ALBANY, NEW YORK

May 17, 1994

4:46 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Staff please take their seats. Ask the members and the visitors in the gallery to rise and join in the Pledge of Allegiance.

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

In the absence of clergy, I'd ask that we all bow our heads in a moment of silence.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 16th. The Senate met pursuant to adjournment, Senator Cook in the Chair upon designation of the Temporary President. The Journal of Sunday, May 15th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Secretary will read.

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

Member of the Board of Directors of the Roosevelt Island Operating Corporation: David M. Kraut, of New York City; Joseph Mendez, of New York City, and Willard L. Warren, of Roosevelt Island;

Member of the Thousand Islands State Park Recreation and Historic Preservation Commission: Gary L. Bouchard, of Ogdensburg;

Member of the Board of Directors of the New York State Science and Technology Foundation: Walter Robb, of Schenectady;

Member of the Board of Visitors of the Creedmoor Psychiatric Center: Alfred Koral, of Jamaica;

Member of the Board of Visitors of the Elmira Psychiatric Center: Judith

Phillips, of Watkins Glen;

Member of the Board of Visitors of the Hudson River Psychiatric Center: Patria Mestey-Perez, of Marlboro;

Member of the Board of Visitors of the Manhattan Psychiatric Center: Wilhelmina Roberts Wynn, of New York City;

Member of the Board of Visitors of the Mohawk Valley Psychiatric Center: Paul D. O'Brien, of Rome;

Member of the Board of Visitors of the South Beach Psychiatric Center: Barbara Irolla Panepinto, Esq., of Staten Island;

Member of the Board of Visitors of the J. N. Adam Developmental Center: Anne Ray, of South Dayton;

Member of the Board of Visitors of the Bernard M. Fineson Developmental Center: Charles Naroff, of Flushing;

Member of the Board of Visitors of the Staten Island Developmental Disabilities Services Office: Matteo L. Lumetta, of Staten Island.

ACTING PRESIDENT KUHL: Question is on the confirmation of the nominees. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominees are confirmed.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions. Senator DiCarlo.

SENATOR DiCARLO: Yes. Mr. President, we're voting today on two resolutions that I think are very important to this house. One is on Armed Forces Day, and the other one is on the 50th Anniversary of the Invasion of Normandy.

I'd like -- I'd waive the reading at the present time for the D-day resolution. I'm told it will be read in its entirety on June 6th, but I'd like to open up both resolutions for the members in the Senate. They are L.

3650 for Armed Forces Day and L. 3649 for D-day.

ACTING PRESIDENT KUHL: Senator DiCarlo. You have a motion?

SENATOR DiCARLO: Mr. President, I wish to call up Calendar Number 349, Assembly Bill Number 8794-B, for Senator Velella.

ACTING PRESIDENT KUHL: Clerk will read.

THE SECRETARY: By Senator Velella, Senate Bill 5615-D, an act to amend the Insurance Law.

SENATOR DiCARLO: I now move that Assembly Bill 8794-B be recommitted to the Committee on Rules and the original bill be substituted on the calendar, and I offer the following amendments.

ACTING PRESIDENT KUHL: Substitution is reconsidered. The Senate bill is recommitted, and the Assembly bill is restored -- I'll get that right. We'll get this right. The Assembly bill is recommitted and the Senate bill is restored with amendments.

Senator Holland.

SENATOR HOLLAND: I'd like to be on those two resolutions, if I'm not.

ACTING PRESIDENT KUHL: Is there a privileged resolution at the desk?

SENATOR HOLLAND: No, no, his two resolutions, I'd like to be on those two.

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

By Senator Volker, page 16, Calendar 475, Senate Print Number 6416;

By Senator Libous, page 32, Calendar 849, Senate Print Number 6930-A;

By Senator Cook, page 39, Calendar 925, Senate Print 5169-A;

By Senator Seward, page 42, Calendar 950, Senate Print Number 7434;

By Senator Skelos, page 51, Calendar 1014, Senate Print Number 6401-B;

And by Senator Velella, page 51, Calendar 1018, Senate Print Number 7595.

ACTING PRESIDENT KUHL: So

ordered on all bills.

Senator Cook.

SENATOR COOK: Mr. President, I got a bunch of sponsor's stars we'd like to put on: Senator Velella, Calendar 872; Senator Bruno, Calendar 931; Senator Levy, 1006, 1010, 1028 and if you need a star to put on one of those, you can take mine off from 416.

ACTING PRESIDENT KUHL: Sponsors' stars ordered on all four bills, and one is removed on Senator Cook's bill.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd like to take one of those stars to use on my bill Calendar Number 1007.

ACTING PRESIDENT KUHL: Sponsor's star is placed on your bill, Senator DeFrancisco.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I'd like to place a star on my bill, Calendar Number 980, Bill Number -

ACTING PRESIDENT KUHL: Sponsor's

star on Calendar Number 980.

SENATOR NOZZOLIO: And, Mr. President, I have a privileged resolution at the desk. Ask its consent to be read.

ACTING PRESIDENT KUHL: You're asking that the title be read, Senator Nozzolio?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Clerk will read the title of the sponsor's resolution.

THE SECRETARY: Legislative Resolution, by Senator Nozzolio, honoring the Auburn Association of Life Underwriters upon the occasion of the organization's 50th anniversary.

ACTING PRESIDENT KUHL: Question is on the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Present, we have a substitution at the desk.

SENATOR PRESENT: Do the substitution, please.

THE SECRETARY: On page 9 of today's calendar, Senator DeFrancisco moves to discharge the Committee on Rules from Assembly Bill Number 6116-A and substitute it for the identical Calendar Number 1071.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Present.

SENATOR PRESENT: Mr. President, I move that we adopt the Resolution Calendar with the exception of Resolution 3542.

ACTING PRESIDENT KUHL: Question is on the resolution calendar.

Senator Galiber.

SENATOR GALIBER: Yes, just a slight interruption. In regard to Calendar 3623, that's the resolution, I'd like to just open that up for whoever the sponsor -- whoever would be willing to go on it as a sponsor. That's a Galiber-Goodman, but it has to do, very briefly, with the young lady who works in the

district attorney's office who helped -

ACTING PRESIDENT KUHL: It's Resolution 3623?

SENATOR GALIBER: That's correct, yeah.

THE SECRETARY: Galiber-Goodman.

SENATOR GALIBER: Yes.

ACTING PRESIDENT KUHL: Sponsorship on Resolution Number 3623 is open to the members who would indicate to the clerk that they would like to be co-sponsors.

Question is on the Resolution Calendar. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar is adopted with the exceptions as noted.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Galiber, please.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Galiber.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT KUHL: Senator Galiber waives at the present time.

Senator Present.

SENATOR PRESENT: Mr. President, could we take up the non-controversial calendar.

ACTING PRESIDENT KUHL: Clerk will read the non-controversial calendar.

SENATOR DiCARLO: Mr. President. Mr. President.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Libous, he'd like to star Bill Numbers 847, 901, 932 and 987.

ACTING PRESIDENT KUHL: Sponsor's stars placed on Calendar Numbers 901, 902 -

SENATOR DiCARLO: 901, 847, 932 and 987.

ACTING PRESIDENT KUHL: Sponsor's stars are placed.

The Clerk will read the

non-controversial calendar.

THE SECRETARY: On page 11 of today's calendar, Calendar Number 304, by Senator Goodman, Senate Bill Number 1622-C, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 317, by Senator Skelos, Senate Bill Number 1985-C, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 583, by Senator Stafford, Senate Bill Number 439-B, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: Last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 712, by Senator Goodman, Senate Bill Number 7242, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Last

section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 746, by Senator Hannon.

SENATOR PRESENT: Lay it aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 759, by Senator Holland, Senate Bill Number 3535, an act to relocate the Spring Valley Toll Plaza of the New York State Thruway.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2 -

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of Senator Leichter.

THE SECRETARY: Calendar Number 818, by Senator Skelos, Senate Bill Number 6344-A, an act to amend the General Municipal Law, in relation to authorizing an "early bird" bingo game.

SENATOR PRESENT: Lay aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 851, by Senator Libous, Senate Bill Number 7036 A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The

bill's passed.

THE SECRETARY: Calendar Number 904, by member of the Assembly Cahill, Assembly Bill number 10090, an act to amend the Public Health Law and the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 906, by Senator Tully, Senate Bill Number 7740, an act to amend Chapter 483 of the Laws of 1978, amending the Public Health Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 908, by Senator Levy, Senate Bill Number 1405, an act to amend the Vehicle and Traffic Law.

SENATOR GOLD: Senator Levy, can we have one day on this bill?

SENATOR LEVY: Absolutely.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 909, by Senator Volker, Senate Bill Number 1778, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 910, by Senator Levy, Senate Bill Number 5551, an act to amend the Vehicle and Traffic Law, in relation to making it a felony to operate a school bus while under the influence of alcohol.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes for... ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

914, by Senator Levy, Senate Bill Number 7931, an act to amend the Vehicle and Traffic Law, in relation to the suspension and restoration of a driver's license.

ACTING PRESIDENT KUHL: Last section.

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

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 915, by Senator Wright, Senate Bill Number 7939, an act to amend the Education Law and the Mental Hygiene Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 916, by Senator Wright, Senate Bill Number 7947, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 918, by Senator Wright, Senate Bill Number 8373, an act to amend Chapter 812 of the Laws of 1987.

ACTING PRESIDENT KUHL: Last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 919, by Senator Skelos, Senate Bill Number 7372, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 920, by Senator Skelos, Senate Bill Number 7908, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 922, by Senator Cook, Senate Bill Number 3034-A, an act to amend the Executive Law, in relation to state aid to rural areas.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the

bill aside, please.

THE SECRETARY: Calendar Number 927, by Senator Skelos, Senate Bill Number 6538-C, Executive Law, in relation to reporting duties with respect to missing children.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43, nays one, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 928, by member of the Assembly Straniere, Assembly Bill Number 9288, an act to amend Chapter 759 of the Laws of 1973.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 934, by Senator Stafford, Senate Bill Number 7066, an act to amend the State Finance Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45, nays one, Senator Kuhl recorded in the -- Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Also Senator

Saland recorded in the negative on Calendar Number 934.

Calendar Number 936, by Senator Stafford, Senate Bill Number 7167, an act to amend the State Finance Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45, nays one, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 937, by member of the Assembly Colman, Assembly Bill Number 10022, an act to amend Chapter 741 of the Laws of 1985.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 938, by Senator Stafford, Senate Bill Number 7328, an act to amend the Executive Law, in relation to disclosure required at the time of solicitation.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

939, by member of the Assembly Dinowitz, Assembly Bill Number 10487, New York State Printing and Public Documents Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 940, by Senator Daly, Senate Bill Number 1095, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Daly.

SENATOR DALY: Lay aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 960, by the Assembly Committee on Rules, Assembly Bill Number 8483, an act to amend the General Obligations Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 961, by Senator DiCarlo, Senate Bill Number 7577, proposing an amendment to the Constitution.

ACTING PRESIDENT KUHL: Read the last section. Oops! Excuse me. No last section. Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The resolution is adopted.

THE SECRETARY: Calendar Number 964, by Senator Goodman, Senate Bill Number 1257-A, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 966, by Senator Skelos, Senate Bill Number 208 A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 968, by Senator Wright, Senate Bill Number 7301, an act to amend the Tax Law, in relation to refunds for over-payment of highway use tax.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 979, by Senator Levy, Senate Bill Number 787-B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 985, by Senator DiCarlo, Senate Bill Number

7767, Vehicle and Traffic Law, in relation to special distinctive license plates for New York veterans.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 988, by Senator Wright, Senate Bill Number 7417, Education Law, in relation to apportionment of aid to certain reorganizing school districts.

ACTING PRESIDENT KUHL: Read the last section.

SENATOR WRIGHT: Lay that aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 991, by Senator Maltese, Senate Bill Number 3265-A, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: I'm sorry. In relation to Calendar Number 941, ayes 48, nays one, Senator Galiber recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Levy, Senate Bill Number 785, an act to amend the Vehicle and Traffic Law, making technical corrections.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1002, by Senator Cook, Senate Bill Number 2551, an act to amend the Highway Law, in relation to the definition of the Southern Tier Expressway.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1005, by Senator Lack, Senate Bill Number 4044-A, an act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Read the last section.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1008, by Senator Oppenheimer, Senate Bill Number 5112, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Can I explain my vote?

ACTING PRESIDENT KUHL: Sure. Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Mr. President, I just rise -- I understand what is my colleague, Senator Oppenheimer's intent behind this bill. I support this.

The people in Corn Hill and downtown city of Rochester have been waiting for a residential permit parking, I think, for about a decade. Jack Perry carried the bill before I did. It hasn't been acted on. If we're going to do this, I think we ought to do it fair and square across the state.

So I'm voting no until such time as the people in Rochester get the same treat ment as the people in Rye and other places across this state.

ACTING PRESIDENT KUHL: Announce the results. Senator Dollinger in the negative.

THE SECRETARY: Ayes 49, nays one, Senator Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1012, by Senator Maltese, Senate Bill Number 5924, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1013, by Senator DeFrancisco, Senate Bill Number

6393-A, an act to amend the Vehicle and Traffic Law, in relation to license plates of rental vehicles.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1019, by Senator Levy, Senate Bill Number 7903, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49, nays one, Senator Cook recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1022, by Senator Levy, Senate Bill Number 7946, an act to amend the Vehicle and Traffic Law, in relation to proof of repair of defective equipment.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1023, by Senator Levy, Senate Bill Number 7991, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the

last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR PRESENT: Did we call the vote on this one yet?

ACTING PRESIDENT KUHL: Yes.

SENATOR PRESENT: Reconsider the vote.

ACTING PRESIDENT KUHL: On the motion for reconsideration of the vote by which this bill was passed, the clerk will call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 50.

SENATOR PRESENT: Lay it aside for the day, please.

ACTING PRESIDENT KUHL: Bill is laid aside for the day.

SENATOR LEVY: Mr. President can we star 1023.

ACTING PRESIDENT KUHL: Senator Levy, we'll place a sponsor's star on Calendar Number 1023.

SENATOR PATAKI: Mr. President.

ACTING PRESIDENT KUHL: Senator Pataki.

SENATOR PATAKI: I'd request unanimous consent to be recorded in the negative on Calendar Number 934.

ACTING PRESIDENT KUHL: Without objection, Senator Pataki will be recorded in the negative on Calendar Number 934.

THE SECRETARY: Calendar Number 1025, by member of the Assembly A. Greene, Assembly Bill Number 9241, Vehicle and Traffic Law, in relation to requiring bicycle helmets.

ACTING PRESIDENT KUHL: Clerk will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47, nays 3, Senators Cook, Johnson and Rath recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1026, by Senator Levy, Senate Bill Number 8183, an act to amend the Vehicle and Traffic Law, in relation to preferential use lanes.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1027, by Senator Levy, Senate Bill Number 8228, Vehicle and Traffic Law, and the General Business Law, in relation to bicycle helmets.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 1029, by Senator Levy, Senate Bill Number 8301, an act to amend the Vehicle and Traffic Law, in relation to requirement to mandate full resident address.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1030, by Senator Levy, Senate Bill Number 8302, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1030 are Senators DeFrancisco, DiCarlo, Kuhl, Rath and Spano, also Senator Larkin, also Senator Daly, also Senator Sears -- wait a minute.

Those recorded in the negative on calendar -- those recorded in the negative on

Calendar Number 1030 are Senators Cook, Daly, DeFrancisco, DiCarlo, Kuhl, Larkin, Libous, Maltese, Present, Rath, Sears, Seward, Spano, Stafford and Wright. Ayes -- also Senator Saland. Ayes 36, nays 16.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present, that completes the non-controversial calendar.

SENATOR PRESENT: Mr. President, can we return to motions and resolutions and would you recognize Senator Galiber, please.

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

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: And thank you for the consideration. Resolution 3542 was the one which was set aside for -- for my benefit and, Mr. President, would you have that resolution, if it's in order, to be read in its entirety.

ACTING PRESIDENT KUHL: Clerk

will read the resolution.

THE SECRETARY: Legislative Resolution, by Senator Galiber, commemorating the 40th Anniversary of the Landmark Decision in Brown versus the Board of Education, Topeka, Kansas, upon the occasion of a Discussion with the renowned Brown Family at the New York State Museum in Albany, New York, on May 20th, 1994.

WHEREAS, it is the sense of this legislative body that those who give positive definition to the profile and disposition of their communities 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 commemorate this 40th anniversary of the landmark decision of Brown versus the Board of Education, Topeka, Kansas and commend the courage and integrity of the brave men and women who fought at great personal and professional risk the doctrine of "separate but equal";

To commemorate this landmark decision, the New York African-American Research Foundation of the University of the state of New York is presenting a symposium and lecture, including a discussion with the renowned Brown family, entitled "A Matter of Access and Equity," at the New York State Museum Cultural Education Center in Albany, New York on May 20, 1994;

Having grown up in a country which did not socially acknowledge its inherent equality and having seen the effects of the prejudice upon the community, Charles Houston dedicated his life to a cause which inspired the founders of this country, that of equality and freedom;

Armed with this vision and an intimate knowledge of the law, Charles Houston took the position of vice dean of Howard Law School in 1929, where he was able to train an impressive legal team similarly devoted to the cause of equality;

Although Houston was unable to

see the fruits of his labors in his lifetime, the strategy which he developed was carried through by his students, most notably Thurgood Marshall; his leadership melded together an impressive legal team which simultaneously tried numerous segregation cases, each carefully constructed to prove that the presence of segregated schools grossly denied the constitutional claim to equal rights for all citizens;

In 1954, the goals of this team were finally realized in the decision of Brown versus the Board of Education, Topeka, Kansas; in a unanimous decision, the Supreme Court over turned the legal basis for segregation and said, in the words of Chief Justice Earl Warren, "We conclude that, in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of,

deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment...";

The victory of those who fought this battle against injustice acted as a cata lyst to highlight the issues of civil rights within the national consciousness, reinvigorat ing our nation's ongoing struggle to achieve equality and freedom;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to commend the brave men and women who so ardently fought for the cause of justice and commemorate the anniversary of the ruling of Brown versus the Board of Education, Topeka, Kansas, and

BE IT FURTHER RESOLVED that copies of this resolution, suitably engrossed, be transmitted to the New York African-American Research Foundation, State University of New York, and the Brown family.

ACTING PRESIDENT KUHL: Senator Galiber on the resolution.

SENATOR GALIBER: Thank you, Mr.

President.

Last week some of us recall the historical event that happened in South Africa and, at that time, Mr. President, I had thought seriously about joining those resolutions because there is a comparison to be made and, in a sense, something which happened some time ago in our country emphasized the fact that apartheid was here first in this country of ours and those of us recalled that in 19 -- 1857, the Dred Scott decision. We must go back in history a bit to fully appreciate what this Board of Education -- Brown versus the Board of Education is really all about.

In 1857, Judge Tenney, Chief Judge, talked about citizenship and, up until that particular time, this horrible decision which said to us that there were some in our communities and in our country who do not -- are not recognized as citizens of this great nation; and all of us can recall the Preamble: We, the people of the United States, in order to form a more perfect Union, establish justice and ensure

domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty for ourselves and our prosperity, do ordain and establish this Constitution for the United States of America. Preamble of a great, great instrument.

Built into that instrument, however, was some question as to whether we were dealing with all citizens, and those of us who recall our history, not to take you through a course in constitutional law -- certainly not qualified to do so -- recognize that there was a segment of our community which was not included, and that we talked about three-quarters of a person, of a citizen; yet there was some hope until this decision because it wasn't clear, we weren't sure that three-quarters of a person or a citizen for tax purposes really was in the old days a set aside which we argue about, whether it was a form of affirmative action, but we set aside a particular group of people. That's a set aside and it happened way back then.

But Judge Tenney said in his

decision, "citizens" and he used two criteria and in his criteria, he said Americans, persons who were born here, they're O.K., and those persons who came along thereafter who migrated were O.K., but he made it crystal clear that citizens of color were not included, and we had that decision to live with for a long, long while, and we were talking about the foundation for institutional racism which has been a mark upon this great nation of ours for so many years.

Then came along some years later the Fourteenth Amendment, and we started talking about three categories of citizen. There was some question there, and we finally came to the conclusion that there was still some hope, but by then the damage was done.

"Apartheid" means simply a separation and, if you look to the definition, it's a racial segregation, specifically a policy of segregation and political and economic discrimination against non-European groups in the Republic of South Africa. And interestingly

enough, that was coined in 1947 and the decision I make reference to, the Dred Scott decision, was 1857. So we started it, ladies and gentlemen, this horrible notion of apartheid.

So today as we celebrate, if you will, that on May 17th, 1954, Mr. President, exactly four decades ago, the Supreme Court handed down its decision in Brown versus the Board of Education, and they were telling states and localities they could no longer maintain school systems that separated pupils by race, and the court's reasoning, simply stated, was that schools set aside for African-Americans would always be inferior, and this did not result from deficiency in terms of facilities, although that was un... was usually the case.

Even if separate schools for African-Americans were well financed showcases, that would not have solved the problem. The crucial fact, as the court saw it, was that segregation based on race sent the message to black children that whites did not want them in their schools and that exclusion, the justices

concluded, generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

The Supreme Court decision in Brown versus the Board of Education was an acknowledgement of conditions which had plagued the nation's African-American population since the Civil War and before. It was a hard-won victory, one in which those fighting the battle stood to lose all, from the lawyers arguing against the societal ills to the children around whose situations the case was argued, to the communities which would need to find a means to survive after the fighting in the European American community which they had to interact with on a daily basis.

Despite the odds, the persons of courage took up the battle which, fueled by the energy of those at the grass roots, the people who daily faced the evils of discrimination, channeling through their leadership of the NAACP and the Legal Defense, they asked to show that

separate schools would never be equal and those fighting this battle had to prove legally what was already known socially, that the consequences of segregation, the psychological, the intellectual and the financial damage precluded equality.

The Legal Defense Fund lawyers called on the NAACP officers to gather cases from around this great nation to use as ammunition for the constitutional cannon they were about to fire. They wanted cases from different states and different situations, a broad attack, to make it harder for the court to hand down a decision limited to a particular case.

With 2.2 million African-American students in the nation, all African-American elementary schools, certainly the search did not take long. The inequalities which occurred as a result of separation, which apparently even the most casual observers could take notice of in some school districts in the country, the disparities between the amount of money spent on

European-American children was over four times greater than that spent on African-American children, overcrowding of our children in African-American schools, left these children with a pupil ratio of 40 to 1 compared to 20 to 1 for the European-American schools.

In addition, facilities were rarely comparable. Simple things such as gymnasiums and libraries were often in accessible to the African-American children. To argue that equality was theoretically possible was to ignore the significance of a fact of racism, that even were it financially possible to provide separate and truly equal educational opportunities, money for this cost would be grudgingly, if at all, given by the dominant European-American society.

The costs of racism, however, were far more invidious than simple monetary inequality. Psychologically the effects of segregation took an enormous toll on the children who lived within its boundaries. The signal sent by a society which forbid the

mingling of races was heard and interpreted by African-American children in the only way it could be, that they must be bad, less worthy or not nice, and a series of sociological experiments by Kenneth Clark on the self-image of African-American children as related to their race confirmed this fact.

Self-image naturally correlates to the limits which a child sets for himself or herself, so that by telling the child that he or she was inferior, society also told the child that she was incapable or he was incapable of knowing certain things, incapable of learning certain things, and after being told this many times, the child becomes less likely to learn and, with these and other arguments in mind, the NAACP built its strategy and within the many cases that the NAACP and the Legal Defense Fund tried in an attempt to chip away, if you will, at the legal basis of "separate but equal" was a case concerning a 7-year-old girl named Linda Brown.

Linda Brown lived in the town

called Topeka, Kansas and had to cross railroad tracks in a nearby switching yard and, in the switching yard each day she took that trip to get to school and this rickety bus would take her to an African-American school.

Now, this wasn't the worst that African-American children had to endure, but her father was fed up with his child having to go to school -- go to school across the tracks when there was a school much closer to home, a European-American school. The argument argues, if you will, around Linda Brown was clear that separate could never be equal regardless of equality and resources or facilities.

Finally, the court did concur and, with the arguments presented by the plaintiffs and as the Chief Justice Earl Warren noted in the court's decision, "To separate African-American children from others of similar age and qualification solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way very unlikely to

be undone, and we conclude unanimously that in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal."

In reaching this decision, the court knew, and those fighting for the cases knew that it would have a far-reaching impact on American society. The rebuttal of the doctrine of "separate but equal" in the schools led the way for the demise of legal segregation in the nation as a whole.

Similarly de facto segregation was recognized, and the initial steps taken against it. In all, this case served as a catalyst by which issues of civil rights were highlighted within the nation's consciousness, reinvigorating our nation's ongoing struggle to achieve equality and freedom.

So my colleagues, as we pause today, we need to reflect, to reflect on the sacrifices made by the individuals who made these valuable contributions to the cause of equality and freedom in the United States.

In commemorating their victory, we must remember that there is still much work to be done to continue the struggle for which they sacrificed so much and, even today, true equality between races eludes us. Even today, children are separated, if not by law, then socially, economically and historically. We must now focus our efforts toward achieving balance in these areas so that all individuals in society may contribute to the greatness which, if presently unrealized, can be achieved for this state and nation.

In this way we can remain true to the legacy of the brave men and women who have gone before us together.

Mr. President, I thank you and I suggest that the resolution be open for all those who are desirous of sharing this very important day in this great history of the country.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Present.

SENATOR PRESENT: Why not use the procedure we've used in the past and add every body's names except those who have declined.

ACTING PRESIDENT KUHL: Everybody will be placed on the resolution except those people who would like to indicate to the clerk that they don't wish to be on the resolution.

The Chair would recognize Senator Espada on the resolution.

SENATOR ESPADA: Thank you, Mr. President.

Like Senator Galiber, I would like to rise to reflect back on last week's bipartisan resolution which celebrated the birth of a nation on the continent of Africa. We saw, of course -- we were witness to history -- where a segregated society finally decided to create for itself a new moral authority, a new moral force to guide its future, and many supporters of that resolution hoped aloud that somehow the influence would travel 8,000 miles and impact upon the United States of America, New York State and certainly in these chambers, and we

wait.

Today, we commemorate a landmark Supreme Court decision that 40 years ago outlawed racially segregated schools. I, as a youngster in the South Bronx, first learned about this decision at P.S. 157. I have a constituent Harry Briggs, Jr. His daughter attends 157, the same school that I attended. When I attended, we had about 20 to 22 students in the classroom, some African-American, some Puerto Rican Latinos, and some whites. Today the daughter of my constituent Harry Briggs, whose father, Harry Briggs, Sr., filed a lawsuit in Summerton, South Carolina in 19 -- the early 1950s, and was the lawsuit that a young lawyer, Thurgood Marshall, first used to make his argument before the federal court that separate education was inherently unequal, today the great -- the granddaughter of Mr. Briggs who attends 157, attends 157 with about 30 to 35 children in her classroom, none white.

To say that we've gone backwards would be an under... an understatement. We have

gone backwards, Mr. President, not solely because our children cannot read or write, not solely because the state educational formula penalizes these children year in and year out for being poor, but we, I think, most regrettably have to take note of the fact that throughout New York State and throughout this country, but more focused on New York State, New York State has the most segregated school system in this nation where 85 percent of African American students attend minority schools with no whites enrolled in that school.

Hispanic Latino, Puerto Rican students are perhaps the most segregated in that certain linguistic cultural barriers have been erected to create that isolation and alienation, and while I maintain the ideal and the hope that we can have mixed -- racially mixed schools, economically mixed schools, I'd like to just focus in on some reality checks.

This Senator from the South Bronx would settle, in commemorating this 40th anni versary, for an educational aid formula that

recognizes -- truly recognizes -- need, poverty, in the children of districts like the South Bronx but all throughout the state, rural, suburban, inner city, but after we get through with fair resource allocation, let's just reflect on one thing, that the cruelest thing of all is that there are white children attending white schools throughout this state and this country that think that that's O.K., and I think that bears more than reflection. It bears a heavy burden on us to correct that, because I was enriched by the diversity in my classroom, a diversity that this young lady that I make reference to, Miss Briggs, does not enjoy and, quite honestly, given the demographics of the area in New York City and the way we're headed, will not enjoy.

What makes people in the early 1950s, before that and certainly now, brave in this fashion without cause is the real issue if we're going to correct this matter. I think, in commemorating this decision, this Supreme Court decision, we have to take note of the fact that

we have the law on our side theoretically, that things haven't changed.

I don't blame this on suburbia. I don't blame this on the Republican Senate Majority. I have, in the Bronx side by side, school boards where they're scandal-ridden, where minority parents, people that look like me and others on the Democratic side of this aisle, they have all the controls. They have mismanaged; they have corrupted school systems, so in no way am I pointing fingers. I think we've all failed our children in one degree or another, but some of us are in a better position to change things than others.

Racism permeates not just our educational institutions, Mr. President. It's worse than that. Last week a colleague of mine in the Assembly, Assemblyman Ramirez, held hearings on discrimination in the provision of health services in major hospitals in New York City, to wit., we had Mount Sinai as the case in point, and Mount Sinai had a practice that ended recently, we're told, wherein maternity patients

who had a certain type of insurance, say Medicaid, were housed in one floor and patients that had, quote, "private insurance" were housed in another floor. We were led to believe, as bad as it was, it was simply discrimination on the basis of payment method. But the harsh reality of it was that, given a lawsuit that was filed recently by five African-American maternity patients who had private insurance and yet were steered to go to the Medicaid wing and were not provided with the kind of patient education and health care services that the so-called private patients usually receive, had filed that lawsuit, had brought right in front of us hard evidence that, in fact, this practice of separate and unequal, this practice of ascribing inferior status to people on the basis of who they are, racially and economically, is still alive and well.

And so, in commemorating both last week's resolution and this week's resolution, I say that the best that we can do is not to continue to pass resolutions but, in

fact, I'd like to be as realistic and as practical as anybody else.

I will settle, to summarize, for a good and solid and fair educational aid formula that would benefit my district and the children who live in it, and I would also hope that by virtue of these resolutions and the things that we can actually do by way of law, by way of budgetary priorities, that we would make room to pass some legislation, implement some programs that support family life and do not destroy family life, that reward parity and don't make it more difficult on parents to bring their children up in a manner that we would all be proud.

I think, and I fear that we will find examples of legislation that would do the opposite. Unfortunately, we'll have to get up again. We'll have to put up our guard against those efforts, but we should truly be ashamed in this day and age we can support resolutions like this and actually behave in ways that are totally against the spirit and the law that we

commemorate today.

Thank you so much.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger on the resolution.

SENATOR DOLLINGER: Mr. President, I rise just in very brief echo of the comments made by my colleague, Senator Galiber, and my colleague, Senator Espada.

I only disagree with Senator Espada about one thing, and that is it's my personal, political and practical opinion that the vision that you have of a school system in this state that will achieve the dream of Brown against the Board of Education, one that is not separate but equal, but one that is uniformly equal and high quality across the board, it is my political opinion that that will not happen here because the critical piece that's missing is that those who have been excluded from the political process will not have the political power to make that happen, and that's why what Brown against the Board of Education celebrates is the constitutional framework in which we

establish the principle that we would create equal opportunity, we would create due process, we would create a system in which we recognize that the minority populations -- and we are all at some time in our lives in that minority populations when we have a traffic ticket, by virtue of our religion, by virtue of our ethnicity; at one time or another almost everybody in this country has been in that posture -- but it seems to me that what we celebrate today is a constitutional system which recognizes that there are certain fundamental rights which transcend the legislative process, and I reflect on Brown against the Board of Education and realize that it was the brilliance and the insight of the Supreme Court that took the message of the Fourteenth Amendment to heart, struck down a system for which there was no constitutional requirement, but used their own judgment and their own vision of what the Constitution really meant, to strike down a system that was no longer consistent with it.

It's that vision created by

judges interpreting a Constitution that drove away separate but equal, not a standing Legislature, and that's the problem with our entire system of government is that the minority participation in those decisions by virtue of the fact that it is a minority, it doesn't have the majority political power to transform the landscape.

So while I share your vision for the school system in this state, it is my personal reflection that it will happen because of the constitutional principles set by the people of this state, those broad principles in which we recognize the quality of opportunity. That is what will result in the creation of a fair, truly equal, truly broad-based school system and a truly broad-based fair opportunity for all of us.

While I believe our conscience should drive us to be in that position in this Legislature, it is my personal opinion it will happen much as it did in the Brown against the Board of Education because of our constitutional

principles and not because of our legislative action.

It's those broad constitutional principles that I celebrate today and when I reflect upon Brown against the Board of Education, I celebrate what was done by Earl Warren in bringing nine votes to the table to declare that a system of separate but equal had no place in a Constitution that recognized equality of opportunity for all, and that constitutional system that I, as a lawyer, celebrate today, it was vindicated in Brown against Board of Education.

It changed something that the legislatures would never have changed, and that's what we celebrate today, the principles it encompasses and the constitutional system set up with great vision by our forefathers.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I want to thank Senator Galiber

for bringing this resolution to the floor and causing, and I think we all probably have personal recollections. I remember being nine years old and having a touch of a virus on Monday morning, and I wasn't in school in May and watching TV, which program was interrupted late in the morning with the news of what the Supreme Court -- I remember it being happy, because I was of the political opinion that segregation was wrong and I could never concede from the time I first learned of it that there was a legal system in place anywhere in this country that enforced segregation.

Subsequently, in my studies as a lawyer, I had occasion to look quite a bit into the history of this case, the people who made it happen, a fine young lawyer named Thurgood Marshall, who went on literally to become one of the legal icons of this century, not just for his people, but for all Americans, and the argument -- somehow we may have forgotten the case was actually argued twice, Marshall against John Davis, and the Chief Justice died, the case

was put over to the next term for re-argument. It was argued once again.

Fascinating evidentiary record, if you ever read the studies that Dr. Clark did with dolls, with young children and dolls, it would bring tears to your eyes because, as Senator Galiber pointed out, it demonstrated the kind of self-images that African-American children had, not because they were born with it, because this society laid it on them; and I think it's been quite a 40 years.

Brown versus Board of Education dealt with the school systems, but it dealt with more. It was a moral statement about segregation, and subsequent to that everything from segregated buses to luncheon counters, to a segregated way of life in large parts of America vanished certainly as a legal entity and in many places vanished as a reality, although there remains much work to be done.

I think the most significant thing about Brown versus Board of Education, and I think we can all remember when President

Eisenhower sent federal troops to Little Rock, when federal marshalls went to Alabama, there was massive resistance particularly in the south to the principles set down by Brown versus the Board of Education, and I think the most gratifying thing that I've seen was to recently read a poll that was done just in the last few weeks on the 40th anniversary, that found the overwhelming majority of Americans, in the 80s, high 80 percents, support and applaud Brown versus the Board of Education, and in the south, I think it was some 68 percent of those polled had a positive reaction and were glad for this decision and supported its principles at least as a political statement.

I think that's very, very important because it does show something that I think I mentioned last week when we had the Mandela resolution, that in freeing some of the people, the principles laid down by this case and the people who followed in the civil rights movement, in effect, freed everyone, the oppressors as well as the oppressed.

In a large step for democracy and freedom for all Americans, not just those who were enclosed in segregation, but those who were its ostensible beneficiaries have actually been lifted out of that and we have a far better country that we live in now, albeit much remains to be done.

So I applaud, again, Senator Galiber for this moment to pause and reflect on such a historic occasion.

ACTING PRESIDENT KUHL: Senator Goodman, you wish to be recognized?

SENATOR GOODMAN: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Goodman on the resolution.

SENATOR GOODMAN: Mr. President, last week on the extraordinary occasion of the South African election, I was strongly tempted to say a word or two but, in fact, decided not to do so since it seemed a day for us to proclaim their really great exaltation at this historic moment in history; and I don't want to

be presumptuous at this moment, but I do want to rise very briefly to say that I deeply appreciate Senator Galiber's initiative in bringing this resolution before us, and to say further that, when I realized a few weeks ago that this anniversary was coming up, I took out of the library a biography of Chief Justice Thurgood Marshall, and I found it an almost astonishing experience to read this, not just as a testament to the rise and development of an amazing intellect in a stellar leader, but also to match mentally as I progressed through this book, the shocking conditions which existed during the days of my youth and early adulthood further, which today, looking back, seem so grossly unacceptable and so amazingly repressive that it's hard to imagine that, within the short span of several of our lifetimes, the lifetime of anyone within the sound of my voice, that there were actually conditions that of the most vicious type of segregation.

Obviously much remains to be done, but it does seem to me that democracy's

promise is reflected in some of the great constitutional progress that we've made and Brown versus Board of Education, with its absolute insistence that separate but equal must be banished from the American system, was only one of the hallmarks in a series of events which are aimed at trying to eliminate the horrors of segregation.

And, Mr. President, I'd simply like to say to Senator Galiber and my other colleagues on both sides of the aisle that we, as legislators, I think have a special obligation to see that the forward momentum which has been achieved so far is to be maintained and to recognize that there is still so much to be done.

I'm reminded of a little story about Winston Churchill halfway through the second World War. He was at a garden party or, I don't know, an indoor party, at which a little old lady arose and said, "Prime Minister, I understand that all of the brandy you have consumed thus far during the second World War,

if it were poured into this room, that it would reach this point on the side of the wall," and she reached way above her head, about halfway up the room, and Mr. Churchill looked at her and with a little smile said, "So much accomplished, my dear lady, but so much left to do."

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on this resolution? If not, the question is on the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is carried unanimously.

Senator Holland.

SENATOR HOLLAND: Mr. President, for Senator Skelos, on page 30, I offer the following amendments to Calendar Number 818, Senate Print Number 6344-A, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Without objection, so ordered.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I wish to call up bill 537, recalled from the Assembly for Senator Kuhl, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Kuhl, Senate Bill Number 537, an act to amend the Agriculture and Markets Law.

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

ACTING PRESIDENT KUHL: On the motion for reconsideration, the clerk will call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is before the house.

SENATOR DiCARLO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and accepted.

Senator Cook.

SENATOR COOK: Mr. President, on page 56, I offer the following amendments to Calendar Number 416, Senate Print 2970, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Without objection, so ordered.

Senator Hoffmann.

SENATOR HOFFMANN: Request unanimous consent, please, to be recorded in the negative on Calendar Number 1030.

ACTING PRESIDENT KUHL: Without objection, Senator Hoffmann in the negative on Calendar Number 1030.

Senator Kruger.

SENATOR KRUGER: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 727.

ACTING PRESIDENT KUHL: Without objection, Senator Kruger will be in the negative on Calendar Number 727.

SENATOR GOLD: Mr. President, could we just recognize Senator Kruger.

ACTING PRESIDENT KUHL: Recognize Senator Kruger.

SENATOR KRUGER: Yes, Mr. President. On yesterday's calendar, if I had been in the chamber, I would have been recorded in the negative on Calendar 727.

SENATOR GOLD: Thank you very much.

ACTING PRESIDENT KUHL: The record will so reflect, Senator Kruger.

Senator Present.

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

ACTING PRESIDENT KUHL: Clerk will read the controversial calendar.

THE SECRETARY: On page 27, Calendar Number 759, by Senator Holland, Senate Bill Number 3535, relocate the Spring Valley

Toll Plaza of the New York State Thruway.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Would Senator Holland yield?

ACTING PRESIDENT KUHL: Senator Holland, will you yield to Senator Leichter?

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator Leichter, Senator Holland yields.

SENATOR LEICHTER: Senator, why?

SENATOR HOLLAND: Why?

SENATOR LEICHTER: Yes.

SENATOR HOLLAND: It really is unfair, in my estimation, for the citizens of Rockland and Orange County to have this toll barrier in the middle of Rockland County. The figures show that the Thruway's revenue last year -- I'm sorry, 1992, was approximately $294 million. Of that, approximately one quarter was collected from Harriman through the Yonkers toll barrier. It's only 9 percent of the mileage, but almost a quarter of the revenue is collected

in that area.

It seems unfair to me as just a -- I think it would help Rockland County if that toll barrier was removed, people would go on the Thruway; it would take traffic off of our Route 59 and reduce the trip across Rockland County from 45 minutes to less than 10 minutes, but basically, Senator, my thrust is that it's unfair to charge the people of Rockland County and the people of Orange County almost 25 percent of the revenue for less than 9, or approximately 9 percent of the mileage on the Thruway.

SENATOR LEICHTER: But, Senator Holland, if I understand it, the reason that so much of the total revenue of the Thruway is collected at these two tolls is because that's the end of the Thruway, so when I'm riding down the Thruway from Albany and other colleagues of mine, that's where we pay our tolls.

SENATOR HOLLAND: No, sir, I'm not including the tickets collected at Harriman, I'm not including that. I understand your

point. I'm carrying the 50 cents that's collected at Harriman, the 40 cents that's collected at Spring Valley, the two fifty that's collected on the bridge and the 40 cents that's collected at Yonkers to come to that almost 25 percent, approximately $70 million.

SENATOR LEICHTER: Well, Senator, if we made the change that you propose, how much would it cost the Thruway, one, to change the tolls and, secondly, how much loss of revenue would there be?

SENATOR HOLLAND: I can't tell you how much it would cost to construct new toll barriers at the entrance to 287, if that's your point. You know, 287 is now the beltway around the City. That would bring much, much more passenger vehicles and 18 wheelers and all kinds of vehicles through that area.

If the toll barrier was moved back to the Jersey line to 287 and the toll is collected there, I think the toll revenues would go way up, way up, because of the increase in traffic. However, what we're collecting now at

Spring Valley is about $9 million, of the $294 million that was collected for 1992.

SENATOR LEICHTER: Senator Holland, I understand your point about having a toll plaza within a county for people traveling within the county, but the same thing happens with the county of Albany. I'm sure you run out at Exit 23, going from Exit 24, and you pay a toll when you go that distance. I imagine in Erie County, there must be a number of tolls that the residents of Erie County pay who travel within Erie County. I'm not sure I have -- I get a sense that there's real unfairness to the people of Rockland. If there is, I would certainly rectify it.

ACTING PRESIDENT KUHL: Senator Leichter, are you asking Senator Holland to please yield to a question?

SENATOR LEICHTER: Yes.

SENATOR HOLLAND: Yes, sir. But the Spring Valley Toll Barrier is right in the middle of the Thruway. It is not an exit; it is not an entranceway; you have no option. Exit 23

and Exit 24 here in Albany, you have an option but you do not at Spring Valley, and you do not at Yonkers, that's my point.

ACTING PRESIDENT KUHL: Clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number -- Calendar Number 914, by Senator Levy.

SENATOR PRESENT: Lay that aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 922, by Senator Cook, Senate Bill Number 3034-A, Executive Law, in relation to state aid to rural areas.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Cook, an explanation has been asked for by Senator Connor.

SENATOR COOK: Mr. President, one of the concerns regarding rural municipalities, rural communities, is that smaller communities have part-time governments. They really don't have very sophisticated governmental structures and, consequently, the perception at least is that when it comes to being able to make the appropriate applications and qualify for various types of state programs, that they are at a great disadvantage.

Obviously, that is not something that we can follow, and the purpose of this bill is to try to get a handle on, frankly, just how is the distribution made that's coming from the various state agencies so that we can have a better picture. Perhaps we're wrong even in our perception; perhaps we are being adequately served, but we don't know. We don't know what specific programs may be short-changing rural

communities. Some programs may be working very well; others may not, and the whole point of this is to have a mechanism by which we can monitor some of the state agencies and find out how they're dealing with the rural communities.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes, Mr. President.

I certainly agree with Senator Cook that we ought to know and we'd all like to know, so if the Senator would yield for a question.

ACTING PRESIDENT KUHL: Senator Cook, do you yield? The Senator does.

SENATOR CONNOR: Senator, how long do you think this report would be; how many pages?

SENATOR COOK: I don't anticipate, Senator, that it's going to be a voluminous page report. I assume that in the reports that are currently being issued by agencies on various things that there will

simply be some designation of what has gone in that relates to rural communities.

SENATOR CONNOR: Senator, how much -- if the Senator will yield for another question?

ACTING PRESIDENT KUHL: Senator does.

SENATOR CONNOR: How much will the five copies that you're asking be submitted here, how much will they cost to reproduce; is there a fiscal impact here?

SENATOR COOK: I beg your pardon, sir?

SENATOR CONNOR: How much will it cost the Senate to reproduce these copies, to send them to the Speaker, the Majority Leader, the Governor, the Chair and the vice-Chair of the New York State Legislative Commission on Rural -

SENATOR COOK: Senator, I haven't bought a ream of paper in a while. What is it, $25 maybe?

SENATOR CONNOR: $25? So,

Senator, how much would it cost to send a copy to the two minority leaders?

SENATOR COOK: Probably about -

SENATOR CONNOR: Four or five dollars?

SENATOR COOK: Yeah.

SENATOR CONNOR: Senator, may I respectfully suggest that we, in the minority, would also like to know what's going on -

SENATOR COOK: I'd be delighted.

SENATOR CONNOR: -- with these programs?

SENATOR COOK: I'd be delighted to do that, and I think that Senator Nolan and the Republican sponsors in the Assembly would also join in that and, while I don't intend to amend this bill, certainly we'll try to sensitize ourselves to that in the future.

SENATOR CONNOR: Well, Senator, is there a rush on this?

SENATOR COOK: Not particularly.

SENATOR CONNOR: Well, couldn't we have a small amendment?

SENATOR COOK: Lay the bill aside. Let me look and see how complicated this becomes.

SENATOR CONNOR: Thank you, Senator.

SENATOR COOK: I don't object to it in principle, no.

ACTING PRESIDENT KUHL: Bill is laid aside.

THE SECRETARY: Calendar Number 1005, by Senator Lack.

SENATOR PRESENT: Lay that aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

Senator Present, we have one substitution that we'd like to effect.

THE SECRETARY: On page 13, Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 8794-B and substitute it for the identical Calendar Number 349.

ACTING PRESIDENT KUHL:

Substitution is ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, may I request unanimous consent to vote no on calendar 1030?

ACTING PRESIDENT KUHL: Without objection, Senator Bruno is recorded in the negative on Calendar Number 1030.

SENATOR BRUNO: Thank you. Thank you. Thank you.

Senator Present.

SENATOR PRESENT: Senator Dollinger.

SENATOR DOLLINGER: May I have unanimous consent to change my vote on 1030, yea to nay.

ACTING PRESIDENT KUHL: Without objection, Senator Dollinger will be recorded in the negative on Calendar Number 1030.

SENATOR JONES: I would like to also be recorded in the negative on Calendar Number 1030, just for the principle of the thing.

ACTING PRESIDENT KUHL: Without objection, Senator Jones will be recorded in the negative on Calendar Number 1030. Senator Dollinger, you are recorded in the negative on Calendar Number 1030.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I move that we adjourn until tomorrow at 11:00 a.m.

ACTING PRESIDENT KUHL: Senate stands adjourned until tomorrow, Wednesday, at 11:00 a.m.

(Whereupon at 5:17 p.m., the Senate adjourned.)