ALBANY, NEW YORK

June 6, 1994

3:31 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: Senator Present.

SENATOR PRESENT: Mr. President, I'd like to announce an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in Room 332. Rules Committee in 332.

(The Senate stood at ease from 3:32 to 3:56 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Members take their places, staffs take their places. All members along with the people in the gallery please rise for the Pledge of Allegiance to the Flag.

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

We're very pleased to have a visiting clergy, the Rabbi Murray Grauer of the Hebrew Institute of White Plains from Senator Oppenheimer's district, to lead us in prayer.

Rabbi Grauer.

RABBI MURRAY GRAUER: Azimu shebayim. Our Heavenly Father, convey Thy blessings upon these men and women who have been selected to serve, guide and protect the interests and affairs of their respective constituencies. May we be privileged to give thought to the words of our Rabbinical mentors who, in their tradition of the fathers, expressed the view, man shall pray for the welfare of his government for without the discipline of law, one man would devour another.

Aid these legislators to be wise and diligent in serving the needs of all with justice and equity. May they devote our deeds to aid the needy and create a society that is inspired to be both productive and compassionative -- compassionate.

We pray that the values of learning and progress for all be sustained in the spirit of the traditions of these United States of America. Amen.

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 5th. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Saturday, June 4th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Clerk will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bills directly for third reading: Senate Bill Number 6452-A, Budget Bill, making appropriations for the legal requirements of the state debt service.

Also Senate Budget Bill, Senate Bill Number 6454-A, an act making appropriations for the support of government.

Also Senate Bill Number 8550, by the Committee on Rules, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by a chapter of the laws of 1994.

Also Senate Bill Number 8551, from the Committee on Rules, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by Chapter 52 of the Laws of 1994.

Senator Marino, from the Committee on Rules, reports the following bills directly for third reading: Senate Bill Number 6012-A, by the Senate Committee on Rules, an act to amend the Racing Pari-Mutuel Wagering and Breeding Law.

Also Senate Bill Number 7153, by the Senate Committee on Rules, an act to amend the Social Services Law, in relation to medical assistance exclusion.

All bills reported directly for third reading.

ACTING PRESIDENT KUHL: Without

objection, all bills from the Senate Finance Committee and Rules Committee are reported to third reading.

Reports of select committees.

Motions and resolutions. Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I wish to call up Senator Stafford's bill, Calendar Number 643, Assembly Print 5756-A.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Stafford, Senate Bill Number 4821-A, an act to amend the Penal Law.

SENATOR FARLEY: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Stafford's bill, Senate Print 4821-A on 4-20.

ACTING PRESIDENT KUHL: Clerk will call the roll on reconsideration.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 51.

SENATOR FARLEY: I now move that the Assembly Bill 5756-A be recommitted to the Committee on Codes and that Senator Stafford's Senate bill be restored to the order of third calendar, and I offer the following amendments.

ACTING PRESIDENT KUHL: Bill is restored; amendments are adopted.

SENATOR FARLEY: On behalf of Senator Skelos, Mr. President, I wish to call up Calendar Number 817, Assembly Print Number 8460-A.

THE SECRETARY: By Senator Skelos, Assembly Bill Number 8460-A, an act to amend the Public Health Law.

SENATOR FARLEY: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Skelos' bill, Senate Print 5489-A, on 5-4.

ACTING PRESIDENT KUHL: Clerk will call the roll on reconsideration.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 51.

SENATOR FARLEY: I now move that the Assembly Bill 8460-A be committed to the Committee on Rules and that Senator Skelos' Senate bill be restored to the order of third reading, and I offer the following amendments.

ACTING PRESIDENT KUHL: Assembly bill is recommitted, Senate bill is restored. The amendments are accepted and received.

SENATOR FARLEY: On behalf of Senator Libous, Mr. President, I wish to call up his bill 6219-A, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Clerk will read.

THE SECRETARY: By Senator Libous, Senate Bill Number 6219-A, an act to amend the Public Health Law.

SENATOR FARLEY: I now move to reconsider the vote by which this bill was passed, and I ask that the bill be restored to the order of third reading.

ACTING PRESIDENT KUHL: Clerk will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 51.

SENATOR FARLEY: Mr. President, I now move to discharge from the Committee on Rules, Assembly Print Number 8929-A and substitute it for my identical bill.

The Senate bill, on the first passage, was passed unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT KUHL: Substitution is ordered. 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: Unanimous.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Farley.

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

On behalf of Senator Holland, page 16, Calendar 705, Senate Print 5422-A; also on behalf of Senator Holland, on page 20, Calendar 802, Senate Print 6501; on behalf of Senator Larkin, page 20, Calendar 812, Senate Print 3144-B; on behalf of Senator Johnson, page 26, Calendar 942, 7404-A, Senate print; on behalf of Senator Volker, on page 27, Calendar Number 958, Senate Print 3249-B; on behalf of Senator Velella, page 29, Calendar 1016, Senate Print 7486; on behalf of Senator Stafford, page 32, Calendar 1119, Senate print 6497; and on behalf of Senator Libous, on page 41, Calendar 806, Senate Print 4769-A. I move that these bills retain their places on the Third Reading Calendar after the amendments are received.

ACTING PRESIDENT KUHL: Amendments are received. The bills will retain

their place on the Third Reading Calendar.

Senator Present, we have some substitutions. Clerk will read.

THE SECRETARY: On page 17, Senator Farley moves to discharge the Committee on Rules from Assembly Bill Number 11599, and substitute it for the identical Third Reading 731.

ACTING PRESIDENT KUHL: Substitution's ordered.

THE SECRETARY: On page 32, Senator Rath moves to discharge the Committee on Rules from Assembly Bill Number 10211-B, and substitute it for the identical Third Reading 1099.

ACTING PRESIDENT KUHL: Substitution is ordered.

THE SECRETARY: On page 33, Senator Larkin moves to discharge the Committee on Rules from Assembly Bill Number 10860-A and substitute it for the identical Third Reading 1120.

ACTING PRESIDENT KUHL:

Substitution's ordered.

THE SECRETARY: On page 33, Senator Libous moves to discharge the Committee on Rules from Assembly Bill Number 9751 and substitute it for the identical Third Reading 1122.

ACTING PRESIDENT KUHL: Substitution is ordered.

THE SECRETARY: On page 33, Senator Spano moves to discharge the Committee on Rules from Assembly Bill Number 10715-A and substitute it for the identical Third Reading 1125.

ACTING PRESIDENT KUHL: Substitution's ordered.

THE SECRETARY: On page 34, Senator Sears moves to discharge the Committee on Education from Assembly Bill Number 9579-A and substitute it for the identical Third Reading 1130.

ACTING PRESIDENT KUHL: Substitution is ordered.

THE SECRETARY: On page 42,

Senator Levy moves to discharge the Committee on Alcoholism and Drug Abuse from Assembly Bill Number 8026 and substitute it for the identical Third Reading 911.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Wright.

SENATOR WRIGHT: On behalf of Senator Libous, please remove the sponsor's star on Calendar Number 806.

ACTING PRESIDENT KUHL: Sponsor's star is removed on Calendar Number 806.

Senator Present.

SENATOR PRESENT: Would you recognize Senator DiCarlo, please.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I have a privileged resolution at the desk. I ask that it be read in its entirety.

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

THE SECRETARY: Legislative Resolution 3649, by Senators DiCarlo, Marino and other members of the Senate, commemorating the 50th Anniversary of the Allied invasion of Normandy on June 6th, 1944, D-Day.

WHEREAS, the 50th Anniversary of World War II has brought many bittersweet memories to the veterans of that era, no less so than this, the 50th Anniversary of the Allied landing at Normandy, the most massive military operation ever undertaken by an armed force in the history of the world;

On June 6, 1944, Supreme Commander of the Allied Expeditionary Forces, General Dwight David Eisenhower, issued the following order of the day: Soldiers, Sailors and Airmen of the Allied Expeditionary Force! You are about to embark upon the Great Crusade, toward which we have striven these many months. The eyes of the world are upon you. The hopes and prayers of liberty-loving people everywhere march with you. In company with our brave Allies and brother-in-arms on other fronts, you

will bring about the destruction of the German war machine, the elimination of Nazi tyrrany over the oppressed peoples of Europe, and the security for ourselves in a free world;

The Allied invasion of Normandy on June 6, 1944, code named "Operation Over lord," began just after dawn and was the most important D-Day of the war because its success marked the beginning of the end of the murderous reign of Nazi tyrrany over the continent of Europe;

United States, British and Canadian forces went ashore along a 40-mile stretch of the Normandy coastline, culminating over a year of Allied planning and preparation, under the overall direction of General Dwight D. Eisenhower, who commanded the Supreme Headquar ters, Allied Expeditionary Force under General Eisenhower. British General Sir Bernard L. Montgomery had overall command of the Allied ground armies, and a combined Anglo-American air and naval headquarters directed the thousands of planes, ships, and landing crafts involved in

the huge amphibious operation;

The 100,000-man American assault force, under the command of Lt. General Omar M. Bradley's First Army invaded Normandy by both sea and air; the V Corps under Major General Leonard T. Gerow, with the 1st and 29th Infantry Divisions leading the way, began landing soon after sunrise on Omaha Beach, its left flank connecting with the British and Canadians farther to the east;

West of Omaha, Major General J. Lawton Collins' VII Corps, with the 4th Infantry Division as the assault element, went ashore at Utah Beach with the mission of seizing the base of the Cotentin peninsula and driving on Cherbourg, a major port crucial to the American logistical build-up. By the time the infantry had landed, the paratroopers of the 82nd and 101st Airborne Divisions, who had dropped into the Cotentin behind Utah just after midnight, were already fighting to open exits from the beach for the VII Corps and to cut Cherbourg off from reinforcements;

The landings, assisted by overwhelming air support and naval bombardment in addition to French partisans who disrupted the German rear and hampered the movements of reinforcements, went more or less according to plan. The paratroopers, despite being badly scattered in their night drop and losing heavily in men and equipment, secured most of their D-Day objectives. They overcame initially confused, but increasingly stubborn and aggressive German resistance, and on Utah Beach, the 4th Division came ashore almost unopposed, thanks in good measure to the paratroopers' fight farther inland;

It was a different story on Omaha Beach, bloody Omaha, where the V Corps ran into a strong German division well entrenched on the low -- low bluffs just beyond the high water mark. The initial landing waves of the 1st and 29th Divisions were cut to pieces before they reached land. For the better part of the day, thousands of American troops were pinned down at the water's edge as they struggled to return the

heavy German fire, to rescue their many wounded from the rising tide, and to collect equipment and supplies;

Gradually, intrepid groups of fighters worked their way off the beach and up the bluffs and, assisted by point blank naval gunfire, they eliminated the German strong points one by one. The collapse of German resistance on the British beaches further undermined the defense of Omaha and, during the afternoon, the trickle of men off the beach became a flood. By nightfall, the V Corps had secured a firm lodgement;

As the Americans were establishing their beachheads at Utah and Omaha, the British 2nd Army, under Lt. General Sir Miles Dempsey, was beginning the assault on the three eastern beaches, Juno, Gold and Sword. The XXX Corps, commanded by General Bucknall, with the 50th Northumberland Division, veterans of North Africa and Sicily, as its assault component, landed on Gold and met significant resistance on its western flank. Sustaining

heavy casualties, the British were able to take the town of LaRiviere and drive to within a mile of Bayeux;

East of Gold, General Crocker's I Corps, composed of the 3rd Canadian and 3rd British Divisions, in addition to a complement of Free French commandos, went ashore at Juno and Sword. The Canadians encountered stiff fighting at Juno and, after being held on the beaches for more than two hours, were finally able to drive inland. The 3rd British, seeing their first action since Dunkerque, were able to quickly push inland and link up with the 6th Airborne Division nearly two miles from Caen;

At the high price of over 10,000 casualties, well over a third of them suffered on Omaha beach, the Allied forces had broken the defensive crust of Hitler's Fortress Europe, breached the impenetrable Atlantic wall and although much bitter fighting remained - Cherbourg, St. Lo, Falaise, Huertgen Forest and the Ardennes -- after D-day the outcome was no longer in question;

Once firmly established on French soil, the Allied forces quickly built up overwhelming strength in men and equipment. Against this array the Germans, already fighting desperately to hold back the Red Army in the east, could not prevail. The Americans who fought and died to win the D-Day beaches opened the way for the liberation of the continent and helped to lift the boot of Nazi terror off the throat of Europe. The Third Reich collapsed just 11 months after D-Day;

By June 11th, all five Allied beaches were linked together, establishing a foothold 70 miles long and 15 miles deep. With troops and material continuing to pour into France -- there were 300,000 men ashore by June 12th -- the inland offensive began in earnest. Cherbourg fell on June 26th, Caen on July 9th and St. Lo on July 18th. In August, Free French forces, under the command of General Jacques Leclerc liberated Paris; and in May of the following year the encircling armies of the Allies finally forced Germany's unconditional

surrender;

The United States will commemorate D-Day with numerous ceremonies honoring the men who came ashore on the Normandy beaches. There will be a reenactment of the June 6th Airborne assault that dropped 13,000 men near Sainte-Mere-Eglise, where the American flag was first raised on French soil on D-Day, and there will be a solemn memorial at the Normandy American Cemetery at Omaha Beach;

The 50th Anniversary of D-Day is a seminal occasion that must be commemorated for the sake of the millions of men and women who unselfishly entered the military and served their country, so that America, facing the peril of war on either shore, could remain free;

NOW, THEREFORE, BE IT RESOLVED, that this legislative body pause in its deliberations and most gratefully commemorate the 50th Anniversary of the Allied landing at Normandy on June 6th, 1944, D-Day, while at the same time honoring those men and women who served in the Armed Forces of the United States

for their steadfast dedication to the defense of our country, fully confident that such pause mirrors our commitment to the preservation of freedom and the cause of liberty which are our American heritage; and

BE IT FURTHER RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to President William J. Clinton, Chairman of the Joint Chiefs of Staff General John M. Shalikashvili, Major General Michael S. Hall, Adjutant General, New York State, State Director, Division of Veterans Affairs, and all designated veterans groups in New York State.

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

SENATOR DiCARLO: Mr. President, I, first, would like to thank Mr. Cornell for reading what was a lengthy Legislative Resolu tion. It was lengthy because the resolution dealt with something that we're all familiar with now, and that is the invasion of Normandy, also known as the D-Day invasion.

We take time today to remember.

We take time to remember those young men who I look back now and think of myself, and I think of most of these young men who are 19 and 20 years old doing what they did on June 6th, 1944. So we pause in the chamber today, and we paused outside to not celebrate but remember the acts of brave young men, many of whom gave their lives for their country in one of the greatest assaults in our history.

I've spoken a lot today about the D-Day commemoration, and I don't have to speak too much more, but something that crystalized what I'm doing as chairman of the Veterans Committee and what I did today with my colleagues in the Assembly, was about two months ago when for the first time in the state of New York an American Legion post was opened in a nursing home, an American Legion post to serve six men -- six men who served in World War II who are now crippled and sick, and I stood before those six men who served this country so well and, when we gave them their charter so that they could again be with their comrades to

celebrate their country and their flag, these six men were so overwhelmed with emotion that not only did they cry, but everybody there. These were men who as youngsters were willing to give up their lives. These were men who as youngsters now are crippled because of that war.

So when we pause today and we listen to a long resolution, we must remember what's behind the words. We must remember those individuals and their families and the sacrifices that we made and that they made, and we must never forget not only the righteousness of cause, but we must never forget those brave men and women who sacrificed for our country.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Maltese.

SENATOR MALTESE: Mr. President, first of all, I would like to, on behalf of my constituents, convey my appreciation to Senator DiCarlo, my good colleague, not only for his words, but for the ceremony that we just held on

behalf of the Legislature. It was conducted with dignity and honor to commemorate the sacrifice of so many thousands of men on the beaches of Normandy. I wish to also add my thanks to Assemblyman Ron Tocci, the chairman of the Assembly Veterans Committee.

As a young man at the beginning of the second World War on December 7th, I shared what many people in this chamber did, the dismay, the anger, the frustration at being too young, the sadness at so many Americans dying, the pride in a young aviator, Colin P. Kelly, Jr., the first hero of the war who perished shortly after December 7th.

We all shared in the pride of friends and relatives going into the service. I remember my boyhood hero was still and still is my uncle, Andrew Scafidi, who was one of the first to go. I remember as we in our neighborhood received notices that young men had been killed in the service of our country, that we shared in the sadness of the people in the neighborhood at that time. The people wore

black for a long period of time, and it seemed that, after a while, that so many mothers and fathers were wearing black in my old neighborhood in the east side of Manhattan, for lost loved ones in the service.

But I know the period that sticks in my mind among so many battles and so many heroic sagas is D-Day, June 6th, 1944. Historians now tell us that it was one of the two great battles that determined the future of our country, the other being Gettysburg.

So we, most of us in this room, lived through a great battle. But what does that mean to those who participated in it? The young men that Senator DiCarlo, and others today spoke of, the people who lost their lives at those five beaches. Omaha, when the resolution was read, it was called "bloody Omaha." Whenever as a veteran or a chairman of the Veterans Committee I heard it referred to, it was always "bloody Omaha." You take the other three beaches, Gold, Juno and Sword, where many brave Americans and brave Allied troops lost

their lives, the English, the Free French, Norwegians, the Dutch, Australian, the Canadian, all fighting side by side, but so many brave young American men in what is now called the greatest armada in the history of the world. Thousands of ships, thousands of planes, and they say the sky was darkened with the planes; paratroopers from the different Airborne regiments and divisions parachuting down, in many cases to certain death; bloody Omaha, which is described over and over again, where landing craft were not able to make the beaches and where tanks with crews simply went out and sunk, where brave men trying to get ashore had to struggle past floating bodies and mangled portions of bodies to get ashore and be constantly battered by German guns.

Mr. President, this was both a heroic day and a sad day for all the thousands of soldiers and the thousands and thousands of families of servicemen who died that day. We think of the enormity of the casualties of the second World War when we realize that, in the

second World War in those years from December 7, 1941 to 1945, that we lost 292,000 men, more than double the total amount lost in the war for independence, the Vietnam war, the Korean War and World War I combined.

Unfortunately, D-Day was one of the days that we lost so many thousands of men. Some 9- -- almost 10,000 are buried there and our President this morning delivered a speech on behalf of the nation, commemorating not only those brave men there still on a foreign shore but assured that they became American or Allied by virtue of spilling of their blood there, spoke of the example that was set.

Many of us at times speak about a lack of patriotism, but the sacrifice of those men set an example for us, for our children, for our grandchildren to follow. They set an example so, hopefully, our children and grand children would never again have to spill blood on any foreign shore, no matter how hallowed.

Mr. President, I beg the indulgence of this body to simply read a few

names, a representative few of the men who fought and died on D-Day and shortly thereafter. First of all, and first and foremost, a brave man who took part in the ceremony today, a Congressional Medal of Honor winner, Peter D'Allesandro, like so many others of his generation and his time, we look upon them and we try to see the seeds of greatness, these acts of heroism that were performed. The person who introduced our President earlier today at a ceremony spoke of rising to great heights and that he himself, Joe Dawson, had also received the Distinguished Service Cross as a result of heroic acts that day.

These men rose beyond expectations, beyond all human -- ordinary human frailties: 1st Lt. Jimmie W. Monteith, Jr., posthumously awarded the Congressional Medal of Honor for services on June 6th; for services beyond the call of duty on June 10th, also posthumous Medal of Honor, Staff Sergeant Arthur F. DeFranzo.

Other men from across New York

State, who fortunately managed to survive D-Day, Tech. 5 Frank Adams, SFC Lawrence Peter (Yogi) Berra. Yes Yogi Berra was there. Sergeant Roger Cavalluzzo; Pfc. Thomas Donahue; Pfc. Paul Goldstein, T5 Werner Kleeman; Buddy Holmes, Pvt. Frank Juliano, Sergeant Leonard Lornell, Paratrooper Jay Karp, Charles Markey, Pfc. Rocco Moretta, Seaman 2nd Class Vincent Scalia, Sergeant Frank Murray, 2nd Lt. Walter Sidlowski, Cmdr. Samuel H. Schmerla.

These are in many cases our neighbors from across the state, but on that day, on that heroic day they rose to those heights described by Congressional Medal of Honor Joe Dawson.

Thank God for men like that. Thank God that so many people were prepared to put their lives on the line to assure that our nation continued as a democracy.

Mr. President, on behalf of my constituents and the people in New York, we owe them a debt of gratitude that can never be repaid, but, hopefully, one that will never be

forgotten.

ACTING PRESIDENT KUHL: Senator Leichter on the resolution.

SENATOR LEICHTER: Yes, Mr. President.

In my generation, we mark momentous events by saying, Can you remember where you were, one of the days is the day that Kennedy was assassinated. Another one is V-J Day, V-E Day, and certainly another one is D Day.

I guess there are quite a few of our colleagues here, Senator Maltese, who were born after D-Day, and others who maybe were too young to remember it. You and I apparently had the benefit of years of being able to remember it, but what really came back to me in the events that have occurred and the depictions on television is the incredible bravery and commitment of these men that stormed these beaches or jumped behind the lines, and they were exceptional people but in a sense what made them so extraordinary is that they were the

common people. They came from the farms and the villages and the towns and the mainstream of America, and they were imbued with a selfless ness, with an idealism that made them heroes, and they did things that, as you see it now, you cannot believe that anybody could have the cour age and the bravery to do what these people did.

There's a new book out that maybe some of you have read or heard about, by Profes sor Ambrose, which is, in a sense, an all history and establishes that once you got on the beach, all of the grand plans and all of the marvelous logistics that Generals Eisenhower and Bradley and Montgomery had planned really meant very little. There were groups of soldiers here and there pinned down by machine gun fire. It was really up to them. There wasn't any General, there wasn't even a Colonel or a Captain to say, "O.K., this is what you do next," but they instinctively and out of the training that they had, knew what they did and marched on over these overwhelming odds; and the individual stories are just so riveting.

Last night, I don't know if any of you had the opportunity to see it on PBS, but it was a depiction of the experiences of an aviator, a fighter bomber -- I'm sorry, a fighter pilot, who went from Normandy until almost the collapse of the German Reich and it was so incredible the experiences that he had, the bravery, and to continue when he believed that really he faced inevitable death.

So we sit here really because of the bravery of these people. Our democracy exists, civilization exists, because of the bravery of these people, and certainly if it were not for D-Day and Stalingrad, that evil, most evil of all regimes that we've ever seen, the barbaric Nazi regime, might have triumphed, and we would not sit here. We would not enjoy the bounty of democracy that we have now and it's so appropriate that we at this time, it's 50 years for somebody like me, it seems like it was, in some ways yesterday, in some ways many, many years ago, but it's so appropriate that we give thanks to these brave people and

acknowledge above all those who died and made sure that we have had the blessings of liberty and freedom.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Thank you, Senator Leichter.

The resolution was previously adopted. All members are being included as sponsors of the resolution unless you indicate to the desk otherwise.

Senator Present, that concludes motions and resolutions, brings us to the calendar. What's your desire?

SENATOR PRESENT: Mr. President, recognize Senator Galiber, please.

ACTING PRESIDENT KUHL: Chair recognizes Senator Galiber.

SENATOR GALIBER: Mr. President, I have a privileged resolution, and I'd ask that it be voted on. Read the title of it and vote on it.

ACTING PRESIDENT KUHL: Privileged resolution at the desk, read the

title.

THE SECRETARY: Legislative Resolution, by Senator Galiber, in recognition of the Honorable Percy E. Sutton and the endowment of the Percy E. Sutton Chair for Government and Public Policy at the State University of New York and the City University of New York.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted unanimously.

Senator Galiber.

SENATOR GALIBER: Mr. President, I'm not sure whether there are any other persons on the resolution, but Percy Sutton, known by some and known by many of us, any of those who would be desirous of going on that resolution feel free to do so.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, can we call up Calendar 1141.

ACTING PRESIDENT KUHL: Clerk will read Calendar 1141.

THE SECRETARY: Calendar Number 1141, reported directly to third reading earlier today, Senate Budget Bill, Senate Bill Number 6454-A, an act making appropriations for the support of government.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk.

ACTING PRESIDENT KUHL: Senator Present, the Journal Clerk indicates that there is.

SENATOR PRESENT: Mr. President, I move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity at the desk. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Senator Present? Read the last section.

THE SECRETARY: Section 2. This act -

ACTING PRESIDENT KUHL: Senator Dollinger?

SENATOR DOLLINGER: On the bill, on the budget bill?

ACTING PRESIDENT KUHL: Yes, we're on the budget bill. It's Calendar Number 1141, Senator Dollinger, Senate Print 6454-A.

SENATOR DOLLINGER: Mr. President, I have one question if I can ask.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: I guess it goes to the chairman of the Committee on Finance if he'll yield to a question.

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: Senator

Stafford yields to your question, Senator Dollinger.

SENATOR DOLLINGER: I've been through about 68 pages of reappropriations in the budget, and little things, I guess, catch my eye. On page 88 and page 89, there are appropriations for construction work in the village of Kaser. Could you tell me where the village of Kaser is and what those improvements are? We're doing about $800,000, as I read it, of improvements in that village. I wonder how big the village is and how big its -

SENATOR WALDON: It will be bigger after this.

SENATOR STAFFORD: Near Rochester? I was just getting some help here. They said it was near Rochester.

SENATOR DOLLINGER: Near Rochester? In the 54th District, Senator?

SENATOR STAFFORD: Then I was corrected. In Rockland County. That's a stellar county, Senator, one of the suburban areas and one of the counties that make this

state great.

SENATOR DOLLINGER: But my question -

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: If Senator Stafford will continue to yield.

SENATOR STAFFORD: By all means.

SENATOR DOLLINGER: As I see it, we're spending about 700,000. Do you know what the appropriations, the capital appropriations in the village budget, in the village of Kaser are?

SENATOR STAFFORD: I don't have the village budget, no.

SENATOR DOLLINGER: So we're doing about 700- or $800,000 worth of improvement there.

SENATOR STAFFORD: Well, I'll be very pleased to get you the details. I'll suggest to you, Senator, that we do find there are many areas, some of us are quite proud of our rural areas. If you were to go into my

area, you'd find some villages -- and I only say this because we think so much of it -

SENATOR DOLLINGER: Mr. President, I can't hear Senator Stafford.

SENATOR STAFFORD: -- if you blink your eye -

ACTING PRESIDENT KUHL: Senator Dollinger, you raise a good point. There's a lot of conversation in the chamber. Would you please keep it down.

Senator Dollinger, did you have an additional question that you wish to ask Senator Stafford?

SENATOR DOLLINGER: I think Senator Stafford was answering the question.

SENATOR STAFFORD: I will go on and complete that answer. I will go on, and actually all of my counsels are being more than helpful, and so I probably will be able to give you a complete, complete explanation.

As in many areas, there are public works necessary for the highways, for the drainage areas, for I guess you would call this

infrastructure. That's from an area -- for an area that is not being -- or hasn't been really in existence as long as some of our areas have been -- villages have been, so this is by - this was considered one that we could support.

SENATOR DOLLINGER: Again, Mr. President, through you, Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, do you continue to yield?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator Stafford yields, Senator Dollinger.

SENATOR DOLLINGER: I'm just trying to get how much of the budget for transportation improvements on the streets of the village of Kayser the state of New York is going to do in the next year.

SENATOR STAFFORD: Well, I think you'll find, as they do in many areas, they, very candidly, pick up a great deal. We all have problems with our tax bases in local areas and when they're -- when there is a project that's necessary and one that's supportive, we

support it just as we do in all areas and, of course, you could do that in the wine country. That's important; the Adirondacks; New York City; Monroe County and Rockland County.

SENATOR DOLLINGER: But just so, again through you, Mr. President, Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, you continue to yield to Senator Dollinger? Senator Stafford yields.

SENATOR STAFFORD: Yes, go ahead.

SENATOR DOLLINGER: Just want to ask you the streets that are named in this, page 88, is an Elyons Road and then there's Upper Ashel Street, Rita Avenue, Steinmetz Lane. Are those all village roads?

SENATOR STAFFORD: Well, these are -- these are different areas across the state. It just happens, coincidentally, there are two or three there from Rockland County.

SENATOR DOLLINGER: This is in Rockland County, but you don't know how much of the portion of the budget we're taking over at

this point.

SENATOR STAFFORD: How much of what?

SENATOR DOLLINGER: How much of the budget of that village or town we're taking over at this point.

SENATOR STAFFORD: Well, again, I would suggest this, Senator. I usually mention this in the beginning of the discussions that I, very frankly, don't think many people approach -- appreciate what it's like to put a budget together in this great state of New York, and I use the word "great" advisedly.

There are many interests, there are many areas, very often when I mention that I'm from New York and someone asks me, you know, about the city, I have to explain I'm in a rural area. There are all of these different inter ests that have to be supported.

This specific item, and we'll get you the details, are a project which was suggested and put in by the Assembly, but I'll get you the details.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Just on the bill. I appreciate Senator Stafford's comments about how difficult it is to put a budget together. I think that his answer to that question illustrates how difficult it is to vote for it.

ACTING PRESIDENT KUHL: Clerk will read the last section.

Senator Galiber, are you asking to be recognized?

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

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: Thank you, Mr. President.

Senator Stafford, would you want to yield for a question?

ACTING PRESIDENT KUHL: Senator Stafford, would you yield to Senator Galiber?

SENATOR GALIBER: But during the Finance meeting this afternoon, we had a discussion on prop's and reapprop's and went up to a certain number and thought of using the alphabet, not the alphabet because it covers more than 700 pages, and there was nothing in the last paragraph to say the effective date, et cetera.

Now, I thought we'd, just for the record -- I understand there might be an explanation for it -- it starts with the question of time, seven or eight hours versus one hour and, if that be the case, I'd like the record to reflect that, and if there is any possibility in the final bill or this may very well be it, of tying in that or whether it's a chapter amendment that's needed or just a statement as to why this occurred so that there wouldn't be some question later on as to the ending of the bill, the effective date, et cetera.

SENATOR STAFFORD: That's a very valid concern, Senator. One of mine, in

addition to that, was that the table of contents was at the back of the bill, but the more I think of it, probably that's the place for it, but what this is, of course, it's a budget bill and, of course, it's appropriated for this fiscal year, and it automatically takes effect immediately and goes to the end of the fiscal year.

SENATOR GALIBER: But if -

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: But the appropriations or the reappropriations portion of this bill, would I be safe in saying that the reappropriations were printed perhaps earlier than the rest of the bill?

SENATOR STAFFORD: That was.

SENATOR GALIBER: And that might very well be the explanation because they already had it printed. Of course, they had reapprop's and then when this was printed, they, just in the interest of time, added the budget in.

SENATOR STAFFORD: The budget in.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR GOLD: If I may, Mr. President, just on the same point.

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to Senator Gold?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: I think Senator Galiber is trying to establish the record, and I appreciate that, and I think the record should indicate that what we have are numbered pages which runs through to 139, followed by pages which start with numbering R-1 and run through to R-791, and so without the index which does make reference to numbers that do -- regular numbers and some numbers that start with "R", this bill is, as I understand it, the total of 139-plus 791, or some 930 pages or thereabouts; is that correct, Senator Stafford?

SENATOR STAFFORD: I'll leave it

to you.

SENATOR GOLD: You can say yes.

SENATOR STAFFORD: Yes.

SENATOR GOLD: Thank you.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, you know, this is as usual, sort of a grab bag, the Capital Budget and what's -- what's one person's gold is another person's dross and it's from, I guess anybody's viewpoint full of some good things and full of some things that are not so good.

One of the problems, of course, is that the bill appears on our desk, and while it may seem strange to say some 66 or 67 days after the budget was passed that we really haven't had a chance to examine it, but due to the process, that happens to be the case, that the bill is here and while we know some things about it and both Conferences, I'm sure, have spent some time on it, obviously there are some things in here that most members, certainly

speaking for myself, have not had a chance to fully understand or appreciate. So some of my comments are based just on what I'm told is - is in the bill.

I do want to say that I think, as we go through the finally voting on the budget, we'll have more chance maybe to talk about the process and hopefully to learn from what has happened and maybe make some modifications.

One of my concerns about the Capital Budget is, I'm told there is some additional 42 million appropriation for stadia and other sporting facilities throughout the state of New York. I think -- I supported the bill that we had last year to have state support for these local stadiums, but I certainly didn't expect that it would be as open-ended and that we would keep on adding to it, and while I appreciate the value of sporting events and giving our communities the ability to have these events, I just question whether at a time when our infrastructure is as deteriorated and frayed as it is, that we want to put this amount of

money into more sporting facilities.

The fact is that we've got terrible problems maintaining our transportation system, our sewer system, our -- our system to dispose of solid waste; there's enormous needs in this state, and I don't know whether you can say -- and I don't think you can -- that the most important need that we have is to spend more money on sports facilities. I guess there is a long tradition in spending money for that. I guess that's what the Romans did. The first thing they did is they built a circus, the Coliseum, and I guess the way the Governor's bread and circus, if you can't get both bread and circus, be sure you do the circus first.

And so I'm going to vote for this bill, but I certainly don't want to associate myself with that expenditure, and while some people will say, Well, this brings economic development, so on, there have been all sorts of studies that show that the sports facilities really are not the best way to further economic development. In fact, it usually ends up

costing money.

I also want to say that I very much regret that an appropriation, I think, that we should make for the sort of things that I'd like to see in the Capital Budget, and this would be for an additional facility for John Jay College of Justice in the city of New York, really one of the premier institutions that we have in this state, a world class institution. We're famous throughout the world in criminal justice circles for that institution, and it desperately needs additional space and there should have been money in the budget for that.

I also understand there is a new program in here for -- to assist throughout the state and particularly in the city of New York the school maintenance and school renovation and repair which is certainly very much needed.

So, Mr. President, I guess at this juncture and this point, and 67 days late, one should greet these budget bills with relief and maybe not carp about what's missing or what's in here, as I'm doing, but I think it is

important to point out some features of this which I think are disturbing.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on this bill? If not, the Clerk will read the last section.

Senator Solomon.

SENATOR SOLOMON: Yeah, Mr. President. I guess I'll just explain my vote before you read the last section.

ACTING PRESIDENT KUHL: Explain your vote. Let me read the last section then.

The Clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

Senator Solomon to explain his vote.

SENATOR SOLOMON: Thank you, Mr. President.

I would normally be voting for

this part of the budget. However, we in Brooklyn have been seeking a sports stadium for a number of years, an amateur sports facility. In fact, our numbers show that, if we could get assistance in building this facility it would be able to run and survive on on its own income; and for that reason and in view of stadiums throughout the various locations in the state, I'm going to vote against this bill.

Thank you.

ACTING PRESIDENT KUHL: Senator Solomon in the negative. Senator Dollinger in the negative, Senator Jones in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1141 are Senators Dollinger, Jones, Pataki and Solomon. Ayes 50, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we call up Calendar 1142, please.

ACTING PRESIDENT KUHL: Clerk will read Calendar Number 1142.

THE SECRETARY: Calendar Number 1142, by the Senate Committee on Rules, Senate Bill Number 5850, an act in relation to certain provisions which impact upon the expenditure of certain appropriations.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity on Calendar Number 1142 at the desk?

ACTING PRESIDENT KUHL: Journal Clerk indicates there is a message of necessity here, Senator Present.

SENATOR PRESENT: Mr. President, I move that we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

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.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 51, nays 3, Senators Dollinger, Jones and Pataki recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar Number 1140.

ACTING PRESIDENT KUHL: Clerk will read Calendar Number 1140.

THE SECRETARY: Calendar Number 1140, Senate Budget Bill, Senate Bill Number 6452-A, an act making appropriations for the

legal requirements of the state debt service.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity on Calendar 1140?

ACTING PRESIDENT KUHL: The Journal Clerk indicates there is a message of necessity at the desk, Mr. President.

SENATOR PRESENT: Mr. President, I move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

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.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 51, nays 3, Senators Dollinger, Jones and Pataki recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar Number 1143, please.

ACTING PRESIDENT KUHL: Clerk will read Calendar Number 1143.

THE SECRETARY: Calendar Number 1143, by the Senate Committee on Rules, Senate Bill Number 5851, an act in relation to certain provisions which impact upon the expenditure of certain appropriations.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: Senator Present, the Journal Clerk indicates that there is a message of necessity at the desk.

SENATOR PRESENT: Mr. President, I move that we accept that message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity at the desk. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is adopted.

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.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 51, nays 3, Senators Dollinger, Jones and Pataki recorded in

the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

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

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

THE SECRETARY: On page 8, Calendar Number 433, by Senator Levy, Senate Bill Number 80-C, an act to amend the Transportation 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 53, nays one, Senator Cook recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 434, by Senator Levy.

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

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

THE SECRETARY: Calendar Number 478, by Senator Saland.

SENATOR PRESENT: Lay that one aside for the day.

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

Senator Daly, why do you rise?

SENATOR DALY: Could I be voted in the negative on Calendar Number 433, Senate Print 80-C.

ACTING PRESIDENT KUHL: Without objection, Senator Daly will be recorded in the negative on Calendar Number 433.

Senator Farley.

SENATOR FARLEY: 433, in the negative.

ACTING PRESIDENT KUHL: Without objection, Senator Farley will be recorded in the negative on Calendar Number 433.

Senator Sears.

SENATOR SEARS: Same request.

ACTING PRESIDENT KUHL: Without objection, Senator Sears will be recorded in the negative on Calendar Number 433.

Clerk will continue the roll.

THE SECRETARY: Calendar Number 607, by Senator Levy.

SENATOR PRESENT: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 780, by Senator Goodman, Senate Bill Number 7902.

SENATOR PRESENT: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

800, by Senator Holland.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Mr. President, in behalf of Senator Holland, may I star Calendar 800?

ACTING PRESIDENT KUHL: Clerk will put a sponsor's star on Calendar Number 800.

THE SECRETARY: Calendar Number 1003, by Senator Goodman, Senate Bill Number 2645-A, an act to amend the Vehicle and Traffic Law.

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 55.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1053, by Senator Daly.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1093, by Senator Cook.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1099, substituted earlier today, by member of the Assembly Reynolds, Assembly Bill Number 10211-B, an act to amend the Tax Law.

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 54, nays one, Senator Dollinger recorded in the

negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1120, substituted earlier today, by member of the Assembly Pordum, Assembly Bill Number 10860-A, an act to amend the Local 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1122, substituted earlier today, by member of the Assembly Glick, Assembly Bill Number 9751, Criminal Procedure Law, in relation to the use of interpreters.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1123, by Senator Lack, Senate Bill Number 7164, an act to amend the Highway Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

There is a home rule message at the desk, Senator Present. The 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1124, by Senator Lack, Senate Bill Number 7166, an act to amend the Public Authorities 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1125, substituted earlier today.

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

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

THE SECRETARY: Calendar Number 1126, by Senator Hannon, Senate Bill Number 7583, 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1127, by Senator Larkin, Senate Bill Number 7719, Real Property Tax Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1128, by Senator Gold, Senate Bill Number 7765,

Education 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1129, by Senator DeFrancisco, Senate Bill Number 7886-A, authorize the town of Van Buren, county of Onondaga, to convey an easement.

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 55.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 1130, substituted earlier today, by member of the Assembly Destito, Assembly Bill Number 9579 A, Education Law, in relation to pupil tests for scoliosis.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1131, by Senator Marino, Senate Bill Number 7950, an act to amend the Penal 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1132, by Senator Cook, Senate Bill Number 8156, an act to amend the Education 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1133, by Senator Holland, Senate Bill Number

8344, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: Senator Present?

SENATOR PRESENT: Place a sponsor's star on Calendar 1133, please.

ACTING PRESIDENT KUHL: The Clerk will put a sponsor's star on Calendar Number 1133.

THE SECRETARY: Calendar Number 1134, by Senator Sears, Senate Bill Number 8493, an act to amend the Tax 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 55.

ACTING PRESIDENT KUHL: Got a negative vote.

THE SECRETARY: Excuse me. Ayes 54, nays one, Senator Dollinger recorded in the

negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1135, by Senator Rath, Senate Bill Number 8519, require New York State Teachers' Retirement System to accept a retirement application.

ACTING PRESIDENT KUHL: Clerk will read the last section.

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1136, by the Committee on Rules, Senate Bill Number 8523, an act to amend the Tax Law.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1138, by the Senate Committee on Rules, Senate Bill Number 8525, an act to amend the Vehicle and Traffic Law.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present, that completes the non-controversial calendar.

SENATOR PRESENT: Mr. President, can we call up 1145, I believe, '43, '45.

ACTING PRESIDENT KUHL: Clerk will read Calendar Number 1145.

THE SECRETARY: Calendar Number 1145, reported directly for third reading earlier today, by the Senate Committee on Rules, Senate Bill Number 7153, an act to amend the Social Services Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Present, an explanation has been asked for by Senator Gold. What Senator will be handling the debate?

Senator Farley, an explanation has been asked for on Calendar Number 1145, Senate Print 7153, by Senator Gold.

SENATOR FARLEY: This is the bill that we do every year, at least in the last few years, which has been described as the "Donovan bill" which brings us somewhat in conformity with 40-some-odd states in the nation that says we'll only pay for Medicaid funding for poor women where the health of the mother or life of the mother, or for rape, substantiated rape, and incest.

This particular legislation -

yes, danger to the life of the mother, I think I said that. This does not outlaw abortions. The Supreme Court has already spoken on that. We hear a lot of debate that this legislation would take away the woman's right to abortion. It doesn't do that. In 1993, there were 49,000 abortions which were funded by Medicaid at a cost of $26.7 million.

You know, this issue is one that is very personal with many members in this house, and one that people feel deeply on. I respect their opinions, but for as long as I'm here, I feel that this is legislation that is needed.

For years, we had to do an amendment to the budget, hold up the budget on this issue. That was the only avenue it had in this house year after year, pass that amendment. Unfortunately, in order to -- many members had to cave in on this issue, and so that the budget could pass.

This is a piece of legislation Senator Donovan always wanted, a piece of

legislation that puts this house on record that we will not fund elective abortions. As I said, it's 40-some-odd states also agree with that. New York State has become the abortion mecca of the nation practically. It's something that I think that is needed as a message.

And let me just say something: I don't see him in this house, but for years and years many people have carried this -- this amendment and this bill. Senator Nolan, for the 20 years that he's been here, I've always heard him stand up and speak on this issue and so many others.

This particular legislation is reasonable. If you look at the state of Pennsylvania, what they have done in this area, it's substantially more significant, in my judgment, and much more inclusive. This is a very reasonable piece of legislation. Several members in this house that are pro-choice vote for this legislation because they don't feel that the state should be in the business of funding elective abortions. If it's necessary,

as I said, because the life of the mother, or if there's rape involved and it's an incident reported within 48 hours, or if it's a result of incest where the mother is a minor and the incident is reported prior to the abortion, that's all that this bill does and it does not outlaw abortion. It just brings us in conformity with the rest of the nation.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes -- Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I would like to speak on the bill.

ACTING PRESIDENT KUHL: We have a list going, Senator Oppenheimer. If you'd like to speak, I'll put you on the list just behind Senator Goodman.

Senator Goodman, before you start, could we just hold for 20 seconds.

The Chair recognizes Senator Goodman.

SENATOR GOODMAN: Mr. President, once again, we are asked to revisit a question which has often been -- may I ask for a little order, Mr. President?

ACTING PRESIDENT KUHL: Senator Goodman, your point is well taken. There's a little too much chatter in the chamber. Could we please have the members take their seats, staff take their places. Let's calm the chamber down.

The Chair recognizes Senator Goodman. Thank you.

SENATOR GOODMAN: Mr. President, once again, we're asked to deal with this question which has come up virtually every year in my memory over a quarter of a century in this house, and on each occasion we try to debate a few fundamental propositions with respect to the matter of abortion.

Now, the question before us today is not whether abortion may legally be performed in the state of New York. That matter has long since been decided by action we took some 23

years ago when we passed the abortion reform law in this house, and Senator Present and Senator Galiber, Senator Marchi, who were present at that time, will recall the extraordinary and memorable debate which resolved the question in the affirmative and said that henceforth it would be legal in the state of New York for a woman seeking to terminate a pregnancy by abortion to do so during the first trimester of pregnancy.

Unfortunately, with that matter having been decided and with various reinforc ing measures having been approved by the United States Supreme Court, we are nonetheless asked each year to entertain a proposition from those who put forth this bill which runs something like this: Why should a taxpayer have to finance out of taxpayer funds an abortion? If a woman wants an abortion, fine, but why should a taxpayer have to pay for it? And that joins the question, because the issue is very direct and very clear.

We, as taxpayers, are called upon

every day to pay for things of which we disapprove. I may not approve of something that is being constructed in your district, and you may not approve of some service which is being rendered in my district but, as a result of the decision of this house which is the people's house charged with the responsibility of making these decisions, we find ourselves often seeing our taxpayer monies go for things which we may personally find distasteful.

No, Mr. President, the issue runs far deeper than this. The issue runs, in my judgment, along the following lines: If we grant the privilege to obtain an abortion within the legal constraints set by state law, do we have the right to prevent her from getting that abortion solely on the grounds that her economic circumstances do not permit it? In short, do we find it appropriate to discriminate against those poor women whose only recourse in the matter of abortion is to rely upon the public funds provided through the Medicaid assistance program?

I think the issue is exceedingly clear in this case. If an individual were visited with a disease, we would not refuse to treat that individual because they fall below a certain income level, or if an individual broke a leg and were taken to an emergency room in a hospital, we most assuredly would not deny that individual treatment.

Similarly, it seems to me quite evident along the same line of reasoning that if, in accordance with the legal statutes of this state and the United States of America, a woman feels that she wishes to terminate a pregnancy through abortion, has counseled with the appropriate people, her clergyman, her physician and the like, and proceeds to wish to seek an abortion, that we must not artificially erect a barrier to prevent her from doing so. That's the core question, and that's one which I believe to be inescapable.

Mr. President, it's regrettable that this matter must come up every year, but I'm afraid that, as long as we are here and as

long as that clock ticks on the wall, this will be revisited upon us annually and we must each year get up and restate the premises on the basis of which we try to make this service available.

In the simple name of humanity and equal treatment for all, we can not deny a poor woman an abortion, and it's for that reason that I urge the defeat of this measure.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

As my colleague from Manhattan, Senator Goodman, pointed out, I guess we are destined year after year, to revisit certain subjects. They don't seem to go away, and there are some subjects which you would say you would hope intellectually would go away, but there are subjects which just are so politically volatile that there are groups that will not let them go away for whatever those reasons be.

This bill has slid by a few

times. I'm hopeful this year, maybe it won't slide by and maybe we can discourage its introduction in future years. Obviously, this is a bill which will require a slow roll call. We've debated it so often, I say to myself, what basically can be said other than the repetitions of prior years and, since I don't want to do that and won't do that, I want to limit my remarks today and just say that it seems to me that, while the debate on this issue has, from time to time, lacked dignity and many of us have tried to horrify the other side with visual types of arguments, and while the procedures involved in abortion are certainly not the most dignified times of a woman's life, the bill does deal with human dignity and the right of women to the dignity in the decisions of what happens with their bodies.

Abortion is not something that is considered by women the same way you decide whether you want a Diet Pepsi or a Diet Coke. These are serious decisions taken by women very seriously, and to suggest that women take this

decision without that degree of seriousness is to have a degrading feeling in your own mind about women.

I have to believe that there isn't any one of us who doesn't know some woman who decided at some point in her life to have an abortion, and I can not believe that, when we personalize this into people we know, we would think of those people as being totally irresponsible, people who had no particular caring or feeling for human rights or life, and if you put it into that perspective, if you can at least accept the fact that a human being, who by accident of birth is a woman rather than a man, might have some caring and might have some feeling, you can understand that these decisions are taken extraordinarily seriously by the people who are involved.

I, personally, do not believe in abortion as a matter of birth control and in situations don't think that I or -- would encourage anybody to do it. But my feelings are not the issue. The issue is whether or not a

particular woman, a particular man and woman, if they have that kind of a relationship, can make the judgment for themselves in this country rather than put us back in the back alleys.

Now, there's one advantage. I will tell you this, one advantage of talking it out all the years is that there are some of us who remember the beginning of these debates and when I said that some of them were less than dignified, I remember why at the time they were less than dignified, because we were dealing with the reality, a reality of butchered women in back alleys, having their bodies subjected to literal torture, oftentimes by people with no medical training. The only training these people had was the 10 or 20 other women that were abused by them and butchered by them, and that's what -- those are days which we can not revert back to.

Now, someone will say, Well, Senator, don't worry about that. We're not going back to that, because there are women legally "buying", quotes/unquotes, their

abortions in America today and in New York State today.

The problem is, again, dealing with reality. You can go into some lovely neighborhoods in New York, go into some furniture stores and get some great bargains. Go into some of our poor neighborhoods and what they say are bargains are usually people being over-charged, and if you think I'm kidding you, you go check it out.

So what happens? You say that we are not going to make it available for poor women under a private program, and I guarantee you that you're opening the door for those butchers to raise their prices in the areas of our city and in our community where they can afford it the least.

So the negatives inherent in this bill are very serious, and I would hope that, once and for all, we could get this out of the arena that it's in and understand the human needs involved.

I hope, once and for all, we can

get the vote on this so overwhelmingly against this bill that maybe we'll see the end of it.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: I think the society-at-large should recognize that this Medicaid funding for poor women's abortion which has been coming up year after year every year I've been here -- and that's ten years, that I think it's important to note that this is a society, this Medicaid funding for poor women's abortion has dramatically improved maternal and child health which is something of great concern to us because of the high cost of health care in our society.

Prior to 1970, the poor suffered disproportionately high maternal and infant losses due to illegal abortion, and basically due to too frequent births that were too closely spaced, but poor women have always been more vulnerable to -- to pregnancy complications and death due to poor nutrition and excessive births

and their babies, due to inadequate prenatal care, have more frequently been born of low birth weight and premature and with birth defects and these -- these problems are very costly for society.

We figure that between 32- and $113 million in tax funds, monies which would have been spent for welfare and maternity benefits for poor women in the first year alone, that's the first year of the child's life, could have been saved if they had not been forced to carry a pregnancy to term that they did not want to carry to term.

This Medicaid funding has reduced the inequities between poor women. Most of those poor women are -- are minorities in our society. This has reduced the inequality between them and affluent women who with that approved could always manage to get a safe, convenient abortion. The women who are poor could only get it through Medicaid funding.

If abortion were legal but not accessible through Medicaid, a woman on public

assistance could still get an abortion but it would probably cost at least three-quarters of the monthly welfare allowance for her entire family.

Some people think that -- some anti-choice forces think that -- that women opt for an abortion as a whim, as a method of con traception and that there's an irresponsibility about the choice and because this option exists that they are frivolous in the way they manage their -- their sexual life, and I can only assure you that abortion is not a whim and these assertions have never been supported by the facts.

60 percent of women having abortions have never had a previous abortion. 24 percent have had one abortion previously. So it is not being used frivolously by poor women as a method of contraception.

I think individuals in -- in American society, regardless of their age or income, must be free to make their own decisions about child bearing based on their life

situation at that moment, at that moment in time, how they are economically poised to handle having children, to bringing up a family, to putting in the time, the effort and the knowledge into raising a child.

It is not easy to raise a child, particularly a single parent, and, of course, they have to consult with their doctor and face their own beliefs as far as religious and moral values. It is very difficult for me when I hear people in this chamber say that they are pro choice and yet they do not seem to be pro choice for poor women. They do not seem to be pro-choice for young women, and it's very confounding to me to find -- to try and understand where they are pro-choice.

If they're pro-choice for the affluent, upper socio-economic woman who can go about taking care of her problems, I don't think that's where government needs to be. That woman is able to provide for herself. Government is there to help the young, to help the poor, and I can't understand someone calling themselves

pro-choice and not being there for those essential services which must be provided to the people in need.

I feel the women in America should never be thrown back to the degrading and dangerous time of illegal abortions when women were risking their lives. We have appalling statistics on the number of women that died. And who are these women? They were mostly poor women, because affluent women have always been able to take care of their problems. Thousands upon thousands died before abortion was made legal and we turned our attention to providing for those that were least able in our society to provide for themselves.

In the past, I have talked about the economic providing of Medicaid funding for abortion. I don't think I'll talk about it this year. Suffice it to say that it is much less costly to provide the abortion for a poor woman who needs one than to take care of their child after birth when they are eligible for fully funded services for not only medical care for

the infant but for subsequent services that can amount to considerably more.

In New York State, the average Medicaid abortion costs about $350, but the first year expenditure for maternity care and for AFDC is about $7,000. So costwise it certainly can't be what is being considered because the cost was being considered by the opponents because costwise it's much more - much more frugal to go with the Medicaid abortions.

I'd like to conclude with reading off the many, many groups that do support Medicaid funding for abortions including the New York State Republican Family Committee that believe that government must play a constructive role in ensuring that people of different views and differing values are allowed to follow their consciences irrespective of whether they are well-to-do or poor.

They believe that the Medicaid funding for abortion is important because it does, first and foremost, safeguard a woman's

health. We all know what the alternatives are and they should be totally unacceptable to this body. They also urge Medicaid funding because it is fair and it is just and, as I mentioned, of course, it saves taxpayers money.

Let me briefly read some of the principal groups that are supporting Medicaid funding for abortion, and I certainly won't read them all: American Jewish Congress; American Association of University Women; Catholics for a Free Choice; Community Service Society of New York; the Diocese of New York of the Protestant Episcopal Church; District Council 37; International Association of Women Ministers; League of Women Voters of New York State; National Association of Social Workers; National Council of Jewish Women; New York Society for Ethical Culture; New York Women in Criminal Justice; New York Coalition of Women's Legislative Issues; New York State Council of Churches; New York State Nurses Association; Physicians for Choice; Presbytery of Western New York; Committee on Women in the Church; Women's

Bar Association, and SASU.

I hope that you will consider that, in our society, it is only fair to permit all people to benefit from their constitutional right and, in this case, if a well-to-do woman can get this right, how can we prohibit a woman who is poor from receiving the same attention and service?

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

Will the sponsor yield? Will Senator Farley yield to just two quick questions, if you would?

ACTING PRESIDENT KUHL: Senator Farley, do you yield?

SENATOR FARLEY: I'm not really the sponsor, but I explained the bill.

ACTING PRESIDENT KUHL: Senator Farley yields.

SENATOR DOLLINGER: I just want

to make sure I understand two aspects of the bill before I address them in my remarks. In line 7 of the bill, it makes reference to the fact that an abortion would be permitted if it were the result of rape as defined in Section 130.35 of the Penal Law; isn't that correct?

SENATOR FARLEY: That's correct; that's what it says.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Farley would yield, who makes that determination that that occurred through rape? Wouldn't that require a trial in a court in order to determine whether the woman was a victim of a rape and that there was a lack of consent and all the other ingredients?

SENATOR FARLEY: The intent of the bill is that abortion is permitted if the rape is reported within 48 hours.

SENATOR DOLLINGER: But it has to be defined; it has to be the result of rape as defined in section 130.35 of the Penal Law?

SENATOR FARLEY: That's correct.

SENATOR DOLLINGER: Who makes that determination, if Senator Farley, through you, will continue to yield?

SENATOR FARLEY: I presume the court.

SENATOR DOLLINGER: So you couldn't have an abortion until after the court had determined that the woman who was seeking the abortion had been raped and that the rape constituted a violent crime under the Penal Law of the state of New York?

SENATOR FARLEY: It's my understanding that there does not have to be a conviction for rape. It's just the fact that it's been reported and the police department reports that there has been a rape.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Farley will continue to yield.

ACTING PRESIDENT KUHL: Senator Farley, do you continue to yield?

SENATOR FARLEY: Yes.

ACTING PRESIDENT KUHL: Senator

continues to yield.

SENATOR DOLLINGER: One of the questions in the issue of rape is whether there is consent. Who makes the determination whether the woman has consented to sexual intercourse or not so that it constitutes a rape under this bill?

SENATOR FARLEY: I would say the woman. The woman, in my judgment.

SENATOR DOLLINGER: O.K. So again, through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Farley continue to yield? Senator Farley continues to yield.

SENATOR DOLLINGER: The bill provides that if the woman makes an allegation of rape and reports that, she's entitled to an abortion under those circumstances, is that correct?

SENATOR FARLEY: Give me that again. If the woman -

SENATOR DOLLINGER: Mr. President, could we just have a little order in

the chamber?

SENATOR FARLEY: Let me just say something that might clarify some of your questions.

Basically what this bill does, it puts us in conformity with the fed's from the point of view, for instance, they're going to be -- it's my understanding that they're going to extend the federal abortion bill to include fetal deformity. Should that happen, our legislation would conform to that. In other words, we are conforming our abortion laws with the federal government in order to qualify for Medicaid. That's what this legislation will do.

SENATOR DOLLINGER: O.K. But just again so I understand it, it's the language actually says it's the result of a rape as defined in Section 130.35 of the Penal Law, but you couldn't come to a determination as to whether that section of the law had been violated until the court had made a determination that a rape as defined in that

section had actually taken place.

SENATOR FARLEY: That's not my understanding at all. I don't think -- I'd have to check with counsel, but I don't think that that's my understanding that there has to be a conviction and a court determination that there was a rape.

SENATOR DOLLINGER: O.K. But is it safe to say then, if the woman made the allegation that she was raped, that would be sufficient to trigger her right to an abortion?

SENATOR FARLEY: If it was substantiated within 48 hours, I presume with the authorities of the police department.

SENATOR DOLLINGER: But, again through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Farley continue to yield?

SENATOR FARLEY: That's committing a crime if you report a rape and haven't been raped, theoretically.

SENATOR DOLLINGER: I understand that, Senator. I'm just trying to get at what I

consider the critical issue which is a woman reports that she's raped, is it safe to say under this statute she would then be entitled to have an abortion regardless of whether the rape allegation proved to be true or not?

SENATOR FARLEY: If she qualifies for Medicaid.

SENATOR DOLLINGER: Again I'm assuming it's just Medicaid women, women who qualify for Medicaid.

SENATOR FARLEY: Yes.

SENATOR DOLLINGER: O.K. And is the same thing true also with the incest provision, again through you, Mr. President, if Senator Farley would continue to yield.

ACTING PRESIDENT KUHL: He does.

SENATOR DOLLINGER: That's simply the reporting of incest, an allegation of incest that would trigger a woman who qualifies for Medicaid to have an abortion. There wouldn't be a court adjudication because that, of course, would take a long time and probably far longer than the nine-month gestation period.

SENATOR FARLEY: Well, that's right. What happens here is that that incest has to be reported where the mother is a minor and the incident is reported prior to the abortion. So that incidents would have to - there's not a 48-hour requirement there.

SENATOR DOLLINGER: Again through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Farley, you continue to yield?

SENATOR FARLEY: I'm not crazy over it, but I will.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: I apologize, Senator, but it raises an interesting point with respect to the determination. Who makes the determination as to whether actual incest has occurred or not under this statute?

SENATOR FARLEY: I guess the child that was -- that was abused makes that determination.

SENATOR DOLLINGER: O.K.

SENATOR FARLEY: It's reported that she's pregnant as a result of incest; I think that's all that is required.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: The reason why I asked Senator Farley, and I appreciate Senator Farley's very candid answers in those questions, that while I think this bill, while well motivated, in effect, by the sponsors really goes into a whole area of the law that goes far afield of the target that the sponsors intend. By an actual reading of the statute, it says that you'd have to show that it's an actual rape under the Penal Law.

I submit to the sponsors and those who are going to vote in favor of this bill that that determination couldn't be made until you'd had a trial on the underlying rape issue. It would be a long time before you would get to that trial. It's not going to work.

It's practically not going to work.

The same thing is true with respect to incest. You'd need a determination that incest has occurred. That would take years in a court, long after this woman would have been denied her right to abortion, but the critical point that Senator Farley has acknowledged, which I think is absolutely critical, it seems to me that what the sponsors are saying that, if you allege it's a rape or if you allege it's incest, you can then qualify for an abortion.

What that says to me is that we're willing to trust the poor women of this state to make a valid determination that they've been raped or that they're a victim of incest, that they have -- the sponsors of this proposal are acknowledging that they have the dignity sufficient to make those allegations and make those determinations, that they lack consent or that they were a victim of incest.

If we allow them the dignity of sanctioning their allegation, if we're willing

to give such weight to their allegation, why can't we simply give them the other side of dignity, which is to allow them to choose abortion by themselves? If we recognize their capability to properly report a rape or incest, why couldn't we also recognize that they've got the ability to make the choice about whether to carry the child to term?

We respect their judgment in one area; why don't we respect their judgment in the other and give them the right to the same dignity that every one of us would want our daughters to have? And that's purely the dignity to make decisions about their own lives, their own bodies. It seems to me you can't respect their dignity in one respect in this statute and deny their fundamental dignity to make a choice about whether they're going to carry their child to term.

I see this statute as being impossible to actually bring about. I see the wording of it so broadly as to create a conundrum for the judges in this state that they

will never be able to unravel, and I see it being Janus-like, written with two heads, one head that says if you report the rape we'll recognize that you're entitled to an abortion and we trust you to fairly report it or we don't trust you to make the right decision about whether to have an abortion.

I think the poor women of this state deserve a consistent dignity and that is a dignity to make their own decisions without having to go through this complicated procedure.

Mr. President, I'm opposed to this measure. I think this says the wrong thing about the dignity that we should extend to the poor women in this state, and it seems to me that this has come up time and time and time again, but this statute doesn't do what it is apparently intended to do and, worse yet, it offends the dignity of poor women in this state.

SENATOR FARLEY: Mr. President.

ACTING PRESIDENT KUHL: Senator

Farley, we have a list going that -

SENATOR FARLEY: Senator Dollinger, with all due respect, I think you're wrong on that. This particular statute, whether it becomes a statute remains to be seen, this particular bill is not complicated at all. It does not take away the choice of a woman or a girl. We can't do that. They have that choice under the law.

What we're doing is saying, we're only going to pay for Medicaid funded abortions in these three instances which the vast majority, I think it's 42 -- I don't have the number of states -- 38 states say exactly the same thing. Some are much more restrictive.

This follows and tracks the federal law. As the good lawyer that I know that you are, uniformity of law is the thing that we -- we pursue. This makes us uniform with the rest of the nation and the federal government.

I urge its passage.

ACTING PRESIDENT KUHL: The Chair

has Senator Connor next on the list, but I don't see him in the chamber at the moment.

Senator Maltese is next on the list.

SENATOR MALTESE: Mr. President, as Senator Farley has so ably pointed out, the question of the law, I believe, is clear enough that it's been followed in 38 states as pointed out by the New York State Catholic Conference.

What we're talking about here is the payment by state taxpayers of abortion that they may oppose in all conscience, the people who are using it as a birth control device, who have had in many cases repeated abortions.

It's pointed out that every day in New York State 137 unborn children die from abortions paid for with those self-same tax dollars. That's 50 -- almost 50,000 babies per year, 57,540 tax dollars per day, 21 million tax dollars per year, that could be better spent to alleviate more serious problems by people who require social service and taxpayer assistance.

The New York State Catholic

Conference, on behalf of the Catholic bishops of New York State have pointed out that in 1992, New York State taxpayers spent $20,500,000 for 49,700 abortions. In the same year, the federal government spent only 331,000 -- $331,000, that's a third of a million dollars for 267 abortions. To put it in perspective, the federal government is paying for 267 abortions nationwide and New York State is paying for 50,000 abortions.

Now, the United States Supreme Court has indicated that no state is required to fund this procedure. Indeed, states may financially favor child birth over abortion which has been reiterated just recently.

As Senator Farley pointed out, the Medicaid program in our state goes far beyond any other state. It is perfectly reasonable, given the confines of what -- what the state is willing to pay for that, in cases of rape, incest, and danger to the life of the mother, that these be exceptions where women - poor women can avail themselves of these

abortions should they choose to do so.

The Catholic Conference also points out proponents, and I quote, from their letter of April 12th, "Proponents of abortion subsidies increasingly supply the dehumanizing and callous argument that Medicaid abortion funding is cheaper than child birth and a legitimate means of reducing welfare costs. Such arguments are not only invalid; they are unworthy of a truly civilized society."

Now, lest we think that that is alarmist language, I wish to point out from a memo dated April 5th from the New York State NARAL, National Abortion Rights Action League, a sentence. "For every one dollar spent by the state to pay for abortions, about $4 is saved in public medical and welfare expenditures incurred as a result of the unintended births."

So here we have New York State NARAL tending to appeal to what I consider the baser emotion, trying to save money by slaughtering helpless fetuses. If this is a humanizing process, it's beyond me. What we are

attempting to do here is pass reasonable legislation to prevent somebody who is a taxpayer from subsidizing somebody else's abortion on demand.

I -- Mr. President, I support this bill.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I initially was going to ask Senator Farley to yield, but I won't do that. I'll just speak to the legislation.

I take this very personally, and the reason I take it very personally is that I can put myself in the shoes of women who might have to avail themselves of Medicaid funding for such a procedure or other, and I take it as anti-woman legislation, and I will tell you why, Mr. President.

It is because the same forces that support this measure to remove the option of this procedure, this medical procedure from

poor women in this state are the same people who also oppose access to a pelvic exam or a genital exam, I suppose that's what you would call it, for males, for young people in schools, or a physical exam or a breast exam for young females in school, or reproductive counseling in schools, or mental health or dental services and they're the same forces, Mr. President, who oppose access to an item like condoms in schools, by young people so that they can protect themselves from disease and premature pregnancy.

These are the same people who come together and put on the floor of the Legislature or put pressure on some of us in the Legislature to put these measures on the floor and to support them and to vote for them and they're anti-women, Mr. President, and so I want to be on record today. I want my colleagues to understand that your opposition to school-based health clinics for young people in this state especially with young people in my district who are dying by the thousands from disease, who are

becoming pregnant prematurely by the hundreds, daily, because they do not have access to neither information nor services, and then if they should become pregnant and they determine that they want to -- that they want to access this procedure, not in their schools, of course, but that they determine that they want to do this, there are the forces in the state who don't want them to have access to that.

So for me personally and as a representative of women, particularly poor women and young women, adolescent women in my district, this is anti-women, and I -- I just want you to know that that's how I'm going to perceive it. That's how I project it because that's what I think it is.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Padavan.

SENATOR PADAVAN: Senator Montgomery, let me assure you that, in my view, those who are in support of this legislation in this house that I know do not fall in the

category that you just described. We have consistently supported initiatives that involve health services, particularly for young people. We have consistently not only supported legislation but funding of programs such as outreach, women's outreach for breast examinations. As a matter of fact, last year, on three separate days, I had a mammography van parked in front of my office for that specific purpose, and kept the office open on a Saturday so that it would be convenient for women to come and take advantage of that opportunity.

So your categorization that those who are in support of this bill are the same, quote, people who are opposed to women's inter ests and those of young people in particular, I would like to suggest to you is simply not the case.

But at the same time I think it's also fair to state that it is probably also not the case in the Capitol of the United States where the Congress, both houses dominated by your party, have repeatedly established national

policy in law by saying that they will fund under Medicaid health services for the poor and indigent, but they will not fund abortion. That is the law of the land and only a handful of states, as outlined by Senator Farley and Senator Maltese and others, have taken upon themselves the prerogative of funding them with state revenues, without any participation at the federal level, as Medicaid provides for, as you know.

So, if you are going to chastise for this, then I think I should include the Congress of the United States, but at the same time, I think you would be wrong again, because it is that same Congress, whether I agree with everything they do or don't do, that continues to promote national programs to provide funding for a whole score of areas that involve health care for both men and women and certainly children.

Earlier, Senator Goodman drew an analogy that I find somewhat disturbing. He said that, if some woman was diseased or had a

broken leg and needed care and treatment, we would not turn that person away because of her inability to pay for it and that is, of course, true. But to correlate that fact with funding for abortion where in one case we are reaching out to someone to save her life presumably and in another instance we are reaching out in the minds of many which we have to respect, to the taking of a life, that analogy just falls flat. It just doesn't relate. It doesn't compute. It's just wrong.

Now, Senator Gold, when he spoke against this bill, said he hoped that, as an intellectual exercise, he hoped it would go away intellectually, and I would like to suggest to him that both sides of this issue, I think, approach it as an intellectual exercise, those for and those against. It's an issue that challenges one's intellect, no matter how far you fall, one side of the coin or the other, and so it's an issue that should not go away in that sense, something that we should continue to deal with as we present opposing views.

Earlier this afternoon, this house passed a bill unanimously which I was pleased and honored to co-sponsor along with many of you, a bill that was before us due to the efforts of Senator Gold, mandating instruction in human rights with specific reference to the Holocaust and, as the bill said, the inhumanity of genocide. It was appropriate that we deal with that bill today and I compliment Senator Gold for doing so because today was a day that we remember as D-Day when our forces freed an enslaved continent where genocide and slavery was the order of the day. And so his bill that mandated that our young people be given courses of instruction in this horrible saga of humanity was appropriate.

But there are people in this state, people that you and I represent, who consider the taking of a life inhumane, and we must respect that point of view, and while as has been said here several times, the law of the land provides for it, the law of the land does

not provide that it be paid for by the taxpayer, and this is where the issue comes before us.

Do we continue to be one of a handful of states defying the law of the land, defying the Congress, defying the Supreme Court, who says we need not pay for this and the federal government need not pay for it; or do we strike out on our own saying we know better?

So I suggest to you, Mr. President, and to my colleagues that irrespective of how this bill fares in this house and the other house or wherever it goes, it's an issue that we must continue to consider, to agonize over, and I respect fully everything that's been said on both sides of the issue, but it's an issue that we must speak to.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Once again, we revisit this issue. For many, the issue is abortion, and as

others have said, it's a very difficult decision. People have very conscientious viewpoints about exactly what abortion is, and about the relative rights of what's involved there, the women involved, whatever potential is there involved.

For me, the issue is one that I certainly spent a lifetime in a tradition that has a moral viewpoint about what abortion is. It's shared by many on both sides of this issue here. I certainly respect what the bishops in my church say in their particular area of competence. However, it's quite clear both under the law of our land and actually under the laws of the church that I have a special competence when it comes to public policy, and this bill deals not with abortion as a moral issue, it deals with the public policy of the state of New York with respect to its Medicaid program.

I wouldn't characterize this bill as anti-women. I would go further and specify what it really is. It's anti-poor women,

because the law of the land as set down by the Supreme Court says that a woman has the right to choose whether or not to have an abortion, that it's beyond the reach of the laws of the state, that it's beyond -- forget the reach, that it's none of our business.

We live in a land where there is no consensus on abortion. There are conscientious viewpoints on different sides of the issue, and there are different conscientious viewpoints as certainly as there are shades of the issue, but it's clear abortion is legal in America. Women have the right to choose.

What would this bill do? Well, the proponents say, Well, but we are allowed to say taxpayers' funds shouldn't be used for abortion. Is that what this bill is saying? Not quite. Not quite. It's saying taxpayers' funds, state funds in New York State, shouldn't be used to pay for abortions of poor women.

Why? This deals only with Medicaid abortions. Our own families, our own staffs, who have health benefits provided by the

state of New York, it includes abortion. Now, how, my colleagues, is this not pure and simple stripping away the issue of abortion which isn't really what the issue is here, stripping away all that we hear? Doesn't this really come down to economic discrimination? It's only poor women who are otherwise eligible for assistance with their medical care, only those poor women for whom we would deny abortions.

ACTING PRESIDENT KUHL: Senator Connor, please excuse the interruption. Senator Present has risen.

Senator Present, why do you rise?

SENATOR PRESENT: Mr. President, sorry to interrupt. Mr. President, can I have the last section of this bill read so that Senator Hannon can vote?

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: Senator Hannon.

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: Senator Hannon will be recorded in the affirmative. The roll call is withdrawn.

Sorry to interrupt, Senator Connor. Senator Connor on the bill.

SENATOR CONNOR: But we don't object to middle class women and upper middle class women and wealthy women who may be covered by health insurance that the state pays for in part, provides for them, negotiates for them. We're not talking about stopping them from being reimbursed for the cost of an abortion.

Mr. President, to me this is pure and simple economic discrimination. It's not about abortion. We can't deal with that. It's about poor women in New York State. It's about people taking their quite legitimate moral viewpoint about abortions, legitimate in the sense that they're certainly entitled to have that conscientious viewpoint and loading it on

poor women, not all women, not state employees, but only poor women and that's why, Mr. President, as a matter of public policy, this bill is, I believe, atrocious. It may be a vehicle for some people to ventilate their views about abortion, but the fact of the matter is that's not what it's about.

I would oppose this as I would oppose any other attempt to distinguish on an economic basis between the benefits that the state of New York would apply in any area.

I intend to vote no once again.

ACTING PRESIDENT KUHL: Senator Waldon is the last member on the speaking list. I don't see him. Oh, excuse me. He's sitting down here.

Senator Waldon, on the bill.

SENATOR WALDON: Thank you very much, Mr. President. I'll be brief.

I had no intention of speaking on this issue, and I don't rise to defend what Senator Montgomery said. However, in response to some of the statements made opposed to her

statement I would like to share these thoughts.

There's a basic philosophical difference between this side of our chamber and to a great extent that side of the chamber, and I think that is what is at issue here today: Whether or not the emphasis is on allowing women to make the choice regarding their bodies that they wish or whether or not medical care in other forms will be available to both poor women and poor men, versus a whole host of other concerns.

I'm not making a judgment as to what is right, what is wrong, but I think when we pit against each other, prison cells versus prenatal and postnatal care, prison cells versus education in a meaningful sense for the poor blacks and Latinos and other poor folk in the inner city, that, to some extent, is a parallel ism with what Senator Montgomery raised.

And so those of us who are here should respect each other enough and understand each other enough that we have these philosophical differences, and I would rather be

Diogenes in the night with a candle searching for the truth, if the truth were on the right side of the issue that Senator Montgomery spoke to, versus the other side of the issue.

So in closing, I say Senator Montgomery is very capable of defending herself, but this brother formerly of Brooklyn, now Queens, just felt compelled to stand side by side with you because of the elegance of what you said earlier this evening.

Thank you very much, Mr. President.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on this bill? If not, the Clerk will read the last section.

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

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT KUHL: Call the roll. There are five Senators who have risen requesting a slow roll call. Clerk will begin the roll call slowly.

THE SECRETARY: Senator Babbush.
SENATOR BABBUSH: No.
THE SECRETARY: Senator Bruno.
SENATOR BRUNO: Yes.
THE SECRETARY: Senator Connor.
(There was no response.)
Senator Connor.
(There was no response.)
Senator Cook.
SENATOR COOK: Mr. President.
ACTING PRESIDENT KUHL: Senator Cook to explain his vote.
SENATOR COOK: Not to prolong this unduly, but it seems there's a lack of logic in this approach because, on one hand, we admit that, in our society, that people who can afford it are -- have a constitutional right to choose to have an abortion, and yet in this bill we basically say that, if we have a woman who is on welfare who may become pregnant and decides that she would be wishing to attend school or get a part-time job or try to find her way off the welfare rolls, we say, No, you can't do it.

You got to go and continue this pregnancy until term. Her sister, who is in the affluent area, says, Well, yeah, I'll go have the abortion because I want to continue whatever course of action I'm doing. I'm going to college, I'm doctoring, I'm changing professions, no problem. But the woman who's really trying to pull herself up by the boot straps and support a family at the same time is the one who really gets injured by this.

Seems as though it's contrary to everything that we really want people to do and, therefore, I'm voting against the bill.

THE SECRETARY: Senator Cook in the negative.

The Clerk will continue the roll.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just to explain my vote.

ACTING PRESIDENT KUHL: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Very briefly. I appreciate the comments of my other colleagues who have talked about the inequity that this would enshrine in New York law between the rights of poor women and women of means, but I'd just point out one other fact to my colleagues.

I think there's a difference between what we're constitutionally obligated to do and what we choose to do as the right policy for the people of this state, and it seems to me to stand and say we're not constitutionally obligated to fund abortions for women, poor women, absolutely misguides the entire debate.

The issue is, what's the fair policy for the people of this state. It seems to me it's very simple. On the issue of choice

and on the issue of women's rights, we choose a policy for the people of this state that is without regard to their economic need.

Mr. President, I vote in the negative.

ACTING PRESIDENT KUHL: Senator Dollinger in the negative.

The clerk will continue the roll.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: No.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator Hannon

voting in the affirmative earlier today.

Senator Hoffmann.

SENATOR HOFFMANN: No.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Explain my vote.

ACTING PRESIDENT KUHL: Senator Jones to explain her vote.

SENATOR JONES: I've listened very carefully to all the debate and certainly it's a debate that will go on and on for many years to come. The debate is truthfully about abortion, and I see this as something like our back door borrowing. It's just a back door way of dealing with this issue, and I -- I can't - I have a personal life that has included being a mother and raising children. I have grand children and my personal views are my own but, as a public official, I can not impose those views on the rest of the world nor would I want

to.

I believe it is the right of every woman to make that choice, and I think it's outrageous that we would even consider the fact that for economic status could deny her that right.

So I have to vote no on this bill.

ACTING PRESIDENT KUHL: Senator Jones in the negative.

Clerk will continue the roll.

THE SECRETARY: Senator Kruger.

(There was no response.)

Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

(There was no response.)

Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Marino.
(Affirmative indication.)
THE SECRETARY: Aye.
Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: No.
THE SECRETARY: Senator Montgomery.
ACTING PRESIDENT KUHL: Senator Montgomery to explain her vote.
SENATOR MONTGOMERY: Yes, Mr. President, I would like to explain my vote very briefly.

I'm voting no obviously. I want to emphasize with my no vote that I don't intend to chastise anyone. I have -- Senator Padavan has stated, and I certainly don't want to point any fingers at anyone who is not guilty, and I say again that if we have school-based health clinics that provide a full range of health services including reproductive exams and counseling and access to pregnancy preventive and AIDS preventive measures such as condoms and if we're not embarrassed to say that because of whatever our personal tradition or other inhibitions are, pregnancy will be reduced, unwanted pregnancy in particular.

That is where it's -- teen pregnancy is where we have a lot of unwanted pregnancy and ultimately the need for abortion services would be reduced, and ultimately we'd save money for the state on both ends because we can provide a full range of health services, quality health services for young people in their schools for about $150 per student per year.

So it is cost-effective. It makes sense, it's morally correct. It saves the lives of young people, it improves the quality of their lives. We just -- we just have to come to grips with the problems that we have, those of us who do have problems, and who want to prevent this kind ever legislation and -- and prevent us from having school-based health clinics in the state of New York.

Senator Padavan, I think, has aptly said I should not chastise you. I should just say those who are guilty, please think about it because this is a real contradiction. This is anti-feminist. It's anti-adolescents and I want to make sure that you understand and I do not retract any statement that I made along those lines.

I vote no, Mr. President.

ACTING PRESIDENT KUHL: Senator Montgomery will be recorded in the negative.

Continue the roll.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nolan.

SENATOR NOLAN: Yes, Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Nolan to explain his vote.

SENATOR NOLAN: I think that abortion is probably maybe one of the great tragedies that has come upon this country certainly in the last 50 years.

I think that, you think about it; you're taking a life no matter how you want to spell it out. It is the taking of life, and I think it's very interesting that in the United States of America, this great land of ours, we have a much, much higher percentage of abortions than any other country in the western world certainly and, in general, probably of any country in the world.

I think what it says is that we have become a very permissive society, very permissive society. Yes, there are some trage dies, and so on, in connection with abortion. There's no question the human element, human

tragedies, particularly with rape and incest, but the fact of the matter is you're still talking about the taking of life and I think that when you think about it -- and I think it's also kind of tragic, quite frankly, that a lot of people in this chamber are in favor of the death penalty and who are opposed to abortions. That really doesn't make a lot of sense. I think that -- I'm very happy in the 20 years I've been in the Senate to have joined with John -- Senator John Marchi, we're the only two people who have consistently voted against abortion and against the death penalty because in both instances you're talking about life, and I think if you believe in the power of redemption, if you believe in forgiveness, that we are not the Maker and I, for one, I would think a lot of other people in this room would believe that the Man upstairs is the only one that should have the ultimate ability and re sponsibility to make such a decision.

I don't think that we, as human beings, should be in a situation where we're

going to make a decision whether it's a woman, whether it's a man, whatever, of taking or even if there's a possibility -- now, people can argue and disagree about when life begins, and so on, but if there's one iota of question, it seems to me we have to err on the side of life.

For those reasons, I vote yes.

ACTING PRESIDENT KUHL: Senator Nolan in the affirmative.

The Clerk will continue the roll.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Ohrenstein.

(Negative indication).

THE SECRETARY: No.

Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: To explain my vote.

ACTING PRESIDENT KUHL: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: I very much admire and like Senator Nolan, but there's two things I would like to take issue with. One is he unequivocally said "the Man upstairs," and I'm not absolutely sure that it's a man up stairs. Who knows? Might even be a woman up stairs.

The second one is I concur with him that our society has become permissive, but I really see that as having no bearing on the issue that we're talking about now. When you say that we have only in the last 50 years seen a rapid growth in the number of abortions, I would say what we have seen in recent years is a sizeable growth in the number of legal abortions taken care of in safe and clean environments which provide for the woman to continue after the abortion to, number one, be alive, number two, be healthy and more than likely be able to go on to other children at a time when she can accept the responsibility of motherhood.

We are not here discussing the pros and cons of abortion; that is legal by our law. What we're talking about is the exercise, the equal opportunity to exercise these rights, these very basic rights, to health care and to safe clean abortions, and women really must - must have this available to them because, without it, it is unsafe. It is unclean to have an abortion and poor women -- and we're talking poor women here -- are risking their lives to have those abortions, and it is -- it is not in our tradition to discriminate in such a way because of economic status of women, and New York never has discriminated on this basis, and I certainly hope that New York State never will discriminate.

I vote no.

ACTING PRESIDENT KUHL: Senator Oppenheimer in the negative.

The Clerk will continue the roll.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Pataki.
SENATOR PATAKI: Yes.
THE SECRETARY: Senator Paterson.
(There was no response.)
Senator Present.
SENATOR PRESENT: No.
THE SECRETARY: Senator Rath.
SENATOR RATH: Yes.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Yes.
THE SECRETARY: Senator Santiago.
SENATOR SANTIAGO: No.
THE SECRETARY: Senator Sears.
SENATOR SEARS: Aye.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: No.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Mr. President.
ACTING PRESIDENT KUHL: Senator

Smith to explain her vote.

SENATOR SMITH: Mr. President, I'm compelled to rise, not to explain my vote because I feel that common sense dictates that I vote in the negative.

ACTING PRESIDENT KUHL: Senator Smith in the negative.

The Clerk will continue the roll.

THE SECRETARY: Senator Solomon.

SENATOR SOLOMON: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky excused.

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker excused.
Senator Waldon.
(Negative indication.)
THE SECRETARY: No.
Senator Wright.
SENATOR WRIGHT: No.
ACTING PRESIDENT KUHL: The Clerk will call the absentees.
THE SECRETARY: Senator Connor.
SENATOR CONNOR: No.
THE SECRETARY: Senator DiCarlo.
SENATOR DiCARLO: Yes.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Yes.
THE SECRETARY: Senator Paterson.

(There was no response.)

ACTING PRESIDENT KUHL: The Clerk will announce the results.

THE SECRETARY: Ayes 31, nays 27.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we continue with the controversial calendar?

THE SECRETARY: Calendar Number 1053, by Senator Daly, Senate Bill Number 2993, an act to amend the Education Law, in relation to student awards and assistance.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Explanation has been asked for.

SENATOR DALY: Mr. President, this is not a very complicated bill. Basically, it says or states that, if a young man refuses to register for Selective Service, he will not be eligible for tuition aid.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: As I'm sure the members will recall, this is a bill that we have had before, and Senator Espada and Galiber and myself and Gonzalez and Markowitz and Mendez, Ohrenstein, Smith had voted in the negative and the Civil Liberties Union has filed against, and basically, without reviewing the entire debate, it just really is an apples and oranges bill.

Students are students, and if they need aid, they need aid, and this Selective Service system is a federal system which should be complied with, and there are ample laws in this country to make sure that the youngsters comply with that law.

That has nothing to do with the educational system, and we should keep it separate in the opinion of some of us, and I believe that to have the state of New York get into the business of enforcing federal laws which do not have anything to do with the subject matter that we're talking about, is the

kind of logic that I don't understand.

SENATOR DALY: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Daly.

SENATOR DALY: On the bill.

ACTING PRESIDENT KUHL: Senator Daly, on the bill.

SENATOR DALY: Mr. President, I do disagree with my colleague from Queens that this is apples and oranges.

I think the thrust of this bill is to demonstrate that, if you walk away from your responsibility to the state and the nation, you're going to walk away from some of the benefits also.

To turn one's back and ignore such an action, an irresponsible action where you literally say and -- "Not me. Let somebody else do it." What if no one comes, Mr. President? This is coincidental, but today we celebrated the 50th anniversary of D-Day.

I would submit to you, Mr. President, that most of those men and women who

died in that operation, or the men anyway, were drafted, had to register. What's the purpose of this bill? What's the purpose of Selective Service? Literally, it is to provide our country with a list of names of people who can serve, young men, in case -- in case there is a threat to our nation, in case our nation is in peril, and certainly, if you would accept the benefits, and the bounty and the freedom of this great nation, then you have the responsibility of accepting -- I should say you must accept the concomitant responsibility. Serving our nation, protecting it, keeping it free, as we've done so successfully over the last 200 years, certainly is an important responsibility.

And I submit to you, Mr. Presid dent, that to walk away from that responsibility and, very frankly, to me indicates a very selfish, a selfish and arrogant attitude, irresponsible attitude that we can't accept, and I don't want to ignore that. We know we have not had a draft in this nation for the last 20 years, thank goodness, and perhaps we will never

-- I hope we never need a draft.

ACTING PRESIDENT KUHL: Senator Daly, excuse me. Senator Mendez, why do you rise?

SENATOR MENDEZ: Would the Senator yield for just one question?

ACTING PRESIDENT KUHL: Senator Daly, would you yield to Senator Mendez?

SENATOR DALY: I would be happy to, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields, Senator Mendez.

SENATOR MENDEZ: Thank you. Thank you.

Senator Daly, tell me, is our Selective Service a volunteer kind of a program? Is the law of the land that the Army can go into -- to become a member of any one of the forces, you do so voluntarily?

SENATOR DALY: Mr. President, there is no draft, and our -- our armed forces, as we know now is voluntary. It's made up of people who voluntarily apply or enter the armed

forces but, Mr. President, I submit, that's not the purpose of this bill.

The purpose of the bill is to provide a list of everyone who can serve in case our nation is ever in peril for one reason or another, where mobilization has to occur, and what is fair and just about some people walking away from that very important responsibility and saying, "I'm not going to do it. Let someone else do it." Can you imagine, Mr. President, what would happen if the men -- the men that we honor today had done that 50 years ago? We did not have -- when our nation was put in peril on December 7th, 1941 -- I submit to you, Mr. President, that back in 1925, no one would ever -- no one ever thought it would happen again. The purpose of this -- of mobilization, of the Selective Service, is to provide us with the names of the young men who can serve in such a situation.

And I submit, Mr. President, it's the responsibility of every young man to put his name on that list so that, God forbid, it should

ever occur that all -- all will be called, not just a few.

ACTING PRESIDENT KUHL: The Clerk will read the last section.

Senator Mendez, you're asking Senator Daly to yield again?

Senator Daly, do you yield? Senator Daly, do you yield?

SENATOR DALY: Yes, I yield.

ACTING PRESIDENT KUHL: Senator Daly yields, Senator Mendez.

SENATOR MENDEZ: I just wanted to mention the following, Mr. President, that I understand the frustration that Senator Daly feels. I was watching throughout the weekend as well. I was watching as well, you know, TV and seeing how many lives of American -- young American soldiers were lost in that terrible war, so I understand his frustration.

On the other hand, with respect to his bill, the point that I want to make is the following: At the time of the Second World War, the nation was in danger and young men and

women had to -- it was no longer a volunteer - voluntary service, such as the armed forces. I don't think that we as a state should penalize those men or women who choose not even to register. I don't think that we should penalize them because after all, our country is a democracy. They are not breaking any laws, and the big difference between being ruled by a military junta versus our democracy is precisely that citizens have -- as far as do not break the law, they have a leeway to -- in terms of behavior, so I understand his frustrations.

On the other hand, I don't think that we should penalize those that choose not to register to serve in the forces.

Thank you.

SENATOR DALY: Mr. President.

ACTING PRESIDENT KUHL: Senator Daly, on the bill.

SENATOR DALY: Mr. President - yes, please.

I see nothing wrong with the state of New York or the people of New York

saying this is unacceptable, and our way of saying it is saying if you do it -- if you do not register, if you choose to avoid -- ignore that important responsibility, then we're going to punish you. We're going to deprive you of monies which you would get to assist yourself through college which would help you make - increase your income, give you a better life.

To accept this -- this misguided and selfish attitude, as far as I'm concerned, is tantamount to accepting, even approving it.

Mr. President, let me repeat. All we expect of the young men -- not the young women, the young men -- is to register for Selective Service so that their name is put on the list.

As I said before, we don't have mobilization right now, thank goodness, but if something should occur where mobilization is required, then everybody has the responsibility of serving. No one should ignore that responsi bility by refusing to simply put his name on the list.

Thank you.

ACTING PRESIDENT DALY: Senator Galiber.

SENATOR GALIBER: Would the Senator yield for a question?

ACTING PRESIDENT KUHL: Senator Daly, do you yield to Senator Galiber?

SENATOR DALY: I should have quit when I was ahead, Mr. President, but I will.

ACTING PRESIDENT KUHL: You'll learn. Senator Daly yields.

SENATOR GALIBER: Senator, Senator Present came over and reminded me of something.

SENATOR DALY: I'm sorry. Mr. President, I can't hear the Senator.

SENATOR GALIBER: I'm sorry. Can you turn this up? Can you hear me now, Senator?

SENATOR DALY: Yes, I can.

SENATOR GALIBER: I wasn't going to speak on this, Senator, on a serious note.

Senator Present came over and

reminded me of the old days as we celebrate D-Day, and I was a part of it. Most of us who were really part of it had nothing to say about it, we just wanted to spend this time re membering, and in the course of remembering, Senator, I want you to know, back in those days when they had a draft, it was a draft which was structured for those persons who did not have very much. Those who were exempt, the very ones you're talking about, the persons who did not participate in World War II by and large, when it was mandated, when it was a draft, were the persons who were rich persons, who had an opportunity to go to school, who were exempt from the draft because they were going to school and -- this very same category that you make reference to.

Senator, what we're suggesting, those of us who vote no, it seems to me that there should not be a condition precedent to helping people be educated in this great country of ours, but the bottom line is, Senator, when the real rough times come, there's a built-in

exemption just as in World War II. Look to the books. Most of the persons who stayed out of the war who did not want to go, a lot of them tried to volunteer -- none of my colleagues tried to volunteer, some did, but the fact of the matter is that your piece of legislation which excludes women, by the way -- I'll take that issue up some other time -- you're making it a condition precedent to getting some help to educate some youngsters, young adults, as a condition -- I even question whether it's constitutional or not.

We had another subject matter the other day on that issue, but I was reminded -- I just wanted to bring it to your attention, Senator -- that as we celebrate the day, to keep in mind the very persons that you're asking now for some help were those who used their -- not their exemption, status to stay out of that fight.

SENATOR DALY: Mr. President, if I can just point out to the Senator, first of all -

ACTING PRESIDENT KUHL: Senator Daly, on the bill.

SENATOR DALY: -- two wrongs do not make a right, and certainly I can go back in my own ancestry and find certain riots in New York City back during the Civil War when certain people were favored. I'm not finished, Senator.

ACTING PRESIDENT KUHL: Senator Galiber, are you asking Senator Daly to yield?

SENATOR DALY: I'm not finished, Senator.

ACTING PRESIDENT KUHL: Senator Daly refuses to yield.

SENATOR DALY: I would submit also -- I admit -- I would yield to the Senator in a moment, but let me finish my thought. I have trouble keeping it for too long a period of time.

We must remember also that registering does not preclude someone saying, I'm a conscientious objector if called. It does not. If someone is a conscientious objector, and I understand that, then at the time of

mobilization the person can say, "I cannot serve" because of such and such a reason or someone cannot physically serve, then, of course, he will not go into the armed services.

But simply, Mr. President, what we're saying is unfair and unjust to accept - to accept the fact that some people can ignore a very hairy responsibility while others must and will accept it.

And secondly, may I say, Mr. President, again, I understand where my colleagues are coming from when they compare it to apples and oranges, though I disagree. I'm saying basically, this legislation is New York State saying to young men who do avoid that responsibility that "We know what you're doing. We do not accept it. We feel you're doing wrong, and this is what we feel -- how we feel you should be punished."

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: Yes, I asked you to yield. Would you yield for a question

now, Senator?

ACTING PRESIDENT KUHL: Senator Daly yields now? The Senator yields.

SENATOR GALIBER: When I mentioned the conflict that I participated in, you didn't think I was talking about the Civil War, do you?

SENATOR DALY: No, Mr. President. No, Mr. President, I was not. I was there, Mr. President.

ACTING PRESIDENT KUHL: Thank you, Senator Daly.

Read the last section.

SENATOR DALY: I was there, and I didn't see you, Joe.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Leichter.

SENATOR LEICHTER: Mr. President, I'm sorry that we were just going to let this go because we debated it in other years, but Senator Daly's strong and passionate defense of this bill -- I'm sorry, I just can't let this -

this one question go, Senator.

We've done it in other years, but it's always bothered me about your bill. I understand you want to help the federal government. They didn't ask us for help but you want to make sure that people register, and so on, for the draft. You point out, if we should face the situation as we did 50 years ago, where would the personnel be to fight that war? Federal government isn't worried about it. They didn't ask us but, all right, this is your concern. But, Senator, to fight that war, we also need, obviously, guns and tanks and all the things that go with it, which means that people have to pay their taxes. It isn't just an obligation of citizenship. Never understood why, since you volunteered to help the federal government -- we're going to help to see that people obey the laws that are set by Congress that apply to all people of the states -- why something as important as paying taxes, why don't you provide similarly, that unless you have established that you have paid, filed and

paid your federal taxes -- throw in state taxes too, if you will -- that you're not eligible for aid? I've never understood that, Senator.

SENATOR DALY: Mr. President, I have no problem with that. If you want to put the bill in, fine.

What this bill is aimed at is to demonstrate to those young men who walk away from that responsibility, that the state is unhappy with it, does not accept it, and this is our way of saying, "Hey, we know what you're doing. We don't like it. We think you're wrong. Very frankly, if you're going to walk away from a responsibility such as that, then maybe you should be deprived of some of the benefits that you receive from the state." It's very simple, a message.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: I'm sorry, but I'm just invigorated by the intellect that my colleague, Senator Leichter's level of intellect

never ceases to amaze me.

Would Senator Daly yield to a question?

ACTING PRESIDENT KUHL: Senator Daly, would you yield to Senator Gold?

SENATOR DALY: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Daly yields.

SENATOR GOLD: Can you tell me, Senator Daly, what year or around what time was the last American called up for the draft in the draft?

SENATOR DALY: I think it was around 20 years ago.

SENATOR GOLD: About 20 years ago?

SENATOR DALY: Yeah.

SENATOR GOLD: All right. Senator, can I ask you the last date upon which -- upon which some student in the state of New York accepted TAP aid but didn't pay state income tax?

SENATOR DALY: I can't give you a date. I think that's a rhetorical question, is it not?

SENATOR GOLD: No, senator. I'll withdraw the question.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Gold, on the bill.

SENATOR GOLD: Yeah, Senator, the funny part of this -- and I think Senator Leichter really put it out there. We're talking about penalizing someone who may not register in a system which has been inactive for 20 years and with atomic energy and everything else today, probably is meaningless, but if you really wanted to do something, your bill doesn't even touch those students who may not be paying, forget the federal government, state income taxes.

Senator, state income taxes, that's getting the money that we're supposed to be getting to fund this government and make the state work, and that, you're not interested in.

All we're interested in is penalizing somebody, if we can find them, who may not have registered in a system that we don't use for 20 years.

SENATOR DALY: Mr. President, I only add that the red herrings are swimming upstream, and I submit that this is good legislation, and I move its adoption.

ACTING PRESIDENT KUHL: The Clerk will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day after it shall have become law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1053 are Senators Babbush, Connor, Espada, Galiber, Gold, Gonzalez, Leichter, Markowitz, Mendez, Ohrenstein, Smith and Waldon. Ayes 46, nays 12. Also, Senator Paterson recorded in the negative. Ayes 45, nays 13.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Paterson.

SENATOR PATERSON: Mr. President, I was out of the chamber and was unable to respond to the slow roll call vote on Senate 7153 which is Calendar 1145. I would just like the record to reflect that, had I been in the chamber, I would have voted in the negative.

ACTING PRESIDENT KUHL: The calendar will reflect that Senator Paterson, had he been in the chamber, would have voted in the negative on Calendar Number 1145.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Senator -- Mr. President. I would like to be recorded in the negative on the bill that we just passed.

ACTING PRESIDENT KUHL: Without objection, so ordered.

Senator Hoffmann.

SENATOR HOFFMANN: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1140, 1141, 1142 and 1143.

ACTING PRESIDENT KUHL: Without objection, so ordered.

SENATOR HOFFMANN: Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Clerk will continue to call the controversial calendar.

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

SENATOR GOLD: Explanation.

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

SENATOR COOK: Mr. President, all of us, from time to time, at least many of us, from time to time, criticize various state agencies for the fact that once we pass a law, they write regulations that go far afield from what the legislative intent of what the law was, but what we have here is something entirely

different because we never passed a law.

What happened was the federal government passed a law that said that there would be certain regulations, OSHA regulations that would apply to public employees. At some point in time, the state industrial commissioner decided that he would like to have that apply to volunteers, and so he simply put out a regu lation that said volunteers are not covered under the similar regulations as public employees. I don't know who pays these volunteers. I don't know what payroll they're on, what the -- who they report to, who's their public employer that they supposedly are working for. I don't know by what right, frankly, the industrial commissioner decided to make that decision, but it's clear in my mind that there never was any legislative authority for him to do this.

The fact is that these volunteers have now had placed upon them a very, very severe financial burden, a burden which in some cases is actually threatening to close down

vital volunteer services in many of our smaller communities, and I think that the common sense thing to do is to recognize what they are is volunteers, volunteers who work very hard at making sure that the conditions under which they labor are safe, who work very hard to be trained but who, frankly, cannot comply with all of the paperwork and all of the details of OSHA regulations.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I understand some of the problems that Senator Cook outlined, but I think his bill goes in the wrong direction. I think the state ought to take actions to facilitate, whether it costs money, whether it requires an office providing technical assistance to these volunteer fire companies. I think we have an obligation to facilitate their compliance. The ruling that they're employees has consequences

in terms of eligibility for Workers' Com pensation, compliance with safety rules and, you know, I didn't grow up in the city.

In fact, I'm privileged to have a grandfather who's 104 and been a member of his volunteer fire company for the last 79 years. He doesn't go to fires anymore. He hasn't in many years, but he's listed on the rolls as the -- clearly the senior member, and I grew up in my family, all of our great family passages, weddings, whatever, were at the firehouse, so I understand. In fact, just a week -- two weeks ago, a week and a half ago, I attended the funeral for my grandmother who was the senior volunteer fire ladies auxiliary member in the entire state of New Jersey at the time, so I understand the risks volunteers take.

I think we ought to do something to -- you know, they take the same risk any other firefighter takes and to say, "Well, they'll be careful but they can't comply with OSHA", that's not good enough for me. Why don't we, the state of New York -- we're voting -

what are we doing now? We're in the midst of voting billions of dollars on a budget, and I appreciate what the volunteer fire companies do and what they do for the localities and the tax burden they relieve from the localities were they to have to pay for drivers or whatever to facilitate the fire safety in their areas.

The fact of the matter is we're going in the wrong direction. We ought to be paying attention to this. What would it take to help these companies comply, because I think volunteer firefighters should have the same protection that any firefighter does when they take the same risk, and I'm not alone in this opinion.

The Professional Firefighters Association which doesn't represent the volunteers has issued a memo opposing this bill because they point out, these people take - these men and women in the volunteer companies take the same risks as the professional firefighters and under mutual aid compacts, in fact, often work side by side with professional

firefighters in major conflagrations so -- state AFL-CIO is also opposed to this for similar reasons. It's a step backward. Let's meet our responsibility and let's help these volunteer fire companies comply with the OSHA rules. If it costs money, let's find them the money. If it's beyond their administrative capabilities, let's set up some sort of system to do the administration for them to help the paperwork, but I just think this bill is saying, "Well, they can't do it, let's walk away," doesn't really protect them and doesn't give them the respect that they deserve, and I appreciate that many of these volunteer fire, you know, personnel, you know, they're from the wild west, they take their chances, but I think we have an obligation when one of them is injured, for example, to see that they are covered by some Workers' Compensation. I think we have an obligation to help prevent injuries in their undertaking.

So I'm going to oppose this bill and, Senator Cook, it's not because I don't

recognize there's a problem with compliance. I just think -- and I would be happy to support any measure you bring up -- that we ought to do whatever we can to help them comply.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Senator Connor, before you leave -- Senator Connor, I am a little disappointed because you have one line which I really love and that's lecturing about how most people from downstate are under the misapprehension that volunteer fire departments are put together to fight fires and -- but I think that helps make the argument, and I will be very brief because Senator Connor was kind enough to refer to the memos in opposition from Labor, but there was a story here, and it's a June 2, 1994 story in the Albany Times Union about "Smoke Toxic Gas Sickens Six Workers", and these were not volunteer firefighters but they were workers, and the bottom line is that while we talk about

our police department is the finest, New York's finest in New York City, the fact is that firefighting is serious, difficult work, and while I admire people, particularly people throughout the state in smaller areas who join these volunteer fire companies, there is a lot involved in it, and a lot of it is social and a lot of it is comaraderie, et cetera, but fighting fires is serious business, and I believe that these people must be protected. I think the ruling of the federal government was right, and I think it would be a mistake to take them out of those protections.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: Mr. President, a couple statements have been made, I think ought to be clarified.

In the first place, this bill will have absolutely no impact at all on the eligibility for compensation coverage. That's covered under the Volunteer Firemen's Benefit Law, totally apart and aside from this. It was

there long before OSHA requirements came along, and it is not something that we really even ought to have in this discussion.

I am not at all surprised, quite frankly, that the unions are opposed to this bill, because the unions are paid fire departments, and if they had their preference, and I don't fault them for this, they'd like to have everybody in the state have paid fire departments, because that would give them more members, make more money coming into the union treasury. Why not? That certainly is something that they would be supportive of, but the fact is that it's impractical.

In the county that I reside in or the counties that I represent, deal, in all probability, with 40,000 people, have one fire department in a county that's 75 miles long. In practical terms, that's the only thing you can afford if you had a paid fire department. These people are not paid departments. They are volunteers. They are volunteers in a tradition that goes back as far as Benjamin Franklin.

There are people who, indeed, do want training and, in fact, put a lot of time into training. There are people whose communities put a great amount of resources into providing the kind of protection that they and their neighbors want, but the fact is that if OSHA continues the way it has been going, that these fire departments are going to be put out of business increasingly and, indeed, we probably will be pushed toward the point where they have countywide fire departments that the coverage, the time - response time to get from the point of the central fire station is going to be counted in hours rather than minutes, and it simply is going to destroy the kind of protection that we have gotten accustomed to.

Mr. President, this is not something the fire districts are asking for. This is not something that the taxpayer groups are asking for. This is something the volunteer fire personnel themselves are asking for because they want to continue to do their job and they know, if these regulations continue, that

they're going to be out of business. So it is in behalf of the volunteer fire personnel that I'm speaking, and for that reason, I ask that this bill be approved.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stachowski.

SENATOR STACHOWSKI: I would just like to rise to join in support of Senator Cook's measure. As someone who represents a lot of volunteer fire companies, I'm aware that this is a priority bill of FASNY's. This is a priority of all of the volunteer fire companies that I represent, and I would like to add in response mainly to my good friend, Senator Gold's comments, that much more than a social organization, these volunteer fire companies are made up of dedicated, well trained individuals that take all -- they take all the training necessary when they first come on. They're constantly taking and updating their skills. Many of them taking courses in specialty areas like haz-mat units.

In western New York, the best

haz-mat team we have in western New York isn't made up of paid firefighters, it's made up of volunteer firefighters from 35 different fire companies, many of whom live in my district, and they take all their courses on their time. They're very well trained. They're very dedicated, and interestingly enough -- and Senator Cook mentioned the part about they're covered for Workmen's Comp' which is obvious, and they all try to update their equipment as often as possible.

But the thing I find most interesting is that they're considered -- must be considered such skilled firefighters that that's probably the reason that many of our cities complain about the fact that their firefighters live outside the city and, in fact, in Buffalo, the president of the Buffalo Firefighters Union lives in one of the suburbs protected by volunteer firefighters. I'm sure he's not the only member of that particular union and those particular paid firefighters who happen to live outside in a town or a village

protected by volunteer firefighters, and for those reasons and the fact that the FASNY people who worry very much about their members and all the volunteer companies that I represent who are always concerned with their people are pushing for this so hard, and for that reason, I'm supporting this bill in joining with Senator Cook.

ACTING PRESIDENT KUHL: The 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 58.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter, to explain his vote.

SENATOR LEICHTER: If I may explain my vote. I'm troubled by the logic of this bill. I accept what Senator Cook says and Senator Stachowski, how wonderful the people are

who volunteer and dedicate themselves in joining these volunteer fire companies, but what are the purpose of the OSHA requirements? They're health and safety of people, so we say we love you people so much, we're going to take away the protection for your welfare, your health, and your safety, and while I can understand some of these fire companies are burdened by this, the requirements that go with being under OSHA, I think there are answers to it.

I can also understand that the fire companies say, "Oh, we don't need it", and so on, but we've seen -- we've heard and we've seen other instances where workers and employers say "We don't need OSHA. We know how to be safe." The fact is we ought to protect these people. We're talking about the safety of people who do a wonderful job. Why wouldn't you want to give them this protection?

Mr. President, I vote in the negative.

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1093 are Senators Connor, Espada, Gold, Leichter, Nanula, Ohrenstein, Onorato and Solomon. Ayes 50, nays 8.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Also, Senator Galiber recorded in the negative.

SENATOR GALIBER: I wasn't in my seat.

ACTING PRESIDENT KUHL: The bill is passed. The Clerk will continue -

Senator Nanula.

SENATOR NANULA: I would like unanimous consent to be recorded in the negative for Senate Bill -- or Calendar Number 1053, please.

ACTING PRESIDENT KUHL: Without objection, Senator Nanula will be recorded in the negative on Calendar Number 1053.

The Clerk will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1127, by Senator Larkin, Senate Bill Number 7719, Real Property Tax Law.

SENATOR GOLD: Hold on one second. Senator Leichter says read the last section.

ACTING PRESIDENT KUHL: The 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1135, by Senator Rath, Senate Bill Number 8519, an act to require the New York State Teachers Retirement System to accept a retirement application.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. Will Senator Rath yield to a question?

ACTING PRESIDENT KUHL: Senator Rath, do you yield to Senator Gold? The Senator yields.

SENATOR GOLD: Senator, last year we passed legislation under the leadership of Senator Trunzo and many of us were very concerned about that. Why do we have to pass the law? Why can't the individual involved in this case file with the newly created procedure and get a ruling and have that done adminis tratively?

SENATOR RATH: The Comptroller has indicated that we cannot do this because it was an early retirement incentive, and there is no administrative remedy for the circumstance that this particular individual finds himself in. This is probably the only specific case of this in the state of New York because of the - the issue that related to the return receipt requested.

SENATOR GOLD: Will the Senator

yield to one more question?

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: My Comptroller said that?

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 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Rath.

SENATOR RATH: Yes, Mr. President. On behalf of Senator Skelos, I would like to call up Bill Number 29-B recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Clerk will call the roll on reconsideration.

THE SECRETARY: By Senator Skelos, Senate Bill Number 29-B, an act to amend the Penal Law.

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

ACTING PRESIDENT KUHL: The Clerk will call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

SENATOR RATH: I understand there are amendments at the desk.

ACTING PRESIDENT KUHL: There are. The amendments are received and the bill will be placed on the Third Reading Calendar.

Senator Rath.

SENATOR RATH: I offer the following amendments. Oh, Senator, pardon me. I have another bill on behalf of Senator Libous. Am I in order or not?

ACTING PRESIDENT KUHL: You're in order, Senator Rath.

SENATOR RATH: Okay. I wasn't exactly sure as these landed here. Okay. This is on behalf of Senator Libous calling up his bill, 5056 recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Clerk will read.

THE SECRETARY: By Senator Libous, Senate Bill Number 5056, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: Senator Rath.

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

ACTING PRESIDENT KUHL: The Clerk will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: Senator Rath.

SENATOR RATH: I understand there

are amendments at the desk.

ACTING PRESIDENT KUHL: There are.

SENATOR RATH: I offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

SENATOR RATH: Okay. I would like to have a sponsor's star put on my bill, Calendar Number 899, Print 8001.

ACTING PRESIDENT KUHL: Calendar star will be placed on -- or a sponsor's star will be placed on Calendar Number 899.

SENATOR DALY: Mr. President.

ACTING PRESIDENT KUHL: Senator Daly.

SENATOR DALY: I move to amend the following: Calendar Number 708, Bill Number 7477, and ask that it hold -- it maintain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Trunzo.

SENATOR TRUNZO: Mr. President, I wish to call up my bill, Print Number 7694-A recalled from the Assembly which is now at the desk.

THE SECRETARY: By Senator Trunzo, Senate Bill Number 7694-A, an act to amend the Civil Service Law and the Military Law.

ACTING PRESIDENT KUHL: Senator Trunzo.

SENATOR TRUNZO: I now move to reconsider the vote by which this bill passed.

ACTING PRESIDENT KUHL: The Clerk will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: Senator Trunzo.

SENATOR TRUNZO: I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Present, I believe that completes the housekeeping.

SENATOR PRESENT: Good.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: On behalf of Senator Mendez, I announce a Democratic Conference for 10:30 tomorrow morning.

ACTING PRESIDENT KUHL: On behalf of Senator Mendez, there will be a Senate Minority Conference in the Minority Conference Room tomorrow, 10:30 a.m.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Levy, I announce a conference of the Majority tomorrow at 10:30 a.m. in Room 332.

ACTING PRESIDENT KUHL: There will be a conference of the Majority tomorrow morning, 10:30 a.m. in the Majority Conference Room, Room 332.

Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I move that we adjourn until tomorrow at 12:00 noon.

ACTING PRESIDENT KUHL: On the motion, Senator Present, without objection, the Senate stands adjourned until tomorrow at 12:00 noon.

(Whereupon, at 7:09 p.m., the Senate adjourned.)