Paterson will be recorded in the negative on Calendar Number 62.

The Secretary will resume the reading of the controversial calendar.

THE SECRETARY: Calendar Number 225, by Senator Holland, Senate Print 454, an act to amend the Penal Law, in relation to the validity of a license to possess or carry a

pistol within the state.

SENATOR GOLD: Explanation.

SENATOR HOLLAND: Did he ask for an explanation?

ACTING PRESIDENT MEIER: Yes, Senator Holland. Yes, an explanation has been requested.

SENATOR HOLLAND: I'm sure Senator Gold and every other member of this house is well aware of this bill that has been on the floor for many years. It is a bill about fairness and equality. It is a bill that allows people who have a pistol license to carry it statewide; that is, as is currently the law, anybody who is issued a pistol license in any of the counties other than the city of New York cannot carry it in the city of New York, but if they're issued a pistol license in the city of New York, they can carry it in any other county. It is simply a question of fairness and equality and whether people who are issued pistol licenses can carry it statewide.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Senator - Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: The mayor of the city of New York is opposed to the bill as are the two mayors who have preceded him. Their legislation, and their efforts over the past 10 years, has reduced crime significantly in that area and one of the major efforts that's been made, one of the ones that former Mayor Koch used to do public service announcements on, one that was incorporated into the Safe Streets-Safe City of Mayor Dinkins and one which is a priority of Mayor Giuliani, who is a Republican mayor of the city of New York, is the strictest adherence to strong gun laws, and the desire to control the issue, and to control the territory as much as possible.

Now, if this legislation was one that other counties in the -- in the state choose to adhere to, then we're certainly pleased with that, but the message we're really sending from New York City, that of the

mayor, that which is bipartisan and coming from the police department, all the police commissioners in the last 15 years, and also all of the appropriate law enforcement authorities in New York City, is we don't want anyone coming into New York City with guns that are not licensed by the city.

We have a stronger protection system in the City. We feel we have a large population to try to control and at times a great amount of difficulty doing that. We've been successful. This would, in no way, assist our effort. We feel that the cooperation of those outside the city who are licensed to practice guns, as are your neighbors in the state, would be important to us, and we wish that they would respect the way we, Republicans and Democrats, law enforcement personnel and just private citizens feel in the City and not pass this legislation and let New York City exercise in those five counties the option to have tougher gun laws.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER:

Senator Leichter.

SENATOR LEICHTER: Mr. President, I first want to -- I don't know, thank you, Senator Holland, for bringing up the bill year after year and Gene Levy, a pleasant memory used to bring it before, but as we look at the calendar, I mean, we have all these retreads coming up. I was just thinking, on a Monday afternoon, if I didn't have all the chestnuts that get voted on every year, never go anywhere -- I don't know - what would I do, Monday afternoon or Tuesday afternoon or Wednesday afternoon? Maybe, my goodness, the Senate might even address issues like school overcrowding or maybe we'd hold hearings on the fact why this state is doing so poorly in job growth compared to other states. Maybe we would address issues of court consolidation instead of waiting at the last minute. Maybe we would have some hearings that would move the budget process along, but fortunately our days can be filled with voting on bills that have been rejected time and time and time again and we can go

over the same old tired debate.

So I don't want to be accused of not playing along and just sitting here, Senator Holland, and I'm making the arguments I used to make to you over the years. Well, Senator, you bring up the bill, you'll hear the arguments. If you rise to ask a question, I'll certainly yield.

SENATOR HOLLAND: I would prefer to make my own statement after you've finished.

SENATOR LEICHTER: Okay. Well, I don't know. You're standing a little early because I have a good hour of comments on this bill at least. No, you can keep standing.

Let me just say, I just want to point out that it also amuses me that somebody like Senator Holland and the Republican Majority, that I think more so maybe than this side of the aisle, really feels that there's strong differences within particular sections of the state. It's a big state. We got 17 million people or maybe 18 million people and there's obviously a difference between Montauk and Niagara. There's a difference between New

City and New York City, and the fact of the matter is that you need sometimes different laws, different regulations. Not every part of the state has the same laws relating to speed limits. It doesn't apply. Some places you can go faster and some you can go slower. You have to take into account the nature of the community, the density, its traditions, its history, and so on.

So mayors of this city and as was pointed out by Senator Paterson, both Democrat and Republicans, police commissioners, police commissioners who have received national acclaim have come to this Legislature and said, Look, a situation in New York requires that we more carefully screen people who want pistol permits or gun permits. We are different than -- I come from a community where I have a summer home, a wonderful community represented, as you all know, by Senator Stafford and very ably so, I may say, but in Westport, New York, it's a different thing about getting a pistol license than in the city of New York. We have a particular problem, particular concerns and

those concerns ought to be adhered to as we ought to pay attention, Senator Holland -- and I believe we do -- to particular requirements of New City and your community, and we also do this for the safety of people who come to New York City carrying guns.

It always used to scare me - and I pointed that out to my dear colleague, late colleague, Gene Levy, and say how his wife came to Kennedy Airport once and she wanted to carry a gun. It's dangerous to carry a gun in New York City. It doesn't protect you. It doesn't help you to carry a gun in New York City.

So all we say is that we ought to have a right to deal with our own peculiar problems, and I may say starting with the administration of Mayor Dinkins, crime has declined in the city of New York. Homicide has declined in the city of New York. It's been carried on in the administration of Mayor Giuliani. We ought to be able to continue to do those things that we feel are best for the interests of the people of New York City and those people who come into New York City,

Senator Holland.

So you want to bring this bill up every year and give us something to do on Monday afternoon rather than maybe address some pressing issues and something that the people of the state of New York really need, you go ahead and do it, but I'll tell you, it's an ill-thought-out bill and that's why it hasn't passed into law and never will pass into law, but you keep on filling up our afternoons with retreads.

ACTING PRESIDENT MEIER: Senator Holland.

SENATOR HOLLAND: Never say never, Senator. It will pass. It will pass and you may not like it, but most of the people in the state of New York do like the bill and want the bill to pass and they believe this should be one state instead of two states.

New York City does have a problem with guns. There's no question about it, but it's not from the licensees. It's illegal weapons that are causing the problem in New York City. Anybody that has a license

is checked out by fingerprints with the FBI, BCI. You know that as well as I do and there are no problems caused by the people who carry the weapons.

Most of the people other than you and some of the people on your side do want this bill passed, and I will continue to bring it up year after year, and I urge you never to say never.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR MONTGOMERY: Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: I would like my name called to explain my vote, please.

ACTING PRESIDENT MEIER:

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes.

Thank you, Mr. President.

I'm going to once again vote against this legislation. Number one, it really will override the right of New York City to have its home rule in this regard and, number two, it really is legislation that will ultimately result in more weapons coming into New York City at a time when we are desperately trying to deal with the already crisis as it relates to guns and their relationship to crime.

So we've been very fortunate in the last few years that crime is subsiding. We're beginning to feel a sense of security and safety on our streets and in our parks and in our public places, and that is to a large extent because we have been quite aggressive in this city to remove guns from the street and so Senator Holland is really doing us a gross disservice by saying that he now wants the right to have citizens throughout the state bring their weapons into the City and

override the law that we have and the mayor's wish to contain that.

So I'm voting no, and I certainly hope that every New York City legislator will vote no on this in particular, as well as everybody in the state.

Thank you.

ACTING PRESIDENT MEIER: Senator Montgomery will be recorded in the negative. Resume -

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MEIER: I'm sorry. Senator Dollinger.

SENATOR DOLLINGER: Just to explain my vote on the bill. This is the vote on Senator Holland's bill, is that correct, because I was out of the chamber.

ACTING PRESIDENT MEIER: That's correct, Senator.

SENATOR DOLLINGER: The memo from the city of New York says "This bill is one of several before the Legislature which, if enacted, will increase the number of firearms on the streets of New York City." Is

there anyone in this chamber who thinks that's a good thing? No.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the negative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 225 are Senators Abate, Breslin, Connor, Dollinger, Gentile, Gold, Goodman, Kruger, Lachman, Leichter, Markowitz, Montgomery, Onorato, Oppenheimer, Paterson, Sampson, Santiago, Seabrook, Smith and Stavisky. Ayes 36, nays 20.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 226, by Senator Johnson, Senate Print 502, an act to amend the Penal Law, in relation to the administrative provisions relating to the issuance of firearms licenses.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER:

Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Mr. President, this bill amends Section 400 of the Penal Law which sets forth pistol licensing standards and in that law it says there are two type of licenses to be issued, either carry or premises, business or home premises or carry.

Many jurisdictions throughout this state are issuing their own variety of licenses such as hunting or target practice, security guard, carrying money in your business, and so forth, but it only prescribes in the law two kinds, either carry or premises.

So the variety is only exceeded by the ingenuity of the issuing officer and what we're saying here is the law says you issue one type or the other and my Section 2 (a) which I'm adding says "The licensing officers shall not impose any restrictions, limitations or requirements on licenses or licensees other than those restrictions,

limitations or requirements set forth in this section."

What we're saying is the issuing officer shall obey the law when issuing pistol licenses.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I'm opposed to this piece of legislation as I was opposed to the previous one that we've debated.

If we were even going to consider this kind of legislation, my problem with this specifically is that it turns every license, every gun license in this state into a carry license. So however the -- limited the license may have been intended at the time it was granted, it now means that the rest of the citizens around this state, and particularly in New York City where the gun laws are much tougher, that the license would have to be upheld and honored, and we again just argue that because of different conditions, because of different circumstances, different counties around the

states have different problems, I repeat again there's unanimity. Our current mayor is strongly opposed, as is the police commissioner, to the passage of this kind of legislation and as the City points out in its own memo with the significant reduction in crime, this type of legislation coming at this time does not certainly reward any kind of effort we've made not only to reduce crime but to restrict guns.

Carried out to perhaps its furthest conclusion, it would mean that people could carry guns in churches and day care centers or wherever they deemed it was appropriate if they had a license. These are some of the restrictions that New York City licensing authorities observe when they make a determination and it's -- I would think that if someone has to use the kind of ingenuity to have security guards or people who are traveling with extremely sensitive merchandise have to have guns, let them use the ingenuity to secure the licenses through the appropriate authorities rather than to the value of making it easy for everybody at a time when guns are

particularly important.

I don't have any problem with this legislation being introduced and reintroduced because I understand the sponsor sees that it's important and so, although this is almost like breaking a family tradition, I disagree to some extent with Senator Leichter because I've never had anything to do on Monday afternoons. So I'm happy to come here and talk about this every year, but the reality is that, although Senator Johnson and Senator Holland believe in this legislation, I'm glad that they keep reintroducing it to further their integrity and to further mine, I have to vote against it.

SENATOR JOHNSON: Mr. President. Mr. President.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: I think perhaps I may have misled Senator Paterson. I certainly wouldn't want to do that. This doesn't require everyone who wants a license to get one. They still have the qualifications. They have good moral

character, not convicted of a felony or serious offense, no mental illness, and so on, and so on. So there's still qualifications. It would not make every license a full carry. It would either be to possess by a household in his dwelling or to carry. They can issue either type.

I dare say many people in New York City would feel a lot safer if they could possess a weapon in their household against shove-in robberies, rapists and all sort of burglars who come in the night. So I think New York City would probably be safer if this passed.

As a matter of fact, they found out when 31 states so far have put a right to carry law out there and every one of good moral character without any other qualification to carry them have found dramatic decreases in crime in 31 states, and if that had been countrywide, there would have been 1500 fewer murders, 4,000 fewer rapes, 60,000 fewer assaults every year if other states had that law, and I'm not pushing for that full carry for everyone.

All I'm saying is obey the present law and the people who desire to have weapons feel they need them would be safer and our community would have fewer crimes to deal with.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Explain my bill. I don't live in the City -

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

SENATOR DOLLINGER: I don't live in the city of New York as many of my colleagues on this side of the aisle do, and I understand that Senator Johnson doesn't live

in the city of New York, but I'm astounded that he thinks New York would be a safer place if this bill were passed and someone who calls himself the mayor of the city of New York submits a memo that says this will simply create a public safety hazard, a mayor in the city of New York and a City Council who say the solution to too many guns in New York City is not to add guns.

I would suggest, Senator Johnson, if you think the city of New York would be a safer place, you think this is the right thing to do, move to the city of New York, take this idea to the city of New York, run for the City Council, get elected, get elected mayor and then you can decide by the people -- power given to you by the people what the safe thing is for the city of New York.

The mayor that lives there currently who is elected by the people says this is a bad idea. I agree with him.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the negative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 226 are Senators Abate, Breslin, Connor, Dollinger, Gentile, Gold, Goodman, Kruger, Lachman, Leichter, Markowitz, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Sampson, Santiago, Seabrook, Smith and Stavisky. Ayes 35, nays 21.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I would like to request unanimous consent to be recorded in the negative on Calendar Number 225.

SENATOR SKELOS: No objection.

ACTING PRESIDENT MEIER: Without objection, Senator Nanula will be recorded in the negative on Calendar 225.

THE SECRETARY: Calendar Number 280, by Senator Skelos, Senate Print 306, an act to amend the Criminal Procedure Law, in relation to limiting plea bargaining for sexual offenders.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section -

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: I'm just voting.

ACTING PRESIDENT MEIER: Okay. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: No.

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, may we return to motions and resolutions for a moment?

ACTING PRESIDENT MEIER: Yes.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Alesi, on page number 5, I offer the following amendments to Calendar Number 40, Senate Print Number 5942, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received. So ordered.

SENATOR MARCELLINO: And on behalf of Senator DeFrancisco, on page number 19, I offer the following amendments to Calendar Number 323, Senate Print Number 3899, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and so ordered.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, now that we are on motions and

resolutions, I think it would be appropriate if I would ask right now if we ever did receive the message from the Assembly about the joint session of the Legislature on Tuesday, March 10th.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Resolution 1660.

ACTING PRESIDENT MEIER: Senator Paterson, I'm advised that a copy of that resolution has been received.

Can we return now to the reading of the controversial -

SENATOR SKELOS: Mr. President, there being no further business -

SENATOR PATERSON: Mr. President.

SENATOR SKELOS: -- I move we adjourn until March 10th, at 3:00 p.m.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER: There's a motion to adjourn.

SENATOR SKELOS: There's a

motion to adjourn before the house.

SENATOR GENTILE: Mr. President.

ACTING PRESIDENT MEIER: Motion to adjourn takes precedence on -

SENATOR GENTILE: Mr. President.

ACTING PRESIDENT MEIER: Senator Gentile, why do you rise?

SENATOR GENTILE: I would just ask for unanimous consent, Mr. President, to be recorded in the affirmative on Calendar Number 62.

ACTING PRESIDENT MEIER: Without objection. On motion, the Senate stands adjourned.

SENATOR GOLD: No, no, no. There's a motion made. Let's have a vote on it.

SENATOR MONTGOMERY: Slow roll call.

ACTING PRESIDENT MEIER: The motion is to adjourn. The motion is before the house. All in favor signify by saying aye.

SENATOR GOLD: Slow roll call, Mr. President.

ACTING PRESIDENT MEIER: The motion before the house is to adjourn.

The Secretary will call the roll.

THE SECRETARY: Senator Abate.

SENATOR ABATE: Yes.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

(There was no response.)

THE SECRETARY: Senator Breslin.

(There was no response.)

Senator Bruno.

(Affirmative indication.)

Senator Connor.

(Negative indication.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

To explain my vote.

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

SENATOR GOLD: It's amazing how the lack of knowledge scares people more than the events or the circumstances to which the knowledge refers to.

My understanding, Mr. President, is that all Senator Padavan - Paterson, I'm sorry -- was going to do was to ask that the resolution be read since that's the purpose of sending a message from one house to the other, was to inform it of

activity, and I think it's amazing that the Acting Majority Leader had to quake to the point of running to have a motion to adjourn lest the Assembly resolution be read, which it's already been done and people hear what it was about, because the only language in that resolution was to inform this house that the Assembly did, in fact, pass a resolution calling for the joint session of the Legislature in conformity with the Education Law, Section 202, and I think it's amazing that members of the Majority in this house shiver and shake at the concept of having to abide by a section of law which only became law because this house, by a majority vote, along with the Assembly and the Governor made that a matter of law.

So, Senator Paterson, you don't know how you create the element of fear on the other side of the aisle just by the thought of what your words may be. You are, indeed, a powerful individual and you have my great respect that you can make them shake so.

I vote in the negative.

ACTING PRESIDENT MEIER:

Senator Gold in the negative. Resume the reading of the roll.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

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.

SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Yes.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.
(There was no response.)
Senator Maziarz.

SENATOR MAZIARZ: Yes.
THE SECRETARY: Senator Meier.
SENATOR MEIER: Yes.
THE SECRETARY: Senator Mendez, excused.
Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: No.
THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: No.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: No.
THE SECRETARY: Senator Padavan, excused.
Senator Paterson.
SENATOR PATERSON: Mr. President.
ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: I really think in the future we should try to conform to some kind of process.

Other than that, I would just like you to know that I haven't had so much fun since January 12th, 1969 when the New York Jets defeated the Baltimore Colts by a score of 16 to 7.

I vote no, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson votes no. Continue the roll call.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

(Negative indication.)

Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

(There was no response.)

Senator Santiago.

SENATOR SANTIAGO: No.
THE SECRETARY: Senator Seabrook.
SENATOR SEABROOK: No.
THE SECRETARY: Senator Seward.
(There was no response.)
Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stafford.
SENATOR STAFFORD: Yes, yes.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: No.
THE SECRETARY: Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator

Velella.

(There was no response.)

Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon, excused.

Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MEIER: Call the absentees.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Yes.

THE SECRETARY: Senator Breslin.

(There was no response.)

Senator Gonzalez.

(There was no response.)

Senator Hoffmann.

(There was no response.)

Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Sampson.

(There was no response.)

Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Velella.

(There was no response.)

Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Ayes 33, nays 20.

ACTING PRESIDENT MEIER: The motion passes. The Senate stands adjourned until Tuesday, March 10, at 3:00 p.m.

(Whereupon, at 5:16 p.m., the Senate adjourned.)