NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 7, 2000

10:09 a.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will come to order.

I ask everyone present to rise and repeat with me the Pledge of Allegiance.

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

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

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 6, the Senate met pursuant to adjournment. The Journal of Monday, June 5, was read and approved. On motion, Senate adjourned.

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the calendar and take up

Calendar Number 1315 and have the last section read for the purpose of Senator Libous voting.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1315.

THE SECRETARY: Calendar Number 1315, by Senator Maltese, Senate Print 1638B, an act to amend the Penal Law, in relation to the crime of partial birth abortion.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Senator Libous.

SENATOR LIBOUS: Yes.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

SENATOR SKELOS: Please withdraw the roll call.

ACTING PRESIDENT McGEE: The roll call is withdrawn.

SENATOR SKELOS: Madam President, if we could call up Calendar Number 1316 and

have the last section read for the purposes of Senators Libous and Nozzolio voting.

ACTING PRESIDENT McGEE: The Secretary will read Calendar 1316.

THE SECRETARY: Calendar Number 1316, by Senator Goodman, Senate Print 4691A, an act to amend the Penal Law and the Executive Law, in relation to hate crimes.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 7. This act shall take effect in 90 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Libous.

SENATOR LIBOUS: Nay.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Nay.

SENATOR SKELOS: Please withdraw the roll call.

ACTING PRESIDENT McGEE: The roll call is withdrawn.

Senator Skelos.

SENATOR SKELOS: If we could go back to regular order.

ACTING PRESIDENT McGEE: Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Nozzolio, would you please place a sponsor star on Calendar 1086.

ACTING PRESIDENT McGEE: That bill will be starred.

SENATOR SKELOS: Madam President, if I could just interrupt.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: There will be an

immediate meeting of the Judiciary Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Judiciary Committee in the Majority Conference Room.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I wish to call up my bill, which is Senate Print 3554, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 108, by Senator Farley, Senate Print 3554, an act to amend the Banking Law.

ACTING PRESIDENT McGEE: Senator Farley.

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

ACTING PRESIDENT McGEE: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT McGEE: Amendments received.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

Amendments are offered to the following Third Reading Calendar bills:

By Senator Nozzolio, on page 8, Calendar Number 248, Senate Print Number 6282D;

By Senator Volker, on page 11, Calendar Number 396, Senate Print Number 6590;

By Senator Trunzo, on page 24, Calendar Number 812, Senate Print Number 7228;

By Senator Skelos, on page 30, Calendar Number 933, Senate Print Number 7092A;

By Senator Volker, on page number 31, Calendar Number 961, Senate Print Number 7188;

By Senator Skelos, on page 35, Calendar Number 1043, Senate Print Number

6777A;

By Senator Balboni, on page 42, Calendar Number 1152, Senate Print Number 7161;

By Senator Balboni, page number 45, Calendar Number 1272, Senate Print Number 7701;

By Senator Trunzo, on page 50, Calendar Number 472, Senate Print Number 4412C;

By Senator Farley, page number 34, Calendar Number 1018, Senate Print Number 7747.

Madam President, I now move that these bills retain their place on the Third Reading order. Assuming you accepted the amendments.

ACTING PRESIDENT McGEE: Amendments received. The bills will retain their place on the Third Reading Calendar.

Senator Skelos, we have some substitutions.

SENATOR SKELOS: Please make the substitutions that are at the desk.

ACTING PRESIDENT McGEE: The

Secretary will read.

THE SECRETARY: On page 4, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 109A and substitute it for the identical Senate Bill Number 550A, Third Reading Calendar 39.

On page 5, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill 3039 and substitute it for the identical Senate Bill Number 2157, Third Reading Calendar 97.

On page 12, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 8111 and substitute it for the identical Senate Bill Number 4623, Third Reading Calendar 445.

On page 15, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 10167 and substitute it for the identical Senate Bill Number 6706, Third Reading Calendar 549.

On page 15, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 1816 and substitute it

for the identical Senate Bill Number 5929, Third Reading Calendar 554.

On page 16, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 9530 and substitute it for the identical Senate Bill Number 6542, Third Reading Calendar 620.

On page 24, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 445 and substitute it for the identical Senate Bill Number 927, Third Reading Calendar 803.

On page 27, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 9723B and substitute it for the identical Senate Bill Number 6767B, Third Reading Calendar 875.

On page 27, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 10814A and substitute it for the identical Senate Bill Number 7310A, Third Reading Calendar 901.

On page 27, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 10815A and substitute it

for the identical Senate Bill Number 7311A, Third Reading Calendar 902.

On page 28, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 6903B and substitute it for the identical Senate Bill Number 3728B, Third Reading Calendar 908.

On page 28, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 7196A and substitute it for the identical Senate Bill Number 4068A, Third Reading Calendar 910.

On page 29, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 9875 and substitute it for the identical Senate Bill Number 7303, Third Reading Calendar 918.

On page 33, Senator Marchi moves to discharge, from the Committee on Rules, Assembly Bill Number 10950 and substitute it for the identical Senate Bill Number 7080, Third Reading Calendar 994.

On page 46, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 7265D and substitute it

for the identical Senate Bill Number 3393C, Third Reading Calendar 1283.

On page 47, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 9539 and substitute it for the identical Senate Bill Number 6485, Third Reading Calendar 1293.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator Seward. May we have the title read and move for its immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could just lay that aside temporarily.

And could we take up Resolution 4545, by Senator Bonacic -- this resolution passed the Senate on June 6th -- and have it read in its entirety.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 4545, honoring the valedictorians of the 40th Senate District, in recognition of their outstanding academic accomplishments at a celebration to be held at the State Capitol on June 7, 2000.

"WHEREAS, It is the sense of this Legislative Body to act, in accord with its long-standing traditions, honoring the youth of today -- the leaders of tomorrow -- whose character and achievements best exemplify the ideals and values cherished by this great state and nation; and

"WHEREAS, This Legislative Body is justly proud to recognize and commend the high achievements of these dedicated students in the 40th Senate District on the occasion of a special celebratory visit to be held at the State Capitol in Albany, New York, on Wednesday, June 7, 2000. At this time, the valedictorians will receive special recognition from the Senate in the Senate chamber. Lunch will be served in the office of their state senator, followed by a tour of the Capitol building; and

"WHEREAS, these valedictorians represent the best of developed potential inherent in our most precious resources, our youth, and their achievements have brought enduring honor to their families and communities, and should be recognized and saluted; and

"WHEREAS, The valedictorians who are being honored today for their outstanding performances and exemplary achievements include: Thomas Ventimiglia, Heather MacClintock, Emma K. Pokon, Tracey A. Perazone, Jessica Arabski, Kristen Klufas, Ilana Richman, Sherry Pieringer, Heather Stickle, Christopher Colasuonno, Bethany Slater, Robert Semerano, Hamsa Stainton, Pamela Buck, Kelly Vanderzell, Rachael Altbach, Joseph Iatauro, Katelyn Connell, Erika Truax, Joshua M. Lader, James Van Loon, Mara S. Miller, Robert Osterhoudt, Megan Brennan, Kelly Brumbelow, Daniel J. Brown, Jessica Garvin, Jessica Foster, Elisabeth Hubert, Maragharita Pilarinos, Michael Reese, Jamie Shampine, Christopher Phillips, Roger Hall, Adrienne LaPierre, Jessica Sweeney,

Jennifer Gewandter, Heather Prevosti, Kenneth Stalter, and Amy Schildkraut; and

"WHEREAS, These valedictorians may now stand with pride as they assess their achievements, experience the satisfaction of their labors and the joy of their accomplishments, eager to experience the challenges of new experiences as they face a challenging world with bright promise; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the valedictorians of the 40th Senate District, in recognition of their outstanding academic accomplishments, at a celebration to be held at the State Capitol on June 7, 2000; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the aforementioned valedictorians."

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam Speaker. I know that was -- Madam President and Madam Speaker.

That was a lengthy resolution, but I thought it was appropriate to take the time to mention the 39 students that are up here in our gallery who have achieved valedictorian status in our school districts throughout the five counties of the 40th Senate district. Accompanying them are parents, principals, superintendents.

And we have a very special day planned for them. We'll be doing an education forum, which the Lieutenant Governor will attend, as well as university presidents and people from the State of New York, telling them of the opportunities, holding them in high esteem. Then we're going to have a pizza party and a tour.

And I just want to say real briefly that you are the best of the best, that this Senate and this Legislature puts a high value on excellent in education and academic achievement. And we would hope that you would go on to higher education, which I'm sure many of you will be, if not all of you.

And we ask that you give back to this great country some of the opportunities

that it gave to you, and you would think about perhaps living here and coming back to work here. Thank you very much.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Bonacic.

For the record, this resolution was adopted yesterday, June 6, the year 2000.

Senator Skelos.

SENATOR SKELOS: Madam President, there are ten privileged resolutions at the desk. Could we have the titles read and move for their immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 4627, commending Dr. Albert J. Gruner upon the occasion of his designation for special honor by the Gateway Foundation on Sunday, June 11, 2000.

By Senator Bonacic, Legislative Resolution Number 4628, congratulating Daniel E. Johnson upon the occasion of receiving the distinguished rank of Eagle Scout, the most

prestigious of Scouting honors, on June 11, 2000, at Gold Mountain Resort.

By Senator Larkin, Legislative Resolution Number 4629, congratulating Edward T. Palange III upon the occasion of receiving the distinguished rank of Eagle Scout, the most prestigious of Scouting honors, on June 11, 2000.

By Senator Larkin, Legislative Resolution Number 4630, congratulating Paul R. Wolf upon the occasion of receiving the distinguished rank of Eagle Scout, the most prestigious of Scouting honors, on June 11, 2000.

By Senator Larkin, Legislative Resolution Number 4631, congratulating Joseph A. Massari upon the occasion of receiving the distinguished rank of Eagle Scout, the most prestigious of Scouting honors, on June 11, 2000.

By Senator Larkin, Legislative Resolution Number 4632, congratulating Kevin E. Mahoney upon the occasion of receiving the distinguished rank of Eagle Scout, the most prestigious of Scouting honors, on June 11,

2000.

By Senator Skelos, Legislative Resolution Number 4655, honoring Darius Schwartz upon the occasion of his designation as recipient of the "Alumnus of the Year" Award by the Hebrew Academy of Nassau County.

By Senator Skelos, Legislative Resolution Number 4656, commending Dr. Eric Moskow upon the occasion of his selection as Guest of Honor at the Hebrew Academy of Nassau County's 47th Annual Journal Gala.

By Senator Skelos, Legislative Resolution Number 4657, honoring Lee and Andre Lichtman upon the occasion of their designation as recipients of the "Grandparents of the Year" Award by the Hebrew Academy of Nassau County.

And by Senator Meier, Legislative Resolution Number 4658, honoring Mary Ann Lum Nelson upon the occasion of her retirement as Town Clerk of the Town of Webb, New York.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolutions are adopted.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: If we could go to the noncontroversial calendar at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 195, by Senator Trunzo, Senate Print 6374, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 203, by Senator Libous, Senate Print -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 300, by Member of the Assembly Weinstein, Assembly Print Number 7162A, an act to amend the Family Court Act, in relation to telephonic, audiovisual or electronic testimony.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

485, by Senator Libous, Senate Print -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 505, by Member of the Assembly Weinstein, Assembly Print Number 10421, an act to amend the Estates, Powers and Trusts Law, in relation to the presumption of death from absence.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 551, by Senator Saland, Senate Print 6761, an act to amend the Family Court Act, in relation to orders of restitution.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 653, by Senator Volker, Senate Print 3441, an act to amend the Criminal Procedure Law, in relation to adjournment.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 695, by Senator Larkin, Senate Print 24, an act to amend the Real Property Tax Law, in relation to subjecting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 709, by Senator Libous, Senate Print 7139A, an act to authorize the City of Norwich in the County of Chenango.

ACTING PRESIDENT McGEE: There is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 761, by Senator Skelos, Senate Print 7489, an act to amend the Domestic Relations Law, in relation to parents or other persons.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 765, by Senator Saland, Senate Print 7725A, an act to amend the Family Court Act and the Domestic Relations Law, in relation to the appointment.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 770, by Member of the Assembly DiNapoli, Assembly Print Number 7387, an act to amend the Environmental Conservation Law, in relation to requiring.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 826, by the Assembly Committee on Rules,

Assembly Print Number 8561B, an act to amend the Civil Practice Law and Rules, in relation to the use of prior testimony.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 842, by Senator Wright, Senate Print 3903, an act to amend -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 875, substituted earlier today by Member of the Assembly John, Assembly Print Number 9723B, an act to amend the Executive Law, in relation to increasing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in one year.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 897, by Senator Padavan, Senate Print 6507A, an act to amend the Private Housing Finance Law, in relation to increasing the bonding authority.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 898, by Senator Bonacic, Senate Print 7126, an act to amend the Private Housing Finance Law, in relation to the powers.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 901, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 10814A, an act to amend the Private Housing Finance Law, in relation to loans.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 902, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 10815A, an act to amend the Private Housing Finance Law, in relation to participation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 943, by Member of the Assembly Gunther, Assembly Print Number 6404A, an act to amend the Town Law and the Not-for-Profit Corporation Law, in relation to the eligibility.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 988, by Senator Marchi, Senate Print 4458C, an act to amend the Not-for-Profit Corporation Law and the State Finance Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1028, by Senator Trunzo, Senate Print 6945A, an act to amend the Vehicle and Traffic Law, in relation to registration lists.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1033, by Senator Maziarz, Senate Print 4515B, an act -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1262, by Senator Skelos, Senate Print 6821, an act to amend the Civil Practice Law and Rules, in relation to the time to take an appeal.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1270, by Senator Stafford, Senate Print 7645, an act to amend -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1279, by Senator Meier, Senate Print 1170A, an act to amend the Education Law and the Criminal Procedure Law, in relation to the appointment.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 16. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1280, by Senator Breslin, Senate Print 1739, an act to amend the General Municipal Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1281, by Senator Padavan, Senate Print 2010, an act to amend the Penal Law, in relation to possession of stolen motor vehicles.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1282, by Senator LaValle, Senate Print 3195B, an act to amend the Education Law, in relation to information.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1283, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 7265D, an act to amend the Estates, Powers and Trusts Law, in relation to granting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1284, by Senator Saland, Senate Print 4362B, an act to amend the Surrogate's Court Procedure Act, in relation to the appointment.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1285, by Senator Marchi, Senate Print 4594, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR HEVESI: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1286, by Senator Seward, Senate Print 4772A, an act in relation to granting retroactive membership.

ACTING PRESIDENT McGEE: There is

a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1287, by Senator Balboni, Senate Print 4999B, an act to amend the Insurance Law and the Public Health Law, in relation to the confidentiality.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1288, by Senator Wright, Senate Print 6327, an act to amend the Correction Law and the Executive Law, in relation to making sex offender registry information available.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1289, by Senator Alesi, Senate Print 6383A, an act to amend the Penal Law, in relation to including a public place.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1290, by Senator Skelos, Senate Print 6398, an act to amend the Criminal Procedure Law, in relation to the designation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1291, by Senator McGee, Senate Print 6466A, an act to amend the State Finance Law and the

Vehicle and Traffic Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1292, by Senator Seward, Senate Print 6480A, an act to amend the Education Law, in relation to permissible use of school grounds.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1293, substituted earlier today by Member of the Assembly Connelly, Assembly Print Number 9539, an act to amend the Education Law, in relation to the eligibility.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1295, by Senator Seward, Senate Print 6733A, an act to amend the Insurance Law, in relation to qualifications of persons.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1297, by Senator Skelos, Senate Print 6827A, an act to amend the Education Law, in relation to registering and operating optical stores.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1298, by Senator Trunzo, Senate Print 7010, an act to amend the Highway Law, in relation to establishment of dedicated project accounts.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1299, by Senator Maziarz, Senate Print 7312, an act to amend the Executive Law, in relation to expanding.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1300, by Senator Hannon, Senate Print 7388, an act to amend the Not-for-Profit Corporation Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1301, by Senator Kuhl, Senate Print 7562A, an act to amend the Alcoholic Beverage Control Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1302, by Senator Stafford, Senate Print 7647A, an act to amend the Racing, Pari-Mutuel

Wagering and Breeding Law, in relation to subjecting real property.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1303, by Senator Oppenheimer, Senate Print 7873, an act in relation to legalizing, validating, ratifying and confirming certain acts and proceedings.

ACTING PRESIDENT McGEE: There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1304, by Senator Padavan, Senate Print 7890, an act to authorize the Dormitory Authority to sell or lease certain land.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1305, by Senator Larkin, Senate Print 7904, an act to amend the Penal Law, in relation to obscene sexual performance.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1306, by Senator Volker, Senate Print 7916, an act to amend the Executive Law, in relation to the community services block grant program.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1307, by Senator Lack, Senate Print 7922, an act to amend the Correction Law, in relation to information.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1308, by Senator Morahan, Senate Print 7925, an act to amend the Real Property Law, in relation to discrimination against children.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1309, by Senator Rath, Senate Print 7928, an act to amend Chapter 812 of the Laws of 1942 constituting the Erie County Tax Act.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect September 1.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1310, by Senator Spano, Senate Print 7932, an act to amend Chapter 831 of the Laws of 1981 amending the Labor Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1311, by Senator Spano, Senate Print 7933, an act to amend the Workers' Compensation Law and Chapter 729 of the Laws of 1993.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1312, by Senator Spano, Senate Print 7934, an act to amend Chapter 491 of the Laws of 1993.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1313, by Senator Balboni, Senate Print 7940, an act in relation to authorizing the Village of East Hills, County of Nassau.

ACTING PRESIDENT McGEE: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1314, by Senator Velella, Senate Print 7944, an act to amend the Education Law, in relation to notification.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1315, by Senator Maltese, Senate Print 1638B,

an act to amend the Penal Law, in relation to the crime of partial birth abortion.

SENATOR ONORATO: Lay the bill aside.

ACTING PRESIDENT McGEE: Lay the bill aside.

THE SECRETARY: Calendar Number 1316, by Senator Goodman, Senate Print 4691A, an act to amend the Penal Law and the Executive Law, in relation to hate crimes.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

SENATOR KUHL: Madam President, may we now return to the order of motions and resolutions.

And I believe that there was a Resolution Number 4499, which was passed on the 1st of June, by Senator Libous. And I'd like to have that read in its entirety at this time.

ACTING PRESIDENT McGEE: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Libous, Legislative Resolution Number 4499, memorializing Governor George E. Pataki to proclaim Wednesday, June 7, 2000, as Legislative Disability Awareness Day in the State of New York.

"WHEREAS, The New York State Senate Select Committee on the Disabled, in conjunction with the New York State Assembly Task Force on People with Disabilities, is sponsoring the 20th annual Legislative Disability Awareness Day; and

"WHEREAS, It is the sense of this Legislative Body that persons with disabilities merit our recognition as they realize the goals of inclusion and equality in our communities and society at large; and

"WHEREAS, It is the intent of this Legislative Body to recognize persons with disabilities, accentuating in turn the benefit to New York State of their contributions to our economic, educational and social growth;

and

"WHEREAS, Legislative Disability Awareness Day so clearly labors for the positive and salutary definition of the communities of the State of New York; and

"WHEREAS, Legislative Disability Awareness Day will conclude with this Legislative Body considering legislation significant to persons with disabilities; and

"WHEREAS, Legislative Disability Awareness Day provides individuals with an opportunity to acknowledge and understand the legislative process; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor George E. Pataki to proclaim Wednesday, June 7, 2000, as Legislative Disability Awareness Day in the State of New York, fully confident that such procedure mirrors our shared commitment to the efflorescence of human dignity; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Honorable George E. Pataki, Governor of

the State of New York, and to selected representatives of persons with disabilities."

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: Yes, Madam President. Would you recognize Senator Spano to speak on the resolution, please.

ACTING PRESIDENT McGEE: Senator Spano.

SENATOR SPANO: Thank you very much, Madam President.

It's my pleasure today to acknowledge the fact that today marks the 20th anniversary celebration of the Legislative Disability Awareness Day here at the State Capitol. And on behalf of my colleague Senator Libous, it is my pleasure to thank the members of the Senate who are continuing to increase the awareness of the needs of people with disabilities in this state.

There are some 35 organizations from across the state who are here to display some information about the services they provide for people with disabilities. And I hope that if you have an opportunity to visit

the third floor of the LOB, you'll take a look at some of their services.

In session today we'll be passing a package of disability-related bills that include bills that increase opportunities and increase the quality of life for people with disabilities.

The resolution that was previously read, I would ask, Madam President, that if all of the members of the Senate would like to be part of that resolution, that with the concurrence of the Majority and Minority Leaders that we allow that to happen.

We have a gentleman here from Senator Hoffman's district, who was honored as a special guest for Legislative Disability Awareness Day. And I would like to yield to Senator Hoffmann to give her an opportunity to introduce and say a few words about her special guest here today.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Senator Spano.

And I appreciate Senator Libous's willingness to give this very, very important day the attention that it deserves and to allow us to honor some wonderful people from our own districts.

And Senator Libous would be here if he did not have to leave very suddenly with the Governor to be at an important event in Binghamton today. And Senator Spano has taken over the role, and did a lovely job for us at the awards ceremony downstairs.

But it's my distinct honor and pleasure to be able to introduce to my colleagues a good friend and a community activist without parallel. Mr. Jim Babel, who is in the back of the Senate chamber, has been one of those exemplary individuals who shows that there are in fact no limitations to a person who is determined to make a difference -- not only for himself, not only for people with disabilities, but for the larger community.

And he has been in the forefront of an organization called Disabled In Action in the Syracuse community that provides guidance

and creates public pressure and support for the kind of changes that make life easier for people with a disability.

Regardless of what type of disability it is, this organization is there to provide the kind of pressure and support and guidance for those of us in policy-making positions so that we can have a better understanding ourselves and make the pressure that they feel lessen somewhat.

We hope that in years to come, these issues will all have resolved themselves -- we will have a simple understanding of the importance of curb cuts, we will all recognize where ramping is necessary, and it will just be a fact of life. But we're still in the infancy of that type of awareness. And it requires, unfortunately, a great deal of public advocacy.

And Jim Babel is right now the president of the board of Disabled In Action in greater Syracuse, and he's served in that organization since 1985.

He is also one of the shining lights of an organization called the Syracuse

Flyers. And this is one of those famous wheelchair basketball teams that takes on people with and without disabilities and, again, demonstrates the good humor as well as the tenacity of this very special individual and many of his friends who are also in wheelchairs and have other disabilities.

So the Governor is to be commended for acknowledging this day and for allowing us the opportunity to bring to Albany special individuals who help all of us become more sensitive to the needs of the disabled community.

Jim, we're very proud to have you here. We welcome you to the Senate chamber today.

Thank you, Madam President, for allowing us this opportunity in a very busy day.

ACTING PRESIDENT McGEE: Thank you, Senator Hoffmann.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. Senator Hoffmann has really said it all about Jim.

I've known Jim for many, many years, since I was in the City Council in political office. And when Larraine said that he's an activist, that is an understatement. When he gets an issue that he's got involvement in, he takes it to the point of making sure that the issue is not only discussed but it gets a result.

So, Jim, I want to congratulate you as well. Keep up your great work, on behalf of not only yourself but all people with disabilities.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator DeFrancisco.

Senator Kuhl, shall we open up this resolution for sponsorship by the entire Senate?

SENATOR KUHL: Madam President, this resolution was previously adopted, as I had previously mentioned, on the 1st. And I believe everybody is on it.

But I will direct that everybody be put on it if they are not on it, unless they indicate to the desk that in fact they don't

wish to be on it.

So I think that takes care of the matter.

ACTING PRESIDENT McGEE: Thank you, Senator Kuhl. The resolution will be open for any previous sponsorship that has not already done so. If you don't wish to be so, please notify the desk.

For the record, this resolution was previously adopted on June 1, the year 2000.

Senator Kuhl.

SENATOR KUHL: Madam President, may we now have the controversial reading of the calendar. But may we take up first Calendar Number 203, followed by Calendar Number 485, and then to be followed by Calendar Number 1033, in that order, and then resume the natural order.

ACTING PRESIDENT McGEE: Thank you, Senator Kuhl.

The Secretary will read Calendar 203.

THE SECRETARY: Calendar Number 203, by Senator Libous, Senate Print 2102A, an act to amend the Mental Hygiene Law and the

Executive Law, in relation to requiring providers of services.

SENATOR DUANE: Explanation, please.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT McGEE: Senator Spano, an explanation has been requested.

SENATOR SPANO: Right now the Commission on Quality of Care for the Disabled has the mandate to review programs for people with disabilities across the state.

What this bill would do, it would expand the scope of the Commission on the Quality of Care to include those who are blind or visually handicapped.

SENATOR KUHL: Read the last section.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in

the negative on Calendar Number 203 are Senators Duane, Montgomery, and Schneiderman. Ayes, 52. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 485, by Senator Libous, Senate Print 4913, an act to amend the Mental Hygiene Law, in relation to directing the State Commission on Quality of Care.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1033, by Senator Maziarz, Senate Print 4515B, an act in relation to enacting the Blind Students' Literacy Rights and Education Act.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. To explain my vote, Madam President.

Today is, as Senator Spano pointed out, Disability Awareness Day, sponsored by Senator Tom Libous. And I just want to briefly point out -- I know that many of the advocates are here today -- that this bill, the Braille Students' Literacy Rights and Education Act, will ensure that Braille education is made available to the visually impaired and deaf-blind students.

This bill was negotiated between the Office of Children and Family Services, the Commission for the Blind and Visually Handicapped, and the State Education Department.

And I think it's only fitting that I point out two individuals, Tom Robertson, of the Commission for the Blind and Visually Handicapped, the director, and the deputy director, Mr. Brian Daniels, for all of their assistance with this bill.

This bill has a great deal of support out there by the National Federation for the Blind, the American Council for the Blind in New York, the Independent Living Council, the State Rehab Council, and Industries for the Blind of New York State.

And I just want to thank also my Assembly colleague, Assemblyman Weisenberg, for his support.

And, Madam President, this I believe is one bill which will see the Governor's signature this year.

Thank you very much.

ACTING PRESIDENT McGEE: Senator Maziarz will be recorded in the affirmative.

The Secretary will announce the results.

Senator Farley.

SENATOR FARLEY: No, Madam

President.

ACTING PRESIDENT McGEE: Thank you very much, Senator Farley.

Results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

Can we have some order in the chamber, please.

The Secretary will read in regular order.

THE SECRETARY: Calendar Number 842, by Senator Wright, Senate Print 3903, an act to amend the Public Service Law, in relation to the elimination.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT McGEE: Senator Wright, an explanation has been requested.

SENATOR WRIGHT: Thank you, Madam President.

The bill eliminates the requirement that's currently contained in the law that the

Public Service Commission conduct an audit on an every-five-year basis. This eliminates the five-year requirement, leaves it to the discretion of the Public Service Commission as necessary.

ACTING PRESIDENT McGEE: Senator Coppola.

SENATOR COPPOLA: Madam President, I'd like to ask the sponsor of this bill a couple of questions, please.

ACTING PRESIDENT McGEE: Senator Coppola, would you wait for just one moment.

Can we have some order in the chamber, please. It's extremely noisy.

Thank you, Senator Wright. An explanation has been requested for answers.

SENATOR WRIGHT: Madam Chairman, the explanation was provided. I believe I'm responding to questions at this point.

ACTING PRESIDENT McGEE: Please do so.

SENATOR COPPOLA: Thank you, Senator.

Senator, are you aware of the list of towns and municipalities that have been

overcharged by the company that you're requesting to now do away with auditing?

For example, I have the Alexandria School, the Central School, Brunswick School, the Buffalo Board of Education, the Buffalo Municipal Housing Authority, the Buffalo Sewer Authority, the City of Buffalo, the City of Cohoes, the City of Fulton, the City of Niagara Falls, the City of North Tonawanda, the City of Oneida Water District, the City of Oswego, the City of Syracuse, the City of Utica, Delaware, Erie County, Fonda-Fulton Central Schools, Geneseo, Greenwich, Greater Amsterdam School, Herkimer County BOCES.

Just recently, here in Albany -

SENATOR WRIGHT: In response to the question, Senator, no, I am not aware of that list.

SENATOR COPPOLA: Well, I'm very concerned that if we do away with the monitoring of this company requested by the attorneys who represent Niagara Mohawk, that we will be lax in our duties to the ratepayers out there across their service territory.

We have found just three months ago

that they wrote a check out, because I found them overcharging the City of Buffalo over $2 million, with phantom streetlights of 1500 that we were being charged for.

And I feel, Senator, and I'm only appealing to you, that the monitoring and the auditing of this company is most important. And to do away with it would be, you know, giving them a leeway out there of more mismanagement than they have been performing over the past several years.

SENATOR WRIGHT: Senator, let me correct a couple of assumptions you've made.

Number one, this bill is not at the request of any company. And my assumption is that you're implying it's at the request of a utility. It is not. It has been submitted and introduced at the request of the Department of Public Service, the Public Service Commission of the State of New York, relative to one of their procedures.

It is, in fact, supported by a law firm that represents one of the utilities - Niagara Mohawk, in this case -- as they have advanced a memorandum of support. There's a

clear difference and distinction, I believe, in that.

Secondly, this does not in any way, shape, or fashion limit the audit power or the oversight responsibilities of the Public Service Commission. It simply provides them the necessary flexibility to address it.

Were we to have a situation as you've related, where you've identified a problem, simply referring that problem and necessary documentation to the Public Service Commission could result, and in fact I believe would result, in an audit being performed if there were sufficient documentation to present and warrant that audit.

I think that's a legitimate oversight function of the Public Service Commission. This bill in no way diminishes that and in no way restricts the ability of the Public Service Commission to conduct hair oversight.

It simply reflecting the changing reality of the restructuring of the utility industry and the energy field, and provides for greater flexibility so that the Public

Service Commission has the capability of responding in a timely and appropriate fashion.

SENATOR COPPOLA: Madam Chairman, through you, please, may I ask another question.

ACTING PRESIDENT McGEE: Senator Wright, will you continue to yield?

SENATOR WRIGHT: Yes, I will, Madam Chairman.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR COPPOLA: What is the manpower that the Public Service Commission has to do the auditing, Senator?

SENATOR WRIGHT: I'm not aware of the specific number of staff that is assigned to that function. Current law provides them the opportunity to utilize their own staff or, in turn, to contract outside staff.

In all instances, the costs are borne by the utilities as opposed to taxpayers. And that's why I believe you see the kind of support that there is for eliminating a mandatory requirement, because

that in turn simply generates a cost that is borne by the ratepayers.

SENATOR COPPOLA: Senator, my understanding is that the Public Service Commission does not have sufficient manpower to do the auditing, especially with other companies in New York State.

But in particular, this company needs to be audited. And I think that if we do away with the auditing with an outside firm, more mismanagement will take place like it has in the past.

I have stated to you over fifty, fifty towns and municipalities have been overcharged. And it was because of our findings that this took place. If we now allow the Public Service Commission to monitor this, they will get away with overcharging throughout their service territory.

SENATOR WRIGHT: Was that a question, Senator? I believe it was a statement.

SENATOR COPPOLA: No, I just wanted to make sure and highlight, Senator, because you are pushing the bill.

And I think it's so important that we keep these restrictions out there. To do away with these restrictions, more mismanagement is going to happen, more things are going to happen to the ratepayers across that territory.

SENATOR WRIGHT: Well, once again, Senator, I will reinforce that we are not in any way, shape, or fashion eliminating the authority, responsibility, or function of the Public Service Commission as it relates to audit functions, as it relates to management oversight, as it relates to their investigatory powers relative to the conduct or operation of those utilities.

This certainly eliminates a provision that says it must be done every five years. That is all. I believe that's part of flexibility. That's part of a responsibility.

In terms of the examples that you cite, simply making that information available to the Public Service Commission, I'm sure it will be dealt with in an appropriate fashion by the Public Service Commission.

SENATOR COPPOLA: Madam

President, on the bill.

ACTING PRESIDENT McGEE: Senator Coppola, on the bill.

SENATOR COPPOLA: To make the Public Service Commission aware of this - they are aware of it. They handled each and every one of these cases when it was brought to their attention.

The fact of the matter is they do not have the manpower. The fact of the matter is this company overcharged the city mission over a hundred thousand dollars, which is scandalous. And we found that. The fact of the matter is they're charging all of the religious organizations in the City of Buffalo, they're overcharging. The fact of the matter is the people who depend on cheap power, they've hurt them dramatically.

And it would be scandalous if we passed this bill, because we will be letting them get away with more mismanagement throughout the service territory. The fact is they overcharged the city mission, they overcharged all non-profits in the City in Buffalo. They've overcharged here in Albany

almost $4 million. And that ought to come to light.

So, Senator, I would think and hope that you would table this bill and discuss this with your company and the attorneys and with the Public Service Commission and let us know what kind of manpower does the Public Service Commission have to audit all of these companies.

To do away with this will continue the mismanagement. It will hurt all of the people in Western New York. I cast my vote in the no, Madam President.

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: Yes, Madam President. You want to call the last section on this bill?

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 842 are Senators Coppola, Duane, Gentile, Gonzalez, Hevesi, Kruger, Lachman, Onorato, Oppenheimer, Paterson, Rosado, Santiago, A. Smith, Stachowski, Stavisky. Also Senator Connor. Ayes, 41. Nays, 16.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room.

The Secretary will continue to read in regular order.

THE SECRETARY: Calendar Number 1028, by Senator Trunzo, Senate Print 6945A, an act to amend the Vehicle and Traffic Law, in relation to registration lists.

SENATOR DUANE: Explanation.

ACTING PRESIDENT McGEE: Senator Trunzo, an explanation has been requested.

SENATOR TRUNZO: Madam President, this bill would prohibit the commissioner of motor vehicles from selling vehicle registration lists and bulk title information, except in connection with motor vehicle safety products and service communications -- which would include the issuance of a manufacturer's warranty, safety recall, or similar notices - for Motor Vehicle statistical compilation purposes, customer satisfaction and other survey research related to the use and ownership of motor vehicles, and the verification of a vehicle's title status or to carry out the purpose of the federal Anti-Car-Theft Act of 1992.

That's what this bill does, it just prohibits the commissioner from selling lists except in those cases.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if the sponsor would yield for a question.

SENATOR TRUNZO: Yes.

ACTING PRESIDENT McGEE: Senator Trunzo, will you continue to yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, I noticed that the United States Supreme Court, in a North Carolina case last fall, criticized a lot of the policies of the motor vehicle department in North Carolina by listing a number of pieces of information that could not be circulated without the express written consent of the consumer.

Now, what we have in this legislation, or what we are doing right now in this state, is we're finding all of the things that the court didn't mention -- accident reports, for example -- and we're going ahead and doing it, even though I would say that the Supreme Court decision could be regarded as dicta and that an interpretation of it would certainly be that we shouldn't be doing this.

Our own Department of Motor Vehicles considered abandoning the

distribution of information as a protection to the consumer, and has now kind of changed its mind -- with the Commissioner only really giving as an example in testimony before a hearing that, you know, it's not on the Supreme Court's list, so we can go ahead and do it.

And I don't know if that's really the best thing that we should be doing at this time.

What information do you have that passing this legislation would be anything other than a precursor to a suit filed against our own law and having it eventually struck down by a federal court?

SENATOR TRUNZO: Is that a question, Senator?

SENATOR PATERSON: Yes.

SENATOR TRUNZO: As far as we are concerned, we believe that this piece of legislation will meet those federal qualifications.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: I'm sorry,

Madam President, I had trouble hearing Senator Trunzo.

ACTING PRESIDENT McGEE: Senator Trunzo.

SENATOR TRUNZO: What I said, Senator Paterson, is that we believe that this piece of legislation we're doing here will meet the federal qualifications that were pointed out, that you have just recently pointed out.

And by the way, it does not affect any contract that is currently -- that the Department of Motor Vehicles currently has entered into prior to the adoption of this legislation.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I'm not in any way questioning the integrity of the sponsor, who I have the highest regard for, not only as a person but as a legislator. I didn't think anybody would offer any legislation where there was any doubt that it met the federal guidelines and would be constitutional.

What I'm trying to determine is based on the information I gave about the Supreme Court decision, how do you explain to consumers that just because we have a couple of other areas that the Court didn't address, that those areas were not within the contemplation of what the Court's spirit was when they arrived at the decision last fall?

ACTING PRESIDENT McGEE: Senator Paterson, am I to believe that that request was directed at Senator Trunzo, or is that merely a statement?

SENATOR PATERSON: No, I asked it through the chair as a question, Madam President.

ACTING PRESIDENT McGEE: Thank you.

Senator Trunzo.

SENATOR TRUNZO: Madam President, these items that we have here are legitimate safety factors that have been developed as a result of that federal legislation, and basically is what we're trying to put into our own law.

It's part of a privacy situation

which, again, the Department of Motor Vehicles has been selling their lists and have done - you know, and many people have been annoyed with phone calls and what have you from all types of vendors based on the lists that have been sold by the Department of Motor Vehicles.

And we're trying to restrain that and maintain privacy for the consumers themselves except in these specific cases.

And we feel that this applies and will take its effect with the federal law that had been -- the federal decision that has been reached.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Just on the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I understand the initial purpose for which Senator Trunzo

and, I gather, the Senate Majority are carrying this bill. Certainly we have encouraged our departments to accelerate revenues and increase revenues through reasonable measures to enhance cash coming into the departments.

But this bill, in my judgment, is a mistake. And the reason for it is very simple. The Department of Motor Vehicles has a whole truckload, frankly, of information about individuals, of identifying information about characteristics of their automobile habits, their purchasing habits, their motor safety records, and really scads of information, Madam President.

And it seems to me that before any of that information is released, we should get the consent of the consumer. And we don't do that now.

Currently in the reregistration of a motor vehicle there is a box at the bottom of the registration that allows people to decide whether their information can be disclosed without further permission or not. And quite frankly, I've had counsel read that

section of the reregistration form, and it's eminently confusing. You can't tell whether you're supposed to opt in or opt out. You don't know what the effect of a yes answer to the question is with respect to your privacy.

We, I believe, in this Legislature need to come to grips with the privacy issues that are included with the disclosure of this type of information.

I would strongly suggest that we go to a system which is becoming better recognized throughout the nation, the opt-in system. That the only way you can release the information is to opt in, to directly exercise your choice to allow information of any type that's in the possession of government to be available to anyone anywhere. The only way to do that is if you affirmatively decide that you want to have it available.

I know that that may go slightly beyond the context of this proposal, but I see this bill as selling information to the highest bidder. That information will involve our consumers, our taxpayers, our residents. I don't think that we should do that unless

they specifically opt in.

I'd point out the bill is also defective, in my judgment, because while it includes a civil remedy or a civil penalty, it appears to me that that penalty would only be paid from the violator to the government, to the Department of Motor Vehicles, for breach of the contract between the buyer of the information and the Department of Motor Vehicles.

And there's no civil remedy for the person whose privacy is violated to directly seek redress in the courts. So we'll have the Department of Motor Vehicles fining the recipient of the information, but the poor person whose privacy has been violated has no remedy.

I would suggest, Madam President, that this approach is counter to the trend in this nation, which is that we should -- we, as government, should protect people's privacy and not allow any information about them to be released unless they specifically choose beforehand to have it released.

I'm going to vote against this

bill, and urge my colleagues to do likewise.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1028 are Senators Breslin, Connor, Coppola, Dollinger, Duane, Gentile, Morahan, Onorato, Padavan, Paterson, Schneiderman, M. Smith, and Senator Stavisky. Ayes, 44. Nays, 13.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: I'd like to be recorded in the negative on Calendar 842, Senate Bill 3903.

ACTING PRESIDENT McGEE: Without objection, you will be so recorded.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1304,

by Senator Padavan.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I would also request unanimous consent to be recorded in the negative on Calendar 842.

ACTING PRESIDENT McGEE: Without objection, you will be so recorded.

The Secretary will read Calendar Number 1304.

Senator Smith.

SENATOR MALCOLM SMITH: Yes, Madam President. I also would ask unanimous consent to be recorded in the negative for Calendar Number 842.

ACTING PRESIDENT McGEE: So recorded.

The Secretary will read.

THE SECRETARY: Calendar Number 1304, by Senator Padavan, Senate Print 7890, an act to authorize the Dormitory Authority to sell or lease certain land.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT McGEE: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: Yes, Madam President.

This is a bill that would authorize a community organization, the Malankara Orthodox Syrian Church, to acquire, through negotiation and purchase, a certain portion of surplus land on the grounds of Creedmoor State Hospital, to be used for a youth and family center.

ACTING PRESIDENT McGEE: Thank you.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

Regular order. The Secretary will

read.

THE SECRETARY: Calendar Number 1262, by Senator Skelos, Senate Print 6821, an act to amend the Civil Practice Law and Rules, in relation to the time to take an appeal.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could withdraw the roll call. An explanation has been requested.

ACTING PRESIDENT McGEE: The Secretary will withdraw the roll call. An explanation has been requested.

SENATOR SKELOS: Senator Paterson, I'd be delighted to answer your question. And I think both of us should be humble that we are debating a bill with so

many distinguished jurists in the gallery and future judges, that certainly they will be impressed by the caliber of this debate on such an important issue.

This bill would provide that an order of judgment is appealable immediately upon the signing date the order or judgment is signed by the judge.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: Madam President, if the sponsor would yield for a question.

ACTING PRESIDENT McGEE: Thank you.

Senator Skelos, do you yield?

SENATOR SKELOS: Yes, I do.

ACTING PRESIDENT McGEE: Thank you.

SENATOR PATERSON: Madam President, I'm wondering when the 30-day period that allows for the appeal period begins to run if we're going to allow the appeals before the order is actually entered.

SENATOR SKELOS: The problem that exists, Senator Paterson, with some attorneys,

they'll receive a judgment and basically hold the order, not enter it for a long time. And a losing party sometimes has to hang out there until they can take the appeal.

All this does, it says once the appellant-to-be finds out that the judgment or order has been signed, they could commence an appeal. That is all the legislation does.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if the Senator would continue to yield.

ACTING PRESIDENT McGEE: Senator Skelos, do you continue to yield?

SENATOR SKELOS: Yes, I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: But we do have a period right now, 30 days, upon which expiration you cannot file an appeal. So I'm trying to figure out if -

SENATOR SKELOS: That does not change.

SENATOR PATERSON: That does not

change?

SENATOR SKELOS: No.

SENATOR PATERSON: So when does it expire? Does it expire prior to the - see, I'm saying you might have a situation where the appeal has expired before the judgment was even entered.

SENATOR SKELOS: It's when the person has signed, when the judgment or order is signed and the appellant has notice of that, he or she could commence the appeal at that time.

SENATOR PATERSON: So in other words, the -- I'm a little confused -- the period for the appeal could now be longer than 30 days?

SENATOR SKELOS: Under existing law, the order has to be signed, entered and served.

SENATOR PATERSON: And that's when the -

SENATOR SKELOS: Right.

SENATOR PATERSON: -- time lapse begins.

SENATOR SKELOS: Right.

SENATOR PATERSON: So since we're allowing for the appeal prior to that, the appeal period is now longer than 30 days.

SENATOR SKELOS: No.

SENATOR PATERSON: Maybe we need one of those jurists to come down here and help alleviate my confusion.

Because what I thought I heard Senator Skelos say is that for -- many times there is an elongated process by which the judgment is not entered. And if that's the case, this is why the Senator would like to have the appeal process begin.

And I can understand that. That makes perfect sense. But my question is if the appeal process is going to begin before the judgment is actually entered, then it is possible that the date for the appeal could expire before the judgment was actually entered.

And that's why my question is, how could we be allowing that to happen where someone's right to an appeal has expired before the judgment against them has even been entered? That's my question.

ACTING PRESIDENT McGEE: Senator DeFrancisco.

SENATOR DeFRANCISCO: May I be heard on that issue?

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Please.

SENATOR DeFRANCISCO: I had the same confusion when I first read it. But I think what happened -- what it is is that - the regular rule is that the appeal expires 30 days after the filing and service of an order. That's not going to change.

But what Senator Skelos' bill is saying -- so the expiration date will always be 30 days after the service and filing of the order. What Senator Skelos' bill would do, in addition to that, you could commence the appeal before that. Namely, when the order has been signed.

And the concept is that normally the winning party signs the order or gets the order written and prepared, and it goes back to that individual. Sometimes they hold it indefinitely. So it's just an additional

ability to file early. It doesn't change the end date of the time that you've got to appeal.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator DeFrancisco would yield for a question.

ACTING PRESIDENT McGEE: Senator DeFrancisco, will you yield?

SENATOR DeFRANCISCO: I guess I got myself into this.

But I think that was the intent of the bill.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, I understood everything you said. So I would like you to answer this question.

Then the period for which you have an appeal could now be longer than 30 days?

SENATOR DeFRANCISCO: Yes, it could. But it could never -

SENATOR PATERSON: Okay, that's fine.

SENATOR DeFRANCISCO: Yes, because it could start earlier.

SENATOR PATERSON: I understand that.

But that's not the answer that Senator Skelos gave me. He said the appeal process was still 30 days. So -

SENATOR SKELOS: From the notice of entering.

SENATOR PATERSON: From the notice, absolutely.

But my question is that if we're allowing appeals to start before the notice, then that time period that a person has to file the appeal is now longer. Do we all agree about that?

SENATOR DeFRANCISCO: I agree. I don't know about everybody else.

(Laughter.)

SENATOR SKELOS: Yes, I do.

SENATOR PATERSON: You both agree. All right, now we're getting started here.

ACTING PRESIDENT McGEE: Senator Paterson, are you still directing your

question to Senator DeFrancisco or to Senator Skelos?

SENATOR PATERSON: Madam President, I'm now addressing my question to Senator Skelos. Unless you would like to join the discussion in -

ACTING PRESIDENT McGEE: Not at all. Thank you very much.

Senator Skelos, will you yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT McGEE: Thank you.

The Senator yields, Senator Paterson.

SENATOR PATERSON: Madam President, now I would like to know about the cross-appeal process. In other words, when is the time appropriate -- when is it seasonable for there to be a cross appeal?

SENATOR SKELOS: The legislation doesn't affect cross-appeals.

SENATOR PATERSON: I guess my question, Madam President, is then again, is the cross-appeal process beginning at the time of service or at the time of the signing of

the order, the entry of the order?

SENATOR SKELOS: Service.

SENATOR PATERSON: Upon the service, thank you.

I have one further question at this time for Senator Skelos, if he would be kind enough to yield.

ACTING PRESIDENT McGEE: Senator Skelos, will you continue to yield?

The Senator yields.

SENATOR PATERSON: What I think is confusing about this legislation, Madam President, is that on one hand we've kind of established a kind of gray area, because what you could have sometimes is that you have parties who are having appeals served on them before there's even a judgment in this regard.

I understand totally what Senator Skelos is trying to do. Because we have had this situation sometimes, as he described, where the -- one of the parties just has to kind of hang around and wait for an order to actually be entered.

But in some respects, I find the legislation contradictory, because on one hand

we're not really very specific about what those time periods should be, and then on the other hand we're very specific about what happens when the order is entered.

So my question to the Senator is, don't you think that it might be more helpful if we just put a time period on what time the orders need to be entered?

SENATOR SKELOS: Good suggestion, Senator Paterson.

And that will be reviewed with the New York State Bar Association, Assemblyman Weprin, who has sponsored the bill in the Assembly. And I'm sure he will be speaking to the Speaker about it, and we could proceed accordingly at that time.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, just briefly on the bill.

ACTING PRESIDENT McGEE: On the bill.

SENATOR DOLLINGER: I appreciate the comments both of my colleague Senator Paterson and Senator Skelos, who says that

will be part of the future of this bill.

I'm going to vote in favor of it, because I think there's one instance in which you can't wait for the order to be entered, especially if your opponent has got it in their hands. And that is when you're seeking immediate relief.

You want immediate relief, you go to the Supreme Court judge, you seek a temporary restraining order. For some reason you either get it or you don't get it, you get the order signed in your presence, and your opponent picks up the order and starts walking away with it.

In order to appeal, in order to have one of our appellate division judges review that case, you need the order filed instantaneously. Because it could drastically affect the consequences between the parties if the temporary restraining order is either in place or not in place.

And I've had this happen in my own practice where they get the temporary order, they put it in their pocket, they walk out, they promise you it's going to be entered so

you can file the appeal you've got prepared and are ready to go with -- and sure enough, a week later your client is screaming at you, you're screaming at your opponent, File the order. And it's always, It's in the hands of my paralegal, it's in the staff, it's with the messenger, it's somewhere. "Don't worry, I'll get it filed, Rick, and I'll serve you with notice of entry."

And they wait the full five days for the service of the notice of entry, and next thing you know you're back before the judge asking the court to order your opponent to file the order.

If you could file that appeal the minute -- in essence, hand it to the Supreme Court judge, hand it to your opponent at the second it's signed, you could then immediately file the appeal and go upstairs and see if you can get the kind of immediate relief you need.

I think this is not a bad idea. I think Senator Paterson may be correct, it could inadvertently create some difficulties in the timing of cross-appeals and other things. I would hope that those are attended

to in further negotiation of this bill.

But the concept of not allowing your opponent to walk away with the order and keep you in suspense is not a bad idea.

ACTING PRESIDENT McGEE: Read the last section.

Senator Paterson, why do you rise?

SENATOR PATERSON: Madam President, would Senator Dollinger yield for a question?

(Laughter.)

ACTING PRESIDENT McGEE: Senator Dollinger, will you yield for a question?

SENATOR DOLLINGER: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, how do you explain the fact that this bill on one hand requires that there be service with notice of entry and then in the other section of the bill it says that you don't need notice of entry to have an appeal?

In other words, if we're trying to alleviate confusion, how do we alleviate confusion with a bill that actually, in my

opinion, in spite of the well-intended notions of the party, contradicts itself?

Here, you can have it.

SENATOR DOLLINGER: Madam President, I would agree with Senator Paterson that there's a prospect for that kind of confusion.

But I also believe that the concept of allowing someone to accelerate the order and the entry process, or to avoid that because your opponent picks it up and puts it in their pocket and you don't get a chance to go up to the appellate division to ask either for the continuation of a temporary relief or the denial of it -- I've just been in that situation, frankly, on both sides, Madam President.

I've had them in my pocket and said, Boy, wouldn't it be nice if we waited two or three days before the order got entered and filed so that my opponent couldn't file the appeal. I think as a good advocate, sometimes that's been in my client's best interest.

And quite frankly, despite those

telephone calls encouraging me to go to the courts and file my orders, I've, in the best interests of my client, diligently represented them and said, "It might take a couple of days to get that order filed."

This will partly remedy that process. And I think Senator Skelos has indicated that he'll take this debate and the discussion about clarifying those issues into the conference committee or further discussions with the Assembly. And I would look forward to a bill that addresses these concerns but does solve the problem of the order-in-your-pocket phenomenon.

SENATOR ONORATO: Madam President, on behalf of the confused nonattorneys in this chamber, I would like to know why, when a judgment is handed down, why both parties are not handed the order so that either one of them can proceed. Why are not duplicates entered? When we make -

ACTING PRESIDENT McGEE: Are you directing your question to a specific entity?

SENATOR ONORATO: I'm asking it to anybody who's willing to answer the

question.

(Laughter.)

ACTING PRESIDENT McGEE: Senator DeFrancisco, will you yield to the question by Senator Onorato?

SENATOR DeFRANCISCO: Yes, I will.

Because -- the only reason why is this Legislature didn't pass a bill that says that.

ACTING PRESIDENT McGEE: Thank you very much.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I just want to explain my yes vote. And I've already done that.

But I wanted to add that since we have ten new judges-to-be, very soon to be new

judges in the audience, I would wonder if at some point after this session we could get an opinion from all ten of them to see if what we're doing makes any sense.

But I would caution that you should probably not give an opinion until after the nominations are confirmed.

(Laughter.)

ACTING PRESIDENT McGEE: Senator DeFrancisco recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 56. Nays, 1. Senator Paterson recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1282, by Senator LaValle, Senate Print 3195B, an act to amend the Education Law, in relation to information.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

SENATOR HEVESI: Explanation, Madam President.

ACTING PRESIDENT McGEE: Senator LaValle, an explanation has been requested by Senator Hevesi.

The roll call is withdrawn.

Senator LaValle.

SENATOR LAVALLE: Thank you, Madam President.

This legislation deals with both the City University and the State University and would ask that in the catalogs of both the State University and the City University that they indicate the percentage of classes in each department taught by adjunct faculty, teaching assistants, or graduate assistants.

That is the bill.

ACTING PRESIDENT McGEE: Thank you, Senator LaValle.

Senator Hevesi.

SENATOR HEVESI: Would the sponsor yield to one question?

ACTING PRESIDENT McGEE: Will you yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Senator LaValle, I think this is a good idea. Just a question for you in terms of what the potential repercussions of this might be.

Do you anticipate that more students than currently would enroll only with tenured full professors, might try and get into those classes and we'd have an imbalance in the other classes as a consequence of this laudable public disclosure?

SENATOR LAVALLE: I don't suspect that it would have that effect. But as you have indicated, Senator Hevesi, that I think the most important thing in disclosure is that it has some impact in making sure that the students know what the rules of the road are.

Now, we won't know the answer to your question until this is implemented, to see whether it has any impact. I suspect, from my knowledge, that students know what a good -- teaching assistants that they want regardless of their status, or an adjunct

professor who may be very, very good, very exciting, they want to enroll in that class. But that would be their decision to do that.

What we're trying to do here is, as I indicated, by department for students to see, for the public to see that there may be some departments who are relying a little more heavily on, let's say, teaching assistants or adjunct professors rather than full-time faculty.

SENATOR HEVESI: Madam President, if the sponsor would continue to yield for one additional question.

ACTING PRESIDENT McGEE: Senator LaValle, will you continue to yield?

SENATOR LAVALLE: Yes. Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HEVESI: Senator LaValle, is there anything in current law or any current requirement, in addition to the requirements that we will likely impose with this legislation, that student review of teacher performance be included in the catalogs?

SENATOR LAVALLE: As you know, Senator Hevesi, right now in both the State University and City University there are reviews of evaluations that students do of professors. However, there is nothing that would publish or disclose the results of those evaluations, and obviously this bill does not do that.

SENATOR HEVESI: Thank you, Senator.

Madam President, briefly on the bill.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Madam President, this is a solid piece of legislation. I would simply suggest that Senator LaValle visit the issue that we just discussed and possibly make mandatory an objective and fair analysis and evaluation of professors by students.

I think that's the direction that we're heading in with this legislation and would be certainly in the interests of those in the collegiate community.

Thank you.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: I have one question for Senator LaValle.

ACTING PRESIDENT McGEE: Senator LaValle, do you yield?

SENATOR LAVALLE: Yes.

SENATOR STAVISKY: Senator LaValle, what is the percentage of full-time faculty in the community colleges in the State of New York?

SENATOR LAVALLE: That varies, Senator, campus by campus. On some campuses you may have a very high ratio of almost 50 percent of adjunct faculty, and then on other campuses that may shrink to a much lower percentage.

SENATOR STAVISKY: Madam President, through you -

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: -- if Senator LaValle would yield for one more question.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The

Senator continues to yield.

SENATOR STAVISKY: Isn't the figure widely quoted to be somewhere in the neighborhood of 30 percent full-time faculty at the community colleges?

SENATOR LAVALLE: I don't know, Senator, if that -

SENATOR STAVISKY: That's the figure that has been widely attributed as the full-time faculty ratio at the community colleges, 30 percent.

SENATOR LAVALLE: From my knowledge, that number just changes from community college to community college.

I do not -- I would find -- if we took an average of the 30 community colleges, I would think that that's kind of a low percentage. I would think it would be higher than that.

SENATOR STAVISKY: Madam President, because the percentage is low, I commend Senator LaValle for this bill, and I urge its passage.

Thank you.

ACTING PRESIDENT McGEE: Thank

you.

Senator Lachman.

SENATOR LACHMAN: Yes, on the bill. The percentage -

SENATOR KUHL: Senator Lachman, on the bill.

SENATOR LACHMAN: Right. The percentage of community college faculty in CUNY is between 45 and 50 percent, in the community colleges. In the senior colleges, it's between 50 and 53 percent. It is about 10 to 20 percent higher at the SUNY colleges.

Now, I also want to commend Senator LaValle on this bill. Because I have said in the past, and I say again, that CUNY and SUNY are great institutions, but their greatness rests upon their full-time faculty, which is the permanent arm of an institution. As good as part-time faculty are, you cannot have in the United States today an outstanding institution of higher education without having higher averages of full-time faculty.

And I urge my colleagues next year to review this and increase the number of full-time faculty at both CUNY and SUNY.

But I think the bill is an excellent start.

Thank you.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1285, by Senator Marchi, Senate Print 4594, an act to amend the Vehicle and Traffic Law, in relation to authorizing right on red in Richmond County.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT McGEE: Senator Marchi, an explanation has been requested by Senator Hevesi.

SENATOR MARCHI: Well, most of the State of New York operates on the principle advocated in this bill. And this would bring us in conformity with the other - I wouldn't say the other 58 counties, but the great majority of circumstances that are addressed throughout the state. In the City of New York, we have just the reverse.

Mrs. Connelly and myself have been sponsoring this legislation in reflecting the considered judgment of the people of Staten Island in using the public highways and streets of Staten Island, so that you have the same experience that we have here in Albany where you are able to make a turn on a red light unless it's expressly forbidden.

Of course, I've had long experience with both systems, and each is appropriate in their own way.

I might point out that this bill was advanced once, and it was vetoed some years ago by a mayor. And I can understand. But we're out in the harbor there, we're out in the Atlantic Ocean, miles away from any other part of the City of New York.

And I believe that it would function very well, and it is the judgment of Mrs. Connelly in the Assembly. It's a bipartisan bill in response to a bipartisan and almost universal sentiment that is expressed in that borough that we have that.

Frankly, I don't see any problem. You adapt and adopt to the particular stringencies that are in place in any given jurisdiction. So if you've done any traveling and you've been around, you know that you're chargeable and must be responsive to the law.

This bill I believe would be a good bill. I can understand the objection to it. Nevertheless, I think it collides in a very substantial way with the indicated preference of drivers, who feel that the regulation of traffic would be expedited and also that it would be a comforting factor in being able to drive under the circumstances described in this bill.

So we're seeking to conform to what is virtually universal practice in the State of New York -- with the exception, of course, of Manhattan, Brooklyn, Kings, and the Bronx,

multimillion-population counties.

Staten Island is almost as large as Manhattan and the Bronx put together, but we only have a slight percentage of the total population that is reflected in either of those boroughs, and certainly nothing comparable to Queens or Brooklyn or Kings County.

So I think it's -- if you accept the judgment of a bipartisan representation here from the Island of Staten lying out there in the Atlantic Ocean, miles away from anybody else, I do hope that it enjoys a general consensus and approval.

SENATOR HEVESI: Madam President, would the sponsor yield?

ACTING PRESIDENT McGEE: Senator Marchi, will you continue to yield to Senator Hevesi?

SENATOR MARCHI: Yes, Senator.

SENATOR HEVESI: Thank you, Senator.

If you can first clarify something I thought I heard you say in your explanation. Did the New York City Council at some point

authorize what you are trying to accomplish here today and a mayor of New York City vetoed that legislation?

SENATOR MARCHI: If my memory serves me correctly, I believe that we passed this some years ago and the Governor then vetoed it, reflecting the sentiment of the mayor, the then-mayor.

So -- but I couldn't go beyond that. I know that we have introduced this bill hoping that at some point that we might establish a consensus on this.

And I respect the arguments that have been raised by the City of New York. But I believe that our isolated position and the circumstances generally, and the fact that virtually 99 percent of all the traffic or 95 percent of all the traffic that is generated on Staten Island is locally generated, that it would make a great deal of sense to change it.

I don't know whether it would be useful, for instance, in your county or any of the other major counties with a heavy population and the heavy use of the motor

vehicle, not only from those indigenous to those counties but also from the tristate area. But it is our judgment that it would make eminent sense in Staten Island.

So take your pick.

SENATOR HEVESI: Thank you.

Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Marchi, will you continue to yield to Senator Hevesi?

SENATOR MARCHI: Oh, sure. Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HEVESI: Senator Marchi, are you aware as to whether or not the current administration of the City of New York supports this legislation?

SENATOR MARCHI: No, I would hope that a kindler, gentler mayor and all of the kindler, gentler council members would respect our decision if it were made.

SENATOR HEVESI: Thank you, Madam President, on the bill.

SENATOR MARCHI: And I've had too

many years in my 44th year to predict infallibly the future. Even fallibly.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you.

Madam President, I very much appreciate, understand, and respect what Senator Marchi is trying to do here. I would feel a little bit more comfortable if this legislation did not simply authorize Staten Island to have a right on red legally permissible but instead gave the City of New York the authority to enact right on red in Staten Island if the City of New York, through an act of the council and with the acquiescence of the mayor, chose to do so.

There are some concerns that I have in light of the fact that we are a single entity in New York City composed of five separate and distinct counties, but with some commonality. And I'm concerned that there could potentially -- and I'm not predisposed to opposing what Senator Marchi is looking to do here, but that there could be some safety concerns, including how are we going to ensure

that individuals who grow accustomed to right on red in Staten Island don't violate the law and compromise public safety when they come into Brooklyn over the Verrazano Bridge, as thousands and thousands of them do at any one time.

And I would also like to see a study, possibly by the New York City Department of Transportation, on whether this is truly feasible, whether the traffic volume is sufficiently low to justify right on red, and in the name of fairness and equity and justice whether or not any other boroughs might be better suited by right on red.

So I would simply suggest that this legislation would be better if it authorized New York City to take such an action instead of doing it itself.

So I'm going to vote no on the bill, but understanding that I very well might think it's appropriate, that with additional evidence and some studies and the appropriate authority making the decision, I might support right on red in Staten Island. But for now, I'm going to oppose the legislation.

ACTING PRESIDENT McGEE: Senator Gentile.

SENATOR GENTILE: Thank you, Madam President. On the bill.

ACTING PRESIDENT McGEE: Senator Gentile, on the bill.

SENATOR GENTILE: Thank you, Madam President.

I rise in support of my colleague from Staten Island in this bill. It has often been said that Staten Island, although a borough of the City of New York, is very unique in many, many ways, and that is true. And I believe one of the ways it is unique is in this instance, Madam President.

Indeed, as I travel through Staten Island, the vehicular traffic in Staten Island can be overwhelming many, many times. However, the pedestrian traffic is of a lower volume than any of the other boroughs in the City of New York.

And with a lower amount of pedestrian traffic in Staten Island, I believe a right on red is a possibility and a relief to the motorist in Staten Island.

And given the fact that that is not the case in any other borough but Staten Island, I believe Senator Marchi's bill and Assemblywoman Connelly's bill is right on the mark in terms of reducing that vehicular congestion.

Senator Marchi, you know very well all you have to do is go down Highland Boulevard or Richmond Road or any one of those thoroughfares in Staten Island and know what frustration Staten Island motorists experience every single day. And with the lack of volume in pedestrian traffic, right on red in Staten Island is a unique, is a unique opportunity for Staten Islanders to help relieve some of their traffic congestion.

So, Senator Marchi, I stand as the other Senator from Staten Island to advocate that we go forward and we pass this bill. And not only -- although I'm not on your bill, I want the people of Staten Island to know that I'm in support of your bill and Assemblywoman Connelly's.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1285 are Senators Duane, Hevesi, and Kruger. Ayes, 54. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I would request unanimous consent to be voted in the negative on Calendar 485, Senate Print 4913.

ACTING PRESIDENT McGEE: So noted.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1300, by Senator Hannon, Senate Print 7388, an act to amend the Not-For-Profit Corporation Law, in relation to authorization.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like unanimous consent to be recorded in the negative on Calendars 842, 1290, and 1295.

ACTING PRESIDENT McGEE: Without objection, you will be so noted.

The Secretary will read.

THE SECRETARY: Calendar Number 1311, by Senator Spano, Senate Print 7933, an act to amend the Workers' Compensation Law and Chapter 729 of the Laws of 1993.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Just one

moment.

SENATOR SPANO: Madam President.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: This is a program as part of the worker's comp reform program that was designed to increase the safety in the workplace. This bill is a three-year extender of that program.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield to a question?

THE PRESIDENT: Does the sponsor yield?

SENATOR SPANO: Yes.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you.

I'm wondering if there's been any data about what's happened to the original pilot program that's been put out.

SENATOR SPANO: Cornell University, Senator, has been conducting a study -- frankly, it has been a little late, and we're informed that the study will be

available for us next week -- relative to the success or failure of the pilot program.

SENATOR DUANE: Thank you.

Madam President, on the bill.

THE PRESIDENT: Senator Duane, on the bill.

SENATOR DUANE: I just, as I have stated before here, object to us extending pilot programs when we don't have the data from the original programs. It seems to me if the data could have been available next week, it could have been available last week, so we could have taken a look at this before we voted on this legislation.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, can we return to the reports of standing committees. I believe there's a report of the Judiciary Committee at the desk.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nominations:

As a judge of the Court of Claims, Margaret L. Clancy, of Brooklyn.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Margaret L. Clancy, of Brooklyn, as a judge of the Court of Claims. We received her nomination from Governor Pataki. The staff of the committee has examined her credentials. She appeared before the committee earlier today, was unanimously moved from the committee to the floor.

And it is with great pleasure that I yield to Senator Connor for purposes of a

second.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

It's my privilege to second the confirmation of Margaret Clancy to the Court of Claims. I congratulate the Governor on this appointment.

Her experience has been extensive in the New York County District Attorney's office, for nearly 20 years, rising to the position of chief of the frauds bureau. She also had served as the chief of the special prosecutions bureau and was a deputy chief of the trial bureau.

Her prior legal experience included working for legal assistance in Geneva, New York. I guess before she had the wisdom to move to downtown Brooklyn. And we're delighted to have her as a neighbor.

She's a graduate of Cornell Law School, and her undergraduate work was at Manhattan Marymount.

She is here today with her husband, Steven Standiford, and her daughter, Emily, as

well as her relatives, Elizabeth, John and Zachary Palisoc.

So I'm delighted to move this confirmation.

THE PRESIDENT: The question is on the confirmation of Margaret L. Clancy, of Brooklyn, as a Court of Claims judge in the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And on behalf of the State Senate, I'd like to congratulate Judge Clancy on this auspicious achievement and wish you the very best in your new endeavors. Congratulations.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Anthony I. Giacobbe, of Staten Island.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise again to move the nomination of Anthony I. Giacobbe, of Staten Island, who has been nominated by the Governor to be a judge of the Court of Claims. His credentials been examined by the staff of the committee, have been found to be perfectly in order. He appeared before the committee earlier this morning, was unanimously moved from the committee to the floor.

And it is with pleasure that I yield for purposes of a second to Senator Marchi.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: We suffered or enjoyed an embarrassment of riches this morning, Madam President, and we had excellent candidates all the way down the line.

I'm especially proud of the candidate that was designated or the nominee who was indicated to us by the Governor, and there were numerous compliments throughout the proceedings as to the wisdom of the Governor in assembling the very best. Quality

certainly matched quantity in the number of judges that we are considering today.

And this is very, very true of Anthony Giacobbe, who is a graduate of Georgetown University, enjoyed a brilliant academic life, and an equivalent brilliancy in also teaching law at St. John's University, and a splendid record of trial prosecution.

In every aspect of the law he manifested a mastery of the knowledge of the intricacies of the law, and certainly indicating that what is prologue in terms of his own experience should result in a rewarding experience for the people in this state who will be affected who will appear before him on various proceedings.

He served under Frank Hogan, John Braisted, and some of you may know Judge Thomas Sullivan, who's on the appellate division. They were all DAs in Manhattan and Staten Island. And uniqueness here, that, bearing a Republican label, he was selected in each and every case to be a member, a prized member, of the assistant district attorney's staff, handling the toughest cases, crime

cases, and being knowledgeable in all of these fields. And this period extended over a period of ten years. So this was a stupendous manifestation.

He also served with the Legislature for several years, in the Assembly, not as a member, but as counsel.

He did this in the borough president's office, in almost every single aspect of life which requires a mastery of different disciplines, but primarily those that invoke his qualities as a prosecutor, as a trial attorney, and as an eminently fair and judicial person.

So I sat back there very smugly and with great pride that Staten Island was so ably represented in this distinguished array of judges who were requesting our confirmation.

He is here with family and friends from Richmond County, who are very proud of him. And I do hope that past is prologue and is richly annotated in terms of the attributes that I've described, and that we give him a rousing and unanimous confirmation at this

session of the Legislature.

THE PRESIDENT: Senator Gentile.

SENATOR GENTILE: Thank you, Madam President.

I also rise as a Senator from Staten Island to endorse and second this nomination of Anthony Giacobbe for the Court of Claims.

As I said earlier today in the committee hearing, I don't think I've received more calls on a nomination than I did for Mr. Giacobbe, calls from my own party asking me to support this nomination. Those calls were unnecessary. But I point it out only to indicate the breadth and depth of the support for this nominee and for the respect that he has in Staten Island.

It's certainly my honor to stand here with Senator Marchi and the other members of this house to confirm Anthony Giacobbe for the Court of Claims, and to wish him well and to say how all of us in Staten Island are very proud this day for him, for his family, and for all on Staten Island.

THE PRESIDENT: The question is

on the confirmation of Anthony I. Giacobbe, of Staten Island, as a Court of Claims judge in the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And as President of the Senate, congratulations, Judge Giacobbe, on this eminent achievement.

And I want to acknowledge the presence of your aunt, your friends, Joy Spinelli, Peter Napolitano, Anna Marie Napolitano, Elena Spinelli, and several other of your friends who have joined you here this afternoon. Congratulations.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Guy James Mangano, of Brooklyn.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Guy James Mangano, of Brooklyn, as a judge of the Court of Claims. We received the nomination from the Governor. We examined the credentials of the candidate; he was found to be excellent in our examination. He appeared before the committee this morning, was unanimously moved from the committee to the floor.

And I most respectfully yield for purposes of a second to Senator Skelos.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Madam President. Thank you, Senator Lack.

I'm delighted to second the nomination of Guy James Mangano for the position of judge of the Court of Claims.

He has been active in many associations -- Columbian Lawyers, Brooklyn Bar Association, Catholic Lawyers Association -- attended Brooklyn Law School. I went to Fordham, but not everybody is perfect, Judge.

But he -- what's most important, what's most important is he has been in the trenches. He's tried cases, he's worked for the Legal Aid Society, Appellate Term, general practice, and, since 1995, principal law clerk to the Honorable John M. Leventhal.

I'm also delighted to mention that his parents are here, Anne Mangano and of course the Honorable Guy Mangano, who is P.J. of the Second Department.

So, Madam President, it's my pleasure at this time to second the nomination of Guy James Mangano for the position of judge of the Court of Claims.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I also rise to second the confirmation of Guy James Mangano, my constituent, someone I've known for a number of years.

These past five years, he's served in Supreme Court of Kings County as a principal law clerk to a judge who is a very close friend of mine, John Leventhal. Guy is

actually a colleague of my wife's, who is also a principal law clerk to a different justice.

But really I think my association with his family goes back many years. In fact, it's the first real political involvement that I had when I moved to Brooklyn as a new lawyer.

Guy James Mangano bears an illustrious name in the annals of the Democratic Party in Brooklyn. I'll address first the "James" part of it.

His grandfather was the last elected sheriff of Kings County, was a prominent and leading Democratic district leader for over 40 years, was someone who I have to say in my initial years as a young upstart I came into some political conflict with.

But I have to say that Jim Mangano taught me many, many lessons about politics. He had a very quiet way of conveying his many, many years of experience, and I benefited from his wisdom on many occasions.

Now the "Guy" part. Senator Skelos said he's the presiding justice of the Second

Department, and that's true. But, Madam President, in this chamber and in this gallery, he's Senator Mangano, who served in this body and then moved on to an illustrious judicial career as a Supreme Court justice and as the presiding justice in the Second Department.

Guy James Mangano, about to become another Judge Mangano, is known for his cooperation, his insight into the law. He's very, very well regarded by his colleagues.

And he indeed is a credit to the Governor for this appointment and will be a credit to the people of the State of New York as he serves us as a judge of the Court of Claims.

THE PRESIDENT: Senator Gentile.

SENATOR GENTILE: Thank you, Madam President.

I also rise to second the nomination of Guy James Mangano, of Brooklyn. I have to thank Governor Pataki for this nomination also.

It's really a banner day for nominees from my area, both in Staten Island

and in Brooklyn. And although this nominee is a constituent of Senator Connor's, the Mangano family and the Mangano name is well-respected and legendary in Brooklyn and throughout our city and our state.

So it is my honor to stand here with Senator Connor and the other Senators to indicate my support and my seconding of this nomination for Guy James Mangano and, again, to congratulate Governor Pataki for this fine nomination.

THE PRESIDENT: The question is on the nomination of Guy James Mangano, of Brooklyn, as a judge of the Court of Claims in the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And as President of the Senate, my congratulations to you, Judge Mangano.

And I'd like to acknowledge the presence of your parents -- Guy, the Honorable

Guy Mangano, and Anne Mangano -- and your friend Pat Pope. Have a wonderful celebration, and best wishes to you.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Steven J. Mignano, of Cortlandt Manor.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Stephen J. Mignano, of Cortlandt Manor, as a judge of the Court of Claims. We received the nomination from Governor Pataki. The nominee's credentials were examined, found to be eminently satisfactory. He appeared before the committee this morning, was unanimously moved from the committee to the floor.

And I most respectfully yield for purposes of a second to Senator Leibell.

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President.

And I had the opportunity this morning to join Senator Lack at his Judiciary Committee meeting. Once again, we have seen the Governor send to us a particularly stellar name to join the ranks of our judiciary.

I've had the pleasure of knowing Steve for a number of years, and I can tell you that within our area of the Hudson Valley, he is well-known, well-respected. He is coming to us and coming to the judiciary with many years of experience, especially in the area of municipal law, which is particularly well-suited for the judgeship he's going for today.

I would also note that he has been active in our community. His private practice has been a particularly successful one. And throughout -- as I noted, throughout the area of the mid-Hudson he is well-respected by all who have come in contact with him, both judges and fellow practitioners as well.

I am pleased to stand here today in support of this nomination, Madam President.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam

President.

It is also my pleasure to stand and to congratulate each of the appointees of the Governor to the Court of Claims. The Governor has sent us a very strong list of individuals over the years to be members of the Court of Claims, and today's appointments are no different.

It is my particular pleasure to speak in favor of the nomination of Steve Mignano, someone who spent a great deal of time in the City of Yonkers. And we were sorry to lose him to Peekskill, but if he was going to go anywhere, the appropriate place, especially these days, is to go from Yonkers to Peekskill.

(Laughter.)

SENATOR SPANO: Senator Lack said some people would like me to go to Peekskill as well.

Steve has an outstanding record and has been involved in so many different activities. But I have known him personally for a long time as someone who has worked in and around many of the activities around our

great Governor. And he's got the exact type of temperament that we need in this court.

And it's my pleasure to stand and to very proudly second the nomination of Steve Mignano. It will make us even more proud to address him as "judge."

Thank you.

THE PRESIDENT: The question is on the confirmation of Stephen J. Mignano, of Cortlandt Manor, as a judge of the Court of Claims in the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And again, as President of the Senate, I congratulate you, Judge Mignano, as well as acknowledge the presence of your wife, Barbara, your son, David, your parents, Dominick and Sandra Mignano, and your sister, Andrea Miscinger.

Congratulations to all of you, and have a good celebration.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Norman I. Siegel, of New Hartford.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise once more to move the nomination of Norman I. Siegel, of New Hartford, as a judge of the Court of Claims. We received the nomination from the Governor, we examined the credentials of the nominee, they were found to be eminently satisfactory. He appeared in person before the committee this morning, was unanimously moved by the committee to the floor.

And I most respectfully yield to a very patient Senator Meier, who has been waiting to second the nomination.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President. And I thank the chair of the Judiciary Committee, Senator Lack.

And there are some in the gallery who know how long I've waited to do this and what a great pleasure it is for me to second this nomination today.

I really think that the way someone can express confidence the best in an attorney is to retain that attorney's services. And when I was county executive of Oneida County, I chose Norman Siegel to counsel me and to be my county attorney.

Norm Siegel is known throughout Oneida County as an excellent lawyer, as a good negotiator, as a great trial lawyer, and as a fair poker player.

He is joined today by a number of the members of the firm with which he's practiced for many years. And I know he'll be missed from that firm, and he'll especially be missed at the evening meetings where we sit around and discuss the cases that are pending in the firm, because of the wise counsel he gives us at those meetings.

One of the things I think the Governor often looks for, and it's been especially gratifying to see in this group of

nominees that we have here today, is people who have a wide range of experience. And Norm Siegel certainly has that with regard to the breadth of areas in which he practiced. For 14 years, he served as the principal law assistant to our county court judge, working on criminal cases. He has wide trial experience in federal courts, state courts, including the Court of Claims.

But he also has wide experience, Madam President, in a number of civic organizations, serving as president of the board of trustees at the Citron Health Care Center, serving on the board of trustees at St. Elizabeth's, working as a member of the board of directors of the Jewish Federation of Utica, and a number of other areas.

I think that's important for people who come to us and ask for our consent to become judges, that they have a depth and breadth of experience. I believe that -- I think all of us would agree with this, that judges go to books to find the law, and they go to a depth and breath of human experience to find humanity, to find compassion, to find

equity, and I think to find justice itself.

And on that count, nobody - nobody -- will be a better judge than Norm Siegel.

Norman, God bless you. Congratulations.

THE PRESIDENT: The question is on the confirmation of Norman I. Siegel, of New Hartford, as a judge of the Court of Claims in the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And I congratulate Judge Siegel on your new responsibility and achievement, and acknowledge the presence of your wife, Anne; your daughters, Laurie, Susan and Judy; and your friend Eugenia Greenhouse.

Have a wonderful celebration, and best wishes.

(Applause.)

THE PRESIDENT: The Secretary

will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Richard E. Sise, of Niskayuna.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Richard E. Sise, of Niskayuna, as a judge of the Court of Claims. We received the nomination from the Governor, we examined the credentials of the nominee. They were found perfectly in order. He appeared in person before the committee earlier today, was unanimously moved by the committee to the floor for purposes of confirmation at this time.

And I most respectfully yield to Senator Farley for purposes of a second.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

It is with pleasure that I move the nomination of Richard Sise from my hometown of Niskayuna. Let me just say a word about Dick

Sise, who is eminently qualified for this office, for this judgeship.

He's a graduate of Siena College, University of Miami Law School. He has served as an assistant district attorney for Bronx County; he was a prosecutor for a number of years. He's been an outstanding practicing attorney with his family.

And let me just say a word about his family, because you can't mention the word "Sise" without talking about an incredible family.

His father, who is with him today, Bob Sise, was chief administrative judge for this state, it was a number of -- it seems like a few years ago that I moved his confirmation. And he was -- I said he really needs the job, because he's the father of five sons -- nine sons, nine, and he really needs the job and the money to -- because he was educating them all at that time.

And what a remarkable group of young men they are. His brother Joe, who's also up there in the gallery -- Madam President, I know that Dick Sise is a dear

personal friend of yours. And if you're going to introduce everybody who's up in that gallery, we won't be out of here till sundown. But believe me, there's a lot of them up there.

But his brother Joe is the youngest Supreme Court justice in the State of New York -- maybe the whole world, for all we know. And he has such connections here. His brother-in-law John Cahill, who sits over here, a great basketball referee. And his wife, Connie Cahill, who's a distinguished attorney and was a law professor for me at the State University of New York at Albany, and had the highest teaching ratings I think of anybody that ever taught up there.

And incidentally, seated right over here is Ellen Cahill, who worked for many, many years for Guy Velella, Senator Velella. And of course her namesake, Ellen Sise, sitting right beside her, that Dick's eldest daughter. And he's got several other children.

But let me just say he is not only eminently qualified for this bench by his

education, his training, but what a family tradition. And what an outstanding judge he will make.

It is really -- I congratulate the Governor for recognizing this young man and this family. And they are all here in support of him. And it really warms the heart of everybody that's on the committee and in this chamber to see the support that you have, Dick.

We wish you well, and godspeed.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I can only echo Senator Farley's remarks about Dick Sise, his wife, his brother-in-law, John Cahill, and the remaining Sise brothers and their parents.

You know, it's okay to have brothers who are lawyers. I happen to have a couple myself. Only one judge, though. But hopefully somewhere down the line that will change as well.

But Dick Sise is not only very bright, very compassionate, he's very honest.

And those are the three major ingredients to make sure that we retain our commitment to a good judiciary.

And I'm just so pleased to be able to stand up here as a part of the other side of the aisle to say that this is one wonderful selection.

Thank you very much, Madam President.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Madam President, I've been waiting for the opportunity to just say -- we've been here a while -- I've never seen a finer group of nominees come before us, the Judiciary Committee. Just a great group. And they are to be commended.

But also the Governor is to be commended on the quality, everyone who was involved in the appointments.

And I also, of course -- Dike Sise is from my area. I would second everything that's said. He'll do a great job in the Court of Claims.

Thank you.

THE PRESIDENT: The question is on the confirmation of Richard E. Sise, of Niskayuna, as a judge of the Court of Claims in the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And now it's the President's turn. Congratulations. It is truly an honor and a delight for me to be here with my friends Connie and Judge Sise, Judge Richard Sise, to add to the family roster.

You know, there's a joke in my family about the congenital family defect with so many lawyers in the O'Connor family where I come from. The Sises set the standard.

And it is certainly a benefit and certainly a source of pride for the State of New York to have you join the ranks, not only in your family, but of justices in the Court of Claims.

Congratulations also to your wife

and my dear friend Connie, as well as Joe, Senior, and all of you in the family, for your achievements on behalf of the State of New York.

And particularly Judge Sise, our former chief administrative judge, I know this is a special moment for you. And certainly your example has set the model not only in your family but across the spectrum of judicial achievement.

My best wishes to each and every one of you.

And I'd like to acknowledge the presence of Judge Sise's children, Ellen, Mary, and Michael; as well as his wife, Connie; his parents, Robert and Theresa Sise; brothers Joseph, Thomas and Jack, who are all here there afternoon; as well as your mother-in-law, who's already been acknowledged, Ellen Cahill, and other family friends.

Best wishes for a successful endeavor and, I know, a wonderful celebration within the Sise family.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Leslie Crocker Snyder, of New York City.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Leslie Crocker Snyder, of New York City, as a judge of the Court of Claims. We received the nomination from the Governor, we examined the credentials of the nominee, they were perfectly in order. She appeared before the committee earlier today and was unanimously moved from the committee to the floor.

And I most respectfully yield for purposes of a second to Senator Goodman.

SENATOR GOODMAN: Madam President -- Mr. President. Dual address.

ACTING PRESIDENT MEIER: You're fast, Senator Goodman. That's good.

SENATOR GOODMAN: I rise with a feeling of special enthusiasm to second this nomination of an extraordinary individual

whose career would almost make an outstanding television series, not just a single show. And I want to give you a little bit of her background, because it's quite exceptional.

First of all, starting with her education, she attended Radcliffe College, which I have a substantial familiarity with, since it was in the year 1949 that I went to a freshman mixer dance and met my own wife at Radcliffe and subsequently have had the pleasure of being married to her for 45 years.

But getting back on the main subject, she not only went to Radcliffe College and Harvard University but majored in American history and literature, which happened to be the major in which I found myself while at college. And thus I can testify to the exceptional background that she received in terms of American historical fundamentals, which I think have served to ground her active legal career with great distinction.

So much for this personal interweaving. Let me go on from there to say to you that she was a scholarship student at

Case Western Reserve, where she excelled, and proceeded to join a very prestigious New York law firm, where she practiced law for several years, going on from that point to several other very distinguished accomplishments, which I'd now like to enumerate briefly.

First of all, Leslie Crocker Snyder was in the district attorney's office in New York County, where she served from January 1983 to January 1986 -- no, I'm sorry, that's September '82 to March '83 -- again, I'm afraid that I've become a little bit muddled on my dates. But let me just say that her district attorney's work was extensive.

Here we go. It was actually January '68 to September '76. She was an assistant DA with criminal trial work, which prepared her for some major responsibilities which I will outline shortly. She was the chief and founder of the sex crimes prosecution bureau and other very important assignments at the district attorney's office.

She then proceeded to go to the office of the special prosecutor against corruption in the criminal justice system,

working with the distinguished justice John F. Keenan, who was a special prosecutor at the time, from '76 to '79.

Going beyond that, she was a deputy criminal justice coordinator and chief of the arson strike force in New York from 1982 to 1983, a judge of the Criminal Court of the City of New York from '83 to '86, and finally an acting Supreme Court justice.

Now may I just take a moment to outline the extraordinary career which she had as an acting Supreme Court justice, because I think it makes her sui generis absolutely unique among her colleagues.

She presided primarily over the highest level A1 multiple-defendant narcotics felonies, including drug gang homicide cases, organized crime narcotics cases, white collar crime cases, as well as other felonies. And her trials have included some of the following of New York City, and this is what I referred to as being of such highly dramatic nature. These included a whole range of gangs whose names are household words in the gang community.

And may I just say that in the process of this, she had the unusual experience of receiving multiple threats on her life. As a result, it was necessary for her to be guarded continuously, and that guarding continues to this very date. Her life was thus very rudely, if you might say, intersected with a justice system which must protect its justices against any undue interference by the criminal element.

And I think the fact that she's been willing to raise a family and to put up with this type of interference over these many years qualifies her for exceptional notice and for deep qualification from this body which so values the importance of a criminal justice system which is sound and appropriate.

The fact is that Judge Snyder is herself an extraordinary human being. I've had the pleasure of knowing her personally for some time. And I'd like to cite one of her many community activities which I think gives an insight into her special character. For the last seven years, she has adopted two classes at P.S. 116 in Manhattan, involving

monthly visits to the school, organizing and presiding over the moot court program for the classes, regular court visits by the classes to the courtrooms.

So, Mr. President, as you can readily see, the combination of extraordinary, specific educational high qualification, her great dedication to the public service, including willingness to withstand unusual pressures of a type that are rarely brought on any member in the criminal justice system, as well as her very unique personality and her deep humanitarian impulses, all add up to an exceptional curriculum vitae and I trust will cause this body to wish to overwhelmingly support her for this very important judicial post.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Leslie Crocker Snyder as a judge of the New York State Court of the Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed,

nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Snyder is with us in the gallery today. She's accompanied by her law clerk, Teresa Matushaj.

Judge, on behalf of the Senate, we congratulate you on your confirmation and we wish you well with your very important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Lewis Bart Stone, of New York.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise again to move the nomination of our last nominee today, but hardly the least -- of course, they're in alphabetical order -- someone I've known for a long time, Lewis Bart Stone, of New York City, as a judge

of the Court of Claims.

We received the nomination from the Governor. The nominee's credentials were examined by the committee and found to be excellent. He appeared this morning in person before the committee, was unanimously moved from the committee to the floor for consideration at this time.

And once again, I most respectfully yield to Senator Goodman for purposes of a second.

SENATOR GOODMAN: Mr. President, thank you very much.

I'm delighted to say it's my doubled-barreled privilege today not only to speak of the judge I've just mentioned, but to say that the following candidate for your consideration is a man I know exceptionally well, both personally and because he was a member of my counsel staff here in the Senate of the State of New York for several years.

In the process of his working for me, I became aware of his extraordinary intellect. He's a very keen lawyer. His Harvard Law School background, from which he

graduated cum laude, is suggestive of his academic excellence. But I may say that in addition to that, he gives repeated evidence of an extraordinary, pragmatic grasp of the law and an ability to apply it in many different situations.

For many years he's been a partner in the distinguished law firm from New York City of Rogers & Wells, which is one of actually the outstanding firms in the City of New York. He was a special assistant to the Governor of the State of New York in 1971 and assistant counsel to the Governor from 1967 to 1970.

He has had extensive private practice, and is an individual who has been involved as a commissioner on uniform laws of New York State. He has lectured at the New School for Social Research. He was counsel to the New York State Committee on Housing and Urban Development. He was a teaching fellow at the department of chemistry of Harvard University, which is an interesting bit of scientific background which will equip him for many high-tech decisions, I'm sure.

He's been involved heavily in an awareness of real estate problems. He's a man of compassion and concern and very deep intellectuality. He's been a trustee of the Citizens Budget Commission, the Empire State Citizens Housing and Planning Council, the Jewish Conciliation Board of America, a number of other philanthropies of note.

Let me just say, wrapping it all into one quick verbal package, he is an absolute standout and will do an honorable and superb job as a justice of the Court of Claims of the State of New York, and I trust Lewis Bart Stone will merit your enthusiastic support.

ACTING PRESIDENT MEIER: The question is on the confirmation of Lewis Bart Stone, of New York City, as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

nominee is confirmed.

Judge Stone is with us today in the gallery. He is with his wife, Gretchen, and his daughter, Pamela.

Judge Stone, on behalf of the members of the Senate, we wish you our warm congratulations, and we wish you well in office. Thank you, Judge Stone.

(Applause.)

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Seward, Legislative Resolution 4659, commending the Cornell University Chorus upon the occasion of its Sun-Kissed Tour.

ACTING PRESIDENT MEIER: The

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could now go to the controversial calendar. And I'd like to call up Calendar Number 1315 for the purposes of Senator LaValle voting.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1315.

THE SECRETARY: Calendar Number 1315, by Senator Maltese, Senate Print 1638B, an act to amend the Penal Law, in relation to the crime of partial birth abortion.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Yes.

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

SENATOR SKELOS: Please withdraw the roll call.

ACTING PRESIDENT MEIER: Roll call is withdrawn.

SENATOR SKELOS: Mr. President, if you could call up Calendar Number 1316 for the purposes of Senator LaValle voting.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 1316.

THE SECRETARY: Calendar Number 1316, by Senator Goodman, Senate Print 4691A, an act to amend the Penal Law and the Executive Law, in relation to hate crimes.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Yes.

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

SENATOR SKELOS: Please withdraw the roll call.

ACTING PRESIDENT MEIER: The roll call will be withdrawn.

Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, for the Finance report.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations:

As Superintendent of Banks, Elizabeth McCaul, of Manhasset.

ACTING PRESIDENT MEIER: Senator

Stafford.

SENATOR STAFFORD: Mr. President, Elizabeth McCaul appeared before the Finance Committee today and was found eminently qualified. She was most impressive.

And it's a pleasure to yield to Senator Balboni.

ACTING PRESIDENT MEIER: I'll be pleased to recognize Senator Balboni.

First, we need just a little order in the chamber so we can all hear.

Senator Balboni.

SENATOR BALBONI: Thank you, Mr. President.

It is a pleasure to rise in favor of this appointment. And I would like to thank the Chairman of the Finance Committee, Senator Stafford, for yielding to me and allowing me to say a couple of words about this nominee.

Elizabeth McCaul represents the way things are supposed to happen. She's been part of probably one of the most renowned financial firms in the nation and in this world: Goldman, Sachs. She learned about

finances and banking in the real world, then she took her skills and she went into public service.

And people question whether or not when you make somebody the head of an agency, is there a certain amount of learning on the job, a certain amount of transition that goes into it. Well, this nominee, Mr. President, has been in the role as Superintendent of Banks, Acting Superintendent of Banks, for a number of years. She has the experience because she's earned the experience.

I'm very proud that a member of such a fine financial firm as Goldman, Sachs has chosen to leave that very lucrative, prestigious lifestyle and has come to lead what is arguably one of the premier banking departments in the nation -- that is, the New York State Department of Banks.

And I believe that she's going to be an excellent superintendent and that this appointment is long overdue. And I'd like to compliment the Governor on his fine appointment, and I wish her many, many years of great success.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President.

I rise to join my colleague from Long Island, Senator Balboni, to also compliment the appointment of Ms. McCaul. I think that I would say that she has already been serving in the capacity as superintendent, so I'm just going to address her as Superintendent McCaul.

Because of the problem that we've had for many decades in areas of the state like I represent, there is a tremendous problem with redlining by banks. The redlining was followed by banks disappearing from the community that I represent, or some parts of my district.

And because of the redlining, because there is no access to capital, particularly by people who want to purchase their homes or people who own homes and they want to fix their homes up, there is deterioration in the housing and deterioration

in the community.

And then comes -- because of all of that, then comes what we consider predatory lenders. These are so-called secondary lenders. They come in to make loans based on people's equity in their homes. And very often, tragically, the kind of lending that goes on in relationship to these particular outfits causes people to lose their homes. So we've lost homes wholesale in many parts of the city.

But it was Superintendent McCaul who had her staff come to my district and hold hearings on this issue. As a result of those hearings and others that she held throughout the state, the Superintendent has been looking at providing for the State of New York or instituting or implementing for the State of New York for the first time regulations for the predatory lending community.

I'm most pleased that she has taken on this issue, because it is a very, very high-stakes issue for me and the people that I represent. So I'm honored to stand and second her nomination.

And I look forward to continuing to work with her, because I believe that she understands and she's committed to addressing this particular issue in addition to some of the other issues as it relates to financial institutions in the state.

So I commend the Governor for this nomination, and I congratulate Ms. McCaul on her service to our state.

ACTING PRESIDENT MEIER: The question is on the confirmation of Elizabeth McCaul as Superintendent of Banks for the State of New York. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

(Applause.)

ACTING PRESIDENT MEIER: Superintendent McCaul is with us in the gallery today. She's accompanied by her husband, Frank Ingrassia, by her

mother-in-law, Rita Ingrassia, and by her brother-in-law, Christos Kanavos.

Superintendent, we congratulate you, we wish you welcome to the chamber today and wish you well with your very important duties.

(Applause.)

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Can we move the rest of the nominees in order and have the Secretary call them all.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: As a member of the Municipal Bond Bank Agency, Kenneth M. Bialo, of Larchmont.

As a member of the Capital District Transportation Authority, Robert P. Roche, of Delmar.

As a member of the Correction Medical Review Board, Phyllis Harrison-Ross, M.D., of New York City.

As a member of the State Board of Historic Preservation, Christina R. Davis, of New York City.

As a commissioner of the Interstate Sanitation Fund, Donna B. Gerstle, of Orchard Park.

As members of the Empire State Plaza Art Commission, Joseph G. Perrella, of Niskayuna; Charles A. Stainback, of Middle Falls; Arete Swartz Warren, of New York City; and Kristin Jannitto Woodward, of Latham.

As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, Gerald J. Lewandowski, of East Amherst.

As members of the Stewart Airport Commission, John H. Dippel, of New Paltz, and Robert J. Zaccheo, of New Paltz.

As director of the New York State Environmental Facilities Corporation, Lawrence D. DiGiovanna, of Brooklyn.

As director of the New York State Urban Development Corporation, J. Patrick Barrett, of Manilus.

As members of the Advisory Council

on Agriculture, James L. Vincent, of Byron, and Charles E. Willie, of Montgomery.

As members of the Advisory Council on Alcoholism and Substance Abuse Services, Herbert D. Kleber, M.D., of New York City, and John Douglas Melbourne, M.D., of Scotia.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Can we move these nominations.

ACTING PRESIDENT MEIER: Okay. The question is on the motion to confirm the nominees named in the report of the Finance - I'm sorry.

Senator Gentile.

SENATOR GENTILE: Yes, Mr. President. I just wanted to speak in behalf of one nominee and just congratulate the Governor again on his reappointment of Lawrence DiGiovanna, of Bay Ridge, Brooklyn, as director of the New York State Environmental Facilities Corporation.

Mr. DiGiovanna and I have known each other for many, many years. And indeed, he is well-qualified, a member of many

organizations in the community. And I think this will serve our state and our government very well.

So again, I congratulate the Governor on this reappointment.

ACTING PRESIDENT MEIER: The question is on the confirmation of the nominees named in the report of the Finance Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominees are confirmed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can the Senate stand at ease for a few moments. Unless you have any housekeeping at the desk.

ACTING PRESIDENT MEIER: Yes, we have a couple of motions, Senator, if we could take care of those now.

SENATOR MARCELLINO: Please take

care of them.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Thank you, Mr. President.

On behalf of Senator Seward, I wish to call up Calendar Number 497, Assembly Print Number 10030.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 497, by Member of the Assembly Grannis, Assembly Print Number 10030, an act to amend the Insurance Law.

SENATOR McGEE: I now move to reconsider the vote by which this Assembly Bill was substituted for Senator Seward's bill, Senate Print Number 6734, on April 4th.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: I now move that

Assembly Bill Number 10030 be committed to the Committee on Rules and that Senator Seward's Senate bill be restored on the order of the Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR McGEE: Thank you.

ACTING PRESIDENT MEIER: You're welcome.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Johnson, page number 13, Calendar Number 470, Senate Print Number 6243;

On behalf of Senator Bonacic, page number 14, Calendar Number 494, Senate Print Number 7106;

On behalf of Senator Hoffmann, page number 30, Calendar Number 941, Senate Print Number 7798;

On behalf of Senator Skelos, page number 34, Calendar Number 997, Senate Print Number 6800B;

And on behalf of Senator Farley, page number 42, Calendar Number 1151, Senate Print Number 5068B.

I now move that these bills retain their place on Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received, and the bills will retain their place on the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Saland, I wish to call up his bill, Senate Print Number 2752, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 347, by Senator Saland, Senate Print 2752, an act to authorize the City School District of the City of Poughkeepsie.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator Marcellino, that concludes the motions.

SENATOR MARCELLINO: Thank you, Mr. President. If we could just be at ease for two seconds.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 1:00 p.m.)

(Whereupon, the Senate reconvened at 1:03 p.m.)

ACTING PRESIDENT FUSCHILLO: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1316.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1316, by Senator Goodman, Senate Print 4691A, an act to amend the Penal Law and the Executive Law, in relation to hate crimes.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT FUSCHILLO: Senator Bruno, an explanation has been requested.

SENATOR BRUNO: Thank you, Mr. President, colleagues.

The legislation that we are discussing now and hopefully will pass in this chamber, this legislation is referred to as the bias-crime bill, hate crimes.

And we had talked about this over the years. We talked about it last year in January. And we've indicated previously that this legislation or something like it would appear on the floor of the Senate to be openly

debated, and we're here.

I want to make a point that we in the Senate have always been in the forefront in doing what is necessary to help protect people's lives in this state. In this country, in this state, it's founded really on the principles of life, liberty, and the pursuit of happiness. To live our lives the way we want to, to be free, to pursue happiness means that people don't have to be afraid to be on the street, in their homes, in their place of businesses for any reason.

And that's why we have done legislation to increase the penalties on assaults of all types, which is now law. Which we did a gang violence bill to protect people where two or more gang up on them, and that is now law. And we have a litany of other pieces of legislation, all intended to protect people's lives, their liberty, and their ability to pursue their happiness.

Now, I would only hope that this legislation adds to -- by increasing penalties where there is an intent to commit a hate crime or a bias crime to any specific

individual or group, I would only hope that this would help make our lives safer here in this state, and I pray that that is the case.

I have a feeling still that this legislation is more perception than it is substance. But times change. And the time, we feel, is appropriate for us to just add this to all the other things that we have done here in the Senate in a leadership position to help protect people from those that would want to violate them or injure them in any way.

And I want to commend Senator Goodman for his continuing and continued leadership on this issue; Senator Spano, who has had this in the forefront for years; recently, with our new addition, Senator Duane, who has added his voice to help get this bill to the floor.

And I want to commend Governor Pataki for having had the good judgment to structure a piece of legislation that helps protect the people the way they ought to be protected and allowing a bill such as this to be constructed in a way that we feel that we can bring it to our floor, that many of the

people here will vote for it, and that this will hopefully pass the Assembly and get signed by the Governor.

And just add it to all of the other things that we have done to protect people in this state and allow them to go on and live their lives in the pursuit of happiness.

Thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Goodman.

SENATOR GOODMAN: Mr. President, I'd like to start by reminding this body that some weeks ago I informed some people who were raising questions with respect to what might happen to this bill that we had received a word of honor from the Majority Leader of the New York State Senate to the effect that this bill would be taken up this year.

And I at that time expressed the opinion that this word was worth 24-carat gold in terms of assurance. And today I think proves the hypothesis that when Senator Joseph Bruno gives his word that something will happen, it happens, and you can take it to the bank. That, I think, is a significant factor

in the extraordinary stature which he's achieved as leader of this house.

And I'd also like to comment on what I think is the underlying statesmanship impulse which permits this now to be acted upon.

My mind goes back to a day many years ago when there was a majority leader in this house who did not necessarily believe in the bill that was brought forth; namely, the abortion reform bill. And notwithstanding his personal deep opposition to it, he allowed it to come to the floor for a vote of conscience. At the conclusion of that debate, he slumped into his chair, literally in tears because of his distress at the outcome. But nonetheless, he felt an impelling need to bring it before the house so that each member could be heard and express a point of view.

It's a similar impulse. I have no idea in which way my Majority Leader will find it in his wisdom to vote on this matter, but I think the fact that he has seen fit to let it come to the floor for a vote at this time is a signal that he is an individual of great

humanitarian concern and obviously the most honorable of senators.

So with that preface, let me now speak to the bill itself.

Mr. President, we have had from time to time some extraordinarily sad happenings which have attracted the attention of the entire nation. I refer, of course, to Matthew Shepard, a young gay man in Wyoming who was strapped to a fence and killed and tortured and murdered. I refer to situations involving a man in Mississippi who was chained to the back of an automobile and, solely because he was black, he was literally torn to pieces and ripped and wrecked and destroyed as a human being. I refer to cases in which churches and synagogues have been wantonly attacked for no reason other than that they represent the religious views of certain people not in harmony with those who had launched the attacks.

And I say to you that what we are attempting to deal with here is some of the darkest and most tragic impulses which enter warped minds who seek to take out vengeance

upon specific groups, whether it be due to bias or due to hate that is somehow the result of twisted mental processes.

Mr. President, it's imperative that society recognize the nature of these things, not as crimes against one individual but rather as crimes against a whole class of people.

As you are probably well aware by now, the bill before us is one which has been developed in cooperation with the Governor, with a number of civic groups, with a number of fellow legislators to whom Senator Bruno referred. And I would add the names of Senator Hoffmann and Senator Lack to those that he referred to, as well as others on the other side who have been very instrumental in pushing this -- Senator Lachman, for one. And I could name a number of others, I'm sure.

The bill itself seeks to do the following. It seeks to punish severely those who commit a hate crime because of their biased perception regarding the race, color, national origin, ancestry, gender, religion, age, disability, or sexual orientation of

their victim.

Under the bill, a judge or a jury would be asked to say whether a defendant chose a victim because of prejudice and bias and hate. If a guilty verdict is returned accompanied by a finding of bias, then a longer prison term would be presented and would be used to punish the individual.

Now, what we're doing, as you can plainly see, is ratcheting up the penalty. And some will say why should this be necessary, we have very heavy penalties on the books. The answer is that when a crime is intended to cover a whole class of people, we must try to deter it with a penalty that is far more severe and one which can be understood and advanced by potential perpetrators as absolutely unacceptable and inadmissible in a civilized society.

Crimes punishable by the bill include assault, manslaughter, murder, rape, kidnapping, burglary, arson, harassment and sexual abuse. There are others as well.

Forty-one other states have already provided added penalties where a perpetrator

singles out a victim because of a bias, and 23 states include sexual orientation in the list of bias crimes.

The matter of the inclusion of sexual orientation should be dealt with candidly on this floor. Ever since the AIDS epidemic occurred and the misperception permeated our society that AIDS was a disease exclusively suffered by homosexuals and gay men and lesbian women, particularly gay men, there's been a sense that God has sought to punish these people.

And the warped perception that this is a divine intervention in some way to punish a select group is of course a preposterous and ludicrous distortion of the facts, the plain fact of which is that the AIDS epidemic is - the vectors of transmission of the AIDS epidemic are not strictly homosexual. Indeed, they're widely heterosexual, as can be readily perceived by anybody familiar with this disease.

So that unfortunately as a result of the AIDS epidemic and the fright that it engendered, there have been vicious attacks on

gay men. We have in this very chamber someone who suffered such an attack who happens to be HIV positive and who was brutally beaten. And I think that Senator Duane has shared with you his personal experiences in this matter. And we could have no more living proof of the need for this type of bill than having one of our colleagues on the receiving end of this type of warped behavior.

Now I want to pay special tribute to Governor Pataki as well, since the Governor's people have drafted the bill that's before us. As is well known, since 1988 I had a bill of my own on this. I've yielded to the Governor's bill, which is somewhat broader.

And I may say that the Assembly has passed a bill which is available to be integrated with this bill. And I am confident that there will be no problem in a conference procedure in melding these bills into one that we'll readily agree upon, which the Governor will be happy and prepared to sign.

I want to emphasize one important feature of the bill, which would require that state law enforcement agencies keep statistics

on bias incidents. It is exceptionally important that society have an awareness of the scope and extent of bias crime, because it is only through such an awareness that it can be adequately combated.

Frankly, it's that awareness, I think, and the rising incidence of such crimes in the presence of general crime declines which has caused this house to recognize that it is time that we do something specific to address this.

Some may regard it as a symbolic action. But whether you believe it to be symbolic or pragmatic in its application, it will have the same effect of sending a strong signal to those who would consider perpetrating a hate crime that this is out of bounds in our society and is simply forbidden and will not be tolerated. And, should you do something of this sort, you will face a prison sentence far longer than what you would otherwise face had you not committed the crime with bias.

Now, let me also say that I think there are inherent protections in this bill.

The question is how does a judge or a jury ascertain whether bias was involved in a crime. The proof must be very carefully ascertained. It cannot be done on the basis of hearsay or bland assumptions. There must be definite evidence that the individual who perpetrated the crime had in mind to perpetrate it against an individual of a specific class or group against which there was prejudice or bias.

In the absence of such ironclad evidence, these penalties should not apply because they are indeed severe and it would be a misapplication of justice for that to be done.

Mr. President, let me conclude with these few brief personal thoughts, if I may. As an individual who had lost relatives in the Holocaust myself, I obviously have a heightened sense of the importance of society awakening in ample time to deal with this type of hatred which can, if allowed to spread, become a conflagration and an epidemic of uncontrollable proportions.

What we seek to do is to put out

these fires before they can spread. And that's exactly the intent of the bill, which has a sharp point on it aimed precisely at the individual crimes of violence and hatred which unfortunately still occur with all too great frequency in society.

So make no mistake about it, this is a landmark bill. It's the first time in anyone's memory that sexual orientation has been specifically mentioned. But it is not a bill, I would assure you, that relates solely to that by any means.

Indeed, I would remind you that Cardinal O'Connor before his untimely death asked me to come to see him in his office. In the course of that interview with him he said that he was deeply concerned not only about hate crimes directed at gay and lesbian people but against Jews and Catholics and others who had been assaulted. He was troubled by the attacks on Catholic churches as well as Jewish synagogues, on gay men as well as nongay men, and indeed troubled by anything that smacked of prejudice and bias.

The Cardinal was in his own way a

towering figure. I suspect if there were ever a saint on earth, he may well qualify as that person. And tragically, although it was his intention to do what he could to get behind this bill in some appropriate fashion, he died before he could implement that wish.

But let me just say that his involvement in this and that of other statesmanlike figures in this chamber strike me as being a convocation of some of the great minds and great people we've ever dealt with in my experience of 32 years in the Senate.

I thank again the Majority Leader and all of you who have been involved in this effort, to say to you simply that I think we've done something which is both noble in intent and practical in application. And it's my fervent wish that this will help to banish the hideousness of hate crimes and bias from the State of New York and hopefully, by example, other major areas of the nation.

Thank you very much, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Connor.

SENATOR CONNOR: Thank you, Mr.

President.

And thank you, Senator Goodman, for your explanation of the bill. There's really little need to go into the specifics of what's in the bill after that fine articulation of the content of the bill.

But obviously the bill is bigger than the four corners on which it's printed, and its meaning and significance is larger than the four square corners that encompass it in bill copy.

The first bias or anti-bias-crime bill introduced in this house was by Senator David Paterson more than a decade ago, after the Howard Beach murder. There have been subsequent versions put about. Governor Cuomo was an ardent advocate for a hate-crimes bill.

Repeatedly over the years, the Assembly passed a hate-crimes bill, and it was the Senate that never before allowed a hate-crimes bill that embraced all the categories of people who are subject to this kind of violence because of who they are to come to this floor for a vote.

And more specifically, there was

once an offer many years ago to do a -- by the Senate to do a hate-crimes bill that embraced race, gender, and other categories, but not sexual orientation. And much to -- really, much to everyone's who's concerned about this eternal gratitude, members of the -- the then members of the Black and Puerto Rican Caucus, as well as other organizations from other religious groups and so on, said, No, we won't accept the protection if it's not extended to everyone in every category of our citizens who are subjected to this hate-directed violence.

So here we are many years later. Better late than never. Senator Duane, since he's joined us, has been an ardent advocate for this hate-crimes bill or a similar hate-crimes bill. I'm proud of my conference that stands absolutely unanimously for this legislation and has in the past, year after year, stood unanimously in favor of motions to move this bill to the floor so that we could have had a vote much earlier than this.

When we last did that, Senator Bruno, the Majority Leader, made a commitment. As always, kept his word. And at long last,

we have it.

So to certainly my colleagues in the Democratic conference who have worked so hard -- we've had hearings, we've had task force hearings around the state. Indeed, we had one scheduled for tomorrow that will now be more on the order of a celebration.

To the first lady, Hillary Clinton, we were gratified that she came to Albany several weeks ago specifically to call for this bill to be moved to the Senate floor and passed by both houses. And so she certainly -- the kind of focus she brought to bear on this issue, that focused all New Yorkers that New York alone on the East Coast, with the exception of South Carolina, does not have this kind of legislation.

Other places like Georgia, and places considered much more conservative than New York in its approach, have hate-crimes bills. And we will soon be joining that company of states. As Senator Goodman noted, there are many, many others.

So to my colleagues in the Democratic conference, I say once again that

old political axiom is being proved, the one attributed to Speaker Tip O'Neill. And that is there is nothing in a legislative body that you can't accomplish as long as you're willing to let someone else take credit for it.

(Laughter.)

SENATOR CONNOR: And to my colleagues in the Republican conference who are supporting this, I say welcome aboard. We're delighted that we're able to have this vote. And we're delighted to know -- and I certainly hope very swiftly any differences with the Assembly, which I think are really without any great substance, will be resolved and we can actually have legislation to the Governor, who I congratulate for putting this bill in. And I congratulate him in advance for responding to the calls of many, many New Yorkers. And we're certain he will certainly sign it.

So thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Maltese.

SENATOR MALTESE: Mr. President, I first would like to make reference to a

remark earlier by my distinguished colleague Senator Goodman, who spoke of the majority leader who in his words did such a courageous act, the late Earl Brydges. I and other members presently in this house know that Senator Brydges had indicated many times during his retirement that it was the decision he regretted most of his legislative career.

I'd like to first of all say that I believe all violent crimes should be punished to the fullest extent of the law, regardless of the category of the victim or the mind-set of the perpetrator.

I'd like to just allude to the comment by Senator Connor where he indicated that those members of the gay and lesbian community had indicated that they could not avail themselves of the protection unless it was extended to all categories.

Well, Mr. President, I don't find myself in any of those categories. Most of the members of this house do not find themselves in those categories. Perhaps we could prevail upon Senator Connor and the rest of his distinguished colleagues to not avail

themselves of this protection until it is afforded to all of us.

And that is the point, Mr. President. This is shades of Orwell in 1984. We're all equal, and yet some are more equal than others.

Why should a crime perpetrated upon a victim, a helpless victim, if someone utters a racial or ethnic or gender slur, be more punished than any other crime? Why should most, the vast majority of the people in my district not deserve and not be afforded the protection that is afforded under this bill?

There are some fifty lines of categories and crimes in this bill. Why not extend it and make it much easier and indicate that all persons would be afforded the protection of the bill and all penalties would be suitably enhanced or increased?

And the reason is simple. Because the members of the other house, the majority in the other house, because many of the members who are lauding this bill will not vote for increased penalties for most violent crimes, despite the best efforts of the Senate

Majority here.

Are you less -- should a person, an elderly women mugged in a street corner be afforded less protection, should her perpetrator receive less of a penalty than those protected under this statute? And my reply is no.

I'd like to allude to a statement by the New York State Catholic Bishops which we checked this morning -- and the statement still stands -- and just read a couple of the paragraphs. And this, by the way, is a statement from New York State's Catholic Bishops on the proposed legislation regarding bias-related offenses. And I'll skip over some of the preface.

"As Catholics, we share with the proponents of anti-hate legislation a deep concern over deplorable acts on individuals based on their perceived membership in a particular group or class. Indeed, at various times in our 2,000 years as a church, it has been Catholics who have been and are now the targets of such violence.

"We empathize fully with all those

who find themselves victimized by violent, bias-motivated crimes. We stress that bias-motivated violence against all persons, whether based on race, color, religion, sex, disability, age, national origin, or sexual orientation, in speech or in action, is reprehensible and deserves condemnation from all whenever and wherever it occurs.

"We are also not convinced that current anti-bias proposals would be effective in deterring bias crimes. There are already federal and state laws to punish such crimes.

"We suggest that primary intervention through education and rehabilitation is the best method of addressing the ignorance and deep-seated prejudices that underlie such actions, rather than further criminalization of the population.

"We are deeply sensitive to the suffering that crime, particularly bias-related crime, inflicts on victims and their families, and to the long-term damage it causes to the social fabric. Particularly troubling is the high incidence of crime among

young people, which raises disturbing questions about current society and ominous concerns about the future.

"We must commit ourselves ever more to working as a society to enhance respect for the rights of all and to identify and address the root causes of crime. Through every aspect of our pastoral ministry and through the preaching of the word of God, we strive to promote love, respect, and tolerance for every human being, as created in the image of God."

I'd like to just quote one line from Bishop Dailey, the bishop of the Diocese of Brooklyn. The point that he makes, which is just in a few words, is that the way to approach the bias and ignorance of bigotry is through the church, is through the teachings at home. Bishop Dailey has said, "Those who hold these bigoted views must in time come to a conversion of heart."

ACTING PRESIDENT FUSCHILLO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

On May 24th of 1981, there were two

young men riding through South Ozone Park, Queens, on their bicycles. Their names were Michael Phillips and Jerry Brown. They were then attacked by a group of young people. They were African-American; those young people were white. In the attack, Michael Phillips was murdered. Jerry Brown escaped.

Jerry Brown now lives in Toronto, Canada, and says that he will never come to the United States again. But he did come one time, to testify at one of our hate-crimes-legislation hearings.

In 1983, one of the individuals who was part of the group that attacked these young men -- who actually did not participate in the actual attack, but was present -- a young man named Danny Basile, came forward and admitted to his part in the crime and named the other individuals that he said were involved. He named them in a preliminary hearing in the Queens District Attorney's office on May 5, 1983. At that time I was working in the Queens District Attorney's office.

Because of the directness of his

statements about other people, his family thought it better that he relocate and live in Dallas, Texas. In December of 1983, Mr. Basile came home to visit his family, and on December 27, 1983, Danny Basile was murdered, presumably by people who were upset that he was testifying against his friends.

There was never a conviction in the Michael Phillips murder. Mrs. Phillips, Mrs. Mary Phillips, Michael Phillips' mother, does not speak to me to this day, because she feels that I was part of the same Legislature that could not pass hate-crimes legislation and could not find a way to convict someone for the death of her son.

These cases are unfortunately enriddled in the fabric of our country. Our founding Constitution, Article I, Section 2, clause 3, the part of the Constitution that allows for slavery, was the manifestation of hate through the actual belief that some people were superior to other people.

We have had this problem eating away at our democracy from its founding. What to do about slavery was the entire issue of

the Louisiana Compromise in 1803, the 17 years of debate that culminated in the Missouri Compromise of 1820, where slavery was permitted south of the 36th parallel -- and north of the 36th parallel, those areas in this country would be free.

The fight continued through the abolitionist movement to the Compromise of 1850, the Compromise of 1854, the Kansas-Nebraska Act, and eventually the Dred Scott case, which people felt continued the allowance of slavery, but actually the Dred Scott case just said that an African-American couldn't sue in a United States federal court because African-Americans at that time were considered to be three-fifths of a person.

Actually, it was three-fifths of a man. We weren't even giving women credit in those days for having any real meaning in this country.

So the separation of people, the systemic discrimination of people, from the Irish to the Jews to the Italians, to every single ethnic group that came to this country, became unfortunately as American as apple pie.

It has always been something that we have never addressed as a society.

Those attacks on individuals because of their race, their color, their ancestry, their national origin, their age or disability, their sex or their sexual orientation, those are always the cases that attack, as Senator Goodman said, the community of people, in addition to the pain that individuals actually feel.

And so that's what we've come here to try to address today. In 1987, when I first examined our history of legislation, it was interesting to note at that particular time that the New York State Senate and the New York State Assembly, our Legislature in New York, had never even passed the state-accompanying legislation that had been passed by several other states to the federal Civil Rights Act of 1964. In those days I wondered aloud if this body could even pass the federal Civil Rights Act of 1964.

When we think in terms of that period, we remember that Michael Griffith, a young man walking through Howard Beach after

his car broke down, was chased and eventually died as a result of the actions of a mob of people who attacked him simply because he was black.

We drafted that legislation in 1987. And at that time, even the leaders in the gay and lesbian community were willing to let that bill pass because they felt that at least somebody would get protection from what would be hate crimes.

Fortunately that bill -- in a way -- didn't pass, because it would have been a hate-crimes-relief bill that had hate built right into it, because we would have been eliminating gay and lesbian citizens from that protection and consideration.

And so I'd like to thank the chair of the Black and Puerto Rican Legislative Caucus in that year, 1987, Roger Green, for being the one who brought the message to those of us who were in that caucus that we could not allow for any such hate-crimes legislation to continue.

In 1989 the New York Post, with a reporter by the name of Joel Nicholson, did a

survey: 57 of the 61 Senators in this chamber said that they would be in favor of some type of hate-crimes protection. But yet the bill did not pass.

When the governor at the time, Cuomo, introduced his bill, he called it antibias legislation. And we found through surveys over the years that in spite of the well-intended legislation that Governor Cuomo offered, the euphemistic term "bias legislation" confused the public, and people couldn't really tell you how they felt about it until you asked them about hate crimes, which was the way the bill was originally introduced.

It is now the day when that bill will pass. And I would like to thank Senator Bruno for honoring his commitment that he made right here in this chamber and bringing this bill before the house.

I would say that I'm somewhat disappointed that there isn't a lot more enthusiasm about what this type of legislation can actually do. Because we're not only trying to diminish the actions of perpetrators

of this crime, we're also trying to interest law enforcement in the need to prosecute people who manifest their hatred in violence against other citizens.

We protect people who are robbing banks from excessive force taken by law enforcement or personnel who are trying to stop them.

And so we need to protect everyone, no matter how we feel about them, but really to go even beyond that and address what is the reason that we have these hatreds toward other people because of how they conduct their lives or what they look like or where they're from.

The fact is we have 23 continuing world conflicts right now that are ethnically derived. In World War II, we had countries fighting each other and praying to the same Pope.

This issue, more than any other, is one that gets beneath and beyond the sensibilities of individuals. And if the nexus of how to stop crime and how to create honor in people's hearts begins in the church, then maybe it does. But it doesn't end to the

exclusion of the law.

A little while ago Senator Maltese talked about the fact that little old ladies in his district could be attacked. They're protected under this legislation. Everyone in this state, everyone in this jurisdiction is protected from the violence that could be manifested by others hating them, because they would be a member of one of these protected classes.

The fact is that this type of legislation is the most necessary of all anticrime or penalty-oriented legislations, because it is the most rooted of all crimes that we see committed. And that is why I am glad to see it come before us today.

I want to thank those from the Anti-Defamation League and all of the groups that came together to have the Hate Crimes Coalition, because about ten to twelve years ago some of us used to feel that this was an issue that was only felt in the minority communities around this state. They came forward to make us understand that we were wrong.

And I particularly want to thank the director of the Anti-Defamation League in New York, Howie Katz, for his persistent and unending work on this particular issue.

I want to thank the former Minority Leader Manfred Ohrenstein, who once carried this bill; former State Senator Catherine Abate; and also the Minority Leader right now, Senator Connor, who has always made this a priority in his list of issues to try to get addressed before this house.

I also want to thank Senator Tom Duane, whose resilient effort on this bill has actually turned me from being the cynic in this house to actually believing that we can get something done around here once in a while. And it doesn't even matter whose name is on it. Years from now, that will not make a difference.

What may make a difference to the families of Michael Griffith and Yankel Rosenbaum, who was killed in August of 1991 in Crown Heights and Yusef Hawkins, who was killed in Bensonhurst in 1989, and Julio Rivera, who was killed in Brooklyn in 1991,

and to all of those who escaped death but were violated by the anger and the actions of other people who hated them for the least of all reasons, it might provide some kind of relief and at least the understanding that we as a society are starting to address the issues that go to the very core of our existence and the very being of our persons.

We are certainly not finished when we pass this legislation. We still have to compile statistics. We know that hate crimes have trebled in the gay and lesbian community. We know that hate crimes have doubled in the Jewish community against these particular victims.

And we know that this is unfortunately something that we are going to have to attack from all levels of society and not to in any way try to promote the distinction that this is separate from any other type of situation that needs to be addressed by the law.

We protect police officers and corrections officers because when they are attacked, the fabric of our society is

attacked, because they are pillars of the institution of our democracy.

We protect cemeteries and religious artifacts and religious edifices from the violence of others, because it's not just like vandalizing a vacant building. All the dreams and sometimes the hopes and the spiritual desires of a community are vested in their cemeteries and in their religious buildings. So when you attacked them, you went out of your way to send a message to that community.

Now we as a society are going to go out of our way to make sure that you pay for it in a way beyond what would have been the regular sentence for an ancillary type of crime.

And so we hope that this will be a prelude, a catalyst for other legislation that will hope to eliminate and eradicate the type of hate and the type of anger that people feel, and also the fact that they manifest it in violence.

And we hope that sometime we'll be able to come back here and recognize that the step we took today was a step in a direction

that really made our society build up to what was hopefully the intent of the formulators of our original Constitution when they hoped that they could guarantee, in the Declaration of Independence, that all men and women in this society would be treated equally.

ACTING PRESIDENT FUSCHILLO: Senator Marchi.

SENATOR MARCHI: Mr. President, I listened with -- at the time of the debate that we had on abortion many years ago, seated right next to me was Senator Clinton Dominick. And we both faced each other on that bill. And I remember the circumstances well when the majority leader, Earl Brydges at that time, wept over the decision that was made.

It was not a mistake to bring the issue to the public. And before this, the - our distinguished Majority Leader helped in the process to bring this to the attention of the membership and requesting that we address it.

But the quality and the judgment that we make must be reflected in our basic mores on what is effective law and what is

likely to paper over and layer a patina of moralistic expression without really tackling the basic essentials of what's involved here.

I remember that we debated this last year, and I remember we heard from Senator Santiago; from you, Senator Duane. And I asked you at that time was there any way -- he had a legitimate argument for a crime that had been inflicted on him.

The failure there was not the presence or absence of hate, it was the presence of hatred in the form of violence. And shame on those who ran out on their obligation. Law enforcement must be taken more seriously.

We indict, out of every hundred people, I understand there are only four or five that actually end up serving any time at all.

Now, I wonder. Most of the nation has hate crime legislation on the books. And every state on the Atlantic seaboard, except New York and, I believe, Georgia -

SENATOR LACHMAN: South Carolina.

SENATOR MARCHI: South Carolina,

I'm sorry. Thank you. They're the only two.

Is there any less hatred in New Jersey? Is there any less hatred in Massachusetts? Has anybody paid any penalty for the violation of this principle? Go right out to the Pacific Ocean. Do we have any evidence at all that we can consider here that this is a step that will serve us well in the enforcement of simple morality, simple decency towards our neighbor?

We're exhorted to love our neighbor as we love ourselves. Does this have any demonstrable application? I suggest that there is nothing -- I don't think anyone can bring us any statistical evidence or changes in the public mores of these states around the country that pledge their allegiance to a myth and diverts us from the real problem that crime that is committed must be punished. That is essential. That is basic.

And whether it's Matthew Shepard's or anybody else's experience, those people in this state, they would be available to capital punishment. But we've had capital punishment, despite my protestations, for several years.

Has anybody been executed? I don't think so. I stand to be corrected, but I don't believe anybody has been executed in the state of New York. Nor am I advocating it.

But that is an indication to me that around this country we are very - there's a propensity to embrace these principles, principles of morality that go to the essence of our personality as creatures of a divine God who has given us -- we have an immortal soul. We have to confront our destiny at some point. These are profound, spiritual considerations. We're all subject to that.

And we do have our own laws that should be enforced, which is a compact among people to punish that conduct when it results in violence and force, when it results in discrimination against people. But these are demonstrable on a very tangible basis.

So we have nothing, nothing at all to show. I know that in capital punishment, for instance, the pleas that I heard at that time that it was a terrible -- well, I voted to abolish it. Then all of a sudden it was

back again.

Well, you go to the states that have capital punishment. Well, there's one state that has had 167 executions within the last 20 years. But the number of the homicides makes us look like angels here in New York.

And that's true from state after state after state. The ferocity of the punishment does not determine. It's the fact that a person has elected to do violence to a neighbor, they have inflicted pain and suffering. And that they should pay.

Until we have that determination, we're not going -- we're going to get the mixed results. Why don't you ask your friends over in New Jersey, in Connecticut, in Rhode Island, in Maine and Vermont, Pennsylvania. Do you think they're going to tell you anything different? They all have this law. Has it made a difference, a tangible vision that we can see some change in public mores?

I know that Senator Padavan had an excellent statement last year: That is the product of a total culture. What we learn in

the family, what we learn in our churches, what we learn in our synagogues, in communal gatherings, these are those that formulate and shape human attitudes. But when that thing is transgressed and violence takes place, then we seem to walk the other way. It becomes uncomfortable.

So I really don't -- I know that reference was made earlier in the debate that Cardinal O'Connor had supported this legislation -- not this specific bill. But there's a letter that he sent me on April 5th that he disagreed for the reasons that were assigned by Senator Maltese on the kind of legislation and not closing the door.

Are there steps, are there things that we can do of a positive nature to share this value and reinforce this value system with our children as they grow, with our society as they interact? I submit you're not going to do it with this bill.

I certainly have nothing but praise for the people who have sponsored this bill, because we know that they're candidly and sincerely committed to a principle that we all

share. I don't think there's anyone here within range of my voice that doesn't share the feelings that are reflected by Senator Duane or anybody else who's sponsoring this.

But it doesn't answer the question. The question is, do we enforce the laws that we have? Is this a leavening agent that has worked wonders in Connecticut, Illinois, Kentucky, or Minnesota? I don't know of any state in the union that has profited by embracing this principle. And most states have.

So the best I can say for it, it's at least an expression of a feeling that the people have. And that the shapers of policy feel that hate is a bad thing. Well, I would hope that this is -- we don't have to enshrine this on tablets. Of course it is. So if it's designed to do that, maybe it has some value.

But it has no demonstrable value. Nowhere has this made any difference at all, not one scintilla. Can you cite any examples where this has worked beneficially in diminishing crime, in diminishing an expression of hatred? I don't think so.

I am available to persuasion. The only manifestations I had of hate were some of the letters I received when I voted against the motion to discharge. And some of them said, "Well, I hope you change your mind." You know, a few of them. And some of them said, "Well, I have to hate somebody who doesn't hate hate."

Well, you know, we're in a circular position nobody ever resolves. I've never hated anybody in my life, and I don't expect to. And I don't think most of you, I would say all of you, have the engagement of hatred that would move you to commit a crime.

So I would prayerfully suggest that the example we have around the country doesn't help us at all, at all. And I stand to be turned down on this if you give me examples in other states, in other jurisdictions, where this has worked something positive.

So why don't we keep our eye on those affirmative builders of character - good schools, no inhibition about sharing values that are common to all of us, respect for each other, respect as we reflect it here

even in the conduct of our interrelationships. All of these things are very valuable. They're all positive. And they go to the formation of a conscience. And it has enormous benefits in all directions.

But I do hope that -- however you vote, I'm sure you're voting your conscience, and I respect that. And I certainly respect those who have sponsored this bill and feel that it offers something. But it doesn't. It does not. This is false gold, iron pyrites or whatever you want to call it. But the main - we have in our penal code and in our procedures an attempt to be specific about the objective and how we are about to achieve it.

So you probably have a notion of how I feel about this bill.

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

SENATOR PATERSON: Mr. President, would Senator Marchi yield for a brief question?

ACTING PRESIDENT FUSCHILLO: Senator Marchi, do you yield for a question?

SENATOR MARCHI: Yes.

ACTING PRESIDENT FUSCHILLO: The Senator yields.

SENATOR PATERSON: Senator, on May 9, 1989, the state senate in Connecticut, which at the time had 21 members, passed a hate-crimes legislation. It already been passed by their house of representatives. And the governor signed it into law, Connecticut's hate protection legislation, in June of 1989.

On the tenth anniversary of that, the bias unit of the attorney general's office in Connecticut reports hate-motivated crimes down 15 percent. Would that be an example of where one might point to the legislation as being somewhat helpful?

SENATOR MARCHI: Well, I'm glad you've done your homework, Senator. And I had every expectation that you did.

No, they say that it's gone down by X percentage -- or even if it was cut in half, has their homicide rate gone down? Do we know what went into the tabulation and the categorizing of crimes? No, we don't.

I mean, it doesn't stand up under critical analysis. If you tell me that

there's been a dramatic drop in homicides in the state of Connecticut, then perhaps there may be a correlation. But I don't know of anything like this around the country.

We have a problem that sometimes fluctuates with the economics and permissiveness in a society, but we have no hard facts that we can put in the bank, really, the moral bank, to indicate that we indeed have had a solution to this problem.

ACTING PRESIDENT FUSCHILLO: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. I'll be very brief.

As you all know, today here in Albany we have designated Disability Awareness Day. One of the significant portions of this bill highlights those who are disabled, singling them out -- and rightly so -- for the special protection and attention they deserve.

And so I rise to bring that point to your attention. And I'm sure I need not do that, but for those who had not taken note of it.

And also use it as an opportunity

to present to the house and the members some very fine people who are here visiting us today, 11 youngsters from St. Mary's Hospital for Children, who are here visiting us in Albany, watching us. And they came at a very, very important time, as I told them when we talked before the session began, here in Albany to learn about our Legislature, to see what we do and how we do it and to travel around the Capitol.

And they're led by some outstanding people who are staff members at St. Mary's - Laura Bonilla and Mark Hoffacker and Beryl Williams and Rosemary McNamara and Charlie Cunningham and Ann Shirrell and Yi Sung, who's a registered nurse.

So I would like all of you to join me in saying welcome to these young people who are here to my left and to my right, and some up in the gallery.

Thank you, Mr. President.

(Applause.)

ACTING PRESIDENT FUSCHILLO: Senator Lachman.

SENATOR LACHMAN: Mr. Chairman, I

believe that my learned colleagues will appreciate the fact that I've eliminated three-quarters of my remarks because of previous statements by speakers. But I do want to speak briefly.

I support this hate-crimes bill because I believe firmly that no person or institution should be the target of a crime on account of bias. And that the law, when enacted, must come down hard, very hard, on people who perpetuate such crimes.

This bill has nothing whatsoever to do with the lifestyles or personal practices or special rights of any individual or group. Nor does the bill confer in any way special rights on any individual or group.

It simply sends a message, a most important message, a clear message that society will not tolerate the commission of criminal conduct motivated by bias against any human being, especially those who have suffered as victims from this bias from the earliest days of our republic. And that is a message which I completely and fully endorse.

But others, more prestigious people

than me, have also endorsed this position. Mr. Chairman, I commend the Governor, who has obviously patterned this bill on the Wisconsin versus Mitchell antibias bill which reached the United States Supreme Court in 1993. The majority decision, the nine to zero decision, was written by Chief Justice William Rehnquist, appointed chief justice of the United States by President Ronald Reagan, and who is probably the most conservative chief justice in three-quarters of a century.

The decision was also approved by every member of the U.S. Supreme Court, including a man who is today considered one of the brightest and yet one of the most conservative members of the U.S. Supreme Court, Justice Antonin Scalia, also appointed to the U.S. Supreme Court by President Ronald Reagan.

Now, these justices acted on a nonpartisan manner, just as I hope today we will act on a nonpartisan manner. They acted in dealing with upholding the Wisconsin law. This bill before us today in New York is also a nonpartisan bill that condemns bias crimes

and nothing else.

In 1993, the U.S. Supreme Court said that bias crimes will not be tolerated in the state of Wisconsin. We today, in the year 2000, have the opportunity to agree with the United States Supreme Court and say that bias crimes will never again be condoned in the State of New York.

Thank you, Mr. Chairman.

ACTING PRESIDENT FUSCHILLO: Senator Balboni.

I'm sorry, Senator Stavisky, why do you rise?

SENATOR STAVISKY: Oh, there's a list? I'm sorry.

ACTING PRESIDENT FUSCHILLO: Senator Balboni.

SENATOR BALBONI: Thank you, Mr. President.

When I first arrived at the State Assembly in 1990, I would regularly debate Steve Sanders on this bill. And the reason for the debate was the reason that has been heard around this chamber, that the bill creates an artificial justice system: Why

should anyone get more time than someone else if they're injured the same, if the same act of violence is done against them?

And then I believe it was 1996, I sat and I had a very long talk with my good friend Steve Sanders. And I began to understand that there is a place in our law for making statements. There is a place in our law to teach our children and the generations of children that are coming behind us that there are certain things we cannot tolerate.

It's very easy to be here in this chamber and to consider the niceties and what a wonderful life we have. But there's another reality out there. There are communities in this state and in this nation who are fearful. You have communities that don't trust police officers, and police don't trust them. You have communities that worry about religious actions against them, religious intolerance actions, religious violence actions.

We would like to think that we are one people. We are not. There's a great divide that needs to be addressed. I'm not

sure that the deterrent in this bill is actually going to save somebody from injury. I'm not sure if this scheme is actually going to eradicate any acts of violence.

But I know this. This is a bill that we're doing today because we're taking a step to say we cannot tolerate it. And for this chamber, for leaders like Joe Bruno to come to this issue with thoughtful considerations and to consider a path that will take us together is very, very important.

Senator Bruno, I know that this was difficult. A lot of things came into your considerations. This is an act of courage and leadership. And leadership is not always about being popular, it's not always about doing things that everybody agrees with. It's usually doing things that people don't always agree with you on. This is leadership, and this is right for the state.

Thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Bruno.

SENATOR BRUNO: Out of deference to my colleagues' times, we'd like to ask,

while we're having this discussion continued, for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT FUSCHILLO: There will be an immediate meeting of the Rules Committee in Room 332.

Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I'm proud to have my name on this bill as a cosponsor along with Senators Goodman, Lack and Spano. And I too want to thank our Majority Leader, Senator Bruno, for making this day possible.

This is indeed one of those momentous occasions when we should be proud of the step that we're taking. Not because it's another piece of legislation, but because it's part of that enormous process by which America cleanses itself of prejudices in a darker time.

State by state, as our Constitution has ordered, we are making the changes that will bring us into an era of enlightenment. And it's no longer acceptable to simply ignore

the fact that there is hatred. It may not be hatred on a grand scale that it once was, but it's still there. And it's no longer acceptable to ignore prejudice or all forms of bias, no matter mow minuscule they may seem to people who are not affected by them.

It is incumbent upon each of us as an American, and certainly in this arena, as New York State representatives, it is incumbent on us to find ways that we can help bring about that equality on this country was originally founded.

I've had a unique opportunity over these last few days to be with a group of young people that were embarked on a process to study the civil rights movement in hopes of learning something from that experience to bring home that would make them better citizens.

Back in 1996, I started a program by which I take high school students while they're juniors from Central New York down to Mississippi. The reason we go to Mississippi is because I was a civil rights worker 30 years ago myself. And I remember how it

changed me.

And when I found myself face to face with people who had encountered the most unspeakable criminal actions directed against them and yet had no opportunity to seek justice, I found that I wanted to become more involved in this system of ours, this great democracy, in an attempt to bring a change to some of those inequities.

And it's comforting for me today to know that we are still in that process, that today's action is yet another step that will ensure equality for Americans. I like it when I hear people talking about this as a symbolic measure. If in fact this is a symbolic measure, it means that we have really come a long way. And if it is only necessary to have it there to remind people that hatred is not tolerated, then we can be very proud.

I'm not so sure it's a purely symbolic gesture. I recognize some of the things that have happened. I listened with real interest to what Senator Paterson was describing. Once again, he's shown that he is a scholar as well as a gentleman, because he

can recount with chapter and verse and tremendous specificity the situations that have occurred here in New York State that clearly indicate that hatred does still exist.

But we are taking a step today that says we will not allow that hatred to take place. We are directing people in other branches of government and in law enforcement to take steps to prevent hatred from taking place. We are telling young people that we as a state government are still committed to rooting out that evil that we know is hatred wherever we see it and any way that we can.

This is much bigger than simply a piece of legislation. It marks the changing of minds of many, many people and a continuing process in the cleansing of our country of evil and hatred.

ACTING PRESIDENT FUSCHILLO: Senator Coppola.

SENATOR COPPOLA: Yes, Mr. President, very briefly.

It was just a few weeks ago that Senator Bruno said that he'd be back with the bill. And I want to applaud him for keeping

his word. Because this is very important to the State of New York, that we join the other 48 states that already have a hate-crime bill on record.

The fact of the matter is this is not a Republican bill or a Democratic bill, this is a human, human bill for all of the state of New York. When we leave our synagogues, when we leave our Protestant churches and our Catholic churches, we all pray for one another that there's peace and no violence out there. Well, this will help. This sends a message.

And people have, I think, concerns that this bill won't be powerful enough, that this won't prevent the violence that's out there. Well, believe it or not, when the Ten Commandments were handed down, we've had violence ever since. But the fact is, we have to keep working at it. We have to keep striving for peace. We have to take to one another, working together as one.

And that's what this bill does. We're working together as one, no matter how opinionated people feel about it. But the

fact is, there is violence out there. And this Senate today is showing a tremendous amount of leadership.

Again, I want to applaud Senator Bruno. I can understand the feeling and the anxiety that Senator Paterson must have had all of these years when he started way back when. The leadership under Senators Connor and Duane, for their persistence.

But Senator Paterson explained from his heart how he felt about the incidents that took place 11 years ago and that his hands were tied when he tried to do something about it. And I think we should all understand that. And that's what's important today.

So again, I'm proud to be a member of this Senate, and I'm proud to be voting on this bill.

ACTING PRESIDENT FUSCHILLO: Senator M. Smith.

SENATOR MALCOLM SMITH: Thank you very much, Mr. President.

As one of the newer members of this body, I think I have the distinct pleasure in experiencing what I consider to have been some

very significant things over the last two months. There's been some very dramatic sessions. There's been some very dramatic events that have occurred in the entire state government as it relates to this body and our sister body in the Assembly.

But I can tell you, Mr. President, there is nothing more significant than to be a part of this august body during a time in which I believe history will record that we have done something today that has never been done before in this body -- and that is bring forward a particular piece of legislation that will not only impact on the lives of many of those who have felt to this day they have not gotten their fair, just due as relates to hate crimes, but will also represent a group of individuals who for so long have been considered to be individuals who do not deserve to have the kind of significant laws on the books that will protect their rights and protect them as individuals.

I am extremely honored and pleased to be a part of this body at this point in time, because I know when history records what

we have done today, there will be many of those who will look to see who was a part of it and who were the individuals who raised their hand aye for this particular bill.

I also want to tip my hat and say to Senator Paterson, who had the foresight years ago to introduce legislation of this kind -- and as he said during his eloquent statement, there were those who looked at him kind of cynically. I must say to him that he has broad shoulders, and he has the fortitude and the foresight to bring forth this piece of the legislation then, and so also he should be credited to the fact that he has still brought forth this particular piece of legislation now.

To my colleague to the right, and my most honored friend, who I have had the fortunate ability to sit next to and hear many times his concern on a matter that I think heretofore many people have not offered the type of respect nor response to, I am happy for him today. I am happy for him because we have in so many words said to him and to many of his friends and associates that we respect

his opinion, we respect him as an individual, and he as well as individuals around this state deserve to be treated fairly in all different points of view of life.

Also, I would say that to everybody in this body, as one again who has the privilege to be sort of a new -- and yet an outsider, to a degree, because I have not had the experience to be a part of so many things that you have done, I will tell you what you are doing for the citizens of this state today. You are making them believe that they have a voice in what goes on in this state.

There is a great deal of cynicism that arises throughout this state around politics and those who are involved in it. There are many who tend to believe that they have no influence in all that occurs in bodies like this as well as in the Assembly, in the Council down in the City. But today we are proving to them that not only do we have a conscience, but we are also at a new level of consciousness, and that new level of consciousness says that they also count.

So it gives me great pleasure and

it gives me an honor to have the opportunity to speak today on this particular bill. And I am so happy that this will be the day that history will record that we have adopted a hate-crimes bill.

Thank you very much, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. On the bill.

About two weeks ago in Senator Stavisky's district, just north of my district, there was a terrible crime committed that most are familiar with that was not a hate crime, where two individuals went into a Wendy's and shot seven people in the head in the course of robbing the store of $2,000, killing five of them and seriously injuring the other two.

Not a hate crime. And in addition to just the scope of the crime creating such an impression with everybody, I believe what struck a chord in so many who have followed that tragic case is that the crime was simply mindless. Absolutely unnecessary, mindless.

That's what hate crimes are, absolutely mindless. Just like what happened in February in Senator Libous's district on the campus of SUNY Binghamton, when three Asian-American students were attacked by three members of the wrestling team because they were Asian-American and no other reason. No other reason. One of them had a skull fracture and a concussion and took days and days to recuperate in the hospital.

So I have heard the discussion and the debate here today and have participated in it since I've been a member of the Senate and have had the opportunity to vote on our motions to discharge numerous times. And I would say the following.

To those who believe that this is more perception than reality, I suggest to you that the perception of somebody who now will languish in a prison cell for a longer period of time because of his mindless stupidity, that person is not going to be the victim of perception, that person will be the victim of the reality that we created for them here today.

And I know it was suggested earlier by Senator Maltese that it somehow disenfranchises individuals who are not the victims of hate crimes, that are victims of other crimes, if we provide for additional penalties for those who commit bias crimes.

And I would suggest to Senator Maltese the following. If he believes that the current penalties for assault and arson and rape and what have you are insufficient, then bring us the legislation to increase those penalties, particularly for recidivists, for second-time offenders, and I'll vote yes on all of those bills.

But don't suggest to me that we can't deter criminal behavior in the area of bias crimes by providing these additional penalties. And Senator Padavan provided the evidence of it today.

But I'll go you one even further. I believe that even if the legislation that we're going to pass today will not be a deterrent for bias crimes, that we should pass it anyway, because bias crimes are the most heinous, ugly, sick crimes that can be

committed. And they are almost always committed by stupid, ignorant people who are ascribing blame on someone else to compensate for their own failures and shortcomings.

And as a consequence, and because we live in the most diverse state of any state in the United States -- or anywhere else in the planet, frankly, and my county is the most diverse county in the world -- that for us to fail to send a message that we're going to sufficiently punish -- forget deterrence for a second -- punish people who commit these horrendous, horrendous crimes as a consequence of their own stupidity, that's just wrong. And we've been wrong with it for the last 11 years.

And so, you know, I commend Senator Bruno for keeping his word and bringing this legislation to the floor today. I would wish he had made that promise years and years ago. Because people have been victimized as a consequence of our failure.

So the message today is, the message today is bigots of New York State, look out. Because we're not going to tolerate

it anymore. And if you commit an A misdemeanor and you did it because somebody was Jewish or Catholic or Asian or what have you, now you've just committed an E felony. Longer jail sentence. If you committed an E felony, it's now a D felony. And on and on and on and on.

And we're sending the message to all the bigots out there, New York State is not going to tolerate it. You want to attack somebody because they're gay? We weren't able to, through education or through your upbringing, prevent that? Okay, that's unfortunate, but now you're going to deal with the consequences. The consequences are higher penalties. Higher penalties.

And for all those people who would commit hate crimes because they weren't thinking or what have you, let the word go out. And the word will go out. Because when the first series of people are prosecuted under our new hate-crimes statute, you will see in plain print in all the newspapers the additional penalties, the longer terms of incarceration that they'll be subject to. And

they'll be sitting in jail. They'll be sitting in jail.

And I believe it will be a deterrent. And even if it's not a deterrent, then to heck with all those people who committed these terrible crimes for absolutely no reason. We're sending the strongest message possible today.

So now it's time for kudos, which go to every member of the Democratic conference who have been fighting for this for so for very long, including Senator Lachman and Senator Connor, Senator Paterson.

And most of all, Senator Duane, who I must say his entire career has been exemplary in terms of the courage that he has demonstrated, fighting one obstacle, one barrier after another, trailblazing, treading on ground that people have not tread on that came before him, just taking on issues that are important to him, his constituents and the entire constituency of the State of New York.

Tom Duane is a hero. He forced us to recognize that we have to act.

And I commend everybody else who,

even though they don't think it might be effective, agreed to allow the vote to be taken today. That's courageous in and of itself. And it speaks to the imperative that we should have in both the Senate and the Assembly to open up the process a little bit more, let democracy really reign true, and let more bills come to the floor that everyone will be able to have their input on and consider. That's democracy.

Today's process of bringing it to the floor shows that we have the votes to pass this, that it has been the popular will of the people of New York State to punish and deter bias crimes for years and years and years. And we just haven't done it.

And it took the advocacy of some exceedingly courageous individuals -- not just the legislators here, but all of the victims who testified before task force committee meetings and what have you that their crimes could have been prevented and that they should be more sufficiently punished than is allowed under current law.

So, Senator Duane, hats off to you

for all your work on this. This is not the end. This will not stop bias crimes from occurring. We need to educate. We need to preach tolerance. We need to get into the schools and make sure that children don't grow up with racist tendencies, with bigoted tendencies and what have you.

Because nobody is born a racist. That is a learned behavior. Nobody is prejudiced when they come out of the womb. That is a learned behavior in every single circumstance.

So why we would think that when you have a punishment and public discourse and debate about this learned behavior that it wouldn't have an impact on individuals who are predisposed to being racists or bigots or prejudiced or hating gay people or blacks or whites or whatever they are -- to think that wouldn't have an impact is just wrong.

And we're going to see now. And thank God for that. Because we can't legislate common sense in this state, but we sure as hell can make sure that individuals who commit crimes based on their own stupidity

and punish other people in this state just because of who they are, which should be celebrated instead of scorned, that those people pay a heavy price.

That's what we're doing today. I vote aye.

ACTING PRESIDENT FUSCHILLO: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

I too want to commend the people who were responsible for bring this measure to the floor, not only in this legislative body but also those who contributed to the education process of others.

There were young people here a few minutes ago, and I think it is for them as well that we debate to its fullest extent the hate-crimes law.

Now, Senator Hevesi referred to the terrible, terrible tragedy that occurred on Main Street in Flushing, in my district. And obviously this was not -- this was not a hate crime.

But there was a crime that occurred

several months ago, not very far away -- but not in my district -- where an individual was arrested for pasting Nazi stickers. Now, this individual who was arrested, he's been charged with a crime. Obviously he can't be charged with a hate crime. But when he was arrested, they found an assault weapon in his house and information on how to make bombs. And this is all part of the kind of person who will commit a hate crime.

So I commend the people who were here earlier from St. Mary's Hospital, a hospital which I have visited on a number of occasions. And they were able to see how a legislative body, people on both sides of the aisle, working cooperatively and constructively, can enact a meaningful piece of legislation.

I am, I guess, the third newest member, but I'm very proud, Mr. President, to be able to vote for this bill today.

Thank you.

ACTING PRESIDENT FUSCHILLO: Senator Dollinger.

SENATOR DOLLINGER: Thank you,

Mr. President.

I commend many people for their work in bringing this bill to the floor. But I couldn't let it go without just responding quickly to two things, one that my colleague Senator Marchi said, and the other that my colleague Senator Maltese said.

Senator Maltese said that he wouldn't vote for any bill that attaches greater penalties to victims of crime by virtue of who they were. I would point out that we've done that all the time.

My gosh, we increase penalties if you assault a police officer. We've done bills that increase penalties if you assault a teacher. We increase penalties if you try to defraud somebody who's over 65. If they're 64 years and 364 days, they don't hit the 65-year threshold, it's a lesser penalty than the next day when they're 65 years old.

We've done that all the time. We create different categories of crime depending on who the victim is and depending on what the perpetrator knows about the victim. We've done that all the time. This bill breaks no

new ground in that area.

The second thing, and with respect to Senator Marchi and Senator Maltese as well, I guess I'm always astonished by the position of the Catholic Conference on this bill. I was taught in the Catholic schools that I went to that it was in the mere formation in your own mind of the hate that constituted sinfulness. Whether you acted on that hate or not was a different level of sin. But it was the creation in your own mind, the intent in your own mind that was the beginning of the downward spiral towards sin.

And it seems to me that what this bill says is that if you commit an ordinary crime with that hate, with that intent, you are going to be more severely punished.

I couldn't think of anything based on my Catholic teaching that is more consistent with the fundamental belief of the Catholic Church than to pass this bill. Make intent matter. If you hate someone, you have already started down the road on that moral path of decline.

All we're saying is in this bill if

your conduct is motivated by that hate, it should be punished in a greater way. I'm astounded by the Church's seeming retreat from that fundamental basis of our faith.

I'll address one final point and sit down. I believe that this bill -- and I'm going to vote in favor of it -- doesn't quite go far enough. And I'll tell you why. Senator Hevesi talked about it.

I'm concerned about big criminals, but I'm also concerned about the little criminal. I'm concerned about someone who believes that carving a swastika into a park bench in Brighton or putting it in the sand on a beach in Mamaroneck is simply malicious damage and not a crime of hate.

I'm concerned that someone who walks into a cemetery and turns over only the stones that have the Star of David on it, that that's a mere trespass.

I'm concerned about someone who sprays racial epithets on the walls of the Roger Robach bathhouse in Charlotte in Rochester, New York, and then what they're charged with is being a graffiti artist.

I'm amazed that someone who can burn a cross on another person's lawn ends up charged with trespassing.

And I'm also concerned, Senator March, that someone in Brooklyn or Queens who is cutting off the fingers of statues of the Blessed Virgin Mary, that that is simply malicious or disorderly conduct.

I would suggest that the one flaw in this bill is that it doesn't quite go far enough. It doesn't say to those who commit trespasses by turning over only the Star of David cemetery stones that that is not just trespass, that's a hate crime, and that's a criminal. That's someone who's being taught at a young age that it's okay to do that to personal property, and the leap from there to committing a crime against a person is a small jump.

I hope that the message we send with this bill is that we will no longer tolerate little haters. We will no longer allow the seed of hate sown in the stereotypes of the past to bloom into the rage, the venom, and the hate that can destroy a society.

We have to send a message to everyone that even if you commit a hate crime as a youth, that this is not a joke, it is not funny. We as a society will not tolerate your hate when you're young, we will not tolerate if when you're old, we will not tolerate it for minor crimes, we will not tolerate it for major crimes.

To all those who have the seeds of hate in their heart, I say to them beware, we in this state will not tolerate your hatred in its infancy or in its adulthood. It should end with this bill becoming law.

ACTING PRESIDENT FUSCHILLO: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I will be brief. I think we're coming to the conclusion of this debate.

And it's hard to believe, after listening to all this, it took us 11 years to do this. I think the holdup of this bill all these years it's been passing the Assembly really reflects the fact that we have in this house ideological barriers to many commonsense bills that will make the lives of New Yorkers

better.

I hope the ideological barriers are falling. It's no secret that for years we could have passed a hate-crimes bill if we were willing to take out gay people, if we were willing to take out sexual orientation. It is a tribute to Senator Paterson and the other members of the Black and Hispanic Caucus that they were not willing to settle for that.

But I think we have to, while we're patting ourselves on the back on this, also take an honest look at why it took so long for this house to recognize that gay New Yorkers exist and that prejudice against gay New Yorkers exists. This is the first time, I believe, that the statutes of the State of New York will reflect that fact, which I think all of us are aware of.

An ideology should not present us from seeing reality. Gay people exist. There's prejudice against them. It's now in the statutes, and now maybe we can move forward to get civil rights treatment, domestic partner benefits, and all the other rights and privileges that are our fundamental

property as New Yorkers and as Americans.

I'm sorry it took 11 years. I'm happy we're doing it today. I commend everyone who's been so active on this. And the good news is Senator Duane is not coming to visit you anymore about this. The bad news is he's still coming to visit you, but it's about something else.

So with that, let me defer to my colleague and commend him for his work on this issue.

ACTING PRESIDENT FUSCHILLO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I don't know where my attackers are today. I'm pretty sure that I would recognize them if I saw them again, but I just don't know where they are today. And for them, I was just another queer left to bleed in an emergency room.

You know, as my life has moved along since then and I was eventually elected to the Senate, I've wondered very often what I would tell my attackers if the day ever came

when the state enacted meaningful hate-crimes legislation. And after much thought and deliberation, I've come to some fairly simple conclusions about what I would tell them.

First, this isn't strictly a happy day or a day of celebration. In fact, it's really more of a bittersweet day. Certainly it's a day where we should celebrate our accomplishment, and we should celebrate that whether we're Democrats or Republicans. But it's also a very, very sad day.

In fact, as I really think about it, and as I've thought about it through the years, I knew that it was going to be one of the saddest days of my life as well. Because today is a day that I and I think we as a body -- and, when the bill is signed into law, as a state and a society -- we're going to have to finally acknowledge to ourselves and the people in this state that there are those of us there that are so fueled by, motivated by hate and prejudice that people will still be murdered, some will be raped, others brutally attacked, some people will have their houses burned down, and others will have their

religious institutions desecrated.

This certainly isn't going to end that. And for those who are consumed by the hate that leads them to take part in this kind of violence or perpetrate this kind of violence, I'm also sad to say that they're going to have to spend a good portion of their lives behind prison walls.

And I also hope that we'll be able to keep a place in our hearts for those who are so damaged that for whatever reason they've lashed out with hatred and violence and been perpetrators. And that they, unlike their victims, will be safe while they're incarcerated, and I hope rehabilitated while they're incarcerated.

And I would certainly tell my attackers that while I'm saddened by today's actions, I'm not ashamed. I'm not ashamed of who I am. I'm not ashamed of what happened to me.

And I'd also like to say that today we are saying that this state will not tolerate violence based on hate, that we know that hate spreads destruction, and that today

we are taking a giant step to stop the terrible violence of hate. And that someday, regardless of our sexual orientation, our gender, our race, religion, ethnicity or disability, we can all feel safe and protected in this state, a state which has unlimited potential. That's what I would tell my attackers.

And I'd be telling my attackers that I'm voting yes to commit myself and the state to making this next generation the last generation of hate and violence, and voting yes with the hope and goal that one day our state will be a state of safety and tolerance for all.

Thank you.

ACTING PRESIDENT FUSCHILLO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect in 90 days.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FUSCHILLO: Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I just want to explain my vote.

ACTING PRESIDENT FUSCHILLO: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I just want to say that this is a very important day for me too, because as many of you know I have spoken often about the horrible incident that happened in my village of Mamaroneck where we had many homes defaced on the peninsula on which I live with not only swastikas but statements like "Kill all the Jews" and "Burn the cancer within us" and just unbelievably horrible things.

The entire community was so appalled by this that, as I have mentioned before to you, we ended up marching, the entire community, marching from synagogue to church to synagogue to church, 2,000 of us, to show that this was not a community where we could tolerate this.

And now we have a law which also says it cannot be tolerated. It took us a long time. This happened in my community eight years ago, and we have been very anxious

in my community to see this happen. So I am very pleased that finally, through the efforts of many, many people -- Marty Connor -- well, just too many. I'm not going to mention them all.

But it has happened, and I am very appreciative that it has happened. Thank you.

ACTING PRESIDENT FUSCHILLO: Read the results.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes. I'm voting no on this resolution.

And it's not because I believe that hate is not a bad thing. Nor is it because I have any particular feelings one way or the other for one group or other that's listed as the class of individuals that this act is to prevent assaults on or prevent the various crimes on.

I simply feel that a law should be a law. A criminal law should be a criminal law. And whether you are hated because you are 4 foot 2 or you're hated because you are of a certain religion or a certain lifestyle,

no matter what the reason is that a person committed a crime, the punishment -- there should be the same crime for all of those individuals. And the punishment can be meted out accordingly, based upon the broad discretion that a judge has in determining sentencing.

So my point is simply this. We should not single out any classes of individuals against whom crimes are committed and provide different treatment. And for those reasons, I'm going to vote no.

ACTING PRESIDENT FUSCHILLO: The Secretary will announce the results.

THE SECRETARY: Those recorded in negative on Calendar Number 1316 are Senators DeFrancisco, Farley, Kuhl, Larkin, Libous, Maltese, Marchi, Maziarz, McGee, Nozzolio, Volker, and Wright. Ayes, 48. Nays, 12.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Calendar Number 1315. I ask that it be read for the purposes of

Senator Spano and Senator Lack and Senator Rath voting.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1315, by Senator Maltese, Senate Print 1638B, an act to amend the Penal Law, in relation to the crime of partial birth abortion.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FUSCHILLO: Senator Spano.

SENATOR SPANO: I vote no.

ACTING PRESIDENT FUSCHILLO: Senator Lack.

SENATOR LACK: Aye.

ACTING PRESIDENT FUSCHILLO: Senator Rath.

SENATOR RATH: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Seward.

SENATOR SEWARD: I vote aye.

ACTING PRESIDENT FUSCHILLO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Marchi.

SENATOR SKELOS: Wait a minute, wait a minute. We are not -- the bill -- the last section is being read and the roll called for those who must catch a plane.

For those of you who do not have to catch a plane, we should hang in a little bit longer.

ACTING PRESIDENT FUSCHILLO: Senator Rosado.

SENATOR ROSADO: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Santiago.

SENATOR SANTIAGO: No.

SENATOR SKELOS: Please recognize Senator Padavan.

ACTING PRESIDENT FUSCHILLO: Senator Padavan.

SENATOR PADAVAN: Yes.

SENATOR SKELOS: And Senator Kruger.

ACTING PRESIDENT FUSCHILLO: Senator Kruger.

SENATOR KRUGER: Yes.

ACTING PRESIDENT FUSCHILLO: Senator M. Smith.

SENATOR MALCOLM SMITH: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Lachman.

SENATOR LACHMAN: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Velella.

SENATOR VELELLA: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Skelos. Senator Skelos, could we just slow down a little bit.

Senator Lachman, how are you voting?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT FUSCHILLO: Senator M. Smith.

SENATOR MALCOLM SMITH: Yes.

ACTING PRESIDENT FUSCHILLO:

Senator Alesi.

SENATOR ALESI: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Velella.

SENATOR VELELLA: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Wright.

SENATOR WRIGHT: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Kuhl.

SENATOR KUHL: Yes.

ACTING PRESIDENT FUSCHILLO: Senator McGee.

SENATOR McGEE: Yes.

SENATOR SKELOS: Can we withdraw the roll call, please.

ACTING PRESIDENT FUSCHILLO: The roll call is withdrawn, Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Skelos.

SENATOR SKELOS: If we could please take up Calendar Number 1315.

ACTING PRESIDENT FUSCHILLO: It's before the house now, Senator.

SENATOR MONTGOMERY: Explanation.

SENATOR SKELOS: Senator Maltese, I believe there's an explanation that's been requested.

SENATOR MALTESE: Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Maltese.

SENATOR MALTESE: This is a bill that most of us are very familiar with. It first passed the Senate in the 1995-'96 term. It's an act to amend the Penal Law in relation to the crime of partial birth abortion.

This bill would ban abortions that are performed by a person 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 -

ACTING PRESIDENT FUSCHILLO: Senator Maltese, if I could just interrupt you for a second.

Can we could have some order in the house, please.

SENATOR MALTESE: -- partially

vaginally delivers a living fetus before killing the fetus and completing the delivery.

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

The partial birth abortion procedure is often used for second trimester abortions from 20 to 24 weeks. It can be used in the third trimester, and in some cases is performed up until the ninth month.

The procedure consists of the induced partial delivery of the fetus in a breech position. When only the head remains in the birth canal, surgical scissors, Metzenbaum scissors are inserted into the back of the head, and the brain of the fetus is removed.

Dr. Martin Haskell of Dayton, Ohio, a pioneer in this inhumane technique who wrote a paper describing this procedure, wrote that he routinely performs this procedure on all patients who have been pregnant for 20 weeks or more. In his experience, 80 percent of the abortions were purely elective and had nothing

to do with the health of the mother or of the baby. He further noted that these abortions are performed only under local anesthesia, which he claimed had no effect on the baby.

This devastating procedure is nothing less than murder and cannot be justified.

Now, this bill, as has been indicated numerous times that it's been before the Congress of the United States, has very much bipartisan support, not only in this house and in the Assembly, but in the Congress. Noted New York legislators like Senator Moynihan support the bill. Noted public figures and past executives, like the Mayor of the City of New York Ed Koch, support this legislation.

In 1998, the House overrode the President's veto by a 296-to-132 vote. The Senate fell three votes short but still managed to attain a 64-to-36 vote in the Senate for this procedure.

I'd like to -- and recognizing that many of our colleagues who had heard the debate many times in the past had to leave for

obligations in their district, I'll try to be shorter, briefer than usual. But I think it's important to refer back to Roe versus Wade and Justice Blackmun's opinion of the court:

"The state has a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that ensure maximum safety for the patient. Moreover, the risk for the woman increases as her pregnancy continues."

And this is the portion that I want to stress: "Thus, the state retains a definite interest in protecting the woman's own health and safety when an abortion is proposed at a late stage of pregnancy.

"The third reason is in the state's interest. Some phrase it in terms of a duty in protecting prenatal life. Some of the argument for this justification rests on the theory that a new human life is present from the moment of conception. The state's interest and general obligation 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 interests of the embryo or fetus not prevail."

And I'd like to repeat that again for emphasis: "Only when the life of the pregnant mother herself is at stake, balanced against the life she carries within her, should the interests of the embryo or fetus not prevail."

"Logically, of course, a legitimate state interest in this area need not stand or fall on acceptance of the belief that life begins against at conception or at some other point prior to live birth. 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 interests beyond the protection of the pregnant woman alone."

I'd like to -- just putting this in some context, there's been much made of the fact that the bill itself does not limit the criminality of the partial birth abortion to a post-20-week pregnancy.

The reason for this -- and it's unfortunate to go into graphic detail, but we

are in an area that's a very emotional area. And that reason is that the fetus itself cannot be turned around. The muscle tissue, the texture of the skin is not sufficient to hold together when the instrument is inserted and turn the baby around if it's much prior to the 20-week period.

And I'd like to just say what occurs at that 20-week period. The head is now visible. The mother -- the baby will display a startled reaction to loud, sudden noises. The baby can suck a thumb or fingers and stroke parts of its own body, the amniotic wall, or the umbilical cord. The sex of the child can be clearly determined.

To cover an area that we have not gone into in any length in the past, I'd like to just refer to an area that in the past has not been made very clear because of information on both sides. And that's the area of fetal pain and the pain that can be felt by the fetus or the baby, the then-unborn baby.

As I had indicated, some of the doctors who perform this technique indicated

at various times either that the anesthesia applied to the mother either went to the baby and anesthetized the baby or did not. Now, because of Congressional testimony and because of the study that's been made, Professor Robert White, director of the division of neurosurgeon and brain research laboratory at Case Western Reserve School of Medicine testified at a June 15, 1995, House Judiciary Committee hearing: "The fetus, within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain."

After analyzing the partial birth abortion procedure step-by-step for the subcommittee, Professor White concluded: "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Further evidence of fetal pain was elicited at a 1996 House Judiciary Committee by Dr. Jean A. Wright, associate professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta. She testified that recent research shows that by the stage of the development that a fetus

could be a candidate for a partial birth abortion, 20 weeks -- again, reiterating the fact that the fetus itself has to grow to that period -- the baby is more sensitive to pain than a full-term infant would be subjected to -- if subjected to the same procedures.

Wright further stated, "These fetuses have the anatomical and functional processes responsible for the perception of the pain and have a much higher density of pain receptors than older humans."

Wright concluded: "This procedure, if it were done on an animal in my institution, would not make it past the institutional committee, and thus the animal would be more protected than this child is."

We've -- since 1995 in this chamber we've spoken of this procedure, we've spoken making various quotes of doctors. I think back to the testimony of the nurse who had participated in these procedures, a Brenda Schaefer, Nurse Brenda Schaefer who was here, and how horrified she was by it.

But I was also struck at the same time by physicians who had come in in answer

to the dilemma of parents who were able to have diagnosed the conditions of their infants in utero who came to us with heartrending stories. And the physicians indicated even at that time -- and this was at least two years ago, and in most cases three or four years ago -- they told of operations that they had performed on fetuses that were no more than 7 or 8 or 9 inches long that were in utero, of putting a heart and other vital organs back into the chest cavity, of putting a portion of a brain or a brain back into the head of a child in utero and having the child born.

Admittedly, some of the children were not born completely normal. But they had at that time brought in mothers who had indicated the love of a mother for a child and the fact that this child certainly, while it was possibly deficient in other areas, was not deficient in the love of a mother or a parent.

In addition, there were many of these children who were born whole in every way, physically and mentally. Dr. Haskell, again, the -- a person who followed up Dr. McMahon in this terrible procedure,

indicated that he had performed the procedure in the 8th and 9th month for conditions like cleft palate, conditions that could have easily been corrected postbirth.

I think we have to look at this as an indication of a loss of humanity in our society. This is not a question of choice or -- or life. The fact that pro-choice individuals like Mayor Koch and Senator Moynihan and many, many others, hosts of others, have supported this bill indicates that it's not a question of choice.

It's a question that whether in a society like ours we can destroy our young preborn, imminently preborn. How a doctor's fingers, merely the pressure of just two fingers holding in the head of a preborn child, totally born with the exception of the head, can apply sufficient pressure to keep the head internally within the mother, insert a Metzenbaum scissor, and then with a suction device suck out the contents of the brain.

Is this an unpleasant subject? Yes. But far more unpleasant is the terrible depths to which our society would descend to

if we continue to approve this procedure.

We have numerous public opinion polls, one taken as recently as April, that indicate that 70 to 80 percent of our society oppose this bestial procedure. The good doctor that I've just referred to correctly indicates that this would not be permitted if it were done to animals. And yet we can carry out this procedure to children that are almost born.

This is a terrible procedure. It's a terrible indication of how our society could permit things like this. Ethically, many of the medical associations, many of the obstetrical associations, gynecological associations, physicians have indicated while some of them reluctantly approve of the procedure, the vast majority say it's unethical and not in keeping with a doctor's oath to do no harm and preserve life.

We in New York lead the way in many cases, in many statutes. Earlier today we've heard repeatedly from legislators saying how New York leads the way in other ways that affect far less individuals than this

loathsome procedure.

I call upon and beseech my colleagues to vote for this bill which would prohibit this terrible procedure.

ACTING PRESIDENT FUSCHILLO: Senator Goodman -- Senator Dollinger.

Senator Dollinger.

SENATOR DOLLINGER: I'll yield to Senator Goodman.

ACTING PRESIDENT FUSCHILLO: Senator Goodman.

SENATOR GOODMAN: Mr. President, this is always the most difficult moment of the year, when one has to get up and debate a bill of this sort. Because on its face, the bill appears to be exactly what Senator Maltese described it as being; namely, an inhumane and appallingly barbaric procedure.

So we have to ask ourselves repeatedly the question why would anyone oppose this bill, which appears to prevent such a procedure. And the answer is both complex and yet very simple.

The simple answer, my friends, is that this bill would destroy the opportunity

for physicians to render merciful medical assistance to a mother whose life is in danger or to a dead fetus or a fetus whose life cannot possibly become viable. And let's just examine what the circumstances are which surround this type of birth.

The information which I've received from direct conversations with OB-GYN specialists who normally do not perform this procedure but leave it to other specialists is as follows. It is a very, very rare procedure. There has never been any statistical proof indicating that it is a procedure which is carried out with any degree of frequency, for the following reason.

What is involved here is a situation where a mother becomes pregnant, carries that pregnancy almost to full term, and there is a discovery made through sonogram or other currently available technological procedures medically that the child is born with the brain outside its head, that the child is born with the lungs outside its body, that the child is born with the stomach outside its body; in short, that the child is

in so many different possible ways deformed to the point where its birth would be an immediate death sentence to the child itself.

Now, should this procedure not be performed timely within the mother's womb, there is a possibility of the degrading of the fetus. The degrading of the fetus means that the fetus in effect has its tissues degraded to the point where it becomes toxic and poisons the bloodstream of the mother, thus jeopardizing the life of the mother.

It is these circumstances which render what appears to be an inhumane procedure one which is absolutely merciful and medically imperative.

When you speak to doctors, they say there is no such thing as a "partial birth abortion," because there is no such thing as a partial birth as it relates to this situation. What you have a late-term abortion.

But I'm sorry to say that this bill is constitutionally so vague that it actually might reach back into the second or first trimester of pregnancy, which is clearly and plainly constitutionally mandated to be

protected by the Roe versus Wade decision.

Now, my friends, in order to understand why this bill must be defeated, we have to strike through the various attempts to depict it in a superficial fashion with diagrams showing a child's head being crushed and having the child removed from the vaginal canal with a pair of forceps. This is in itself grotesque.

But keep in mind, my friends, that all D&Cs are grotesque, and all D&Es, dilatation and extractions, are inherently grotesque. Nobody wishes to remove a womb or to prevent a life from developing if it can be avoided.

And the only reason for the justification of this procedure is that the fetus is not viable, is not in fact a human being at the time this occurred because of the earliness of the pregnancy, or that the individual is so advanced in development but so distorted and so unable to survive that something must be done to prevent this tragedy that I've described in the way of a birth of an individual unable to survive due to the

incredible distortion and tragic problems which arise when an individual's development is so totally taken out of the normal stream.

So where are we on this matter? This requires some tough, incisive analysis on the part of the Legislature. It cannot be done superficially. It cannot be done in an immature fashion. It has to be done with the most careful deliberation and scientific reality terms and in discussion with the physicians who actually do this.

Physicians do not want to do this procedure, and they only do it when it is imperative that it be done for the health of the mother or the imminent demise of the fetus. And by "imminent demise," I mean exactly that, the fact that the fetus is not viable.

There have been suggestions that this procedure is done because people want to have their prom gowns fit them at the time of their school proms and they wait till a month before birth and have this done so they can go to the prom with proper measurements. This is a fairy tale, it's simply not true, and it's

an outrageous and an inappropriate distortion.

And I might say at the moment I in no way intend to suggest that anyone in this house resorts to that type of distortion. I think the honorable colleagues who have given you the other side of the story do so from the depths of sincere conviction.

But may I say to you that in order to be very clear what's happening here, number one, we're encouraging an unconstitutional outcome which has repeatedly been denied by every court that's reviewed it. If you examine the court decisions, you will see that the courts plainly state that Roe v. Wade provides certain protections which this clearly is seeking to prevent the application of.

And, secondly, it does jeopardize health in a fashion that would be both inhumane and intolerable.

So look through the superficialities, my friends. Understand that what goes on here is something that must be done in the interests of good, sound medical science.

The fact that certain physicians have done it capriciously is not a justification for this bill. Those people should be prosecuted in any manner deemed appropriate by the profession and by the courts, because if they're involved in the murder of a human being, that's a separate and entirely appropriate matter for prosecution of the most vigorous sort.

But where the humane and medically sound objective is fulfilled, that's where we must draw the distinction. And that, my friends, is why I suggest to you that the superficial horror implicit in this procedure which so frequently causes people to favor this type of legislation is unfortunately a misfired missile.

We must understand it for what it is. It's a confused and inappropriate application of reasoning that just is illogical and altogether outside the realm of any possible practical application of scientific truth and merciful medical treatment.

So for these reasons, I urge us

please to reconsider, to understand what's at stake and not to be susceptible to the superficial type of thinking which I believe underlies the foundation of this bill.

ACTING PRESIDENT FUSCHILLO: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I believe there's an amendment at the desk. I'd waive its reading and ask to be heard briefly to explain it.

ACTING PRESIDENT FUSCHILLO: The amendment is at the desk. Reading is waived.

Senator Dollinger, on the amendment.

SENATOR DOLLINGER: Thank you, Mr. President.

This is an amendment we've done before. Senator Maltese, this amendment will bring this bill into conformance with the United States Constitution, the decisions of the United States Supreme Court, and eliminate late-term abortions of any type, which are still illegal in this state, except when two conditions are necessary: The condition in your bill, which says if the life of the

mother is at stake; and, as the amendment says, if there is a serious adverse health consequence.

I agree with you, Senator Maltese. If an abortion is performed at the late term and it doesn't meet either one of those two tests, it's against the law, should be against the law in this state. But I am telling you without this amendment, this statute will never become law and in my opinion will never be constitutional.

If this amendment passes, I'll vote for this bill and I'll go over and ask people in the other house to vote for this bill, because we'll have a law that's in conformance with the Constitution of the United States.

I trust women to make the right decision, in conjunction with their physician and their family support group, when their life is at stake or when a serious, adverse health consequence threatens them. I trust women to make the right decision in that case.

This amendment will conform with the Constitution and allow them to do it. I would ask that you accept this amendment. I

would ask that if you don't accept it, that it be approved by the house so we can pass a constitutionally sound bill that addresses this issue.

ACTING PRESIDENT FUSCHILLO: Senator Meier, on the amendment.

SENATOR MEIER: On the amendment, Mr. President, and briefly.

The problem with the amendment is the amendment is the universal solvent that makes this bill totally meaningless. Because what we're talking about is a very broad term, capable of interpretation in almost any way.

Now, here's the other major problem with the amendment. On January 12, 1997, the executive board of the American College of Obstetricians and Gynecologists announced it could identify no circumstances in which a partial birth abortion would be the only option to save the life of the mother or to preserve her health.

An American Medical Association task force which was put together to study the very issue of partial birth abortion -- or intact dilation and extraction, whichever term

you prefer -- said: "There does not appear to be any identified situation in which intact dilation and extraction is the only appropriate procedure to induce abortions."

That is the problem with the amendment, and that's why it deserves to go down.

ACTING PRESIDENT FUSCHILLO: Senator Montgomery, on the amendment.

SENATOR MONTGOMERY: On the bill.

ACTING PRESIDENT FUSCHILLO: On the amendment, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FUSCHILLO: Opposed.

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: Mr. President, I'd like a slow roll call on the amendment.

ACTING PRESIDENT FUSCHILLO: There are three members standing -- four, five. Five members standing.

The Secretary will ring the bell for a slow roll call.

THE SECRETARY: Senator Alesi.

(No response.)

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: No.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator Bruno.

(Senator Bruno was recorded as voting in the negative.)

THE SECRETARY: Senator Connor.

(Senator Connor was recorded as voting in the affirmative.)

THE SECRETARY: Senator Coppola.

SENATOR COPPOLA: Yes.

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just briefly to explain my vote, to

address the -

ACTING PRESIDENT FUSCHILLO: Senator Dollinger, to explain his vote briefly.

SENATOR DOLLINGER: -- the point that Senator Meier made, which is is the amendment too ambiguous, will it swallow the entire principle set forth in this statute.

I would remind Senator Meier that this is a criminal statute, that we are criminalizing behavior. We are going to make it a crime for a physician to participate.

And I would just suggest that because it's a crime that what we're doing is we're saying it's not just the life of the mother but any serious, adverse health consequence. That would be an issue, if there were a charge raised against a physician, to determine.

I would, however, suggest that it is best left to the judgment of the physician attending a woman in this situation to make that judgment call. That's what this statute -- the amendment does, that's why we've brought it forth. That will make it

constitutionally acceptable.

I vote aye.

ACTING PRESIDENT FUSCHILLO: Senator Dollinger will be recorded in the affirmative.

Continue the roll.

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: On the amendment.

There already are 17 people that voted in favor of this bill. Senator Dollinger, we would love to have -- wherever you're going, we'd love to have your vote on this. But I think the point that Senator Meier made is very significant.

Let me just say there's plenty of votes in the other house for this. It would pass in a New York minute if it was allowed on the floor.

Seventeen people that are not here that would be voting against your amendment. It takes 31 votes to pass anything in this house. There's not going to be 31 votes to

pass your amendment. And with the 17 people that have already voted, and left, in favor of this bill, this is kind of an exercise in futility.

I vote no.

ACTING PRESIDENT FUSCHILLO: Senator Farley will be recorded as no.

Continue the roll.

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: Yes.

THE SECRETARY: Senator Hoffmann.

(No response.)

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Nay.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: Yes.

THE SECRETARY: Senator Kuhl.

(No response.)

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Yes.

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: No.

THE SECRETARY: Senator LaValle.

(No response.)

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: No.

THE SECRETARY: Senator Libous.

(No response.)

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Nay.

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.

(No response.)

THE SECRETARY: Senator Meier.

SENATOR MEIER: No.

THE SECRETARY: Senator Mendez, excused.

Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: No.

THE SECRETARY: Senator Nozzolio.

(No response.)

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Yes.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: To explain my vote.

I would say that we have to say yes to the -

ACTING PRESIDENT FUSCHILLO: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: It would be absolutely essential to say yes to the amendment so that we couldn't be violating the U.S. Constitution.

This is very clearly spelled out in the memorandum from the League of Women Voters. It says lawsuits have been filed in 19 states to challenge similar so-called partial birth abortion bans. And in all cases decided thus far, the courts have either enjoined the law or restricted its applicability to the period after viability.

New York State, as we all know, already prohibits abortions after 24 weeks except when the mother's life is threatened.

So I definitely support this amendment. I vote yes.

ACTING PRESIDENT FUSCHILLO: Senator Oppenheimer recorded in the affirmative.

THE SECRETARY: Senator Padavan.

(No response.)

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: Yes.

THE SECRETARY: Senator Rath.

(No response.)

THE SECRETARY: Senator Rosado.

(No response.)

THE SECRETARY: Senator Saland.

SENATOR SALAND: No.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Yes.

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: Yes.

THE SECRETARY: Senator Seward.

(No response.)

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: No.

THE SECRETARY: Senator A. Smith.

SENATOR ADA SMITH: Yes.

THE SECRETARY: Senator M. Smith.

SENATOR MALCOLM SMITH: Yes.

THE SECRETARY: Senator Spano.

(No response.)

THE SECRETARY: Senator

Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: No.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Yes.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: No.

THE SECRETARY: Senator Velella.

(No response.)

THE SECRETARY: Senator Volker.

SENATOR VOLKER: No.

THE SECRETARY: Senator Wright.

(No response.)

ACTING PRESIDENT FUSCHILLO: Call the absentees.

THE SECRETARY: Senator Alesi.

(No response.)

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hoffmann.

(No response.)

THE SECRETARY: Senator Kuhl.

(No response.)

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator LaValle.

(No response.)

THE SECRETARY: Senator Libous.

(No response.)

THE SECRETARY: Senator Alesi.

SENATOR ALESI: No.

THE SECRETARY: Senator McGee.

(No response.)

THE SECRETARY: Senator Nozzolio.

(No response.)

THE SECRETARY: Senator Padavan.

(No response.)

THE SECRETARY: Senator Rath.

(No response.)

THE SECRETARY: Senator Rosado.

(No response.)

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator Seward.

(No response.)

THE SECRETARY: Senator Spano.

(No response.)

THE SECRETARY: Senator Velella.

(No response.)

THE SECRETARY: Senator Wright.

(No response.)

ACTING PRESIDENT FUSCHILLO: Announce the results.

THE SECRETARY: Ayes, 19. Nays, 23.

ACTING PRESIDENT FUSCHILLO: The amendment is defeated.

Senator Farley, on the bill.

SENATOR FARLEY: Yes. Thank you, Mr. President.

I rise in support of this bill. I think that Senator Maltese has said everything that needed to be said on behalf of the bill. But let's just focus for a moment on the breadth of support that there is for this bill throughout New York State and the United States, for that matter.

It passes overwhelmingly in both houses of Congress and misses a veto override

by one vote. It is a vote that crosses party lines. Patrick Kennedy, Daniel Patrick Moynihan, so many, many people from the other side of the aisle that consider themselves pro-choice consider this an abhorrent, obnoxious, terrible procedure.

The general public is 80 to 85 percent opposed to late-term abortions. It is a procedure that is absolutely obnoxious and has no place in a civilized society.

I think that if there's any issue that is nonpartisan -- it really isn't an abortion issue. This is, in my judgment, as Daniel Patrick Moynihan said so eloquently, this is infanticide. This is taking a child that could live, that they're practically out in the world ready to live.

There's a woman that testified before Congress that was going to be a partial birth abortion victim, and her -- the nurses -- the doctor was out of room, and the nurses couldn't do it or wouldn't do it. And she was testifying before Congress thanking God for her life, that she was able to survive a procedure that was going to draw her brains

out.

I think it's something that everybody in this house should really consider. And this ban is needed more and more. As I recall the vote on this legislation, it's 40 or 40-some-odd members of this house in favor of it. The Governor has said he would sign it.

Again, as I said, if this bill ever hit the Assembly floor, it would pass in a minute. The votes are there for it. Unfortunately, it's not let out on the floor.

I hear all kinds of complaints from the other side about bills that can't come out on the floor. Well, we've seen a lot of bills come out on the floor this year in this house. I'd like to see this bill come out on the floor in the Assembly, and we'd see a law banning partial birth abortion.

I'm going to vote aye, and I would hope everyone else would.

ACTING PRESIDENT FUSCHILLO: Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like to ask the Senator a question.

ACTING PRESIDENT FUSCHILLO: Senator Farley, do you yield for a question?

SENATOR FARLEY: I am only one of many sponsors, but I'll try to answer your question.

SENATOR OPPENHEIMER: Oh, I said the Senator, not the sponsor.

Because you used the word "infanticide," and -

SENATOR FARLEY: I didn't use that word. That was -- I was quoting Senator Daniel Patrick Moynihan, who considers himself pro-choice, who said that this procedure is infanticide.

SENATOR OPPENHEIMER: Well, if I could question, do you understand the law that as it is now specifies infanticide is against our law. So infanticide in and of itself is criminal.

SENATOR FARLEY: I understand that. I think that this is truly criminal too.

ACTING PRESIDENT FUSCHILLO: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr.

President.

So much of the debate around this measure is born out of hysteria and a very carefully crafted campaign by the right-to-life organizations on the national level to create a new and a very, very emotional issue around which to rally the antichoice forces. And it has been effective. But it bears little truth to medical practice as it exists in New York State or anyplace else in the nation.

I'd like to just enter into the record, if I may, please, a couple of memorandums. And I don't often do this, but I think that they state rather eloquently some of the facts that have been misquoted or misunderstood even by very ardent supporters of this measure, upon reading the reality of the law.

And we just saw one example of it a few minutes ago. It's apparent that there is misinformation circulating. And we as legislators have a responsibility to learn the facts.

Here are some of the facts from the

American College of Obstetricians and Gynecologists. "The New York State Office of the American College of Obstetricians and Gynecologists opposes any action that would supersede the medical judgment of trained physicians. The potential exists that legislation prohibiting specific medical practices may outlaw techniques that are critical to the lives and health of New York women. There is no medical procedure called a partial birth abortion."

Again, I'm quoting from the American College of Obstetricians and Gynecologists. These are the people who understand the medical practice that has been grossly misinterpreted in this chamber today.

Again, I quote: "The term is not found in any medical dictionaries, textbooks, or coding manuals. The American College of Obstetricians and Gynecologists believes the intent of the legislation is to prohibit a procedure referred to intact dilatation and extraction. This legislation prohibits the use of this medical procedure in all stages of pregnancy, not just late pregnancy, as the

bill has been characterized.

"Abortions after 24 weeks are already prohibited by law except when continuing a pregnancy poses a danger to the woman's life or health. Third-trimester termination of pregnancy procedures are not routinely performed in New York State. These procedures are only performed under extreme circumstances where the health and life of the mother are threatened.

"Some examples of rare maternal problems that threaten the life and/or health of pregnant women are severe heart disease, kidney failure, malignant cancers that develop during pregnancy, and severe toxemia."

Again, the College of Obstetricians and Gynecologists goes on to state that "A woman in her third trimester in New York undergoing an interruption of a pregnancy does so only when the abnormalities of the fetus are so extreme that independent life is not possible or when the fetus has died in utero. These procedures are not performed routinely and are never purely elective.

"If there is a viable fetus, the

fetus is delivered with full medical support for mother and infant. Full life support and the neonatal intensive care services are recommended by the College of Obstetricians and Gynecologists, and are provided as routine procedures to any fetus delivered close enough to term to have any possibility of life.

"This legislation would ban a medical procedure regardless of whether it is the best or most appropriate procedure to save the life or preserve the health of an individual woman. Under this bill, an obstetrician-gynecologist would be forced by law to use a different procedure to save a woman's life or preserve her health even though it may carry a much greater health risk to the patient."

And they conclude by saying "Even though a woman and her consulting physician may decide to interrupt a pregnancy during the third trimester, such a decision must be approved by the hospital's ethics committee, the hospital's lawyer, and other physicians, including perinatologists and geneticists. In New York State, such approval is very rarely

given.

"The Supreme Court and many state courts around the country have rejected similar laws because they are clearly unconstitutional. In fact, legislators do not have the expertise or the medical knowledge to intervene in medical decision-making. This decision must be left up to trained professionals.

"It is for these reasons that the American College of Obstetricians and Gynecologists in New York State strongly opposes this legislation."

I would also like to enter for the record the statements made by the League of Women Voters and the Family Planning Advocates of New York State. I won't read them now because the hour grows late. We have had this debate before.

This is a matter that should be decided by the medical professionals of this state, not by the New York State Legislature.

I'll vote no.

ACTING PRESIDENT FUSCHILLO: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President. I would like to ask Senator Maltese a couple of questions.

ACTING PRESIDENT FUSCHILLO: Senator Maltese, do you yield for a question?

SENATOR MALTESE: Yes.

ACTING PRESIDENT FUSCHILLO: The Senator yields.

Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

In line with the memo that Senator Hoffmann just read, I note that in the bill it says that partial birth abortion is characterized as intact dilation and extraction, or D&X, and that the woman will not be charged with a crime under this legislation, only the doctor will be charged with a Class E felony if that doctor performs this particular procedure.

And it says on line 24, page 2, that partial birth abortion -- which is defined by your legislation as D&X -- shall not constitute a justifiable abortional act.

I do not see in your legislation,

Senator Maltese, where this particular procedure has a specific time frame connected to it.

So if that is the case, unless I'm misreading this legislation, if that is the case, then what the obstetricians and gynecologists have said -- in effect, that this procedure is one that is used for -- this is apparently a standard procedure in relationship to this particular situation, if that's the case, then does your legislation not eliminate, essentially, abortions?

Or does it not place any physician who does that procedure at any point, any stage in the situation, doesn't it place that physician in a position of having committed a felony?

SENATOR MALTESE: Mr. President, through you.

ACTING PRESIDENT FUSCHILLO: Senator Maltese.

SENATOR MALTESE: First of all, I'd like to take the opportunity to just correct something that Senator Goodman had said and that was referred to in the memo.

The birth of a dead fetus does not come under this legislation. It would only be a live fetus. So some of the horrendous acts that Senator Goodman referred to about degenerating within the womb would not apply. This is only if the fetus is in fact alive.

As far as in reply to your question, Senator Montgomery, yes, the terminology here would say that any partial birth abortion.

But the procedure itself, while my good colleague Senator Hoffmann has made much of the fact that the term "partial birth abortion" is not a medical term, that's correct. It's absolutely correct. At the same time, it has been used in various hearings of the American Medical Association, the New York State Medical Association. It has been used in Congressional testimony. It has been used in testimony by a variety, a host of physicians and obstetricians and gynecologists in Congressional testimony.

If there's anybody that is involved in public life that doesn't know what a partial birth abortion is, I'd be very

surprised. Certainly anybody in this chamber could pretty well recite exactly what would come within the confines of this terminology.

At the same time, the phrase that is included in this -- and this was the change from the first legislation that we put in in this house in 1995-'96, we added this one sentence: "This procedure is characterized by the American Medical Association as intact dilation and extraction, or intact D&X."

And that is a medical term, and that is medical terminology, and that is terminology that is used by physicians, obstetricians and gynecologists. So that is explained.

As far as the procedure itself, while there is no time limit on the terminology within this legislation, as I've said before, the doctors, both pro and con, advocates and proponents and detractors and opponents, have indicated that the state of the fetus is so fragile and so susceptible to breaking off that the fetus itself is dismembered if this procedure is attempted before approximately the period of 20 weeks.

So the procedure itself is a procedure that's limited by the state of the fetus itself. Therefore, it limits it.

And in direct response to your question, Senator Montgomery, this procedure does not constitute a justifiable abortional act. What I am saying by this legislation and the proponents of similar legislation, almost identical legislation, with certain changes relative to federal statutes, they're saying that you cannot perform this procedure only, this D&X, this procedure, partial birth abortion.

It is not limiting the woman's choice in any other manner. This is limiting a physician's choice from performing this type of loathsome procedure in a -- in a late-term abortion. It removes one of the choices.

It has been spelled out in much of the material on this partial birth abortion that this is a procedure that usually takes a minimum of two days and usually takes three days. It is done over a period of time that would almost certainly negate a procedure that would be only to save the life of the mother.

It is done by dilation over a period of time. And whether it is an inpatient or outpatient procedure, it does take that period of time.

We have, just as has been read, material by physicians and obstetricians and gynecologists that have testified. It seems to be a procedure that is not necessary to save the life of the mother.

But assume for the moment that it is necessary to save the life of the mother. The legislation indicates that is the one course of action that is permitted a physician to take if he feels it's to save the life of the mother.

So it covers those unique situations. My -- I offer -- I say to you if it is done in such an infinitesimal number of the cases as recited by Senator Goodman previously, then end this barbaric practice, end this loathsome practice, and put to bed any type of this right-wing conspiracy that has been referred to by my good colleague Senator Hoffmann.

It is not a right-wing -- it is not a conspiracy of any shape, manner, or form.

No right-to-life forces all over the country have gathered together.

Constant polls indicate the vast majority of the American people want an end to this procedure.

Quite frankly, if I were to look at it from the viewpoint of being pro-choice, I would want this procedure ended too, because it seems to divert attention from those that prefer choice and those that prefer life.

This procedure is not a procedure that must be resorted to. Apparently at least the vast majority of physicians seem to agree on that. I submit to my colleagues this is not a choice situation. This is a situation that many of you have referred to in the past as a slippery slope. It's doing away with a child that's near born.

It is a mistake for us to sanction it in this legislative house.

ACTING PRESIDENT FUSCHILLO: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President. On the bill, briefly.

ACTING PRESIDENT FUSCHILLO:

Senator Montgomery, on the bill.

SENATOR MONTGOMERY: I just - notwithstanding the fact that I respect Senator Maltese and his reading and understanding of the legislation, it's not how I read it.

And I think that part of what happens here is that we have a bill before us which has specific language in it that will govern the law under this legislation. And then we have Senator Maltese's memorandum in support, which has the justification for his bill.

And it sounds to me like Senator Maltese is reading the justification as if it's the legislation. And his intent in his mind is one thing, and what's in this bill is another, as I read it.

Now, it says here, as clear as I can see, that the bill defines partial birth abortion according to the AMA. And the AMA defines -- is used here as the definition of partial birth abortion, which says intact dilation and extraction, D&X.

It happens to be a procedure that

is associated with abortions. We could be talking about other kinds of medical procedures, but we happen to be talking about this one. And this one is related to a woman who finds herself in a situation where she is in need of an abortion. So fine.

And the law, the law already specifies what a justifiable abortional act is. And it does not allow, without certain circumstances as defined in law, an abortion beyond the 24th week. That's already in the law.

But then at the very end, this addition that Senator Maltese is putting into the law essentially repeals the rest of the law, as I see it. And it says "Partial birth abortions shall not constitute a justifiable abortional act." Period. That's the end of the sentence. It doesn't say within any period of time, it does not have if the mother's life is in danger. It has nothing there but that as the final sentence.

So I just think that there is a major problem with this. And that is anyone looking at the legislation, assuming that it

passes both houses and is enacted into law, we have a situation where any physician in this state would be charged with a felony if they -- if they participate in this particular procedure at any point in time as it relates to having an abortion.

So, Senator Maltese, as far as I can tell, your legislation repeals the right for women in this state, for any reason, at any stage, to receive an abortion. And I must certainly be against this legislation.

And besides which, it's probably going to be unconstitutional when it's passed. But I think just considering passing it is wrong.

So I'll be voting no, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. On the bill.

We've had a long debate here today. Last year I debated Senator Maltese for some time about the specific provisions in his legislation. I believe that verbatim this is

the exact same bill that we're addressing this year that we addressed last year. And many of my colleagues' responses to this legislation are right on target.

I simply want to reiterate what my comments were last year to Senator Maltese, which is that I'm perfectly willing to support a ban on partial birth abortion with an acceptable bill. And I know that, Senator, you referred to public opinion polls showing overwhelming support for a partial birth abortion ban. I doubt that those public opinion polls would reflect the same results if I was able to articulate exactly what this bill does and could potentially do.

And so as a result, I will reiterate my comments from last year, which are I cannot support this particular legislation until it satisfies two specific provisions. One is to more narrowly define what a partial birth abortion is so that we don't, intentionally or unintentionally, outlaw other abortion procedures which are constitutionally protected.

And, number two, and most

importantly, there is no exemption here in consideration of the health of the mother. And what that does, let me break it down for you very simply. It simply says that in the unfortunate situation that a woman has to have a late-term abortion, if the partial birth abortion procedure is the safest procedure, meaning it's safer than some other available procedure, if this bill becomes law, the woman cannot have the safest procedure.

It's probably unconstitutional. It's certainly awful public policy. And it's just wrong.

So, Senator Maltese, I suggest to you if you're interested in having the votes from some members on this side of the aisle, including Senator Dollinger, who articulated the same concerns, I would suggest that you amend the bill and you'll receive a favorable response from some of us.

Until that's done, this legislation will not have the effect that you suggest that it will have. It will have some other effect. And that effect, I believe, is not in the best interests of my constituents or anybody in New

York State.

I will be voting no.

ACTING PRESIDENT FUSCHILLO: Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

I hope someday that people will look back at this and find it incredible that we had to debate this.

In a lot of the debate, some mention has been made about some hysteria on the part of the pro-life community. I would suggest to you that there may be some hysteria on the other end of the debate, and an unwillingness sometimes to face what we're really talking about.

I like to remind people of a gentleman named Ron Fitzsimmons who some time ago was the national director, executive director of the National Coalition of Abortion Providers. I have a New York Times article from February 22nd of 1997 which reads as follows, in short part: "A prominent member of the abortion rights movement said today that he lied in earlier statements when he

said a controversial form of late-term abortion is rare and performed primarily to save the lives or fertility of women bearing severely malformed babies. He now says the procedure is performed far more often than his colleagues have acknowledged, and on healthy women bearing healthy fetuses."

It goes on to say that "He intentionally misled in previous remarks about the procedure, called 'intact dilation and evacuation' by those who believe it should remain legal, and 'partial birth abortion' by those who believe it should be outlawed" - and I'm quoting the New York Times -- "because he believed that the truth would damage the cause of abortion rights. But he is now convinced, he said, that the issue of whether the procedure remains legal, like the overall debate on abortion, must be based on the truth."

Well, I think it ought to be based on the truth. And I find it interesting, as I said during the debate on the amendment, the American Medical Association convened a study group to look at this issue in 1997. And they

concluded, and I quote: "There does not appear to be any identified situation in which intact dilation and extraction is the only appropriate procedure to induce abortion."

I mean, the very fact that we are talking about whether a question of seconds and centimeters constitutes the difference between a medical procedure and infanticide is absolutely incredible. Absolutely incredible.

And I think that maybe we do have to confront the issue of extremism when we get into this broader issue. I have personally remonstrated with my bishop over the issue when he demonstrates on the issue of life of associating with people who have in the past committed violent acts.

I have remonstrated with other leaders of the pro-life movement that we have an obligation to weed those extremists out of our midst and to tell people who come to this issue with hate in their hearts to go away, because they're hypocrites. You can't be for life and hate at the same time.

I would invite, though -- and I would invite in a gentle way -- people who are

on the other side, in good faith, on this debate to ask yourself, to ask yourself if a society which finds that this is a debatable matter, centimeters and seconds, if we have not in fact created a climate of moral ambiguity about life that has led to some tragedies that are all too frequently reported in our newspapers. The Amy Grossberg and Brian Peterson case, the two New Jersey teenagers who left their newly born son wrapped in a blanket and in plastic and in a trash dumper. The case of the young woman, also in New Jersey, who left her newly born son in a toilet stall.

In an interview on the NBC program "Dateline," a friend of Melissa Drexler -- the young woman who left the baby at the prom - said the following about the baby boy's death, and I quote: "She didn't know it was alive. It came out blue. She assumed it was dead. Melissa told me it wasn't living."

Four sentences. Twenty-one words. Four occasions to refer to a baby, a human being, a little boy. But it's "it." It's "it." It's "it."

And that, I suggest to you, is the environment we have created when we can come to the point where something like this is a debatable matter.

I recognize and I respect the fact that honorable people may differ as to the point where life begins, and that honorable people may perhaps differ as to the point where life deserves the protection of law. But I must tell you in all conscience and in all candor with my colleagues, I don't understand how seconds and centimeters can become a debatable point about whether we're talking about a medical procedure or a murder.

And the Melissa Drexlers and the Amy Grossbergs and Brian Petersons of the world and the moral ambiguity within which they're able to commit those heinous acts are the whirlwind of that kind of world.

I urge an aye vote on the bill.

ACTING PRESIDENT FUSCHILLO: Senator Coppola.

SENATOR COPPOLA: I respect my colleagues on the other side of the aisle for their passion, for their concern on this

issue.

But I go back to before abortion wasn legal. And I witnessed in our area the illegal abortions that took place way back when, and the young women who died because of the illegal abortions. I watched that, and I watched doctors perform those illegal -- they were in the paper, they were prosecuted. We didn't have a handle on all of them. Not only did the babies die, but the mothers died.

And what happened was because there was no supervision. There wasn't anything there. That happened because the very poor couldn't afford an abortion or medical care. But the very rich had an abortion. The elitists were out there because they could afford it, in secrecy, behind closed doors.

Our country has made mistakes. We've made mistakes when we had bootleggers back in the thirties, and we brought that back. And we have laws now for alcoholic beverages. Why don't we just eliminate cigarette smoking? We know how harmful it is to our health. But we won't do that either, because we have to have some control on that.

So we eliminate abortions, and there are no controls. Now, I was even willing to go today and watch the other side of the aisle and support this, when Dollinger put in his amendment -- and to shoot it down -- I said, at least this is a step in the right direction. We're trying to look for a compromise, come together here.

Because the bottom line here is not your side or our side. The bottom line is we've all got to get together and start educating the kids of tomorrow that it's wrong to have babies, number one, when you can't afford it. And, number two, you have to respect life.

We're not putting that kind of energy into that. So what we do is eliminate all of this and go back to the illegal abortions? I really respect, Senator Maltese, your passion and your concern. I really do, because that's important.

But hopefully you take that kind of passion and we start getting out there to our schools across the state of New York and teaching them about education and respect of

life. When I have 7th- and 8th-grade girls in my area pregnant, that's wrong. When I witnessed back years ago, before there was legal abortions, the mothers dying and the fetuses being flushed down the toilet.

So what do we do? We have prohibition again? What do we do? We outlaw cigarettes? We hide behind our cloak that we're all nice people here and we're fighting for lives?

Well, we are fighting for lives on this side of the aisle. But let's do it through education, education, education.

Thank you, Mr. Chairman.

ACTING PRESIDENT FUSCHILLO: Read the last section.

Oh, I'm sorry. Senator Schneiderman. I didn't see you.

SENATOR SCHNEIDERMAN: You wish, Mr. President.

(Laughter.)

SENATOR SCHNEIDERMAN: Listen, it's been a long day. This is a very serious issue. I'm sorry so many of our colleagues have left, because I know that both the

proponents and the opponents of this take it very, very seriously.

Actually I join Senator Meier in my concern -- and it's nice to know Senator Marchi has spoken about this. I don't disagree with you about the climate of moral ambiguity. In my view, however, this very wrong-headed legislation is not a way to address that.

In fact, I think this is really unfortunate that we get hung up on this issue. I agree on that also. But I think it's pretty clear that this legislation would be horrible public policy if enacted.

Conspiracies are hard things to pull off. And I don't believe there's a vast right-wing conspiracy behind this bill. However, I do believe that this is an -- there is an intentionally deceptive, extremely clever campaign behind this legislation.

The reason is very simple. This bill does nothing more or less than tie the hands of a doctor who is in an operating room with a patient that's already determined to have an abortion, to terminate the fetus.

Where the doctor determines that to preserve the health of that patient this particular type of procedure would be the most appropriate thing, that doctor won't be able to do it.

This bill does not prohibit dilation and evacuation, which is the most standard procedure in the second trimester. And we've heard a lot about how disgusting this procedure is. This is grisly stuff. I assure you, dilation and evacuation is equally disgusting. And I could go into details about crushed heads and broken limbs that take place when the vacuum tube is pulling the baby out. It's all disgusting stuff.

The problem is that you are misleading people when you say this bill will prohibit a particular type of abortion at the very, very end of a pregnancy. It's obvious -- and we've mentioned this repeatedly, and people have said for years that if you're serious about this being late-term, put in a time limit.

There's no time limit, because this is a bill that would discourage doctors from

performing any type of abortion procedure.

And I do disagree with my colleagues in some of their references to what medical opinion is on this. I read from the same AMA report I think Senator Meier was reading from. He mentioned the first sentence of this paragraph. I want to read later in the paragraph.

It acknowledges ethical concerns about intact dilation and extraction, but then says "The AMA recommends that the procedure not be used unless alternative procedures pose materially greater risk to the woman. The physician must, however, retain the discretion to make that judgment, acting within standards of good medical practice and in the best interests of the patient."

That's all we're saying here. Don't tie the hands of doctors to serve a patient, to carry out their oath. That's what we would do with this legislation.

I now want to make a reference to a report from the American College of Obstetricians and Gynecologists, because this assertion that most doctors are opposed to

this procedure is just nonsense. "An intact D&X may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman. And only the doctor, in consultation with the patient, based upon the woman's particular circumstances, can make this decision."

And it goes on to cite the situation in which a fetus is hydrocephalic as a situation in which a D&X procedure is safer for the patient than a D&E procedure.

So we're not preventing abortions with this bill. What we're doing is saying to doctors, We're going to tie your hands, we're not going to let you do what is safest for your patient. That, to me, is not a noble act of public policy. I think this is a deceptive campaign.

I respect the fact that there are members of this house, including Senator Maltese, who are antichoice. And if you want to put in a bill that says we think all abortions are wrong, you put it in. We'll debate it, we'll vote against it.

This is a deceptive effort to

undermine freedom of choice. I urge that we all reject it now. And I urge a no vote.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Can we have the last section read for purposes of Senator Morahan and Senator Saland to cast their votes.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FUSCHILLO: Senator Morahan.

SENATOR MORAHAN: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Saland.

SENATOR SALAND: Aye.

ACTING PRESIDENT FUSCHILLO: Senator Skelos.

SENATOR SKELOS: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Onorato.

SENATOR ONORATO: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Sampson.

SENATOR SAMPSON: No.

ACTING PRESIDENT FUSCHILLO: Senator Marcellino.

SENATOR MARCELLINO: Withdraw the roll call.

ACTING PRESIDENT FUSCHILLO: Withdraw the roll call, please.

Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Well, for the eight of us left here.

I don't know, I'm listening very closely and sometimes I have a feeling that there's a whole lot more concern for the fetus than there is for the woman here. The woman is an adult. And it seems like the woman doesn't count, it's only the fetus that seems to count.

And I was just talking to my colleague here, Senator Montgomery, and

really, I don't quite understand what government is doing in this whole thing anyway. Because as we know from time immemorial, a woman is going to do what a woman has to do. And, you know, whether it's approved or not approved, it really is a question of is it done in a safe and healthy manner or is it going to be done in, you know, back alleys.

Anyway, there's some things I'd like to clarify. And I'm also going to use some notes from a noted authority. This is Allan Rosenfield. He's the dean of the Columbia School of Public Health.

And by the way, I concur with my colleague who says that almost all doctors, almost all nurses, almost all people in just about any health care field, to say nothing of the League of Women Voters, a lot of very respected organizations, all say that this is not the way to go.

And the only groups that seem to be supporting this, quote, partial birth abortion ban act are the right-to-life people. So I don't see that there's a huge groundswell.

Let me clarify certain things. This intrusion into decision-making by physicians about a specific medical procedure is really unprecedented, and it's inappropriate, and it could have very devastating consequences on the quality of medical care in our state for sure.

And this Legislature, in my opinion and in many people's opinion, doesn't belong in the decision-making about medical procedures or treatments. In fact, the phrase I think "partial birth" was totally fabricated by the antichoice community to sensationalize a very serious medical procedure.

And I was quite interested to see that the League of Women Voters has become quite passionate on this, and that's not their usual stance. And they say, "Those who are advocating this legislation are pandering to an extreme constituency which is legislating at its very worse." They call this legislation politically motivated and that it disregards the life and health of women. That's pretty strong words for the League of Women Voters.

This bill is really vague. It lacks any medical terminology. And it's difficult to understand exactly what the authors are trying to ban. This vagueness is, I think, intentional, an effort to eliminate the right to choose in our country. The fact is that Roe versus Wade, where -- all abortions performed in the third trimester are illegal, and they can only be performed if the purpose is to save the life and health of the woman, including cases of extreme fetal and abnormalities.

The fact is fewer than 1 percent of all abortions are performed after 20 weeks and significantly -- this is amazing -- less than one-tenth of 1 percent of all abortions are performed after 24 weeks. That's -- wait, 0.10. So that's one-tenth of 1 percent.

This legislation would ban one variant of the dilatation and evacuation procedure, which is the dominant method used in second-trimester abortions. I said second trimester. That is covered under Roe v. Wade.

This legislation could be interpreted to ban most or all D&E procedures,

which is the safest method of abortion in the second trimester, and that's between the 12th and the 18th week.

The fact is the choice of the most appropriate option must be a medical choice, not one dictated by us, a legislative body, which would only increase the risk factors of surgery and not be the most appropriate medical care that the doctor would prescribe.

This legislation would force doctors in some cases to select what they consider a second- or even a third-best method just in order to avoid criminal prosecution.

I believe, and I'll tell you a lot of women believe that the medical decisions that women have to make should be made with their families and with their doctors, not with the Legislature.

And I think this is an unprecedented intrusion into our medical care. And I think the decision-making does not belong with the Legislature. I really think this should be rejected.

I'll be voting no.

ACTING PRESIDENT FUSCHILLO: Read

the last section.

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

SENATOR PATERSON: Slow roll call.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FUSCHILLO: Senator Paterson, do you have five members standing?

SENATOR DOLLINGER: Yes, Mr. President, we do.

ACTING PRESIDENT FUSCHILLO: Slow roll call.

The Secretary will ring the bells.

THE SECRETARY: Senator Alesi, voting in the affirmative earlier today.

Senator Balboni.

SENATOR BALBONI: Yes.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Bruno.

(Senator Bruno was recorded as voting in the affirmative.)

THE SECRETARY: Senator Connor.

(Senator Connor was recorded as voting in the negative.)

THE SECRETARY: Senator Coppola.

SENATOR COPPOLA: No.

THE SECRETARY: Senator DeFrancisco voting in the affirmative earlier today.

Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Yes.

THE SECRETARY: Senator Gentile.

(No response.)

THE SECRETARY: Senator Gonzalez.

(No response.)

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 Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger voting in the affirmative earlier today.

Senator Kuhl voting in the affirmative earlier today.

Senator Lachman voting in the affirmative earlier today.

Senator Lack voting in the affirmative earlier today.

Senator Larkin.

SENATOR LARKIN: Yes.

THE SECRETARY: Senator LaValle voting in the affirmative earlier today.

Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Libous voting in the affirmative earlier today.

Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator McGee voting in the affirmative earlier today.

Senator Meier.

SENATOR MEIER: Aye.

THE SECRETARY: Senator Mendez excused.

Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Morahan voting in the affirmative earlier today.

Senator Nozzolio voting in the affirmative earlier today.

Senator Onorato voting in the

affirmative earlier today.

Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan voting in the affirmative earlier today.

Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath voting in the affirmative earlier today.

Senator Rosado voting in the affirmative earlier today.

Senator Saland voting in the affirmative earlier today.

Senator Sampson voting in the negative earlier today.

Senator Santiago voting in the negative earlier today.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: No.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Seward voting in the affirmative earlier today.

Senator Skelos voting in the affirmative earlier today.

Senator A. Smith.

SENATOR ADA SMITH: No.

THE SECRETARY: Senator M. Smith voting in the affirmative earlier today.

Senator Spano voting in the negative earlier today.

Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella voting in the affirmative earlier today.

Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Wright voting in the affirmative earlier today.

ACTING PRESIDENT FUSCHILLO: The Secretary will call the absentees.

THE SECRETARY: Senator Gentile.

(No response.)

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: (No response.)

ACTING PRESIDENT FUSCHILLO: Senator Gentile.

SENATOR GENTILE: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Gentile will be recorded in the affirmative.

The Secretary will read the results.

THE SECRETARY: Ayes, 40. Nays, 19.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, do we have any housekeeping at the desk?

ACTING PRESIDENT FUSCHILLO: Yes.

SENATOR MARCELLINO: May we return to motions and resolutions.

ACTING PRESIDENT FUSCHILLO: Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

I wish to call up Senator Leibell's

bill, Print Number 7530, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 744, by Senator Leibell, Senate Print 7530, an act to amend the Retirement and Social Security Law.

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

ACTING PRESIDENT FUSCHILLO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR MEIER: Mr. President, I now offer the following amendments.

ACTING PRESIDENT FUSCHILLO: Amendments received.

SENATOR MEIER: Mr. President, I wish to call up Senator DeFrancisco's bill, Print Number 4239, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 733, by Senator DeFrancisco, Senate Print 4239, an act to amend Chapter 679 of the Laws of 1992.

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

ACTING PRESIDENT FUSCHILLO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR MEIER: Mr. President, I now offer the following amendments.

ACTING PRESIDENT FUSCHILLO: The amendments are received.

Senator Meier.

SENATOR MEIER: Thank you, Mr. President. Amendments are offered to the following Third Reading Calendar bills:

By Senator Lack, at page 9, Calendar 301, Senate Print 6502;

Senator Seward, page 14, Calendar 497, Senate Print 6734;

Senator Volker, at page 15, Calendar 559, Print Number 4659B;

By Senator Wright, at page 23, Calendar 786, Print Number 7085;

By Senator Balboni, at page 34, Calendar 1017, Print Number 7700;

By Senator Velella, page 34, Calendar 1013, Senate Print 7397A;

By Senator Johnson, at page 18, Calendar Number 677, Senate Print Number 6864;

By Senator Skelos, at page 34, Calendar Number 1005, Senate Print Number 6153;

And by Senator Spano, at page 38, Calendar Number 1098, Senate Print Number 7766.

ACTING PRESIDENT FUSCHILLO: The amendments are received, and the bills will retain their place on Third Reading Calendar.

Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

Also, on page number 23, on behalf of Senator Spano, I offer the following amendments to Calendar Number 796, Senate Print Number 1594A, and I ask that the bill retain its place on the Third Reading

Calendar.

ACTING PRESIDENT FUSCHILLO: The amendments are received. The bill will retain its place on Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we return to reports of standing committees. I believe there's a report of the Rules Committee at the desk. Can we have it read now.

ACTING PRESIDENT FUSCHILLO: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 273, by Senator Kruger, an act to amend the Penal Law;

1182A, by Senator Padavan, an act to amend the New York City Charter;

1271, by Senator Goodman, an act to amend the Vehicle and Traffic Law;

1580A, by Senator Larkin, an act to amend the Insurance Law;

2311, by Senator Kuhl, an act to

amend the Vehicle and Traffic Law;

3475, by Senator Paterson, an act to amend the Tax Law;

4125, by Senator Alesi, an act to amend the Labor Law;

5152, by Senator Libous, an act to amend the Education Law;

6696, by Senator Oppenheimer, an act to amend Chapter 17 of the Laws of 1930;

6851, by Senator Balboni, an act authorizing the reopening;

7231A, by Senator Maziarz, an act to authorize the Village of Medina;

7351, by Senator Leibell, an act to amend the Retirement and Social Security Law;

7352, by Senator Leibell, an act to amend the Retirement and Social Security Law;

7548A, by Senator Leibell, an act to amend the Town Law and the Real Property Tax Law;

7566A, by Senator Maziarz, an act to amend the General Municipal Law;

7816, by Senator Meier, an act to amend the General Municipal Law;

7823, by Senator Seward, an act to

amend Chapter 607 of the Laws of 1999;

7834A, by Senator Larkin, an act to amend the Highway Law;

7865, by Senator Libous, an act to amend the Mental Hygiene Law;

7902, by Senator Spano, an act to amend the General Business Law;

And 7967, by Senator Marchi, an act to amend the Tax Law and others.

All bills ordered direct to third reading.

ACTING PRESIDENT FUSCHILLO: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we accept the Rules Committee report.

ACTING PRESIDENT FUSCHILLO: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FUSCHILLO: Opposed, nay.

(No response.)

ACTING PRESIDENT FUSCHILLO: The

report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, at this time can we take up Senate Number 5152.

ACTING PRESIDENT FUSCHILLO: The Secretary will read. 5152, the Secretary will read.

THE SECRETARY: In relation to Senate Print 5152, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 3597 and substitute it for the identical Senate Bill Number 5152, Third Reading Calendar 1324.

ACTING PRESIDENT FUSCHILLO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1324, by Member of the Assembly Stringer, Assembly Print Number 3597, an act to amend the Education Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

July.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT FUSCHILLO: Yes, there are.

SENATOR MARCELLINO: May we have them made, please.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: On page 38, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 8130B and substitute for the identical Senate Bill Number 5590B, Third Reading Calendar 1086.

ACTING PRESIDENT FUSCHILLO: Substitution ordered.

Senator Marcellino.

SENATOR MARCELLINO: Can we recognize Senator Dollinger.

ACTING PRESIDENT FUSCHILLO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 709.

ACTING PRESIDENT FUSCHILLO: Yes, you do.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT FUSCHILLO: Senator Coppola, do you wish to be heard?

SENATOR COPPOLA: No.

ACTING PRESIDENT FUSCHILLO: Okay. You sure?

(Laughter.)

SENATOR COPPOLA: Thank you very much.

ACTING PRESIDENT FUSCHILLO: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, there being no further business to come before the Senate, I move we adjourn until Monday, June 12th -- excuse me, Senator

Paterson. The unshaven one wishes to speak.

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

SENATOR PATERSON: Are we about adjourn, Mr. President?

SENATOR MARCELLINO: I hope so.

ACTING PRESIDENT FUSCHILLO: I'm waiting for the motion from Senator Marcellino, Senator Paterson.

SENATOR PATERSON: Can I have a slow roll call on that, please.

(Laughter.)

ACTING PRESIDENT FUSCHILLO: Are there five Senators left in the chambers?

Senator Marcellino, will you continue on your motion, please.

SENATOR MARCELLINO: There being no further business to come before the Senate, I move we adjourn until Monday, June 12, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT FUSCHILLO: On motion, the Senate stands adjourned until Monday, June 12th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 4:23 p.m., the Senate adjourned.)