ALBANY, NEW YORK

May 25, 1993

3:35 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: Senate will come to order. Senators will please find their seats.

Please rise for the Pledge of Allegiance to the Flag.

(Whereupon, the Senate joined in the Pledge of Allegiance to the Flag.)

Today, in the absence of visiting clergy, we will bow our heads for a moment of silent prayer.

(Whereupon, there was a moment of silence.)

Secretary will again by reading the Journal.

THE SECRETARY: In Senate, Monday, May 24. The Senate met pursuant to adjournment. Senator Farley in the chair upon designation of the Temporary President. Prayer by Father Peter G. Young of the Blessed Sacrament Church of Bolton Landing. The Journal of Friday, May 24, 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.

We have a report of a standing committee, Senator Present.

Secretary will read.

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

Member of the Fire Fighting and Code Enforcement Personnel Standards and Education Committee, Francis J. Quinlan of Cortland; Dominick A. Timpano, of Utica.

Member of the Correction Medical Review Board, Gloria Herron Arthur, Esq., of Schenectady.

Member of the Board of Trustees of the State University of New York, Roderick G.

W. Chu, of New York City.

Member of the Board of Directors of the New York State Martin Luther King, Jr. Institute for Non-Violence, Young Kun Kim, Ph.D., of New York City.

ACTING PRESIDENT FARLEY: On the confirmation. All in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The nominees are confirmed.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Do we have any motions on the floor?

Senator Saland.

SENATOR SALAND: Mr. President, on page 38, I offer the following amendments to calendar 790, Senate Print 4940, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place on the Third Reading Calendar.

Senator Volker.

SENATOR VOLKER: Mr. President. On page 11, Calendar Number 463, Senate Print 4091, would you star that bill, please.

ACTING PRESIDENT FARLEY: Bill is starred at the request of the sponsor.

Senator Cook, do you have a motion?

SENATOR COOK: Yes. Mr. President, on page 36, I offer the following amendments to Calendar Number -- that's on the starred calendar, Calendar Number 631, Senate Print 3201, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: The bill is starred -- I men the amendments are received to the bill on the starred calendar.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Daly, on page 20, I offer

the following amendments to Calendar Number 720, Senate Print Number 2698, and ask that said bill retain its place on Third Calendar Reading.

ACTING PRESIDENT FARLEY: The bill will retain its place.

SENATOR WRIGHT: Mr. President, on behalf of Senator Libous, on page number 39, I offer the following amendments to starred Calendar Number 894, Senate Print Number 3927, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection.

We have a substitution, Senator Present.

Secretary will read the substitution.

THE SECRETARY: On page 36 of today's calendar, Senator Seward moves to discharge the Committee on Investigations, Taxation and Government Operations from Assembly Bill Number 5913A and substitute it for the identical Third Reading 623.

ACTING PRESIDENT FARLEY:

Substitution is ordered.

Senator Present.

SENATOR PRESENT: Mr. President, I move that we adopt the Resolution Calendar.

ACTING PRESIDENT FARLEY: All in favor of adopting the Resolution Calendar, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

SENATOR PRESENT: Mr. President, will you recognize Senator Volker.

ACTING PRESIDENT FARLEY: Senator Volker.

SENATOR VOLKER: Mr. President, there is a resolution at the desk, and I would like to call it up now and ask that the clerk read the entire resolution.

ACTING PRESIDENT FARLEY: The clerk will read Senator Volker's resolution.

THE SECRETARY: Legislative Resolution Number 1493, by Senators Volker, Marino, and all members of the Senate.

Legislative Resolution honoring the Division of New York State Police Commitment to Excellence.

Whereas, it is the sense of this legislative body that those who give positive definition to the profile and disposition of the communities of the state of New York do so profoundly strengthen our shared commitment to the exercise of freedom.

Attendant to such concern and fully in accord with its long standing traditions, it is the intent of this legislative body to honor the New York State Police Commitment to Excellence.

The Commitment to Excellence is a two-day theme marking State Police Recognition Days on May 24 and 25, 1993, in New York State.

On April 11, 1917, Governor Charles S. Whitman signed the bill into law

making that day the official birthday of the New York State Police.

That summer, the first contingent of 237 men began training at the National Guard Camp in Manlius, New York; the training was a combination of military drill and horsemanship, with legal training by two judges and an assistant attorney general; at the completion of the training the men went on to their first assignments, policing the State Fair; there they performed in an exemplary manner, immediately establishing a reputation for their skill, courage, fairness, and integrity; when the fair closed, they were divided into four troops and sent out on horseback to patrol the far corners of the state.

Since that time, the New York State Police has grown to over 4,000 sworn members, backed by more than 650 civilian support personnel; in 11 troops and in dozens of special details, plainclothed investigators, as well as Troopers wearing the traditional gray uniform, perform a full range of police services

from promoting highway safety to solving the most heinous of crimes.

The Division also operates the state's police communications network and four crime laboratories across the state; they provide special services, including K-9 units, SCUBA divers, aviation units, hazardous devices units and mobile response teams; today, the New York State Police also fields the second largest contingent of narcotic enforcement officers of a non-federal law enforcement agency.

In over 75 years of existence, the New York State Police has never wavered from its original mission: To provide the citizens of rural and suburban New York State with the finest around the clock police services available; the continuing quality of these services have been acknowledged by Governor Mario M. Cuomo, who recently bestowed upon the Division the Governor's 1992 Excelsior Award.

The New York State Police mirrors an unyielding concern for the primacy of local governance, for those prerogatives of personal

initiative and accountability as paradigmatic of our American manner.

Through its long and sustained commitment to the principles upon which this nation was founded, the New York State Police has so unselfishly advanced that spirit of united purpose and shared concern which is the unalterable manifestation of our American experience.

Now, therefore, be it resolved, that this legislative body pause in its deliberations and most joyously honor the New York State Police Commitment to Excellence, fully confident that such procedure mirrors our shared commitment to preserve, to enhance and to yet effect that patrimony of freedom which is our American heritage; and

Be it further resolved, that a copy of this resolution, suitably engrossed, be submitted to Thomas A. Constantine, Superintendent, New York State Police.

ACTING PRESIDENT FARLEY: On the resolution.

Senator Volker.

SENATOR VOLKER: Mr. President, first of all, let me say that we're proud today to have a large contingent of the New York State Police. In the gallery are virtually all the Troop Commanders and various administrative people from the State Police.

I think probably many of you saw out in the quadrangle as well as downstairs in the Concourse that there were various demonstrations going on during the last several days, everything from SCUBA diving to helicopters and physical training.

I think it pointed up something I think many of us really are not aware of; and that is, I think this is such a big state and there are so many different activities that we're just not aware of the scope of the State Police and the size of the State Police.

In fact, during the last few years when we went through probably -- well, not probably -- it was the most difficult fiscal crisis in New York's modern times, one of the

issues that came up year after year as we engaged in the largest downsizing of state government that any of us that have been here have been involved in was the issue of the State Police, to make sure -- and the Governor was as adamant as any of us were in making sure that the State Police were kept intact as possible.

I know that Mario Cuomo has always felt extremely close to the State Police as I think the Legislature. They are our chief law enforcement body, and they have a proud old tradition.

I guess from my perspective - and, by the way, there seems to be some confusion. I was not a member of the New York State Police. I was a member of a local police department. And, in fact, I believe I met Tom Constantine, who is the head of the State Police, when I was with that local police department and he was a Trooper in Western New York, and we have been friends ever since.

I guess my connection with the State Police to a certain extent goes back many,

many years. My father, as many of you know, was an Assemblyman, chairman of Codes in the Assembly, and at that time the chairman of Codes in the Assembly was particularly involved in not only criminal justice matters but in law enforcement matters.

My father had become a pretty close friend of Tom Dewey, who was the Governor of New York, and my father always claimed the reason that Dewey and he got along so well is my father was quite short and Dewey was quite short, and he liked to have my father standing next to him because he didn't look as if he was that short when my father stood next to him. In fact, one of the stories was that Dewey had elevator shoes which, of course, he did to try to enhance his height.

My father told me a story about a fiscal period back I believe in the late years of Dewey's administration, when he was about to run for president and the times were kind of tough, and it put the squeeze on a lot of things in the state budget, and one of those was the

state police; and my father one afternoon went in to the Governor and sat with the Governor and they talked about the budget, and he turned to the Governor and he said, "Governor, let me tell you something. We need the State Police. It is a proud organization that should be even prouder, and my word to you is either pay them or disband them." And Tom Dewey turned to my father and laughed and said, "You know, you're right. We better pay them."

And the reason I mention that is that I think the commitment to the State Police has been something that is longstanding in this state and that should never be forgotten because the State Police have given an awful lot to us as citizens of this state.

A number of Troopers over the years, and I have been at the funerals of some of those Troopers, have unfortunately given their lives for us. One very close friend of mine who passed away at St. Peter's Hospital - in fact, I was in the hospital myself right underneath. Hank Williams, who died as I had a

burst appendix -- in fact, died right underneath me in the hospital -- was a classic example of the kind of dedication that was given to the State Police. And as some of us said, he was dealt a hand at the Attica Prison uprising that really wasn't his hand, but he was willing to take the brunt of some of the criticisms even though he wasn't the one who really should have taken the criticism.

Let me just say that we have here, as I said, a number of people from the State Police; and I would like to, frankly, introduce them all; but obviously, we really don't have time to do that, but I would like to introduce the Superintendent of the State Police, Tom Constantine, who has been in charge of the operation for many years and who is, in my opinion, one of the finest police officers in this country. With him is Deputy Mike Houlihan, who is the Deputy Superintendent and also a fine Trooper and was in a Boy Scout Troop with Senator Ron Stafford. Senator Stafford, unfortunately, by the way, wanted to say that

he'd like to be here but he had to be off to New York City. I said to Ron, even though he was in the Boy Scout Troop with him, we still think he's a good Trooper. But at any rate -

In the gallery, as I say, are a number of the Troop Commanders, in fact most of the Troop Commanders, who have been around most of the day meeting with members. As the Superintendent said to me, if there is anything that anybody who wants to talk to any of his people, they would be more than happy to do that.

I would also like to finish up by just saying that -- to thank a number of the people from the State Police who helped to organize this operation as well as Tom Collins from my staff and Pat Gall from the Senate staff who did yeoman work in organizing this activity.

In finishing, I would just like to say that it seems to me that we don't do enough of thanking the people who serve us in this state, and I am very proud of the fact that

we were able to have these State Police recognition days, and there is really not a finer police operation I don't think in the United States of America than the State Police.

(Whereupon, Lieutenant Governor Lundine was in the chair.)

THE PRESIDENT: Senator Waldon.

SENATOR WALDON: Thank you, Mr. President.

To Superintendent Constantine, to all of the personnel who are here. When John Everhardt called me earlier today and said it was time to come to the chamber, I knew exactly what he was talking about because John constantly reminds me of the greatness of the New York State Troopers and what value they are to the people of the state of New York.

It's interesting that today the police officers, the State Troopers are the good Samaritans, because you are called upon not only to serve your fellow man, many times that person being a stranger to you, but you are also called upon to make the ultimate sacrifice when you

must put your life on the line to save someone who is being victimized by the violent criminals who are out there today.

So I applaud you. I applaud the fact that Senator Marino and Senator Volker would honor you on behalf of your excellence. And, Superintendent, I want you to know that I am impressed with the fact that you have 57 percent of your department, your force are college-educated, that you have so many doctorate degrees, that you clearly are meeting the complexity of modern day crime with people who are prepared for that.

In fact, I would encourage the members of this body to let's follow suit and try to be as excellent in our preparation as obviously our New York State troopers are.

I applaud your being here. It felt good to be among so many people who were in harness today, having been in that situation so many years of my life.

Good to see you guys.

THE PRESIDENT: Senator

Stachowski.

SENATOR STACHOWSKI: Mr. President, I'd just like to rise and take the opportunity of this resolution to thank the State Police for their participation in a unit that we have in Western New York called Alert, which is a water response unit that covers all of Lake Erie and all of the surrounding waterways, and the State Police are an integral part, and that has worked out so well in Western New York and the Lake Erie area that there's now an Alert 2 covering Lake Ontario, and the State Police are also an important part of that.

And I'd like to thank Tom Constantine for having his men so enthusiastic about their part, and I know that he supports it wholeheartedly, and the Troopers that are involved have been nothing but a great asset, and I just wanted to take this opportunity to thank them for their participation.

THE PRESIDENT: Senator Galiber.

SENATOR GALIBER: Thank you, Mr. President.

I want to take this opportunity also to firstly thank our leadership for bringing the Troopers here for these past two years with us. Those of us who have been around for a long, long while, and I have been, I can recall the horrible experience at Attica left a lot of bad feelings, and I have been honored and privileged to know the State Troopers and honor them for their excellence.

We went through some difficult times, but there are those of us who recognize that very thin line between the community in general and the safety and the comfortable feeling that we have when we know that you are out there doing a magnificent job. And those of us who from time to time have to vote on or think about or decide whether or not we should or should not increase, enhance, if you will, budget, it's interesting that Dale Volker indicated very clearly with his background in law enforcement and my colleague, Senator Waldon, in his background in law enforcement, that never have we taken the position that we

should cut back in this particular area. In fact, we should increase it, and we have watched you through the years through excellent leadership go further into the areas of concern that we have had as far as law enforcement is concerned.

So I wanted to add my voice today to congratulate you for not only your mission but your commitment and your excellence and your commitment to public safety, and that's extremely important to us in troubled times because we are living in troubled times. So congratulations to your leadership, Superintendent, and those who supervise so many men and women.

I was so happy to hear today, and I had the figures backwards for a while, but there are some over 100-and-some-odd women who are troopers today. Some ten to fifteen years ago, we would not hear about. It shows and indicates that we are trying to include in our Troopers, in our law enforcement arm here in New York State, which represents the community, some

600 or so minorities, which, again, ten, fifteen years ago did not exist.

So through proper leadership and time -- and time is an extremely important factor -- and those of us who are patient and have watched you grow, we are proud to say that we are part of New York State with some of the finest law enforcement arms in the world, certainly in the country if not in the world. And thank you for joining us for the two days.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Mr. President, I would be remiss if I did not afford myself the opportunity to rise on this resolution. I would be remiss not only as a member of this body, I would be remiss on the part of the people whom I represent and most directly on behalf of my family.

Not too long ago, somewhere in the area of about a year and a half ago, my son was the victim of a rather terrible crime, one which was caused by great violence and one which left him extremely injured. The State Police

were an integral part of law enforcement effort that brought his assailant to justice, and it reaffirmed that which I had always believed and always known, that to which a number of others have alluded to here today, that the New York State Police are one of the most extraordinarily capable and one of the most finest law enforcement entities you are going to find anywhere.

My confidence in them has always been extraordinary and, if anything, it's been enhanced by what I have seen and experienced first hand, not merely as one who gets to work with them as an elected official but one who had the misfortune of having a member of his family cry out at a time of need and they responded and responded admirably.

I would like to thank the Superintendent, Superintendent Constantine, as I have previously. I am forever in his debt. My family is forever in his debt. I think the people of the state of New York are forever in the debt of the New York State Police.

We thank you wholeheartedly.

THE PRESIDENT: Senator Mega.

SENATOR MEGA: Mr. President. I would like to add my thanks and congratulations to the State Police and to Superintendent Constantine, and the story that was just told to you by Senator Saland is indicative of what they do for everyone. Senator Saland didn't get any special treatment. They treat everyone the same way, and that's why they are the premier law en forcement agency not only in the state of New York but in the country as far as I'm concerned.

And we look to the State Police as police that police upstate and in the suburbs, but they come downstate. They work in the City also and protect our constituencies, those of us who represent a constituency in the city of New York.

I was the chairman of the crime and Corrections when Superintendent Constantine was confirmed. I can attest to his qualifications and his dedication, and his record speaks for itself. He is someone who

came up from the ranks to lead the police, the State Police of this state.

You do an outstanding job, all of you, from the top to the bottom, and I congratulate you and thank you for all that you do for the people of the state of New York.

Thank you.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

Let me say how pleased and honored I am to have my constituent and neighbor from Schenectady, the Superintendent, Tom Constantine, and also in my judgment one of the finest superintendents this State Police force has ever had; and, of course, the Deputy Superintendent, an Irish-American Boy Scout with Senator Stafford, that's also very impressive, Superintendent Houlihan.

But up in the gallery, we have the leaders that make this one of the finest police forces in the whole United States if not the world, and I just want my colleagues to know

that two of those fellows up there, a Colonel and a Major, were both my students. So you can see how well they have done particularly if they take my class.

But I wish them well. We're honored. We're honored to have them here; and as you can see, the entire Senate is so very proud of this magnificent police force.

THE PRESIDENT: Senator Cook.

SENATOR COOK: Mr. President, perhaps in the context of all of the things that are being said what I'm going to say is a little bit awkward, but I think we ought to say it because, in our area, we have had a bit of a, I guess you'd have to call it, scandal that involves the State Police. I think this is an indication of how the exception proves the rule.

And I just am rising because I want to reassure those members of the State Police who are here that the public understands exactly what has happened, that there were a few individuals who unfortunately did not carry out

their duties as was expected, and we admire the professional way in which the State Police have done what they always did, and that was to pursue the problem, to clean their own house, to move as strongly and as firmly against people who were members of their own agency as they would have anybody else in the state and had violated the law, and they have restored public confidence totally, and I have nothing but admiration for them. I think that this incident, if anything, has simply proven what a great organization they are.

THE PRESIDENT: Senator Daly.

(There was no response.)

Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

My compliments go out to Senator Marino and Senator Volker for arranging this very important opportunity for us to all offer our personal appreciation and the appreciation of our constituents to the New York State Police.

I had the pleasure of being able to hand a copy of a letter that I had sent not too long ago to Superintendent Constantine to the Troop D Commander, Major Al Fileman. Before I was aware of today's activities, I felt it was important to put pen in hand and write a little thank you note, probably something that some of us should do more often, but I was so impressed with the activities of Troop D under the command of Major Fileman over these last few weeks of several very difficult disasters that I thought it was worth noting some of the specific acts of cooperation above and beyond the call of duty, activities that I had personally observed and had heard about from some of the people that I represent in Oneida, Madison and Onondaga County.

We take for granted, those of us in government, that the State Police are always there, and we take for granted that they are willing to make that extra measure for public safety, but it is important on an occasion like this for us to let people know that we do not

take for granted the high degree of dedication that you have demonstrated year in and year out, and in spite of any other problems that exist out there in the public, you have our continued trust and our support and, I'm sure, to an individual in this chamber, our undying gratitude.

THE PRESIDENT: Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

I, too, would like to add my voice to those commending my colleagues, Senator Marino and Volker, for bringing forth today New York's finest and to thank Superintendent Constantine for the great work that he has done but especially to the men who are out there on the front lines who we can proudly say represent the best of New York, and especially to my constituent, Captain Cook, who has done so much to be a role model for the young people of our community and who gives of himself not only as an officer but as a very dedicated person not only to the State Police but to all New

Yorkers. I say that he truly exemplifies your mission statements as all of you do.

Thank you for being here today.

THE PRESIDENT: Senator Montgomery.

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

I would just like to briefly add my congratulations to Superintendent Constantine and his officers for the wonderful work that they do, and especially as a woman who travels often between Albany and New York City at night, it is extremely comforting to know that I see you frequently on the highway. I feel a certain sense of safety and being protected, and if anything should happen, I know that you are going to be there and I appreciate that.

I also want to say that I know that Superintendent Constantine has worked with us, especially in this house and I think those members of the Black and Puerto Rican Caucus, in particular, as it relates to trying to do a very particular outreach to members of my district or

especially minority young people to get them interested in being involved in the career of State Police. And my chief assistant who is in my Albany office is married to one of your fine officers, and I would like to see much more of that, and I certainly extend my hand to continue working with you as we move to try and get even more young people especially from the inner city areas in our state involved and interested in becoming one of the fine members of the New York State Police.

So I thank you for the work that you have already done. I look forward to continuing to work with you, and I am certainly proud indeed of the men who represent New York State in the most visible way and that is as members of the New York State Police.

Thank you, Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I would just like to add what my colleagues have said this afternoon about the Superintendent and the fine work that the men

and women do for the New York State Police in protecting the citizens of this state.

I've had the pleasure of working with Superintendent Constantine on a number of pieces of legislation that deal with alcoholism and drug abuse; and I know tomorrow, as a matter of fact, he will be addressing our Senate committee in dealing with tougher legislation as it pertains to DWI and how it affects the citizens of our state.

So to the Superintendent and particularly the folks in Troop C which I represent back in the Broome County-Sidney area, I would like to also tip my hat to the men and women from the New York State Police who protect us on a daily basis.

THE PRESIDENT: The question occurs on the resolution.

Senator Onorato.

SENATOR ONORATO: Mr. President, I too would like to rise and congratulate Senator Volker. I know as an outstanding former police officer himself, he knows full well what

the New York State Troopers have done for this state.

I want to congratulate them, and I also want to tell them how much we appreciate the outstanding work and the exemplary example that they have set for the rest of the nation. I think New York State can hold its head up high by producing the finest New York State Troopers in the entire country and I, too, join in seconding this resolution.

THE PRESIDENT: Senator Sears.

SENATOR SEARS: Thank you, Mr. President. Very briefly, because everything that has to be said has been said.

Just let me say that I respect the job that you fellows do and the way you put your life on the line every single day, and I have said many times I am one Senator that goes to bed every night thankful that you are out there 24 hours a day.

So for all you do, this day's for you. Congratulations on a job well done.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Mr. President, if I might, just on behalf of Senator Marino who wanted to be here but could not be here today, I want to offer his congratulations to the Superintendent and to all the members of the State Police and also to thank the State Police for giving us John Everhardt, who is in charge of protecting this chamber for so long.

John, of course, is a young man, but as the Majority Leader made sure that I inform everybody he is a young man who is a former sergeant of the State Police, I think as everybody knows, and we have always been proud to have him here and other members of the State Police who help protect us, and we want to make sure that they are recognized on this day also.

And I just want to finish up by saying that I'm very proud of all the members here for what you have done to make this day a better day for the people who are here from the State Police.

And, once again, finish by thanking you, Tom, for your cooperation and for

all you've done for the people of the state.

THE PRESIDENT: The question occurs on the adoption of the resolution by Senator Volker. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The resolution is adopted.

(Applause)

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Farley, please.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Mr. President, I have a privileged resolution at the desk, if you will please read the title and adopt it.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative resolution, by Senator Farley, honoring Father John Malachy Crable upon the occasion of the 40 Anniversary of his ordination to the

priesthood.

THE PRESIDENT: On the resolution. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Tully, please.

THE PRESIDENT: Senator Tully.

SENATOR TULLY: Yes, Mr. President. I have a privileged resolution at the desk. I ask that its title be read, at the conclusion of which, I would open the resolution sponsorship to all of my colleagues and ask for its immediate passage.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senator Tully, paying tribute to Lisa Marie Becker upon the occasion of her

selection as recipient of the 1993 New York State Elk Teen of the Year Award.

THE PRESIDENT: On the resolution. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Larkin, please.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Mr. President, I have a privileged resolution at the desk. I would appreciate it if you read the title.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senators Larkin, Cook, and Holland, commemorating the New York State Troop F Headquarters Memorial Service on May 29, 1993.

THE PRESIDENT: On the

resolution. All those in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The ayes have it. The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Stachowski, please.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President. I have a privileged resolution at the desk, and I would ask if the title could please be read.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senator Stachowski and others, honoring the Make a Wish Foundation of Western New York for exhibiting exemplary service and tireless effort in helping children with life-threatening illnesses to fulfill their

dreams.

THE PRESIDENT: On the resolution. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The resolution is adopted.

SENATOR TRUNZO: Mr. President.

THE PRESIDENT: Senator Trunzo.

SENATOR TRUNZO: I would like to place a sponsor star on Calendar Number 310.

THE PRESIDENT: The bill is starred.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, I should like the record to reflect that if I had been in the chamber yesterday, I would have voted in the negative on Calendar 909.

THE PRESIDENT: Without objection, so ordered.

Senator Sears.

SENATOR SEARS: Yes, Mr.

President. On page 25, Calendar 798, Print Number 4079, would you please star the bill.

THE PRESIDENT: Bill is starred.

Senator Mega.

SENATOR MEGA: On behalf of Senator Mega, on page 26, I offer the following amendments to Calendar Number 824, Assembly Print Number 3769, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: Without objection, so ordered.

Senator Seward.

SENATOR SEWARD: I would like to place a sponsor star on Calendar Number 445.

THE PRESIDENT: The bill is starred.

SENATOR SEWARD: Thank you.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Mr. President, can we go to the non-controversial calendar, please.

THE PRESIDENT: Secretary will read.

THE SECRETARY: On page 4, Calendar Number 55, by member of the Assembly Pordum, Assembly Bill Number 1941A, authorizing the directors of the Gowanda Masonic Building Corporation to petition for judicial dissolution.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 63, by Senator Levy.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 277, by Senator Levy, Senate Bill Number 195D,

an act to amend the Vehicle and Traffic Law, in relation to re-examination and disqualification of certain bus drivers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 465, by Senator Hannon.

SENATOR STACHOWSKI: Lay it aside.

SENATOR PRESENT: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: If I can ask the Majority Leader. Do we still have a rule that bills can only be laid aside three days in a row and then they are automatically starred or off the calendar?

THE PRESIDENT: I'm not aware of such a rule. The practice, I'm advised, is when it is asked that the bill be laid aside for a day to be brought up, it will be brought up the next day.

SENATOR LEICHTER: Well, Mr. President, my inquiry goes beyond that; which is, that if that occurs three days in a row that the bill is supposed to be automatically off the calendar. That was my understanding of the rules of the Senate.

SENATOR PRESENT: Mr. President.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: I believe that only applies if the sponsor lays it aside three days in a row.

SENATOR LEICHTER: Excuse me, Mr. President. Just to answer the distinguished

acting Majority Leader, we did not ask him to lay it aside for the day. We've laid it aside to the second reading. And it is the sponsor who has laid it aside now for more than three days.

SENATOR PRESENT: No, I laid it aside for the day.

SENATOR LEICHTER: We did not ask to have it laid aside for the day.

SENATOR PRESENT: I am laying it aside.

SENATOR LEICHTER: Well, I don't know if there is a distinction here. It may be a difference without a distinction whether it's Senator Present as Acting Majority Leader, or the Republican sponsor of the bill.

THE PRESIDENT: I think we have that matter clarified and will proceed with the calendar.

Senator Libous.

SENATOR LIBOUS: Mr. President, could I please have unanimous consent to be recorded in the negative on Calendar Number 277,

the bill that just passed.

THE PRESIDENT: Without objection, so ordered.

Senator Farley.

SENATOR FARLEY: Same for me, 277.

SENATOR SEWARD: Mr. President.

SENATOR FARLEY: I would like to be in the negative on 277.

THE PRESIDENT: 277? Without objection, so ordered.

SENATOR SEWARD: Mr. President.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: I would ask the same request, to be voted in the negative on Calendar 277.

THE PRESIDENT: Without objection, so ordered.

Senator Wright.

SENATOR WRIGHT: I would make the same request on 277.

THE PRESIDENT: Without objection, so ordered.

Senator Sears.

SENATOR SEARS: I make the same request.

THE PRESIDENT: Without objection, so ordered.

Just not to prolong this, but to Senator Leichter's request for information. Under Rule A (7) (b), it provides, "A bill which has been laid aside by other than the Temporary President for five working days on the calendar on the order of third reading shall be automatically starred, except when a bill has been laid aside on an announced noncontroversial reading of the calendar," and then it goes on to talk about removing the star.

Now, the Secretary will proceed with the non-controversial calendar.

THE SECRETARY: Calendar Number 501, by Senator LaValle, Senate Bill Number 4015, an act to amend the Real Property Law.

THE PRESIDENT: What calendar number is this?

(Response of "501.")

Thank you.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 588, by Senator Kuhl.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

SENATOR DALY: Mr. President.

THE PRESIDENT: Senator Daly.

SENATOR DALY: May I be voted in the negative on Bill 277.

THE PRESIDENT: Without objection, so ordered.

SENATOR STACHOWSKI: Mr. President.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: With unanimous consent, can I please be recorded in the negative on Calendar 277?

THE PRESIDENT: Without objection, it's so ordered.

THE SECRETARY: Calendar Number 610, by member of the Assembly Weinstein, Assembly Bill Number -

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 698, by Senator Libous, Senate Bill Number 3928B, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 713, by member of the Assembly Colman, Assembly Bill Number 672, Insurance Law, in relation to motor vehicle liability and collision insurance premiums.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 738, by Senator Spano, Senate Bill Number 3118, an act to amend the State Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays 1, Senator Kuhl recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 740, by Senator Cook, Senate Bill Number 4328, an act to amend the Executive Law, in relation to reports by registered charitable organizations.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 745, by Senator Libous, Senate Bill Number 3002A, Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 756, by Senator Levy, Senate Bill Number 3884.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 782, by Senator Lack, Senate Bill Number 4818, an act to amend the Workers' Compensation Law.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 816, by Senator Skelos, Senate Bill Number

1156.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 818, by Senator Johnson, Senate Bill Number 1898.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 843, by Senator Cook, Senate Bill Number 4324, Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 904, by Senator Sheffer, Senate Bill Number 1818, Education Law, in relation to mandatory continuing education for pharmacy.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

That completes action on the non-controversial bills.

Senator Present.

SENATOR PRESENT: Let's take the controversial calendar, please.

THE PRESIDENT: Secretary will read.

THE SECRETARY: On page 4, Calendar Number 63, by Senator Levy, Senate Bill Number 191, an act to amend the Vehicle and

Traffic Law, in relation to criminal history checks on school bus attendants.

SENATOR STACHOWSKI: Explanation.

SENATOR LEVY: Senator Stachowski, unfortunately -

THE PRESIDENT: Explanation. Senator Levy.

SENATOR LEVY: I'm sorry.

THE PRESIDENT: I just was calling on you.

SENATOR LEVY: As I started to say, unfortunately this bill each year is before this house because it passes this house overwhelmingly and then goes over to the Assembly where it is never taken up, discussed, and voted upon.

The genesis of this bill -- and I can talk about my region, but I'm sure that each of us can look at our Senatorial Districts or the regions that we represent and see counterparts of what led to this legislation. What happened in my district and it happened on more than one occasion has been that bus drivers

and/or attendants on buses -- and, most recently, when we made amendments five or six years ago to 19A, we've covered bus drivers but we haven't covered bus attendants, and we have repeated instances throughout the state of the sexual molestation of children riding on school buses by convicted felons who have not only felony convictions for sexual-type cases but other felony convictions, and then they commit a felony on a child riding on a school bus.

So all this bill does is say if you are an attendant that wants to work on a school bus transporting children, like the bus driver you should be fingerprinted and you should come under the 19A provisions as it relates to convictions for serious crime.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT FARLEY: Senator Stachowski.

SENATOR STACHOWSKI: On the bill. I'd just like to point out that the bill is opposed by the CSEA, New York State AFSCME,

and last year an identical bill was opposed by Senator Connor, Senator Gold, Senator Hoffmann, Senator Leichter, Senator Mendez, Senator Montgomery, Senator Ohrenstein and Senator Smith.

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 63 are Senators Galiber, Gold, Hoffmann, Jones, Leichter, Markowitz, Montgomery, Ohrenstein, Smith and Stavisky. Ayes 44, nays 10.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 588, by Senator Kuhl, Senate Bill Number 3539, Agriculture and Markets Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT FARLEY:

Explanation. Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. The concept of this bill is rather simple and not very complex. I will read from the purpose of the bill section of the memo which says it very, very succinctly. It says, "This legislation recognizing that agricultural lands are irreplaceable state assets protects lands under agricultural production from the potentially harmful effects of the application of certain wastes by prohibiting the application of sludge, septage, or sewage sludge on land under agricultural production located within..." and this is important, "... located within agricultural districts or receiving an agricultural assessment."

ACTING PRESIDENT FARLEY: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I would merely like to point out that this bill is opposed by DEC strongly, Wheel Abater Environmental Systems, Inc., New York State Association of Counties and NYCOM.

SENATOR SHEFFER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Sheffer.

SENATOR SHEFFER: I believe strongly that this is a critically important bill on its merits and on its purpose. I would like to add, though, a very practical consideration in support of Senator Kuhl's bill. I am looking at a letter dated less than a month ago from Farm Credit of North Central New York. I think it's true that Farm Credit is the largest lender in the state and in the country, and they say, "It is for these reasons that Farm Credit throughout thirteen northeastern states have recently included a prohibition in our mortgages against spreading sludge on property mortgaged to Farm Credit."

In the effort not only to keep our farms clean but to keep them mortgage- able, I think it's of great importance that this house support this important bill.

ACTING PRESIDENT FARLEY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, sir. I intend to support this bill, but I wanted to make one point. I believe there is some sludge that's treated that is approved by the -- the process is approved by the EPA. There is no exception to that type of situation, and it was brought to my attention by the County Executive of Onondaga County that this bill could be a better bill if there was an additional exception in situations where the process has been approved by the EPA. Under those circumstances, assuming that the EPA is doing their job, the health considerations will be taken care of and also allocation for some of this material would be available.

So I intend to support the bill, however, I would just indicate for the record that I think it could have been a better bill if we had that amendment.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Will the sponsor yield to a

question?

ACTING PRESIDENT FARLEY: Senator Kuhl, will you yield?

SENATOR KUHL: Certainly.

SENATOR DOLLINGER: Senator, I have followed somewhat closely a lawsuit in the Western District of New York in Rochester that dealt with the airborne pollution and the smell that's associated with agricultural products, and I think in that case specifically manure.

Does this bill in any way affect that lawsuit or the issues? Are you familiar with that lawsuit? I know it was closely followed by the Farm Bureau. Does it affect those issues, to your knowledge?

SENATOR KUHL: No.

SENATOR DOLLINGER: This deals just with the sludge issue?

SENATOR KUHL: Yes.

SENATOR DOLLINGER: Thank you.

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 52, nays 2, Senators Leichter and Solomon recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 610, by member of the Assembly Weinstein, Assembly Bill Number 6989A, Civil Service Law, in relation to the certification of certain employee organizations.

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 54.

ACTING PRESIDENT FARLEY: The

bill is passed.

THE SECRETARY: Calendar Number 756, by Senator Levy.

SENATOR COOK: Mr. President, would you star that on behalf of the sponsor, please.

ACTING PRESIDENT FARLEY: Star the bill at the request of the sponsor.

THE SECRETARY: Calendar Number 782, by Senator Lack, Senate Bill Number 4818, Workers' Compensation Law.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Calendar Number 816, by Senator Skelos, Senate Bill Number 1156, Executive Law and the Penal Law.

SENATOR PRESENT: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for.

Senator Skelos.

SENATOR SKELOS: Mr. President,

this bill which has passed this house on several occasions provides that subject to a court order, a non-indigent criminal sentenced to probation shall reimburse a county or the city the actual cost of their supervision during their probationary period.

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: Senator, do you have any idea what the cost would be for this, what they would have to pay for this supervision?

SENATOR SKELOS: I would say it's probably next to nothing, because the probation department is involved in the process of making recommendations to the court as to whether the person should be put on probation. When that's determined, when also it should be determined whether the person is non-indigent and can pay, would happen at the time the court is making the decision as to probation.

SENATOR GALIBER: In other words, there is no scale? Some judges will say, "costs

of..." "Court costs of...", and there's a scale to go by. So it could be anything at all.

SENATOR SKELOS: It would be the discretion of the court.

SENATOR GALIBER: Senator yield for another question?

SENATOR SKELOS: Sure.

SENATOR GALIBER: Do you think that we should leave this kind of discretion of the court as to what a person who is on probation will pay?

SENATOR SKELOS: Let me use as an example. I believe in Nassau County the average cost is about $250.

SENATOR GALIBER: For how long?

SENATOR SKELOS: For a year.

SENATOR GALIBER: For a year?

SENATOR SKELOS: Yes.

SENATOR GALIBER: What happens if a person -- if I read the bill correctly, it was a couple of days ago I was trying to but this together. If a person is, as part of the condition for probation, if he or she does not

pay that, is that grounds for revocation to be put back into -- not back in -- your bill says back into, but probation is in lieu of going to jail.

SENATOR SKELOS: Yes. It could be at the discretion of the court.

SENATOR GALIBER: At the discretion of the court?

SENATOR SKELOS: Yes.

SENATOR GALIBER: What will this money go to pay?

SENATOR SKELOS: Goes back to the county or the city.

SENATOR GALIBER: Does it actually get back to the county? There are some who have suggested that it gets kind of quagmired in the system and it never gets back to where I think you intend it to -

SENATOR SKELOS: It's the intention of the sponsor that it would go back to the municipality.

SENATOR GALIBER: But if I told you that it did not go back to the municipality,

would you still go forward with this bill?

SENATOR SKELOS: Well, since it's not the law yet, I don't know if I can make that determination.

SENATOR GALIBER: But I think that -

SENATOR SKELOS: If that occurs, then you and I can certainly revisit it.

SENATOR GALIBER: Because, Senator, it's been my limited experience to find that that money somewhere along the line gets up in that monstrous place called Office of Court Administration. It's like the lotto being earmarked for education. It goes into a general fund.

And I feel strongly about probation as you do. I'm not crazy about the way that you are going about doing it, but we've taken some $10 million away from probation at the time when we're seeking alternatives. They need all the help they can possibly get.

Outside of instinctively, perhaps, being opposed to that bill because so

many people coming out of our institutions - well, this wouldn't be -- this is probation, so it would be in lieu of or prior to going to jail if they ever did go to jail to pay for this supervision. But the money not to get back to the court is some concern of mine. I'm sure it would be a concern of yours.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Mr. President, as a matter of philosophy, I certainly understand where Senator Skelos is coming from. However, while I think it's very important that we make philosophical statements from time to time, I think that in these fiscal times it is more important that we really be fiscally responsible. The bill attempts to be fiscally responsible by attempting to raise money. Unfortunately, what is involved in raising the money is more costly than the money.

For that reason, the city of New York which these days is obviously not throwing

away money, files a memorandum in opposition. The examples it gives I'm going to give you right now.

"In this bill, for example, the Office of Court Administration will be required to set up an entire new hearing examiner structure to enforce the reimbursement. Probationers would have the right to counsel in all of these matters, and so indigent defense costs of the Legal Aid Society and the Section 18-B attorney panels paid by the city would increase. Currently, those costs are already approximately $450 per case. Probation staffing would be required to screen, counsel and participate in enforcement of the reimbursement requirements. The City Department of Probation estimated in January of this year that approximately one-third of its supervision case load was employed. Therefore, it is a very small group of the total eligible population who would actually contribute reimbursement, and the remainder would probably be exempt.

"In addition, the order of

priority established by the bill leaves the supervision fee repayment at a very low level. Total costs of the city probationers who would be required to pay make it unlikely that most would earn enough discretionary income under the bill definition to make repayment a realistic possibility.

"Costs of each of the items which comprise the total actual expenditures for food, medical care, and other Department of Corrections detention costs are at present approximately $40 a day excluding medical.

"As indicated above, the legal defense costs for indigent defendants are approximately $450 per criminal case. Supervision costs average approximately $24 per contact required by the state. Since the number of state-mandated contacts varies by risk level, that per contact cost can result in a total cost per month that is large and does not take into account field supervision contacts or drug treatment services available to some probationers.

"In response to a steadily increasing supervision cost, the City has been working over two fiscal years to move the probation system to its more effective, less expensive supervision programming. A major adult services restructuring initiative is under way to provide concentrated services and supervision of highest risk probationers.

"The City believes that the ultimate goal of fee-based programs should be the elimination of supervision rather than reimbursement of supervision costs."

That basically is their argument which was filed only this month. Senator Skelos, I think that on a philosophical level, you maybe have something to talk about, but I know, Senator Skelos, that in the real world you would not want to be responsible for a program that wound up costing the localities more than it was bringing in, and that is apparently the feeling of the City which would be greatly affected by the legislation.

SENATOR SKELOS: Thank you very

much, Senator Gold. Obviously, I disagree with the city of New York, and the Association of Counties feels the opposite, and they are in support of this legislation.

SENATOR GOLD: Senator yield to a question?

SENATOR SKELOS: Yes, Senator Gold.

SENATOR GOLD: Senator Skelos, I, of course, respect that you would not just take a position without thought and investigation and based upon what figures, what financial information do you disagree with the City in its figures?

SENATOR SKELOS: Well, I think, for example, when they talk about setting up a new hearing examiners structure. I mentioned to Senator Galiber in our conversation that most of this could be decided at the time the decision is made by the court whether probation is a suitable sentence. So at that time, there is an attorney present there for the defendant. The probation department is there. They have made

their study as to recommendations to the court whether probation would be a suitable sentence. And at that time, they would be capable to advise the judge and certainly the judge could make a decision whether this defendant could pay for their probationary costs.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR SKELOS: Sure.

SENATOR GOLD: Senator, there is more involved, with all due respect, to the process than what you have described. And if, for example, the probationer-to-be doesn't agree, you may need a full hearing on his capacity. If he doesn't pay, there are going to be contempt proceedings or proceedings to revoke his probation which would require hearings and whatever.

I guarantee you something, Senator Skelos. Somebody who is going to go to jail and has no money is going to take a hearing, and they're going to get 18-B counsel or Legal Aid before they are going to jail.

Believe me.

If you take a look at what's going on in our domestic relations parts of the court, there isn't one husband or spouse who doesn't pay money who doesn't go through fifteen hearings before they put him into a jail. So, Senator, that's what I'm talking about, and I think that's what the City is talking about.

And what I'm curious is, based upon what figures do you calculate that the city of New York is wrong? I understand that you respectfully say that you disagree with them, but they are the ones who are on a day-to-day basis handling these people, on a day-to-day basis paying the costs, and they are the ones that are telling you mathematically you are not correct.

SENATOR SKELOS: Well, I think they feel that an entire new procedure or process would be required to be set up as to what would add to the cost. For example, the county of Nassau also disagrees with them and they estimate that it could save the county from

three to four million dollars a year.

So perhaps the City is wrong, and the county of Nassau is right.

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

Senator, you didn't say, if I understood you properly, that the county of Nassau may be right. You said the city of New York is wrong. Now, I don't know what the numbers are in Nassau, and it may be that you get a better class of criminal in Nassau and they are more employable and they got better jobs, et cetera, et cetera, et cetera.

And maybe if you want to put in a system in Nassau or the County Legislature wants to do it or we need to give them approval, maybe that will make money for Nassau, but I don't think that you as a statewide official want to be responsible for causing economic harm in the city of New York to help Nassau. I don't want to hurt Nassau for the City.

But the City, which is a large part of this program, is asking you very

respectfully not to do this to them, and the memo, Senator Skelos, is an economic memo. They are not talking here -- there wasn't one word in the memorandum from the city of New York which talked social policy. They are saying to you that, economically, it is not a good thing for them.

So my bottom line to you, Senator Skelos, is why do you seek to impose upon them something which they are telling you in advance economically doesn't work when your point is to try to help them economically? Doesn't the - isn't there any home rule philosophy that you espouse every day on this floor that comes into play here? Don't they have some rights under their own budget?

SENATOR SKELOS: You indicated that I have statewide responsibilities and I'm exercising those statewide responsibilities with this legislation.

SENATOR GOLD: Oh, I think of you as a great statesman, Senator.

SENATOR SKELOS: Thank you very

much. You, too. But great minds can differ at times.

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

My question is on the issue of home rule. I mean you have an idea to save this City money as well as Nassau. Nassau may want it, and it may work in Nassau. The city of New York has probably the largest portion of the people involved, and they are pleading with you. They say, Senator, I'm not telling you that I don't agree with you sociologically or philosophically. I'm telling you that economically I don't agree with you. You are going to hurt us economically.

Don't you think, Senator Skelos, that the locality has some home rule rights?

SENATOR SKELOS: All localities have home rule rights, but there is a difference in opinion. I think the city of New York is wrong. Now, we can sit here and go back and forth all day. I just feel that they are wrong

in this instance.

SENATOR GOLD: All right. On the bill, Mr. President.

Mr. President, I have too much respect for Senator Skelos. He has some trouble keeping the ball on the fairway but I like him anyway. The point, Senator Skelos, is I wouldn't be as cruel as to read back to you for the rest of the session the remarks you just made here, because you don't believe them.

If I were to cast a party vote against your local bill on the theory that I respect home rule but they are wrong in what they are doing, you would look at me in amazement, and you would put out press releases saying that the Democratic Party is against the localities and doesn't respect home rule, because that's the bottom line of it.

This bill, Senator, if there was a question that the Mayor of the city of New York or the City Council of the city of New York saying that philosophically this is a terrible idea, it's going to hurt probationers, it will

hurt their rehabilitation, it will hurt their families, then you could stand up and say, I disagree with the Mayor philosophically, but he needs money and this is a place to get money.

There isn't one word of philosophy in this memo, not one. They are saying you are wrong economically. Do not take our money out of the system and make us spend it in this way because it's not going to help us economically.

Now, I respect the fact that you and Senator Bruno and many of the others do not come from the city of New York. Senator Mega and Senator Velella are on this, and they do, but I respectfully say to you that I have great respect for those two gentlemen, but they are not standing up with numbers either, saying that the City is wrong on their economics.

Now, the bottom line is that the city is right, Senator, and you are wrong as to the procedures that you are talking about. The procedures involved in this legislation require hearings. No gentleman or woman on probation is

going to jail without a hearing and not one of them is going to have a hearing without lawyers, and there won't be a hearing without hearing officers and attorneys for the probation department, et cetera, et cetera, et cetera.

It is an expensive bill, and on that basis alone, I would ask everyone to oppose it. I assume that's why it has gotten no place in the Assembly for the last five years, and we ought to drop it.

(Whereupon, Senator Daly was in the chair.)

SENATOR JONES: Mr. President, would the sponsor yield to a question, please?

ACTING PRESIDENT DALY: Senator Skelos, will you yield?

He yields.

SENATOR JONES: Senator, I know this has been tried in other states -- Florida, I believe. Do you have any statistics saying whether or not it's been successful or how it's working?

SENATOR SKELOS: I just have

information again from the county of Nassau which indicates they feel that different counties and cities could save a substantial amount of money in their probationary costs.

SENATOR JONES: Would the Senator yield to another question?

ACTING PRESIDENT DALY: Senator Skelos, will you yield again?

The Senator will yield.

SENATOR JONES: Do you have any financial -- we certainly took quite a bit of money away from our counties this year earmarked for probation. Do you have any numbers that would indicate this would at least help the counties make up that deficit?

SENATOR SKELOS: Well, I think the fact that the Association of Counties is supporting this legislation would indicate that this is not going to hurt counties but rather help them.

SENATOR JONES: On the bill, Mr. President.

ACTING PRESIDENT DALY: Senator

Jones on the bill.

SENATOR JONES: I hear all the things my colleague said, and I admit that I have equal concerns that this may not work out. However, I don't feel that it would be fair to our counties that we've taken away money that they needed for the probation services and now are not willing to give them back anything in return. I think it's only fair that -- at least up my way the counties are asking for this; and for that reason, I would have to support the bill and at least give it a chance to see what it does.

ACTING PRESIDENT DALY: Read the last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 816 are Senators

Connor, Espada, Galiber, Gold, Leichter, Markowitz, Montgomery, Ohrenstein, Onorato and Smith, also Senator Stavisky. Ayes 44, nays 11.

ACTING PRESIDENT DALY: The bill is passed.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT DALY: Senator Connor.

SENATOR CONNOR: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 63, S. 191.

ACTING PRESIDENT DALY: Without objection.

THE SECRETARY: Calendar Number 818, by Senator Johnson, Senate Bill Number 1898, Executive Law, in relation to parole release.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT DALY: Explanation is requested. Senator Johnson.

SENATOR JOHNSON: Mr. President, this bill would provide that the Parole Board

grant early release to any inmate subject to deportation, provided the inmate is not an offender convicted of murder in the first or second degree and served a minimum period of imprisonment. The deportation order will be issued by the federal government, and the inmate will concede that he or she is deportable and request an order be issued for deportation.

This is a very important bill and a very serious subject. Last year, when I debated this bill, there were about 58,000 prisoners in our prisons, of which 7,141 were aliens, foreign born. This year there are 62,000 prisoners and 7700 are foreign born.

The increase in the inmate population over the last seven or eight years has been 78 percent overall, while the percentage of foreign born inmates has increased 194 percent, and it's going up very rapidly. The foreigners are convicted of more violent crimes; therefore, they are serving longer terms.

They are impacting our prisons.

The crowding in prisons has resulted in lower sentencing guidelines and putting parole violators in local jails rather than in prisons and it has had a very deleterious effect on the operation of the prison.

In fact, these people come from every where, from Afghanistan to Zaire. There are major language problems dealing with these people. They shouldn't be here. If they served their minimum, they should be deported. If they consent to deportation, it speeds up the process.

It's a very desirable bill. The bill has passed this house two years running. We even have letters from convicted people who want to go home, and so they even want to help us out with our problem, and we certainly should see that they do so.

It's kind of interesting. I said the bill passed two years running. It never passed the Assembly, but what it did do is get the attention of the Correction Department, who proceeded a year ago to sue the federal

government to take those prisoners off their hands which are ready to be deported under present federal and state statutes, nothing directly to do with my bill, and the federal government essentially said we don't have to take them until we're good and ready.

Now, I don't know when they're going to be good and ready, but we can't spend hundreds of millions of dollars building more prisons to house prisoners which are really the responsibility of the federal government, and it's kind of interesting, that lawsuit that was filed was essentially dismissed by the federal judge saying, Well, there's differences between federal and state sentencing guidelines; and therefore, we don't care if they are ready or not, they are ready when we say they are ready.

Anyhow it's kind of funny, a further remark by a fellow named Duke Austin, a spokesman for the INS said they would have the INS be responsible for every alien criminal in this state, in every state, and I agree. That's exactly what they should do.

Why do we have a federal government? Why do we have laws regulating immigration of people and find out that these aliens are in our prisons? In fact, more than half of them enter the country illegally in the first place. The federal government should deal with their responsibility. They're shirking their responsibility. We've got to keep sending them the message that they have to do their job and what we're doing here with this bill is a minor amendment which essentially builds upon the present state law.

And all it does really, dealing with the problem, is say that if an alien is ready to be deported, he serves his minimum term and he consents to deportation, we can get him out of the country and into the federal hands faster without going through the entire hearing process. So he waives the process, he goes to federal custody or goes out of the country, and our problem is done and we're going to save a lot of money.

It's kind of interesting. Some

people say, "We want them to serve their time." #$208 million last year to give these people room and board, up from 178 million a year before. We can't continually dump this money on these people who have no right to be here; they shouldn't be here. They should be out of here.

We've got money we need for people who really need welfare or medical care; we need money for schools. We need money for a lot of things. We're wasting our money on these aliens who could be out of here.

This bill is going to help do that. This bill passed by very good margins last year and the year before. We've got to pass it again to send a message to the other house that the people want this bill, that it's good for the people of the state of New York, that it helps prevent wasting further money building jails and maintaining people in jail, and we've got to encourage the state, as I'm certainly doing, to continue their appeal of the recent lawsuit in which they are rejected by the federal government. The fed's have to perform

their responsibilities as well.

So, Senators, I would like to say that thank you for the previous support. I'm sorry it sounds like a crusade, but it's something that has to be done. We don't have the money to do everything and keep everybody happy and comfortable in this state, and there is no reason to even take a chance on these aliens not being deported, to be released and going back on the street.

As the Governor suggested, they'll go back on the streets. They won't go back on the street. They will go right out of this country if this bill passes in its present form, becomes law, and the fed's fulfill their responsibilities.

Thank you, Mr. President.

ACTING PRESIDENT DALY: Read the last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT DALY: The bill is passed.

Senator Oppenheimer.

SENATOR OPPENHEIMER: With unanimous consent, I would like to be recorded in the negative on Calendar Number 588.

ACTING PRESIDENT DALY: Without objection.

SENATOR HALPERIN: Mr. President.

ACTING PRESIDENT DALY: Senator Halperin.

SENATOR HALPERIN: I'd like to be recorded in the negative on Calendar Number 588, Senate Bill 3539.

ACTING PRESIDENT DALY: Without objection.

Senator Present.

SENATOR PRESENT: Mr. President, I would like to announce there will be a Rules Committee meeting tomorrow at 11:30 a.m. in Room

332.

There being no further business, I move we adjourn until tomorrow at 11:30 a.m.

ACTING PRESIDENT DALY: Senate stands adjourned until tomorrow at 11:30 a.m.

(Whereupon, at 5:03 p.m., the Senate adjourned.)