ALBANY, NEW YORK

January 26, 1993

3:18 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: The Senate will come to order. If you will please find your seats.

If you will rise with me for the Pledge of Allegiance to the Flag.

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

Today we have the Reverend Peter G. Young, pastor of Blessed Sacrament Church in Bolton Landing, to give us the opening prayer.

Father Young.

REVEREND PETER G. YOUNG: Let us pray.

Dear God, as the sun increases its warmth and the budget discussions are prioritized, we call upon You to guide our legislators in this Senate chamber to wisdom and continuing dedication. The challenges this year are numerous and we ask You for the blessing that will give them the energy and the health to again be important decision-makers in this state. We ask You this now and forevermore.

Amen.

ACTING PRESIDENT FARLEY: Thank you, Father.

The Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Monday, January 25th. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Friday, January 22nd, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as read.

The order of business:

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. Do we

have any?

Senator Present, we have a quorum, and we're ready for the calendar. What's your pleasure?

SENATOR PRESENT: Mr. President, let's adopt the Senate Resolution Calendar.

ACTING PRESIDENT FARLEY: All right. The Secretary will read the -- all in favor of adopting the Resolution Calendar, please say aye.

(Response of "Aye.")

Those opposed nay.

SENATOR GOLD: Mr. President.

(There was no other response.)

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: The Resolution Calendar is adopted.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Yeah.

SENATOR GOLD: Could you just hold 229 starred; Senator Ohrenstein would like to be heard on it? It's his own.

ACTING PRESIDENT FARLEY: We'll

come back to that. The Resolution Calendar has already been adopted, but Senator Ohrenstein will be speaking to Resolution Number 229. Is that all right?

Are there any motions on the floor or anything?

Senator Present.

SENATOR PRESENT: Mr. President, let's take up the non-controversial.

ACTING PRESIDENT FARLEY: Non-controversial. The Secretary will read.

THE SECRETARY: On page 4, Calendar Number 4, by Senator Kuhl.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 12, by Senator Halperin, Senate Bill Number 106, an act to amend the Penal Law, in relation to increasing the penalties for loitering.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 33.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 19, by Senator Holland -

SENATOR GOLD: Lay aside for Senator Solomon.

ACTING PRESIDENT FARLEY: Lay that aside for Senator Solomon.

THE SECRETARY: Calendar Number 20, by Senator Bruno, Senate Bill Number 239, an act to amend the Civil Rights Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 33.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 21, by Senator Tully, Senate Bill Number 233, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 33.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 22, by Senator Volker, Senate Bill Number 247, an act to amend the Criminal Procedure Law.

SENATOR GOLD: Lay aside, please.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number

23, by Senator Volker.

SENATOR GOLD: Star it? Lay it aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 24, by Senator Volker, Senate Bill Number 406, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 34.

ACTING PRESIDENT FARLEY: That bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, let's stand at ease for a few minutes.

ACTING PRESIDENT FARLEY: We'll stand at ease.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Can you hit the gavel. We're back in action. Call up Calendar Number 19.

ACTING PRESIDENT FARLEY: The Secretary will read Calendar Number 19.

THE SECRETARY: Calendar Number 19, by Senator Holland, Senate Bill Number 211, an act to amend the Penal Law.

SENATOR GOLD: Senator Solomon, you want to do anything?

ACTING PRESIDENT FARLEY: Senator Solomon.

SENATOR SOLOMON: Yes, on 19, can I have an explanation, please?

ACTING PRESIDENT FARLEY: Explanation has been asked for. Senator Holland.

SENATOR HOLLAND: Senator, as you know, this is a bill that would allow auxiliary police to use mace. Senator, as you know, this

is a bill that would allow auxiliary police to use mace in a defense -- as a defensive weapon, only if it was justified in a deadly force situation, and if allowed by the local chief of police or commissioner of police and with proper training.

SENATOR SOLOMON: Senator Holland yield?

SENATOR HOLLAND: Yes, sir.

SENATOR SOLOMON: Senator, the only thing that confuses me about this bill is, I have an understanding that a number of the organized police departments around the country have been against the use of mace by citizens in many instances, and I'd like to know whether or not they're supporting or opposing this bill or have taken any position on this bill.

SENATOR HOLLAND: The Police Conference, we have a verbal communication from the police conference that they are opposed but that's not -- not written.

SENATOR SOLOMON: Have you contacted the New York City PBA?

SENATOR HOLLAND: The city of New York came into the office and said that they would support the bill if we allowed cities with populations of over a million people to be deleted from the bill, but we chose not to do that. We feel it should be a statewide bill, rather than a two-state bill again.

SENATOR SOLOMON: And the New York City hasn't?

SENATOR HOLLAND: No, it was just the representative of the city of New York, not the PBA.

SENATOR SOLOMON: All right. Thank you, Senator. On the bill.

I just think there's been some confusion in terms of some of the local police agencies and the police unions as to whether they support this bill or not. I personally am not opposed, in fact, to the change in the law in this state on mace because I think coming from the city of New York, a number of women, if you've read some recent articles in the New York Times in relation to car-jackings have been

carrying small bottles of mace on their key chains. Whether or not it would be effective against an attack is questionable.

But I think the issue of mace has to be reviewed not as it just pertains to auxiliary police officers, but I think the issue of mace within this state should be reviewed completely, and that's why I was asking the questions regarding the particular police unions in this -- on this particular piece of legislation, and that's why I really oppose this.

I think mace should really be legalized so it could be available throughout the entire state, including the city of New York, to be used in defense of individuals, not just police officers, in this situation.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah. We had this bill last year, and it passed with only two negatives, Senator Montgomery and Senator

Solomon, and, Senator Solomon, I'm glad you brought it up again, and I've been reading this and I'm really saying that you've changed my mind.

Senator Holland says that the City said it would not oppose it or would support it if you took them out. I guess that's a round-about way of saying that they oppose it the way it is, and the City points out, and in their memo they use this language, which I think is really very very significant:

They're talking about auxiliary police, and it says they're the eyes and ears of the department by observing and reporting crimes and conditions warranting police action. They do not initiate arrests and, in fact, are instructed to avoid personal confrontations whenever possible, because the city of New York could not indemnify them for their actions taken outside the, quote, "drill", end quote, concept.

Senator Holland, I don't know how you teach someone on the auxiliary police

department that they're the eyes and the ears and they shouldn't have confrontations and then you start little by little to arm them and you give them mace. If the police department wants to have auxiliary police and they want to set it up with certain limitations, I don't think it's for us to tell them how to change the way the auxiliary police department operates.

If your bill permitted, for example, the various police departments to authorize it themselves, then I probably wouldn't care, because if your locality wanted to do it, I don't think it would be offensive to me. But by mandating it the way I read this, it says upon local authorization and appropriate instruction and whatever. All right, you've got -- you've got that in there.

But the point -- the point is when you're dealing with the City, you run into a little bit of a different problem, because in the City with the numbers involved, it tends to get out of hand. The auxiliary, in other words now, we're -- we have the auxiliary petition. I

don't see any of that in here. I don't see any of that, and it seems to me that if the City has set up this program with its own limitations on it, that it's not for us to change it.

SENATOR HOLLAND: Senator, it's -- this is not a mandate. It's up to the individual police departments to allow it. It's only to be used as a defensive weapon. There will be education for the auxiliary policemen before they go out there and only to be used in a deadly force situation. I don't see where any of the arguments you gave fits in here.

ACTING PRESIDENT FARLEY: Read the last section.

Senator Volker.

SENATOR VOLKER: Mr. President, very quickly, and this -- this bill, I think, points up the kind of almost bizarre nature of the situation we're in with certain -- certain of our so-called defense weapons.

As Senator Padavan points out to me, every mailman in New York State has a form of mace. Probably it's estimated 20 to 25

percent of the people in some of the urban areas are carrying mace, even though it's technically illegal. We've been passing bills in this house for several years trying to make mace legal in part because half the population of the state of New York is carrying mace.

I would like to point out also that auxiliary police already are authorized to use batons, which I think probably is more of potentially an offensive weapon than mace. The problem here is, and the reason I can tell you why the police conferences and the police are opposed to this, they're really not opposed to it in principle. Their problem is that across this state, some of the localities that have been pinched for cash are beginning to try to use auxiliary police in place of police officers. That's a bad idea and a tough problem, but the auxiliary police will say to you, that's why what they're really asking for is something like mace, which is really a defensive -- a defensive weapon and not really a-- they're not asking for guns or anything of

that nature.

The police, I think, simply are opposed just on the basis that at this point they just don't want to give anything to the auxiliary police. A strange thing about the New York City memo is, if you read it, it sort of says that, yeah, we realize we don't have to do it but we'd just as soon not have legislation authorizing us to do it if we decide not to, and the truth is this bill doesn't say they have to do it and, if they decide to do it, it gives them even more structure in law to allow them to make determinations as to what should be done.

So I just think it's kind of a - there's another issue involved here to say that most of the people out there in the street or a lot of them are using these things illegally, so that now we don't want to make it legal for police people who are connected with police to carry them and, by the way, I hesitate to tell you this, but I know a lot of auxiliary police are carrying it right now and don't let anybody kid you, because if everybody else is carrying

it, why shouldn't they carry it? And what we're really trying to do here is make it legal and give them some training.

ACTING PRESIDENT FARLEY: Senator Jones.

SENATOR JONES: Yes, I would just like to -- I am going to vote against this bill and I would have to concur, I have spoken to the police in my area, and I would concur with what Senator Volker said. He's correct, it is a bigger issue and in some of the towns I represent, that's exactly what's happening: For budget-cutting purposes, they're using auxiliary police, and I think the issue is that the police, and rightfully so in my opinion, feel as though they put in many, many hours and effort into training and that they're not willing to give up things that are there.

I agree also with my colleague who said we should investigate the whole mace thing over and apart from this because as a woman, I would like to carry it, but I will vote no because I think our police are deserving of

our support on this issue.

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Those recorded in the negative on Calendar Number 19 are Senators Dollinger, Espada, Galiber, Gold, Jones, Markowitz, Mendez, Montgomery, Onorato, Smith, and Solomon. Ayes 39 -- also Senator Oppenheimer. Ayes 38, nays 12.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present.

SENATOR PRESENT: May we take up Calendar 22 and follow it by Calendar 23.

ACTING PRESIDENT FARLEY: Secretary will call up Calendar Number 22.

THE SECRETARY: Calendar Number

22, by Senator Volker, Senate Bill Number 247, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR VOLKER: Mr. President, this -- the bill has passed this house on several occasions, and I'm -- I don't know, I am hopeful that we can do something with it in the Assembly. It's my own personal feeling that the reason it hasn't passed is not because it has any substantial effect on the rights of anybody but because the -- in fact, I'm told this by some of the Assembly people, that they -- in principle, they have concern about passing a bill such as this to get rid of some of the technicalities that have been used in criminal proceedings.

What happened here was that a convicted rapist, the prime issue involved here, a fellow by the name of Johnson, in a case in Buffalo, signed a waiver of immunity. There's no question of that. He admits that. He admits that he intended to do that and was convicted.

The case -- the conviction was thrown out because, under the statute, the statute says that the waiver of immunity must occur in the presence of the grand jury. The assistant D.A. who handled this basically admitted that he had -- probably that the grand jury was not immediately present at the time of the signing of the waiver. The attorneys, the defense attorney, everybody admitted it and virtually everybody admits that that whole concept of waiver of immunity in today's climate where people are tromping in and out of the grand jury room, really doesn't mean very much to start with.

The real issue always has been the issue of whether the waiver of immunity was done voluntarily and knowingly, and that is still the law and would still remain the law once this bill was passed. All this bill would change would be -- is that it wouldn't necessar ily have to be actually in the presence of the grand jury itself which really means nothing because the grand jury doesn't know what's going

on for the most part anyway, and the issue is really the signing of the waiver of immunity.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, this is another bill we've had before. Last year Senators Connor, myself, and Senator Markowitz and Mendez, Montgomery, Ohrenstein, Oppenheimer, Smith, and Solomon voted in the negative.

The problem with the bill is basically there was one case one time when an assistant D.A. made a mistake and you, therefore, want to change the law and affect people's rights in a substantial way because of one case; and you don't do that.

I gave an example before on this. Someone who built a golf course played with their friends and every time they saw where their friend hit a ball, the next time they played the guy put a sand trap there.

Well, you can't set up the penal

code and the criminal laws for one case every time there's a difference. Prosecutors in this state are very well trained, and young prosecutors coming into the office should be well trained, and you don't put an assistant district attorney in charge of a grand jury unless he knows what's happening, and the fact is that, since Senator Volker brought this bill to us, I don't know whether there's been any other cases, but I haven't heard about them. He says there are.

The bottom line is that, when someone waives immunity in this country, that is heavy stuff, and for Senator Volker to say it's just a formality the way you do it, I don't think is fair. Our system could be a lot simpler if we didn't care so much about the rights of innocent people and the rights of accuseds and, yes, you don't walk in guilty like you do in other countries. You walk in innocent, and they have to prove you guilty and you can waive immunity. You can. You have do it properly, but, if you don't do it properly, the law

protects you, and to give away that protection because of one case as horrible as it may be, makes no sense.

So I would urge everyone to defeat this. The grand jury works well. The prosecutors that run it work well and because one prosecutor made a mistake is the wrong reason, I think, to change the law.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Volker.

SENATOR VOLKER: Mr. President. Senator Gold, I know, has been in a grand jury room. I have been in a grand jury room too. There have been other cases, by the way, that involved this issue, but for the most part nobody pays any attention to it because it really is a technicality that has clearly out lived its usefulness, virtually everyone agrees.

The only people that, frankly, don't seem to agree, because if you think about it, the first thing a prosecutor has to do is

ask the question, Did you sign an immunity? Was it knowingly, and so forth, to go through the process. The fact of whether the grand jury saw you sign it or not really makes no difference and, in fact, if the prosecutor doesn't make it clear that there's the immunity, then you got the real problem and if it's not knowing and if it's not clearly -- clearly done.

The truth is, this is not the only case, although it's been pointed out to a number of us who have looked at this issue that this probably happens a lot because assistant district attorneys really, when you've got people coming in and out on a regular basis, the question is did the grand jury ever see it any way, and from what I understand, it's much more prevalent in New York City than it would be in upstate New York.

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

ACTING PRESIDENT FARLEY: Senator Volker, will you yield?

SENATOR VOLKER: Yes.

SENATOR GOLD: Senator, when this happened up in your area, there was a lot of press on it, wasn't there?

SENATOR VOLKER: Quite a bit, right.

SENATOR GOLD: Lot of public outrage.

SENATOR VOLKER: Right.

SENATOR GOLD: Don't you think, if this was happening all over the state, that we would see this then in the papers, if it was happening in Utica and in Albany? If it was happening every day, isn't it obvious we'd see some of it in the papers?

SENATOR VOLKER: I never said it was happening every day. For the most part, defense attorneys and prosecuting attorneys don't pay any attention to this. But the possibility of an outrageous situation like this happening, and then we are told where there are some other incidents where appeals have been made based on this sort of happening, the possibility when you think of it, when there is

no significant reason for doing this in the kind of era that we're in, makes no sense and we should just get rid of it.

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: Read the last section.

Oh, Senator Halperin.

SENATOR HALPERIN: Yes. Would Senator Volker yield to a question, please?

ACTING PRESIDENT FARLEY: I'm confident he will.

SENATOR VOLKER: Sure.

ACTING PRESIDENT FARLEY: Senator Volker.

SENATOR HALPERIN: Under your legislation, how would the issue of whether or not a waiver of immunity had been signed be resolved? What would be -- who would determine it; which court would determine it and what would be the standard of proof?

SENATOR VOLKER: Well, that wouldn't change at all, Senator. You know how it's done now. You have -- in fact, one of the

things in the grand jury minutes has to be the declaration and a statement from the -- the person, the defendant himself, that he did sign a -- a waiver of immunity and signed it knowingly, and so forth. So that wouldn't change, and that issue -- the issue, this issue, came up on appeal after the trial was over with when the attorney went back and said, Wait a minute, you know. Someone said the assistant district attorney probably could have said, "Oh, well, I think I did it before the -- right before the grand jury," but in whatever the circumstances were, he was very candid and said, "No, I guess I probably didn't."

SENATOR HALPERIN: So, in other words, before the witness would testify, there would have to be entered onto -- it would have to be an acknowledgement that would be entered onto the record that, in fact, he was waiving - he or she was waiving immunity.

SENATOR VOLKER: Sure.

SENATOR HALPERIN: And that they had signed something and that was his signature.

That's what would have to be done?

SENATOR VOLKER: Oh, sure, certainly.

SENATOR HALPERIN: So the only issue would be whether the actual signing of that document occurred while the grand jury was watching or was not watching.

SENATOR VOLKER: Exactly.

SENATOR GOLD: Last section.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: It's my understanding, Senator, that this legislation does note affect the constitutional test of the waiver of immunity, that the court would still determine whether it was freely and voluntarily given.

SENATOR VOLKER: Yes.

SENATOR DOLLINGER: And the court would then decide whether it's a factor along with the other matters that the court would

review in determining how it was granted.

SENATOR VOLKER: If there was some question whether it was acknowledged and it was done properly, it would seem to be an issue for the court.

SENATOR DOLLINGER: Well, it would certainly seem to me, Mr. President, that if it was done in a district attorney's office or on a cell block or some place, that would be a factor to be considered by the court in determining whether it was knowingly and willingly granted.

SENATOR VOLKER: Certainly.

SENATOR DOLLINGER: And I think that that has to be understood in the context of the Senator's proposal.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Those recorded in the negative on Calendar Number 22 are Senators Connor, Espada, Galiber, Gold, Markowitz, Mendez, Montgomery, Ohrenstein, Santiago, Smith, and Solomon. Ayes 42, nays 11.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 23, by Senator Volker, Senate Bill Number 364, an act to amend the Penal Law.

ACTING PRESIDENT FARLEY: Explanation.

SENATOR VOLKER: Now that we got through the previous legislation, this one is much, much simpler.

All this bill would do, it would add pornography to -- as a -- to the definitions of the criminal or to those areas that are in volved in the Organized Crime Control Act. In other words, we would include the crime of por nography under RICO, which is the racketeering act that we passed some years ago, and it's been

used very successfully against organized crime throughout this state.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: I think last year we set the record for the shortest debate in this area and maybe we can keep it that way. Senator Babbush and myself and Senator Galiber and Montgomery voted in the negative.

Everybody's against organized crime; we're all against pornography. The only issue is whether or not in handling pornography we are going to take that and also put it under the organized crime statute. If this bill does not pass, pornography is still a crime in the state of New York. It doesn't do anything in that regard, and it's just a question of philosophy.

Last section.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Those recorded in the negative on Calendar Number 23 are Senators Connor, Espada, Galiber, Gold and Montgomery. Ayes 50, nays 5.

ACTING PRESIDENT FARLEY: That bill is passed.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'd like unanimous consent to be recorded in the negative on Calendar Number 22, please.

ACTING PRESIDENT FARLEY: Senator Oppenheimer will be in the negative on Calendar Number 22.

Senator Holland.

SENATOR HOLLAND: Yes, Mr.

President, on page 4, I offer the following amendments to my bill, Calendar Number 17, Senate Print Number 205, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT FARLEY: Amendments are received. The bill will retain its place.

Senator Present.

SENATOR PRESENT: I believe Senator Galiber has a resolution which I wish you would entertain at this time.

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: Yes. Thank you, Mr. President.

I have a resolution, I believe, that's at the desk.

ACTING PRESIDENT FARLEY: It is.

SENATOR GALIBER: Mr. President, under normal circumstances, time is an important factor, but we have lost in this great country of ours one of the heroes of our nation. Therefore, I would ask that you read the

resolution in toto of Thurgood Marshall, Justice of the Supreme Court of the United States.

ACTING PRESIDENT FARLEY: The Secretary would read the resolution for Justice Marshall.

THE SECRETARY: Legislative Resolution, by Senator Galiber, commemorating the life and career of the Honorable Thurgood Marshall, Justice of the Supreme Court, and expressing sincerest sorrow upon the occasion of his death.

WHEREAS, it is the sense of this legislative body that the common and shared responsibility of governance demands an irrevocable commitment to the preservation and enhancement of human dignity;

There is no substitute, no alternative to the full implementation of that prerogative; on the contrary, the safe, sure and positive definition of civil liberties dictates that the discretionary power inherent in govern ance be weighted in favor of that commitment;

The very viability of democratic

procedure, the most characteristic attribute of its sovereignty, remains an unswerving commit ment to the pervasive and equitable extension of civil liberties;

It is the intent of this assembled body to address the significance of the life and career of the Honorable Thurgood Marshall, Justice of the Supreme Court;

The life and career of Justice Thurgood Marshall represents an unyielding commitment to the primacy of law, to those prerogatives of justice and human dignity so paradigmatic of our American manner;

Justice Marshall, the first African-American ever to serve on the nation's highest court and the great grandson of a slave, rose to a position of greatness by advocating civil rights that had long been wrongfully denied African-Americans;

Having grown up in a society pervaded by racism, he had the courage to seek to create a radically different world where the ideals of brotherhood and equality governed our

law;

Justice Marshall was the foremost champion of the rights of all persons, regard less of race or gender, to equal opportunity and equal justice; he understood that our Constitu tion had little meaning unless its protections are extended to all citizens;

Justice Marshall was appointed to the court in 1967 by President Lyndon B. Johnson after serving as a federal appeals court judge and as the Johnson administration solicitor general in charge of arguing cases before the high court;

Justice Marshall is the legal architect of civil rights strategy pressing his beliefs in equality for women, racial and political minorities; his vision of liberty was fixed and encompassed all people; his faith in the Constitution led him to be a stalwart defender of free speech, privacy and the rights of the accused;

Justice Marshall designed the brilliant legal strategy that outlawed racial

separation and successfully argued 29 out of 32 cases before the United States Supreme Court, including Brown v. Board of Education, the historic case removing the legal foundations from the doctrine of segregation;

For nearly a quarter of a century before his government service began, Thurgood Marshall was the legal director of the National Association for the Advancement of Colored People and was a pioneering lawyer who became America's most prominent civil rights attorney;

Through his sustained and long standing commitment to the ideals and principles upon which this nation was first founded, United States Supreme Court Justice Thurgood Marshall did so thoroughly advance that spirit of united purpose and shared concern which is the unalter able manifestation of our American experience;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberation and commemorate the life and career of Thurgood Marshall, Justice of the Supreme Court, expressing, in turn, sincerest sorrow

upon the occasion of his death, and lasting appreciation for his commitment and the changes wrought by his career and life; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to Mrs. Thurgood (Suyat) Marshall and to Thurgood Marshall, Jr., and to John Marshall.

ACTING PRESIDENT FARLEY: On the resolution, Senator Galiber.

SENATOR GALIBER: Mr. President, thank you for reading the resolution in toto.

There comes a time in this great country of ours which all of us have or most of us have a great deal of love for. Every now and then, a giant steps forth in our nation, someone who commands, if you will, the recognition of a good American.

Justice Marshall is one of those persons. He exemplifies what our system is all about, what the potential of our system really is, and Justice Marshall's life was not easy. He came from a town or a state of Maryland, and

good stock came out of Maryland. There's the Mitchell family, who fought for civil rights, for issues of great concern.

There must be something in the water there that's lacking in other places, except one person. That was a justice by the name of Taney, and some of you recall in your history books he was the one who suggested 110 years prior to President Johnson designating Justice Marshall as the first black to the Supreme Court, he said 110 years prior to that, that blacks in America had no constitutional rights, they were not part of this great country. So Maryland has not always been a consistent place for civil rights.

But a strong advocate of civil rights in Justice Marshall, and also Dr. Martin Luther King, I think, perhaps a quote at this time in history when next month we celebrate Black History Week, that we take in context the growth and the movement and what these great people have offered to this great nation of ours, and we've got to take it in the context.

It's not enough for some to introduce a resolution on Dr. King or introduce a resolution to Thurgood Marshall unless built into their souls they have a commitment to this, that they understand that it came about at a time, these leaders of ours, when they were so sorely needed.

Bear with me a moment. 29 years after Dr. King died, and he came up at a time like Thurgood Marshall came up at a time when they experienced blacks not sitting in the front of the bus, that lynchings took place almost on a daily basis, that they hadn't -- could not sit down at the counters and eat, could not drive the buses, could not work the land, at a time like that.

In our lifetime, Thurgood Marshall experienced the same fate. He came up as a practicing attorney. Father wanted him to be a dentist, and he said, I became a lawyer because my father insisted that I pay attention and argue every point and have an answer for every question that were asked of me.

He made application to a small college in Maryland, law school. Turned down. And revenge is sweet on occasion. Some of us don't practice revenge because that's bad, takes up too much time, and one of the first suits that he brought after passing the bar, he sued that law school and was successful in terms of them entering or allowing blacks to enter law school.

Both these great men, great Americans, came up at a time when it was not popular, if you will, to think in terms of being part of a system. They came up at a time when we were concerned about the growth of blacks in America. There were some of us who argued that the Constitution applied and Thurgood Marshall was -- Thurgood Marshall was committed to a Constitution that some of your forefathers had written and did not apply to blacks in this country. He said it does apply, that when we say "we, the people" we really meant "we, the people" and when we talked of equal opportunity we're talking about equal opportunity for all,

and when we talk about liberty and justice and fairness, we were talking about all the people. This is what this great Baltimore lawyer meant to us.

He was a giant too in his time and, interestingly, he was asked the question and it's all said in the resolution, he was asked a very simple question and he said, "Justice Marshall, what about your replacement? Would you want to see another black man on the Court of Appeals?" And he gave a very short, cryptic and fair answer. He said, "It doesn't make any difference except if that person be fair and just and," he said, "my father" -- and he quoted his father and grandfather quite often -- "he said that black snakes bite you; white snakes bite you. Still dead." And if we apply that notion to what we have now, it leaves something to be desired, in my best judgment.

Thurgood Marshall was chief counsel for the NAACP, U. S. Appeals Court, the nation's solicitor general, and the first black to serve with background and experience in

racism in this country and civil rights and a number of other things that we have mentioned in the resolution.

Think about it, that here's a man who had to go into the south to fight cases and sit in caskets in a funeral home to avoid the Ku Klux Klan from getting at him, and all these bad and horrible experiences. They called him "turkey" because he was poor and he was somewhat arrogant, and he was a handsome man and he spoke his mind, with peace of mind, rather, and we were so proud of him.

America should be proud of this man, because his work in civil rights, his work with women, his work with people in general has done so much to enhance this country in such a short period of time. Can you imagine the progress that we have made in this country when we stop to consider in the 29 years of Dr. King and the short life of Martin -- of Thurgood Marshall, Justice of the Supreme Court. Look at the growth in America during this short span of time. Look at the accomplishments that have

happened in this short span of time in this great nation of ours, with a lot of faults and a few cracks, but certainly a great, great, great, great country.

So I honor this man today as a great American, for someone who has given so much to us. I'm honored personally because of the skin color, the skin color that I have worn for over some 60 years, but more important I am so proud that America had the opportunity to share in the life of this great man.

Marshall was the only black ever to serve on the nation's highest court. Justice Marshall is one of the Titanics, if you will, of American law, and a great grandson of a slave. Justice Marshall rose to a position of greatness and by winning civil rights cases that had long been wrongfully denied African-Americans, and he grew up in a society pervaded by a racism, but he had the imagination and the courage to imagine a radically different world where the ideals of brotherhood and quality governance was the law of the land, and Justice Marshall was

the foremost champion of the rights of minorities to equal opportunity and affirmative action that we hear so much about which has taken on another context in what he really meant.

He talked about justice, and he understood that our Constitution had little meaning unless its protections are extended to all American citizens, to all the indigents, to the death row inmates and those with politically unpopular views. He was the only Supreme Court Justice to have represented a defendant accused of murder in the south.

So, Mr. Chairman, Mr. President, I ask that those who are here today and those who are desirous of joining with me as we celebrate a great American, the loss to America, the loss to a number of people, as we celebrate his death and recognize what he has offered to this great nation of ours in such a short span of time, that he has reversed America, that he has added to this great country.

He has given to us a different

perspective about basic human rights, and we in this chamber argue from time to time whether we're getting too tough or whether we're giving up too much or whether we should go the extra mile or whether we should give someone an equal opportunity to participate.

Colleagues, we're not doing that bad in America. We have a long, long way to go, but if you listen very carefully as we celebrate the death of Thurgood Marshall and as we celebrate Dr. Martin Luther King's birthday and as we celebrate Black History Week, we have made giant steps in the right direction. A long way to go, no question about it.

So I'd ask that those who are desirous of doing so, join myself and Senator Waldon, who is co-sponsor, prime co-sponsor of this resolution, who could not be here today, to join us with this resolution. But only join us, do not put your name on this resolution unless you feel a strong commitment to what this man represented. I would rather you not put your name on it if you do not have that kind of

commitment.

Thank you for your time.

ACTING PRESIDENT FARLEY: Senator Ohrenstein.

SENATOR OHRENSTEIN: Mr. President, I'm very pleased to rise to second this resolution.

It's -- it's almost trite to say that America has lost an enormous asset. Thurgood Marshall became not just another Justice of the Supreme Court. Thurgood Marshall became an institution that represented so many things that were important to the country that it is very difficult to imagine this country without him.

He was one of those people you just relied on as being there and he was a - he put a stamp on a certain part of this country and the certain things which this country stood for, so you expected him to be there because he, in every day of his life and certainly every day of his public life, reiterated and underlined the things that he stood for and that he made

important for the United States of America.

There's a very interesting observation one has to make about Thurgood Marshall's life and his antecedents. Thurgood Marshall was a revolutionary in every sense of the word. He may not have fought a revolution at the point of a gun or at the point of a sword but he fought a revolution in words and in actions and in deeds. He was at the cutting edge of the civil rights revolution in this country, and I don't think we should ever forget that at the time that Thurgood Marshall - Thurgood Marshall was active, it was, in fact, during the middle of a civil rights revolution in this country, because the changes that took place as a result of that period of time in the '50s and in the '60s, this country changed fundamentally and in a revolutionary way.

Our new President quoted President Jefferson in his inaugural address and indicated that President Jefferson was a revolutionary, because when you read Jefferson's writings and you read his concept of what a

representative democracy is like, you understand that here was a man who believed with all of his heart and mind that this country, if it stood for anything, it stood for the ability to change and to learn and to adjust to new conditions and new circumstances that we are met with from time to time.

And I am not at all unabashed of ranking Thurgood Marshall with Thomas Jefferson, because just as Thomas Jefferson said that the tree of liberty had to be watered with blood every 20 years -- and that's what he said, so if you want to talk about a revolutionary, there was the revolutionary -- because not only did he participate in the American Revolution, he indicated that the American Revolution had to be a constant thing, ever repeated, ever reborn, and that's what Thurgood Marshall stood for.

He was at the front line of the civil rights revolution, and that was a real revolution. It was one of those 20-year revolutions because that revolution was watered in blood, and maybe Thurgood Marshall was not

out there drawing the blood, but he was there and without him the blood could neither be drawn nor spilled nor finally put to rest.

Most of us in my age group at least grew up with Thurgood Marshall as a symbol, both in his young manhood and his middle manhood and then finally in the great, reaching the great -- the greatness of being a member of the Supreme Court and participating in every way in shaping America.

Now, what is interesting to me is that, as we change in this country, new people come into government. New people come into leadership and, when we go through these changes, there is always the feeling how could this particular person become a President? How could that particular person become a Supreme Court Justice? How could they be a United States Senator? How could they be a governor? Look what they did. This man is a radical or this woman is a radical. This is an unreliable person. This is someone who can't be counted on to emphasize the verities for which this country

stands for, and you can go through the list, whether it's the women's rights movement or the civil rights movement, or the movement for -- as recognizing Hispanics or Puerto Ricans or for Jews or the Irish or the Italians. Every time the leaders, as they are perceived and as they rise from the ranks, how could you entrust the future of the United States of America to people like this? They're foreigners. They're aliens. They don't represent what this country stands for. They're not responsible. They cannot rise to the mantle of leadership.

Well, look at the life of Thurgood Marshall. Thirty years ago, he was a revolutionary; 30 years ago, he was perceived as someone who was close to being irresponsible. How could you entrust the life of this country to him? And here we are at the end of his life knowing that he was a rock around which the Supreme Court of the United States functioned for the last 20 or so years; someone who took his revolutionary principles and made them the very bedrock of the United States Constitution

because when he was in the majority on the court and then, now, when he was in the minority on the court, you could count on Thurgood Marshall to talk about what is important for this country, not just in civil rights because that's where he was an expert. But read his opinions on anti-trust law or securities law or insurance law. All of the esoteria with which -- and the complexity which this country is made of and which have to function, all of these have to function together in order to continue our prosperity and to continue our leadership in the world and our leadership for ourselves. And here was this revolutionary who grew to take his principles to the very top of this nation and plant them immutably into the Constitution of the United States.

So what I take from this great life is a lesson to this country that, as we grow from era to era, from time to time, from revolution to revolution, from change to change, we have to take heed of the leaders that lead these movements because they may be revolution

aries at the time and some people may think they're going off the track and they're leading this country to perdition when, in fact, they are the leaders who lead this country to its true self and to its fulfillment in their particular time and their particular place.

I don't think there's any greater tribute that we can pay to any man than to say that he spent his life in bringing about change which was needed, going that last mile to make sure the change occurred, and then taking it and making it part of the American way of life and making America better than it was, and that's what Thurgood Marshall did.

Finally, I simply want to say this: I was in Washington, I had the privilege of being in Washington last Wednesday and most of us who sat there were expecting to see Thurgood Marshall because he was listed as a - as imparting the oath to our new vice-president, Albert Gore, and it was very disappointing when, without any notice, when it came to that moment in time when Senator Gore was being sworn in as

vice-president, the name of Justice White was announced instead of the name of Justice Marshall.

We all knew that Justice Marshall had not been well, but no one had any sense that he was so close to leaving us, and it was a great disappointment because that ceremony was impressive. It was inspiring and it would have been a wonderful end of a -- an unimaginably important career to have seen him there.

So I just want to say for myself, it was a very disappointing moment not to be able to see him there as it would have turned out in some of the last moments in his life.

So I agree with Joe Galiber, this is the moment for sadness and disappointment but, more importantly, it's a moment of celebrating a very, very important life, a very important life style, a very important landmark in our history, and hopefully an important lesson to all of us as to how great leaders are born, how they become great leaders and how they finally manage to lead not only their own

causes, but the greatest cause of all, which is the greatness and the growth of this great country.

ACTING PRESIDENT FARLEY: Senator Marchi.

SENATOR MARCHI: Mr. President, it's certainly appropriate and fitting that this resolution be before us and it has great signif icance. The road to recognition of human dignity is a long and difficult one. I think we're indebted to Senator Paterson at one point who pointed out the presence, yes, in the Constitution of the United States of the vestigial remnant that is not applicable.

Thomas Jefferson himself was a slave owner, but already he felt that -- that this was not the right way to go. As a matter of fact, when he developed his Articles of Confederation and the Northwest Ordinance he expressly ruled it out. He authored it and did not want that as a part of the Northwest Ordinance which led to the development of five states north of the Ohio River, and it was by

fitting false jumps and starts that we reached the time of the Civil War, the Emancipation Proclamation, and the adoption of the Thir teenth, Fourteenth and Fifteenth Amendments.

But still it was an enormous territory to travel and, indeed, I think the contribution of Thurgood Marshall and Dr. King was not to structure a brutal reaction to all this, but to win the hearts and minds of the men and women of America and the echo that has resounded around the world and in this that they were eminently successful because these were the efforts that were crowned with success.

Not that this was the end of the road, but it established the premises upon which a society could, in an orderly way, in a very happy way really, interact with each other on the basis of full acceptance and respect for the dignity of every member of the human family. And this was a -- this was a -- not only a legal achievement, something that went into the Constitution.

England has no constitution at

all. They don't have a supreme court, but it grew out of the customs and usages of the people and they too have a very fine open society.

But this -- this went to the root of the spiritual, the spiritual -- spiritual heritage of our country, and it became part of our very being, and hopefully this is the path that will also lead us into implementing that respect that we have for every member of humanity, and with that must also go a concern for that person's existence, for his happiness and her happiness which contributes really. It helps everyone. It helps the one who -- who recognizes this as much as the one who receives this recognition.

So we all benefit. We all benefit by the prodigious monumental efforts of Thurgood Marshall and Dr. King. We all benefit by it, and it establishes an even higher plateau and a more auspicious one notwithstanding the flaws that exist in a human society, but as we lift our sights, as we lift those sights, it gives us a better vision of what can be and will

be, if we want it to be.

ACTING PRESIDENT FARLEY: Senator Galiber, is your resolution open for other people?

SENATOR GALIBER: Oh, definitely.

ACTING PRESIDENT FARLEY: No, they're coming up to the desk. The resolution is open for anybody who wishes to co-sponsor.

Senator Daly -- raise your hand or let the desk know if you want to be on it. Senator Daly.

SENATOR DALY: I think it's appropriate that we place in the record today the words of a peer of Justice Marshall. Justice Sandra Day O'Connor described Justice Marshall as "a man who sees the world exactly as it is and pushes on to make it what it can become." And seldom have I heard one sentence so completely and so admiringly describe an individual, and I thought it would be appropriate if these words were interred in the document that will preserve his memory and glorify his life.

ACTING PRESIDENT FARLEY: Senator Dollinger, and then Senator Paterson.

SENATOR DOLLINGER: Mr. President, I rise to just focus on one incident that I think might provide a little guidance and I hope provide some guidance for the future of this chamber.

One of the episodes that Senator Galiber mentioned was the advocacy of Justice Marshall in the Brown v. Board of Education case, and I think it's important that we look back on what was at stake in that case and what role he played in it.

For about 70 years before it, this country had lived under the rule of Plessy v. Ferguson which said that it was O.K. under the Constitution to have a separate but equal system in which we treated people differently, but our Constitution did not compel everyone in this country to work together, to live together and to be educated together.

So the hurdle that he faced in Brown v. Board of Education was a sizeable one.

Yet he performed his task admirably and, in fact, convinced the entire United States Supreme Court to strike down that rule of law and to usher in a new era in which "separate but equal" would no longer be a part.

Those of you who were alive then -- I was just a young child -- I'm sure no doubt recall what transpired after that. A veritable constitutional crisis when certain states decided that they were immune from the new nationwide principle of integration of opportunity.

Required President Eisenhower to send troops into Arkansas. It required confron tations between governors who were segregation ists and a president and a government, a national government, who were committed to the principles of equality.

Now, as we look back 30 years later, it seems that that's a constant struggle that we have achieved a sense of integration, a sense of our community of purpose with all the people in this country. Yet, I think it's

important to recognize that the dream espoused in Brown v. Board of Education, one that Thurgood Marshall created, is not a reality yet.

I concur with my colleague, Senator Galiber, we are not down the road yet. We can take some consolation in knowing that those who took the first big step have made it much easier for us who take the smaller step to follow in their path, but we would do Thurgood Marshall a disservice if we didn't commit our selves in this state to making sure that the principle of equal opportunity in education for all our children is a part of our future. We in this body hold the power to make that happen. We owe it to Thurgood Marshall's legacy to make sure that it does.

ACTING PRESIDENT FARLEY: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Thurgood Marshall was not an outstanding African-American Justice of the

Supreme Court. He was an outstanding Justice of the Supreme Court, and I think that that rang pretty clear from the remarks that Senator Daly and Senator Marchi who pointed out that we are all indebted to Justice Marshall, that the struggles that Justice Marshall endured in his legal career and then as a Justice of the Supreme Court are symbolic of our struggle as Americans to receive equality in justice.

Certainly when Senator Ohrenstein pointed out the other areas of law that Justice Marshall made great inroads in, the areas of anti-trust law, the areas of securities law and I was thinking of the decisions he made on patents, we recognize this great talent.

But at the same time Justice Marshall is a symbol; Justice Marshall was the grandson of a slave. Well, our President Benjamin Harrison was the grandson of our President William Henry Harrison. Our President John Quincy Adams was the son of President John Adams, but no one in the Marshall family would ever have had the opportunity to serve America

as Justice Marshall did, really by an accident of birth, and so when we celebrate the career of Justice Thurgood Marshall, we are also celebrating those African-Americans, both the living and the dead, who struggled throughout the 19th and 20th centuries to build a viable national movement that was aimed in the direction of receiving economic, political and social justice.

And so Justice Marshall is really symbolic of many whose names we don't know who, on the lower frequencies, offered America the same opportunities for freedom and justice that Justice Marshall was able to write in his decisions, and when we think of Justice Marshall's grandparents who were slaves, we think of the Supreme Court decision of the Dred Scott case in 1857.

This was the case that ruled, some believed, that there could be slavery north of the 36th parallel, and so that the Kansas Nebraska Act and also the compromise of 1850 were valid, but actually the Dred Scott case did

not rule on that particular issue. That issue was rendered by a Supreme Court verdict of 1852 in the case of Spada v. Graham.

The Dred Scott decision ruled that Dred Scott, since he was considered to be a slave and the property of other parties, did not have the right to sue in a national court case before the United States Supreme Court and so, what we learn is that, when Justice Marshall was growing up and he talked to his grandparents, they couldn't talk about the institution of the railroad or the greater than ever economic development in the United States in the late 19th Century. All they could talk to him was about herding the fields and picking cotton and all of those jobs that were incumbent upon slaves in this country.

So when we look at how far we've come, we recognize that Justice Marshall's decisions really are indemic of a problem that this country continues to have and that is simply that ever since the Brown v. Board of Education decision of 1954, we have not been

able to create the type of economic and political and social justice that we would like to have despite the passage of the 1964 Civil Rights Act or the -- or the 1965 Voting Rights Act, and that those such as Justice Marshall are really something that we as Americans have to consider to be of -- of a valueless proportion to our development as a country, and when you pick up the newspaper, as I did last week and read that Justice Marshall's predecessor voted to abolish a 19... 1876 civil rights decision that would have protected clinics that provide abortions from the type of pressure and the type of political organizing for which they have been victim of, we recognize that maybe we shouldn't be celebrating the passing of Justice Marshall, but should be very sad.

So we have to read that Justice Marshall's predecessor rendered a decision in a case where the Reagan/Bush Justice Department sued a city in Alabama because an African American city councilman could not receive the powers that were incumbent upon the office at

the time that this council member was a candidate for office because the board of governors of this city reassigned and realigned the actual political powers that this office conveyed, we recognize that in a 7 to 2 decision in which the Justice Department prevailed, that unfortunately Justice Marshall's predecessor voted with Justice Scalia to delay what would be equality in this country right now.

So I think that we certainly are -- should pay a great debt of gratitude to Senator Galiber and Senator Waldon who could not be here today for having the foresight to celebrate this time in American history which is certainly one that we would want to reflect as the passage of a great era in the United States Supreme Court and the passing of a great man.

I'm only sorry that the same foresight did not exist when Americans opposed the nomination of Justice Marshall back in April of 1967, not because they thought that his decisions would be too liberal, not because they disagreed with an ideological point of view that

Justice Marshall had, but because Justice Marshall looked a little bit different than those who sat on the court before him.

Through his effort and through the efforts of President Johnson who nominated him and all of those who spoke on this resolution today, certainly he would be remembered a lot more fondly by all Americans than he was thought of when he was a nominee to the Supreme Court.

ACTING PRESIDENT FARLEY: On the resolution. Senator Nolan. Would you care to speak as to the resolution?

SENATOR NOLAN: Like to speak briefly to the resolution. It's a tough act to follow Senator Paterson, Senator Dollinger, Senator Marchi and so many of my colleagues.

But truly I think a lot of us here realize that maybe the single biggest issue facing this country over the next 10 to 20 years is the whole issue of race relationships in this country and, you know, we have certainly come a long way since President Lincoln enunciated the

Emancipation Proclamation, since many things that have happened over the years and certainly the Brown v. Board of Education decision where Thurgood Marshall so ably represented the plaintiff and, as I say, we still have an awful long way to go, but Thurgood Marshall certainly was one of the people in this country that has helped move our process forward so considerably.

When we think of the time that Thurgood Marshall grew up, where when he wanted to -- a brilliant student in college, when he tried to enter the University of Maryland, was turned down on the basis that -- of his race, and who later sued, by the way, the University of Maryland in order to allow minorities to be able to enroll there, we look at his career, and he certainly is one of the great human beings and one of the great people in the history of this country, not black or white or Hispanic or whatever, but one of the great human beings, as Senator Paterson talked about and Senator Galiber, and it was the fact that he was an African-American serving on the Supreme Court.

He was a great Supreme Court Justice.

He, very interesting, many of his early decisions, when he was dissenting, later became the majority opinions of that court.

I think he's certainly a man that we all can admire very, very much, and certainly it was a sad day when health necessitated that he step down from the court.

He certainly left a great legacy. He left a legacy of great intellect, great compassion as a human being. I thought it was very interesting that some people thought, in his later years, he was a very taciturn, very stern individual, but yet when I read stories about what Judge Brennan said about him, that he made that outward exterior, that he was one of the great raconteurs and great storytellers that he's ever met, a person who could weave stories about his youth, his growing up, and so on, to everyday situations and equate them to everyday situations that happen in our lives, and by telling a lot of these stories and many of them humorous, and so on, he was able to make points

to people that might not easily bve recognized if you were going in a confrontation or one-on-one kind of situation.

A. So I am very happy and pleased to be able to stand up here today and second this resolution.

Thank you, Mr. Chairman.

ACTING PRESIDENT FARLEY: On the resolution, all in favor say aye.

(Response of "Aye.")

Those opposed nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Stachowski.

SENATOR STACHOWSKI: When we did the package of resolutions, I was remiss in not asking if anyone else besides on behalf of the western New York guys, who weren't on, asked me to put them on Resolution Number 258, which is another Bills resolution -

SENATOR CONNOR: Another one?

SENATOR STACHOWSKI: Yes; this one is marking the historic fact that the Bills are

going to the third -- three straight titles, the only team in the history of the league that are going to the Super Bowl the third straight title, and anyone else that would like to get on that, I'd like to open that up for them.

ACTING PRESIDENT FARLEY: Anyone else that would like to get on New York's team may join the resolution.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Yes, Senator Gold.

SENATOR GOLD: Yes, if the individuals who are raising their hands now would also like to be on my victory resolution for the Bills next week -

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Can we return to reports of standing committees?

ACTING PRESIDENT FARLEY: Yes, we may. Secretary will return to the reports of standing committees.

THE SECRETARY: Senator Maltese, from the Committee on Crime Victims, Crime and Correction, reports the following bills directly for third reading:

Senate Bill Number 128, by Senator Padavan, an act to amend the Executive Law; and ALSO Senate Bill Number 577, by Senator LaValle, an act to amend the Correction Law.

Senator Levy, from the Committee on Transportation, reports the following bills directly for third reading:

Senate Bill Number 67, by Senator Levy, requiring the Department of Motor Vehicles to inform the public of problems;

Senate Bill Number 70, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to penalties;

Senate Bill Number 192, by Senator Levy and others, an act to amend the Highway Law, in relation to making the cost of structural integrity evaluations;

Senate Bill Number 232, by Senator Tully and others, an act to amend

the Vehicle and Traffic Law and the State Finance Law.

All bills reported directly for third reading.

ACTING PRESIDENT FARLEY: Without objection, all bills reported directly to third reading.

Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I move we adjourn until Monday, February 3rd, at 2:30 p.m., intervening days to be legislative days.

ACTING PRESIDENT FARLEY: The Senate will stand adjourned until Monday at 2:30 p.m., prompt, intervening days to be legislative days.

(Whereupon at 4:48 p.m., the Senate adjourned.)