

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ALBANY, NEW YORK

June 2, 1994

11:19 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT FARLEY: Senate
3 will come to order. Members take their seats.
4 Staff take their places. Ask all those in the
5 gallery to rise and join with us in saying the
6 Pledge of Allegiance.

7 (Whereupon, the Senate and those
8 assembled in the chamber joined in the Pledge of
9 Allegiance to the Flag.)

10 We're pleased to have a visiting
11 clergy with us, The Reverend Dr. William
12 Shillady from Mamaroneck United Methodist
13 Church, happens to be in Senator Oppenheimer's
14 district.

15 Reverend Shillady.

16 REVEREND WILLIAM S. SHILLADY:
17 Thank you.

18 Let us pray.

19 Almighty and gracious God, on
20 this particular day, we give You thanks for the
21 creative beauty of nature and life that exists
22 all around us. We remember with gratitude those
23 who have come before us and have been examples

1 to us of freedom and democracy, of caring
2 leadership and caring community.

3 This week, in particular, we
4 remember those who sacrificed themselves, our
5 brothers and sisters who have given their lives
6 in the horrors of war for the sake of freedom of
7 others. May we hold them all in continued
8 remembrance and ever think of them having
9 received their eternal reward for their attempt
10 to bring peace with justice.

11 And, finally, O God, You, as You
12 annointed leaders and called prophets of old, be
13 with those who lead this great State of New
14 York, be with the Governor and all these
15 Senators, and all the representatives, their
16 staffs and all aspects of government. In their
17 power to make decisions that affect all lives,
18 give them wisdom and courage.

19 Guide Your women and men in this
20 Senate who love Your people and children. Help
21 them to walk with those whose lives are touched
22 by their decisions. Aid them to be emboldened
23 and commissioned to dream their dreams and

1 strive for the common good of society.

2 Transform them and our political
3 system to serve people as the highest priority,
4 to bring hope to every person. Help each to
5 recognize Your call to them to be authentic and
6 caring leaders.

7 Amen.

8 ACTING PRESIDENT KUHL: Reading
9 of the Journal.

10 THE SECRETARY: In Senate,
11 Wednesday, June 1. The Senate met pursuant to
12 adjournment. Senator Kuhl in the chair upon
13 designation of the Temporary President. The
14 prayer was given by Rabbi Alfredo S. Winter of
15 Port Chester, New York, and also Chaplain Egert
16 of the 10th Mountain Division of Fort Drum. The
17 Journal of Tuesday, May 31, was read and
18 approved. On motion, Senate adjourned.

19 ACTING PRESIDENT KUHL: Hearing
20 no objection, the Journal stands approved as
21 read.

22 Presentation of petitions.

23 Messages from the Assembly.

1 Messages from the Governor.
2 Reports of standing committees.
3 Reports of select committees.
4 Communications and reports from
5 state officers.

6 Motions and resolutions.

7 Senator DiCarlo.

8 SENATOR DiCARLO: Mr. President.
9 On behalf of Senator Larkin, I wish to call up
10 his bill, Print Number 6390, recalled from the
11 Assembly, which is now at the desk.

12 THE SECRETARY: By Senator
13 Larkin, Senate Bill Number 6390, an act to amend
14 the Public Officers Law and the Village Law.

15 SENATOR DiCARLO: Mr. President.
16 I now move to reconsider the vote by which this
17 bill was passed.

18 ACTING PRESIDENT KUHL: The
19 Secretary will call the roll on reconsideration.

20 (The Secretary called the roll on
21 reconsideration.)

22 THE SECRETARY: Ayes 43.

23 ACTING PRESIDENT KUHL: The bill

1 is before the house.

2 SENATOR DiCARLO: Mr. President.

3 I now offer the following amendments.

4 ACTING PRESIDENT KUHL:

5 Amendments are received and adopted.

6 Senator DiCarlo.

7 SENATOR DiCARLO: Mr. President.

8 On behalf of Senator Johnson, please remove
9 sponsor stars on Calendar Numbers 563, 721, 722,
10 828, and 1040.

11 ACTING PRESIDENT KUHL: Sponsor
12 stars are removed on Calendars 563, 721, 722,
13 828 and 1040.

14 Senator Present, ready for the
15 calendar.

16 SENATOR PRESENT: Let's do the
17 noncontroversial calendar, please.

18 ACTING PRESIDENT KUHL: Clerk
19 will read the noncontroversial calendar.

20 THE SECRETARY: On page 5,
21 Calendar Number 249, by Senator Libous.

22 SENATOR PRESENT: Lay it aside.

23 ACTING PRESIDENT KUHL: Lay the

1 bill aside.

2 THE SECRETARY: Calendar Number
3 424, by Senator Johnson.

4 SENATOR PRESENT: Lay it aside.

5 ACTING PRESIDENT KUHL: Lay the
6 bill aside.

7 THE SECRETARY: Calendar Number
8 478, by Senator Saland.

9 SENATOR PRESENT: Lay it aside
10 for the day.

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

13 THE SECRETARY: Calendar Number
14 800, by Senator Holland.

15 SENATOR PRESENT: Lay it aside
16 for the day.

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

19 THE SECRETARY: Calendar Number
20 812, by Senator Larkin.

21 SENATOR PRESENT: Lay it aside
22 for the day.

23 ACTING PRESIDENT KUHL: Lay it

1 aside for the day.

2 THE SECRETARY: Calendar Number
3 847, by Senator Libous.

4 SENATOR PRESENT: Would you lay
5 aside 847 through 1038.

6 ACTING PRESIDENT KUHL: Calendars
7 Number 847, 853, 854, 855, 901, 932, 987, 1035,
8 1036 and 1038 are laid aside.

9 THE SECRETARY: On page 31,
10 Calendar Number 1044, by Senator Cook, Senate
11 Bill Number 7185, an act to amend the
12 Agriculture and Markets Law.

13 SENATOR GOLD: Lay it aside for
14 Senator Oppenheimer.

15 ACTING PRESIDENT KUHL: Lay the
16 bill aside.

17 THE SECRETARY: Calendar Number
18 1093, by Senator Cook, Senate Bill Number 2547.

19 SENATOR GOLD: Lay it aside.

20 ACTING PRESIDENT KUHL: Lay the
21 bill aside.

22 THE SECRETARY: Calendar Number
23 1094, by Senator Cook.

1 SENATOR PRESENT: Lay that aside,
2 please.

3 ACTING PRESIDENT KUHL: Lay the
4 bill aside.

5 THE SECRETARY: Calendar Number
6 1096, by Senator Bruno, Senate Bill Number 6937,
7 Racing, Pari-Mutuel Wagering and Breeding law.

8 SENATOR GOLD: Lay it aside.

9 ACTING PRESIDENT KUHL: Lay the
10 bill aside.

11 THE SECRETARY: Calendar Number
12 1097, by Senator Libous.

13 SENATOR PRESENT: Lay it aside.

14 ACTING PRESIDENT KUHL: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 1099, by Senator Rath, Senate Bill Number 7157.

18 SENATOR PRESENT: Lay it aside.

19 ACTING PRESIDENT KUHL: Lay the
20 bill aside.

21 THE SECRETARY: Calendar Number
22 1104, by Senator Johnson.

23 SENATOR DOLLINGER: Lay it aside

1 for explanation.

2 ACTING PRESIDENT KUHL: Lay that
3 bill aside.

4 THE SECRETARY: Calendar Number
5 1112, by Senator Daly, Senate Bill Number 8262,
6 Education Law, in relation to courses of
7 instruction.

8 SENATOR GOLD: Lay it aside.

9 ACTING PRESIDENT KUHL: Lay the
10 bill aside.

11 THE SECRETARY: Calendar Number
12 1118, by Senator Libous.

13 SENATOR PRESENT: Lay it aside.

14 ACTING PRESIDENT KUHL: Lay the
15 bill aside.

16 Senator Present, that completes
17 the noncontroversial calendar. What is your
18 pleasure, sir?

19 SENATOR PRESENT: My pleasure
20 that we stand at ease for a few moments.

21 ACTING PRESIDENT KUHL: Senate
22 will stand at ease for just a few moments.

23 (Whereupon, at 11:37 a.m., Senate

1 was at ease.)

2 ACTING PRESIDENT KUHL: Senate
3 will come to order.

4 The chair recognizes Senator
5 Present.

6 SENATOR PRESENT: Mr. President.
7 Can we return to motions and resolutions, and
8 recognize Senator Libous.

9 ACTING PRESIDENT KUHL: We will
10 return to motions and resolutions.

11 Chair recognizes Senator Libous.

12 SENATOR LIBOUS: Thank you, Mr.
13 President.

14 I have a privileged resolution at
15 the desk. On this one, I'd just like the title
16 read. I would just like to speak on it for a
17 moment and ask for its adoption.

18 ACTING PRESIDENT KUHL: Clerk
19 will read the title of a privileged resolution.

20 THE SECRETARY: Legislative
21 Resolution by Senators Libous, Marino, and all
22 members of the Senate, proclaiming Thursday,
23 June 2, 1994, as Legislative Disability

1 Awareness Day in the State of New York.

2 ACTING PRESIDENT KUHL: Chair
3 recognizes Senator Libous on the resolution.

4 SENATOR LIBOUS: Thank you, Mr.
5 President.

6 Today is the 14th Annual
7 Legislative Disability Awareness Day, and I'm
8 pleased to say that the Senate has shared in a
9 full day of activities.

10 Earlier today, we had a group
11 together downstairs. We had many displays in
12 the Legislative Office Building from different
13 folks, different vendors, who work with people
14 in New York State with disabilities. And it is
15 again the Senate's commitment, Mr. President, in
16 showing that we care very deeply about the
17 residents of this state who have disabilities.
18 We care very deeply about improving upon the
19 different opportunities, whether it be inclusion
20 in the workplace, inclusion in school. These
21 are the kinds of things that the Senate stands
22 for and that this house has tried to move
23 forward on.

1 The other rare opportunity that
2 we have is we have two very special guests with
3 us, Mr. President, and I would like to introduce
4 them right now. We have Mitchell Levitz and
5 Jason Kingsley, and I would just like to ask the
6 two of them to stand for a moment, and I'm going
7 to ask that the clerk read two resolutions
8 honoring these two gentlemen.

9 But, basically, both of these
10 young men with born with Down's syndrome. Their
11 parents was told at a very early age that there
12 was little hope and that they should be
13 institutionalized. These two young men have
14 fought and beaten all of the odds.

15 They have proven that people with
16 disabilities and particularly with Down's
17 syndrome can live an active life, can live a
18 very normal life and need to be included.

19 And based on that, they have been
20 here today. They have been just a pleasure for
21 me to work with as we talk about the needs of
22 people with disabilities.

23 So if I could ask for the

1 adoption of this, and then I would ask for the
2 floor again, Mr. President, so that we could
3 read the resolution honoring these two
4 gentlemen.

5 ACTING PRESIDENT KUHL: The
6 question is on the resolution. All those in
7 favor, signify by saying aye.

8 (Response of "Aye.")

9 Opposed, nay.

10 (There was no response.)

11 The resolution is adopted
12 unanimously.

13 Clerk will read the next
14 privileged resolution in full.

15 THE SECRETARY: Legislative
16 Resolution, by Senators Libous, Marino and all
17 members of the Senate, honoring Mitchell Levitz
18 of Cortlandt, New York, co-author of Count Us
19 In: Growing Up With Down's Syndrome upon the
20 occasion of his appearance on the New York State
21 Legislature on Thursday, June 2, 1994.

22 Whereas, community awareness and
23 acceptance of persons who are disabled serves to

1 lift barriers and expand choices for persons of
2 all abilities.

3 It is the intent of this
4 Legislative Body to recognize persons with
5 disabilities who benefit New York State with
6 their contributions to our economic, educational
7 and social growth.

8 This Legislative Body is justly
9 proud to honor Mitchell Levitz of Cortlandt, New
10 York, co-author of Count Us In: Growing Up With
11 Down's Syndrome upon the occasion of his
12 appearance as a guest speakers at the New York
13 State Legislature on June 2, 1994.

14 Born on April 10, 1971, to Jack
15 and Barbara Levitz, Mitchell Andrew Levitz grew
16 up in Cortlandt Manor, New York, with his two
17 younger sisters, Stephanie and Leah.

18 Shortly after birth, Mitchell was
19 diagnosed with Down's syndrome, a genetic
20 abnormality which is usually associated with
21 some degree of developmental disabilities.

22 Responding to the needs of their
23 son and to better understand Down's syndrome,

1 Jack and Barbara Levitz established the Parents
2 Assistance Committee on Down's syndrome, one of
3 the first support groups in the nation for
4 families of children with Down's syndrome.

5 Mitchell Levitz participated in
6 the first early intervention program developed
7 in Westchester County at the Westchester
8 Institute for Human Development; he attended a
9 community nursery school, a Montessori
10 kindergarten and a combination of special and
11 regular education classes at his neighborhood
12 schools in the Lakeland School District.

13 Mitchell graduated with a regular
14 diploma from Walter Panas High School in June of
15 1991 and received community service, school
16 service, academic achievement in business
17 education, legislative commendation awards and a
18 varsity letter for soccer.

19 Mitchell's television appearances
20 include Sesame Street, NBC Weekend, the Morning
21 Show with Regis and Kathie Lee, and Dateline NBC
22 with Jane Pauley; his film appearances include
23 "Opportunities to Grow" by National Down's

1 Syndrome Society and "Employ*Ability:
2 Integrating people with Developmental
3 Disabilities Into the Workplace" by Woolworth
4 Corporation; he has also been featured in
5 articles New York Times, USA Today and Gannett
6 suburban newspapers and magazines including
7 Special Report, Psychology Today and Hudson
8 Valley Magazine.

9 Mitchell has been a keynote
10 speaker at local and statewide conferences for
11 parents, professionals and self advocates. He
12 was introduced on the floor of the New York
13 State Assembly, and has presented congressional
14 testimony in Washington, D.C.

15 With a strong interest in
16 politics, government, and world affairs,
17 Mitchell Levitz has volunteered his time working
18 as an intern for two State Assembly members,
19 assisting the high school dean of students,
20 serving on the legislative action committee for
21 the board of education, and legislative lobbying
22 in Washington, D.C.

23 His employment has included

1 working as a busboy at Colonial Terrace
2 Caterers, a bank teller at the Summit Trust
3 Bank, and a kitchen assistant at Pizza Hut;
4 Mitchell worked as an office assistant at the
5 Peekskill/ Cortlandt Chamber of Commence.

6 Mitchell Levitz has collaborated
7 with a close friend, Jason Kingsley, who also
8 has Down's syndrome on a book called Count Us
9 In: Growing Up With Down's Syndrome. The book
10 was published in January of 1994 by Harcourt
11 Brace & Company. Mitchell and Jason recently
12 completed a cross-country promotional book tour,
13 making media appearance and signing books in 13
14 different cities. In its third printing, Count
15 Us In: Growing Up With Down's Syndrome has
16 recently appeared on the UPI best seller list,
17 the National Edition of the New York Times,
18 Associated Press and People magazine.

19 Mitchell Levitz recently began a
20 new position as Consumer Empowerment Ombudsman
21 for the Westchester Association for Retarded
22 Citizens. He commutes by public bus to work and
23 is presently living on his own in a house in

1 Cortlandt Manor, New York. He is an active
2 member of his community and serves on the New
3 York State Interagency Council on Vocational
4 Services, the Westchester County Community
5 Mental Health Services Board, the Westchester
6 County Citizens Consumer Advisory Board, and the
7 Lakeland School District Community Action
8 Committee.

9 Mitchell Levitz and Jason
10 Kingsley will speak and sign their book at the
11 New York State Legislative Office Building,
12 third floor terrace, on Thursday, June 2, 1994,
13 appearing in conjunction with the observance of
14 Legislative Disability Awareness Day in the
15 State of New York.

16 Now, therefore, be it resolved,
17 that this Legislative Body pause in its
18 deliberations to salute and honor Mitchell
19 Levitz of Cortlandt, New York, recognizing his
20 courageous achievements and outstanding
21 contributions in support of increased awareness
22 and opportunities for citizens with disabilities
23 on the occasion of his appearance on the New

1 York State Disability Awareness Day, June 2,
2 1994; and be it further

3 Resolved, that a copy of this
4 resolution, suitably engrossed, be transmitted
5 to Mitchell Levitz, 208 Lafayette Avenue,
6 Cortlandt Manor, New York.

7 ACTING PRESIDENT KUHL: The
8 question is on the resolution. All those in
9 favor, signify by saying aye.

10 (Response of "Aye.")

11 Opposed, nay.

12 (There was no response.)

13 The resolution is unanimously
14 adopted.

15 Mitchell Levitz, on behalf
16 Senator Libous, Senator Marino, and all the
17 members of the Legislature, we welcome you here
18 today. Your life, your young life is just a
19 wonderful story. You certainly have a lot to be
20 proud of. We're proud of you, and thank you for
21 coming and sharing a day with us.

22 (Applause.)

23 SENATOR LIBOUS: Mr. President.

1 I have one more resolution at the desk. I ask
2 that it be read in its entirety, and I will make
3 a comment afterwards.

4 ACTING PRESIDENT KUHL: Clerk
5 will read the resolution in its entirety.

6 THE SECRETARY: Legislative
7 Resolution, by Senators Libous, Marino, and all
8 members of the Senate, honoring Jason Kingsley
9 of Chappaqua, New York, Down's syndrome student,
10 actor, and lecturer, upon the occasion of his
11 appearance at the New York State Legislature on
12 June 2, 1994.

13 Whereas, community awareness and
14 acceptance of persons who are disabled serves to
15 lift barriers and expand choices for persons of
16 all abilities.

17 It is the intent of this
18 Legislative Body to recognize persons with
19 disabilities who benefit New York State with
20 their contributions to our economic, educational
21 and social growth.

22 Jason Andrew Kingsley was born on
23 June 27, 1974, with Down's syndrome, a genetic

1 abnormality which results in some degree of
2 mental retardation.

3 Jason's parents, Charles and
4 Emily Kingsley, disregarded medical advice to
5 institutionalize their child, brought him into
6 their loving home and set about obtaining the
7 intervention and educational training
8 appropriate for his needs and abilities.

9 Jason Kingsley has demonstrated
10 unique talents and skills, abilities which
11 complement his unfailing determination and
12 engaging personality and have enabled him to
13 achieve goals and enjoy experiences commonly
14 denied to persons with disabilities.

15 Exposed to the public forum at an
16 early age when he and his parents appeared to
17 speak regarding Down's syndrome and life for
18 persons with disabilities, Jason soon found his
19 opportunities expanding to television interviews
20 and appearances, world travel, and theater
21 experiences involving both production and
22 performance.

23 Jason has received many honors

1 and awards in recognition of his contributions
2 toward better understanding and acceptance of
3 people with developmental disabilities,
4 including the Joseph P. Kennedy, Jr., Foundation
5 award which was given to him at Rose Kennedy's
6 gala 100th birthday celebration.

7 Jason who is now preparing for
8 graduation from Lakeland High School in Shrub
9 Oak, New York, has collaborated with a friend
10 who also has Down's syndrome, Mitchell Levitz,
11 in authorizing a book entitled Count Us In:
12 Growing Up With Down's Syndrome.

13 Jason Kingsley and Mitchell
14 Levitz recently completed a cross-country
15 promotional book tour making media appearances
16 and signing books in thirteen differently
17 cities. In its third printing, Count Us In:
18 Growing Up With Down's Syndrome has recently
19 appeared on the UPI best seller list.

20 Jason Kingsley and Mitchell
21 Levitz will speak at the New York State
22 Legislative Office Building, third floor
23 terrace, on Thursday, June 2, 1994, appearing in

1 conjunction with the observance of Legislative
2 Disability Awareness Day in the State of New
3 York.

4 Jason Kingsley has astutely
5 observed that once people get to know people
6 with disabilities, strangers will become our
7 friends.

8 Now, therefore, be it resolved,
9 that this Legislative Body pause in its
10 deliberations to salute and commend Jason
11 Kingsley of Chappaqua, New York, recognizing his
12 courageous achievements and outstanding
13 contributions in support of increased awareness
14 and opportunities for citizens with
15 disabilities, on the occasion of his appearance
16 at the New York State Legislature on Disability
17 Awareness Day, June 2, 1994; and be it further

18 Resolved, that a copy of this
19 resolution, suitably engrossed, be transmitted
20 to Jason Kingsley.

21 ACTING PRESIDENT KUHL: On the
22 resolution, the chair recognizes Senator
23 Libous.

1 SENATOR LIBOUS: Thank you, Mr.
2 President. There is not an awful lot I can add
3 to the resolutions if my colleagues took the
4 time to listen to the accomplishments of these
5 two outstanding young men.

6 The only thing I would like to
7 add is this; that there are many people in New
8 York State who do not have the same
9 opportunities that we have. They have
10 disabilities and until that actual experience
11 affects you as an individual or affects a member
12 of your family, we all too often take life for
13 granted. We take for granted getting out of bed
14 in the morning. We take for granted walking to
15 work. We take for granted just opening a door
16 and walking to a car.

17 Unfortunately, there are many
18 people in this state and in this country who
19 have physical and mental disabilities that don't
20 have those same opportunities that we have. I
21 think it's important as legislative leaders, as
22 those who set policy in this state, that we try
23 to pause every so often and make sure that we

1 pass legislation, that we work in our
2 communities to help those individuals that have
3 disabilities so that they can lead and live
4 normal lives just like Jason and Mitchell. They
5 can demonstrate to others that having a
6 disability doesn't mean that you have to stay
7 locked up in a room. It doesn't mean that you
8 have to be institutionalized. It doesn't mean
9 that you have to stay out of society. And I
10 think that it's all too often that those of us
11 who do not have disabilities, we don't pause and
12 reflect on that.

13 So my message on this resolution,
14 Mr. President, is that not only am I extremely
15 proud of these two young men and I am proud of
16 all the folks who have joined us today who have
17 disabilities on Disability Awareness Day and, of
18 course, too, Mitchell and Jason's parents and
19 grandparents, who are here.

20 But, Mr. President, I would ask
21 that my colleagues just pause every now and then
22 and think about it. Think about what it would
23 be like for them to have to live with a mental

1 or physical disability and think about what
2 changes need to be done in the law so that we
3 can help improve life.

4 The last thing I would like to
5 say, Mr. President, on the resolution is that I
6 would also encourage my colleagues to pick up a
7 copy of their book, Count Us In. I have had the
8 pleasure of reading it, and I notice that
9 several members in this room, their names appear
10 in the book, but it does explicitly share with
11 you the lives of these two young men. They talk
12 to you about what it's like to grow up with
13 Down's syndrome, what it's like to have various
14 experiences. And as Jason said this morning,
15 "We are no different than anyone else. We have
16 the same feelings, the same emotions, and we
17 want to be counted in just like the book says,
18 Count Us In."

19 So, Mr. President, it is a real
20 honor and pleasure for me to stand before this
21 body today to recognize all the people in New
22 York State with disabilities and also to
23 recognize our special guests.

1 ACTING PRESIDENT KUHL: Chair
2 recognizes Senator Pataki.

3 SENATOR PATAKI: Mr. President,
4 if I might just briefly add my comments, as
5 well.

6 First, let me thank Senator
7 Libous and, before him, Senator Spano for the
8 outstanding work they have done with Legislative
9 Disability Awareness Day. I think it is
10 important for us to pause and to reflect on
11 those who have disabilities and how they can
12 contribute so much to our society here in New
13 York and across the country.

14 I want to particularly comment on
15 this resolution because Jason and Mitchell are
16 constituents of mine, but, more than that, they
17 are friends. I have met them before. I have
18 had the opportunity to discuss their lives and
19 their ideas with them. And I just cannot tell
20 you how impressive these two young men are.

21 In fact, Mitchell goes beyond
22 being a friend. In the resolution, it mentioned
23 how he was an intern for an Assemblyman. That

1 was me. And I welcomed and cherished his
2 advice. He gave it freely. It was extremely
3 valuable. I hear his parents laughing.

4 Mitchell continues to give his
5 advice to me freely, and I just want to say how
6 grateful and thankful I am for all that you have
7 done for the Chamber of Commerce in Peekskill,
8 for me personally, and for everyone, by the
9 symbol that you are of what people can achieve.

10 And I know that it's not -- as
11 with all successes, it's not just an individual
12 success. It's a family, and it's a broader
13 success and, Charles and Emily, and to Jack and
14 Barbara, who I have known for so long, and
15 Grandma and Grandpa Gibbs, sitting over there as
16 proudly, as well, I just want to thank you for
17 your fight and commitment and understanding that
18 Jason and Mitchell have the ability not just to
19 be contributors, not just to be counted in, but
20 to be a large and important part in leading us
21 as we go forward.

22 So to Jason and Mitchell begin
23 again, congratulations and thank you for what

1 you have done. You are not just counted in
2 we're counting on you to continue to provide us
3 with the leadership and inspiration that will
4 make all of us better in our efforts to
5 contribute to this state.

6 Thank you.

7 ACTING PRESIDENT KUHL: Chair
8 recognizes Senator Spano.

9 SENATOR SPANO: Thank you very
10 much, Mr. President. First, to Jason and
11 Mitchell, I found out coming in a little late
12 this morning -- I started my day with root canal
13 this morning, so that's why I was a little
14 late. So if you can't understand me, you
15 understand why.

16 It is my pleasure to stand on the
17 floor of this Senate and to join with my
18 colleagues and specifically Senator Libous in
19 paying tribute to two young men and for all that
20 they represent, all that they represent for
21 people with disabilities across the state.

22 And while all of us recognize
23 that, rightfully so, we give a great deal of

1 credit to Jason and to Mitchell -- as an aside,
2 you know Mitchell presented me with a copy of
3 his book, Count Us In, just a couple of weeks
4 ago in Westchester County, and I haven't seen
5 Jason since then. But thank you for the
6 autographed copy of that book.

7 And it's nice to see your parents
8 here, your family members here. They are all
9 rightfully very produced of the accomplishments
10 that both of you have made so far in your life.

11 And we look at you and we
12 recognize that not all people with disabilities
13 in this state can achieve the goals that you
14 have achieved, and that not all people with
15 disabilities in this state have the support of
16 parents that you both have and family members
17 that you both have, and you can see that by even
18 the dedication that both you dedicated in the
19 forward of your book to your parents.

20 We recognize that there are many,
21 many people with disabilities in this state that
22 can not make it to the state capital, and that
23 very often there are programs in the state that

1 have come under fire by certain elements in this
2 capital that would have taken away a few cents a
3 week that family members would receive for a
4 respite once in a while, family support
5 programs. And you know the fight that so many
6 of you who are here led in making sure that we
7 restore programs that people like you need and
8 deserve in this State of New York.

9 So we stand here today
10 recognizing Jason Kingsley, Mitchell Levitz,
11 their family members, but we recognize them for
12 everything that they stand for. We recognize
13 them because the both of you are living proof
14 that we no longer are going to closet people
15 away in the Willowbrooks of the State of New
16 York. We are going to make sure that we, in
17 fact, create that community based system that is
18 essential, the support system that is essential
19 for people with disabilities who are living at
20 home, to make sure that there are programs in
21 the community for people who are living at home
22 with aging parents that may need a place to go.

23 All of that, we can all look at

1 the positive accomplishments of people like
2 Jason and Mitchell and say that we are going to
3 redouble our efforts to make sure that all
4 people with disabilities in this state receive
5 the appropriate type of care, in the community
6 where they belong. They have a right to live in
7 the community. They have a right to work in the
8 community.

9 And by the efforts of Senator
10 Libous in putting together the Disability
11 Awareness Day, you will stand out as a beacon
12 for all family members and all people with
13 disabilities so that all members of the
14 Legislature, in both houses, and the Governor,
15 should make sure that we should never forget
16 that there are people in this community who
17 don't have high-priced advocates who can visit
18 the capital, who don't have high political
19 action committees that can come here and try to
20 influence government. But, Jason and Mitchell,
21 you do it better than any group that will visit
22 us and any lobbyists that will visit us because
23 both of you are living proof, that given a

1 chance to work in the community, you can, in
2 fact, work well, be a success, and we are all
3 very, very, very proud of the job that you have
4 done in representing people with disabilities
5 all across this state.

6 So it's my pleasure to welcome
7 all of you here with your families and, again,
8 to just thank Senator Libous for his dedication,
9 his commitment, to making sure that the issues
10 facing people with disabilities continue to be
11 on the front burner on the agenda of this
12 Legislature.

13 Thank you, Mr. President.

14 ACTING PRESIDENT KUHL: Chair
15 recognizes, Senator Gold.

16 SENATOR GOLD: Thank you, Mr.
17 President.

18 Mr. President. We all get a
19 different perspective, but I remember years ago
20 the first time I saw the "Miracle Worker" which
21 was the story of Helen Keller; and my reaction
22 when it was over was, had it not been for the
23 parents who persisted in bringing in this

1 miracle worker, who knows what would have
2 happened to Helen Keller.

3 While I really don't want to take
4 anything away from these two marvelous young
5 men, I really want to throw in my words of
6 congratulations to the parents who understood
7 that you don't give up on any child and you give
8 every child an opportunity to be what they can
9 be, and you measure every child against that
10 child and not any other child.

11 And I have seen, since that first
12 movie, many situations in my life where I have
13 admired parents who have been in situations with
14 children in different kinds of problems, and I
15 think it's wonderful when a youngster has that
16 kind of parent, parents, family, that says it's
17 a lot of time, it's a lot of effort. It becomes
18 consuming for the family, and the other children
19 in the family and the other nephews, nieces,
20 aunts, uncles, all wind up contributing and
21 giving time and energy so that that life can
22 blossom to its fullest potential.

23 So I want to thank Senator Libous

1 and Senator Pataki and Spano and everybody in
2 this chamber. I think there are times when
3 we're out here tearing each other's heads off
4 and we should be and there are times when, in
5 this beautiful room, we do the right thing. And
6 today, thank God, is one of those days.

7 So my congratulations to my
8 colleagues and particularly to these two young
9 men and their families for what they have done.

10 ACTING PRESIDENT KUHL: Chair
11 recognizes Senator Oppenheimer.

12 SENATOR OPPENHEIMER: Senator
13 Gold has pointed out what I was about to point
14 out, and I will now because I have known Emily
15 and Charley Kingsley for many years.

16 I remember when Jason was just
17 little boy. I remember Charley telling the
18 Westchester Association for Retarded Citizens,
19 when he was the president of the association
20 several years ago, a story. I guess Jason must
21 have been -- he was under 10, and the story was
22 very touching.

23 He said that he was driving Jason

1 home one day from school, and Jason said to his
2 father, "Well, I've had Down's syndrome, when am
3 I ever going to be well?"

4 Well, we have to say to you,
5 Jason, and, Mitchell, who I have come to know in
6 recent years -- and thank you also for your
7 autographed copy of your book. What I have to
8 say is that you won't overcome Down's syndrome.
9 You have been born with it. It's a part of
10 you. But you have led lives, your short lives
11 have already packed more into them than most
12 lives of 60 and 70 years.

13 You have shown all of us how you
14 can live fully and develop to your maximum
15 potential. Though I think your maximum is still
16 ahead of you, because you have such drives and
17 such determination, and that's really what's
18 needed.

19 But let me just say to Emily and
20 Charley, who I know well, they are an example to
21 all of us in the state. Some of us in this
22 chamber have children with disabilities, and it
23 is my belief that most everybody in the world

1 has some disability. And as you may recall on
2 the floor of the Senate, I have said that I am
3 learning disabled, being dyslexic, and I think
4 most people have disabilities. And what we all
5 strive to do is to live our lives to our
6 maximum, and you are our shining example, and
7 I'm so happy you are here.

8 Thank you.

9 ACTING PRESIDENT KUHL: The
10 question is on the resolution. All those in
11 favor, signify by saying aye.

12 (Response of "Aye.")

13 Opposed, nay.

14 (There was no response.)

15 The resolution is unanimously
16 adopted.

17 Jason Kingsley, on behalf of
18 Senator Libous, Senator Marino, and all the
19 members of State Senate, thank you for coming
20 here today. Thank you for sharing a bit of your
21 life with us. We are very, very proud of you as
22 you can detect from the outpouring of sympathy
23 and pride here today from the members.

1 Thank you again for coming.

2 (Whereupon, there was a standing
3 ovation.)

4 Also to our many guests who are
5 here, while he have singled out Jason and
6 Mitchell, your story is one that we appreciate
7 your coming and sharing with us. Certainly, we
8 recognize your disabilities. And, again, on
9 behalf of Senator Libous and Senator Marino and
10 all the members here, thank you, too, for
11 coming.

12 Senator Present.

13 SENATOR PRESENT: Mr. President.
14 May we up the controversial calendar.

15 ACTING PRESIDENT KUHL: Clerk
16 will read the controversial calendar.

17 THE SECRETARY: On page 5,
18 Calendar Number 249, by Senator Libous, Senate
19 Bill Number 6219A, an act to amend the Public
20 Health Law, creating a program for traumatic
21 brain injury and creating a traumatic brain
22 injury services coordinating Council.

23 ACTING PRESIDENT KUHL: Clerk

1 will Clerk will read the last section.

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

4 ACTING PRESIDENT KUHL: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 44.

8 ACTING PRESIDENT KUHL: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 424, by Senator Johnson, Senate Bill Number
12 6842, an act to amend the Real Property Tax Law.

13 ACTING PRESIDENT KUHL: Clerk
14 will read the last section.

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

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 44.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 THE SECRETARY: Calendar Number

1 847, by Senator Libous, Senate Bill Number
2 6927B, an act to amend the Mental Hygiene Law,
3 requiring the Office of Mental Health and the
4 Office of Mental Retardation to review forms.

5 ACTING PRESIDENT KUHL: Clerk
6 will read the last section.

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

9 ACTING PRESIDENT KUHL: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 44.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 853, by Senator Libous, Senate Bill Number 7189,
17 an act to amend the Mental Hygiene Law,
18 requiring the informed consent of a parent or
19 guardian or a court authorization prior to
20 administration.

21 ACTING PRESIDENT KUHL: Clerk
22 will read the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT KUHL: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 44.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 854, by Senator Libous, Senate Bill Number
10 7485A.

11 SENATOR PRESENT: Lay it aside
12 for the day.

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

15 THE SECRETARY: Calendar Number
16 855, by Senator Libous, Senate Bill Number
17 7516A, an act to amend the Mental Hygiene Law,
18 in relation to periodic orientation.

19 ACTING PRESIDENT KUHL: Clerk
20 will read the last section.

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 44.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 901, by Senator Libous, Senate Bill Number 4588,
8 an act to amend the Public Health Law, in
9 relation to requiring consent for visual
10 observation.

11 ACTING PRESIDENT KUHL: Clerk
12 will read the last section.

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT KUHL: Announce
19 the results.

20 THE SECRETARY: Ayes 41. Nays
21 3. Senators DeFrancisco, Kuhl, and Maltese
22 recorded in the negative.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 932, by Senator Libous, Senate Bill Number 7033,
4 an act to amend the State Finance Law.

5 ACTING PRESIDENT KUHL: Clerk
6 will read the last section.

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

9 ACTING PRESIDENT KUHL: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 44.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 787 -- excuse me -- 987, by Senator Libous,
17 Senate Bill Number 5440B, an act to amend the
18 Education Law, in relation to vocational
19 rehabilitation.

20 ACTING PRESIDENT KUHL: Clerk
21 will read the last section.

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 44.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1035, by Senator Libous, Senate Bill Number
9 6929A, an act to amend the Mental Hygiene Law.

10 ACTING PRESIDENT KUHL: Clerk
11 will read the last section.

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

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 44.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1036, by Senator Libous, Senate Bill Number
22 7032, an act to amend the Mental Hygiene Law.

23 ACTING PRESIDENT KUHL: Clerk

1 will read the last section.

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

4 ACTING PRESIDENT KUHL: Call the
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT KUHL: Announce
8 the results.

9 THE SECRETARY: Ayes 42. Nays 2.
10 Senators Kuhl and Velella recorded in the
11 negative.

12 ACTING PRESIDENT KUHL: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1038, by Senator Libous, Senate Bill Number
16 8362, an act to amend the Mental Hygiene Law.

17 ACTING PRESIDENT KUHL: Clerk
18 will read the last section.

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

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 44.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1094, by Senator Cook, Senate Bill Number 2845,
6 Real Property Tax Law.

7 ACTING PRESIDENT KUHL: Read the
8 last section.

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

11 ACTING PRESIDENT KUHL: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 44.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1097, by Senator Libous, Senate Bill Number
19 6991, Executive Law, in relation to the Office
20 of Advocate for Persons with Disabilities.

21 ACTING PRESIDENT KUHL: Clerk
22 will read the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT KUHL: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 44.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1118, by Senator Libous, Senate Bill Number
10 5056, an act to amend the Tax Law, in relation
11 to authorizing a tax credit for employing
12 individuals with disabilities.

13 ACTING PRESIDENT KUHL: Clerk
14 will read the last section.

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

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 44.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 Senator Present, is it your

1 desire to return to regular order?

2 SENATOR PRESENT: Regular order.

3 ACTING PRESIDENT KUHL: Senator
4 Farley.

5 SENATOR FARLEY: Yes, Mr.
6 President. If we might return to motions. I
7 would like to put a sponsor star on Calendar
8 1032 and 1033.

9 I would also like to be recorded
10 in the negative on Calendar 901.

11 ACTING PRESIDENT KUHL: Without
12 objection, Senator Farley will be recorded in
13 the negative on Calendar Number 901. Sponsor's
14 stars will be placed on Calendars Number 1032
15 and 1033.

16 Senator Wright.

17 SENATOR WRIGHT: Mr. President.
18 I was away on Senate business when the vote on
19 Calendar 1004, Senate Print S.3302A was taken.
20 I would like the record to reflect that had I
21 been in the chamber when the vote was taken, I
22 would have voted in the affirmative on Calendar
23 1004.

1 ACTING PRESIDENT KUHL: The
2 record will so indicate, Senator Wright.

3 Clerk will read regular order.

4 THE SECRETARY: On page 31,
5 Calendar Number 1044, by Senator Cook, Senate
6 Bill Number 7185, Agriculture and Markets Law,
7 in relation to agricultural practices.

8 ACTING PRESIDENT KUHL: Senator
9 Oppenheimer.

10 SENATOR OPPENHEIMER: This bill
11 before us would amend the Ag and Markets Law;
12 and in doing so, would specifically designate
13 aerial spraying of pesticides as a sound
14 agricultural practice. In so doing, this bill
15 would restrict the legal options available to
16 adjacent property owners who have been in
17 voluntarily exposed to this potential serious
18 health threat.

19 The likelihood of exposure with
20 this aerial application is very high. Neighbors
21 who live in close proximity will have absolutely
22 no control and, indeed, their legal options
23 would be restricted. There's drifting wind

1 conditions.

2 I mean if we just look back at
3 our history, during the '50s and '60s, there was
4 aerial spraying of DDT, and we were all assured
5 that it was absolutely safe, and it was years
6 later that DDT got banned after considerable and
7 serious damage to neighbors and families in the
8 proximity of that spraying.

9 Pesticides have well-documented
10 toxic effects, and we know that some are
11 expected carcinogens and that some have -- they
12 inhibit immunity, they cause reproduction
13 problems, behavioral problems, growth problems.

14 We're not talking about neighbors
15 being bothered by the smell of manure or noise
16 from a tractor or mower. We are talking about
17 something that is seriously very potential -
18 potentially very serious problem.

19 And I think we have to think
20 twice about restricting legal options for
21 property owners who through no determination on
22 their own part are subjected to aerial spraying
23 of pesticides.

1 So I will be voting no, and I can
2 tell you that the Environmental Planning Lobby
3 feels very strongly about this, also.

4 ACTING PRESIDENT KUHL: Is there
5 any other Senator wishing to speak on the bill?

6 Senator Cook.

7 SENATOR COOK: Mr. President.
8 Aerial spraying like all other spraying or all
9 other use of insecticides or herbicides or any
10 type of chemicals in agriculture or any other
11 endeavor in this state is very rigidly
12 controlled by the Department of Environmental
13 Conservation.

14 Aerial sprayers like everybody
15 else have to have licenses. They have to
16 conform to very strict regulations in terms of
17 what they use, how they use it, the conditions
18 under which they can fly and spray, the
19 condition under which certain chemicals can be
20 utilized. The regulations are extremely rigid.

21 Balanced against that, is the
22 need that all of us have for one of the basic
23 needs of life which is food, and, indeed, in

1 today's society, the aerial sprayer is almost as
2 basic in some farm operations as the plow used
3 to be; because with the kind of operations that
4 we have today in producing food, we need to be
5 able to use the airplane as a means of
6 controlling the various pests that may threaten
7 the growth of our very food resource.

8 Mr. President. This is not as
9 some people try to envision it a thing that's
10 going to let people fly all over and dump all
11 kinds of stuff on people's heads. As I said
12 before, the aerial sprayer is under very rigid
13 regulation. There are penalties in place if
14 they do not follow those regulations.

15 It is done in an entirely safe
16 manner. If we are going to have an agricultural
17 in this state, we must enable them to use the
18 tools that are at their disposal.

19 For that reason, the bill ought
20 to be passed.

21 ACTING PRESIDENT KUHL: Senator
22 Oppenheimer.

23 SENATOR OPPENHEIMER: Will

1 Senator Cook yield to a question?

2 ACTING PRESIDENT KUHL: Senator
3 Cook, will you yield?

4 SENATOR COOK: Yes.

5 ACTING PRESIDENT KUHL: Senator
6 yields.

7 SENATOR OPPENHEIMER: The
8 question is, if it is so safe and so well
9 controlled, then why are we restricting the
10 legal options of the neighbors, the surrounding
11 environment?

12 SENATOR COOK: Mr. President.
13 "Right to Farm" legislation has been something
14 that we have been some time in trying to develop
15 in this state.

16 Growth and development are a
17 mixed bag. Because, at one time, places that
18 were farm communities have now grown up with a
19 lot of residents. These residents come from
20 areas of the state where they have not been used
21 to farms. They haven't been used to the odors.
22 They have not been used to the sounds of
23 tractors; and, indeed, they haven't been used to

1 the sound of airplanes flying over their head at
2 7:00 o'clock in the morning, which is the major
3 concern that seems to be there.

4 And these cases, utilize the
5 lawsuit as a means to simply harass the farmer.
6 And all this bill does is basically put the
7 presumption there that as long as the farmer is
8 complying with the law, complying with the
9 regulations, that he is going to be free to
10 continue to do the things that have to be done
11 to produce the food that all of us consume in
12 this state.

13 So it is not a matter that we are
14 protecting somebody, indemnifying anybody
15 against anything. It is simply a presumption
16 that so long as people comply with the law and
17 do the things that the regulations tell them
18 that they have to do that they have a right to
19 do that free from harassment.

20 SENATOR OPPENHEIMER: Would the
21 Senator yield for one more question?

22 ACTING PRESIDENT KUHL: Senator
23 Cook, do you continue to yield?

1 SENATOR COOK: Yes.

2 ACTING PRESIDENT KUHL: Senator
3 does.

4 SENATOR OPPENHEIMER: Are you
5 aware that it is likely we will be receiving a
6 memo from the DEC opposing this?

7 SENATOR COOK: Mr. President. I
8 sometimes find DEC to be a little curious,
9 because in the one case where I am aware of,
10 they have been tearing their hair out, as well,
11 because one particular farm that has been
12 harrassed in the manner that I spoke of has been
13 actually utilized by DEC as a training
14 location. Their operation has been so good that
15 DEC has used them as a means of showing other
16 people how they ought to be doing it; and yet
17 that very farm is the one that some people have
18 chosen to harass because, as I said, there is a
19 certain inconvenience.

20 Now, the point is that the
21 individuals who are upset with this operation
22 have been rather recent arrivals on the scene;
23 and that, indeed, people weren't flying

1 airplanes over at the time that they came there,
2 but there was a farm there at the time.

3 And DEC has probably felt
4 obligated because of certain pressures put on
5 them to oppose this; but, frankly, they have
6 been involved in the same kind of frustration
7 that the farmer has been involved in, in this
8 case, because they have been there time after
9 time on complaints from people and found that
10 the complaints were absolutely unfounded. The
11 farmer was doing absolutely everything exactly
12 the way he was supposed to be doing it, and yet
13 he continues to be harrassed.

14 SENATOR OPPENHEIMER: Thank you,
15 Senator.

16 ACTING PRESIDENT KUHL: Clerk
17 will read the last section.

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

20 ACTING PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT KUHL: Announce

1 their results.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar 1044 are Senators
4 Dollinger, Espada, Galiber, Gold, Goodman,
5 Jones, Ohrenstein, Oppenheimer, and Solomon.
6 Ayes 35. Nays 9.

7 ACTING PRESIDENT KUHL: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1093, by Senator Cook, Senate Bill Number 2547,
11 an act to amend the Labor Law, in relation to
12 safety and health standards for public
13 employees.

14 SENATOR GOLD: Yes, Mr.
15 President. Will the Senator be kind enough to
16 give us one more day. I will go with it Monday
17 if you want.

18 SENATOR COOK: Okay.

19 SENATOR GOLD: Thank you so much.

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

22 THE SECRETARY: Calendar number
23 1096, by Senator Bruno, Senate Bill Number 6937,

1 an act to amend the Racing Pari-Mutuel Wagering
2 and Breeding Law.

3 SENATOR DOLLINGER: Explanation.

4 ACTING PRESIDENT KUHL: An
5 explanation has been asked for.

6 Senator Bruno, an explanation has
7 been asked for to Calendar Number 1096 by
8 Senator Dollinger.

9 SENATOR BRUNO: Yes, Mr.
10 President.

11 This is a local bill. Pertains
12 only to the Saratoga Race Track, and it exempts
13 seasonal employees from the licensing procedures
14 that are requested of annual employees.

15 Up until now, college students,
16 retired people who work at the Saratoga track
17 have never had to be fingerprinted. They've
18 never had to buy a license for 62.50, and the
19 Racing and Wagering Board for some reason or
20 another has interpreted the rules recently to
21 state that these seasonal employees now have to
22 give up a week's pay out of five weeks to get
23 licensed.

1 Now, these people cut the grass.
2 They keep the place clean. They are waitresses,
3 waiters, that kind of thing. So it seems
4 ludicrous that we would after all of these years
5 be requiring these people to be fingerprinted
6 and paying a week's pay to work five weeks. And
7 I say ludicrous because I'm being kind.

8 That's the explanation, Mr.
9 President. And I urge the support of everyone
10 in this chamber for this very well-intentioned
11 piece of legislation.

12 ACTING PRESIDENT KUHL: Senator
13 Dollinger.

14 SENATOR DOLLINGER: Mr.
15 President. Will the sponsor yield to a
16 question?

17 ACTING PRESIDENT KUHL: Senator
18 Bruno, will you yield to a question?

19 SENATOR BRUNO: Yes. Yes,
20 Senator.

21 ACTING PRESIDENT KUHL: Senator
22 Bruno yields.

23 SENATOR DOLLINGER: Senator, so I

1 understand this, what was the rationale of the
2 Racing and Wagering Board in issuing that
3 determination?

4 SENATOR BRUNO: The law presently
5 reads that it is at their discretion that they
6 can require the seasonal employees to be
7 licensed, and they have in their discretion not
8 required it until this year. And Saratoga has
9 had a four-week racing season, and it has been
10 extended to a five-week racing season. And when
11 they did that, I guess they re-examined and
12 moved in this direction.

13 I talked to the chair of the
14 Racing and Wagering Board, and he and his
15 counsel said that they feel that they need
16 legislative clarification so that they wouldn't
17 have to move in this direction, and we also have
18 a letter from the chair of NYRA supporting this
19 because the income is inconsequential. There
20 are practical no fiscal ramifications to this.

21 So, after talking to the Racing
22 and Wagering Board and to the NYRA people and to
23 many of the employees and their representatives

1 up there, we decided that the way to correct
2 this would be to put in this legislation, so
3 that's how it got here.

4 SENATOR DOLLINGER: Just one
5 final question, Mr. President. If the sponsor
6 will continue to yield.

7 ACTING PRESIDENT KUHL: Senator
8 Bruno, do you continue to yield?

9 SENATOR BRUNO: Yes.

10 ACTING PRESIDENT KUHL: Senator
11 Bruno yields.

12 SENATOR DOLLINGER: The theory
13 that a seasonal employee should have to pay this
14 cost, wouldn't that also apply to other
15 summertime employees at other tracks across the
16 state, students and people who are serving short
17 periods of time?

18 I understand because of the
19 special five-week or four-week session at
20 Saratoga, it's a slightly different situation,
21 but, certainly, a summertime employee, a college
22 student anywhere, would have the same argument;
23 one that you've outlined, that they are only

1 there for a short period of time and they
2 shouldn't have to pay this cost for this short
3 tenure of work. Isn't that correct.

4 SENATOR BRUNO: That could be
5 correct. I wouldn't want to be making judgments
6 about Belmont or Aqueduct. I would think those
7 people that are closest to that situation would
8 want to make a judgment on whether or not this
9 might be extended, but that could very well be
10 correct.

11 But we were applying this
12 directly to Saratoga because that's in my
13 district, and, as I mentioned earlier, the
14 seasonal employees have never been required to
15 pay anything like this. They have never been
16 required to get a license, and this was new.
17 And in order to correct it, we've introduced the
18 legislation.

19 SENATOR DOLLINGER: Thank you.

20 ACTING PRESIDENT KUHL: Clerk
21 will read the last section.

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 44.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 SENATOR MARKOWITZ: Mr.
8 President.

9 ACTING PRESIDENT KUHL: Senator
10 Markowitz.

11 SENATOR MARKOWITZ: I ask to be
12 recorded in the negative on Calendar Number
13 1044.

14 ACTING PRESIDENT KUHL: Without
15 objection, Senator Markowitz will be recorded in
16 the negative on Calendar Number 1044.

17 Clerk will continue to read the
18 controversial calendar.

19 THE SECRETARY: Calendar Number
20 1099, by Senator Rath.

21 SENATOR PRESENT: Lay it aside
22 for the day.

23 ACTING PRESIDENT KUHL: Lay the

1 bill aside for the day.

2 THE SECRETARY: Calendar Number
3 1104, by Senator Johnson, Senate Bill Number
4 7837A, an act to amend the Executive Law.

5 SENATOR DOLLINGER: Explanation.

6 ACTING PRESIDENT KUHL: Senator
7 Johnson. Senator Dollinger has asked for an
8 explanation.

9 SENATOR JOHNSON: Mr. President.
10 This is a bill that's an outgrowth of the
11 Department of State -- rather Governor's Task
12 Force on Coastal Resources which is coordinated
13 by the Department of State, and one of their
14 recommendations was that coordination between
15 various agencies of dredging projects would be
16 beneficial to the waterways surrounding our
17 island and our state.

18 This board was setup to set up
19 this clearing house under the authority of the
20 Department of State, and they talk about
21 possible misuse of valuable sand supplies for
22 nonrelated shoreline projects, excessive delays
23 in completing simple maintenance dredging

1 because suitable spoil sites remain
2 unidentified, inability of dredging sponsor to
3 take advantage of combining their projects to
4 reduce the cost.

5 Many other thoughts have gone
6 into this saying it might be a desirable thing
7 to have a program for coordinating and advising,
8 in this case. And, of course, we include on
9 this board various other states agencies such as
10 Environmental Conservation, General Services,
11 Parks Recreation, and so forth.

12 And I say, based on their
13 recommendation, I introduced this bill and it's
14 here before us today.

15 ACTING PRESIDENT KUHL: Chair
16 recognizes Senator Oppenheimer.

17 SENATOR OPPENHEIMER: This is
18 really a very essential bill. I can speak to it
19 from my prior life when I was the mayor of a
20 village that had a large harbor and that
21 required dredging about once every ten years.
22 This is essential that we have this clearing
23 house for those communities that are on the

1 water and that do have to keep federal
2 passageways open.

3 It's a wonderful bill, and I
4 commend the Senator on it.

5 ACTING PRESIDENT KUHL: Senator
6 Dollinger on the bill.

7 SENATOR DOLLINGER: Mr.
8 President. Will the sponsor yield just to one
9 question?

10 ACTING PRESIDENT KUHL: Senator
11 Johnson, do you yield to Senator Dollinger?

12 SENATOR JOHNSON: Yes, Mr.
13 President.

14 ACTING PRESIDENT KUHL: Senator
15 Johnson yields.

16 SENATOR DOLLINGER: Senator
17 Johnson, the reason why I laid this bill aside
18 and I wanted to ask the question, is just to
19 make sure that it applies to the Great Lakes as
20 well as to our coastline on Long Island Sound or
21 on the ocean.

22 Is that in fact the case, that is
23 to be a statewide clearing house that would deal

1 with dredging issues throughout the state, and
2 not just on the Island.

3 SENATOR JOHNSON: Yes, it is
4 Senator.

5 SENATOR DOLLINGER: Okay. Thank
6 you.

7 The reason why I raise that issue
8 is because up on the Great Lakes in the Town of
9 Greece, which I represent in Braddocks Bay, we
10 have to dredge every single year because of the
11 build up of silt at the entrance to Braddocks
12 Bay, which is one of the very shallow harbors
13 right off the -- the -- Lake Ontario.

14 What's interesting about it is,
15 the reason why it's so critical, is because
16 there's a marina inside the bay for which the
17 town and the state and DEC have worked to
18 establish a rental agreement. The rent, the
19 rental income is used by the town to buy,
20 preserve and defend the integrity of the rest of
21 the wetlands in the back, in the southern
22 portion of the bay.

23 And if we don't have the channel

1 open on a consistent basis, we lose the
2 derivative income from the operation of the
3 marina. And I've had several meetings this
4 spring with the marina operators with
5 representatives of the town because we're going
6 to have to dredge the channel again.

7 We have been able to dredge it
8 every year. The equipment is getting older.
9 It's a very significant expense, as I'm sure
10 Senator Johnson knows. And to have this kind of
11 dredging commission set up I think is a great
12 idea. In fact, if we do make it into law, I
13 certainly will be writing them a letter to have
14 them consider Braddock Bay as one of their first
15 projects.

16 I thank the Senator for bringing
17 this forward. I think it's a good bill, and
18 I'll be voting in the affirmative.

19 SENATOR JOHNSON: Thank you,
20 Senator.

21 ACTING PRESIDENT KUHL: Senator
22 Johnson on the bill.

23 SENATOR JOHNSON: I appreciate

1 your support. I'd just like to let you know
2 that we also include the Army Corps of
3 Engineers, New York City and Buffalo District,
4 and, of course, they would be an integral part
5 of this. We can't require them to participate,
6 but we welcome their participation in the
7 discussions.

8 Thank you.

9 ACTING PRESIDENT KUHL: Clerk
10 will read the last section.

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

13 ACTING PRESIDENT KUHL: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 44.

17 ACTING PRESIDENT KUHL: The bill
18 is passed.

19 THE SECRETARY: Calendar number
20 1112, by Senator Daly, Senate Bill Number 8262,
21 an act to amend the Education Law, in relation
22 to courses of instruction and patriotism.

23 ACTING PRESIDENT KUHL: Senator

1 Dollinger.

2 SENATOR DOLLINGER: Senator Daly
3 yield to a question?

4 ACTING PRESIDENT KUHL: Senator
5 Daly do you yield to Senator Dollinger's
6 question?

7 SENATOR DALY: Yes, Mr.
8 President.

9 ACTING PRESIDENT KUHL: Senator
10 Daly yields.

11 SENATOR DOLLINGER: First of all,
12 Senator, what information or what evidence do we
13 have that this is not being done in our public
14 schools? Is there any suggestion or any
15 understanding that you have that this type of
16 education is not being done in our schools.

17 SENATOR DALY: Not really,
18 Senator. I don't think the reason I'm putting
19 the bill on the floor is because it's not being
20 done in the classrooms. I'm concerned about
21 something that's becoming more and more
22 prevalent in this country and that's revision of
23 historical text.

1 In many cases, the mention of the
2 Creator, of God, are stricken from texts and
3 also there is the problem, the possibility, that
4 if we allow if someone wishes to do so, he can
5 take exception to the posting of let us say the
6 Preamble of the Constitution or the words of
7 Patrick Henry or the words of any historical
8 document that I mention in the bill because they
9 mention God, mention Creator.

10 And there are instances,
11 examples, of where people have taken exception
12 in schools of the posting of the Preamble of the
13 Constitution, of as I said the words of Patrick
14 Henry, because they mention the Creator. They
15 mention God.

16 There also is obviously a new -
17 let me begin. There also is obviously a
18 revision of text occurring in our textbooks and
19 our history books, where reference to the
20 Creator, to the Almighty, is deleted.

21 And I think it's important that
22 we maintain the integrity of our historical
23 documents and that our young people be exposed

1 to all of the words that are in those historical
2 documents. And that revision of those
3 historical documents, which is creeping up on us
4 right now, will creep up even faster. And
5 before we know it, we will not have available
6 for our young people those historic documents
7 unedited and unrevised. Because I believe those
8 documents are sacred, they should be protected;
9 and those documents in toto should be available
10 to the young people who are being educated in
11 our school system.

12 SENATOR DOLLINGER: Mr.
13 President. Just one other question.

14 ACTING PRESIDENT KUHL: Senator
15 Daly, do you continue to yield?

16 SENATOR DALY: Certainly.

17 ACTING PRESIDENT KUHL: Senator
18 Daly yields.

19 SENATOR DOLLINGER: Senator, when
20 you make the reference to content-based
21 censorship, is that what you're making reference
22 to, the comments that you just made a moment ago
23 regarding the deletion or removal of certain

1 terms and references from those documents?

2 SENATOR DALY: Yes, I am.

3 ACTING PRESIDENT KUHL: Senator
4 Jones.

5 SENATOR JONES: Yes, would the
6 Senator yield to a question, please?

7 ACTING PRESIDENT KUHL: Senator
8 Daly, do you yield to Senator Jones?

9 SENATOR DALY: Certainly, Mr.
10 President.

11 ACTING PRESIDENT KUHL: Senator
12 Daly yields.

13 SENATOR JONES: I certainly agree
14 with you, Senator Daly. I'm just a little
15 concerned because I heard you say unrevised.
16 Actually, the Pledge of Allegiance did not
17 include God. We added it in. I hope this will
18 not give someone an option under this to remove
19 it, because it really was not in the original
20 version.

21 SENATOR DALY: Senator, I agree
22 with you, but I also believe that we should not
23 revise the Preamble of the Constitution, and I

1 don't think we should revise the quotations, the
2 statements of many of our historical heros,
3 Revolutionary heros, as I said before, like
4 Patrick Henry or Nathan Hale. I don't think we
5 should revise the version of the Mayflower
6 compact.

7 Those documents should remain as
8 they were written, and that's basically what
9 this bill says. Teachers, school districts, may
10 allowed teachers to post the unrevised version
11 of any of these historical documents because
12 it's so important to our nation.

13 I wouldn't want to change one of
14 those documents one word. I think it's a
15 complete and utter violation, which we have to
16 protect against.

17 SENATOR JONES: On the bill.

18 ACTING PRESIDENT KUHL: Senator
19 Jones on the bill.

20 SENATOR JONES: I totally agree
21 with Senator Daly, and I would not want any of
22 those deleted. I just am concerned that the
23 same people who might want to do this would

1 bring up this point that we actually did revise
2 the Pledge and add God. It's very important
3 that it stays in there as well as all the other
4 documents in its original form.

5 I would just caution that
6 hopefully this would not be a result.

7 ACTING PRESIDENT KUHL: Clerk
8 will read the last section.

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

11 ACTING PRESIDENT KUHL: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 44.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 Senator Present, that completes
18 the controversial calendar, sir.

19 SENATOR PRESENT: If there is no
20 housekeeping and Mr. Cornell is caught up, fine.

21 ACTING PRESIDENT KUHL: House
22 keeping?

23 SENATOR PRESENT: Mr. President.

1 I would like to call an immediate meeting of the
2 Rules Committee in Room 332, and I ask that the
3 Senate stand at ease awaiting the report of the
4 Rules Committee, at which time, I will adjourn
5 the Senate until Monday at 3:00 p.m. But
6 members should be advised as they were in the
7 past that subject to 24 hours' notice, they may
8 be called.

9 ACTING PRESIDENT KUHL: There
10 will be an immediate meeting of the Rules
11 Committee in the Majority Conference Room, Room
12 332. The Senate will stand at ease awaiting the
13 report of the Rules Committee.

14 Senator Dollinger.

15 SENATOR DOLLINGER: Just so I
16 understand. Is it the intention of the Rules
17 Committee to report and that there will be no
18 further action taken on the Rules Committee
19 report?

20 ACTING PRESIDENT KUHL: Your
21 intention is correct. The Senate will stand at
22 ease.

23 (Whereupon, at 12:56 p.m., Senate

1 reconvened.)

2 (Whereupon, Senator Johnson was
3 in the chair.)

4 ACTING PRESIDENT JOHNSON: Senate
5 will come to order.

6 I recognize Senator Present.

7 SENATOR PRESENT: Mr. President.
8 Before we start, I would like to return to
9 motions.

10 On behalf of Senator Sears, I
11 would like to move to amend Senate Bill 8321A by
12 striking out the amendments made on 6-1 and
13 restoring it to its original Print Number 8321.

14 ACTING PRESIDENT JOHNSON:
15 Without objection, so ordered.

16 SENATOR PRESENT: Mr. President.
17 Return to report of standing committees and
18 receive that report.

19 THE SECRETARY: Senator Marino
20 from the Committee on Rules reports the
21 following bills directly for third reading:

22 Senate Bill 6497, by Senator
23 Stafford, Environmental Conservation Law.

1 6716B, by Senators Larkin and
2 Stafford, Local Finance Law.

3 6942, by Senator Wright and
4 others, an act to amend the Executive Law and
5 the State Administrative Procedure Act.

6 6990, by Senators Libous,
7 DeFrancisco and others, Criminal Procedure Law.

8 7164, by Senator Lack, an act to
9 amend the Highway Law.

10 7166, by Senator Lack, an act to
11 amend the Public Authorities Law.

12 7421A, by Senators Spano and
13 Wright, an act to amend the Labor Law.

14 7583, by Senator Hannon and
15 others, Environmental Conservation Law.

16 7719, by Senators Larkin and
17 Holland, Real Property Tax Law.

18 7765, by Senator Gold and others,
19 an act to amend the Education Law.

20 7886A, by Senator DeFrancisco,
21 authorize the Town of VanBuren to convey to
22 James and Ginger Rudick easement through land.

23 7919, by Senator Sears, Education

1 Law, in relation to pupil tests.

2 7950, Senator Marino and others,
3 an act to amend the Penal Law and the Vehicle
4 and Traffic Law.

5 8156, by Senator Cook, Education
6 Law.

7 8344, by Senator Holland, an act
8 to amend the Penal Law.

9 8493, by Senator Sears, an act to
10 amend the Tax Law.

11 8519, by Senator Rath, New York
12 State teachers retirement system.

13 8523, by the Committee on Rules,
14 an act to amend the Tax Law.

15 8524, by Senator Cook, authorize
16 the Town of Andes to transfer certain funds.

17 8525, by the Committee on Rules,
18 an act to amend the Vehicle and Traffic Law.

19 And, 8526, by the Committee on
20 Rules, an act to amend the Local Finance Law.

21 All bills reported directly for
22 third reading.

23 SENATOR LEVY: Mr. President.

1 ACTING PRESIDENT JOHNSON:

2 Without objection third reading.

3 SENATOR PRESENT: Mr. President.

4 Would you recognize Senator Levy.

5 ACTING PRESIDENT JOHNSON:

6 Senator Levy.

7 SENATOR LEVY: Yes. I request
8 unanimous consent to be recorded in the negative
9 on Calendar 1044.

10 SENATOR PRESENT: No objection.

11 SENATOR LEVY: Thank you.

12 SENATOR PRESENT: Mr. President.

13 There being no further business, I move that we
14 adjourn until Monday, June 6, at 3:00 p.m.
15 intervening days to be legislative days. The
16 members should be advised that they are subject
17 to a 24 hour call from the Majority Leader for a
18 session.

19 ACTING PRESIDENT JOHNSON: Senate
20 adjourned.

21 (Whereupon, at 1:00 p.m., Senate
22 adjourned.)

23