NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 24, 1999

11:08 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

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

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: In the absence of clergy, may we bow our heads in a moment of silence, please.

(A moment of silence was observed.)

THE PRESIDENT: Reading of the journal.

THE SECRETARY: In Senate, Tuesday, March 23rd. The Senate met pursuant to adjournment. The Journal of Monday, March 22nd, was read and approved. On motion Senate adjourned.

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

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference

Room.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Alesi, from the Committee on Commerce, Economic Development and Small Business, reports:

Senate Prints 3483, by Senator Alesi, an act to amend the Economic Development Law;

3484, by Senator Alesi, an act to amend the Economic Development Law;

3485, by Senator Alesi, an act to amend the State Administrative Procedure Act.

Senator LaValle, from the Committee on Higher Education, reports:

Senate Prints, 1753, by Senator Padavan, an act to amend the Education Law;

2709, by Senator LaValle, an act to amend the Education Law;

3497, by Senator LaValle, an act to amend the Education Law;

3611, by Senator Wright, an act to amend the Education Law.

All bills directly for third reading.

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

Reports of select committees. Communications and reports from state officers.

Motions and Resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I move to commit Print Number 2885, Calendar Number 385, on order of third reading to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: Madam President, I wish to call up Senator Holland's bill, Print Number 1922, recall from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: By Senator Holland, Senate Print 1922, an act to amend the Education Law.

SENATOR MARCELLINO: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

SENATOR MARCELLINO: Madam President, on behalf of Senator Holland, I offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR MARCELLINO: Madam President, on behalf of Senator Velella, please place a sponsor star on Calendar Numbers 327 and 329.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: Thank you.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Madam President, there is a privileged resolution at the desk

by Senator Meier, and I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Meier, Legislative Resolution Number 775, commending George Farber Aney upon the occasion of his designation for special honor by the Mohawk Valley Chapter of the American Red Cross.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a resolution at the desk. I would ask that the resolution be read in its entirety and move for its immediate adoption.

The PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 773 honoring Edward J. Cleary, President of the New York State AFL-CIO upon the occasion of his retirement after many years of dedicated and distinguished services.

Whereas, it is the sense of this Legislative Body to acknowledge and recognize the life and accomplishments of those individuals who have contributed greatly to this state and its communities, devoting their lives and careers to enhancing the quality of life of its citizens, and

Whereas this Legislative Body is justly proud to comment Edward J. Cleary, President of the New York State AFL-CIO upon the occasion of his retirement after many years of dedicated service to the cause of working men and women in New York State.

Born in June 1930 in Astoria, Queens, New York, Edward J. Cleary first joined the labor movement in 1948 as a member of Local Number 3, International Brotherhood of Electrical Workers, and became a journeyman electrician in 1955.

He was elected a member of the examining board of Local Number 3 in 1958 and by 1964 had ascended to the presidency of Local Union Number 3, the largest electrical union in the City of New York and the local of the revered Harry VanArsdale.

In 1976 Edward J. Cleary was simultaneously elected secretary treasurer of the New York City and New York State building and construction trades counsel and became vice president of the New York State American Federation of Labor Congress of Industrial Organizations.

Edward Cleary was honored to be chosen President of New York State AFL-CIO in 1984, the office once held by Samuel Gompers and George Meany. In the highest post in organized labor in New York, representing 2.1 million members. He also served as an executive board member of the New York City Central Labor Council, secretary of the Educational and Cultural Fund of the Electrical Industry as a director of the American Arbitration Association and president of the Northeast Council of State AFL-CIO

officers.

Edward J. Cleary spent approximately 50 years unifying the labor movement here in New York State, 15 as president of the State AFL-CIO, bringing together public and private union members under the banner of one movement, one voice, one agenda, working with five governors, five speakers and four Senate Majority leaders to bring about positive change for the working men and women of New York State, including greater unemployment insurance and Workers' Compensation benefits, tougher child labor laws and safer work places, as well as of meaningful pension improvements.

A firm advocate of education and community service, Edward J. Cleary has also contributed significantly as a member of the board of directors of Group Health, Incorporated and the Greater New York Blood Program. The New York State Coastal Management Advisory Committee of New York Harbour Maritime Industry, the Board of Trustees of the George Meany Center of Labor Studies, the New York State Education

Department Office of Vocational an Educational Services for Individuals with Disabilities Advisory Counsel and the New York State Department of -- New York State AFL-CIO scholarship awarded annually to a New York State graduating high school senior who intends to pursue a career in labor relations or a related field.

Through his long and sustained commitment to community services, Edward J. Cleary has encouraged many to participate generously as well as demonstratedly advanced the perception of New York State as a caring and united of communities.

Whereas, throughout his career Trudy, his wife of 50 years and three children and nine grandchildren all of whom are privileged to be part of his life, rejoice in his achievements.

Rare indeed is the impressive dedication shown by an individual for the benefit of others as that which has been demonstrated by Edward J. Cleary throughout his life and distinguished career.

Resolved that this Legislative Body

pause in its deliberations to extend its highest commendation to Edward J. Cleary upon the occasion of his retirement after many years of distinguished service, and be it further

Resolved that a copy of this resolution suitably engrossed be transmitted to Edward J. Cleary.

THE PRESIDENT: Senator Bruno, to speak on the resolution.

SENATOR BRUNO: Madam President, we've just heard a resolution that I am proud to be one of the sponsors of. And it really chronicles 50 years of a man's life, and there isn't any labor leader in this state that has had the impact on working people in this State that President Ed Cleary has had over the last 50 years.

When we talk about giants among men Ed truly can be referred to as a giant and labor leader not just in New York State, but in the entire United States.

When I think back and I listen to a resolution about what he has accomplished over his 50 years, 50 years, an adult lifetime, he

has been responsible for any major improvement on behalf of labor, on behalf of industry, on behalf of the people of this State has taken place. And the one gift that Ed has had is in bringing people together, cutting across political lines, bringing people together. And when people work together, when they are on a team, things get done.

Ed Cleary knew that. When people are not on a team then things don't get done. And as part of a team we can be proud that we were with President Ed Cleary as we changed all of the things that were chronicled in his resolution.

And during this 50 years he has had a lovely wife of 50 years, Trudy, three children, three grandchildren, and he is now going on into his retirement, I believe effective tomorrow. And he is a person who will be honored and respected throughout the years in whatever else he has done because of the positive impact that he has had on the lives of all New Yorkers over this past half a century.

Thank you, Madam President.

THE PRESIDENT: Senator Spano, to speak on the resolution.

SENATOR SPANO: Thank you, Madam President.

Over the years for those of us who have been here awhile we see people come and go in terms of their representation of their members of their organizations. Every once in a while we come across someone who makes a real impression on the process, makes an impression upon us, and that person certainly is Ed Cleary.

Through his leadership of the AFL-CIO, the unique relationship that the AFL-CIO and its affiliate members across the State have had with the Senate Majority is something that is unparalleled across this entire nation. And Ed Cleary started as an electrician for Local 3, which is one of the largest electrical unions in this State. And he worked hard. And he worked hard and took that same commitment as he headed up a very difficult AFL-CIO with diverging interests and he kept it all together, kept it together because of the determination, kept it together

because he had one interest at heard, and that interest was to protect the working men and women across the State, to provide a better wage, to provide a better working condition, to make sure as we negotiated Workers' Compensation reform that there was a vocal voice there saying yes, we should reform the system, yes, the system should work better, yes it should be less expensive, but at the same time not at the expense of the injured worker. And he did that in a way that was valuable to the process and it was critical to the process once we were at the point where we actually negotiated Workers' Compensation reform under the leadership of Senator Bruno, we were able to get a measure passed that did pay attention to the issues of the AFL-CIO and paid attention to the issues of the injured workers in this State. So we all owe a debt of gratitude to Ed Cleary.

As members of this Legislature, as members of the Legislature representing all of the people across the State of New York we should say thank you. Thank you to the AFL-CIO. Thank you to Ed Cleary. And say to

Dennis Hughes who will follow in his foot steps that to the executive board of the AFL-CIO, you could not pass the torch to a better advocate for working men and women than Dennis Hughes, and we look forward to working with him and having the same type of close working relationship as we did with Ed Cleary, who is a straight shooter, no nonsense guy and a guy who just stood up for the best interests of his members across the State.

Thank you, Madam President.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I too rise to thank Ed Cleary for the service he has done for the AFL-CIO and through them for all the people of the State, and for eight years before Senator Spano, I chaired the Senate Labor Committee and I got to know in that capacity a different Ed Cleary.

Senator Bruno and Senator Spano have certainly talked about his professional accomplishments, but I got to know Ed Cleary the man, the person, his wife Trudy. It was

at a time in which my children were growing up and because of events that brought us together all over the country I would often be with my children at the same time that Ed and his wife Trudy were in the same place and we would go out and be together and they were just a magnificent couple, very kind to myself, very kind to everybody who they came in contact with. And at the same time always networking and being part of the labor movement as it existed in this State and as it existed in the United States.

And I got to tell you, I mean, Ed Cleary of course is a life long Democrat, and we, the Senate Majority are Republican, and Ed was with me when I spoke to the public employee division of the AFL-CIO at its national meeting, the first Republican in their history to ever address them. And as he listened and we interwove what the Republican Majority and this Senate over the years has been able to do with labor and our ties with organized labor, the AFL-CIO and specifically its head, Ed Cleary, you could see a little smile coming on his face, because truly in

this State, the relationship between those who run government, be they Republicans or Democrats, with the AFL-CIO has been a very close one.

Senator Spano spoke about the hard transition that Ed Cleary had when he first took over as president between the traditional trades unions and the growing weight of the public unions in this state, and Ed Cleary, although he started working with his hands and was an electrician, a long time, life time member of Local 3, was able to put together both the public part of the AFL-CIO, the public employee unions, and the trade unions and bring them together in a harmonious relationship representing the entire over two million members of organized labor in this state and to work with the government of this State to certainly better, on behalf of everybody in this State, working conditions.

A generation is certainly changing. Ed Cleary's retirement to me is bittersweet. He has been the strongest voice for labor in the last generation in New York. It is time to move on in his case and to allow Dennis

Hughes to come forward. But for me always the head of the AFL-CIO in the State of New York will certainly be Ed Cleary.

Thank you, Madam President.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Madam President, certainly Senator Bruno, Senator Lack and Senator Spano have not over stated this case at all because this is a real giant, someone who has made an indelible mark and expanded the horizons of the labor movement in this state in a very constructive way and responsible way.

I am very proud to say that 25 and 30 years ago and before you were born, Madam President, there was somewhat of a gulf between our Majority and some of the labor movements and I played a very active role and Ed Cleary was a very, very cooperative member in that process. He expanded the community of interest that this entire membership has in that type and kind and character of relationship.

And I am also proud to say, since his name was brought up, Ed Cleary also leaves

a tremendous heritage to Dennis Hughes, who I am very proud to say is a native of Staten Island and I am sure that imbued with the contributions and spirit that has animated Ed Cleary will continue and be exemplified by Dennis Hughes.

THE PRESIDENT: Senator Waldon.

SENATOR WALDON: Thank you, very much, Madam President.

Let me again thank our leader, Senator Bruno, in his wisdom for recognizing people who are great and have rendered great service to the people of the State of New York.

Mr. Cleary has been an icon in the labor movement for as long as I can remember, well before I became involved in politics. And though I was not an intimate of his, at a distance I watched him operate in many venues, at Democratic functions, at labor functions, at national conventions, but the times that I remember most are those times when Trudy, his wife, and Barbara, my wife and I, would sit and have breakfast together or lunch together and just talk like real people.

He was a real man. Someone who rose from nowhere to somewhere. Someone who, by the sweat of his brow and the determination of his will and the work of his hands rose to the leadership of one of the most powerful labor unions in the country. We are greater for having had him as a president of the AFL-CIO and all of the other organizations he was affiliated with. He had a ready smile. He was a soft spoken man to be so strong and so powerful, but I think that for someone like myself who was relatively insignificant as a politician, the fact that he would befriend me and spend time with me had a great and lasting effect on me and I am certainly glad that I have gotten to know him over the years. I wish that he could stay forever in the labor movement, but being that he has chosen to go onto higher things and better things I wish he and his family well. I don't know if he is in the chamber, but wherever he is, Mr. Cleary, I wish you all the best.

Thank you, very much, Madam President.

THE PRESIDENT: Senator

Stachowski.

SENATOR STACHOWSKI: Madam President, it is my pleasure also to rise and say a few words on this resolution. Having been a ranking member on the Labor Committee when Senator Levy was chairman and then Senator Pisani and then Senator Lack and then Senator Spano, I got to work with Ed Cleary for a long time and he was always fair and he had the best interest of the workers and he was always very nice to us at any function we attend with him.

I would say that the highlight of my working with Ed Cleary was when he gave me the opportunity when Lech Walesa first came to New York to greet him on behalf of the Senate, seeing, George, I was the only Polish American then, so I had that opportunity, even though you would have probably seen eye to eye with him. But it was a wonderful opportunity. I will never forget it and it was a very nice gesture on Mr. Cleary's part to allow me to do that.

But as stated in the resolution and stated by the previous speakers, Ed was not

only a nice man, he did great things for the labor movement. There have been a lot of changes for the better for the working men and women of this State while Ed was in charge. And we wish him well in whatever he chooses to do, and hope that he and his wife have a long time of traveling around, which they like to do so much and eating in good restaurants and enjoying the rest of his life.

Thank you, very much.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I rise to wish Ed Cleary a very happy and healthy and successful retirement. He has served the labor industry very, very well in a difficult time. He has worked well with both Houses of the Legislature. As a union member myself, a dues paying union member of the UUP, I certainly was one of his charges. And let me just say that Ed Cleary has always been perceived by anybody in the Legislature as somebody that has been well received and somebody that has done a terrific job for the working men and women of this

State.

He has served well and of course we wish Dennis Hughes good fortune in the job that he takes over and I just want to wish Ed and his family a very happy retirement. I believe his daughter is also a constituent of mine in Schenectady County and I know that - have known him for a number of years having served, as Senator Stachowski said, under the late Senator Levy on the Labor Committee right up through Senator Lack and Spano and I just have to say, good luck and best wishes to Ed Cleary. Job well done.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I first met Ed Cleary in 1990 when I came to Albany in an special election. And at that time the AFL-CIO was a supporter of mine and subsequently when I served in the Assembly I was the ranker of Labor and I had many conversations with Edward J. Cleary. And some of the things -- and I don't want to repeat the attributes that have been said of him, but he was a tremendously loyal person if he felt that you were an

advocate for the working men and women of this State.

He was a tremendous fighter. He was very committed to the values of the labor movement. And he always had a passion to fight for the men and women in the labor movement.

For me personally I would like to thank Ed for his loyalty and his support for nine years, even when I ran for the Senate in a primary, rarely does the AFL-CIO jump in. They jumped in for a Republican before a primary and I will never forget that commitment to me and I wanted to thank him.

But in conclusion, I want to share one other thought. How do we define success in life? Is it by how much money we have made? What is our net worth when we leave our occupation? Is it how many homes we own? Is it expensive cars that we drive? I define success by the amount of friends we have when we enter the twilight of our career. And if you look at Ed Cleary he is one of the most successful individuals that I know. He has friends of course in the working men and women

of the unions. He has got elected officials, business officials, people from all cross sections in life. So we wish Ed and his family continued good succe -- success and health. Not good sex. Good success. But we wish him that too, by the way. And good health, in whatever endeavors he chooses.

Thank you, Madam President.

THE PRESIDENT: Excuse me, Senator I had to turn my microphone back on.

Senator Waldon.

SENATOR WALDON: I'm sorry, I didn't get him in time. I was going to ask the gentleman to yield to a question, but I will let it go this time.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: I have to follow that?

I would like to compliment Madam President on her excellent choice of attire today. See if I can do anything else to change the subject briefly from Senator Bonacic's rather remarkable remarks.

Those of us who know Ed Cleary well know him not only as a labor leader of

remarkable power and persuasion, but as a rare gentlemen and a coalition builder. I think it behooves us to take a brief stroll back through history to consider what Ed Cleary had to contend with during the time he was at the helm of the AFL-CIO. These were some of the bleakest days for organized labor in the United States as well as in the State of New York. And New York, known as a big labor state was constantly under attack by people who were anti-labor. And there were and still are people who would blame any of the economic woes of this State on unions. It became a convenient catchall, an easy scapegoat for anything that was wrong. And like any other type of stereotypical attack, it was wrong but it presented a problem for the very individuals who were trying to build and maintain a strong labor movement and the reasons that they wanted to build it, maintain it and to help it grow has as much to do with the future of this state and the well being of the rest of the citizens as with the members of the unions in the AFL-CIO because it was Ed Cleary and his other leadership team who

understood that there is much more than hourly wage at issue here, that it includes significant concepts like apprenticeships, training programs, retraining programs in the face of job loss, retooling to meet new needs and the pension and the health benefits, making workers feel whole, making them feel vibrant, and in fact making them the best work force in this country. And it is the best work force in this country. Under Ed Cleary we have seen the AFL-CIO grow to unbelievable stature in this State and on a national level. And as a smart man Ed Cleary knew that he had to work with everyone. That included people in business. That included people in government who did not always understand or even respect his goals and his responsibility. It also included working with people on all sides of the political aisle from the very conservative to the most liberal spectrum. And he was able to that do with grace. He was able to do that with humor. He was able to do that with style.

And I note with great respect the fact that several of my colleagues have spoken

with Ed and his commitment to the working men and women of this State because Ed Cleary did understand long before some of his other contemporaries that women are a critical part of the work force of this state and are, in fact, an important part of organized labor in this State. So I compliment him for that as I compliment my colleagues for citing it today on the floor.

It is a proud moment for this Senate to be able to reach out and shake hands, wish well in his retirement a giant in organized labor, Ed Cleary.

THE PRESIDENT: Senator Trunzo.

SENATOR TRUNZO: Madam President, I know a lot has been said about Ed Cleary and the work that he has done for the working people of the State of New York.

Ed has been a close friend of mine over many, many years. In the 14 years that I have been the chairman of Civil Service and Pension Committee I have to work very closely with him, especially his public employee group. It was a group that many people feel that the AFL-CIO only had to do with the

trades labor people, but Ed used to invite me year after year not only to their state convention but also to their national convention to speak before the public employee groups, and he really took it all very well in working very closely with me and with the Senate Republican in many areas in getting many of the endorsements that were required during the various elections that we all go through.

He has been a true friend, not only a political leader but a very true friend of mine and he will be missed as the leader of the AFL-CIO.

I also worked very closely with Dennis Hughes who now will take over the reigns and we will continue to have the same relationship with Dennis as we had with Ed Cleary.

Ed will be greatly missed. With that, I say, God Bless Ed Cleary.

Thank you.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we open the resolution for cosponsors and

anyone that would like not to be on it, please address the desk. Other than that we will put both conferences on the resolution.

THE PRESIDENT: Thank you, Senator.

Any members who do not wish to be sponsors on this resolution should so notify the desk.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno there is a substitution at the desk.

SENATOR BRUNO: Take the substitution, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 12, Senator Spano moves to discharge from the Committee on Labor, Assembly Print 3089 and substitute it for the identical third reading

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THE PRESIDENT: The substitution is ordered.

Senator Bruno.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 144, by Senator Alesi, Senate Print 183, an act to amend the Vehicle and Traffic Law, in relation to extending.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

145, by Senator Skelos, Senate Print 1014, an act to amend the Vehicle and Traffic Law, in relation to increasing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 146, by Senator Velella,

Senate Print 1214, an act to amend the Vehicle and Traffic Law and the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 147, by Senator McGee, Senate Print 2451, an act to amend the Vehicle and Traffic Law, in relation to requiring school bus.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays 1. Senator Duane reported in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 228, by Senator Bonacic, Senate Print 1211, an act authorizing the village of Hunter, Greene County, to discontinue.

THE PRESIDENT: There is a home rule message at the desk. Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 305, by Senator Fuschillo, Senate Print 560, an act to amend the Vehicle and Traffic Law, in relation to establishing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 306, by Senator Skelos, Senate Print 971, an act to amend the Vehicle and Traffic Law, in relation to out of state conviction.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 307, by Senator Johnson, Senate Print 1432, an act to amend the Vehicle and Traffic Law, in relation to limiting.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.).

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

THE PRESIDENT: The bill is passed.

Senator Bruno, that completes the

reading of the non-controversial calendar.

SENATOR BRUNO: Madam President, can we return to reports of standing committees.

THE PRESIDENT: Reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Bruno from the Committee and Rules reports the following bill directly for third reading:

Senate Print 1638, by Senator Maltese and others, an act to amend the Penal Law in relation to the crime of partial birth abortion.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can I move to accept the report of the Rules Committee.

THE PRESIDENT: All favor of accepting the report of the Rules Committee, signify by saying aye me anything.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Senate Number 1638.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 398, by Senator Maltese, Senate Print 1638, act to amend the Penal Law, in relation to the crime of partial birth abortion.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Madam President, the debate on the legislation before the Senate at this time has been heard and reheard not only in this chamber but in the chambers of our Federal Congress.

The subject is one that is viewed as reprehensible an hideous to a significant portion of the people not only of New York State but of our country, of both major political parties. It has been castigated and criticized from the pulpits of churches and synagogues and by all -- by many -- by most religions as a procedure that should not be permitted in a civilized society.

My bill is a bill to ban the crime of partial birth abortions. A summary of the provisions indicate that the bill would ban abortions that are performed by a physician who delivers a living fetus into the vagina and then kills the fetus. The bill specifically defines a partial birth abortion as an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

Physicians who violate the law would be subject to criminal penalties, but no penalty could be applied to the woman who obtained such an abortion.

Madam President, this bill has been changed from the original legislation that was before the house in '95-'96, '97-'98. And that change was made in order to answer objections to the bill as to clarity and definition of the term. The only change is the addition of the sentence, this procedure is characterized by the American Medical Association as, quote, "in-tact dilation and extraction," unquote. Or intact DNX.

In the prior meeting of the Codes Committee I did not have the source for that change. I now have that source. And it took place at a conference of the American Medical Association and a board of trustees meeting. And the paragraph itself indicates -- reads as follows: "The term partial birth abortion is not a medical term. The American Medical Association will use the term intact dilation and extraction or intact DNX to refer to a specific procedure comprised of the following elements; deliberate dilation of the cervix, usually over a sequence of days, instrumental or manual conversion of the fetus to a footling breach, breach extraction of the body excepting the head and partial evacuation of the intracranial contents of the fetus to effect vaginal delivery of a dead but otherwise intact fetus. This procedure is distance from dilation and evacuation, D and E, procedures more commonly used to induce abortion after the first trimester. Because partial birth abortion is not a medical term it will not be used by the AMA."

I would like to, in that context,

refer to the fact that in May of 1997 the American Medical Association endorsed a federal prohibition on partial birth abortions saying the procedure should be criminalized because it is, quote, "not good medicine," unquote.

Prominent medical authority such as former U.S. Surgeon General C. Everett Koop have testified that the procedure is never medically necessary to preserve a woman's life or health. As recently as August of 1998 in the August 26th 1998 issue of the Journal of the American Medical Association doctors M. Leroy Sprang and Mark Neirhoff convincingly argue that partial birth abortions is unsafe for pregnant women, unethical because of fetal viability and causes extreme pain to the partially delivered living child.

Madam President, there are many of us that are pro-life. There are many of us that are pro-choice. Whether pro-life or pro choice, this is not the question before us today. The question is whether an in-tact, as described in medical terms, and I deliberately read the medical terms, whether a fetus who is

alive but for brief seconds should be destroyed and killed is the question before us today and whether this procedure should be sanctioned or permitted in the State of New York is the question before us today.

This is not a right to life issue, this is an issue that indicates where a society comes from, where a society is going. It indicates whether we would permit a procedure that, except for brief seconds, would produce a living child, a citizen of this state entitled to all of the rights and protections of the law and of this body.

I would like to also, and there are many, many, I guess at this time hundreds of pages of debate not only before this House but in the Congress, but I would like to read the description of this procedure by the foremost practitioner of this hideous art, and that was who termed the termed, who coined the term, and his name was Dr. Martin Haskell. He, an alleged doctor named McMann, who has gone to his, I hope, just reward, were the foremost practitioners of this art and I would like to read. He spelled out in his book, which

recommended the procedure, the partial birth abortion. And he was from Dayton, Ohio. And he indicates, and these are his words from his book.

The procedure requires a physician to extract a fetus feet first from the womb and through the birth canal until all but its head is exposed. In 1992 he wrote a paper on this method and called it as we termed it in the bill, dilation and extraction. And that procedure first spells out what the surgical assistant should do with the use of a sonogram to determine where the fetuses lower extremities are so that the physician could then introduce a large grasping forceps through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation -- what a warped use of the sonogram -- so that he could see where the feet are, where the legs and feet are, he moves the tip of the instrument a carefully toward the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower

extremity. The surgeon then applies firm traction to the instrument, causing aversion of the fetus and pulls the extremity into the vagina. With the lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities. The skull lodges at the internal cervical us. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up. An the reason that, just as an aside, there is not enough dilation to pass through as has been indicated in the literature that we have before us in prior debates, this is a procedure usually used in the third trimester, a procedure that in the literature that we have seen is indicated only from at earliest the twentieth week, but going into the twenty-fourth week and on up and in many cases used right up until the ninth month by Dr. McMann.

At this point the right handed surgeon slides the fingers of the left hand along the back of fetus a hooks the shoulder of the fetus with the index and ring fingers

palm down. Next he slides the tip of the middle finger along the spine towards the skill while applying traction to the shoulders and lower extremities. While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand the surgeon takes a pair of blunt curved Metsenbaum scissors in the right hand. He carefully advances the tip, curve down, along the spine and under his middle finger until he feels a contact the base of the skull under the tip of his middle finger. The surgeon then forces the scissors into the base of the skull or into the foramen magnum, having carefully entered the skull, he spreads the scissors to enlarge the opening. The surgeon removes the scissors and introduces a suction catheter into this whole and evacuates the skull contents. With the catheter still in place he applies traction to the fetus, removing it completely from the patient.

Madam President, I submit that what we are talking about is the killing of an infant almost, and in some cases I firmly believe, born.

Some of my fellow -- my colleagues here know that I spent three and a half years in the DAs office in Queens in homicide. I submit that this is infanticide delivered - the actual delivery of a child. None of us, or almost none of us could conceive of participating in a loathsome endeavor as has been described. We have a situation today where we can make a statement, not pro-life or anti-life, not Democrat or Republican. We can make a statement that we are, in fact, a civilized society that will not condone the killing of its almost born.

There are those persons, and we had during one of the prior debates a nurse that was here with us, that described participation in this procedure and as a result she changed her way of life and came here and to some of us talked to us and participated in a conference and spoke about the fact that she felt that such a procedure should never be condoned or permitted.

I think that is the approach that we in this House should take. The approach is that we are making a statement. We are making

a statement that we will not permit these almost born children to be killed, to be slaughtered at this stage of their lives. There is absolutely no question whether we argue about life or we argue about choice, there is no question that this specific procedure, which we have attempted to define as well as can be, should be prohibited by the State of New York and should be not permitted by physicians or alleged physicians operating in the State of New York.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I have an amendment at the desk and I ask that its reading be waived and that I explain it.

THE PRESIDENT: The amendment has been received at the desk. You may proceed.

SENATOR CONNOR: Thank you. Essentially what this amendment does is provided that -- I should say the main bill as Senator Maltese has presented it provides that the section shall not apply to an abortion performed by a duly licensed physician that is

necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury where no other medical procedure would suffice for that purpose. My amendment would substitute the following language. The provisions of this section shall not apply to an abortion performed where in the medical judgment of the attending physician the abortion is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman.

Madam President, I offer this amendment because I would point out that the procedure, the part of the procedure frankly that Senator Maltese has pointed out is invariably performed in the third trimester of a pregnancy and that third trimester abortion is already illegal, I believe under New York law, although the courts have carved out an exception in the event of serious adverse health consequences for the women.

Now, you know, I understand why in some ethical and religious or philosophical traditions perhaps the partial entry of a

fetus into a birth canal is of significance. For me it is not. Third trimester, a viable fetus is viable whether in utero or elsewhere. And our present law protects that where appropriate, but on the other hand preserves a woman's right to protect her life or herself from serious adverse health effects. And the purpose of my amendment is to recognize this, to advance it as part of Senator Maltese's measure.

I can say for one, for me, if this amendment would carry I would have no hesitation whatsoever in voting for the bill as amended. So I urge my colleagues, I have offered this amendment in the past to this bill and my position remains the same. I think we have an obligation to recognize that every women has a right to protect her life and to protect herself from serious adverse health affects.

Now, I know some will rise and say what does that mean, what is a serious adverse health affect. Well neither the law nor the Legislature can be a physician in every case. Obviously it calls for judgment. I think we

have to accord both to the patient and to the licenses physician a degree of good faith. A physician I think could read this language and certainly make a determination together with his patient as to what a serious adverse health effect would be. We can not anticipate every case where that would apply. If, in a few cases, that kind of exception be abused, well I suggest it is just as likely to be abused in a few case where the exception is, you know, as Senator Maltese would present it, to preserve, to save the life of a mother whose life is in danger. That calls for a medical judgment too on the part of a physician and a patient.

So anticipating that that objection will be raised I say we can't cover every situation. We can only set forth the principles to which we adhere, and for me I adhere to the present law that such a late term abortion is illegal except where the woman's life is in danger or there will be serious adverse health effects.

Thank you, Madam President.

THE PRESIDENT: On the amendment.

SENATOR CONNOR: Slow roll call.

THE PRESIDENT: I see five Senators standing. The Secretary will call the roll on the slow roll call.

THE SECRETARY: Senator Alesi.

(No response.)

THE SECRETARY: Senator Balboni.

(No response.)

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Madam President, I would like to change my vote to a no, and I thank you.

THE PRESIDENT: You're so recorded as voting in the negative, Senator.

The Secretary will read.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: No.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: Yes.

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Explain my vote, Madam President.

THE PRESIDENT: Senator Dollinger to explain your vote.

SENATOR DOLLINGER: Thank you, Madam President, I want to echo the sentiments of Senator Connor. Without this amendment, make no mistake about it, there isn't a lawyer in the room who believes that this bill is constitutional.

You remember constitutional. That's the adjective that we use to describe the principles laid out in the Constitution of the United States in which our forefathers said, Government can not take certain rights and privileges away from the people of this country. That constitution is interpreted by the United States Supreme Court says that the government can not interfere with the choice of a woman and her family in this critical life and death and adverse health consequence situation, can not, can not interfere if the

woman's life or her health is at risk. That is what the Constitution of the United States says.

Without this provision this is nothing but a charade and I would just suggest, I join Senator Connor, add this language to this bill and I am prepared to vote for it as well. Without this language I will not do that.

I vote aye in favor of the amendment, Madam President.

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: No.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: No.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hannon.

SENATOR HANNON: No.

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: No.

THE SECRETARY: Senator Hoffmann.

(No response.)

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: No.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: No.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: No.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Yes.

THE SECRETARY: Senator Lack.

SENATOR LACK: No.

THE SECRETARY: Senator Larkin.

(No response.)

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: No.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: No.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: No.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: No.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: No.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: No.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Yes.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: No.

THE SECRETARY: Senator McGee.

SENATOR McGEE: No.

THE SECRETARY: Senator Meier.

SENATOR MEIER: No.

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Yes.

THE SECRETARY: Senator Nozzolio

(No response.)

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Yes.

THE SECRETARY: Senator Oppenheimer.

THE PRESIDENT: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: I think it is worthy of repetition to say that without this amendment that similar bills as this legislation, that similar bills have been stuck down in all 19 states where this type of legislation has appeared, indeed every court that has ruled on this issue has struck it down without this is amendment.

I vote yes.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: Yes.

THE SECRETARY: Senator Rath.

SENATOR RATH: No.

THE SECRETARY: Senator Rosado.

(No response.)

THE SECRETARY: Senator Saland.

SENATOR SALAND: No.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Yes.

THE SECRETARY: Senator Santiago, excused.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: 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

(No response.)

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye. No, no. Sorry. No. No, no. Thank you.

THE SECRETARY: Senator Stavisky.

(No response.)

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: No.

THE SECRETARY: Senator Velella.

(No response.)

THE SECRETARY: Senator Volker.

SENATOR VOLKER: No.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: Yes.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: No.

THE PRESIDENT: The Secretary will call the absentees, please.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: No.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: No.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hoffmann.

(No response.)

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: No.

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: No.

THE SECRETARY: Senator Rosado.

(No response.)

THE SECRETARY: Senator Spano.

(No response.)

THE SECRETARY: Senator Stavisky.

(No response.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes 18, nays 35.

THE PRESIDENT: The amended is defeated.

Senator Marchi, on the bill.

SENATOR MARCHI: On the bill, Madam President.

Madam President, this question

which has been addressed in terms of exquisite detail by Senator Maltese presents the problem analytically with a fineness and precision that should appeal to our conscience.

We make reference to constitutional implications of the Roe v Wade act bearing in mind that it was monumented in three different semesters, some of which, the predicates of which have been changed by observance and physiological observances and medical analysis, but as the Senator pointed out, we are not dealing with pro-choice, we are not dealing with life. We are dealing with the moment of life.

Have there been prominent supporters and present supporters of pro choice who have altered their position with respect to the application that took place here. Yes, there have, Madam President.

Mayor Edward Koch, former mayor, who is pro-choice has taken an absolutely positive anti-position on the definition that has been supplied now by the so called partial birth procedure. Daniel Patrick Moynihan, our senior Senator from this State has taken a

similar position and there have been others around the country of prominent responsibility that have recognize its failure.

We are not defining the threshold of life with the little mental herniation where do we stop?

It is not that our distinguished Minority Leader offered an insensitive amendment, but where do we stop? Is there any threshold now that abortions have gone beyond the 35 million mark?

On the basis of the original holding and the subsequent events that have taken place where do we stop? Is there any threshold where life becomes sacred in the eyes of the law?

As Senator Maltese so eloquently presented it to us it simply is not there.

We are going beyond living with the dead unborn whose life have been snuffed out before they experienced actual birth. We have now mentally herniated to apply that to a person who is now among the living and the life is extinguished, arousing the serious concerns of people who have championed another

position and continue in most cases to do so.

So I suggest, Madam President, that it is time that we reevaluate. How far are we going to allow the threshold to be extended, when they are bouncing around on the table, because it might fit in with the original concept that -- the enlarged concept that it applies to any reproductive consequence that should be under a control. I don't think, I don't think even Justice Blackman, and I don't want to attribute anything to him, he had made the original decision, but I don't think, I don't think it is the rational product of the sober thinking that went into the amendment that was presented and sanctioned also by the statement that he made by the American Medical Association.

So I would hope that many of you will find it possible to recognize this dilemma and vote to at least make a statement in this State that we will not support that. And we are not going into the fundamental question that everybody -- that is on everybody's mind. But this the threshold of life and we should defend it to our utmost.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I rise to support the outlawing of this obscene disgusting procedure. As been so eloquently said by Senator Maltese, this is not a pro-choice, pro-life measure. All kinds of people have crossed the aisle on this one. Senator Daniel Patrick Moynihan called it infanticide, infanticide. Ted Kennedy's son voted to ban this. There is nobody that could really rationalize how a mother's life is in danger when this child has been born really all but its head, and then that disgusting procedure of sucking out the brains of the child. There is no way that this could be saving a mother's life.

And Senator Dollinger, here's one lawyer that thinks it is constitutional. And incidentally what is constitutional is what the last court says.

This a procedure that passes this House overwhelmingly, veto proof. The Governor has said that he would sign this. And for those that are interested in polls,

they say 85 percent of the public wants this disgusting, obscene procedure outlawed. We're here to represent, I feel very deeply on the life issues, but I'll tell you that this is something that really needs to be taken out of our society. There is no place for it. It is outrageous, it is wrong, and it is time New York State recognized that.

And I will tell you what, if this bill every reached the floor of the Assembly it would pass in a heart beat. I think everybody knows that. That's why they won't let it on the floor of the Assembly.

Senator Maltese, I applaud you for bringing this bill to us. I applaud you for the way that you described it. And it is difficult to talk about these issues. It is difficult to describe what this is.

When I spoke to my wife about what it is she was appalled and didn't want to hear any more. But it is something -- and I applaud my colleagues on the other side of the isle that stand up on this one because you really need to.

I am going to vote aye and I hope

that all of us would.

Thank you, Madam President.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Madam President, this must always rank as the most unpleasant day of the year for those of us who care deeply about this issue. It comes up time and again despite the fact that at the outset we must make it very clear this bill can not become law irrespective of the action taken in this house. We may pass it over and over again and we may parade before us all the horrors and the horrendous consequences to the unborn fetus of this procedure. The bill will not pass in the Assembly and so what we are going through today is nothing more nor less than a charade.

Now let me say, I don't doubt for a moment the sincerity of those who are the proponents of the bill. They have already stated to you in the most stark terms the horrors that attend the delivery of a fetus in the manner in which this bill would permit. And the question is, has society gone mad? Have we taken leave of our senses? Why would

there be any desire to keep a bill of this - a procedure of this sort available to the medical profession?

There are compelling reasons why, Madam President, and these compelling reasons are consistently apparently beyond the grasp of certain members of this House who don't have the medical sophistication to understand what is going on. They take literally the fact that you are sucking the brains out of an unborn fetus and forcing it be delivered dead. And they say this is murder and its homicide and those with prosecutorial background insist that this is an appalling act of human degradation.

The simple fact is that it is precisely the reverse. That the underlying intent of this bill is to protect women and to protect their right to have further opportunities to bear children, not to abort children. And let me give you a little clearer understanding if I may once again of the underpinnings of this medically. My dad was a surgeon and my mother was very heavily involved in various aspects of the breast

cancer campaign. And so even as a young person I became involved with various aspects of medical anatomical discourse, and let me just explain for a moment to you what I think even a young child could understand if the case were put clearly.

The fact of the matter is that in the course of a pregnancy a child can become hideously deformed, an unborn child. I will call it a child because there are those of us who feel that after a certain point the fetus is, indeed, viable. But there can be a fetus without a -- literally without a head, with the brains growing outside of the head, with various bodily organs hideously misformed and improperly placed. There can be all sorts of things which are freakish in their implications and are disastrous in the event that a child is born.

Now what has that got to do with the case? Well it is very clear and very simple if you understand the anatomical fundamentals of this situation. When those things occur the fetus can degrade, and in the degradation of the fetus, the rotting if you

will of the fetus, the unborn fetus, this creates a grave health risk to the mother. The mother is in jeopardy of dying as a result of the toxic excrudesence that these fetuses create within the mother's womb and this is a potentially tragic situation

And so we ask the question, Well, why can't we use certain methods for delivery of the fetus earlier? Take, for example, the possibility of a Caesarian. The fact is that prior to 36 months Caesareans are most unsound and they are almost never done for the simple reason that structurally the woman is given a very grievous disadvantage with respect to the future bearing of children. The fetus can not be permitted to be put in that position and thus the premature Caesarian is bad practice. There are other things that might be done. There might be induction techniques, inducing the birth of the fetus, and those too involve various toxicity problems of a very serious nature. And so the responsible physicians who care about the woman and who care about her ability to bear children in the future say we must have in reserve in our armamentarium of

medical techniques something that we do not ever wish to use unless it is impellingly necessary, and that is the so called later term abortion concept.

By using this procedure we do clearly save the life of the mother and preserve her health. We deliver a fetus which would have no future even if it were born, and that is something which is repeatedly ignored by the opponents of this procedure.

The only occasions on which this is done by responsible physicians, and let us admit at the outset that there could be rogue physicians who misuse the procedure. There are rogue physicians who misuse all sorts of medical procedures. That is not a reason to condemn the procedure as irresponsible, illegal or murderous.

So what we are faced with is this very unpopular situation. It would be a cinch to climb on board this bill. It is politically clear and simpler to explain it to people, I am stopping murder and therefore I vote for the bill. But you are not stopping murder, you are doing something which is dead

wrong because you are hurting people. You are hurting the mothers and you are hurting their future possibility to have their children. This is paradoxically the exact reverse of what the pro-lifers wish to do. So there is something very wrong about this debate. It is addled and it is off kilter and out of equilibrium.

My friends, let me just say that there have been some interesting statements made about this. One from the White House I think is worth taking a moment to consider. This was made before the White House's reputation in various regards was diminished so I think it is valid to read the quote. A man named William Jefferson Clinton has the following to say about this bill. Several years ago he said as follows: He said, "The bill does not allow women to protect themselves from serious threats to their health. The decision to have an abortion generally should be between a woman, her doctor, her conscience and her god. I have long opposed late term abortions," said the President, "except where necessary to protect

the life or health of the mother. I can not support the use of a procedure on an elective basis -- an elective basis -- where the abortion is being performed for non health related reasons and there are equally safe medical procedures available. Rare and tragic situations can occur in a woman's pregnancy in which a doctor's medical judgment for use of this procedure may be necessary to save a woman's life or protect her against serious injury or her health. In these situations in which a woman and her family must make an awful choice the Constitution requires as it should that the ability to choose the procedure be protected. The Constitution protects the life of women. It protects the life of children. It does not advance murder and homicide as is suggested elsewhere. I can not support the use of a procedure on an elective basis where the abortion is being performed for non health related reasons."

Just a few more excerpts will suffice to make the point I think.

"Women are advised by their doctors that this procedure is their best chance to

avert the risk of death and grave harm. These babies were certain to perish before, during or shortly after birth and the only question was how much grave damage was going to be done to the woman. I can not sign House Bill HR1833 because by treating doctors who perform the procedure in this tragic case as criminals the bill poses a dangerous serious harm to women. That is why I implore Congress to add an exception for the small number of compelling cases where selection of the procedure in the medical judgment of the attending physician is advisable."

That's, I think, a fairly succinct explanation at the Presidential level of why he vetoed this bill, and that's the same reason why the Assembly will not pass it. Can not the Senate rise to the same general level of common sense as the other House? Generally it is quite the reverse it seems to me, but I don't want to case aspersions on the other House. Suffice it to say this is one of the great deliberative bodies of the world, if I don't exaggerate too much, and to say that we ignore the fundamentals of what goes on here

is to indicate that we not really the carefully deliberative body that we are cracked up to be.

So my friends, in conclusion, let me say this: I have never argued in anybody's motives. I think there is complete sincerity on both sides. But what I am saying to you is there is a lack of perception, my colleagues. A failure to understand what is really going on here. Lift up the outer crust of this issue and look beneath it. This is not murder, it is not homicide, it is not a deliberate attempt to create an abortion because of a cleft palate or some superficial deformity. This is something where the baby is being hideously deformed, where this deformed characteristic threatens the life of the mother because this fetus may poison the mother literally. That is why the doctor must have this in reserve and to call a doctor who uses this technique a criminal is a cruel injustice and would in all events in my opinion be a totally misfired missile on the part of this House. We are better than that, my friends. I urge that we please understand

this bill must be defeated for the sake of good medical science, for the sake of the unborn which we hope to have continually made available and be born in the future to mothers who will be protected by the procedure. It is a must. It is not optional. We have got to arise to the occasion, be sophisticated enough to understand medically what is at stake here and do the right thing.

THE PRESIDENT: Reads the section.

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

THE PRESIDENT: Senator Montgomery.

SENATOR OPPENHEIMER: In the absence, may I be recognized, Madam President?

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I said this two years ago when Senator Maltese was describing the procedure but I said it that time and if you want to really hear a disgusting procedure I would be happy to talk

about my open heart surgery.

I think surgery is not something that is a delectable discussion. And I just am thankful that there are surgeons that are willing to perform these very difficult procedures.

I have a question for Senator Maltese if he will yield. Can you yield a second, Senator?

SENATOR MALTESE: Yes.

SENATOR OPPENHEIMER: Thanks, Senator Maltese.

This is the question that occurs to me. Is it just this procedure in the third trimester that is so upsetting to you, or is it all procedures that might be made in the third trimester because you are picking on one procedure.

SENATOR MALTESE: Madam President, in response to my esteemed colleague, personally speaking from a personal point of view it is all procedures that would be objectionable by me, but this particular piece of legislation refers only to partial birth abortion and partial birth abortion as a

procedure that according to at least what I consider a majority of medical opinion has stated that there are alternative procedures available that can be utilized and that it is hard to conceive of a procedure where the child or the fetus is completely with the exception of a few inches out of the mother's body that the killing of that fetus is necessary to protect either the life or in your amendment the health of the mother.

It is -- it just seems inconsistent and contradictatory.

SENATOR OPPENHEIMER: Here's another question then, if you continue to yield.

THE PRESIDENT: Senator Oppenheimer -- Senator, do you continue to yield?

SENATOR MALTESE: Yes.

THE PRESIDENT: You may proceed, Senator Oppenheimer.

SENATOR OPPENHEIMER: Now, this procedure that you are describing can also be utilized in the second trimester. What is your feeling about the second trimester?

SENATOR MALTESE: Well, according to both Dr. Haskell and some of the medical authorities that we had it is a procedure that is almost never used prior to the twentieth month of a pregnancy. Unlike my good colleague Senator Goodman, whose father was a surgeon and therefore perhaps created an atmosphere where his medical knowledge is certainly superior to mine, I profess to no medical knowledge or authority or what have you, but it does seem that based on the information we have available that the -- this procedure is only done after the twentieth month for a reason and the reason as been described by Nurse Schaffer, Brenda Schaffer, who was the nurse that I previously described, she said that prior to the twentieth month the muscle tissue and the skin of the fetus is not formed sufficiently to extract the baby totally, so as a result, the D and E procedure, the dilation and extraction procedure, is the procedure that is used because, as the forceps grasp the legs of the fetus, the legs of the fetus come apart and the extraction is done in pieces.

So I think it is a question not of viability, but it is a question of the formation of the fetus and the stage that it is at. So according to what I have read it would seem that it is, while a doctor may attempt it, pulling on the -- what they describe as the lower extremity, which seems to me to dehumanize it, pulling on the leg comes off and they are not able to turn the baby for the delivery.

SENATOR OPPENHEIMER: But of course twenty weeks is not the third trimester. That's the point I wanted to make.

On the bill, Madam President.

THE PRESIDENT: Senator, on the bill.

SENATOR OPPENHEIMER: You know we currently have the law of Roe v Wade and that law says that third trimester abortions are illegal unless there is a superseding life or health interest of the pregnant woman. Therefore infanticide by our law is illegal and there are penalties. And therefore this is really just a redundancy because while you say it is infanticide, if it were infanticide

and the doctor where found guilty of infanticide he would not be a doctor very long.

So I want to point out the redundancy of this. And of grave concern to me is the many times that legislators think that they know more than the medical profession and that we can override a physician's discretion on how best to protect a patient, be it the life and fertility of a woman or in another instant a different patient.

The prohibition of this basic medical procedure by imposing criminal sanctions on doctors who are simply trying to protect a woman's health is not just unconstitutional, but as Senator Goodman has pointed out, it is contrary to the health of the women and particularly to the future viability of additional pregnancies.

If you ask any women, any women who has ever carried a child, there is no way we would carry into the third trimester while thinking to abort a viable fetus. These are actually medical tragedies. These are parents

that desperately want their child. You don't carry to your seventh, eight and ninth month, believe me, it is not comfortable. I wish all of you the experience. It is not a comfortable experience.

And in addition many of the women that have come and spoken to us have said that as quickly as possible after this occurs, after they have had to abort their fetus in the third trimester, as quickly as possible, as soon as the doctor will permit them, they go on to become pregnant again and to have viable fetuses and to become the parents that they so want to become.

The circumstances under which women and doctors choose this procedure as an option is unusually rare and it would only be in the most serious of circumstance. Indeed only one tenth of one percent of all abortions are performed in the third trimester, and I say only when things have gone terribly, terribly wrong and there are very grave consequences for the woman.

This bill would just force women into riskier procedures. And indeed would

compromise their future fertility.

I would think -- I believe every group that is concerned with women's health opposes this bill and I think that should tell you something. The obstetricans, the gynecologists, the nurses, the social workers all are opposed to this bill. And the question is, and I am wearing the pin, do you trust women. Do you trust your wives to make the best decision concerning their health? Do you trust women to make the wise decision for their health?

I will be voting against this bill.

SENATOR MARCHI: Senator, will you yield?

THE PRESIDENT: Senator, do you yield?

SENATOR OPPENHEIMER: Yes.

THE PRESIDENT: Go ahead, Senator Marchi.

SENATOR MARCHI: I just don't know whether -- I'm not insensitive to what you have been saying, but Section 4 provides, the provisions of this section shall not apply to a partial birth abortion performed by a

duly licensed physician that is necessary to safe the life of a mother whose life is endangered by physical disorder, illness or injury where no other medical procedure would suffice for that purpose.

I do not know just how far this goes in meetings the concerns that you advance.

SENATOR OPPENHEIMER: Thank you. I saw you listening very carefully, Senator Marchi, and that is something you are always -- your mind is so open that you want to hear every part of a debate and that's -- we applaud you.

The issue is the reproductive health of the women going to be preserved through this bill. This procedure, and there are other procedures in the third trimester, but this procedure is done invariably so that the woman may continue to have future children.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

Our colleague Senator Goodman said we should look under the crust of what is going on on the debate about so called partial birth abortion ban.

I hope -- -- owe it to our constituents and the people of the State of New York at least to look at what is in the bill we're voting on. Because with all due respect to the eloquence of my colleagues, all of these horrific and disturbing statements that have been made, that is not what is in this bill.

Section 2 defines a felony, and it defines it in a few lines. It defines the term partial birth abortion and says it means partially vaginally delivering a living fetus before killing the fetus and completing the delivery. This procedure is characterized by the American Medical Association as, quote intact dilation and extraction, or intact D and X. That is the definition.

I worked for a period of time in an abortion clinic, and we use a lot of euphemisms about reproductive health and family planning, but the place I worked did

abortions. I have witnessed the aftermath of the procedures. I have personally handled the remains. I assure that when I saw this bill, and I raised this with Senator Maltese in the Codes Committee, his definition here in my view covers everything that is being done in abortion clinics all over the country it is so vague. In the first trimester, the second trimester, I don't see the limitation he is providing.

I requested the backup, the AMA commentary on this that he cited. And he graciously provided that to me. The AMA statement that is cited as the basis for this states explicitly, partial birth abortion is not a medical term. The reason that this is drafted saying the procedure characterized by the AMA, and again, this is not even the AMA, this is a presentation by one doctor that was referred to a committee at a board of trustees meeting. The AMA refuses to use the term and yet we hear it over and over again in this debate. It says twice the paragraph cited by Senator Maltese, this is not -- partial birth abortion is not a medical term. It will not

be used by the AMA.

Lets be honest about what we are talking about here. This is an extremely vague provision. The reason that 18 courts have already struck down similar statutes and a nineteenth decision is pending is because this is something that -- and I believe that my colleagues are sincere in their statements that this is not an attack on freedom of choice, I believe that the way this is drafted this is an attack on freedom of choice, and the courts have held that it is so vague that it can easily be construed as an attack on abortion rights that go far beyond the horrendous procedures that have been described here today.

The second point that I want to make is, as Senator Oppenheimer has discussed, there is no time limit here. I understand everyone has got this vision of eight and a half months into a pregnancy the delivery of a child and I was present at the birth of my daughter and there is -- you know, I fully appreciate what is involved and the emotions that are involved in that.

There is no time limit here. When it was suggested in the Codes Committee that there might be a time limit inserted that was rejected. This will ban a type of vaguely defined category of procedures starting with the first day of the pregnancy. And I appreciate Senator Maltese's references to what some doctors say is the medical reality. But what we are -- we are not doctors, we are legislators. We are trying to pass a law. And the law as stated here is so vague I believe this to be an attack on freedom of choice. And the fact that it does not include a time limit makes it clear that we are really talking about a political agenda here which does not have to do with all of the visions that are being conjured up by my colleagues, although I think I am not meaning for a moment to suggest that they are not sincere.

This is not a bill to ban infanticide, this is a bill to come between a woman and her doctor and if she is a believer her god. Let them make their own decisions. I urge you, lets at least have some honesty in terms of what we are talking about. Lets not

pass a bill with a definition that doesn't relate in any way to the comments that have been made here today. I am voting against the bill.

THE PRESIDENT: Senator Waldon.

SENATOR WALDON: I pass.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I agree with those of my colleagues who have spoken on the floor here today regarding the terrible problems with this legislation and as well as for the reasons that I and my colleagues raised in committee regarding this billing being vague and technically flawed and potentially far more restrictive of reproductive rights and services than I think the sponsor even intended for them to be, but that said, even if this bill were perfect, perfectly crafted and amended to everyone's liking I would still vote against it. I think that government should have no role in reproductive decision making except in so far it helps to guarantee a safe environment for the services to be

provided and medically safe environment for the services to be performed.

Reproductive health decisions should be made by a women in consultation with the health care providers of her choice and in consultation with whoever else she may decide to consult with, pure and simple, that's it. Her decision.

I urge my colleagues to vote no on this legislation.

Thank you.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President.

On the bill, first let me say that I greatly appreciate the level of discourse among my colleagues on all sides of this issue. This discussion has been visceral and impassioned and important.

I would point out in the context of this proposal that is before us that despite how you feel about the particular abortion procedure we are considering, and I too would agree with many who have suggested it is a particularly gruesome procedure, as are most

abortion procedures, that we can not, despite that, ignore the potential ramification of the particular bill that is before us.

So having said that, let me address two particular issues. The first is, I have stated publicly on numerous occasions and I will do it again right now, that I will support a ban on partial birth abortion if two conditions were satisfied, neither of which are satisfied in the bill that is before us.

The first, and I think Senator Goodman did an extraordinary job of articulating some of the reasons why there must be a provision which exempts -- which provides that the health of the woman is a primary consideration in restricting or failing to restricted the penalty phase of this particular piece of legislation. I couldn't agree with this aspect of it more, and without this, and I voted in the affirmative on the amendment, without that included in the legislation I can not support it.

Secondly, and Senator Schneiderman has done an excellent job in dissecting in

some respects the definition that is used in the bill of partial birth abortion. It is exceedingly vague and I would suggest to Senator Maltese, who I have a great respect for, Senator, if the definition that you wish to be ultimately included is the one you read to us earlier, then I would suggest that that definition should be included in this legislation specifically in the bill and not take the words of the American Medical Association or the suggestion of one particular doctor speaking on behalf of a committee that sanctioned a study as what would be the triggering factors governing the law in the State of New York.

And Senator Maltese also pointed out to us that the AMA last year endorsed a Federal ban on abortion procedures and I would highlight for you one sentence from a New York Times article last year to provide the proper context for this discussion. Washington, December 3rd, Investigators hired by the American Medical Association say the organization, the AMA, ignored its own decision making procedures, got swept up in

politics and failed to protect the welfare of patients when it endorsed a Republican bill banning a specific abortion procedure last year.

What happens if the AMA -- this was the definition that is accepted, lets assume that for a second, the AMA at some point decides to change that procedure. If we adopted this legislation or we adopt this and it becomes law such a change by an organization that has had a questionable history on this subject would then trigger an automatic change in how we implement the law in New York State as it pertains to this particular procedure.

Let me be very clear. I didn't like partial birth abortions. If it is possible to ban them and in the event that they are not medically necessary, and there is some question that they maybe on certain circumstances and that's why we need that provision in there, but that having been said and those two provisions that I just suggested and laid out being satisfied, I would support this legislation.

And the reason I am stressing this and getting into this because my colleagues have gone through these issues, I am a little leery here of what it means, because it seems to me that the lack of our movement in the direction of satisfying these two provisions, which don't in my estimation eviscerate the intention of the bill, lend me to believe that something else is at the heart of the motivation of this legislation, which is, presumably, to have a greater breadth in encompassing other procedures and outlawing what we already know and the courts have already decided is a constitutionally protected right. And although I believe, Madam President, that Roe v Wade already provides an exemption for both the life and the health of the mother, I will not support a piece of legislation that does not specifically have that provision, nor will I support a piece of legislation that does not narrowly define what we mean by a partial birth abortion or somebody down the road at some point could conceivably outlaw a procedure we did not mean to outlaw, and that

the courts in this country have determined can not be outlawed.

As a result, I vote in the negative on this bill.

Thank you.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

My views on this legislation are well known in this chamber. I have addressed this bill every year we have had it.

I couldn't help but be struck by one thing that happened during Senator Maltese's discussion. You remember the gruesome details that he described? This is not a happy thing. But what I was most astounded about Senator Maltese is that it was not until the very end you described how parts of anatomy were involved, you talked about implements. And then the very last thing you said was that's the end of the experience, and maybe I'm quoting you wrong, for the patient. For the patient.

That is not a patient. That is

someone's daughter. That is someone's mother. That is someone's wife. That is my wife. That is my seventeen year old daughter. And I would just suggest to you Senator Maltese, that you took us through the gruesome details of what it would be like to be there. What I would like to do, Senator Maltese, is to invite you to the other details of what happens before it.

I would suggest to all those who support this bill, I would invite you, we'll give you beepers, you can become the partial birth abortion police. You can show up in the maternity room when a women in her late trimester faces exactly what Senator Goodman talked about, a horribly deformed child in utero. And you can sit there, Senator Maltese, and say it is terrible, but guess what, you hysterical young lady who wanted to have a child and now find out that your child may only live for 24 hours outside the womb. A grieving husband who looks at his own wife, crushed by that news who is trying to figure out what the right thing to do is. A grandparent standing there thinking about

their grandchild to be born wondering what has gone wrong. What happened? What can we do to correct it? And the answer is nothing. And you stand there and you listen to a family grieve over the most difficult decision they will every make in their lives, and I want you Senator Maltese, and everybody who votes for this bill to walk in that room and tell them that they can not terminate that pregnancy. And I want you to took in the eyes of that grieving mother and I want you to say, guess what, we in this State have decided that the power of government is going to prevent you from terminating that -- the life of that fetus, even though your physician has already told you that you maybe paralyzed.

THE PRESIDENT: Senator Dollinger, please address your remarks through the Chair, please.

SENATOR DOLLINGER: I would be you glad to, Madam President.

THE PRESIDENT: Thank you.

SENATOR DOLLINGER: Even though the physician has told that young lady, told that mother, told that granddaughter, told

that child, that you maybe paralyzed, you may never, ever be able to have a child again, and I want you to walk in there, Senator Maltese, and all those who vote for this bill and stand there and say, guess what, we the government of this state have decided that you have to let this child be born.

I resent the notion that if it is my family and my 17 year old daughter that anyone who votes for this bill would ever have the gall to walk in and say to me as the potential grandfather of that child, we took your choice away.

I dare you to come into that maternity room with me. I will do what every father should do and what every grandfather will do. I'd throw you out.

THE PRESIDENT: Senator, I am going to ask you again, and direct you to address your remarks to the chair.

SENATOR DOLLINGER: Thank you, Madam President.

THE PRESIDENT: Your welcome.

SENATOR DOLLINGER: Anyone who walks in and interferes with that decision

involving my family or my wife or my daughter deserves to be tossed out.

We will handle that grieving process ourselves. And I would just say to everybody who votes for this bill, I don't want to be in the maternity room with you, don't you dare be in the maternity room with me, my daughter, my wife and my family. And I think I say that on behalf of every person in New York and the women of New York who can be trusted to make this decision with their families and themselves.

This is about interfering with the most critical life and death decision that any family would have to face. And personally I resent the fact that we are debating about whether government in the form of the police, in the form of prosecutors, will be present in those maternity rooms. There is enough tragedy in that room without government getting involved.

Lets put an end to this now.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Madam President, first I would like to address my

good colleague Senator Hevesi's well reasoned statements and simply indicate with the reference to the AMA report that that report was AMA report 26 of the board of trustees 1997. And in fact rather simply some mere report, it is a report that has been referred to in not only United States Supreme Court cases but in the most recent case which held in Wisconsin the partial birth abortion bill unconstitutional but that was the Wisconsin Court in the 7th Circuit Court of Appeals, Wisconsin versus Doyle.

With reference to other statements that have been made, I suggest that -- and I share my colleague Senator Hevesi's statement that the discourse, the debate has been a reasoned debated based on the facts and based on a very, very difficult decision by both the woman and the doctor and we in this chamber.

And addressing the statements made by my good colleague Senator Dollinger, I suggest that -- and I in this chamber especially and some of my colleagues know it that sometimes the volume of my voice is proportional to the intensity of my feelings

on a question before this House. But quite frankly, in this specific question I'm not saying that Senator Dollinger or any of his colleagues on the other side but I feel that we are in the support of this legislation are in, quote, the side of the angels. We're speaking on behalf of not only the patients and the women but we are speaking on behalf of the almost born. And in some cases near born.

All of us can recite so called, quote, horror cases and situations and sometimes say bad cases make bad law. This is a situation where if we want to refer to the gruesome procedures which had been referred to of necessity in this chamber in describing a procedure that even by opponents of the bill has been described as gruesome and loathsome and not a preferred procedure that we can talk about the unborn. We can talk about the near born. We can talk about the dismembering of a fetus. We can talk about the extraction of a fetus and statements that had been made to us by physicians and nurses who came up here in connection with the bill in prior debates and indicated that but for the pressure of those

fingers as was described by Dr. Haskell that the child not only would have been extracted but was already breathing and living and was a living human being entitled to the protection of our law.

So if it is level of rhetoric, I think anybody that knows me knows that I can rise in volume and equal any member of this chamber. That is not the question here. The question is what are we to do to protect the near born, to protect society. The level - the civilization, the level of civilization is determined by whether a society and a legislature protects its citizens, not the lesser citizens or the high born or the aristocrats, but all its citizens.

A decision was made in Roe v Wade that the unborn would not be included in that protection. That was a decision that I indicated in this chamber I disagree with. But persons of repute, persons of good judgment and conscience can differ on that question. There is absolutely not question requested about it.

I suggest that if any of in my

colleagues, and Senator Dollinger included, look at the difference between the amendment and our proposed legislation now the objections that had been made by my good colleague can also be made to that amendment.

So here we have people of goods conscience I believe who are trying to consider a very thorny and difficult issue. And we have come to different conclusions or varying conclusions on the matter. I suggest that we have an obligation to define society just as in so many issues that are going to be coming up in the future, whether it is cloning, whether it is euthanasia, any of the decisions of the day are going to ultimately come in some form to this House. And we have to confront those thorny issue and come to a decision. And sometimes it is the right decision and sometimes it is the wrong decision. But I think if we in good conscience make a decision in most cases, in most cases, I think the vast majority of the cases in this great country of ours it will be a decision that is, quote, on the side of the angels.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Just one point. Perhaps it was a lapsis lingua or lapse of the tongue, but my distinguished colleague who presented very forcefully and certainly very sincerely the concern that we would have if we walked into a procedure and attended a procedure that was about do take place. And all of references that had been made before that was about the unborn or the almost born or the fetus, but he said this is my child or my grandchild. Now when we're talking about my child or my grandchild we're talking about the threshold of life. And at that point this is what this amendment is all about when we have crossed that threshold and have a life and being, a child not an almost child but a child however we may characterize it.

This is a most important consideration and I think it begs an affirmative answer to the proposal that Senator Maltese has given us.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Madam President, in these debates there has been an

extraordinary emphasis placed upon the findings of the American Medical Association, a respected group of doctors, and I think it is extremely important to set the record straight with regard to their finding in this matter.

I would like to quote you from a New York Times article dates December 1998 with the headline, "Inquiry Criticizes AMA Backing of Abortion Procedure Ban." "Investigators hired by the American Medical Association say the organization ignored its own decision making procedures, got swept up in politics and failed to protect the welfare of patients when it endorsed a Republican bill banning a specific abortion procedure last year. In a scathing report the investigators said trustees of the group had abandoned its long standing positions on abortion and rushed to embrace the bill even though it did not meet the criteria previously set by the Association for such endorsement. The report, part of a larger investigation of the Board of Trustees concludes that the AMA blundered in its handling of a bill to outlaw the procedure

that opponents call partial birth abortion."

This report was done by Buzone and Hamilton. A highly respected management consulting firm. It drew considerable criticism from all around the country on the fact that the AMA did not come forth with a legitimate critique of this so that I think that this blunts considerably the attempt to use it as the sharp instrument to try to pierce partial birth abortion.

Now, finally, let me if I may pick one -- stress one point which I did not touch upon heavily in my earlier remarks. The simple fact is, my good friends, that by passing this bill we will bringing on a procedure which not only outlaws abortion in the third trimester, but as has been touched upon earlier, it will outlaw abortion by this technique frequently done in the second trimester, which is absolutely legal and absolutely appropriate medically. In other words, this is accidentally going to hit a target far broader than I think was intended by its sponsors.

By outlawing the so called

dilatation and extraction technique we are preventing the safest method of aborting a fetus during the period when it is unquestionably legal under the law of the land. Therefore I would appeal to you not on the grounds earlier taken, which I think are valid in and of themselves, but on the special grounds that this bill is inappropriately drawn, it is very breadth defeats its own purpose because it does say that you can not perform any kind of an abortion in any period along the cycle of pre-birth development by using this type of dilatation and extraction, which is generally conceded to be the safest and best method of aborting a fetus.

Now, nobody likes the idea of destroying a human being, however microscopic its size or however slight its development, and that is of course the debate that keeps centering around the question, are we destroying human beings. Keep in mind that in the Roe versus Wade decision a critical distinction is made by the Supreme Court which remains intact to this day. And that distinction says that prior to the viability

of the fetus we are not dealing with a human being. It is impossible for this fetus to survive outside of the womb and therefore the line has clearly been drawn. It is a bright line which should never be ignored in this debate, which says we are not killing any human being, we have a pre pre-human being concept which is not even a human being, it is simply a fetal development which is pre quickening of the fetus and therefore not to be regarded as murder.

This has been a point made in the early days when we debated this bill going back to the first time I recall having lead the debate in bringing on the legality of abortion in this State. That was two years prior to Roe v Wade. And all of the years since and every year we have seen an effort on this floor to try and roll back that fundamental distinction. It can not be rolled back unless science can prove that the fetus is viable in an earlier stage than has ever been thought possible before. We must continue to guard the rights of women to make their decisions within this time frame.

So please let me just sum up again these two points. Number one, we must realize that there is a clear line of demarcation between the pre-quickening fetus and the post quickening fetus which can then be regarded as human development.

Secondly, we should understand that the technique which would be embodied in this bill will absolutely prohibit physicians using the most common form of abortion technique which is considered the safest and the best by very general practice among ob-gyn specialists. So lets not tamper around with something that we don't understand. We are playing with dynamite in this. We are playing with a time bomb that is going to go off an hit the wrong people and kill people that we don't intend to have it kill.

Please lets look at it carefully. Lets take the time to analyze what is going on here. This is not an emotional question. I deliberately lower my voice to say I don't think we need to attack one another personally or to make this an affair of the heart. It is an affair which can be analzed in cold

scientific terms and we must never roll back the Roe v Wade concept unless it's your desire to attack that directly. This bill inadvertently attacks Roe v Wade directly.

It would undue the Roe v Wade benefit, the opportunity for a woman to make her choice with her physician and her clergyman. That is not its intent, but that is unfortunately its effect. It must be stopped dead in its tracks and stopped right now.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR SMITH: Slow roll call.

ACTING PRESIDENT MEIER: I see more than five Senators standing. There will be a slow roll call. The Secretary will read.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

(No response.)

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: No.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Explain my vote, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger to explain his voted.

SENATOR DOLLINGER: I appreciate my friend, Senator Maltese the comments about my oratory. This is an issue that touches my heart because I have a seventeen year old daughter who I pray to God never, ever faces this problem. But I would just suggest that we continue to have this analytical debate about procedures and all the rest of this, and I would just like to ask everybody as they

vote on this bill to focus on the tragedy present in a maternity room when the news is bad. I have been through those moments, those terrible moments. The greatest anxiety of your life sitting there while your wife gives birth to a child and you keep thinking, what if something is wrong. The most anxious moment of our lives. And I would just suggest think about that moment and think about someone walking in and saying, sorry, we have already decided something and you have no choices left.

I would just suggest that the great tragedy of this circumstance is that unfortunately we live in a world where this happens. But I would suggest that the greater tragedy would be to compound that situation in that maternity room with an anxious mother, with an anxious father and their support network we would compound the tragedy by passing this is bill.

I vote no, Mr. President.

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

The Secretary will continue to call

the roll.

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Yes.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Yes.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALES: Yes.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: No.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: No.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR HOLLAND: Aye.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Yes.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Yes.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Yes.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Yes.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Yes.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Yes.

ACTING PRESIDENT MEIER: Senator Maltese to explain his vote.

SENATOR MALTESE: Mr. President, with reference to the statement made earlier by my good colleague, Senator Goodman, as to Roe v Wade, in the intervening years in many judicial decisions and in many legislative halls there have been many references to Roe v

Wade. I take issue simply to the statement by Senator Goodman as to the Supreme Court's interest in the infant prior to viability. And I quote from Mr. Justice Blackman's majority decision in that case. "The third reason is the state's interest, some phrase it in terms of duty in protecting prenatal life, emphasis prenatal life, the state's interest and general obligation is to protect life then extends it is argued to prenatal life only when the life of the pregnant mother herself is at stake, balanced against the life she carries within her should the interest of the embryo or fetus not prevail. In assessing the state's interest recognition may be given to the less rigid claim that as long as at least potential life is involved the state may assert interest beyond the protection of the pregnant women alone.

Mr. president I vote aye.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator

Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Absolutely no.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Absolutely yes.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator Montgomery.

ACTING PRESIDENT MEIER: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Mr. President, briefly on this is bill, in honor of Women's History Month that we celebrate now, they say that all politics is local and certainly to some extent it is also personal.

And so this is a personal issue for me as well a local and political one, and I believe that it would be very presumptious of me if I were to suggest that we should be debating and passing legislation which would restrict when and under what circumstances and how men would decide with their doctors to have a vasectomy or some other procedure that they felt was a personal decision that they should be making.

And so I, as a woman after all, not withstanding my color, ain't I a women, and ain't I fifty percent of the population. I am told 52. And should I not be allowed if I should find myself in a doctor's office, in my doctor's office having to make this decision with him or her, and if it is a situation as described so eloquently by Senator Goodman and I am there to make this crucial decision and my doctor has to look at me and say to me, Oh, but Senator Serph Maltese said that you and I are not able to make this decision, Senator Serph Maltese has made it for us.

So I resent this as a woman. I think that this certainly begins to erode the ability of women to have that choices between

themselves, their families, their doctor and their god or whom ever is their higher authority.

So Mr. President, I vote no and I urge my colleagues also to vote no for all of the reasons that have been given today, including the reason that I just described. It is anti-woman.

Thank you.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Yes.

THE SECRETARY: Senator Oppenheimer.

ACTING PRESIDENT MEIER: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Just briefly I am reminded of something that we

hear very often when women are together, which is if men could become pregnant then abortion might become a sacrament.

I vote no.

ACTING PRESIDENT MEIER: Senator Oppenheimer will be recorded in the affirmative. I'm sorry, in the negative. I caught you and you didn't catch me either.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Aye.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Santiago, excused.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: No.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

ACTING PRESIDENT MEIER: Senator Smith to explain her vote.

SENATOR SMITH: Thank you, Mr. President.

We must vehemently oppose any legislation which erodes or diminishes a woman's right to choose.

Therefore I and every woman in this world that has the opportunity to should be voting no and I vote no.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Spano.

(No response.)

THE SECRETARY: Senator Stachowski

(No response.)

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: To explain in my vote.

ACTING PRESIDENT MEIER: Senator Stavisky to explain his vote.

SENATOR STAVISKY: I am troubled by the legislation. I understand the motivation but I do not understand why the exemption is limited only to the life of the mother. Why not try to bring us together and include some reference to the health of the mother, which I believe would be a worth while amendment to the wording of this bill.

I would be inclined to vote with great enthusiasm if an attempt was made to reconcile these two positions by including reference to the health or mental health of the mother.

Nevertheless I am troubled by the procedure, the lateness of the procedure, and the violence of the procedure. Not withstanding those factors I am reluctantly inclined to vote for the bill with the

understanding that it could have been improved by making some reference to the health of the mother.

Thank you.

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

SENATOR STAFFORD: That's correct.

ACTING PRESIDENT MEIER: The Secretary will continue to the call the roll.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

ACTING PRESIDENT MEIER: Senator Waldon to explain his vote.

SENATOR WALDON: Very briefly, Mr. President and my colleagues, all across the Capitol today I have seen women with buttons saying, "Trust Women". "Trust Women". "Trust Women".

Despite what we try to say with the

rhetoric of this bill, this proposal with the rhetoric that you have seen displayed so eloquently here today, the bottom line is that we are intruding upon the rights of women.

The crafting of the bill should be the conscience of the woman who is carrying the child. The committee should be herself and her husband and her family. And if they report it out to rules, the Rules Committee should be her faith. Her god should tell her, yes, what you are doing is right. And when it gets to the floor the doctor should be there in a leadership position counseling her, yes what your doing is right.

But the bottom line is, all of these forces are forces unique and needed by the woman, by the woman.

There are a bunch of men in this place. Very few women in comparison to the number of men. And I feel we violate a woman's rights when we impose our decisions on her right to determine whether there should be life or not life. I think it is arrogant for us to do so.

So I encourage my colleagues to

trust women and vote no.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MEIER: The Secretary will call the absentees.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Explain my vote.

ACTING PRESIDENT MEIER: Senator Balboni to explain his vote.

SENATOR BALBONI: I rise not as a man, I rise as a representative. I have great counsel on this one. I have my wife, my sisters and my mother who vehemently want this procedure ended. They are great counsel.

But you know what is also terrific is at least in this House we can address this issue. In the Assembly they don't do that. They go through every single procedural hoop they can to try to avoid this type of discussions. Though we may disagree on the

issue itself, it does credit to this House to have taken this issue up and explored its many facets.

Mr. President, I vote yes.

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

The Secretary will continue to call the absentees.

THE SECRETARY: Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

ACTING PRESIDENT MEIER: The Secretary will read the results.

THE SECRETARY: Ayes 41, nays 19.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions an resolutions, I believe there is a privileged resolution at the desk by Senator Nozzolio. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: We will return to the order of motions and resolutions. The Secretary will read the title.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 782, commemorating the 80th Anniversary of the American Legion George Aidan Brown Post, Clyde, New York.

SENATOR SKELOS: Move the resolution.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Thank you. The

bills were starred already. I wanted to star two bills, they were done.

Thank you.

ACTING PRESIDENT MEIER: Thank you, Senator Velella.

Senator Skelos.

SENATOR SKELOS: If we could now go to -- I believe the Minority has some motions to make.

SENATOR CONNOR: Thank you, Mr. President.

I call up my motion to discharge which has been on the calendar.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Connor, Senate Bill Number 3804, an act to amend the election law in relation to campaign.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, my colleagues, nothing seems to turn off the American voters more than the day after day accounts and stories about campaign financing. And a

variety of measures have been put forward to address this issue, both from the standpoint of seemliness, from the standpoint of reassuring the public that undue influence by campaign contributors isn't exercised over public officials at every level of government from legislative to executive and local officials.

There were stories in Washington for a number of years about fund raising. There have been stories in Albany and else where. And I have just a little bit of experience with Election Law, and I can assure you that New York State's Election Law, first adopted after the Watergate scandals in 1975, '74 has now been reduced partly due to our neglect at constantly updating the statute that when first put on the books some twenty-five years ago was viewed as in the forefront of the nation in regulating and campaign finance, limiting campaign finance contributions, and requiring public disclosure is now so antiquated and so riddled with holes, my colleagues at the bar in both parties have been more than adept in finding

tiny little holes an driving trucks through them when they turn out to be large loopholes.

We now have a system in New York State, when combined with loopholes in the federal system that fundamentally are large enough to drive truck loads of money through.

We permit now under the law there is transfers between federal committees and state committees. And indeed our Governor's political advisors seem to find the venue of Virginia to be a nice place to establish a campaign account because they have even looser laws than New York. And I'm not suggesting anyone has done anything wrong or illegal. In fact, I stand by my legal opinion as to some of these loopholes properly existing under present law.

But it is not right. It is not the way it ought to be. The public doesn't like to hear about it. Our limits have become far too large. And I think the only way to wrestle with this is to grab this issue by the throat and do some rather drastic things that are straight forward, unambiguous, and tightly regulated. And does it effect all of us

politically? Yes. But we should do it. It is the right thing to do.

So the bill I wish to put on the floor for a vote by this motion which I have introduced would limit campaign contributions to a thousand dollars by individuals, and $5,000 by political action committees per election cycle. It would lower the contributions to $25,000 for individuals and $25,000 to PACS, to party and constituted committees per election cycle.

You say, How does that change? What is the limit now?

For example in the last instance, party and constituted committees, what are they? Well, constituted committees are things like the Democratic State Committee, the Republican State Committee indeed the state committee of all the other political parties recognized in New York. Constituted committees are also the county committees of the parties.

The party committees are the state committees and things like the Republic Senate Campaign Committee and the Democratic Senate

Campaign Committee and the Democratic Assembly Campaign Committee and the RACC -- the Republican Committee in the Assembly.

What are the limits now? Well now they are, I think $74,000 per individual or PAC per -- not per cycle, per year. What does this mean? This means for example that a married couple could give a hundred and forty some thousand dollars a year to one of the these committees. $280,000 out of one checking account, one joint checking account in a two year election cycle. No wonder the public and press thinks that's unseemly.

I think we ought to take a realistic view of this. I think there is nothing shabby about a $20,000 individual contribution. There is nothing shabby from a political perspective about a $25,000 contribution from a PAC. But there sure is a lot shabby in appearances to go much beyond that as our present law does.

The other thing we would do is reduce the total political contributions that an individual can give per year to New York State races to $50,000. Now, I know some

people may say, well, a very, very wealthy individual may want to give more than $50,000 to all his or her favorite candidates. Well, I don't think we can allow any one contributor to amass that much political influence. And to those very, very wealthy individuals who have a need to give away more than $50,000 a year in New York State, I say look at our many, many needy charities. There are many many worthy causes besides Republicans, Democrats, Liberals, Conservatives, etc. to which that person can give the balance of their largess. And indeed I think all of us would recognize, welcome and be happy to give a caring ear to a person who said, Yup, I gave $50,000 to all of New York's politicians and $300,000 to feed the homeless or take care of the elderly. They certainly don't have to give it to politicians to get the kind of recognition and attention from us that they may want.

Big, big loophole. You know it was in the law. This election law I said was around for 25 years. A lot of us read it and thought, yeah, its there, yeah, you can do it.

Maybe you can pay a phone bill. The housekeeping account. But you know what, unlike the federal system we don't really define housekeeping in New York State law. A lot of the things that people have been doing in the fund raising area are not because, oh, the statute sets its out here's how, oh, you can have a housekeeping account and you can do this and this and this and this. A lot of what people do are because of some peculiar words that creep in the Election Law. Things like notwithstanding or with the exception of or a contribution shall not be deemed to mean. And how we come full circle is a party committee or a constituted committee is allowed to have, separate and apart from campaign funds, an account to pay the routine party maintenance; phone bill, rent, you know, some staff and so on.

That has grown and grown and grown to where I think it includes computers, voter files, all sorts of party building activities. But because the law says that any contribution to that kind of account is not a political contribution the answer then is if it is not a

political contribution it is not limited. And therefore contributions to party housekeeping accounts, and we all have one, all the party committees have it now. All of the legislative party committees have it. Are unlimited. An individual or PAC or union or whom ever can give unlimited amounts to these committees. And we all know in the past years that fund raising, you see the invitations, we all do it where you on the invitation say, by the way if you are somebody who is not allowed to give to our committee, you know, you can still come to our big March fund raiser and bring a big, big check to our housekeeping account because, gee, there is no limit there.

And you know, when we adopted this law 25 years ago we put a corporate limit in and that was that corporations could not give to New York races more than $5,000 in the aggregate in a calendar year. But because of all the not withstandings and exclusions from definitions in the Election Law, a corporation, which is, first reading of our statute severely, severely limited in what it can contribute is able to give unlimited

amounts to housekeeping accounts.

Madam President, it is almost as if these housekeeping accounts were like inaugural funds, you know, just the wild, wild west, you could give all you wanted if you were a corporation.

I appreciate the public spiritedness of corporations, but lets face it, corporations that have lobbyists here and have business here with the executive, with legislative, with local governmental bodies are now able to write substantial hundred thousand dollar, hundred and fifty thousand dollar checks. And believe me somebody, while you can't use it in your campaigns, I am sure when somebody shows up at the door of a fundraiser with a hundred thousand dollar corporate check and says, I'm sorry, all you can give to is housekeeping, I'll bet they get on the "A" list and get their picture taken and the guest of honor and get treated well. I am sure they do. I certainly hope they do.

So we would eliminate the housekeeping exception in this bill. No more housekeeping funds. Take your regular

campaign accounts, raise the money the way you can, pay the phone bill out of that.

The other thing we would do in this is, for of closing an important loophole, we would mandate that all corporations controlled by a single entity be deemed to be one for purposes of corporate limitations.

Right now, you know, if you owned, I don't know, 50 dry cleaning stores and each one was a separate corporation you could - the same individual controlling all 50 corporations could give 50 times the corporate limit. It just doesn't make any sense if you are going to have a corporate limit.

We would also prohibit the use of campaign funds for anything unrelated to a political campaign. We permit in this law only one authorized campaign committee per candidate, per election. That makes disclosure meaningful. You go to the board of election, look up the candidates committee, see what they have raised, see what the candidate spent and be reasonably assured that that tells you the story in a public disclosure way the story of what happened in

that campaign, where did that candidate get his or her contributions, where did that candidate spend his or her money.

Now, we all know there are candidates who have multiple committees and people who have tried it assure me that you can never really, when you are chasing different committees around some of which get filed at county boards of elections instead of state boards of elections, it is very, very hard to figure out what a campaign, who really funded a campaign and where the money was really spent.

We would also increases the civil penalty for failure to file financial disclosure forms to a thousand dollars. A modest fine.

The other thing this bill requires is that campaigns in their final disclosure form itemize all vendors who received more than a thousand dollars because some campaigns will contract with a consultant or other vendor, and that vendor will then have subcontractors and sub vendors who often get the bulk of the money and from the standpoint

of disclosure it is very, very difficult to find out, you know, gee that is an awful big printing bill, but I thought these nine people were working in the campaign and I don't see their name any where. Oh, the printer took care of them. We ought to disclose to the public exactly who received more than a thousand dollars in campaign expenditures from a campaign.

So this is a very important -- I believe this bill should be brought to the floor. Campaign finance reform is a national issue. It is a state issue. It is one that politicians, because we are part of the system, are all too prone to close their eyes to, run from confronting. It is not an easy thing to confront, and I'm not suggesting that people who play by today's rules are doing anything wrong because as long as the rules are the rules that is a what you play by. I just think it is time to change the rules, make the rules makes sense. It is as if we have a set of rules, Madam President, that only covers the first and second inning and the last inning and there are no rules in the

third through the eighty inning and you can do whatever you want.

It is time to have rules that begin at the beginning and end when the campaign is over and comprehensively look forward to all of the eventualities, have meaningful limits, close all these loopholes because the loop holes are shocking. The loopholes are a credit to my fellow colleagues at the Election Law Bar. They seem to come up with -- the more creative ones come up with a different loophole every year and while their creativity is certainly to be credited, they are playing with an antiquated 25 year old statute that is easy to riddle with holes.

So I urge my motion to discharge. Lets get this on the floor. Lets debate it. I am open to amendment and suggestions, but we really ought to do this.

Thank you, Madam President.

THE PRESIDENT: On the motion. All those in favor of -

SENATOR CONNOR: Party vote in the affirmative.

SENATOR SKELOS: Party vote in

the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Madam President, I believe there is a motion to discharge my bill with respect to the inaugural committees at the desk.

THE PRESIDENT: Yes, there is Senator, the Secretary will read.

THE SECRETARY: By Senator Dollinger, Senate Bill Number 1098, an act to amend the Election Law.

SENATOR DOLLINGER: Thank you, Madam President, it is before the House, the motion?

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, very much, Madam President.

This is a very simple motion to discharge what is a very simple good government, all American, all New York bill. Simple. Where this bill if it is debated in this House, would simply require that an inaugural committee, a transition committee be subject to the same rules with respect to raising money that everybody in this chamber is subject to. And what it would clearly not permit is what I think is the most outrageous conduct in the history of the New York State Election Laws that occurred in 1994 after November 4th of that year and before January 15th, but apparently continues to go on, and that is when the newly elected governor of this state set up two private corporations, for profit corporations, corporations that we still don't know who owns them. We haven't been able to find out why they were created. We haven't found out who the officers and directors were. We haven't found out who the shareholders were. Set up two private corporations and when out and solicited $2.6 million in something. I do not know what it was because it clearly wasn't campaign

contributions, these were not campaign committees. They clearly were not gifts because the corporations that gave them, in some cases 50 to a hundred thousand dollars are not capable of giving gifts to anything other than not for profit corporations. So all of industry in New York State gave large amounts of money from one privately held in some cases public corporation, in some cases private individuals, gave $2.6 million to two corporations which were apparently under some circumstances controlled by the governor elect of this state.

By the way, all of those corporations, many of those corporations gave far in excess of the $5,000 limitation that a corporation has in its aggregate gifts under the Election Law of this State. All of that happened without any oversite. All of it happened without any review by the Election Law. All of it happened without a filing with the State Board of Elections. In fact, the Assembly has had to subpoena the very documents that I am talking about.

It seems to me that we can leave

this enormous loophole sitting in the law. We can leave this full bath of campaign related money that is given in the absolute certainty of a campaigns election, what better campaign contribution to give than one that has no limits, doesn't have to be disclosed, and is given to somebody who has already won election. Absolutely outrageous conduct. It ought to offended all of us that we would allow anyone to so easily evade the laws that are passed by this body.

I would simply ask all of those who support the current law, who support the current law, those of you have who voted to create the current law, you have to bring this to the floor because without it we have got a loophole, I would just advise everyone, stop raising your campaign funds through a campaign committee, just create a transition and inaugural committee and you can raise as much money as you want. You don't have to disclose it. You don't have to be bound by any limitations. We need to plug this loophole. We ought to have a debate about plugging this loophole for fear that what has happened this

year, what happened in 1994 and in 1995 when a Republican was elected, I guarantee that the day that a Democrat is elected governor in this state and he does the exact same thing I will attest to at least 35 outraged members of this House who will stand up here and say we can't lets that Democrat do what that Republic did because it would be wrong. 36, excuse me, Senator.

SENATOR SKELOS: We're delighted that you are acknowledging that far in the future also, that there will be 36 Republicans, if not more, in this chamber.

SENATOR DOLLINGER: Thank you, Mr. President. I understand that Senator Skelos is out of order in his line up, but I appreciate his comment.

I would simply suggest Madam Chairman, that there will be an outrage. You will all be standing up here, and I dare say you will ask to sign on as cosponsors to the Dollinger bill. And you know what? I'll stand up and I'll still lead the fight then because we've got to plug this loophole. Otherwise we have a way to avoid the campaigns

laws of this State that is just a huge gaping hole. It really makes a mockery of everything we have done.

I would simply as that this bill be brought to the floor. And who knows, maybe when we do elect that Democratic governor the members of the minority will be up howling again. There may be a different majority.

But Madam President, on a serious note, lets fill this gap. Every recognizing it is the right thing to do.

THE PRESIDENT: To discharge. All those in favor.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Aye 24, nays 36. Party vote.

THE PRESIDENT: The motion is defeated.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: I believe there is a motion at the desk. I ask that the motion be read and I wish to be heard on the motion.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hevesi, Senate Print 3188, an act to amend the Public Officers Law.

THE PRESIDENT: Senator Hevesi, do you wish to be heard?

SENATOR HEVESI: I do. Madam President, first I wish to, for context express my support for the underlying motivation behind what Senator Connor and Senator Dollinger and I and this conference and hopefully everyone on both sides of the aisle are trying to do here today.

There is a cynicism among the population, amongst the electorate that is palpable and it is having an extremely corrosive effect. People do not participate in the electoral process. Some of the things that we have failed to address here in this Legislative Body, particularly in the Election

Law breed an apathy that is extremely harmful to this process. And specifically we have a chance today to remedy in a very simply way some of the reasons why we have individuals who view what we do in this institution, who view elected officials and who view the process that we have dedicated our lives to with the utmost of contempt.

And when we stand before them, and I have done this, Madam President, and suggest that we want to change the process, they look at us incredulously. They don't believe it. But we have a chance to prove to them, as we say to them back in our districts, we do want to prove it, even though in some ways you can make a reasoned argument that not changing it is in our own political interest.

Now is the time when we can prove back to our constituents who don't believe us when we say it for the most part that we are acting in the interest of the better good in society of this institution. And in keeping with that I am introducing today a package of three legislative proposals that I must add have been introduced year after year by my

esteemed colleague, Senator Nancy Lorraine Hoffmann, who I am troubled both for personal and policy reasons is sitting so far away from me today. But I will express on the floor of this body that I commend her on her foresight in advancing these legislative proposals and I intend to carry them as far as we can in this process.

Having said that, on the legislative piece that is before us, Senate 3188, this is a piece of legislation that simply requires that all party conferences be open to the press and to the public and this would essentially remedy a travesty which occurred back in 1985 where this Legislative Body and the Assembly and subsequently enacted into law amended the Public Officers Law to provide an exclusion that meant that party conferences would then be closed to the public. And this is very simple. The problem is simple. The remedy is simple. And the result is also simple but exceedingly important. This is taxpayer business we are doing here. We are on taxpayer time. This is a taxpayer institution. There is policy

ramifications to what goes on in those party committees and this legislation recognizes the fact that there may be times when there are political discussions that need to take place and provides an adequate exemption pursuant to proper that party conferences could then be closed.

Aside from that, it is important that we sent the message to the public, to everyone who is watching us, that the business that we conduct in all facets, not just on the floor of this Legislative Body, not just in the committees that do the important work of the people of the State of New York, but in our own party conferences that this should be an open process as we deliberate, as we craft the approach that translates here, directly on the floor of this body, into policy positions and ultimately and hopefully into law that effects the people of the State.

So I strongly urge my colleagues to support this legislation, which would require the public and the press to be admitted to party caucuses.

THE PRESIDENT: All those in

favor of accepting -

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 25, nays 35. Party vote with exception.

THE PRESIDENT: The motion is defeated.

Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President.

I believe there is a motion at the desk. I ask that the motion be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hevesi, Senate Bill Number 3189, an act to amend the Election Law.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Madam President.

THE PRESIDENT: Senator Hevesi on

the motion.

SENATOR HEVESI: On the motion. Madam President, this second piece of legislation has a similar flavor and tone and follows nicely after what Senator Connor has introduced, which was unfortunately defeated.

This is a reform that would essentially require that political committees itemize all expenditures made on behalf of candidates when those expenditures are in excess of $2,000, and also to require that the Board of Elections, attach a schedule of expenditures on an individual candidate's filings.

And let me articulate the importance of that. Under current law and as is the current practice political committees are not required to itemize, they are not required to specifically break out and break down what the -- first the amount of the expenditure and then the purpose of the expenditure that has gone in support of a particular candidate. As a result, what you may see is a political committee simply reporting that they had made a contribution or

expended monies in the aggregate, a certain amount, lets say its 20 or $30 thousand in support of a particular candidates. And the problem with this is, this obscures what the political committees are actually doing. This is an enormous loophole in the law that is really anathema to the system that we are trying to create here, which is one of accountability, one of openness where we don't stand up and say that in the political process we are going to obscure where the money comes from at the same time when we are constantly under attack that we are beholding to special interests. Having the provisions as they currently exist or the lack thereof reaffirms for the electorate that special interest money may have some corrosive effect on the process and we're not going to tell you about it. We're going to hide it to the best of our ability because we don't want you to know. This legislation would provide a terrific remedy for that, requiring that the number of contributions, the amount of the contributions and the purpose of the contributions made from a political committee on behalf of a candidate

specifically be laid out. And secondly, be attached to the individual candidates filings.

The public has a right, Madam President, to go in and say, Dan Hevesi, I want to know where you got your money from and what the money was used for. This piece of legislation would correct the current injustice. I urge all of my colleagues to support it.

THE PRESIDENT: All in favor of accepting the motion to discharge signify by saying aye.

SENATOR DOLLINGER: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 35. Party vote with exception.

THE PRESIDENT: The motion is defeated.

SENATOR HEVESI: Madam President.

THE PRESIDENT: Go ahead, Senator

Hevesi.

SENATOR HEVESI: Thank you. I believe there is another motion at the desk. I request that it be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hevesi, Senate Bill Number 3190, an act to amend the Election Law.

THE PRESIDENT: Senator Hevesi, on the motion.

SENATOR HEVESI: Thank you Madam President.

THE PRESIDENT: You're welcome.

SENATOR HEVESI: This third piece of legislation, Senate 3190, would require that any piece of literature or political advertisement that is paid for by any political committee be submitted to the Board of Elections by the candidate that the literature supported.

Let me tell you the importance of this, and I will just use an example that I have seen in my experience in electoral politics.

There are many occasions where there are candidates, and I don't want to make value judgments or moral judgments on their motivation, but there is a system right now that permits something that we should not be permitting. And what is that? It is the fact that I may want to send a message out to the electorate in the context of a political campaign either in support of myself or in opposition to a particular candidate or a particular issue that I may not want myself associated with for whatever reason. And that reason may be that I want to mount a full frontal assault on my opponent and do it in a vile and scouralous way that most of us in this body have been subject do that at some point or another, and sometimes they come from some nebulous committee or you don't even know what committee it came from or who put the money up for it and there is zero accountability, none.

It is exceedingly frustrating for those of us who are participating in a legitimate discourse and a legitimate political debate not to have the

accountability imposed on anyone else who wishes to participate in that political discourse and that political debate. And all too often there are fliers and palm cards and literature circulated on behalf of candidates that list from one entity that support one candidate for this district and oppose the same candidate in a different district. And generally speaking the knowledge that the public has about this threatens the entire process. The public gets disgusted with this. They don't understand. It clouds the issues. It is another problem that we have encountered. It is another problem that, as Senator Hoffmann has repeatedly pointed out, has a very simple and specific remedy. The remedy, my colleagues, is before us today. Please enact this legislation, Senate 3190, which would require anybody who puts out any piece of literature in support of a candidate to have to file that piece of literature with the Board of Elections and therefore it is on record, on file, there available for anyone who wishes to scrutinize this process, to clean up this process, to go into the Board of

Elections, take a look, and see what we were saying to the public and who was saying what we were saying and who was paying for what was being said. And in the end, my sense is, and I -- my sense is also that it would be difficult to disagree with this. That accountability will lead to a much more clean, much more open, much more honest electoral process that in the end will have a cumulative effect with these three bills, with Senator Dollinger's bill, with Senator Connor's bill, of cleaning up the process and of having the electorate turn around and say, You know what, we have a renewed faith, we have a restored confidence in what goes on in the political process and we're going to participate. And because this is not a shot at us Legislators, but when the electorate doesn't participate some may say, well, what's wrong with that, Legislators like when people don't participate. It is easier for us to control the process. The problem is that by definition in this system that we are a part of we then don't become accountable to the different interests that have to be

represented in our society. We can't only represent the interest of the people who come to the ballot box. We have to represent everybody's interest, irrespective of whether they vote or not. And the reality is that when they don't vote all too often we don't represent their interests so it is in all of our interest to make sure that we are doing the things, and we can do them right here today, absolute tangible legitimate action today. Do these things to increase that electoral participation, increase the participation in this process, and as a result we will have restored the confidence in the public and reaffirmed what we are doing and give legitimacy to the actions that we take on the floor of this body.

I move that my colleagues support this legislation and the entire package.

Thank you, Madam President.

THE PRESIDENT: All in favor of accepting the motion to discharge signify by saying aye.

SENATOR DOLLINGER: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 35. Party vote with exception.

THE PRESIDENT: The motion is defeated.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, I believe there is a motion to discharge on my bill, and I would like an opportunity to be heard on the motion.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Dollinger, Senate Bill Number 3825, an act to amend the Election Law.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

As everyone knows, one of the our chronic problems in the State of New York is

that we are losing our businesses to the south. We have had many of our business go south. North Carolina we have had to compete with. We have had to compete with Georgia. We have had to compete with South Carolina. We have had to compete with Alabama. We have had to compete with Mississippi. And yet what we have also found, Madam President, is that there are some people who have decided that they would rather go to Virginia, a state in the south, to raise their political campaign contributions for some purpose, maybe to run for national office, maybe to fortify their recovery here in New York, their campaign dealings here in New York.

But sure enough the Governor of this State has opened up a -- followed all those business that he has been trying to lure back to New York, the guy who claims he has been trying to stem the tide of people fleeing the State of New York, low and behold, the Governor of the State of New York has gone to Virginia to find a political action committee. He has gone to Virginia.

Remember that old bumper sticker

you used to see, "Virginia is for lovers." It now says "Virginia is for politicians". Virginia loves politicians.

Whatever happened to, "I Love New York." The campaign ought to be changed. "I love Virginia." Why? Because you can go to Virginia and raise political campaign contributions from political action committees that have no limits, no limitations.

What a wonderful thing to do. What a highly competitive thing to do. You want to compete on the world market place? You want to compete on the national market place, just like our businesses? Why not go to a state were there are no limits on political action contributions.

What a novel idea. What a wonderful idea. Just go to Virginia and raise your money.

I would simply suggest, Madam President, that what this bill does is this bill would require out of state political committees set up by people like the Governor of this state to file with this state the same campaign disclosure statements that we, those

who are elected here, who represent this State and abide by its laws that we do.

I would just suggest with all due respect to the Governor of this State, if he is so much infatuated with Virginia, why doesn't he just buy a house down there and run for president from Virginia. We have a very able Lieutenant Governor who is at the podium. You could move down to the second floor and take his spot. Why not do that if he is so enamored with the laws of Virginia, why not go down and let him make his laws there? What's wrong with New York? What is wrong with the state in which the people actually voted for him? No, he wants to go to a state, form a political action committee where nobody can vote for him.

I don't understand it, Madam President. It seems to me this is another one of those loopholes. This is another one of those things in the campaign financing system that we ought to clog up right now. Because I can look at all my colleagues from Westchester County or someplace, I live too far away from Pennsylvania, but next thing you know, we'll

start opening political campaign committees in Pennsylvania. Why don't we all open one in Virginia? Why not use that as an idea? Why don't we run the Republican Campaign Committee out of the State of Virginia? Why don't we just flee there and run it out of there where there are no limits on campaign contributions?

We could do all those things. Why don't we do that? It seems to me like its a great idea. I would just suggest, Madam President, on a serious note, that we require the Governor of this State to abide by the laws of the state in which he is the Governor. This is the state he ought to form his political campaign contributions in. He ought to collect them here. Why is so proud of New York around the rest of the nation and apparently so disappointed that he has to abide by our laws. I don't quite understand it, Madam President. I didn't understand the inauguration and transition committee either, or corporations, excuse me, I misdescribed them. But it seems to me that unless we take the approach of the second floor, which is to do everything possible to avoid the laws of

this State with respect to elections, if that is our approach, if that is what we are going to tolerate by the guy who is the leading law maker in this State, then we are doing a tremendous disservice to ourselves and the laws that we create that we require everyone to abide by.

I would ask that this be discharged from committee, Madam President. I would ask that it be brought to the floor so that we can have a debate as to whether or not we are simply part of the Commonwealth of Virginia or, as I at least recall, that is still the symbol of the great State of New York.

THE PRESIDENT: All in favor of accepting the motion to discharge signify by saying aye.

SENATOR DOLLINGER: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 24, nays 36.

Party vote.

THE PRESIDENT: The motion is defeated.

Senator Skelos.

SENATOR SKELOS: Madam President, Senator Bruno has asked me to inform the members of the Majority that following session tomorrow there will be a short conference, and there being no further business I move we adjourn until Thursday, March 25th at 11:00 a.m. sharp.

THE PRESIDENT: Thank you, Senator.

Following session tomorrow there will be a meeting of the Majority Conference.

There being no further business, on motion, the Senate stands adjourned until Thursday, March 25th, 11:00 a.m.

(Whereupon, at 2:10 p.m., the Senate was adjourned.)